

## MINUTES

A meeting of the Alabama Real Estate Commission was held November 21, 2019, at the offices of the Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, Alabama.

Those present were Chairman Danny Sharp; Vice Chairman Carole Harrison; Commissioners Emmette Barran, Reid Cummings, Melody Davis, Joyce Harris, Susan Smith and Bill Watts; Executive Director Patricia Anderson; Assistant Executive Director Teresa Hoffman, General Counsel Mandy Speirs, Assistant General Counsel Starla Van Steenis; Investigators David Erfman, K.C. Baldwin, Rickey Fennie, Marshall Simons and Auditor Vickie Shackelford. The Hearing Officer was Jim Hampton. The consumer member position is currently vacant.

Other staff members in attendance for all or part of the meeting were Public Relations Director Vernita Oliver-Lane, Public Relations Specialist Lori Moneyham; Education Director Ryan Adair; Education Specialist Pam Oates; Accounting and Personnel Director Molli Jones; Information Technology Director Brett Scott; Information Technology Systems Specialist Steven Brown; Licensing Administrator Anthony Griffin and Executive Assistant Barbi Lee.

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

Chairman Sharp recognized and expressed appreciation to Commissioner Bill Watts for his leadership to the Alabama Real Estate Commission by serving as Chairman and Vice Chairman and made a presentation to him.

Vice Chairman Harrison made a motion to approve the minutes from the October 24, 2019 Commission meeting. Commissioner Barran seconded the motion and it passed unanimously 8-0.

Executive Director Patricia Anderson introduced Vaughn Poe, who among other duties, is serving as the Chief Policy Officer and Liaison to the Alabama Legislature and the Alabama Association of REALTORS® for the Commission.

Ms. Anderson presented the October 2019 financial report. She gave Commissioners an update on revenues and expenditures in the operating and recovery fund accounts. Commissioners were also updated on the total payment made to ACRE (Alabama Center for Real Estate) for Fiscal Year 2019.

Ms. Anderson shared an invitation with Commissioners from Phillip Horton with the Birmingham Association of REALTORS® to have the March 19, 2020 Commission meeting at the Association's office with a possible forum for their members afterwards. All Commissioners agreed to hold the March 19<sup>th</sup> meeting in Birmingham.

Ms. Anderson provided an update regarding the pass rates for schools. For 2019, 82% of schools have pass rates above 50%. This rate is much improved over previous years, and the Education Team is to be commended for their hard work. Commissioner Watts asked Education Director, Ryan Adair if there was a point which the Commission should be considering a minimum pass rate before decertifying or closing the school. Mr. Adair explained that his team has the same concerns, but their intention is to work with all under-performing instructors and schools to exhaust all tools available for improvement before taking additional action.

## **COMMISSIONER DISCUSSION**

Chairman Sharp discussed with Commissioners the recommendation from the Broker Supervision Task Force of increasing the number of years' experience a licensee is required to have before being qualified to take the broker examination from two to four. This change will be a stand-alone bill to be pre-filed for the 2020 legislative session. Commissioner Smith made a motion to approve the Broker Supervision Task Force recommendation. Commissioner Harris seconded the motion and it passed unanimously 8-0.

Commissioner Barran discussed the work of the RECAD Task Force and the suggested revisions to the current Real Estate Brokerage Services Disclosure form that will inform the changes to the RECAD statute. A proposed draft of the new form was provided to Commissioners for review. After much discussion, Commissioner Barran made a motion to approve the Real Estate Brokerage Services Disclosure form as presented. Commissioner Smith seconded the motion and it passed unanimously 8-0. The proposed language for statutory changes to license law will be presented later for approval.

Education Director Ryan Adair presented to the Commission a proposal for changes to the current CE (continuing education) requirement to be effective October 1, 2020, for the 2021-2022 license period. This recommendation is made based on the current strategic plan to "Rename existing mandatory CE courses to reduce confusion" and "Research mandating a three-hour license law course." His proposals are (1) 3 hours of mandatory and 12 hours of elective CE (2) Mandatory Course: New risk management course will contain 3 hours license law violations and RECAD changes, if RECAD legislation passes. This will be a revision of *Risk Management: Avoiding Violations*. Commissioner Barran made a motion to approve the proposed changes to required continuing education. Commissioner Watts seconded the motion and it passed 7-1 with Vice Chairman Harrison voting against the motion.

