

Report on the

**Real Estate Commission  
State of Alabama  
Montgomery, Alabama**

**October 1, 2016 through September 30, 2018**

Filed: November 1, 2019



**Department of  
Examiners of Public Accounts**

**401 Adams Avenue, Suite 280  
Montgomery, Alabama 36104-4338  
P.O. Box 302251  
Montgomery, Alabama 36130-2251  
Website: [www.examiners.alabama.gov](http://www.examiners.alabama.gov)**

*Rachel Laurie Riddle, Chief Examiner*





State of Alabama  
Department of  
**Examiners of Public Accounts**

P.O. Box 302251, Montgomery, AL 36130-2251  
401 Adams Avenue, Suite 280  
Montgomery, Alabama 36104-4338  
Telephone (334) 242-9200  
FAX (334) 242-1775

Rachel Laurie Riddle  
*Chief Examiner*

Honorable Rachel Laurie Riddle  
Chief Examiner of Public Accounts  
Montgomery, Alabama 36130

Dear Madam:

Under the authority of the *Code of Alabama 1975*, Section 41-5A-19, as added by Act Number 2018-129, we submit this report on the results of the examination of the Alabama Real Estate Commission for the period October 1, 2016 through September 30, 2018.

Sworn to and subscribed before me this  
the 16<sup>th</sup> day of October, 2019.

Kelly D. Matthews  
Notary Public

Respectfully submitted,

Daniel Dupree  
Examiner of Public Accounts

Sworn to and subscribed before me this  
the 18<sup>th</sup> day of October, 2019.

Kelly D. Matthews  
Notary Public

Troy Eastman  
Examiner of Public Accounts

rb



---

---

## *Table of Contents*

---

---

	<i>Page</i>
<b>Summary</b>	A
Contains items pertaining to state legal compliance.	
<b>Comments</b>	C
Contains information pertaining to agency operations and other matters.	
<b>Schedule of State Legal Compliance and Other Findings</b>	E
Contains detailed information about findings pertaining to state legal compliance and other findings.	
Exhibit #1	1
Schedule of Cash Receipts, Disbursements and Balances Special Revenue Fund 371 – Operating Fund	
Exhibit #2	2
Schedule of Cash Receipts, Disbursements and Balances Special Revenue Fund 372 – Recovery Fund	
Exhibit #3	3
Schedule of Cash Receipts, Disbursements and Balances Special Revenue Fund 569 – Proportionate Fund	
Exhibit #4	4
<b>Commission Members and Official</b> – a listing of the Commission Members and Official.	
Exhibit #5	5
<b>Schedule of Charges</b> – a schedule that provides details on amounts that officials or employees of the Commission have been asked to repay.	
<b>Order of the Chief Examiner</b>	7

---





Department of  
**Examiners of Public Accounts**

**SUMMARY**

**Real Estate Commission  
October 1, 2016 through September 30, 2018**

The Real Estate Commission (the “Commission”) operates under the authority of the *Code of Alabama 1975*, Sections 34-27-1 through 34-27-101. By law, the Commission licenses and regulates real estate companies, brokers, salespersons, instructors, and schools in Alabama.

This report presents the results of an examination of the Commission and a review of compliance by the Commission with applicable laws and regulations of the State of Alabama. This examination was conducted in accordance with the requirements of the Department of Examiners of Public Accounts under the authority of the *Code of Alabama 1975*, Section 41-5A-12, as added by Act Number 2018-129. Our examination was performed for the purpose of determining whether the public officers, agents, and employees of the Commission properly and lawfully accounted for all money and other public assets or resources received, disbursed, or in the custody of the Commission. Our examination included determining compliance by the Commission with state laws and regulations that pertain to financial transactions; personnel; safeguarding of state-owned assets, property, and resources; information dissemination, processing, and retention; and official actions, rulemaking procedures, and meetings. As a part of our examination, we also reviewed internal control policies and procedures relating to the areas listed above. Our examination did not encompass managerial and operational matters, such as whether the Commission accomplished its mission or its regulatory, enforcement, investigative, or other oversight activities in an efficient, fair, timely, or legal manner.

Findings are numbered and reported by the examination period in which the finding originally occurred.

