

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

AMERICAN ALLIANCE FOR EQUAL
RIGHTS, a nonprofit corporation,

Plaintiff,

v.

KAY IVEY, in her official capacity as
Governor of the State of Alabama,

Defendant.

Civil Action No. 2:24-cv-00104-RAH-JTA

**MOTION FOR A TEMPORARY
RESTRAINING
ORDER/PRELIMINARY
INJUNCTION**

**(RELIEF REQUESTED BY
MARCH 19, 2024)**

Plaintiff American Alliance for Equal Rights moves pursuant to Fed. R. Civ. P. 65 for a temporary restraining order (TRO) and preliminary injunction (PI) requiring Defendant Kay Ivey, in her official capacity as Governor of the State of Alabama, to withdraw nominations to the Alabama Real Estate Appraisers Board (AREAB) that she recently sent to the Alabama Senate in an attempt to thwart this lawsuit. The Alliance requests a TRO before the Senate returns to session on March 19. That would allow the Court to maintain the status quo until the parties can fully brief and this Court can rule on the PI motion.

INTRODUCTION AND STATEMENT OF FACTS

Alabama law requires the Governor to consider the race of potential board members when making appointments to AREAB, and to exclude from consideration anyone who will not satisfy AREAB's racial quota of at least two members "of a minority race." Ala. Code § 34-27A-4; *see also* Ala. Admin. Code 780-X-1-.02 (same). AREAB appointments are made by the Governor but are not final until confirmed by the Alabama Senate. The Alliance is a nationwide membership organization that is dedicated to eliminating racial distinctions and preferences in America, and it has members who are qualified, ready, willing, and able to be appointed to AREAB. Ex. D ¶¶ 4–

5.¹ One of these is Member A, a citizen of Alabama and member of the Alliance who has applied for the currently vacant public member position on AREAB and satisfies all the nonracial criteria but is ineligible because she is not a racial minority. Ex. E ¶¶ 3–7.

The Alliance filed this lawsuit on February 13, challenging AREAB’s racial requirement as a violation of the Equal Protection Clause. ECF No. 1. The Governor was properly served on February 23. ECF No. 7. Although the Governor had made no appointments to AREAB for over three years, on February 29—less than a week after being served with Plaintiff’s lawsuit—she suddenly sent nominations to the Senate purporting to appoint or reappoint all nine members of AREAB. *See* Ex. A (nomination letters); *see also* <https://alison.legislature.state.al.us/confirmations?tab=1> (Senate website showing no other AREAB nominations since February 11, 2021). These nominations were introduced in the Senate and referred to its Confirmations committee on March 6, which was the first publicly available notice of the nominations.² No further action has taken place on the nominations, and the Senate is in recess until March 19, at which point it could act on the nominations. *See* <https://alison.legislature.state.al.us/senate-session-reports?tab=2> (Senate calendar).

The Governor’s rushed AREAB nominations were obviously a direct response to this lawsuit and a ploy to try to avoid Plaintiff’s case being heard on the merits. This Court should decline to countenance such gamesmanship and should issue a TRO ordering the Governor to withdraw the nominations to preserve the status quo until the parties can fully brief and the Court rule on the Alliance’s request for a preliminary injunction. This Court and other federal courts

¹ All exhibit cites refer to exhibits to the Roper declaration.

² The Alliance first learned of the nominations on March 7, when counsel for the Governor sent an email to counsel for the Alliance stating: “my understanding is that ... the Governor has recently made appointments to those positions.” Ex. B.

readily grant preliminary relief against Governors where necessary to preserve the status quo and prevent the violation of constitutional rights. *See, e.g., Lee v. Macon Cnty. Bd. of Educ.*, 231 F. Supp. 743, 745 (M.D. Ala. 1964) (TRO granted to prevent Alabama Governor from interfering with school desegregation); *State of Ala. ex rel. Flowers v. Kelley*, 214 F. Supp. 745, 746 (M.D. Ala. 1963) (TRO granted to prevent Alabama Governor from acting on lease agreement); *United States v. Barnett*, 376 U.S. 681, 685–86 (1964) (TRO granted to prevent Mississippi Governor from interfering with desegregation); *see also Allman v. Padilla*, 979 F. Supp. 2d 205, 209 (D.P.R. 2013) (TRO granted ordering Governor to withdraw nomination prior to Senate approval); *Torres-Rivera v. Garcia-Padilla*, No. CV 14-1040 (FAB), 2014 WL 12788784, at *3 (D.P.R. Jan. 17, 2014) (TRO granted ordering Governor to withdraw appointment pending a decision on preliminary injunction motion).³

