

MINUTES

A meeting of the Alabama Real Estate Commission was held September 5, 2013 in the Commission Hearing Room 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, Carole Harrison, Clif Miller, Dorothy Riggins-Allen 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, Phil Bunch and K. C. Baldwin; and Auditors Denise Blevins and Anthony Brown. Tori Adams served as Hearing Officer. Commissioner Reid Cummings was absent with notice.

Other staff members in attendance for all or part of the meeting were Public Relations Manager Vernita Oliver-Lane, Public Relations Specialist Lori Moneyham, IT Manager Brett Scott, and IT Systems Specialist Steven Brown.

The meeting having been duly noticed according to the Open Meetings Act and a quorum declared, was called to order at 9:02 a.m.

Chairman Watts read a resolution in remembrance of Executive Director D. Philip Lasater who passed away on August 15. The office staff was present for the reading of the resolution. Commissioner Buford made a motion that the resolution be adopted. Commissioner Wright seconded the motion and it passed unanimously 8-0. Chairman Watts requested that each Commissioner receive a signed copy of the resolution.

Ms. Anderson thanked Commissioners for the support they have provided to the staff since Mr. Lasater's passing. She also thanked the staff for their support and for working together to ensure that the work of the Commission continued.

Commissioner Harrison made a motion to approve the July minutes as presented. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

Chairman Watts stated that Commissioner Riggins-Allen would be leaving the meeting to attend a funeral, but would return.

Ms. Anderson reported on the July 2013 financials. She noted that the August financials would be provided at the September 26 meeting and the September 30 and end-of-the-fiscal-year reports would be provided at the October meeting. Ms. Anderson reported that there was a healthy cash flow and there would not be a need to move funds from investments to complete the fiscal year.

Regarding the Recovery Fund financials, she stated that \$150,000 had been transferred from investments due to possible fund payouts. The \$150,000 was not shown on the July 2013 financials, but will be reported on the August 2013 financials. She added that Mr. Lasater had recently changed the way the Commission's investments were done, per suggestions from the state treasurer's office. Additional details will be provided at the September 26 meeting.

Ms. Anderson directed Commissioners to the charts that are now being included with the financials to provide a visual overview of the Commission's finances, including revenues and expenditures. The charts will continue to be provided, if Commissioners find them helpful.

Ms. Anderson reported that, beginning with the Alabama Association of REALTORS® (AAR) Annual Convention in September, AAR will no longer provide complimentary conference registration fees to Commissioners and staff. The Commission will be billed for registrations fees for Commissioners and staff who attend provided they are participating on the AAR conference programs.

Ms. Anderson announced that Mr. Adair and Ms. Oliver-Lane would be representing the Commission at the Legislative Contract Review Committee meeting at 1:00 p.m. Commission contracts to be considered include: AMP Testing Service, which provides real estate exam development and administration; Auburn University Outreach, which contracts with speakers and handles registration for instructor training; and the Nine Agency, which provides website design and support for the Commission.

Chairman Watts asked Commissioners if there were any changes to the remaining 2013 calendar dates. There were none. He then asked Commissioners to review the proposed 2014 calendar for any necessary meeting date changes. Hearing none, Commissioner Wright made a motion to adopt the 2014 calendar as proposed. Commissioner Cawthon seconded the motion and it was approved unanimously 8-0.

Regarding the proposed rule changes, Mr. Adair stated that the Commission has received no comments from anyone opposing any of the changes. Commissioner Wright made a motion to adopt the rules as proposed. Commissioner Harrison seconded the motion and it passed unanimously 8-0.

Commissioners discussed the process for filling the Executive Director's position. After exploring several options, Commissioner Wright made a motion to engage the consulting services of Auburn University Montgomery (AUM) under the Commission's current Letter of Agreement. Commissioner Cawthon seconded the motion and it passed unanimously 8-0.

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

HEARINGS AND APPEARINGS

Omar L. Harvill, Applicant for Approval to Hold a Real Estate License After License was Previously Revoked, Investigative File I-14,118

Upon discussion of the evidence and testimony presented in the matter of Omar L. Harvill, Revoked Salespersons License #84781, Birmingham, Alabama, and his request for re-licensure, Commissioner Cawthon made a motion to approve Mr. Harvill's request. Commissioner Buford seconded the motion and it passed unanimously 8-0.

Linda K. Doub, Hardship Request to Operate Home Office, I-14,128

Upon discussion of the evidence and testimony presented by Ms. Doub regarding hardship request for home operation, Commissioner Riggins-Allen made a motion to approve Ms. Doub's request. Commissioner Sharp seconded the motion and it passed unanimously 8-0.

Commissioner Riggins-Allen was absent from the meeting from 10:30 a.m.-1:00 p.m.

Alabama Real Estate Commission vs. Johanna R. Shirley and Premiere Group LLC dba RE/MAX Premiere Group, Formal Complaint No. 3315

Upon discussion of the evidence and testimony presented in the matter of Johanna R. Shirley, Qualifying Broker, and Premiere Group LLC d/b/a RE/MAX Premiere Group, Northport, Alabama, and the alleged violation of the *Code of Alabama* 1975, as amended, 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, Commissioner Sharp made a motion to find both Ms. Shirley and Premiere Group LLC d/b/a RE/MAX Premiere Group guilty and to fine them \$1,000 each for a total of \$2,000. Commissioner Wright seconded the motion and it passed 6-1 with Commissioner Buford voting no. Commissioner Riggins-Allen was not in attendance during the hearing.