The following instance of noncompliance with State laws and regulations and other matters was found during the examination as shown on the Schedule of State Legal Compliance and Other Findings and is summarized below.

**CURRENT FINDING**

- 2018-01 Relates to two commission members receiving commission member compensation that they were not entitled to receive.

**UNRESOLVED PRIOR FINDINGS**

There were no unresolved prior findings.

As reflected on Exhibit 5, a Commission member received Commission member compensation while being employed as a full-time employee of a state university. A letter was sent to the Commission member requesting repayment in the amount of \$8,311.50. At a meeting with the Assistant Chief Examiner, the Commission member failed to show just cause as to why the amount should not be repaid; therefore, relief was denied as evidenced by the Order of the Chief Examiner. The charges remain due and unpaid and, as a result, this report will be certified to the Attorney General for collection.

Commission members and the Executive Director were invited to an exit conference held on September 12, 2019. Individuals in attendance were William Watts, Chairman, and Patricia Anderson, Executive Director, along with Robin Hutcheson, Audit Manager, and Troy Eastman, Examiner, from the Department of Examiners of Public Accounts.





Department of  
**Examiners of Public Accounts**

**COMMENTS**

**Real Estate Commission  
October 1, 2016 through September 30, 2018**

The Real Estate Commission (the “Commission”) operates under the authority of the *Code of Alabama 1975*, Sections 34-27-1 through 34-27-101. By law, the Commission licenses and regulates real estate companies, brokers, salespersons, instructors, and schools in Alabama.

The Commission consists of nine members appointed by the Governor and confirmed by the Senate. Members are appointed as follows: Seven members, one from each congressional district, who have been real estate brokers or salespersons for ten years prior to appointment; one black member, from any congressional district, who has been a real estate broker or salesperson for ten years prior to appointment; and one consumer member from any congressional district. The consumer member must not have been licensed as a real estate broker or salesperson for ten years prior to appointment. Members serve five-year terms and may not serve more than two consecutive terms.

The Commission appoints an Executive Director and an Assistant Executive Director.

The Commission operates from three Special Revenue Funds maintained in the State Treasury. The Commission’s operating funds are derived from fees collected by the Commission in carrying out its statutory mission. The Commission is subject to the State’s normal budget procedures and cannot expend funds without a legislative appropriation.

- **Fund 371 – Real Estate Commission Fund** – Established by the *Code of Alabama 1975*, Section 34-27-4 as the Commission's operating fund. The fund is used to accumulate and disburse fees, fines, charges and other money collected by the Commission, except Recovery Fund fees and portions of multi-year license fees held in escrow to fund operations during the second year of the Commission’s two-year licensing cycle.
- **Fund 372 – Real Estate Recovery Fund** – Established by the *Code of Alabama 1975*, Section 34-27-31 to hold fees collected in lieu of bond from brokers and salespersons. Aggrieved parties may recover actual or compensatory damages sustained within the State of Alabama as a result of violations of real estate licensing law by a broker or salesperson. The State Treasurer may invest balances in the fund, with interest income divided equally between the Commission's operating fund and the University of Alabama Real Estate Research and Education Center.

- **Fund 569 – Real Estate Commission Proportionate Fund** – Established by the *Code of Alabama 1975*, Section 34-27-4 to hold a portion of license receipts in escrow for use during the second year of the Commission's two-year licensing cycle. Balances in the fund may be invested, and income from investments must be deposited into the Commission's operating fund.

The Commission owned non-consumable personal property consisting of automobiles, office furniture, computers, and equipment. A comparison was done of non-consumable personal property in the custody of the Commission with property records maintained by the Property Inventory Division of the State Auditor's Office. No discrepancies were noted.

