

MINUTES

The Alabama Real Estate Commission met November 18th at the Birmingham Area Association of Realtors, Birmingham, Alabama.

Chairman Poole called the meeting to order and declared a quorum present at 9:00 a.m. Chairman Poole expressed appreciation to the Birmingham Association of Realtors for the use of their facility.

Those present were Chairman Bill E. Poole; Vice Chairman Gordon Henderson; Commissioners Roy Bragg, Jewel Buford, Thomas Hays, Bobby Hewes and Chester Mallory; Executive Director Philip Lasater; Assistant Executive Director Patricia Anderson; Legal Counsel Charles Sowell; Assistant Counsel Chris Booth; Education Specialist Ryan Adair; Special Investigators David Erfman and Chuck Kelly; Auditor Anthony Brown; Assistant Attorney General Tori Adams Burk served as Hearing Officer. Commissioners Sheila Hodges and Lyman Lovejoy were absent with notice.

Chairman Poole asked that the Commission's concern and compassion be extended to Commissioner Lovejoy regarding the health issues faced by his father.

Commissioner Bragg moved to approve the minutes of the October 14 meeting subject to *Ms.* corrected to *Mr.* in the second paragraph on page 3. Commissioner Mallory seconded the motion and it passed unanimously 7-0.

Upon review and consideration of the proposed budget to be submitted for FY 2007, Commissioner Mallory moved that the Commission approve its adoption. Commissioner Hewes seconded the motion and it passed unanimously 7-0.

Upon review and consideration of the proposed calendar of meeting dates for 2006, Commissioner Henderson moved its adoption subject to revision as the Commission finds necessary or desirable. Commissioner Hays seconded the motion and it passed unanimously 7-0.

As a point of information, Executive Director Philip Lasater reminded Commissioners of how compliance with the CE requirement at renewal by CMAP would be implemented. As contemplated from its inception, any licensee not having the appropriate number of hours of CE credited by midnight September 30 will be placed inactive until the hours have been submitted and a reactivation fee paid. Programming is currently underway to accomplish that objective and the various scenarios surrounding a CE deficiency.

Chairman Poole called an Executive Session and upon the advice of legal counsel will, as provided by the new Open Meetings Act, conduct the votes on motions in the Executive Session since written orders will be issued regarding the action taken.

Alabama Real Estate Commission vs. Eric S. Wishner, Formal Complaint No. 2866

Upon discussion of the evidence and testimony presented in the matter of Eric S. Wishner, Qualifying Broker, d/b/a Eric S. Wishner, Dania, Florida, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(19), Respondent failed to comply with Section 34-27-35(j)(1) and Alabama Real Estate Commission Rules 790-X-1-.12(8) and 790-X-1-.12(9) by failing to provide to the Commission, upon request, original certificates showing the completion of all the required continuing education course hours by the deadline and by the false or inaccurate filing of the renewal as outlined, Commissioner Hays moved to find Mr.

Wishner guilty and to fine him \$1000 and to suspend his license for 30 days. Commissioner Mallory seconded the motion and it passed unanimously 7-0.

Concluding dispositions in all hearings, Commissioner Hays moved to reconsider the action previously taken in Hearing I. Chairman Poole recognized the move as in order and opened the floor for new motions. Commissioner Hays moved to find Mr. Wishner guilty and to fine Mr. Wishner \$500 and to suspend his license 30 days. The motion failed for lack of a second. Commissioner Buford moved to find Mr. Wishner guilty and to fine him \$1000. Commissioner Mallory seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission vs. Dorothy M. Guerrier, Formal Complaints 2870 and 2882

Upon discussion of the evidence and testimony presented in the matter of Dorothy M. Guerrier, Qualifying Broker, Dorothy Guerrier Realty, Decatur, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Formal Complaint #2870 - Count 1: Section 34-27-35(a)(16) by presenting to the Alabama Real Estate Commission as payment for a fee or fine, a check which was returned unpaid by the bank upon which it was drawn; Count 2: Section 34-27-36(a)(16) by presenting to the Alabama Real Estate Commission, as payment for a fee or fine, a check which was returned unpaid by the bank upon which it was drawn; Formal Complaint #2882: Section 34-27-36(a)(19) by violating the Code of Alabama 1975, as amended, Section 34-27-36(a)(19) by failing to comply with the Code of Alabama 1975, as amended, Section 34-27-2(a)(11)b. by operating from her home within the city limits, Commissioner Buford moved to find Ms. Guerrier guilty and to fine her \$250 on each count. The motion fails for lack of a second.

