

## MINUTES

A meeting of the Alabama Real Estate Commission was held October 13, 2022 at the University of South Alabama's Faculty Club located at 6350 Fincher Road, Mobile, Alabama. This meeting was also available by video teleconference (VTC).

The meeting, having been duly noticed according to the Alabama Open Meetings Act, was called to order by Commission Chairman Emmette Barran at 9:00 a.m.

Chairman Barran called the roll, and the following Commissioners indicated their presence with a spoken "present": Vice Chairman Terri May; Commissioners Jimmie Ann Campbell, Jim Dye, Betsy Echols, Joyce Harris, Randy McKinney, Susan Smith and Cerita Tucker Smith. A quorum was declared.

Commission staff members in attendance or participating via VTC for all or part of the meeting were Executive Director Vaughn Poe; Assistant Executive Director Teresa Hoffman; General Counsel Starla Leverette; Assistant General Counsel Zack Burr; Investigators David Erfman, K. C. Baldwin and Rickey Fennie; Communications and Public Relations Director Vernita Oliver-Lane; Communications and Public Relations Specialist Senior Lori Moneyham; State Professional Trainee Jess Sparks; Communications and Public Relations Intern Taylar Hooks; Education Director Ryan Adair; Education Specialists David Bowen and Pam Oates; Education Assistant Nancy Williamson; Auditors Vickie Shackelford and Denise Blevins; Senior Accountant Pam Garner; Staff Accountant Hattie Thomas; Information Technology Director Brett Scott; Information Technology Systems Specialist Steven Brown; Licensing Director Anthony Griffin; Licensing Assistants Shy'kierra Knight and Price Sparks; and Executive Assistant Barbi Lee. The Hearing Officer was Jim Hampton.

Members of the public also attended via video teleconference.

Chairman Barran thanked former Commissioner Dr. Reid Cummings and the USA Faculty Club for hosting the Commission. He also thanked the Commission staff for traveling to Mobile and setting up the meeting.

The oath of office was administered to new Commissioner James L. "Jim" Dye by Executive Director Vaughn Poe. In accordance with Section 34-27-7(f) of Alabama License Law,

Chairman Barran asked for a motion to elect a Commission Chairman and Vice Chairman. Commissioner Campbell nominated Commissioner Emmette Barran for Chairman. Commissioner May seconded the motion and it passed unanimously 8-0. Commissioner Tucker Smith nominated Commissioner Terri May for Vice Chairman. Commissioner Campbell seconded the motion and it passed unanimously 8-0.

Commissioner Barran acknowledged the presence of former Commissioner Dr. Reid Cummings with the University of South Alabama and invited him to make remarks. Dr. Cummings

recognized one of his real estate students, Ethan Flowers, who was in attendance and stated that he had other students who would also be attending. Dr. Cummings recognized former Commission chairman Sheila Hodges, who represented the First Congressional District for 10 years.

Dr. Cummings welcomed everyone to Mobile and to the University of South Alabama campus. He stated that serving on the Real Estate Commission was an honor for him, personally. He considered it an honor to be selected, or to even be considered out of all the real estate licensees, to be in a position where you are entrusted to do the state's business, to represent consumers and to safeguard the licensing of the real estate profession and professionalism. He also stressed the importance and seriousness of serving on the Commission. Dr. Cummings reiterated that he was glad to have the Commission meeting on campus and expressed hope that the Commissioners would return in the future.

Chairman Barran asked for a motion to approve the minutes from the September 22, 2022 Commission meeting. Vice Chairman May noted there was a correction that needed to be made to the September 22 minutes. The date of the November 2022 Commission meeting was recorded as November 22, but the correct date should have been November 17. Vice Chairman May made a motion to approve the minutes as amended with the November meeting date correction. Commissioner Campbell seconded the motion and it passed 7-0-1 with Commissioner Dye abstaining from the vote since he was not appointed until September 28, 2022.

