

## MINUTES

A meeting of the Alabama Real Estate Commission was held May 23, 2013, at the offices of the Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, Alabama.

Those present were Chairman Bill Watts; Vice Chairman Nancy Wright; Commissioners Steve Cawthon, Reid Cummings, Carole Harrison, Clif Miller, Dorothy Riggins-Allen and Danny Sharp; Executive Director Philip Lasater; Assistant Executive Director Patricia Anderson; General Counsel Chris Booth; Assistant Attorney General Mandy Lynn; Education Director Ryan Adair; Licensing Administrator Anthony Griffin; Investigators David Erfman, Phillip Bunch, Chuck Kelly, and K. C. Baldwin. Tori Adams served as Hearing Officer. Commissioner Jewel Buford was absent with notice.

Other staff members in attendance for all or part of the meeting were Public Relations Specialist Lori Moneyham, Information Technology Manager Brett Scott, and IT Systems Specialist Steven Brown.

The meeting having been duly noticed according to the Open Meetings Act was called to order at 9:00 a.m. by Chairman Bill Watts.

Chairman Watts asked Ms. Anderson to bring everyone up to date on Commissioner Buford's illness. Ms. Anderson reported that Commissioner Buford was in the hospital for about a week in both Tuscaloosa and Birmingham, received treatment for severe back pain and is now improving at home.

Commissioner Miller expressed appreciation to Commissioners and staff for the flowers sent to his mother's funeral. He further thanked everyone for their support, emails, cards, calls, and prayers during the illness, death, and homegoing of his mother.

Commissioner Sharp made a motion to approve the April minutes as presented. Commissioner Riggins-Allen seconded the motion and it passed unanimously 8-0.

In the Executive Director's financial report, Mr. Lasater called attention to the year-to-date comparison page. He noted that, for FY 13 vs. FY 12, the Commission is currently \$20,000 ahead of revenues and \$100,000 under expenditures. We are hopeful that no investment money will have to be transferred to the operating fund for the remainder of this fiscal year.

Mr. Lasater recognized and introduced long-time employee Marilyn Pressley and her husband Sylvester. Mr. Lasater shared with Commissioners that Ms. Pressley will be retiring on May 31. He called on Ms. Anderson to read a resolution expressing appreciation and commendation to Ms. Pressley for 15 years of dedicated service to the State of Alabama and to the Alabama Real Estate Commission. Commissioners congratulated Ms. Pressley on her upcoming retirement and wished her and her family all the best in the years to come. Commissioners approved the resolution by acclamation.

During Commissioner Discussion, Chairman Watts called attention to the hearings scheduled for the June meeting in Orange Beach and reminded Commissioners that a CE class will be attending part of the meeting. He also noted that he will be returning from out-of-state around midnight on June

10 and will drive to Orange Beach the next day for Commission meeting. He asked Vice Chair Nancy Wright to chair the meeting until he arrives should that be necessary.

Chairman Watts asked Mr. Booth to give any updates from the Legal division. Mr. Booth reported that we have received a request for a continuance for one of the cases scheduled for the June meeting. He will object to the continuance since this date has been scheduled since April but the Hearing Officer will have the final say. Mr. Booth then gave an appeals update including the status of the Boyd/Hood appeal.

Chairman Watts asked Mr. Adair to give a report from the Education division. Mr. Adair reported that Chairman Watts had asked him to research a recent report in the *ARELLO Boundaries* publication regarding a new requirement in Ontario that will require courses developed by the regulatory body to be offered only through distance education. Mr. Adair is also looking into how the Commission can track the number of courses taken by distance education and the number taken through classroom delivery. He will have more to share on these topics at future meetings.

Chairman Watts reviewed several charts that have been developed regarding Commission funding. The first chart showed Recovery Fund disbursements, including the one-time payment in 1996 to the University of Alabama, as well as receipts of the one-time fee of \$30.00 paid by license applicants from 1993-2012. He pointed out that disbursements (claims) from the fund far exceed revenues at the present time. The second chart shows the minimum statutory recovery fund balance and the recovery fund balance each year from 1993-2012. The balance at the end of 2012 was \$1,036,700. The third chart showed the amount of Research and Education fees collected from new licenses and a second line showed the amount collected from renewals from 1996-current. The total amount for each license period is the amount that was transmitted to ACRE (Alabama Center for Real Estate) at the University of Alabama. The fourth chart showed Real Estate Commission investments per license period from 1993-1994 through 2011-2012. ASAE (American Society of Association Executives) recommends a 9-month reserve per year, so for a 2-year license period we should have an 18-month reserve. Investments are currently on track to meet this reserve recommendation although slightly below it right now. The last chart shows revenues and expenditures from the 1993-1994 license period through the 2011-2012 license period. It is clear that revenues have been declining since the 2007-2008 license period thereby reducing any surplus available for investment. There was general discussion among Commissioners but no action was taken.