Commissioner Henderson moved to find Ms. Guerrier guilty and to fine her \$250 on Counts 1 and 2. Commissioner Bragg seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission vs. Robin D. Spence Vanderford, Formal Complaint No. 2883

Upon discussion of the evidence and testimony presented in the matter of Robin D. Spence Vanderford, Qualifying Broker, All Star Realty, Tuscaloosa, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Count 1: Section 34-27-36(a)(1), by procuring or attempting to procure a license for himself/herself or another, by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in her real estate broker's application; Count 2: Section 34-27-36(a)(19) by failing to comply with Section 34-27-31(j) by failing to notify the Commission within ten days of the institution of criminal prosecution for negotiating worthless negotiable instruments; Count 3: Section 34-27-36(a)(19) by failing to comply with Section 34-27-31(k) by failing to notify the Commission within ten days of the plea of guilty for negotiating worthless negotiable instruments; Count 4: Section 34-27-36(a)(23)a. by entering a plea of guilty and the resulting verdict of guilty for negotiating worthless negotiable instruments, Commissioner Henderson moved to find Ms. Vanderford guilty on Counts 1 and 2 and reprimand her. Commissioner Bragg seconded the motion and it passed unanimously 7-0.

Commissioner Henderson moved to dismiss Counts 3 and 4. Commissioner Mallory seconded the motion and it passed 6-1 with Commissioner Buford voting no.

Margie B. George, Hardship Request for Renewal of Lapsed License, I-11,785

Upon discussion of the presentation by Ms. George and her hardship renewal request, Commissioner Hewes moved to deny the request for hardship renewal of a lapsed license by Ms. George. Commissioner Henderson seconded the motion and it passed 6-1 with Commissioner Hays voting no.

William E. Ogburn, Jr., Applicant for Reciprocal Broker's License, I-11,779

Upon review and discussion of testimony offered by Mr. Ogburn in his application for a reciprocal broker's license, Commissioner Hays moved to approve the reciprocal broker's license of Mr. Ogburn. Commissioner Buford seconded the motion and it passed unanimously 7-0.

Shanna Marie Gamble, Denied Temporary Salesperson Application, I-11,766

Upon discussion of the testimony offered by Ms. Gamble in her application for a temporary salesperson's license, Commissioner Mallory moved to approve the temporary sales license of Ms. Gamble. Commissioner Henderson seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission vs. Roderick E. McKinney and Angel August, Formal Complaint No. 2891

Upon discussion of the evidence and testimony presented in the matter of Roderick E. McKinney, Qualifying Broker, McKinney and Christian PC, Realtors, Birmingham, Alabama, and Angel August, Salesperson, and the alleged violations of the Code of Alabama 1975, as amended, Count 1: Mr. McKinney violated Section 34-27-36(a)(19) and Section 34-27-34(a)(2) by Roderick McKinney allowing Angel August to continue performing acts that required an active real estate license after her temporary salesperson's license had been placed on inactive status; Count 2: Ms. August violated Section 34-27-36(a)(19) by performing acts that required an active real estate license; Count 3: Sections 34-27-36(a)(19) 34-27-34(a)(2) by Mr. McKinney's failure as qualifying broker to see that Ashley Leveret's license was renewed, Commissioner Hays moved to find Mr. McKinney guilty on Counts 1 and 3 and to fine him \$250. Commissioner Henderson seconded the motion and it passed unanimously 7-0.

Commissioner Hays moved to find Ms. August guilty on Count 2 and to fine her \$100. Commissioner Mallory seconded the motion and it passed unanimously 7-0.

Tarus Lakeith Ceasor, Denied Applicant for Licensing Eligibility, I-11,737

Upon discussion of the testimony offered by Mr. Ceasor in his application for approval of licensing eligibility, Commissioner Henderson moved to approve the license eligibility of Mr. Ceasor. Commissioner Hays seconded the motion and it passed unanimously 7-0.

Heidi K. Harris, Broker Applicant, I-11,813

Upon discussion of Ms. Harris' request for approval of a brokers license on qualifications other than provided by Alabama law, Commissioner Buford moved to deny the appeal of Ms. Harris to have a broker's license issued without meeting Alabama requirements since her reciprocal eligibility had ended. Commissioner Mallory seconded the motion and it passed unanimously 7-0.

- The Chair stated for the record that Commissioner Henderson had left the room after all votes on all hearings except for Hearing II had been taken. Having been recused from participating in the deliberation and vote on Hearing II, Mr. Henderson was not present for the following disposition.

Alabama Real Estate Commission vs. Robert A. Conner, Formal Complaint No. 2865

Upon discussion of the evidence and testimony presented in the matter of Robert A. Conner, Qualifying Broker, Conner Company, Birmingham, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(19) by failing to comply with Section 34-27-35(j)(1) and Alabama Real Estate Commission Rules 790-X-1-.12(8) and 790-X-1-.12(9) by failing to provide to the Commission, upon request, original certificates showing the completion of all the required continuing education course hours by the deadline and by the false or inaccurate filing of the renewal, Commissioner Mallory moved to fine Mr. Conner guilty and to fine him \$1000. Commissioner Buford seconded the motion and it passed unanimously 6-0.