The Court should not hesitate to grant preliminary relief here, as all four elements for obtaining such relief are satisfied.⁴

LEGAL STANDARD

The purpose of a temporary restraining order “is to protect against irreparable injury and preserve the status quo until the district court renders a meaningful decision on the merits.” *Schiavo ex rel. Schindler v. Schiavo*, 403 F.3d 1223, 1231 (11th Cir. 2005) (per curiam). “To be entitled to

³ *See also, e.g., Friends of George’s, Inc. v. Tennessee*, 667 F. Supp. 3d 755, 766 (W.D. Tenn. 2023) (granting TRO against Tennessee Governor’s enforcement of a statute that would violate the plaintiff’s First Amendment rights); *Disability Rights S.C. v. McMaster*, No. CV 3:21-02728-MGL, 2021 WL 5054087, at *1 (D.S.C. Nov. 1, 2021) (TRO granted against South Carolina Governor’s enforcement of COVID restrictions); *Quiles Rodriguez v. Calderon*, 172 F. Supp. 2d 334, 338 (D.P.R. 2001) (noting grant of a TRO preventing the Puerto Rico Governor from appointing a Chair of the Public Service Commission).

⁴ Alternatively, the Court should order the Senate to stay consideration of the nominations until the Court can rule on the PI motion.

a TRO, a movant must show: (1) a substantial likelihood of ultimate success on the merits; (2) the TRO is necessary to prevent irreparable injury; (3) the threatened injury outweighs the harm the TRO would inflict on the non-movant; and (4) the TRO would serve the public interest.” *Ingram v. Ault*, 50 F.3d 898, 900 (11th Cir. 1995). The third and fourth factors “merge” when “the Government is the opposing party.” *Swain v. Junior*, 961 F.3d 1276, 1293 (11th Cir. 2020).

These same four factors apply to a request for a preliminary injunction. *See Baldwin v. Express Oil Change, LLC*, 87 F.4th 1292, 1301 (11th Cir. 2023).

ARGUMENT

As shown below, each of the four preliminary relief factors is satisfied here, and the requested TRO should issue to preserve the status quo until this Court can rule on the Alliance’s request for a PI.

I. The Alliance Is Substantially Likely to Prevail on the Merits

The Alliance is likely to succeed in proving that Alabama’s race-based appointment preference for AREAB violates the Equal Protection Clause. The “core purpose” of the Equal Protection Clause is “do[ing] away with all governmentally imposed discrimination based on race.” *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 206 (2023) (quoting *Palmore v. Sidoti*, 466 U.S. 429, 432 (1984)). For that reason, “[e]liminating racial discrimination means eliminating all of it.” *Id.* Both Section 34-27A-4 and Rule 780-X-1-.02 require the Governor to consider race when making appointments to AREAB. As such, they must survive strict scrutiny. *Id.*

Strict scrutiny is a “daunting two-step examination,” *id.*, in which the government has the burden of proving that a racial classification both (1) furthers a compelling governmental interest, and (2) is narrowly tailored to further that interest, *Johnson v. California*, 543 U.S. 499, 505 (2005) (citing *Adarand Constructors, Inc. v. Pena*, 515 U.S. 200, 227 (1995)). “Both the Supreme Court

and [Eleventh Circuit] have made clear that racial classifications, whatever the motivation for enacting them, are highly suspect and rarely withstand constitutional scrutiny.” *Johnson v. Bd. of Regents of Univ. of Ga.*, 263 F.3d 1234, 1243 (11th Cir. 2001).

The Alliance is likely to succeed in proving that the racial requirement for appointments to AREAB fails both prongs of strict scrutiny.

