

MINUTES

A meeting of the Alabama Real Estate Commission was held September 26, 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, 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, Phillip Bunch, Chuck Kelly, and K. C. Baldwin; and Auditor 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, and IT Manager Brett Scott.

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.

Commissioner Dorothy Riggins-Allen made a motion to approve the September 5 minutes as presented. Commissioner Wright seconded the motion and it passed unanimously 9-0.

Ms. Anderson reported on the August 31 financials. She stated that the numbers were still good and there would not be a need to transfer funds from investments to finish FY13. She added that the Commission had short-term and long-term investments. At the State Treasurer's office, \$2 million was pulled into a Money Market account and put in one-to three-year investments. The short-term investments will remain at less than one year and that is money the Commission can access when there is a need to use investments to cover expenses. The Commission will receive better returns doing one-to three-year and three- to five-year investments. Money was also moved into a mutual fund type account from the previously used repurchase agreements (REPOs) because the REPOs produced very little in returns. There is currently \$6.8 million in investments.

She reported that the October financial report will include a more detailed report on Recovery Fund payments. She explained to Commissioners that more money has been paid out of the Recovery Fund in the last four years. A chart will be provided to show payments from 2001-present.

Ms. Anderson asked Commissioners to please turn in all receipts from their travel to the Association of Real Estate License Law Officials (ARELLO) Annual Conference in Seattle. The forms will be processed by the staff and sent to the Commissioners for review before final processing.

Ms. Anderson reported that September 30 is the final license renewal deadline. Final renewal forms have been mailed to those who are now in the grace period for renewals. There are 4,288 who have not renewed so far. Of this number, 652 are companies, leaving 3,636 people who have not renewed. Commissioners will likely see more hardship requests for renewal on the agenda in the coming months following the renewal deadline. Ms. Anderson added that Education renewals for instructors, school administrators, schools, and courses are in process and will also deadline on September 30. She asked that Commissioners begin considering any changes they would like to make to continuing education requirements. This will be a discussion item on the November agenda.

Commissioner Harrison, Commissioner Miller, Mr. Booth and Mr. Adair reported on the ARELLO Annual Conference that was held in Seattle. Commissioner Harrison explained that the conference

helped her understand how Alabama fit into the “big picture” and she discovered that each state real estate commission functions differently. Commissioner Miller shared similar comments and further recommended that new Commissioners attend the ARELLO Conference at least by the second year on the Commission. Both expressed their feeling that the Alabama Real Estate Commission was operating at a higher level than real estate commissions in other states. Both Commissioners also attended ARELLO’s Commissioner College.

Mr. Booth is on the Law and Regulation Committee and the Timeshare Advisory Group and reported on both meetings. He also learned that Alabama was the only state that provides orientation for new Commissioners and he encouraged his colleagues to go back to their states and propose that this be done so that new commissioners are well informed before they attend their first commission meeting.

Mr. Adair is on the Examination Accreditation Committee and the Education Certification Committee. He is also chairing a task force that is reviewing certification of licensure across the states and working on making the process more uniform. He attended the Education Forum to hear questions and comments from other states regarding their education programs. He expressed that he came away feeling that Alabama was in a good position in the way we approached education compared to other states.

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 9-0.

HEARINGS AND APPEARINGS

Alabama Real Estate Commission vs. Cynthia Ragland, Formal Complaint No. 3318

Upon discussion of the evidence and testimony presented in the matter of Cynthia C. Ragland, Qualifying Broker, Royal Realty and Associates, Birmingham, Alabama, and the alleged violation of the *Code of Alabama* 1975, as amended, Count 1: Section 34-27-36(a)(8)a., in that Respondent failed within a reasonable time to properly account for or remit money coming into her possession which belonged to others, or commingled money which belonged to others with her own funds by collecting \$45,000.00 from Mr. Prince for the purchase of a home and failing to deposit the funds into a trust account and/or failing to account for the funds during a commission audit; Count 2: Section 34-27-36(a)(8)b., in that Respondent failed 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 and by having a shortage of funds; Count 3: Section 34-27-36(a)(26), in that Respondent exhibited conduct constituting or demonstrating dishonest dealings, bad faith, or untrustworthiness by accepting \$45,000.00 from Mr. Prince for the purchase of a home she listed, and then failing to secure those funds as required and ultimately spending the funds for a use other than the purchase of the home by Mr. Prince; Count 4: Section 34-27-36(a)(29), in that Respondent failed within a reasonable time to provide information request by the commission during an investigation or after a formal complaint had been filed in that she refused to cooperate with commission investigators and declined to answer questions by a commission auditor during an audit concerning Mr. Prince’s funds and transaction the following action was taken.

Commissioner Cawthon made a motion to find both Ms. Ragland and Royal Realty and Associates guilty on all four counts. Commissioner Cummings seconded the motion and it passed 8-0 with Commissioner Watts abstaining. Regarding penalty, Commissioner Cummings made a motion to

revoke the licenses of Ms. Ragland and Royal Realty and Associates. Commissioner Buford seconded the motion and it passed 7-1. Commissioner Miller voted against the motion and Commissioner Watts abstained from voting.

