

MINUTES

A meeting of the Alabama Real Estate Commission was held November 29, 2012, 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 Jewel Buford, Carole Harrison, Clif Miller, Dorothy Riggins-Allen, Danny Sharp and Nancy Wright; Executive Director Philip Lasater; Assistant Executive Director Patricia Anderson; General Counsel Chris Booth; Education Director Ryan Adair; Investigators David Erfman, Chuck Kelly, Phillip Bunch and K.C. Baldwin and Auditor Vickie Shackelford. Tori Adams served as Hearing Officer. Commissioner Reid Cummings was absent with notice.

Other staff members in attendance for all or part of the meeting were Public Relations Manager Vernita Oliver-Lane, 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.

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

In the Executive Director's Report and Financial Review, Mr. Lasater referenced the "Financial Summary for November Fund Balances as of October 31, 2012." He called attention to the amount the Commission is authorized to spend in fiscal year 2013 and the amount expended in fiscal year 2012 along with revenues and expenses for October 2012. The report shows revenues increasing for the first time in a few years.

Mr. Lasater then reviewed the 2014 Budget. After Commissioners asked a number of questions and discussed the items in the budget, Commissioner Cawthon made a motion to approve the budget. Commissioner Wright seconded the motion and it passed unanimously 8-0.

Mr. Lasater asked Pat Anderson, Assistant Executive Director, to share information gathered at Commission direction as it relates to licensees possibly receiving continuing education credit for attending Commission meetings. Ms. Anderson reported that General Counsel, Chris Booth, has identified Section 34-27-6(h) as the paragraph in the License Law that gives Commissioners authority to develop and adopt a rule that would allow licensees to receive credit for attendance at Commission meetings. He has recommended a stand-alone rule that addresses only this topic, if Commissioners decide to proceed. Ms. Anderson shared the timeline for the rulemaking process as well as some of the topics that Commissioners may want to consider in rule development.

Subsequent to Ms. Anderson's report, Chairman Watts asked the CE task Force chaired by Commissioner Cawthon and members Commissioners Buford, Sharp, and Cummings, to study this issue and report back to the full Commission in January 2013. Commissioner Cawthon expressed interest in awarding CE credit for off-site meetings and perhaps having meetings in other parts of the state from time to time to allow licensees the opportunity to attend meetings and receive credit.

Mr. Lasater called attention to newly proposed Rule 790-X-2-.05 "Names on application for licenses" and explained that it is being proposed to give licensees a clear understanding for those who do business using a nickname and when the nickname must be included on the license. Chairman Watts asked if the Commission can require a license number on advertising. Mr. Booth responded that a statutory change will be needed for this. The Chairman asked Commissioner Wright to chair a task force to study these issues along with other task force members who are Commissioners Harrison, Miller, and Riggins-Allen.

Commissioner Cawthon discussed the current and past status of the task forces that have dealt with HOA's (Homeowners Associations). He wanted to make Commissioners aware of the current task force appointed by Governor Bentley. Commissioner Cawthon serves on this task force. Other participants on the task force consists of members from the Citizens Community Alliance, Home Builders, Homeowner Association Managers, individual citizens, and a group of REALTORS® from across the state. Representative Mac McCutcheon from Madison County is on the task force and is pushing for something to be done due to the problems in Huntsville with HOA's. Commissioner Cawthon wanted to make other Commissioners aware because some members feel like regulation of HOA's should come under the Real Estate Commission.

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

HEARINGS AND APPEARINGS

Alabama Real Estate Commission vs. Kevin James Knight, Steve N. Humphries, and Knight and Humphries, Inc., Formal Complaint No. 3282

Upon discussion of the evidence and testimony presented in the matter of Kevin James Knight, Qualifying Broker, Knight and Humphries, Inc., d/b/a Real Property Management, Florence, Alabama; Steve N. Humphries, Associate Broker, Knight and Humphries, Inc. d/b/a Real Property Management, Florence, Alabama, and Knight and Humphries, Inc., d/b/a Real Property Management, Florence, Alabama, and the alleged violations of the *Code of Alabama* 1975, as amended, 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 in the rental trust account, Commissioner Cawthon made a motion to find Respondents, Kevin James Knight,

Steve N. Humphries and Knight and Humphries, Inc. guilty, to fine Mr. Knight and Mr. Humphries \$1,000 each and to suspend the license of Mr. Knight and Mr. Humphries for 6 months with that suspension stayed for 6 months. If the Respondents take and complete the continuing education course *Risk Management for Property Managers* during the 6 months stay, the suspension shall be permanently stayed. Commissioner Wright seconded the motion and it passed unanimously 8-0.

KeAundria Wright, Hardship Application for Renewal of Lapsed Salesperson's License, I-13,989

Upon discussion of Ms. Wright's hardship request for renewal of her lapsed salesperson's license, Commissioner Cawthon made a motion to grant Ms. Wright's request. Commissioner Riggins-Allen seconded the motion and it passed 7-1 with Commissioner Buford voting no.

William Troy McClendon, Request for Hardship Waiver of Late Renewal Penalty, I-13,975

Upon discussion of Mr. McClendon's request for hardship waiver of penalty fee for late license renewal, Commissioner Riggins-Allen made a motion to grant his request. Commissioner Buford seconded the motion and it passed unanimously 8-0.

Alabama Real Estate Commission vs. Benny C. Hand, Formal Complaint No. 3275

Upon discussion of the evidence and testimony presented in the matter of Benny C. Hand, Inactive Associate Broker, Opelika, 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 made a motion to dismiss the complaint. Commissioner Miller seconded the motion and it passed unanimously 8-0.

NOT APPEARING ITEMS FOR RULING

Susan G. Cooper, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3289

Upon review of the evidence presented in the matter of Susan G. Cooper, Qualifying Broker, Centennial Realty, Columbus, Georgia, and the alleged violation of the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(16), in that she submitted an electronic check as payment for license renewal which was returned unpaid, Commissioner Buford made a motion to find her guilty and fine her \$250. Commissioner Sharp seconded the motion and it passed unanimously 8-0.

Mark Christopher Hess, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3286

Upon review of the evidence presented in the matter of Mark Christopher Hess, Associate Broker, Team Linda Simmons Real Estate, Inc., Enterprise, Alabama, and the alleged violation of the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(16) in that he presented 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 Miller made a motion to find him guilty and fine him \$250. Commissioner Buford seconded the motion and it passed unanimously 8-0.

Steve W. (Bill) Price, Request for Waiver of Penalty Fee, I-13,995

Upon review of the request by Mr. Price for waiver of the penalty fee for late renewal, Commissioner Buford made a motion to grant Mr. Price's request. Commissioner Riggins-Allen seconded the motion and it passed unanimously 8-0.

James Rush Dunaway, Jr., Application for Determination of Licensing Eligibility, I-13,906

Upon review of Mr. Dunaway's request for consideration of his license eligibility, Commissioner Buford made a motion to approve his application for determination of licensing eligibility. Commissioner Wright seconded the motion and it passed unanimously 8-0.

Confirm Next Meeting Date and Location for the Record: January 24, 2013, 1:00 p.m., Montgomery

Commissioner Wright made a motion to approve the next Commission meeting date and location for January 24, 2013, at 1:00 p.m. in Montgomery, Alabama. Commissioner Miller seconded the motion and it passed unanimously 8-0.

There being no further business, the Commission adjourned at 11:15 a.m.

Done this 29th day of November, 2012.

Bill Watts, Chairman

Patricia Anderson, Recording Secretary