

Report on the

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

October 1, 2018 through September 30, 2020

Filed: May 21, 2021



**Department of
Examiners of Public Accounts**

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Rachel Laurie Riddle, Chief Examiner



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

Dear Madam:

An examination was conducted on the Alabama Real Estate Commission, Montgomery, Alabama, for the period October 1, 2018 through September 30, 2020. Under the authority of the *Code of Alabama 1975*, Section 41-5A-19, I hereby swear to and submit this report to you on the results of the examination.

Respectfully submitted,

Daniel Dupree
Examiner of Public Accounts

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Department of
Examiners of Public Accounts

SUMMARY

**Real Estate Commission
October 1, 2018 through September 30, 2020**

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 the Commission’s compliance 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. Our examination was performed to determine 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.

FINDING

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 it is summarized below.

- ◆ 2020-001 Relates to the Commission voting to extend the deadline for completing continuing education which conflicts with the deadline set by statute.

EXIT CONFERENCE

Commission members and the Executive Director were invited to an exit conference held on April 19, 2021. Individuals in attendance were Vaughn T. Poe, Executive Director, and Teresa Hoffman, Assistant Director, along with Robin Hutcheson and Daniel Dupree from the Department of Examiners of Public Accounts.



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COMMENTS

**Real Estate Commission
October 1, 2018 through September 30, 2020**

The Real Estate Commission (the “Commission”) operates under the authority of the *Code of Alabama 1975*, Section 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 resulting from violations of the 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 nonconsumable personal property consisting of automobiles, office furniture, computers, and equipment. Nonconsumable personal property in the custody of the Commission was compared with property records maintained by the Property Inventory Control 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, 2020

Ref. No.	Finding/Noncompliance
2020-001	<p><u>Finding:</u></p> <p>Due to a lack of continuing education providers, the Commission voted in a board meeting held on April 2, 2020 to extend the deadline for completing continuing education on or before September 30, 2020 to December 31, 2020, which is in direct conflict with the Commission’s statute. As a result, the Commission allowed licensees to complete continuing education after the deadline set by statute.</p> <p>The <i>Code of Alabama 1975</i>, Section 34-27-35(j)(1) states, “ Each applicant for renewal of an active salesperson or broker license issued by the commission <u>shall, on or before September 30</u> of the final year of each license period, submit proof of completion of not less than 15 clock hours of approved continuing education course work to the commission, in addition to any other requirements for renewal. Failure to meet this deadline shall result in the license being placed on inactive status on the following October 1, and the license shall be subject to all reactivation requirements.”</p> <p><u>Recommendation:</u></p> <p>The Commission should adhere to the continuing education deadline requirement in the statute.</p>

Schedule of Cash Receipts, Disbursements and Balances
Special Revenue Fund 371 - Operating Fund
For the Period October 1, 2018 through September 30, 2020

	2019-2020	2018-2019
<u>Receipts</u>		
Licensing Fees	\$ 1,018,285.43	\$ 1,052,051.50
Fines and Penalties	161,660.00	189,200.00
Transfer from Fund 569	2,948,505.00	2,800,015.00
Interest Income	13,743.97	11,058.48
Docket and Copy Fees	15,890.00	12,000.00
Salvage Equipment	134.81	424.31
Prior Year Refunds	9,688.50	7,104.90
Unclaimed Property		830.00
Bad Check Penalties	300.00	450.00
Total	4,168,207.71	4,073,134.19
<u>Disbursements</u>		
Personnel Costs	2,578,122.61	2,242,177.90
Employee Benefits	927,995.49	840,503.65
Travel, In-State	56,747.94	91,444.19
Travel, Out-of-State	29,939.12	26,023.88
Repair and Maintenance	21,626.62	18,672.21
Rentals and Leases	16,886.95	37,728.48
Utilities and Communication	143,467.50	137,138.13
Professional Services	232,424.37	409,941.64
Supplies, Materials, and Operating Expenses	126,937.72	126,336.43
Transportation Equipment Operations	2,291.43	3,073.19
Grants and Benefits	6,871.99	5,529.24
Other Equipment Purchases	9,670.78	131,779.73
Total	4,152,982.52	4,070,348.67
Excess of Receipts Over Disbursements	15,225.19	2,785.52
Cash Balances at Beginning of Year	380,840.67	378,055.15
Cash Balances at End of Year	396,065.86	380,840.67
Reserved for Unpaid Obligations	(120,807.22)	(115,220.71)
Unreserved Cash Balances at End of Year	\$ 275,258.64	\$ 265,619.96

Schedule of Cash Receipts, Disbursements and Balances
Special Revenue Fund 372 - Recovery Fund
For the Period October 1, 2018 through September 30, 2020

	2019-2020	2018-2019
<u>Receipts</u>		
Real Estate Recovery Fees	\$ 76,020.00	\$ 85,080.00
<u>Disbursements</u>		
Grants and Benefits	123,106.00	33,263.92
Excess (Deficiency) of Receipts Over Disbursements	(47,086.00)	51,816.08
Cash Balances at Beginning of Year	408,769.59	356,953.51
Cash Balances at End of Year	361,683.59	408,769.59
Investments	761,179.89	750,408.71
Reserved for Unpaid Obligations	(150,000.00)	(150,000.00)
Unreserved Cash Balances at End of Year	<u>\$ 972,863.48</u>	<u>\$ 1,009,178.30</u>

Schedule of Cash Receipts, Disbursements and Balances
Special Revenue Fund 569 - Proportionate Fund
For the Period October 1, 2018 through September 30, 2020

	2019-2020	2018-2019
<u>Receipts</u>		
Real Estate License Renewal Fees	\$ 5,098,245.00	\$ 114,670.00
Real Estate License Original Fees	2,360.00	301,840.00
Investment Proceeds	146,914.08	379,168.09
Dividends		1,298.30
Interest Income		20,129.91
Unrealized Gain	54,651.75	1,527.69
Amounts Held in Custody for Others	1,470.00	210.00
Amounts Held for Other Funds	361,845.00	
Total	5,665,485.83	818,843.99
<u>Disbursements</u>		
Transfer to Fund 371	2,948,505.00	2,800,015.00
Investments - Loss on Sale		1,868.64
Unrealized Loss	1,565.83	255.35
Amounts Held for Other Funds		318,765.00
Total	2,950,070.83	3,120,903.99
Excess (Deficiency) of Receipts Over Disbursements	2,715,415.00	(2,302,060.00)
Cash Balances at Beginning of Year	2,756,270.00	5,058,330.00
Cash Balances at End of Year	5,471,685.00	2,756,270.00
Investments	2,745,767.33	2,832,547.00
Unreserved Cash Balances at End of Year	\$ 8,217,452.33	\$ 5,588,817.00

Commission Members and Officials
October 1, 2018 through September 30, 2020

Commission Members	Term Expires
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Hon. Danny Sharp	Chairman	2020
Hon. Melody O. Davis	Member	2024
Hon. Joyce Shivers Harris	Member	2023
Hon. Susan T. Smith	Member	2023
Hon. Emmette Barran	Member	2022
Hon. Carole J. Harrison	Member	2021
Hon. J. Reid Cummings	Member	2021
Hon. William A. Watts, III	Member	2021
Hon. Terri C. May	Member	2021
Hon. Vaughn T. Poe	Member	2021 (1)
Hon. Cynthia Denney	Member	2019

Officials

Vaughn T. Poe	Executive Director 1201 Carmichael Way Montgomery, AL 36106 Ph. (334) 242-5544 www.arec.alabama.gov	
Patricia Anderson	Executive Director	April 2020

(1) Resigned August 2019