Commissioner Watts discussed developing an Internal Audit Policy for companies who have been found guilty of violating *Code of Alabama* Sections 34-27-36(a)(8)a. and (8)b. Commissioner Watts made the following motion: The staff of the Alabama Real Estate Commission shall establish an internal policy to review all formal complaints that have been brought before the Commission, since 2003, concerning violations relating to earnest money and escrow fund accounts held by licensees, both individuals and companies. If such formal complaints resulted in a guilty finding, and occurred more than 24 months prior to November 21, 2019, and any licensees are still active, then the staff shall schedule and complete a reaudit of

the licensees to determine current compliance with the law. Further, from this day forward, the staff is to create a continuous internal policy which requires a reaudit of similar findings, within 24 months of such findings, to verify continued compliance of the law. Commissioner Cummings seconded the motion and it passed unanimously 8-0.

Commissioner Watts made a recommendation to document all audit findings including those who have no finding.

Chairman Sharp expressed his appreciation to the Alabama Association of REALTORS® Executive Director, President and President-Elect for their attendance at a meeting on Wednesday, November 20. Additional meetings are planned.

Commissioner Cummings made a motion that Commissioners conduct disciplinary hearing disposition discussions and decisions in an Open Meeting. Commissioner Harrison seconded the motion and it passed unanimously 8-0.

## **HEARINGS**

### **Jucretia J. Snow, Request for Extension of Deadline for Course Completion and to Apply for Salesperson License, Licensing File LC2019-017**

Upon discussion of the evidence and testimony presented in the matter regarding her request for an extension of the deadline to complete the course and apply for a salesperson license, Commissioner Cummings made a motion to approve a 60-day extension. Commissioner Watts seconded the motion and it passed unanimously 8-0.

### **Lasandrea Lewis, Application for Real Estate Salesperson Temporary License, Investigative File I-19-069**

Upon discussion of the evidence and testimony presented in the matter regarding her application for real estate salesperson temporary license, Commissioner Barran made a motion to deny her application. Commissioner Watts seconded the motion and it passed unanimously 8-0.

### **Danny Michael Mulligan, Request for Extension of Deadline to Renew Broker License, Licensing File LC2019-020**

Upon discussion of the evidence and testimony presented in the matter regarding his request for an extension of the deadline to renew his broker license, Commissioner Cummings made a motion to approve his request. Commissioner Smith seconded the motion, and it passed unanimously 8-0.

### **Kristin Caldwell, Application for Determination of Licensing Eligibility, I-19,053**

Upon discussion of the evidence and testimony presented in the matter regarding her application for determination of license eligibility, Commissioner Barran made a motion to approve her application. Commissioner Cummings seconded the motion, and it passed unanimously 8-0.

**Alabama Real Estate Commission vs. Kristin Caldwell, Formal Complaint No. 3499**

Kristin Caldwell, Pre-License Registration, Birmingham, Alabama, was charged with violating 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.

Upon discussion of the evidence and testimony presented in the matter, Commissioner Cummings made a motion to find her guilty and fine her \$750. Commissioner Watts seconded the motion and it passed 6-2 with Commissioners Barran and Harrison voting against the motion.

**Alabama Real Estate Commission vs. James H. Helms, Jr. and Premiere Management Services Inc. and Century 21 The Premiere Agency Inc., Formal Complaint No. 3498**

James H. Helms, Jr. Qualifying Broker, and Premiere Management Services, Inc., Arab, Alabama, were charged on **Count 1** with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(8)a. by failing within a reasonable time, to properly account for or remit money coming into their possession, which belongs to others, by maintaining a security deposit trust account with a demonstrated shortage of \$3,845.

Regarding **Count 1**, Commissioner Cummings made a motion to find James H. Helms and Premiere Management Services guilty. Commissioner Watts seconded the motion and it passed unanimously 8-0. Commissioner Watts made a motion to revoke all licenses for James H. Helms and Premiere Management Services. Commissioner Harris seconded the motion and it passed unanimously 8-0.

Respondent Helms and Premiere Management Services were charged on **Count 2** with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(8)a. by failing within a reasonable time, to properly account for or remit money coming into their possession, which belongs to others, by maintaining a rental trust account with a demonstrated shortage of \$11,851.19.

Regarding **Count 2**, Commissioner Cummings made a motion to find James H. Helms and Premiere Management Services guilty. Commissioner Watts seconded the motion and it passed unanimously 8-0. Commissioner Watts made a motion to revoke all licenses for James H. Helms and Premiere Management Services. Commissioner Harris seconded the motion and it passed 7-1 with Vice Chairman Harrison voting against the motion.

