

MINUTES

A meeting of the Alabama Real Estate Commission was held May 21, 2015, 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, Cindy Denney, Carole Harrison, Clif Miller, Dorothy Riggins-Allen and Danny Sharp; Executive Director Patricia Anderson; Assistant Executive Director Teresa Hoffman; General Counsel Chris Booth; Assistant General Counsel Mandy Lynn; Education Director Ryan Adair; Licensing Administrator Anthony Griffin; and Investigators David Erfman, Chuck Kelly, Phil Bunch and K. C. Baldwin. The Hearing Officer was Tori Adams.

Other staff members present for all or part of the meeting were Public Relations Manager Vernita Oliver-Lane; Public Relations Specialist Lori Moneyham; Information Technology Manager Brett Scott, Accounting and Personnel Manager Molli Jones, Executive Assistant Nicholas Bunch and Public Relations Clerical Aide Matt Estes.

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

Commissioner Wright made a motion to approve the minutes from the April 23, 2015 meeting. Commissioner Miller seconded the motion and it passed unanimously 9-0.

Executive Director Patricia Anderson introduced Matt Estes. Mr. Estes previously worked with the Commission as an intern in the Public Relations Division. He is currently a graduate student in communications at Auburn University and will be working with the PR Division this summer.

Ms. Anderson presented the April 2015 financial report. Expenditures remain under projection and revenues are slightly over projection. Ms. Anderson reminded the Commission that future expenditures will be required for upgrading the Commission's licensing database software and for maintaining the LaserFiche imaging system. There were no Recovery Fund payouts in April 2015.

Ms. Anderson congratulated Commissioner Danny Sharp upon his confirmation to serve a second five-year term. Commissioner Sharp's second term has been approved by the Alabama Senate Confirmations Committee and confirmed by the Alabama Senate.

The Commission is working with the Alabama Law Enforcement Agency (ALEA), the Alabama Bureau of Investigation (ABI) and Applied Measurement Professionals Inc. (AMP) to prepare for the July 1 implementation of ALEA's fingerprinting requirement for new real estate license applicants. Details about the new requirement will be printed in the Commission's newsletters, *The Educator* and *The Update*, and posted on the Commission's website.

A new edition of the Alabama Real Estate License Law book will be printed this summer. The Commission is working with the publisher to finalize proofs for final production. The Alabama Center for Real Estate will distribute the new book.

Ms. Anderson reviewed a legislative report from the Commission's strategic planning consultant J. Danny Cooper. The report provided an overview of the status of bills that are of interest to the Commission.

Assistant General Counsel Mandy Lynn updated Commissioners on the status of a previous case that is going through the appeals process. The final appeal to the Alabama Supreme Court was denied in February 2015 and the case is now closed.

Commissioner Cawthon gave a report from the Association of Real Estate License Law Officials' (ARELLO) Commission Member Resource Committee. The Committee, which oversees the Commissioner College, is reviewing the scheduling and accessibility of the College courses. The Commission's Information Technology Division is assisting Commissioner Cawthon in researching options that can be submitted to the ARELLO Committee for consideration.

Commissioner Wright opened discussion on virtual real estate offices. Since Alabama does not currently have rules regarding the use of virtual offices, Commissioner Wright recommended that the Commission begin considering developing rules. Ms. Anderson will solicit input from attendees at the upcoming ARELLO District 2/3 Conference regarding how other states are addressing the issue and what, if any, laws have been established.

Commissioner Wright made a motion to conduct disciplinary hearing disposition discussions and decisions in an open meeting. Commissioner Miller seconded the motion and it passed unanimously 9-0.

HEARINGS AND APPEARINGS

Alabama Real Estate Commission vs. Rachel Tullier and Diana Will, Formal Complaint No. 3368

Rachel Tullier, Qualifying Broker, IXL Real Estate LLC, Mobile, Alabama, was charged on Count 1 with violating *Code of Alabama* 1975, Section 34-27-36(a)(26) in that she exhibited conduct which constituted or demonstrated dishonest dealings, bad faith or untrustworthiness; charged on Count 3 for violating *Code of Alabama* 1975, Section 34-27-36(a)(26) in that she exhibited conduct which constituted or demonstrated dishonest dealings, bad faith or untrustworthiness; and charged on Count 5 for violating *Code of Alabama* 1975, Section 34-27-36(a)(8) in that she commingled trust funds with her personal funds. Diana Will, Salesperson, Jason Will Real Estate LLC, Daphne, Alabama, was charged on Count 2 with violating *Code of Alabama* 1975, Section 34-27-36(a)(26) in that she exhibited conduct which constituted or demonstrated dishonest dealings, bad faith or untrustworthiness; charged on Count 4 with violating *Code of Alabama* 1975, Section 34-27-36(a)(19) for failing to pay over to her qualifying broker all funds coming into her possession in trust for parties immediately upon receipt of same as required by Alabama Real Estate Administrative Code 790-X-3-.03(2). Rachel Tullier surrendered her license in lieu of a hearing. Commissioner Cawthon made a motion to accept her surrender. Commissioner Wright seconded the motion and it passed unanimously 9-0. Upon discussion of the evidence and testimony presented in the matter regarding Diana Will, Commissioner Denney made a motion to find her not guilty. Commissioner Cummings seconded the motion and it passed 8-1 with Commissioner Riggins-Allen voting against the motion.

