

MINUTES

A meeting of the Alabama Real Estate Commission was held September 29, 2016 at the offices of the Alabama Real Estate Commission, 1201 Carmichael Way, Montgomery, Alabama.

Those present were Chairman Bill Watts; Vice Chairman Carole Harrison; Commissioners Reid Cummings, Cindy Denney, Clif Miller, Dorothy Riggins-Allen, Danny Sharp and Nancy Wright; Executive Director Patricia Anderson; Assistant Executive Director Teresa Hoffman; General Counsel Chris Booth; Assistant General Counsel Mandy Lynn; Education Director Ryan Adair; Licensing Administrator Anthony Griffin; Investigators David Erfman, Chuck Kelly, K.C. Baldwin and Rickey Fennie; and Auditor Anthony Brown. The Hearing Officer was Tori Adams. Commissioner Steve Cawthon 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 Accounting and Personnel Director Molli Jones.

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

Commissioner Wright made a motion to approve the minutes from the August 25, 2016 meeting. Commissioner Miller seconded the motion and it passed unanimously 8-0.

Chairman Watts recognized Emily Marsh, Advocacy and Policy Manager with the Alabama Association of REALTORS® and real estate instructor Chuck Robertson who were present to observe the meeting. Commission strategic planning consultant JDanny Cooper was also present and recognized.

Executive Director Patricia Anderson presented the August 2016 financial report. Expenditures are on track compared to August 2015 and revenues are slightly ahead of August 2015. Investments are down slightly from August 2016. There have been no payouts from the Recovery Fund. Commissioners will receive the September end-of-the-year report at the October meeting.

Ms. Anderson reported on license renewals. Currently, 85% of licensees who were eligible to renew have renewed. There are 19,251 (93.75%) licensees who have renewed on active status and 5,591 (66%) licensees who have renewed on inactive status. There are 1,281 active licensees and 2,845 inactive licensees who have not renewed but still have opportunity to do so until September 30, 2017.

Ms. Anderson introduced new investigator Rickey Fennie. Mr. Fennie is retired from the Alabama National Guard and served in combat during Operation Desert Storm. He also served 25 years with the Montgomery Police Department and was commander of the MPD's Special Victims Bureau. He came to the Commission from the Alabama Department of Labor where he investigated unemployment fraud.

A public hearing was held on Rules 790-X-3-.03, 790-X-3-.04, 790-X-3-.06. There were no questions or comments from members of the public regarding the proposed changes to these rules. Chairman Watts proposed revisions to Rule 790-X-3-.03(5), (6)(a), (6)(b), (6)(c) and (6)(d). Commissioner Denney made a motion to accept the amendments to Rule 790-X-3-.03. Commissioner Wright seconded the motion and it passed unanimously 8-0.

Chairman Watts reported that Alabama Association of REALTORS® (AAR) CEO Jeremy Walker provided the following recommendations from AAR's Professionalism Presidential Advisory Group (PAG):

- Increase broker CE requirements to 12 hours annually with strong License Law and Risk Management curriculum.
- Recommend that qualifying and managing brokers attend training in Montgomery at the Commission annually.
- Recommend that qualifying and managing brokers attend one hearing at the Commission annually.
- Increase broker prelicense hours from 60 to 120.
- Require 5 years of continuous experience as a salesperson immediately prior to applying for the broker license instead of the current requirement to be active 24 of the previous 36 months. Require 30 closed transactions within that 5-year period.
- Increase salesperson CE requirements to 9 hours annually.
- Increase post license requirements for salespersons from 30 to 60 hours.

Commissioners asked staff to review this report and provide comments and recommendations to Commissioners at the October 2016 Commission meeting.

In the wake of the North Carolina Dental Board case, Alabama Legislative Reference office has advised that the Commission have a clearly articulated policy clarifying that its rule-making process is meant to protect consumers and is not meant to be anti-competitive. A bill has been drafted to pursue legislation in 2017 that will clarify the rule-making authority of the Commission. Commissioner Wright made a motion to pursue this legislation in the 2017 legislative session. Commissioner Harrison seconded the motion and it passed unanimously 8-0.

