

## MINUTES

A meeting of the Alabama Real Estate was held September 20, 2018, at the offices of the Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, Alabama.

Those present were Chairman Nancy Wright; Vice Chairman Bill Watts; Commissioners Emmette Barran, Cindy Denney, Carole Harrison, Clif Miller, Vaughn Poe, and Danny Sharpe; Executive Director Patricia Anderson; Assistant Executive Director Teresa Hoffman; General Counsel Mandy Lynn; Investigators David Erfman, K.C. Baldwin, and Rickey Fennie. The Hearing Officer was Jim Hampton. Commissioner Poe left at 11:00 a.m. and did not return. Commissioner Reid Cummings was absent with notice.

Other staff members in attendance for all or part of the meeting were Public Relations Director Vernita Oliver-Lane; Public Relations Specialist Lori Moneyham; Education Director Ryan Adair; Accounting and Personnel Director Molli Jones; Information Technology Director Brett Scott; Information Technology Specialist Steven Brown; Licensing Administrator Anthony Griffin; Auditors Denise Blevins, Anthony Brown and Vickie Shackelford, and Executive Assistant Barbi Lee.

The meeting, having been duly noticed according to the Alabama Open Meetings Act, was called to order at 9:00 a.m. and a quorum was declared.

Chairman Wright recognized incoming Commissioners Susan Smith and Joyce Harris who were in attendance. Former Commissioner Steve Cawthon and his wife were also recognized along with other visitors in the audience.

Commissioner Barran made a motion to approve the minutes from the August 23, 2018 Strategic Planning Session. Vice Chairman Watts seconded the motion. Commissioner Harrison discussed the need to insert on page 2 that Alabama Association of REALTORS® (AAR) CEO Jeremy Walker and AAR had a problem with lobbyist JDanny Cooper. The following sentence was added to the minutes, "He also stated they have an issue with AREC's lobbyist JDanny Cooper." The motion passed unanimously 8-0 with the noted addition.

Commissioner Harrison made a motion to approve the minutes from the August 24, 2018 meeting. Commissioner Barran seconded the motion and it passed unanimously 8-0.

Executive Director Patricia Anderson presented the August 2018 financial report. Fiscal Year 2018 is almost complete. Revenues are slightly under those in 2017, but greatly above FY 2016. There is less than \$10,000 difference between 2016, 2017 and 2018 expenditures. The total amount paid to other state agencies for services is \$254,000 through August 31, 2018.

Ms. Anderson shared an email with the Commission regarding monthly maintenance use for STAARS, the State of Alabama's accounting program. The cost will be based on a per transaction fee and will be effective January 1, 2019. She also discussed there will now be a

maintenance fee for eSTART, the state's Time and Attendance System for employees. Since the Operation's Plan for FY 2019 has already been approved by the Budget Office, the Commission will have to adjust spending accordingly. Other smaller boards will have to increase fees to accommodate the STAARS and eSTART maintenance fees.

Ms. Anderson provided the Commissioners with a draft of the 2018-2021 Strategic Plan. She explained that dates have been inserted to establish deadlines for the goals identified. She asked the Commissioners to review the proposed draft, and if they wanted to schedule a time to meet as a group to have a discussion to let her know. She asked that the plan be adopted at the October meeting.

Ms. Anderson discussed the 2018 License Renewals. As of September 19, 2018, 26,720 licensees have renewed. 22,756 (85.16%) were online and 3,964 (14.84%) in-house.

### **COMMISSIONER DISCUSSION**

Chairman Wright recognized Commissioner Clifton Miller and read a resolution commending Commissioner Miller for his 10 years of service to the Alabama Real Estate Commission. Vice Chairman Watts made a motion that the resolution honoring the distinguished service of Commissioner Clifton Miller be spread upon the minutes of the September 20, 2018 meeting. Commissioner Barran seconded the motion and it passed unanimously 8-0.

Vice Chairman Watts recognized Chairman Nancy Wright and read a resolution commending Commissioner Wright for her 10 years of service to the Alabama Real Estate Commission. Vice Chairman Watts made a motion that the resolution honoring the distinguished service of Commissioner Nancy Wright be spread upon the minutes of the September 20, 2018 meeting. Commissioner Harrison seconded the motion and it passed unanimously 8-0.