A. AREAB’s Racial Requirement Does Not Further a Compelling Interest

The compelling interest requirement is designed to “assur[e] that the legislative body is pursuing a goal important enough to warrant use of a highly suspect tool.” *Ensley Branch, N.A.A.C.P. v. Seibels*, 31 F.3d 1548, 1564–65 (11th Cir. 1994) (quoting *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469, 493 (1989) (plurality op.)). The Supreme Court has recognized only one relevant interest compelling enough to justify racial classifications: remedying the effects of the government’s own past or present de jure discrimination. *Parents Involved in Cmty. Schs. v. Seattle Sch. Dist. No. 1*, 551 U.S. 701, 720–22 (2007); *see also Ensley*, 31 F.3d at 1577 (“The Constitution tolerates race-based remedies only when they are necessary either to remedy past discrimination or to correct present discrimination”).⁵ To establish a compelling interest in remedying the effects of de jure discrimination, defendants cannot simply rely on an “amorphous claim,” but must set forth “a strong basis in evidence for their conclusion that race-based affirmative action is necessary.” *Ensley*, 31 F.3d at 1552, 1565.

The Governor cannot make such a showing here because there is no history of discrimination in appointments to AREAB. The racial preference in Section 34-27A-4 was part of the law from the creation of AREAB, meaning that AREAB has never been without the

⁵ The Supreme Court has also discussed “avoiding imminent and serious risks to human safety in prisons” as a compelling interest, *Students for Fair Admissions*, 600 U.S. at 207, but that is plainly inapplicable here.

requirement that at least two members be “of a minority race.” *See* Real Estate Appraisers Act, 1990 Alabama Laws Act 90-639. Even if the Governor were to argue that there has been past discrimination in the real estate industry in Alabama generally, that would be insufficient, as “a generalized assertion that there has been past discrimination in an entire industry provides no guidance for a legislative body to determine the precise scope of the injury it seeks to remedy.” *Croson*, 488 U.S. at 498; *see also Shaw v. Hunt*, 517 U.S. 899, 909–10 (1996) (“[A]n effort to alleviate the effects of societal discrimination is not a compelling interest.”); *Ensley*, 31 F.3d at 1552, 1565 (an “‘amorphous claim’ of societal discrimination” is insufficient).

B. AREAB’s Racial Requirements Are Not Narrowly Tailored

Even if there were a compelling interest that could justify racial considerations in AREAB appointments, any such considerations must be narrowly tailored to ensure that the use of racial preferences is a “last resort.” *Eng’g Contractors Ass’n of S. Fla. Inc. v. Metro. Dade Cnty.*, 122 F.3d 895, 926 (11th Cir. 1997). The narrow tailoring inquiry “must be intrusive, and focused very closely and in a very precise way on the specific terms of the regulation or policy under review, because only with that kind of searching examination can a court ensure that the defendant’s use of race is truly as narrow as the Constitution requires.” *Johnson*, 263 F.3d at 1251. A “searching examination” shows that AREAB’s racial requirement is not narrowly tailored in at least four ways.

First, the rigid and categorical nature of the racial requirement shows that it is not narrowly tailored. *See Johnson*, 263 F.3d at 1255 (finding no narrow tailoring where the government used a “rigid, mechanical approach to considering race”). The challenged statute and rule require that there must always be at least two racial minorities on AREAB. Thus, an opening on the board *must* be filled by a racial minority if there are fewer than two racial minorities already on AREAB.

Second, the “random inclusion of racial groups” for which there is no evidence of past discrimination demonstrates that a program is not narrowly tailored. *See Croson*, 488 U.S. at 506. Even if there were evidence of alleged instances of race discrimination against some racial minorities, Alabama gives preferential treatment in AREAB appointments to *every* racial minority—in other words, anyone who is not white or Caucasian. This “suggests”—if not conclusively establishes—that Alabama’s purpose in creating the racial requirement “was not in fact to remedy past discrimination” against members of an identified group. *Croson*, 488 U.S. at 506.