Riley Burrows Cooper, Hardship Applicant for Original Salesperson's License After Temporary License Lapsed, I-14,137

Upon discussion of the testimony presented by Mr. Cooper and his request for Commission consideration in allowing him to apply for the original salesperson's license after his temporary license lapsed, Commissioner Cawthon made a motion to deny Mr. Cooper's request. Commissioner Buford seconded the motion and it passed 8-1. Commissioner Cummings voted against the motion.

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

Upon discussion of the evidence and testimony presented by Jimmy Wayne Gay, denied applicant for determination of license eligibility, Commissioner Wright made a motion to grant Mr. Gay's application. Commissioner Cawthon seconded the motion and it passed unanimously 9-0.

Alabama Real Estate Commission vs. DeAngela O. Berryhill, Formal Complaint No. 3300

Upon discussion of the evidence and testimony presented in the matter of DeAngela O. Berryhill, Qualifying Broker, Berryhill Realty and Associates, Hampton, Georgia, and the alleged violation of the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(16), in that she submitted a check as payment for real estate renewal fees for her broker and company licenses, and check was returned unpaid and marked "account closed", Commissioner Cummings made a motion to find Ms. Berryhill guilty and fine her \$715. Commissioner Buford seconded the motion and it passed 8-1. Commissioner Riggins-Allen voted against the motion.

Since appropriate notice of hearing was made and verified, the hearing was held in Ms. Berryhill's absence.

Robert Clark, Denied Applicant for Licensure, I-14,148

Upon discussion of the application for salesperson's temporary license submitted by Mr. Clark, Commissioner Cawthon made a motion to approve Mr. Clark's application. Commissioner Sharp seconded the motion and it passed unanimously 9-0.

Brandi Lawrence, Hardship Renewal of Lapsed License, I-14,136

Upon discussion of the testimony presented by Ms. Lawrence regarding hardship renewal of her lapsed salesperson's license, Commissioner Cawthon made a motion to deny Ms. Lawrence's request. Commissioner Riggins-Allen seconded the motion and it passed unanimously 9-0.

Christopher Kenneth Rogers, Applicant for Determination of License Eligibility, I-14,149

Upon discussion of the evidence and testimony presented by Mr. Rogers regarding application for determination of license eligibility, Commissioner Harrison made a motion to deny Mr. Rogers' request. Commissioner Buford seconded the motion, but the motion failed 3-6 with Commissioners Riggins-Allen, Sharp, Wright, Watts, Miller and Cummings voting against the motion. Commissioner

Wright made a new motion to grant Mr. Rogers' request. Commissioner Riggins-Allen seconded the motion and it passed 7-2 with Commissioners Harrison and Buford voting against the motion.

Amber Haack, Determination of License Eligibility, I-14,150

Upon discussion of the evidence and testimony presented by Ms. Haack regarding application for determination of license eligibility, Commissioner Riggins-Allen voted to approve Ms. Haack's application. Commissioner Harrison seconded the motion and it passed unanimously 9-0.

NOT APPEARING ITEMS FOR RULING

Latonya D. Heard, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3304

Upon review of the evidence presented in the matter of Latonya D. Heard, Temporary Salesperson, Birmingham, Alabama, and the alleged violation of the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(16) in that she presented 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 Buford made a motion to find Ms. Heard guilty and fine her \$500. Commissioner Cummings seconded the motion and it passed unanimously 9-0.

Frances Tickle Mize, Waiver of Hearing and Guilty Plea, Formal Complaint No. 3323

Upon review of the evidence presented in the matter of Frances Tickle Mize, Qualifying Broker, Four Star Realty LLC, Odenville, Alabama, and the alleged violation of the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(19) in that Respondent failed to notify the Commission within thirty (30) days of changing the address of his/her place of business, Commissioner Wright made a motion to find Ms. Mize guilty and fine her \$250. Commissioner Miller seconded the motion and it passed unanimously 9-0.

Hugh M. Headrick, Surrender of License, I-14,171

Upon review and discussion of the affidavit of license surrender submitted by Mr. Headrick, Commissioner Riggins-Allen made a motion to accept the surrender of Mr. Headrick's license. Commissioner Harrison seconded the motion and it passed unanimously 9-0.

Confirm Next Meeting Date and Location for the Record: October 24 at 9:00 a.m. in Montgomery

Commissioner Buford made a motion to approve the Commission meeting date and location for October 24 at 9:00 a.m. in Montgomery, Alabama. Commissioner Sharp seconded the motion and it passed unanimously 9-0.

The meeting recessed at 12:30 p.m.

Done this 26th day of September, 2013.

Bill Watts, Chairman

Lori Moneyham, Recording Secretary