

## **MINUTES**

A meeting of the Alabama Real Estate Commission was held October 14, 2021 at the offices of the Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, 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 Chairman Carole Harrison at 9:00 a.m. Chairman Harrison announced Governor Ivey extended the COVID-19 state of emergency and safety protocols until October 31, 2021. Beginning with the November 18, 2021 Commission meeting, Commissioners will be required to attend meetings in-person. She stated for the record that Commissioner Susan Smith was participating virtually for today's meeting.

Chairman Harrison called the roll and the following Commissioners indicated their presence with a spoken "present": Vice Chairman Reid Cummings, Commissioners Emmette Barran, Jimmie Ann Campbell, Joyce Harris, Terri May and Susan Smith. Commissioner Susan Smith participated virtually. A quorum was declared. The seats for the Sixth and Seventh Congressional Districts are currently vacant.

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 Van Steenis; Investigators K.C. Baldwin, David Erfman, Rickey Fennie and Marshall Simons; Communications and Public Relations Director Vernita Oliver-Lane; Communications and Public Relations Specialist Senior Lori Moneyham; State Professional Trainee Jess Sparks; Education Director Ryan Adair; Education Specialists David Bowen, Julie Norris and Pam Oates; Education Assistant Nancy Williamson; Accounting and Personnel Director Molli Jones; Auditor Anthony Brown; Information Technology Director Brett Scott; Information Technology Systems Specialist Steven Brown; Licensing Director Anthony Griffin; Licensing Assistants Edward Arrington, Amber Green and Pam Taylor; and Executive Assistant Barbi Lee. The Hearing Officer was Jim Hampton.

Members of the public also attended via video teleconference.

Vice Chairman Cummings made a motion to approve the minutes from the September 23, 2021 Commission meeting. Commissioner May seconded the motion and it passed unanimously 7-0.

### **EXECUTIVE DIRECTOR'S REPORT**

Executive Director Vaughn Poe presented the September 2021 financial reports and gave Commissioners an update on revenues and expenditures in the operating and recovery fund accounts. There have been no recovery fund payouts for the past 30 days and the Commission has paid \$601,430.68 to other state agencies for services for fiscal year 2021.

Director Poe reported the Commission has issued 36,791 total licenses. There were 3,553 licenses that lapsed on October 1, 2021 for failure to renew. That number is commensurate with the anticipated ten percent loss during each renewal cycle. There are 4,475 licensed companies or branches. There is a current growth rate of eight new license applications per day or roughly 240 per month.

Director Poe stated the Accounting Division reported that 15 general audits and seven assistance visits were completed in September. He said the Commission has received praise and appreciation for the assistance visit initiative. Chairman Harrison interjected that this initiative is one of the best things the Commission has done. She also stated these visits would lead to less respondents appearing before the Commission in the future. Director Poe reminded Commissioners that a continuing effort is being made to audit any company that does not have a current audit on file. He stated there has been an increase in requests for in-person audits instead of desk audits.

Director Poe discussed statistics for the Education Division. He stated the education renewal cycle ended on September 30, 2021. There are 849 total education licenses and 288 elective courses. The Education Division completed four audits during the month of September.

Director Poe stated the 2021 ARELLO<sup>®</sup> Regulatory Investigations Seminar (ARIS) was held October 5-8 in Birmingham, Alabama and was a total success. The legal and auditing staff attended this seminar. Assistant Executive Director Teresa Hoffman added that the local speakers were well versed in their subject matter and there were 50 attendees from all over the country. The feedback from attendees declared the Alabama ARIS conference was one of the best. Director Poe encouraged Commissioners to be involved with ARELLO<sup>®</sup> as this organization is the professional development source for Commissioners.

Director Poe discussed Coffee with the Commission that was held on Wednesday, October 13, 2021. He and Education Director- Ryan Adair were the hosts and there were 63 attendees. Topics of interests included improving the broker experience, virtual offices and education. Commissioner Barran stated this event is growing each month. Vice Chairman Cummings praised Director Poe and the entire executive team for taking leadership and outreach to a new level for those on the outside looking in and stated they should be applauded for that effort.

Director Poe reminded everyone the Commission's outreach efforts include the quarterly Briefly Legal Facebook Live, the monthly Coffee with the Commission on Microsoft Teams, and monthly live-streamed Commission meetings. These are in addition to the Commission's presence on Facebook, YouTube and Twitter.

Director Poe advised Commissioners Rule Amendment 790-X-1-.06 Prelicense and Post License School Approval and Requirements and New Rules 790-X-1-.22 Prohibition Against Contract Lobbyist and 790-X-2-.23 Renewals During Military Deployment will be effective on Friday, October 15, 2021.