Vice Chairman Watts made a motion to break for lunch at 12:10 p.m. and return at 12:45 p.m. Commissioner Miller seconded the motion and it passed 7-0.

Commissioners returned at 12:45 to continue the meeting.

Vice Chairman Watts made a motion that Commissioners conduct disciplinary hearing disposition discussions and decisions in an Open Meeting. Commissioner Miller seconded the motion and it passed unanimously 7-0.

### **HEARINGS**

**Alabama Real Estate Commission vs. Brent Beavers and Clarence Graham, Formal Complaint No. 3458**

Brent Beavers, Qualifying Broker, EXP Realty LLC, Huntsville, Alabama, was charged on **Count 1** with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(19) by failing to comply with Section 34-27-32(g) in that he failed to have the branch office licensed in Hoover, Alabama and charged on **Count 2** with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(19) by allowing Clarence Graham to operate a place of business known as The Graham Group Real Estate Team, EXP Realty, when a company of that name is not licensed by the Commission pursuant to the *Code of Alabama* 1975, Section 34-27-30(a)(10).

Regarding **Count 1** of Formal Complaint 3458, upon discussion of the evidence and testimony presented by Mr. Beavers and others, Commissioner Barran made a motion to find him guilty. Commissioner Miller seconded the motion and it passed unanimously 7-0. Commissioner Harrison made a motion to fine Mr. Beavers \$2,500. Commissioner Barran seconded the motion and it passed unanimously 7-0.

Regarding **Count 2** of Formal Complaint 3458, upon discussion of the evidence and testimony presented by Mr. Beavers and others, Commissioner Sharp made a motion to find him guilty. Commissioner Barran seconded the motion and it passed unanimously 7-0. Commissioner Sharp made a motion to fine Mr. Beavers \$2,500. Vice Chairman Watts seconded the motion and it passed unanimously 7-0.

Clarence Graham, Salesperson, EXP Realty LLC, was charged on **Count 3** with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(19) by operating a place of business known as The Graham Group Real Estate Team, EXP Realty, when a company of that name is not licensed by the Commission. Therefore, Graham is in violation of Section 34-27-30(a)(10) by holding out The Graham Group Real Estate Team as being able to perform an act for which a license is required.

General Counsel Mandy Lynn moved to dismiss **Count 3** of Formal Complaint 3458 against Mr. Graham upon agreement. Hearing Officer, Jim Hampton, approved the motion.

**Alabama Real Estate Commission vs. Brent Beavers and Tammy Renee Domingue, Formal Complaint No. 3457**

NOTE: Ms. Domingue was not present for her hearing. Proper service was given, and the case was presented in her absence.

Brent Beavers, Qualifying Broker, EXP Realty LLC, Huntsville, Alabama, was charged on **Count 1** with violating 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-.03(1) by failing as qualifying broker, to be a signatory on the bank account Tammy Renee Domingue was using as a trust account and on **Count 2** with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(19) by failing to comply with Section 34-27-34(a)(2) which states "It shall be the

duty of the qualifying broker to see that all transactions of every licensee engaged by him or her for which he or she is qualifying broker comply with this chapter.”

Regarding **Count 1** of Formal Complaint 3457, upon discussion of the evidence and testimony presented by Mr. Beavers and others, Commissioner Denney made a motion to find him guilty. Vice Chairman Watts seconded the motion and it passed unanimously 7-0. Vice Chairman Watts made a motion to fine Mr. Beavers \$2,500. Commissioner Barran seconded the motion and it passed unanimously 7-0.

Regarding **Count 2** of Formal Complaint 3457, upon discussion of the evidence and testimony presented by Mr. Beavers and others, Commissioner Harrison made a motion to find him guilty. Commissioner Barran seconded the motion and it passed unanimously 7-0. Vice Chairman Watts made a motion to fine Mr. Beavers \$2,500. Commissioner Barran seconded the motion and it passed unanimously 7-0.

Tammy Renee Domingue, former salesperson, EXP Realty LLC, was charged on **Count 3** with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(19) in violation of Section 34-27-30(10) by holding out Pleasure Island Property Management as a licensed real estate company; on **Count 4** Domingue 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 all funds belonging to others; on **Count 5** Domingue 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 all funds belonging to others; on **Count 6** Domingue was charged with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(8)a. by commingling rental proceeds for owners in her personal account in order to pay owners through VENMO; on **Count 7** Domingue was charged with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(1) by procuring a license for herself by fraud, misrepresentation, or deceit or by making a material misstatement of fact in an application for a license by indicating that she had never been licensed as a salesperson or a broker in any state(s) other than Alabama.

