

MINUTES

A meeting of the Alabama Real Estate Commission was held October 24, 2013, at the offices of the Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, Alabama.

Those present were Chairman Bill Watts; Vice Chairman Nancy Wright; Commissioners Jewel Buford, Steve Cawthon, Reid Cummings, Carole Harrison, Clif Miller, and Danny Sharp; Assistant Executive Director Patricia Anderson; General Counsel Chris Booth; Assistant General Counsel Mandy Lynn; Education Director Ryan Adair; Licensing Administrator Anthony Griffin; Investigators David Erfman, Chuck Kelly, Phillip Bunch, and K. C. Baldwin; and auditor Denise Blevins. Tori Adams served as Hearing Officer. Commissioner Dorothy Riggins-Allen was absent with notice.

Other staff members present for all or part of the meeting were Public Relations Manager Vernita Oliver-Lane, Public Relations Specialist Lori Moneyham, IT Manager Brett Scott, IT Systems Specialist Steven Brown, IT Systems Tech Candice Franklin, and IT Programmer Tara Craig.

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 and a quorum was declared.

Chairman Watts read a thank-you note from Carol, Kathryn, and Walker Lasater thanking Commissioners for their kindness and support at the passing of Executive Director Philip Lasater and for providing food trays to the family on the day of the memorial service.

Commissioner Harrison made a motion to approve the minutes from the September 26 meeting. Commissioner Miller seconded the motion and it passed 7-0. Commissioner Cummings was absent with notice from the September 26 meeting and abstained from voting. Commissioner Harrison made a motion to approve the minutes from the October 10 meeting. Commissioner Miller seconded the motion and it passed 7-0. Commissioner Buford was absent with notice from the October 10 meeting and abstained from voting.

Ms. Anderson reported on the September 2013 and end-of-the year financials. She stated that September was a good month due to education renewals and 600 licensee renewals. FY13 expenditures were a little more than \$3 million of the \$4.7 million appropriation. The Commission ended FY13 with a healthy cash flow and revenue of \$809,638.08, an increase over FY12. There was also a decrease in expenditures over FY12. She explained that FY14 expenditures will show an increase due to the need to purchase a new imaging system and a new licensing database.

Ms. Anderson reported on the proposed FY15 budget, which covers the period October 1, 2014 through September 30, 2015. The Commission is requesting an appropriation of a little more than \$5.5 million, a 1.17% increase over the FY14 budget. The increase allows for the purchase of a new roof and the replacement of two vehicles. According to Alabama Department of Transportation Deputy Director, Fleet Management Willie L. Bradley, Jr., state agencies will be required to replace cars every three years. Lease options will also be available. There is money in the FY15 budget for leasing, if that option is chosen. Ms. Anderson added that the freeze on merit raises has been lifted and some staff members will be eligible for 2.5-5% merit raises beginning in 2014 based on performance appraisals. Funds for the merit raises are included in the 2014 and 2015 budgets. The FY15 budget must be submitted to the Alabama Department of Finance by November 1. Commissioner Sharp made a motion to accept the FY15 budget as presented. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

There was discussion about the election of the Commission Chairman and Vice Chairman. This is normally done at the October meeting per Section 34-27-7(f), but Ms. Anderson explained that the election was omitted from the agenda due to the fact that Commissioners Wright and Miller were reappointed by the Governor but not confirmed by the Alabama Senate. She explained that new Commissioners must be both appointed by the Governor and confirmed by the Senate in order to begin new terms. This also applies to Commissioners who are reappointed to continue existing terms. Until both actions occur, the sitting Commissioners continue to serve. Commissioners Wright and Miller will continue in their existing terms, but cannot begin their new terms until they are confirmed by the Senate. Chairman Watts stated that his interpretation of Section 34-27-7(f) allowed for Commissioners to move forward with the decision to elect a new chairman and vice chairman at their discretion or continue with the current chairman and vice chairman. Commissioner Cawthon made a motion that the Commission continue to operate with current Chairman Bill Watts and Vice Chairman Nancy Wright. Commissioner Harrison seconded the motion and it passed unanimously 8-0.

IT Manager Brett Scott introduced new IT team members: IT Systems Tech Candice Franklin and IT Programmer Tara Craig. Candice will assist staff with computer issues and take phone calls from licensees and consumers who have problems with computer issues pertaining to the website. Tara will help with programming, implementation of the new imaging and licensing systems, and website updates.

Commissioner Buford made a motion at 9:30 a.m. to go into executive session to receive advice and counsel from General Counsel Chris Booth. Commissioner Sharp seconded the motion and it passed unanimously 8-0. Commissioners resumed meeting at 9:35 a.m. No action was taken.

Chairman Watts stated that Commissioners would defer the discussion of the Executive Director's position until after lunch.

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

HEARINGS AND APPEARINGS

Dustin S. Powell, Applicant for Real Estate Salesperson's Temporary License, I-14,163

Upon discussion of the application submitted by Mr. Powell and his eligibility to hold a real estate license, Commissioner Cawthon made a motion to grant Mr. Powell's request to obtain a temporary salesperson's license. Commissioner Sharp seconded the motion and it passed unanimously 8-0.

