

MINUTES

The Alabama Real Estate Commission met October 16, 2003, at the Alabama Real Estate Commission, Montgomery, Alabama.

Those present were Chairman Bill E. Poole; Vice Chair Gordon Henderson; Commissioners Roy Bragg, Thomas Hays, Bobby Hewes, Sheila Hodges, Lyman Lovejoy, Chester Mallory and Ruth Whitley; Executive Director Philip Lasater; Education Director Patricia Anderson; Legal Counsel Charles Sowell; Special Investigators David Erfman and Chuck Kelly; Hearing Officer was Milt Belcher.

Chairman Poole called the meeting to order at 9:15 a.m. and declared a quorum present.

In accordance with 34-27-7 (f) Chairman Poole acknowledged the beginning of second terms for Gordon Henderson and Chester Mallory and called for election of Chair and Vice Chair. Commissioner Mallory moved to nominate Bill Poole as Chair. Commissioner Hewes seconded the nomination. Commissioner Bragg moved to close the nomination and it was seconded by Commissioner Hewes. The vote to close nominations passed unanimously 9-0. The vote to elect Bill Poole as Chair passed unanimously 9-0.

Chairman Poole called for nominations for Vice-Chair. Commissioner Whitley nominated Gordon Henderson as Vice Chair and Commissioner Lovejoy seconded the nomination. Commissioner Mallory moved that nominations be closed and Commissioner Lovejoy seconded the motion to close. The vote to close the nominations was called and passed unanimously 9-0. The vote to elect Gordon Henderson Vice-Chair passed unanimously 9-0.

Commissioner Bragg moved to approve the September 26 meeting minutes as presented. Commissioner Whitley seconded the motion and it passed unanimously 9-0.

In formalizing a Commission directive, Commissioner Mallory moved to direct staff to actively explore, evaluate, and develop an electronic means for licensees and or instructors to input CE credit by a web based application so that licensees can access information about their credit status. Further, that CE course offerings be posted and appropriately updated in an electronic web-based format. A viable plan should be ready for implementation by January 2005 assuming enactment of proposed amendments that would annualize the CE requirement on a calendar year or for the license period beginning October 2004 if the amendments are not enacted. Commissioner Lovejoy seconded the motion and it passed unanimously 9-0.

In consideration of the Building Commission's comments requiring an additional \$7,100 of work on the Building Renovation project, Commissioner Hodges moved to approve adding that amount to the previously approved contract amount. Commissioner Mallory seconded the motion and it passed unanimously 9-0.

Commissioner Hodges moved that the Alabama Real Estate Commission bid to host the ARELLO Southern District meeting in 2008 in Gulf Shores. Commissioner Whitley seconded the motion and it passed unanimously 9-0.

It was confirmed that the November 21 Commission meeting would be held at the Gulf Shores City Hall.

The Commission recessed at 11:10 a.m. until 1:30 p.m. to attend the Joint Legislative Sunset Committee Hearing at the State House.

Chairman Poole opened the Public Hearing on the advertised rule amendments at 1:30 p.m. The halls were sounded and no one was present to speak regarding the proposed changes. Commissioner Hewes moved to close the public hearing. Commissioner Henderson seconded the motion and it passed unanimously 9-0.

HEARINGS

Commissioners Bragg, Hays, and Lovejoy were not present for disciplinary votes on hearings.

Alabama Real Estate Commission vs. Frank N. Crain, Formal Complaint No. 2790

This hearing was continued until November 21.

Alabama Real Estate Commission vs. Tommy B. Simon, Formal Complaint No. 2776

Upon discussion of the evidence and testimony presented in the matter of Tommy B. Simon, Qualifying Broker, Discount Realty Services, Montgomery, Alabama, and the alleged violation of the Code of Alabama 1975, as amended, Count 1: Section 34-27-36(a)(19) by failing to notify the Commission of a civil suit within ten days pursuant to the Code of Alabama 1975, as amended, Section 34-27-31(j); Count 2: Section 34-27-36(a)(19) by failing to notify the Commission of the judgment in the civil suit within ten days pursuant to the Code of Alabama 1975, as amended, Section 34-27-31(k); Count 3: Section 34-27-36(a)(19) by having a payment made from the Recovery Fund in settlement of a judgment in the civil suit pursuant to the Code of Alabama 1975, as amended, Section 34-27-31(e)(6); Count 4: Section 34-27-36(a)(23)b. by having a final money judgment rendered against him in the civil suit, Commissioner Hodges moved to find Mr. Simon guilty on all four counts and to revoke his license. Commissioner Whitley seconded the motion and it passed unanimously 5-0 with Commissioner Mallory having recused himself.

