

## MINUTES

A meeting of the Alabama Real Estate Commission was held November 18, 2011, at the offices of the Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, Alabama.

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

Other staff in attendance for part or all of the meeting were Public Relations Manager Vernita Oliver-Lane, Public Relations Specialist Lori Moneyham, Information Technology Manager Nancy Barfield, Assistant Information Technology Manager Brett Scott, Programmer Analyst Matt Davis, Education Specialists David Bowen and Pam Oates.

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.

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

Mr. Lasater reviewed the October financial statement. He noted that transfers, originals and temporaries continue to decrease in activity largely due to the decrease in the number of people taking the licensing exam. The other areas of note were the changes in Employee Benefits due to a change in the computation factor and the increase in supplies for the month that reflects some early fiscal year purchases but that will even out over the year.

Mr. Lasater recognized two retiring staff members, IT Manager Nancy Barfield with 26 years of service to the State of Alabama and Custodian Floyd Garber who has 14 years of service with the State of Alabama. Mr. Lasater expressed gratitude for the work they have done during their tenure at the Commission and noted they will be missed. He then read and presented each with a proclamation from Governor Robert Bentley on behalf of the State of Alabama. Commissioner Wright made a motion to adopt these resolutions honoring Ms. Barfield and Mr. Garber. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

Chairman Watts called attention to the new 23<sup>rd</sup> edition of the License Law books distributed by ACRE (Alabama Center for Real Estate) and noted that Commissioners are the first to receive them.

Chairman Watts directed attention to the document “Management of Rental Real Estate” that contains the proposed changes to Sections 34-27-2 and 34-27-30. He noted that Management of Rental Real Estate has been in the Commission’s Strategic Plan as a critical issue since 2009. Both the Commission and Alabama Association of Realtors have supported legislation since that time with legislation being introduced in 2010 that was unsuccessful. To address previous concerns, this document represents a thorough definition of management of rental real estate and re-defines the exemption. Commission General Counsel Charles Sowell suggested that “any of the following” be added to the end of Section 34-27-2(10)(a) and (10)(b) for clarifying purposes. Commissioner Cawthon made a motion adopt the document inclusive of the additional language suggested by Mr. Sowell that will be representative of the language to be included in a proposed legislative bill. Commissioner Sharp seconded the motion and it passed unanimously 8-0.

Ms. Charline Mathis, on behalf of the Education Trustees of AAR (Alabama Association of REALTORS®), presented a request to the Commission to make License Law, in addition to Risk Management, a mandatory continuing education course for the next license period. Both AAR’s Executive Committee and their Board of Directors have approved and support this request.

Education Director Ryan Adair introduced Education Advisory Committee members Earl Martin, Jeanne LaMere, Rebecca Green, Don Mays and Anne Powell and gave Commissioners background information leading up to the development of a proposed 3-hour continuing education course for brokers. Ms. Anne Powell from Academy of Real Estate in Mobile made a presentation explaining the course benefits, requirements in other states and presented a proposed outline and recommendation that this course become the mandatory Risk Management course for brokers beginning with the next license period.

Chairman Watts appointed Commissioner Cawthon to chair a task force to study this issue. He then appointed Commissioners Buford, Sharp and Cummings to serve on the task force with Mr. Cawthon. Chairman Watts provided Commissioners with the charge for this project and noted there are two phases. Key to Phase 1 is to determine if the requests comply with statutory and rule provisions, decide if the Commission wants to add an additional mandatory continuing education course at this time and if so, make a recommendation as to which one or both. Phase 2 will go beyond that and look at the overall continuing education and determine how to measure its effectiveness and should exemptions be considered.

Mr. Grayson Glaze, Executive Director of ACRE (Alabama Center of Real Estate), made opening remarks regarding ACRE’s request for a grant of funds in the amount of \$200,000 per year for the next three years. He then turned the presentation over to Mr. Jim Lawrence, Education Director for ACRE. Mr. Lawrence noted that it is the Center’s intent to work closely with the Commission to insure that the products and services developed and delivered by the Center are consistent with the Commission’s regulatory jurisdiction, education and information to licensees and consumers. If the grant is awarded, the Center will be accountable to the Commission through constant communication and through the submission of an annual report

each fiscal year. Mr. Lawrence stated that the educational goals of the Center will be consistent with the regulatory objectives of the Commission with the primary mission being to raise the level of professionalism of every real estate licensee throughout the State of Alabama.

After hearing the presentation, Chairman Watts informed Commissioners that the Commission has also received a grant request for the Mitchell School of Business which is a part of the University of South Alabama in Mobile. Mr. Watts noted that the Commission has never before received a request for a grant and has not ever made a grant award. Therefore, he asked Commissioner Wright to Chair a task force to study this issue. He asked Commissioners Miller, Harrison and Riggins-Allen to serve with her. He charged them with first determining if the grant requests should be considered and if so, how to proceed. He gave the Task Force a list of charges and reviewed them with Commissioners.

Commissioner Cummings asked that a charge for the task force be added to review the requirements that provide funding to the Alabama Center for Real Estate and determine if other Centers, both present and future, should be added to statutorily receive funding.

Commissioner Wright made a motion that the Commission conduct its disciplinary hearing disposition discussions and decisions in open session. Commissioner Sharp seconded the motion and it passed unanimously 8-0.