---

*Schedule of State Legal  
Compliance and Other Findings*

---

---

***Schedule of State Legal Compliance and Other Findings***  
***For the Examination Period Ended September 30, 2018***

---

---

Ref. No.	Finding/Noncompliance
2018-01	<p><b><u>Finding:</u></b></p> <p>Two commission members, who are also full-time employees of state universities, were paid \$300 per month compensation for serving on the Commission that they were not entitled to receive. One member received \$8,311.50 from October 1, 2016 through March 29, 2019; and one member received \$7,480.35 from March 17, 2017 through May 30, 2019. According to the <b><i>Code of Alabama 1975</i></b>, Section 36-6-3 and Attorney General Opinion 2007-102, the members can only receive compensation for the highest paid office, position or employment.</p> <p>When notified of the payments made in error, one member reimbursed the Commission \$7,480.35.</p> <p>The <b><i>Code of Alabama 1975</i></b>, Section 36-6-3 states: “Wherever the duties of more than one office, position or employment shall be filled, performed or discharged by one officer or employee, <b>such officer or employee shall only receive the salary named for the highest paid office, position or employment</b> so filled, performed or discharged.”</p> <p>Attorney General’s Opinion 2007-102 issued to the Alabama Real Estate Commission, concluded that: “...a state employee who also serves on a state board is <b>entitled to the salary or compensation named for the highest paid office, position, or employment and is not entitled to be compensated for both positions.</b>”</p> <p><b><u>Recommendation:</u></b></p> <p>The Commission should verify the employment of members to ensure that members are not being paid for two positions of profit and that members only receive the salary for the highest paid office, position or employment.</p>

***Schedule of Cash Receipts, Disbursements and Balances***  
***Special Revenue Fund 371 - Operating Fund***  
***For the Period October 1, 2016 through September 30, 2018***

	2017-2018	2016-2017
<b><u>Receipts</u></b>		
Licensing	\$ 3,567,883.50	\$ 3,464,637.50
Fines and Penalties	123,700.00	180,900.00
Interest Income	9,023.61	36,932.67
Docket and Copy Fees - Courts	12,390.00	9,570.00
Salvage Equipment Sales or Other Property	208.62	462.84
Bad Check Fees	450.00	320.00
Total Receipts	<u>3,713,655.73</u>	<u>3,692,823.01</u>
<b><u>Disbursements</u></b>		
Personnel Costs	2,118,923.62	2,121,791.49
Employee Benefits	793,427.44	785,317.89
Travel - In-State	83,073.67	85,759.71
Travel - Out-Of-State	42,468.12	39,600.28
Repairs and Maintenance	20,819.32	18,562.91
Rentals and Leases	45,447.32	41,267.99
Utilities and Communications	122,933.89	122,923.55
Professional Services	408,186.03	520,222.46
Supplies, Materials and Operating Expenses	105,719.48	84,403.19
Grants and Benefits	4,064.08	600.33
Transportation Equipment Operations	4,511.81	4,915.39
Other Equipment Purchases	74,309.76	11,512.15
Total Disbursements	<u>3,823,884.54</u>	<u>3,836,877.34</u>
Excess (Deficiency) of Receipts Over Disbursements	(110,228.81)	(144,054.33)
Cash Balances at Beginning of Year	<u>488,283.96</u>	<u>632,338.29</u>
Cash Balances at End of Year	378,055.15	488,283.96
Reserve for Year-End Obligations	<u>(138,628.39)</u>	<u>(201,373.86)</u>
Unobligated Cash Balances at Year-End	<u>\$ 239,426.76</u>	<u>\$ 286,910.10</u>

***Schedule of Cash Receipts, Disbursements and Balances***  
***Special Revenue Fund 372 - Recovery Fund***  
***For the Period October 1, 2016 through September 30, 2018***

	2017-2018	2016-2017
<b><u>Receipts</u></b>		
Recovery Fees	\$ 85,350.00	\$ 73,530.00
Investments - Gain On Sale	148.24	
Investments - Interest	1,779.49	
Total Receipts	<u>87,277.73</u>	<u>73,530.00</u>
<b><u>Disbursements</u></b>		
Grants and Benefits	9,178.18	4,510.34
Investments - Loss On Sale	1,927.73	
Total Disbursements	<u>11,105.91</u>	<u>4,510.34</u>
Excess (Deficiency) of Receipts Over Disbursements	76,171.82	69,019.66
Cash Balances at Beginning of Year	<u>280,781.69</u>	<u>211,762.03</u>
Cash Balances at End of Year	356,953.51	280,781.69
Reserve for Unpaid Obligations	(150,000.00)	(150,000.00)
Investments	<u>729,074.60</u>	<u>733,325.14</u>
Available Cash Balances at Year-End	<u>\$ 936,028.11</u>	<u>\$ 864,106.83</u>