Third, the narrow tailoring analysis requires Alabama to engage in “serious, good faith consideration of workable race-neutral alternatives” that would allow it to achieve whatever interest it believes to be compelling. *Grutter v. Bollinger*, 539 U.S. 306, 339 (2003). This will ordinarily involve proof that the legislature “carefully examined and rejected race-neutral alternatives.” *Croson*, 488 U.S. at 507. Yet here, there is no indication that Alabama considered any race-neutral alternatives before selecting a blanket policy of requiring at least two racial minorities on AREAB. *See Viridi v. DeKalb Cnty. Sch. Dist.*, 135 F. App’x 262, 268 (11th Cir. 2005) (finding no narrow tailoring where “there is no evidence that the District considered race-neutral alternative means”); *Johnson*, 263 F.3d at 1259 (concluding that the defendant “fails to show on this record that it meaningfully considered, let alone rejected as insufficient, any wholly race-neutral alternatives to the [challenged] race-conscious admissions policy”).

Fourth, racially conscious government programs must have a “logical end point.” *Students for Fair Admissions*, 600 U.S. at 212 (quoting *Grutter*, 539 U.S. at 342). This requirement is “critical” because “‘deviation from the norm of equal treatment’ must be ‘a temporary matter.’” *Id.* (quoting *Grutter*, 539 U.S. at 342). Here, AREAB’s race-based appointment preference is

perpetual, as neither the statute nor the rule have an expiration date. Instead, Alabama appears “committed ... to using race” until “it is precluded from doing so.” *Johnson*, 263 F.3d at 1259.

Since the Governor cannot demonstrate a compelling government interest and Alabama has not precisely tailored AREAB’s race-based appointment preferences, the Alliance is likely to prevail on its equal protection claim.

II. The Alliance and Its Members Will Suffer Irreparable Harm

An injury is irreparable when it “cannot be undone through monetary remedies.” *Cate v. Oldham*, 707 F.2d 1176, 1189 (11th Cir. 1983); *see also United States v. Askins & Miller Orthopaedics, P.A.*, 924 F.3d 1348, 1358 (11th Cir. 2019) (explaining that when it is unlikely that a plaintiff will be able to recover money damages, his injury is irreparable). The deprivation of constitutional rights “unquestionably constitutes irreparable harm.” *Strawser v. Strange*, 105 F. Supp. 3d 1323, 1328 (S.D. Ala. 2015) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)).

Here, the Alliance and its members will be irreparably harmed absent preliminary relief. Most notably, Member A will be deprived of her fundamental right under the Equal Protection Clause to equal consideration in her application for a position on AREAB. *See Ne. Fla. Chapter of Assoc. Gen. Contractors of Am. v. City of Jacksonville*, 508 U.S. 656, 666 (1993) (holding that the injury-in-fact in a case involving racial discrimination is “the inability to compete on an equal footing”). The Governor made her recent rushed nominations under a system that discriminates against Member A based on her race, such that Member A did not receive equal consideration. Without a TRO, the Alabama Senate will likely consider and confirm the Governor’s nominations soon after it returns to session on March 19. And because positions on AREAB are for three-year terms, if the Governor’s nominations are confirmed, it will likely be several years before Member

A or other Alliance members can be considered for a vacancy on AREAB.⁶ Absent preliminary relief, Member A will be irreparably deprived of equal consideration for the currently vacant public member seat on AREAB, free from discrimination based on her race. And no monetary remedies are available to compensate for this constitutional violation. *See Odebrecht Constr., Inc. v. Sec’y, Fla. Dep’t of Transp.*, 715 F.3d 1268, 1289 (11th Cir. 2013) (in the context of preliminary relief, “numerous courts have held that the inability to recover monetary damages ... renders the harm suffered irreparable”). A TRO is necessary to preserve the status quo and avoid irreparable harm to Member A and the Alliance until the Court can rule on the PI motion.

III. The Balance of Equities Tips in the Alliance’s Favor and a TRO and PI Are in the Public Interest

The irreparable harm that the Alliance and its members will suffer without preliminary relief outweighs any harm that such relief would cause the Governor, for three reasons. First, when a constitutional right hangs in the balance, that usually trumps harm to government defendants. *See Gonzalez v. Governor of Ga.*, 978 F.3d 1266, 1272 (11th Cir. 2020) (loss of the right to vote outweighed the government’s asserted harms); *Gayle v. Meade*, 614 F. Supp. 3d 1175, 1206 (S.D. Fla. 2020) (“irreparable harm to [plaintiffs’] constitutional rights” outweighs asserted government interests).