AMP testing service has been purchased by PSI Services LLC. As a result, testing sites will be moved from H & R Block offices to PSI's dedicated testing centers before the end of 2016. As a part of the transition to the new testing centers, the Commission will provide details to real estate schools and publish the information on the website and in publications.

Commissioner Wright made a motion to conduct disciplinary hearing disposition discussions and decisions in an Open Meeting. Commissioner Miller seconded the motion and it passed unanimously 8-0.

HEARINGS

Chandler Graham, Appearing to Discuss Continuing Education Course Rules, Investigative File I-14,894

Mr. Graham took distance education courses that did not meet the approval requirements as set forth in Rule 790-X-1-.21. He was denied acceptance of these courses for meeting CE credit for Alabama so he took 9 elective hours approved by the Commission for this renewal. He requested that the Commission change the way it recognizes other states' CE for future renewals. Upon discussion of Mr. Graham's presentation regarding his request, Commissioners took no action.

Alabama Real Estate Commission vs. Sharron Stevens, Formal Complaint No. 3394

Sharron Stevens, Temporary Salesperson, Mega Agent Rental Management Inc., Birmingham, Alabama was charged on Count 1 with violating *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 regarding arrests and convictions representing no arrests or convictions for crimes involving moral turpitude.

Upon discussion of the evidence and testimony presented in this matter, Commissioner Cummings made a motion to find Ms. Stevens guilty. Commissioner Riggins-Allen seconded the motion and it passed unanimously 8-0. Commissioner Wright made a motion to fine her \$1,500 to be paid by October 31, 2016. Commissioner Cummings seconded the motion and it passed unanimously 8-0.

Latoya Lowery, Request for Extension to Take and Pass Salesperson Exam, Investigative File I-14,878

Upon discussion of Ms. Lowery's hardship request for additional time to take and pass the salesperson exam, Commissioner Wright made a motion to grant her a 60-day extension to take and pass the exam. Commissioner Cummings seconded the motion and it passed unanimously 8-0.

Ronnie Lamarcis Kirkman, Application for Determination of Licensing Eligibility, Investigative File I-14,891

Upon discussion of the evidence and testimony presented by Mr. Kirkman regarding his application for determination of licensing eligibility, Commissioner Cummings made a motion to approve his application. Commissioner Riggins-Allen seconded the motion and it passed unanimously 8-0.

Alabama Real Estate Commission vs. JRC Realty Group Inc. and Alvin Johnson, Formal Complaint No. 3395

JRC Realty Group, Inc., Birmingham, Alabama and Alvin Johnson, Qualifying Broker, JRC Realty Group, Inc., Birmingham, Alabama were charged on Count 1 of violating *Code of Alabama* 1975, as amended, Section 34-27-36(a)(8)a. for collecting rents and failing within a reasonable time, to properly account for or remit money coming into their possession which belongs to others or commingling money belonging to others with their own funds; charged on Count 2 of violating *Code of Alabama* 1975, as amended, Section 34-27-36(a)(8)b. for 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; and charged on Count 3 of violating *Code of Alabama* 1975, as amended, Section 34-27-36(a)(8)b. for 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 property management trust account.

Upon discussion of the evidence and testimony presented in this matter, Commissioner Cummings made a motion to find JRC Realty Group and Mr. Johnson guilty on all counts. Commissioner Sharp seconded the motion and it passed unanimously 8-0. Commissioner Sharp made a motion to fine them \$6,000 (\$1,000 per count, per respondent). Commissioner Miller seconded the motion and it passed unanimously 8-0. Commissioner Cummings made a motion that the fine be paid within 120 days. Commissioner Riggins-Allen seconded the motion and it passed unanimously 8-0.