Respondent Helms was charged on **Count 3** with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(19) by violating Alabama Real Estate Commission Rule 790-X-3-.03 as he was not listed as a signatory on the trust account signature card.

Regarding **Count 3**, Commissioner Cummings made a motion to find James H. Helms guilty. Commissioner Watts seconded the motion and it passed unanimously 8-0. Commissioner Smith made a motion to fine Mr. Helms \$500. Commissioner Barran seconded the motion and it passed unanimously 8-0.

**Scott Howard Willenbrock, Application for Hardship Home Operation, Investigative File I-19,051**

Upon discussion of the hardship request by Mr. Willenbrock for home operation, Commissioner Cummings made a motion to deny his request. Commissioner Harris seconded the motion and it passed unanimously 8-0.

**Eugene Leonard, Application for Real Estate Salesperson Temporary License, Investigative File I-19,049**

Upon discussion of the evidence and testimony presented in this matter regarding his application for real estate salesperson temporary license, Commissioner Barran made a motion to approve his application once all fine monies are paid. Commissioner Cummings seconded the motion and it passed unanimously 8-0.

**Alabama Real Estate Commission vs. Kayla Dianne Eldridge, Formal Complaint No. 3490**

Ms. Eldridge contacted Investigator Rickey Fennie prior to this hearing and stated she would not be in attendance and did not ask for a continuance.

Kayla Dianne Eldridge, Inactive Salesperson, Madison, Alabama, was charged with violating the *Code of Alabama*, 1975, as amended, Section 34-27-36(a)(19) by violating or disregarding any provision of this chapter or any rule, regulation, or order of the commission.

Commissioner Barran made a motion to find Ms. Eldridge guilty. Commissioner Cummings seconded the motion and it passed unanimously 8-0. Commissioner Barran made a motion to revoke Ms. Eldridge's license. Commissioner Smith seconded the motion and it passed unanimously 8-0.

**NOT APPEARINGS**

**Koran King, Application for Determination of Licensing Eligibility, Investigative File I-19,071**

Upon review of the application for determination of licensing eligibility submitted by Mr. King, Commissioner Watts made a motion to deny his application. Commissioner Smith seconded the motion and it passed unanimously 8-0.

**Stephanie Ann Rencher, Application for Determination of Licensing Eligibility, Investigative File I-19,050**

Upon review of the application for determination of licensing eligibility submitted by Ms. Rencher, Commissioner Smith made a motion to approve her application. Commissioner Barran seconded the motion and it passed unanimously 8-0.

**Pamela Therese Brown, Request for Extension of Deadline to Renew Salesperson License, Licensing File LC2019-021**

Upon review of the request from Ms. Brown for an extension of the deadline to submit her renewal salesperson application and fee, Commissioner Cummings made a motion to approve her request. Commissioner Watts seconded the motion and it passed unanimously 8-0.

**Rollie McCall, Request for Extension of Deadline to Apply for Salesperson License, Licensing File LC2019-018**

Upon review of the request from Mr. McCall for an extension of the deadline to submit his salesperson application and fee, Commissioner Watts made a motion to approve his request. Commissioner Harris seconded the motion and it passed unanimously 8-0.

**Amanda Wallace Flores, Request for Extension of Deadline to Apply for Salesperson License, Licensing File LC2019-019**

Upon review of the request from Ms. Flores for an extension of the deadline to submit her salesperson application and fee, Commissioner Cummings made a motion to deny her request. Commissioner Harrison seconded the motion and it passed unanimously 8-0.

**Michael Shane Taylor, Hardship Request to Renew Lapsed Broker License, Licensing File LC2019-022**

Upon review of the hardship request from Mr. Taylor to renew his lapsed broker license, Commissioner Smith made a motion to approve his request. Commissioner Cummings seconded the motion and it passed unanimously 8-0.

**Confirm February Meeting Date and Location for the Record:** February 20, 2020, 9:00 a.m. in Montgomery, Alabama

Commissioner Watts made a motion to confirm the February meeting for February 20, 2020 at 9:00 a.m. in Montgomery, Alabama. Commissioner Barran seconded the motion and it passed unanimously 8-0.

**Next Commission Meeting:** Thursday, January 23, 2020, 9:00 a.m. in Montgomery, Alabama

Commissioner Watts stated that he would be absent from the January 23, 2020 meeting.

There being no further business, the meeting adjourned at 1:07 p.m.

Done this 21<sup>st</sup> day of November 2019.

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Danny Sharp, Chairman

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Barbi Lee, Recording Secretary