Chairman Barren recognized the presence of Alabama Representatives Adline Clark, House District 97 and Margie Wilcox, House District 104.

## **EXECUTIVE DIRECTOR'S REPORT**

Director Poe presented the September 2022 financial reports and gave Commissioners an update on revenues and expenditures in the operating and recovery fund accounts. Revenues and expenditures are on track as projected for the year. There have been no recovery fund payouts for the past 30 days. The Commission has paid \$628,583.10 to other state agencies for services during fiscal year 2022.

The proposed budget for Fiscal Year 2024 was presented by Director Poe and discussed. Vice Chairman May made a motion to adopt the proposed budget as presented. Commissioner Smith seconded the motion and it passed unanimously 9-0.

Director Poe reported the Commission has issued 40,642 total licenses. There are 4,243 licensed companies and branches. During September there were 345 licenses issued: 255 Temporary, 79 Original Salesperson; and 11 Broker. The average rate of growth for September was 8.87 new license applications per day, or roughly 266 per month. Presently there are 12,552 inactive licenses. Currently, there are 35,253 unique individuals licensed.

The Accounting Division reported that 15 desk audits and no assistance visits were completed since the September 2022 Commission meeting. However, requests for assistance visits are still coming in and are being scheduled for November and December.

Vice Chairman May referenced that the exam reports show that exam rates had dropped to an all-time low in four years. She requested that Commissioners receive a list of real estate schools' pass rates at the November meeting to allow Commissioners to review and discuss possible audits of the schools with low pass rates. Director Poe stated that the Commission has been collecting data and monitoring pass rates for the past three years and the rates have ebbed and flowed. One of the key factors affecting pass rates was that the deadline waiver for instructors to teach courses virtually that were initially approved to be taught in the classroom, due to COVID, ended October 1, 2022. It is anticipated that as courses approved for the classroom resume being taught in the classroom, the pass rates will increase. An upcoming change in exam providers may also affect pass rates. Director Poe stated that Commissioners would be provided the data requested by Vice Chairman May at the November 2022 Commission meeting.

The Education Division reported there are 795 total education licensees. Education staff performed five audits during September, including four education course audits and one school audit.

Director Poe announced that the Real Estate Brokers Licensure Restructure Task Force had its first meeting on September 28, 2022 and the second meeting was scheduled for October 20, 2022. Commissioners Smith and Campbell are members of the task force. He added that a lot of questions came up in the September meeting. The discussion initially surrounded the broker licensure course and program; however, that led to discussions about virtual offices and other topics. Commissioner Campbell stated that the September 28 meeting was a very good meeting and agreed that there were a lot of unexpected questions raised. Director Poe stated the challenge is to update license law so that the practices that are happening are regulated. Consumers are not being harmed; however, business models have progressed beyond what is currently written in license law. Larger real estate companies are impeding their business in an effort to remain in compliant with license law as it is currently written.

Director Poe explained that Coffee with the Commission was not held in Mobile due to the logistics with setup and preparation. It will resume in November.

Director Poe reminded Commissioners that each Commissioner is required to sign a Commission Member Compensation form. The form must be signed each October to indicate if a Commissioner has had any changes in employment status or other compensations throughout the year. The executed form is kept on file for review by the State of Alabama Examiners of Public Accounts.

He also advised Commissioners that the proposed Commission meeting dates for 2023 were included in their monthly meeting packet and would be approved at the November 17, 2022 Commission meeting. He proposed to forego the July 2023 Commission meeting. There will

be two “road show” meetings next year, one in Huntsville at the Huntsville Area Association of REALTORS® and the other in Tuscaloosa at the Alabama Center for Real Estate (ACRE) on the University of Alabama campus.

Director Poe reminded Commissioners that there will be a Commissioner workshop on November 16, 2022 at the Commission offices. A hybrid option will be available for Commissioners who cannot attend in person. Bias training for Commissioners and staff will be provided by Troy University Montgomery.