Second, the Governor cannot show that preliminary relief would cause her any direct harm, since it would simply halt the confirmation of AREAB members who were nominated pursuant to a racially discriminatory process. There is no urgency to appoint AREAB members, and the Governor has not seen a need to make any appointments to AREAB for the past three years. The

⁶ Some of the Governor’s AREAB nominations purport to have set expiration dates in 2026; others purport to expire “three years after ... confirmation by the Senate.” *See* Ex. A.

additional time it will take to receive a ruling in this case will not cause any measurable harm to the Governor or AREAB.

Third, enjoining the Governor's recent nominations will not harm AREAB's ability to conduct regular business, as the current members "continue to hold office until the appointment and qualifications of their successors and confirmation by the state Senate." Ala. Code 34-27A-4. The AREAB as currently constituted continues to hold meetings and conduct its business. *See* Ex. C (AREAB meeting minutes from November 9, 2023, the latest available on AREAB's website); <https://reab.alabama.gov/about/meeting-dates-reports> (listing AREAB's scheduled meetings through the end of 2024).

The Alliance is not asking the Court to appoint Member A or another of its members to AREAB. It is simply asking that the Governor be required to make her appointments on a race-neutral basis. Doing so in conformity with the Equal Protection Clause is in the public interest, because "the public interest is served when constitutional rights are protected." *Democratic Exec. Comm. of Fla. v. Lee*, 915 F.3d 1312, 1327 (11th Cir. 2019). Indeed, "the public ... has no interest in enforcing an unconstitutional law." *Scott v. Roberts*, 612 F.3d 1279, 1297 (11th Cir. 2010).

Additionally, the equities particularly favor the Alliance here because the Governor's nominations were not made in the regular course, but were rushed to the Senate in response to this lawsuit. The Court should not reward the Governor's thinly veiled attempt to disrupt this case and deprive the Court of jurisdiction to consider the Alliance's claims. Instead, it should issue a TRO to preserve the status quo until it can rule on the Alliance's PI motion.

IV. No Security Should Be Required

This Court has discretion to determine the amount of any security under Rule 65(c), and it is "well-established" that it "may elect to require no security at all." *BellSouth Telecomms., Inc. v. MCIMetro Access Transmission Servs., LLC*, 425 F.3d 964, 971 (11th Cir. 2005) (quoting *City of*

Atlanta v. Metro. Atlanta Rapid Transit Auth., 636 F.2d 1084, 1094 (5th Cir. 1981)). Not requiring security is particularly appropriate in “[p]ublic-interest litigation” such as this case. *Sierra Club v. Kempthorne*, No. CV 07-0216-WS-M, 2007 WL 9717745, at *6 (S.D. Ala. May 31, 2007) (citing *Metro. Atlanta Rapid Transit Auth.*, 636 F.2d at 1094). Here, vindicating the equal protection rights of the Alliance and its members is strongly in the public interest. The Governor and AREAB will not be harmed by preliminary relief, and there is no need for a bond or other security.

CONCLUSION

For the foregoing reasons, the Court should grant a TRO and require the Governor to withdraw her recent nominations to AREAB prior to the Senate resuming on March 19. That would preserve the status quo, enabling the parties to brief and this Court to rule on the PI motion.⁷

DATED: March 11, 2024.

Respectfully submitted,

/s/ Glenn E. Roper
GLENN E. ROPER*
Colo. Bar No. 38723
Pacific Legal Foundation
1745 Shea Center Drive, Suite 400
Highlands Ranch, Colorado 80129
Telephone: (916) 503-9045
GERoper@pacificlegal.org
**Pro Hac Vice*

Attorney for Plaintiff

⁷ Alternatively, in granting the TRO the Court should direct the Senate to stay any action on the recent AREAB nominations. As to either alternative, if the Court grants a TRO, the Alliance respectfully requests that a copy of the Court’s order be sent to the Clerk, Chairperson, and Ranking Minority Member of the Senate’s Confirmations Committee, as well as the Senate President. See <https://alison.legislature.state.al.us/committees-senate-standing-current-year>; <https://alison.legislature.state.al.us/senate-leaders-members>.