Not Appearings

James P. McCarley, Request to Operate from his Home

Upon discussion of Mr. McCarley's request to operate from his home based on his disabilities, Commissioner Bragg moved to approve Mr. McCarley's hardship for home operation within the city limits. Commissioner Hays seconded the motion and it passed unanimously 7-0.

Tommy Frank DeMartino, Applicant for Salesperson's Reciprocal License, I-11,798

Upon discussion of Mr. DeMartino's application for salesperson's reciprocal license, Commissioner Henderson moved to deny the reciprocal sales license of Mr. DeMartino. Commissioner Hewes seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission vs. Chantel S. Walker, Formal Complaint No. 2886

Upon discussion of the evidence and testimony presented in the matter of Chantel S. Walker, RealtySouth I-459 Southwest Branch, McCalla, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(16) by presenting to the Alabama Real Estate Commission, as payment for a fee or fine, a check which was returned unpaid by the bank upon which it was drawn, Commissioner Hewes moved to find Ms. Walker guilty and to fine her \$250. Commissioner Buford seconded the motion and it passed unanimously 6-1 with Commissioner Mallory abstaining.

Alicia Davis, Applicant for Determination of Licensing Eligibility, I-11,799

Upon review of Ms. Davis' application for determination of licensing eligibility, Commissioner Bragg moved to deny the license eligibility of Ms. Davis. Commissioner Buford seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission vs. John J. Runnion, Formal Complaint No. 2885

Upon discussion of the evidence and testimony presented in the matter of John J. Runnion, Qualifying Broker, Rock Apartment Advisors, Inc., Birmingham, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(19) by failing to comply with Alabama Real Estate Commission Rule 790-X-3-.01 in that Mr. Runnion failed to notify the Real Estate Commission within thirty (30) days of change of business address, Commissioner Henderson moved to find Mr. Runnion guilty and to fine him \$100. Commissioner Hays seconded the motion and it passed unanimously 7-0.

April McCants, Applicant for Determination of Licensing Eligibility, I-11,804

Upon review of Ms. McCant's eligibility for licensure, Commissioner Bragg moved to deny the license eligibility of Ms. McCants. Commissioner Hewes seconded the motion and it passed unanimously 7-0.

Diane Gay O'Neil Conner, Applicant for Determination of Licensing Eligibility, I-11,805

Upon review of Ms. Conner's eligibility for licensure, Commissioner Hewes moved to approve the license eligibility of Ms. Conner. Commissioner Henderson seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission vs. Herbert K. Orise, Formal Complaint No. 2889

Upon discussion of the evidence and testimony presented in the matter of Herbert K. Orise, Salesperson, JRHBW Realty, Inc., d/b/a RealtySouth, Oak Mountain Branch, Pelham, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(16) by presenting to the Alabama Real Estate Commission, as payment for a fee or fine, a check which was returned unpaid by the bank upon which it was drawn, Commissioner Bragg moved to find Mr. Orise guilty and to fine him \$250. Commissioner Henderson seconded the motion and it passed 6-0 with Commissioner Mallory abstaining.

Marc Smith, Applicant for Determination of Licensing Eligibility, I-11,816

Upon review Mr. Smith's eligibility for licensure, Commissioner Henderson moved to approve the license eligibility of Mr. Smith. Commissioner Hewes seconded the motion and it passed unanimously 7-0.

Alabama Real Estate Commission vs. Jennifer M. Wolford, Formal Complaint No. 2881

Upon discussion of the evidence and testimony presented in the matter of Jennifer M. Wolford, ERA Smith Oxford Realtors, Gardendale, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(16) by presenting to the Alabama Real Estate Commission, as payment for a fee or fine, a check which was returned unpaid by the bank upon which it was drawn, Commissioner Buford moved to find Ms. Wolford guilty and to fine her \$250. Commissioner Henderson seconded the motion and it passed unanimously 6-0 with Commissioner Mallory abstaining.

Larry W. Golden, Broker Applicant, I-11,830

Upon review of Mr. Golden's request for waiver of having to take the broker's exam a second time, after having already taken it before completing the 60 hour prelicense course, Commissioner Henderson moved to waive the broker's exam

provided Mr. Golden completes 60 hours of prelicense education in 90 days.
Commissioner Bragg seconded the motion and it passed unanimously 7-0.

There being no further discussion, the Commission adjourned at 2:00 PM.

Done this 18th day of November, 2005.

Bill E. Poole, Chairman

D. Philip Lasater, Recording Secretary