## COMMISSIONER DISCUSSION

1. Adopt Proposed Rule Amendments and New Rule for Certification to Legislative Services Agency.

- Rule Amendment – 790-X-1-.07 Qualifications for Prelicense and Post License Instructors
- Rule Amendment – 790-X-1-.21 Distance Education Courses
- Rule Amendment – 790-X-2-.01 Documentation Required for License Issuance
- New Rule – 790-X-1-.23 Misuse of Agency Name, Initials, Logo, or Seal

Education Director Ryan Adair explained that minor punctuation changes were made to Section 6 in Rule Amendment 790-X-1-.21. The Legislative Services Agency was contacted about these changes and confirmed no additional action was needed by Commissioners. Commissioner Campbell made a motion to adopt proposed rule amendments and new rule certification to the Legislative Services Agency. Commissioner Barran seconded the motion and it passed unanimously 7-0.

2. Request for Approval to Convene Task Force for Prelicense and Post License Course Content and Structure.

Executive Director Poe explained this was a carry-over topic from a previous task force based on a request from licensees and educators to make the licensing process more efficient, professional and possibly more stringent. Research will be completed on this topic, findings will be established, and recommendations will be presented to Commissioners. Commissioner Barran made a motion to convene a task force to review prelicense and post license course content and structure. Commissioner Campbell seconded the motion, and it passed unanimously 7-0.

3. Adopt 2022 Commission Meeting Dates

Chairman Harrison reminded Commissioners the proposed 2022 meeting dates were provided previously for review. She asked if anyone needed to make any changes to the proposed dates. With no changes being recommended, Commissioner Campbell made a motion to adopt the 2022 Commission meeting dates as proposed. Commissioner May seconded the motion and it passed unanimously 7-0. The 2022 Commission meeting dates are: January 20, February 17, March 24, April 21, May 19, June 23, July 21, August 18, September 22, October 20 and November 17.

4. FY 2023 Budget

Director Poe presented the Fiscal Year 2023 Budget. Recommendations were made to adjust the vehicle fleet and reduce other fixed costs over time. Commissioner May made a motion to approve the Fiscal Year 2023 Budget. Commissioner Barran seconded the motion and it passed unanimously 7-0.

## 5. Commission Member Compensation

Director Poe discussed the Commission Member Compensation form that is signed in October by each Commissioner to indicate if there have been any changes in employment status or other compensations throughout the year. This executed form is kept on file for review by the Examiners of Public Accounts. He asked that each Commissioner sign their form before leaving.

Commissioner Barran made a motion that Commissioners conduct disciplinary hearing disposition discussions in an open meeting. Commissioner May seconded the motion and it passed unanimously 7-0.

## HEARINGS

### **Alabama Real Estate Commission VS. Joseph P. Long (Payton Auburn Realty LLC d/b/a Real Estate Services Auburn/Opelika) and Joseph P. Long (Payton Realty Inc.) and Joseph P. Long (d/b/a Joseph Long), Formal Complaint No. 3557**

Commissioner Campbell recused herself from this hearing and left the room for the entire hearing and disposition discussion.

Joseph P. Long, Qualifying Broker, Payton Auburn Realty LLC d/b/a Real Estate Services Auburn/Opelika, Auburn, Alabama and Joseph P. Long, Qualifying Broker, Payton Realty Inc., Auburn, Alabama and Joseph P. Long, d/b/a Joseph Long, Auburn, Alabama in his position as qualifying broker for the real estate company was charged on **Count 1** with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(8)a. by failing to properly account for or remit money coming into his possession which belonged to others. Respondent, in his position as qualifying broker for the real estate company, was charged on **Count 2** with 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.

Mr. Long appeared with his attorney, Kelly May.

Upon discussion of the evidence and testimony presented in the matter, Vice Chairman Cummings made a motion to find Mr. Long guilty on **Counts 1** and **2**. Commissioner Barran seconded the motion and it passed unanimously 6-0. Vice Chairman Cummings made a motion to fine each Respondent \$2,500 per count for a total of \$15,000. Commissioner Barran seconded the motion and it passed unanimously 6-0.

### **Alabama Real Estate Commission VS. Laurie Anderson, Formal Complaint No. 3563**

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

Laurie Anderson, Salesperson, Scottsboro, Alabama was charged with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(16) for 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 Barran made a motion to accept Ms. Anderson's guilty plea. Commissioner Campbell seconded the motion and it passed unanimously 7-0. Commissioner Barran made a motion to fine her \$250. Commissioner May seconded the motion and it passed unanimously 7-0.