Commissioner Cerita Tucker Smith acknowledged the loss of colleague and mentor, Harvey Dinkins, who passed away in September 2022. He was a real estate professional for over 44 years and was very prominent in the Mobile area real estate community. He was also recognized nationwide and was named REALTOR® Emeritus by the National Association of REALTORS® (NAR). Because of his contributions to the real estate profession, the state chapter of the National Association of Real Estate Brokers (NAREB) will be creating a scholarship in his memory for those interested careers in the real estate industry in the areas of appraisal, surveying, commercial real estate, residential real estate or mortgage.

#### **HEARINGS – 9:30 Docket**

##### **Alabama Real Estate Commission VS. Stuart Brandon Fowler, Formal Complaint No. 3609**

Attorney Andrew Hall was present with Mr. Fowler.

Stuart Brandon Fowler, Qualifying Broker, Gulf Shores, Alabama was charged 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 his possession which belonged to others or by commingling money belonging to others.

Upon discussion of the evidence and testimony presented in the matter, Commissioner Dye made a motion to find Mr. Fowler guilty. Commissioner Echols seconded the motion and it passed unanimously 9-0. Commissioner Tucker Smith made a motion to revoke Mr. Fowler’s license. Commissioner Harris seconded the motion and it passed unanimously 9-0. Commissioner Campbell made a motion to fine Mr. Fowler \$2,500. Commissioner Tucker Smith seconded the motion and it passed unanimously 9-0.

##### **Shuntae Drake, Application for Determination of Licensing Eligibility, Investigative File I-22-235**

Upon discussion of the evidence and testimony presented in the matter regarding Ms. Drake’s application for determination of licensing eligibility, Commissioner May made a motion to approve her application. Commissioner Harris seconded the motion and it passed unanimously 9-0.

**Alabama Real Estate Commission VS. Bryanna Faith Brazelle, Formal Complaint No. 3618**

General Counsel Starla Leverette advised Commissioners that Ms. Brazelle submitted an executed Not Appearing Waiver and entered a guilty plea. The facts of the case were presented.

Brianna Faith Brazelle, Temporary Salesperson, Huntsville, Alabama was charged with violating *Code of Alabama, 1975*, as amended, Section 34-27-36(a)(16) by the presentation, 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, Vice Chairman May made a motion to accept Ms. Brazelle's guilty plea and fine her \$250. Commissioner Echols seconded the motion and it passed unanimously 9-0.

**Justin Baker, Application for Determination of Licensing Eligibility, Investigative File I-22-245**

Mr. Baker's hearing was continued until the November 17, 2022 Commission meeting.

**Alabama Real Estate Commission VS. George Arthur McEwen Jr., Formal Complaint No. 3619**

General Counsel Starla Leverette advised Commissioners that Mr. McEwen submitted an executed Not Appearing Waiver and entered a guilty plea. The facts of the case were presented.

George Arthur McEwen Jr., Salesperson, Mobile, Alabama was charged with violating the *Code of Alabama, 1975*, as amended, Section 34-27-36(a)(16) by the presentation, 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, Vice Chairman May made a motion to accept Mr. McEwen's guilty plea and fine him \$150. Commissioner Harris seconded the motion and it passed unanimously 9-0.

**Robert Ellis Steffens, Application for Real Estate Salesperson's Temporary License, Investigative File I-22-178**

Mr. Steffens' hearing was continued without date.

**Alabama Real Estate Commission VS. Jonathan M. (Johnny) Blaise, Formal Complaint No. 3620**

General Counsel Starla Leverette advised Commissioners that Mr. Blaise submitted an executed Not Appearing Waiver and entered a guilty plea. The facts of the case were presented.

Jonathan M. (Johnny) Blaise, Salesperson, Coffee Springs, Alabama was charged with violating the *Code of Alabama, 1975*, as amended, Section 34-27-36(a)(16) by the presentation,

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 Tucker Smith made a motion to find Mr. Blaise guilty and fine him \$350. Commissioner Dye seconded the motion and it passed unanimously 9-0.