Regarding **Counts 3, 4, 5, 6 and 7** of Formal Complaint 3457 against Tammy Renee Domingue, upon discussion of the evidence presented by Mandy Lynn, General Counsel, Vice Chairman Watts made a motion to find her guilty on all counts, fine her \$2,500 for each count and revoke her license. Commissioner Denney seconded the motion and it passed unanimously 7-0.

### **Alabama Real Estate Commission vs. Shawn D. Garth, Formal Complaint No. 3463**

Commissioner Barran recused himself.

Shawn D. Garth, Salesperson, Mark Moody, Inc., d/b/a MarMac Real Estate, Decatur, Alabama, was charged with violating the *Code of Alabama* 1975, as amended, Section 34-27-

36(a)(19) by failing to comply with Section 34-27-84(a)(5), in that she failed to present all written offers in a timely and truthful manner when assisting a party in the negotiation of a real estate transaction.

Upon discussion of the evidence and testimony presented by Ms. Garth, Commissioner Sharp made a motion to find her guilty. Commissioner Harrison seconded the motion and it passed 6-0. Commissioner Miller made a motion to fine Ms. Garth \$2,500 and require her to complete the Risk Management course, *Risk Management: Avoiding Violations*, within 60 days. Commissioner Denney seconded the motion and it passed 6-0.

**Brian Keith Thomas, Application for Determination of Licensing Eligibility, Investigative File I-15,343**

Upon discussion of the evidence and testimony presented by Mr. Thomas regarding his application for determination of licensing eligibility, Commissioner Denney made a motion to approve his application upon completion of his probation. Commissioner Sharp seconded the motion and it passed 7-1 with Commissioner Harrison voting against the motion.

**Curtis Taylor, Application for Temporary Salesperson License, Investigative File I-15,339**

Upon discussion of the evidence and testimony presented by Mr. Taylor regarding his application for temporary salesperson's license, Commissioner Denney made a motion to approve his application. Commissioner Miller seconded the motion and it passed unanimously 7-0.

**Cheryll Tipton, Request for Extension of Six-Month Deadline to Take and Pass the Salesperson License Examination After Completion of Salesperson Pre-license Course, Investigative File I-15,382**

Upon discussion of the testimony presented by Ms. Tipton regarding a hardship request for extended time to take and pass the salesperson's examination, Commissioner Harrison made a motion to approve her request for a 6-month extension. Commissioner Sharp seconded the motion and it passed unanimously 7-0.

**NOT APPEARINGS**

**Joseph Dodge Brown, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3461**

Joseph Dodge Brown, Inactive Salesperson, Arnold, Missouri, was charged with violating 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 Sharp made a motion to find Mr. Brown guilty and fine him \$500. Commissioner Barran seconded the motion and it passed unanimously 7-0.

**Reginald (Reggie) D. Williams, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3462**

Reginald (Reggie) D. Williams, Salesperson, Montgomery Real Estate Partners, LLC, d/b/a Keller Williams Realty, Montgomery, Alabama, was charged with violating the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(16) by submitting 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 Miller made a motion to find Mr. Williams guilty and fine him \$500. Commissioner Barran seconded the motion and it passed unanimously 7-0.

**James Calvert, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3459**

James Calvert, Salesperson, Shore Ventures Inc., d/b/a RE/MAX of Gulf Shores, Gulf Shores, Alabama, violated the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(16) by submitting an online electronic check payment for his real estate license renewal fee which was returned unpaid. Commissioner Denney made a motion to find Mr. Calvert guilty and fine him \$500. Commissioner Sharp seconded the motion and it passed unanimously 7-0.

**Confirm November Meeting Date and Location for the Record:** November 29, 2018, 9:00 a.m. in Montgomery, Alabama.

Vice Chairman Watts made a motion to confirm the November meeting for November 29, 2018 at 9:00 a.m. in Montgomery, Alabama. Commissioner Sharp seconded the motion and it passed unanimously 7-0.

There being no further business, the meeting adjourned at 2:53 p.m.

Done this 20<sup>th</sup> day of September 2018.

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Nancy Wright, Chairman

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Barbi Lee, Recording Secretary