NOT APPEARINGS

Etinyia Renee Stallworth, Waiver of Hearing and Guilty Plea for Bad Check, Formal Complaint No. 3398

Upon review of the evidence presented in the matter of Etinyia Renee Stallworth, Salesperson, Wright Craft LLC d/b/a RE/MAX Partners, Mobile, Alabama, and the alleged violation of the *Code of Alabama* 1975, as amended, Section 34-27-36(a)(16) for 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 find her guilty and fine her \$350. Commissioner Miller seconded the motion and it passed unanimously 8-0.

Tyler Whitten, Hardship Request to Renew Lapsed Salesperson License, Investigative File I-14,890

Upon review of Ms. Whitten's hardship request to renew a lapsed salesperson license, Commissioner Harrison made a motion to approve her request with full payment of all fees to be made by October 31, 2016. Commissioner Wright seconded the motion and it passed unanimously 8-0.

Charles McCormick, Hardship Request for Home Operation, Investigative File I-14,876

Upon review of Mr. McCormick's hardship request for home operation, Commissioner Cummings made a motion to approve his request to operate from his home, without a separate entrance. Commissioner Miller seconded the motion and it passed unanimously 8-0.

Ira M. Betts Jr., Hardship Request for Home Operation, Investigative File I-14,895

Upon review of Mr. Betts request for home operation, Commissioner Cummings made a motion to approve his request to operate from his home, with a separate entrance. Commissioner Harrison seconded the motion and it passed unanimously 8-0.

Quincy Lamar Wiggins, Proposed Settlement Regarding Previous Commission Ruling, Formal Complaint No. 3385

Formal Complaint #3385 was filed against Mr. Wiggins and his qualifying broker, Robert L. Brooks, regarding rental properties and a sale of property being conducted by Mr. Wiggins. Mr. Wiggins' license was revoked and he was fined a total of \$4,500 at the Commission's September 29, 2016 meeting. Mr. Wiggins' attorney, Coby M. Boswell, proposed a settlement of less than those sanctions set out in the Commission's order. He proposed that the fines stand but, in lieu of revocation, Mr. Wiggins' license be suspended for 90 days and he be required to complete a RECAD course as part of 15 hours of continuing education and that his license be reinstated at the end of the 90 days.

Upon discussion of the proposed settlement, Commissioner Cummings made a motion to deny the request. Commissioner Wright seconded the motion and it passed 7-0. Commissioner Miller recused himself.

Michael D. Bedsole, Request for Rehearing, Investigative File I-14,681

Upon discussion of Mr. Bedsole's request for rehearing, Commissioner Riggins-Allen made a motion to deny his request. Commissioner Denney seconded the motion and it passed 7-0. Commissioner Harrison recused herself.

Confirm Meeting Date and Location for the Record: December 1, 9:00 a.m., Montgomery

Commissioner Cummings made a motion to move the October 27, 2016 meeting to October 20 to Mobile or Baldwin County with the exact location to be determined by staff. Commissioner Harrison seconded the motion and it passed unanimously 8-0.

Upon discussion of the December 1, 2016 meeting date, the decision was made by consensus to move the meeting to November 30, 2016 at 9:00 a.m. in Montgomery.

Executive Session

Commissioner Wright made a motion to call an Executive Session for five minutes from 12:50 -12:55 p.m. to discuss a personnel issue. Commissioner Riggins-Allen seconded the motion and it passed unanimously 8-0 with the following Commissioners voting for the motion: Nancy Wright, Dorothy Riggins-Allen, Danny Sharp, Cindy Denney, Carole Harrison, Clif Miller, Reid Cummings and Bill Watts. The Executive Session began at 12:50 p.m. and ended at 12:55 p.m. Commissioners went back into open session.

Commissioner Cummings made a motion to increase the salary of Teresa Hoffman, Assistant Executive Director, by 5% after a review of her performance over the past year. Commissioner Sharp seconded the motion and it passed unanimously 8-0.

There being no further business, the meeting adjourned at 1:00 p.m.

Done this 29th day of September, 2016.

Bill Watts, Chairman

Lori Moneyham, Recording Secretary