Alabama Real Estate Commission vs. Freddie L. Strength, Formal Complaint No. 2773

Upon discussion of the evidence and testimony presented in the matter of Freddie L. Strength, Sr., Associate Broker, Alfa Realty GMAC Real Estate, Elmore County Branch, Wetumpka, Alabama, 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 Rules 790-X-1-.12(8) and 790-X-1-.12(9) by failing to provide, upon request, original certificates of completion of approved continuing education courses and by the false or inaccurate filing of the renewal, Commissioner Hodges moved to dismiss Formal Complaint # 2773. Commissioner Henderson seconded the motion and it passed unanimously 6-0.

Lisa M. Hibbard, Denied Applicant for Extended Time to Have Temporary Sales License Issued, I-11,168

Upon discussion of Ms. Hibbard's testimony regarding application for temporary salesperson's license, Commissioner Hewes moved to approve an extension of time for Ms. Hibbard to have her license issued. Commissioner Hodges seconded the motion. The motion failed 2-4 with Commissioners Henderson, Mallory, Poole and Whitley voting no.

Troy Justin Meers, Applicant for Temporary Salesperson's License, I-11,177

Upon discussion of Mr. Meers' eligibility for licensure, Commissioner Hodges moved to approve the application for licensure of Mr. Meers. Commissioner Mallory seconded the motion and it passed unanimously 6-0.

Brent H. Blackmon, Hardship Renewal of Lapsed License, I-11,185

Upon discussion of Mr. Blackmon's hardship request for license renewal, Commissioner Hodges moved to deny the hardship application of Mr. Blackmon. Commissioner Hewes seconded the motion and it passed unanimously 6-0.

Alabama Real Estate Commission vs. Benny C. Hand, Formal Complaint No. 2766

Upon discussion of the evidence and testimony presented in the matter of Benny C. Hand, Jr., Qualifying Broker, Hand Properties, Opelika, Alabama, 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-1-.12(8) and Rule 790-X-1-.12(9) by failing to provide to the Commission, upon request, original certificates of completion of approved continuing education courses and by the false or inaccurate filing of the renewal, Commissioner Henderson moved to find Mr. Hand guilty and to fine him \$500. Commissioner Whitley seconded the motion and it passed unanimously 6-0.

Laverne S. Graves, Applicant to Renew Lapsed Broker's License, I-11,186

Upon discussion of Ms. Graves' request for broker renewal, Commissioner Hodges moved to deny the hardship renewal request of Ms. Graves. Commissioner Whitley seconded the motion and it passed unanimously 6-0.

NOT APPEARINGS

These votes were taken in the morning when all Commissioners were present.

Alicia Davis, Applicant for Determination of Eligibility to be Licensed, I-11,160

Upon discussion of Ms. Davis' application for determination of licensing eligibility, Commissioner Henderson moved to approve the eligibility of Ms. Davis. Commissioner Mallory seconded to motion. After discussion, Commissioner Henderson and Mallory withdrew their motion and second. Commissioner Whitley moved to deny the licensing eligibility of Ms. Davis. Commissioner Bragg seconded the motion and it passed unanimously 9-0.

Eric Paul Harris, Applicant for Determination of Eligibility to be Licensed, I-11,167

Upon discussion of Mr. Harris' eligibility for licensure, Commissioner Bragg moved to deny the licensing eligibility of Mr. Harris. Commissioner Hodges seconded the motion and it passed unanimously 9-0.

Alabama Real Estate Commission vs. George M. Ward, Formal Complaint No. 2788

Upon discussion of the evidence and testimony presented in the matter of George M. Ward, Qualifying Broker, Springhill Properties, Mobile, Alabama, 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 Respondent failed to notify the Commission within thirty (30) days of having relocated his office, Commissioner Hodges moved to find Mr. Ward guilty and to find him \$250. Commissioners Henderson seconded the motion and it passed unanimously 9-0.

Elaine J. Turner, Surrender of Right to Hold a Real Estate License, I-10,812

Upon review of the affidavit of surrender submitted by Ms. Turner, Commissioner Whitley moved to accept the affidavit. Commissioner Bragg seconded the motion and it passed unanimously 9-0.

Greg L. Marshall, Request to Renew Lapsed License Under Hardship, I-11,187

Upon discussion of Mr. Marshall's hardship request for license renewal, Commissioner Henderson moved to deny the hardship renewal request of Mr. Marshall. Commissioner Hewes seconded to motion and it passed unanimously 9-0.

Sherri Hutcheson, Request to Renew Lapsed License Under Hardship, I-11,189

Upon discussion of Ms. Hutcheson's hardship request for license renewal, Commissioner Hodges moved to deny the hardship renewal request from Ms. Hutcheson. Commissioner Whitley seconded the motion and it passed unanimously 9-0.

There being no further business, the meeting adjourned at 5:42 p.m.

Done this 16th day of October, 2003.

Bill E. Poole, Chairman

D. Philip Lasater, Recording Secretary