Ryan Neil Homan, Application for Determination of Licensing Eligibility, Investigative File I-14,557

Upon discussion of the evidence and testimony presented by Mr. Homan regarding his application for determination of licensing eligibility, Commissioner Cawthon made a motion to approve his application. Commissioner Wright seconded the motion and it passed unanimously 9-0.

Joshua Earnest, Request to Obtain Original Salesperson's License After Temporary License Lapsed, Investigative File I-14,560

Upon discussion of the evidence and testimony presented by Mr. Earnest regarding his request to obtain an original salesperson's license after his temporary salesperson's license lapsed, Commissioner Harrison made a motion to grant him approval with 60 days to obtain his original salesperson's license. Commissioner Miller seconded the motion and it passed unanimously 9-0.

Edward Ball, Application for Reciprocal Salesperson's License, Investigative File I-14,561

Upon discussion of the evidence and testimony presented by Mr. Ball regarding his application for a reciprocal salesperson's license, Commissioner Sharp made a motion to approve his application. Commissioner Wright seconded the motion and it passed 5-4 with Commissioners Cummings, Harrison, Denney and Riggins-Allen voting against the motion.

Stephanie S. Millard, Application for Determination of Licensing Eligibility, Investigative File I-14,572

Upon discussion of the evidence and testimony presented by Ms. Millard regarding her application for determination of licensing eligibility, Commissioner Cawthon made a motion to approve her application pending the end of her probation. Commissioner Riggins-Allen seconded the motion and it passed unanimously 9-0.

REQUESTS FOR RULING

Gary Love, Surrender of License (Formal Complaint No. 3365)

Upon review of the affidavit of license surrender submitted by Mr. Love, Commissioner Miller made a motion to accept his surrender. Commissioner Cawthon seconded the motion and it passed unanimously 9-0.

Melissa Anne Hutcheson and Statewide Management Inc. (Montgomery Location), Surrender of Licenses of Qualifying Broker and Company (I-14,542)

Upon review of the affidavit of license surrender submitted by Ms. Hutcheson and Statewide Management Inc. (Montgomery Location), Commissioner Wright made a motion to accept the surrender. Commissioner Riggins-Allen seconded the motion and it passed unanimously 9-0.

Terri Dean, Request to Waive Requirement for a Branch Office License (I-14,555)

Upon review of Ms. Dean's request for waiver of the branch office license requirement, Commissioner Cawthon made a motion to deny her request. Commissioner Denney seconded the motion and it passed unanimously 9-0.

Emily Brunette Mitchell, Request to Operate Office from Boat (1-14,574)

Upon review of Ms. Mitchell's request for Commission approval to operate her real estate company from her boat, Commissioner Cawthon made a motion to deny her request. Commissioner Wright seconded the motion and it passed unanimously 9-0.

Shelby Alan Aycock, Request for Home Operation (I-14,575)

Upon review of Mr. Aycock's hardship request for home operation, Commissioner Cawthon made a motion to grant his request. Commissioner Miller seconded the motion and it passed unanimously 9-0.

Steve Hodge and Hodge and Associates Inc., Review of Judge's Order (Formal Complaint No. 3316)

Steve Hodge and Hodge and Associates Inc. appealed a previous Commission decision on Formal Complaint 3316. Chairman Watts requested an executive session to receive advice from General Counsel Chris Booth in this matter. Commissioner Cawthon made a motion that Commissioners enter into executive session for approximately 10 minutes to receive advice of counsel relative to the case of Steve Hodge and Hodge and Associates Inc. to review a judge's order regarding this case, with the intent to reconvene in open meeting following the executive session. Commissioner Wright seconded the motion and it passed unanimously 9-0 with Commissioners voting as follows: Chairman Bill Watts (Yes), Vice Chairman Nancy Wright (Yes), Commissioner Reid Cummings (Yes), Commissioner Carole Harrison (Yes), Commissioner Clif Miller (Yes), Commissioner Steve Cawthon (Yes), Commissioner Danny Sharp (Yes), Commissioner Cindy Denney (Yes) and Commissioner Dorothy Riggins-Allen (Yes). Commissioners entered into executive session at 11:51 a.m. The executive session ended at 12:09 p.m. and the open meeting resumed with Commission Chairman Bill Watts, Commission Vice Chairman Nancy Wright and Commissioners Reid Cummings, Carole Harrison, Clif Miller, Steve Cawthon, Danny Sharp, Cindy Denney and Dorothy Riggins-Allen present. Upon review of the judge's order from the appeal, Commissioner Wright made a motion to appeal the judge's decision. Commissioner Cawthon seconded the motion and it passed unanimously 9-0.

Thomas Carruthers III, Red Rock Realty Group and Charles Lee Robinson, Request for Rehearing (Formal Complaint No. 3363)

Commission Chairman Watts recused himself and Commission Vice Chairman Wright presided over the hearing.

Upon review of the request for rehearing submitted by Thomas N. Carruthers III, Red Rock Realty Group and Charles Lee Robinson Jr., Commissioner Cawthon made a motion to deny the request. Commissioner Denney seconded the motion and it passed unanimously 8-0.

Confirm Next Meeting Date and Location for the Record: June 25, 2015, 9:00 a.m., Montgomery

Commissioner Wright made a motion to approve the next Commission meeting for June 25, 2015 in Montgomery. Commissioner Miller seconded the motion and it passed unanimously 9-0.

There being no further business, the meeting adjourned at 12:15 p.m.

Done this 21st day of May, 2015.

Bill Watts, Chairman

Lori Moneyham, Recording Secretary