CERTIFICATE OF SERVICE

I hereby certify that on March 11, 2024, I electronically filed a copy of the foregoing with the Clerk of the Court via CM/ECF which will send notification to all counsel of record:

Brenton Merrill Smith at Brenton.Smith@AlabamaAG.gov.

Benjamin M. Seiss at Ben.Seiss@AlabamaAG.gov

/s/ Glenn E. Roper
GLENN E. ROPER
Attorney for Plaintiff

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

AMERICAN ALLIANCE FOR EQUAL
RIGHTS, a nonprofit corporation,

Plaintiff,

v.

KAY IVEY, in her official capacity as
Governor of the State of Alabama,

Defendant.

Civil Action No. 2:24-cv-00104-RAH-JTA

DECLARATION OF GLENN ROPER

I, Glenn Roper, declare as follows:

1. I am over the age of 18, of sound mind, and otherwise competent to sign this declaration.
2. I am an attorney at Pacific Legal Foundation, representing American Alliance for Equal Rights in this action.
3. Exhibit A are true and correct copies of Alabama Real Estate Appraisers Board (AREAB) nomination letters from the Governor to the Senate, dated February 29, 2024, and available at <https://alison.legislature.state.al.us/confirmations>.
4. Exhibit B is a true and correct copy of a March 7, 2024, email from Brenton Smith, counsel for the Governor in this action.
5. Exhibit C is a true and correct copy of the meeting minutes from AREAB's November 9, 2023, meeting, which are the latest meeting minutes available on the AREAB website at <https://reab.alabama.gov/about/meeting-dates-reports/meeting-minutes>.
6. Exhibit D is a true and correct copy of the declaration of Edward Blum.

7. Exhibit E is a true and correct copy of the declaration of Member A.

8. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 11, 2024.



Glenn Roper

Exhibit A

OFFICE OF THE GOVERNOR



STATE CAPITOL
MONTGOMERY, ALABAMA 36130

KAY IVEY
GOVERNOR

(334) 242-7100
FAX: (334) 242-3282

STATE OF ALABAMA

February 29, 2024

To the Senate of Alabama
Alabama State House
Montgomery, Alabama 36130

Ladies and Gentlemen:

I have appointed, upon your confirmation, Mr. Andrew D. Watson, of Fairhope, Alabama, to the Alabama Real Estate Appraisers Board. His term of office will expire three years after his confirmation by the Senate.

Respectfully submitted,

Handwritten signature of Kay Ivey in black ink.

Kay Ivey
Governor

Done this 29th day of February 2024.

RECEIVED IN OFFICE OF
SECRETARY OF SENATE

3/4
signed James B. Wilson, 2024

OFFICE OF THE GOVERNOR



STATE CAPITOL
MONTGOMERY, ALABAMA 36130

KAY IVEY
GOVERNOR

(334) 242-7100
FAX: (334) 242-3282

STATE OF ALABAMA

February 29, 2024

To the Senate of Alabama
Alabama State House
Montgomery, Alabama 36130

Ladies and Gentlemen:

I have appointed, upon your confirmation, Mr. Andreas Smith, of Huntsville, Alabama, to the Alabama Real Estate Appraisers Board. His term of office will expire three years after his confirmation by the Senate.

Respectfully submitted,

A handwritten signature in black ink that reads "Kay Ivey".

Kay Ivey
Governor

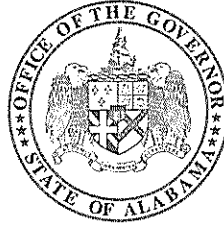
Done this 29th day of February 2024.

RECEIVED IN OFFICE OF
SECRETARY OF SENATE

3/4
signed Jayne W. Wright 3/4, 2024

OFFICE OF THE GOVERNOR

KAY IVEY
GOVERNOR



STATE CAPITOL
MONTGOMERY, ALABAMA 36130

(334) 242-7100
FAX: (334) 242-3282

STATE OF ALABAMA

February 29, 2024

To the Senate of Alabama
Alabama State House
Montgomery, Alabama 36130

Ladies and Gentlemen:

I have appointed, upon your confirmation, Mr. Mark Palmer, of Florence, Alabama, to the Alabama Real Estate Appraisers Board. His term of office will expire three years after his confirmation by the Senate.