**Trevor Lee Chapman, Request for Extension of Deadline to Apply for Salesperson License, Licensing File LC2023-001**

Upon discussion of the evidence and testimony presented in the matter regarding Mr. Chapman's request for extension of the deadline to apply for his salesperson license, Commissioner McKinney made a motion to grant Mr. Chapman a 30-day extension and charge him an administrative cost of \$500. Commissioner Echols seconded the motion and it passed unanimously 9-0.

**Alabama Real Estate Commission VS. Jordan Emmanuel Seal, Formal Complaint No. 3622**

General Counsel Starla Leverette advised Commissioners that Jordan Emmanuel Seal submitted an executed Not Appearing Waiver and entered a guilty plea. The facts of the case were presented.

Jordan Emmanuel Seal, Salesperson, Atlanta, Georgia was charged with violating the *Code of Alabama, 1975*, as amended, Section 34-27-36(a)(16) by the presentation, 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 Tucker Smith made a motion to accept Mr. Seal's guilty plea and fine him \$150. Commissioner Smith seconded the motion and it passed unanimously 9-0.

**Alabama Real Estate Commission VS. Kylie Nicole Myers, Formal Complaint No. 3571**

Kylie Nicole Myers, Inactive Salesperson, Mobile, Alabama was charged with violating the *Code of Alabama, 1975*, as amended, Section 34-27-36(a)(27) by acting negligently or incompetently in performing an act for which a person is required to hold a real estate license.

Upon discussion of the evidence and testimony presented in the matter, Commissioner Dye made a motion to find Ms. Myers guilty. Vice Chairman May seconded the motion and it passed 8-1 with Commissioner Tucker Smith voting against the motion. Vice Chairman May made a motion to fine Ms. Myers \$500. Commissioner Smith seconded the motion and it passed 7-2 with Commissioners Harris and Tucker Smith voting against the motion.

## NOT APPEARINGS

### **James W. Voltz, III, Hardship Request for Home Operation, Investigative File I-22-314**

Upon review and discussion of Mr. Voltz's hardship request for home operation, Commissioner Echols made a motion to deny his request. Commissioner Smith seconded the motion and it passed 8-1 with Commissioner Dye voting against the motion.

At 11:24 a.m. Hearing Officer Jim Hampton advised Chairman Barran that the 9:30 a.m. docket and Not Appearings requests were concluded. Considering that the 9:30 docket and Not Appearings requests were complete, Chairman Barran asked for a motion to stay in open session or go into executive session for approximately 30 minutes to deliberate these cases in accordance with the Alabama Open Meetings Act, *Code of Alabama* 36-25A-7(a)(9). Commissioner Echols made a motion that Commissioners go into executive session in accordance with the Alabama Open Meetings Act, *Code of Alabama* 36-25A-7(a)(9) for approximately 30 minutes. Commissioner Dye seconded the motion and it passed unanimously 9-0.

At 12:05 p.m. Commissioners returned with all Commissioners named during the initial 9:00 a.m. roll call present. Chairman Barran asked for a motion to return to open session. Commissioner Smith made a motion to return to open session. Commissioner Campbell seconded the motion and it passed unanimously 9-0.

**Confirm January 2023 Meeting Date and Location for the Record:** Proposed Date January 19, 2023, 9:00 a.m. in Montgomery, Alabama.

Commissioner Smith made a motion to confirm the January 2023 meeting for January 19, 2023, at 9:00 a.m. in Montgomery, Alabama. Commissioner Campbell seconded the motion and it passed unanimously 9-0.

**Next Commission Meeting:** Thursday, November 17, 2022, 9:00 a.m. in Montgomery, Alabama.

There being no further business, Commissioner Smith made a motion to adjourn the meeting at 12:20 p.m. Vice Chairman May seconded the motion and it passed unanimously 9-0.

Done this 13<sup>th</sup> day of October 2022.

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Emmette Barran, Chairman

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Lori Moneyham, Recording Secretary