Mr. Lasater shared some thoughts and comments on the Strategic Plan. He reminded Commissioners that everything that the Alabama Real Estate Commission does is based in License Law. The Commission became involved in Strategic Planning in 2005 in an effort for Commissioners to set goals and priorities that inform administration on how to allocate staff and resources. It has set the qualitative level of how we do what we do and has been an important component in Commission operations. The plan has typically included a five-year set of goals because legislation and procurement often crosses fiscal years and takes a while to accomplish. Mr. Lasater assured Commissioners that staff is ready to move forward on carrying out the goals of the Strategic Plan once direction is given.

Subsequent to discussion about implementation of the Strategic Plan, with consensus, the Chairman called for a meeting to be held in Montgomery at 9:00 a.m. on June 20, 2013.

Chairman Watts asked Advertising Task Force Chair Nancy Wright to give a report from their 8:30 a.m. meeting. Commissioner Wright reported that the task force discussed two major areas and, therefore, makes the following recommendations. The first is not to pursue requiring licensees to add license numbers to all forms of advertising and the second is to draft a rule to require that new applicants include a nickname that is not part of their given name on their application if they plan to advertise using that nickname. Commissioners directed staff to draft such a rule.

Commissioner Cummings suggested that we include an article in the *Update* newsletter that all licensees make sure those they do business with are also licensed.

Chairman Watts welcomed ACRE Education Director Jim Lawrence to the meeting.

Commissioners briefly discussed recent legislation that would have directed some of the research and education fees to additional universities that have or may have a real estate center that serves licensees. Commissioner Cawthon reported that it is his understanding that Dean Hardin from the University of Alabama will communicate with the deans of other business schools to engage in discussion on this topic.

Commissioner Wright made a motion that Commissioners conduct hearing disposition discussions and decisions in open meeting. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

#### HEARINGS AND APPEARINGS

##### **Katheryn Lange Pewitt, Application for Determination of Licensing Eligibility, I-14,072**

Upon discussion of the evidence and testimony presented by Ms. Pewitt regarding application for determination of license eligibility, Commissioner Cawthon made a motion to deny Ms. Pewitt's request. Commissioner Miller seconded the motion and it passed unanimously 8-0.

##### **Bobby Joe Pride, Application for a Real Estate Salesperson's Temporary License, I-14,086**

Upon discussion of the evidence and testimony presented by Mr. Pride regarding application for temporary salesperson licensure, Commissioner Riggins-Allen made a motion to approve Mr. Pride's request. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

##### **James A. Sharpe, Application for Reciprocal Broker's License, I-14,085**

Upon discussion of the application for reciprocal broker license submitted by Mr. Sharpe, Commissioner Sharp made a motion to approve Mr. Sharpe's license application. Commissioner Cawthon seconded the motion and it failed 2-6 with Commissioners Sharp and Miller voting in favor of the motion. Commissioners Riggins-Allen, Cawthon, Wright, Harrison, Cummings, and Watts voted against the motion.

NOT APPEARING ITEMS FOR RULING

**Jeremy Dwayne Shears, Surrender of License, Formal Complaint No. 3309**

Upon review of the evidence and testimony presented in the matter of Jeremy Dwayne Shears, Qualifying Broker, Shears Enterprises LLC, Birmingham, Alabama, and the alleged violation of the *Code of Alabama* 1975, as amended, Count 1: Section 34-27-36(a)(19) via the *Code of Alabama* 1975, as amended, Section 34-27-31(e)(6) by having a payment made from the Alabama Real Estate Recovery Fund toward satisfaction of a judgment in a civil action filed by Ouida A. Boyd for which Respondent's real estate license may be terminated; Count 2: Section 34-27-36(a)(19) via the *Code of Alabama* 1975, as amended, Section 34-27-31(e)(6) by having a payment made from the Alabama Real Estate Recovery Fund toward the satisfaction of a judgment in a civil action filed by Burnis and Deborah Rose for which Respondent's real estate license may be terminated, Commissioner Wright made a motion to accept the surrender of Mr. Shears' license. Commissioner Cawthon seconded the motion and it passed 8-0.

**Confirm Next Meeting Date and Location for the Record: June 11, 2013, at 1:00 p.m. in Orange Beach**

Commissioner Cawthon made a motion to approve the Commission meeting date and location for June 11, 2013, at 1:00 p.m. in Orange Beach, Alabama. Commissioner Wright seconded the motion and it passed unanimously 8-0.

There being no further business, the Commission adjourned at 11:55 a.m.

Done this 23<sup>rd</sup> day of May, 2013.

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Bill Watts, Chairman

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Patricia Anderson, Recording Secretary