***Schedule of Cash Receipts, Disbursements and Balances***  
***Special Revenue Fund 569 - Proportionate Fund***  
***For the Period October 1, 2016 through September 30, 2018***

	2017-2018	2016-2017
<b><u>Receipts</u></b>		
Transfers In - Renewal Licensing Fees	\$ 2,397,635.00	\$
Investments Proceeds		325,715.37
Cash Dividends	313.49	56.29
Interest Income	63,355.70	63,390.75
Gain On Sale of Investments	461.82	12,393.55
Unrealized Gain	3,870.00	234,215.95
Amounts Held in Custody for Others	319,140.00	
Amounts Held for Funds		3,270.00
Total Receipts	<u>2,784,776.01</u>	<u>639,041.91</u>
<b><u>Disbursements</u></b>		
Transfers Out - Original Licensing Fees		864,485.00
Transfers Out - Renewal Licensing Fees	242,995.00	1,584,590.00
Investments - Loss On Sale	7,010.68	1,555.96
Investments - Purchase	55,394.36	
Investments - Unrealized Loss	1,725.97	2,110.95
Amounts Held in Custody for Others		302,885.00
Amounts Held for Other Funds		100.00
Total Disbursements	<u>307,126.01</u>	<u>2,755,726.91</u>
Excess (Deficiency) of Receipts Over Disbursements	2,477,650.00	(2,116,685.00)
Cash Balances at Beginning of Year	<u>2,580,680.00</u>	<u>4,697,365.00</u>
Cash Balances at End of Year	5,058,330.00	2,580,680.00
Investments	<u>3,074,769.84</u>	<u>3,072,974.23</u>
Unobligated Cash Balances at Year-End	<u>\$ 8,133,099.84</u>	<u>\$ 5,653,654.23</u>

---

*This Page Intentionally Blank*

---



---

---

***Commission Members and Official***  
***October 1, 2016 through September 30, 2018***

---

---

<b>Commission Members</b>		<b>Term Expires</b>
Hon. William A. Watts, III	Chairman	2021
Hon. Emmette Barran	Member	2022
Hon. Carole J. Harrison	Member	2021
Hon. J. Reid Cummings	Member	2021
Hon. Vaughn T. Poe	Member	2021
Hon. Clifton Miller	Member	2018
Hon. Danny Sharp	Member	2020
Hon. Cynthia Denney	Member	2019
Hon. Nancy D. Wright	Member	2018
Hon. Charles S. Cawthon	Member	2017
Hon. Dorothy P. Riggins-Allen (1)	Member	2016

**Official**

Ms. Patricia Anderson  
Executive Director  
1201 Carmichael Way  
Montgomery, Alabama 36106  
Phone: (334) 242-5544  
[www.arec.alabama.gov](http://www.arec.alabama.gov)

(1) Continued to serve until March 2017

---

***Schedule of Charges***  
***October 1, 2016 through September 30, 2018***

<b>Person/Official Charged</b>	<b>Date</b>	<b>Fund</b>	<b>Amount Charged</b>
<b><u>Directly Charged to:</u></b>			
J. Reid Cummings	10/01/2016 - 03/29/2019	Fund 371	\$ 8,311.50
Total Direct Charges			\$ 8,311.50

Amount Paid	Amount Relieved By Chief Examiner	Amount Unpaid	Description of Charge
\$	\$	\$ 8,311.50	Commission member received compensation that he was not entitled to.
\$	\$	\$ 8,311.50	

---

*This Page Intentionally Blank*

---

---

*Order of the Chief Examiner*

# **ORDER OF THE CHIEF EXAMINER**

**RE: REAL ESTATE COMMISSION  
OCTOBER 1, 2016 THROUGH SEPTEMBER 30, 2018**

This matter of an amount due from a commission member was brought before me on the 22nd day of May, 2019, pursuant to the provisions of the *Code of Alabama 1975*, Section 41-5-22. The charged commission member appeared before me on that date, and I am of the opinion that the charged commission member did not provide sufficient additional evidence that the amount due should not be paid. Therefore, relief is denied.

Entered this the 17th day of June, 2019.

A handwritten signature in black ink, appearing to read 'R. L. Riddle', written over a horizontal line.

**Rachel Laurie Riddle  
Chief Examiner**