## **HEARINGS**

### **Robert L. Hale, III, Applicant for Hardship Waiver of Section 34-27-2(a)(11)b. for Office at Home, I-13,710**

Upon discussion of the testimony presented by Mr. Hale regarding hardship waiver for home office, Commissioner Cawthon made a motion to deny the request. Commissioner Sharp seconded the motion and it passed unanimously 8-0.

### **Randal Klinner, Hardship Application for Renewal of Lapsed License, I-13,733**

Upon discussion of the hardship renewal request presented by Mr. Klinner, Commissioner Cawthon made a motion to deny the request. Commissioner Wright seconded the motion and it passed unanimously 8-0.

### **Alabama Real Estate Commission vs. David Alan Dethrage, Formal Complaint No. 3251**

Upon discussion of the evidence and testimony presented in the matter of David Alan Dethrage, Qualifying Broker, Home Realty Company LLC, Anniston, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Count 1: Section 34-27-36(a)(8)b., by failing to deposit and account for at all times all funds belonging to or being held for others in a separate federally insured account or accounts in a financial institution located in Alabama by having a shortage of funds; Count 2: Section 34-27-36(a)(8)a. by commingling money belonging

to others with their own funds, Commissioner Riggins-Allen made a motion to find both respondents guilty on both counts and fine them a total of \$2,500. The motion was seconded by Commissioner Sharp. Commission Cawthon offered an amendment to suspend Mr. Dethrage's license but to stay the suspension for 90 days during which time Mr. Dethrage must complete the 60 hour broker prelicense course. Provided completion of the course is accomplished within the designated time frame, the suspension will be permanently stayed. Commissioner Miller seconded the amendment and it passed unanimously 8-0. Commissioners then voted on the main motion and it passed 8-0.

**Alabama Real Estate Commission vs. Wayne Andrew Sutton, Formal Complaint No. 3248**

Upon discussion of the evidence and testimony presented in the matter of Wayne Andrew Sutton, Qualifying Broker, Lynx Real Estate, Inc., Atlanta, Georgia, 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 he failed to notify the Commission in writing within thirty (30) days of changing the location of his business, Commissioner Wright made a motion to find Mr. Sutton guilty and fine him \$1,000. Commissioner Riggins-Allen seconded the motion and it passed unanimously 8-0.

**Christina Watson, Applicant for Extension of One Year to Take and Pass Salesperson's Examination After Completion of Prelicense Course, I-13,748**

Upon discussion of the request by Ms. Watson for a 90 day extension for taking and passing the real estate salesperson's examination, Commissioner Cummings made a motion to grant the 90 day extension. Commissioner Miller seconded the motion and it passed unanimously 8-0.

**NOT APPEARINGS**

**Michael Shane Taylor, Plea of Guilty and Waiver of Hearing, Formal Complaint No. 3249**

Upon review of the evidence presented in the matter of Michael Shane Taylor, Inactive Broker, Talladega, 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 Cawthon made a motion to accept Mr. Taylor's guilty plea and fine him \$250. Commissioner Sharp seconded the motion and it passed unanimously 8-0.

**Polly Ann Trotter, Hardship Renewal Request of Lapsed Salesperson License, I-13,740**

Upon review of Ms. Trotter's request for Commission approval to renew her lapsed salespersons license, Commissioner Wright made a motion allow Ms. Trotter 90 days to renew her lapsed license. Commissioner Miller seconded the motion and it passed unanimously 8-0.

**Victor P. Nigri, Hardship Request for Renewal of Lapsed Broker License, I-13,749**

Upon review of Mr. Nigri's request for Commission approval to renew his lapsed broker's license, Commissioner Miller made a motion allow Mr. Nigri 90 days to renew his lapsed license. Commissioner Cawthon seconded the motion and it passed 7-1 with Commissioner Riggins-Allen voting no.

**William Byrd, Hardship Request for Renewal of Lapsed Broker License, I-13,750**

Upon review of Mr. Byrd's request for Commission approval to renew his lapsed broker's license, Commissioner Sharp made a motion to approve Mr. Byrd's request and require him to pay all back fees and meet continuing education requirements. Commissioner Cawthon seconded the motion and it passed 7-1 with Commissioner Riggins-Allen voting no.

**Donnie Lynn Lester, Application for Determination of Eligibility for Licensure, I-13,746**

Upon review of the application for determination of licensing eligibility submitted by Mr. Lester, Commissioner Cummings made a motion to deny Mr. Lester's request. Commissioner Riggins-Allen seconded the motion and it passed unanimously 8-0.

**Yolanda Serritelli, Surrender of License, I-13,723, I-13,731 ,I-13, 732**

Upon review of the affidavit of license surrender submitted by Ms. Serritelli, Commissioner Riggins-Allen made a motion to accept the surrender of her license. Commissioner Wright seconded the motion and it passed unanimously 8-0.

**Confirm Next Meeting Date and Location for the Record: January 19, 2012, 1:00 p.m. in Montgomery**

Commissioner Cawthon made a motion to approve the next Commission meeting date and location for January 19, 2012, at 1:00 p.m. in Montgomery, Alabama. Commissioner Riggins-Allen seconded the motion and it passed unanimously 8-0.

There being no further business, the meeting adjourned at 12:10 p.m.

Done this 18<sup>th</sup> day of November, 2011.

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Bill Watts, Chairman

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Patricia Anderson, Recording Secretary