Alabama Real Estate Commission vs. Ralph J. Wright and The Wright Real Estate Company, Inc. d/b/a RE/MAX Real Estate Professionals, Formal Complaint No. 3314

Upon discussion of the evidence and testimony presented in the matter of Ralph J. Wright, Qualifying Broker, and The Wright Real Estate Company, Inc., d/b/a RE/MAX Real Estate Professionals, Enterprise, Alabama, and the alleged violation of the *Code of Alabama* 1975, as amended, Count 1: 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, by having a shortage of funds in the owner's rent trust account; Count 2: Section 34-27-36(a)(8)b. by failing, in their positions as qualifying broker and real estate company, 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, by having a shortage of funds in the security deposits trust account, the following action was taken.

On Count 1, Commissioner Sharp made a motion to find both Mr. Wright and The Wright Real Estate Company, Inc. dba RE/MAX Real Estate Professionals guilty, fine them \$1,000 each, and require another audit within 120 days. Commissioner Buford seconded the motion and it passed unanimously 7-0.

On Count 2, Commissioner Sharp made a motion to find both Mr. Wright and The Wright Real Estate Company, Inc. dba RE/MAX Real Estate Professionals guilty and fine them \$1,000 each. Commissioner Buford seconded the motion and it passed unanimously 7-0.

Commissioner Riggins-Allen was not in attendance during the hearing.

Alabama Real Estate Commission vs. Ross C. Easter and Mediterranean LLC, Formal Complaint No. 3311

Upon discussion of the evidence and testimony presented in the matter of Ross C. Easter, Qualifying Broker, and Mediterranean LLC, Orange Beach, Alabama, and the alleged violation of the *Code of Alabama* 1975, as amended, Count 1: Section 34-27-36(a)(8)a. by commingling money belonging to others with his or her own funds; Count 2: Section 34-27-36(a)(19) by failing to comply with Alabama Real Estate Commission Rule 790-X-3-.03(1) which requires that the qualifying broker of a licensed real estate company 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, the following action was taken.

On Count 1, Commissioner Buford made a motion to find both Mr. Easter and Mediterranean LLC guilty and fine them \$1,000 each. The motion died for lack of a second. Commissioner Wright made a motion to find both Respondents guilty and reprimand them. Commissioner Cawthon seconded the motion and it passed unanimously 7-0.

On Count 2, Commissioner Wright made a motion to find both Mr. Easter and Mediterranean LLC guilty and fine Respondents a total sum of \$1,000. Commissioner Harrison seconded the motion and it passed unanimously 7-0.

Commissioner Riggins-Allen was not in attendance during the hearing.

NOT APPEARING ITEMS FOR RULING

Otis Stewart, Jr., Waiver of Hearing and Guilty Plea, Formal Complaint No. 3322

Upon discussion of the evidence and testimony presented in the matter of Otis Stewart, Jr., Inactive Broker, Birmingham, Alabama, and the alleged violation of 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, Commissioner Wright made a motion to accept Mr. Stewart's guilty plea and fine him \$250. Commissioner Buford seconded the motion and it passed unanimously 8-0.

Mary Angel Tutton, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3321

Upon review of the evidence and testimony presented in the matter of Mary Angel Tutton, Qualifying Broker, Cardinal Realty LLC, Margaret, Alabama, and the alleged violation of the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(19) by failing to comply with Rule 790-X -3-.01 in that Respondent failed to notify the Commission of the change of business address within thirty days after such change was made, Commissioner Buford made a motion to accept her guilty plea and fine her \$250. Commissioner Riggins-Allen seconded the motion and it passed unanimously 8-0.

Kyle Brandon Burgdorf, Surrender of License, Formal Complaint No. 3310

Upon review and discussion of the affidavit of license surrender submitted by Mr. Burgdorf, Commissioner Miller made a motion to accept the surrender of Mr. Burgdorf's license. Commissioner Buford seconded the motion and it passed unanimously 8-0.

Nancy T. Tran, Surrender of License, I-14,132

Upon review and discussion of the affidavit of license surrender submitted by Ms. Tran, Commissioner Wright made a motion to accept the surrender of Ms. Tran's license. Commissioner Harrison seconded the motion and it passed unanimously 8-0.

Irfan Rajpari, Surrender of License, Formal Complaint No. 3319

Upon review and discussion of the affidavit of license surrender submitted by Mr. Rajpari, Commissioner Cawthon made a motion to accept the surrender of Mr. Rajpari's license. Commissioner Wright seconded the motion and it passed unanimously 8-0.

Jimmy Wayne Gay, Application for Determination of Licensing Eligibility, I-14,131

Upon discussion of Mr. Gay's eligibility to obtain an Alabama real estate license, Commissioner Cawthon made a motion to deny Mr. Gay's request. Commissioner Wright seconded the motion and it passed unanimously 8-0.

Robert Le Clark, Application for Determination of Licensing Eligibility, I-14,148

Upon discussion of Mr. Clark's eligibility to obtain an Alabama real estate license, Commissioner Cawthon made a motion to deny his request. Commissioner Sharp seconded the motion and it passed 6-2 with Commissioners Buford and Riggins-Allen voting no.

Michael D. Bedsole, Request for Rehearing, Formal Complaint No. 3317

Upon review and discussion of the Application for Rehearing submitted by Mr. Bedsole, Commissioner Cawthon made a motion to deny his request. Commissioner Buford seconded the motion and it passed unanimously 7-0. Commissioner Harrison was unable to vote on the request for rehearing because she recused herself from the original hearing.

Confirm Next Meeting Date and Location for the Record: September 26, 2013 at 9:00 a.m. in Montgomery

Commissioner Miller made a motion to approve the Commission meeting date and location for September 26 at 9:00 a.m. in Montgomery, Alabama. Commissioner Sharp seconded the motion and it passed unanimously 8-0.

There being no further business, the Commission adjourned at 2:45 p.m.

Done this 5th day of September, 2013.

Bill Watts, Chairman

Lori Moneyham, Recording Secretary