**Matthew Graves, Application for Determination of Licensing Eligibility, Investigative File I-21-316**

Upon discussion of the evidence and testimony presented in the matter regarding Mr. Graves' application for determination of licensing eligibility, Commissioner Smith made a motion to approve his application. Commissioner Harris seconded the motion and it passed unanimously 7-0.

**Alabama Real Estate Commission VS. Terrie S. Bailey, Formal Complaint No. 3564**

Terrie S. Bailey, Salesperson, Prattville, Alabama was charged with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(16) for 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 May made a motion to find Ms. Bailey not guilty. Commissioner Barran seconded the motion and it passed unanimously 7-0.

**Brooke Weaver, Application for Real Estate Salesperson's Temporary License, Investigative File I-21-304**

Upon discussion of the evidence and testimony presented in the matter regarding Ms. Weaver's application for a real estate salesperson's temporary license, Commissioner Harris made a motion to approve her application. Commissioner Smith seconded the motion and it passed unanimously 7-0.

**Alabama Real Estate Commission VS. Alex Newman Barringer, Formal Complaint No. 3565**

General Counsel Starla Van Steenis advised Commissioners that Mr. Barringer did not appear for the hearing and the Commission did not have proof of proper service. She asked that the case be continued without date. Mr. Hampton granted her request.

**Melissa Faulkner, Application for Real Estate Salesperson's Temporary License, Investigative File I-21-318**

Upon discussion of the evidence and testimony presented in the matter regarding Ms. Faulkner's application for a real estate salesperson's temporary license, Commissioner Barran made a motion to approve her application. Commissioner Campbell seconded the motion and it failed in a vote of 3-4 with Commissioners Barran, Smith and Chairman Harrison voting in favor of the motion and Commissioners May, Harris, Campbell and Vice Chairman Cummings voting against the motion.

**NOT APPEARINGS**

**Eboni Hale, Application for Real Estate Salesperson's Temporary License, Investigative File I-21-284**

Upon review and discussion of Ms. Hale's application for a real estate salesperson's temporary license, Commissioner Barran made a motion to approve her application. Commissioner May seconded the motion and it passed unanimously 7-0.

**Confirm January Meeting Date and Location for the Record:** January 22, 2022, 9:00 a.m. in Montgomery, Alabama.

Commissioner Harris made a motion to confirm the January meeting for January 20, 2022 at 9:00 a.m. in Montgomery, Alabama. Commissioner Barran seconded the motion and it passed unanimously 7-0.

**Next Commission Meeting:** Thursday, November 18, 2021, 9:00 a.m. in Montgomery. Vice Chairman Cummings announced he would not be at the November 18, 2021 meeting.

Before the Commission adjourned, Chairman Harrison announced she had a statement she would like to make. "More often than not over the years in October, we have installed one or more new Commissioners to fill in expired seats. As per license law, a new chairman has been elected by sitting Commissioners at the time. Because of the irregularities in the appointment process this last legislative session, our Commission does not have that situation this October. I believe that a change in leadership is a good thing. To perpetuate the changing of the guard, so to speak, I am stepping down as chair of the Real Estate Commission and passing the gavel to Vice Chair Cummings to conduct an election of the new chairman. I have really enjoyed being chair this year. I have learned a lot and I have every confidence and give 100 percent support to the new chair as he or she moves this honorable body forward."

Vice Chairman Cummings called for an election and opened the floor for nominations for chairman. Commissioner Harris made a motion to nominate Commissioner Emmette Barran as chairman. Commissioner Campbell seconded the motion and it passed unanimously 7-0. Vice Chairman Cummings congratulated Chairman Barran.

Vice Chairman Cummings announced that he was in agreement with Commissioner Harrison and announced his resignation as vice chairman of the Real Estate Commission.

Newly elected Chairman Barran called for an election and opened the floor for nominations for vice chairman. Commissioner Cummings nominated Commissioner Terri May. Commissioner Campbell seconded the motion and it passed unanimously 7-0. Chairman Barran congratulated Vice Chairman May.

Chairman Barran and Commissioner Cummings expressed their appreciation to former Chairman Harrison for her leadership.

There being no further business, Commission Vice Chairman May made a motion to adjourn the meeting at 1:34 p.m. Commissioner Campbell seconded the motion and it passed unanimously 7-0.

Done this 14<sup>th</sup> day of October 2021.

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Carole Harrison, Chairman

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Reid Cummings, Vice Chairman

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Emmette Barran, Chairman

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Barbi Lee, Recording Secretary