Danny L. Henderson, Applicant for Determination of Licensing Eligibility, I-14,186

Upon discussion of the application for determination of licensing eligibility submitted by Mr. Henderson, Commissioner Sharp made a motion to approve Mr. Henderson's application. Commission Buford seconded the motion and it passed unanimously 8-0.

Alabama Real Estate Commission vs. Deborah F. Lumpkin, Formal Complaint No. 3320

Upon discussion of the evidence and testimony presented in the matter of Deborah F. Lumpkin, Qualifying Broker, T J Investments LLC, Birmingham, Alabama, and the alleged violation of the *Code of Alabama* 1975, as amended, Count 1: Section 34-27-36(a)(19) via Section 34-27-31(j) by failing to notify the Commission within ten days of the institution of criminal prosecution against her; Count 2: Section 34-27-36(a)(19) via Section 34-27-31(k) by failing to notify the Commission within ten days of a criminal prosecution against her when she pled guilty to felony charges; Count 3: Section 34-27-36(a)(23)a. by having entered a plea of guilty or nolo contendere to, or having been found guilty of or convicted of a felony or a crime involving moral turpitude; Commissioner Wright made a motion to find Ms. Lumpkin guilty on all three counts. Commissioner Buford seconded the motion and it passed unanimously 8-0. Commissioner Cummings made a motion to revoke Ms. Lumpkin's license on Count 3. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

Brian Tucker Smith, Hardship Request for Original Salesperson's License Issuance after Temporary Salesperson's License Lapsed, I-14,173

Upon discussion of the testimony presented by Mr. Smith and his request for Commission consideration in allowing him to apply for an original salesperson's license, Commissioner Cummings made a motion to grant Mr. Smith's request. Commissioner Sharp seconded the motion and it passed unanimously 8-0.

Alabama Real Estate Commission vs. Leigh McPherson and Bama Beaches LLC dba The Liquid Life, Formal Complaint No. 3326

Upon discussion of the evidence and testimony presented in the matter of Leigh McPherson, Qualifying Broker, Bama Beaches LLC d/b/a The Liquid Life, Orange Beach, Alabama, and the alleged violation of the *Code of Alabama* 1975, as amended, Count 1: Section 34-27-36(a)(19) by failing to comply with Alabama Real Estate Commission Rule 790-X-3-.03(1) which requires the qualifying broker of a licensed real estate company to be a customer of the financial institution holding trust accounts and that he/she be one of the persons with authority to deposit and withdraw funds and to write or make checks as necessary on all such accounts; Count 2: Sections 34-27-36(a)(8)a. and b. in that Respondents McPherson and Bama Beaches LLC dba The Liquid Life failed to deposit and account for at all times funds coming into their possession that belonged to others as evidenced by the shortage in the trust account; Commissioner Cummings made a motion to find Ms. McPherson guilty on both counts. Commissioner Miller seconded the motion and it passed unanimously 8-0. Commissioner Cummings made a motion to fine Ms. McPherson and Bama Beaches LLC a total of \$100 on Count 1 and \$500 on Count 2. Commissioner Cawthon seconded the motion. Commissioner Miller offered a friendly amendment to change the fine to \$500 on Count 1. Commissioners Cummings and Cawthon accepted the friendly amendment. The motion to fine them a total of \$500 on Count 1 and \$500 on Count 2 passed unanimously 8-0.

Rosalyn Blankenship Anthony, Hardship Renewal of Lapsed License, I-14,194

Upon discussion of the hardship request by Ms. Anthony regarding renewal of her lapsed license, Commissioner Sharp made a motion to grant Ms. Anthony's request. Commissioner Buford seconded the motion and it passed unanimously 8-0.

NOT APPEARING ITEMS FOR DISCUSSION

Rena Jones, Request to Become Relicensed After Revocation, I-14,188

Upon review of the request by Ms. Jones for re-licensure after previous license revocation, Commissioner Cawthon made a motion to deny Ms. Jones' request. Commissioner Wright seconded the motion and it passed unanimously 8-0.

Suzanne K. Tomlinson, Surrender of License, I-14,174

Upon review and discussion of the affidavit of license surrender submitted by Ms. Tomlinson, Commissioner Cummings made a motion to accept the surrender of Ms. Tomlinson's license and the license of her company RPM Realty, Inc. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

Confirm Next Meeting Date and Location for the Record: November 21, 2013, 9:00 a.m. in Montgomery

Commissioner Cawthon made a motion to approve the next Commission meeting date and location for November 21, 2013, at 9:00 a.m. in Montgomery, Alabama. Commissioner Wright seconded the motion and it passed unanimously 8-0.

There being no further business, Commissioners adjourned for lunch at 11:40 a.m.

Done this 24th day of October, 2013.

Bill Watts, Chairman

Lori Moneyham, Recording Secretary