Respectfully submitted,

A handwritten signature in black ink that reads "Kay Ivey".

Kay Ivey
Governor

Done this 29th day of February 2024.

RECEIVED IN OFFICE OF
SECRETARY OF SENATE

3/4 2024
A handwritten signature in black ink that reads "George B. Swain".
signed

OFFICE OF THE GOVERNOR



STATE CAPITOL
MONTGOMERY, ALABAMA 36130

KAY IVEY
GOVERNOR

(334) 242-7100
FAX: (334) 242-3282

STATE OF ALABAMA

February 29, 2024

To the Senate of Alabama
Alabama State House
Montgomery, Alabama 36130

Ladies and Gentlemen:

I have appointed, upon your confirmation, Mr. Randall Kyles, of Enterprise, Alabama, to the Alabama Real Estate Appraisers Board. His term of office will expire three years after his confirmation by the Senate.

Respectfully submitted,

A handwritten signature in black ink that reads "Kay Ivey".

Kay Ivey
Governor

Done this 29th day of February 2024.

RECEIVED IN OFFICE OF
SECRETARY OF SENATE

3/4 2024
signed A handwritten signature in black ink, appearing to read "J. G. Whitman".

OFFICE OF THE GOVERNOR

KAY IVEY
GOVERNOR



STATE CAPITOL
MONTGOMERY, ALABAMA 36130

(334) 242-7100
FAX: (334) 242-3282

STATE OF ALABAMA

February 29, 2024

To the Senate of Alabama
Alabama State House
Montgomery, Alabama 36130

Ladies and Gentlemen:

I have appointed, upon your confirmation, Mr. Chad Anderson, of Mobile, Alabama, to the Alabama Real Estate Appraisers Board. His term of office will expire three years after his confirmation by the Senate.

Respectfully submitted,

A handwritten signature in black ink that reads "Kay Ivey".

Kay Ivey
Governor

Done this 29th day of February 2024.

RECEIVED IN OFFICE OF
SECRETARY OF SENATE

3/4
A handwritten signature in black ink that reads "George A. Wright".
signed

OFFICE OF THE GOVERNOR

KAY IVEY
GOVERNOR



STATE CAPITOL
MONTGOMERY, ALABAMA 36130

(334) 242-7100
FAX: (334) 242-3282

STATE OF ALABAMA

February 29, 2024

To the Senate of Alabama
Alabama State House
Montgomery, Alabama 36130

Ladies and Gentlemen:

I have appointed, upon your confirmation, Mr. J. Roger Ball, Jr., of Birmingham, Alabama, to the Alabama Real Estate Appraisers Board. His term of office will expire March 26, 2026.

Respectfully submitted,

A handwritten signature in cursive script that reads "Kay Ivey".

Kay Ivey
Governor

Done this 29th day of February 2024.

RECEIVED IN OFFICE OF
SECRETARY OF SENATE
3/4 2024
George D. Wright
signed

OFFICE OF THE GOVERNOR



STATE CAPITOL
MONTGOMERY, ALABAMA 36130

KAY IVEY
GOVERNOR

(334) 242-7100
FAX: (334) 242-3282

STATE OF ALABAMA

February 29, 2024

To the Senate of Alabama
Alabama State House
Montgomery, Alabama 36130

Ladies and Gentlemen:

I have appointed, upon your confirmation, Ms. Melanie Housh, of Cropwell, Alabama, to the Alabama Real Estate Appraisers Board. Her term of office will expire May 5, 2026.

Respectfully submitted,

A handwritten signature in black ink that reads "Kay Ivey".

Kay Ivey
Governor

Done this 29th day of February 2024.

RECEIVED IN OFFICE OF
SECRETARY OF SENATE

3/4
A handwritten signature in black ink that reads "George B. Noyes".
signed

OFFICE OF THE GOVERNOR



STATE CAPITOL
MONTGOMERY, ALABAMA 36130

KAY IVEY
GOVERNOR

(334) 242-7100
FAX: (334) 242-3282

STATE OF ALABAMA

February 29, 2024

To the Senate of Alabama
Alabama State House
Montgomery, Alabama 36130

Ladies and Gentlemen:

I have appointed, upon your confirmation, Mr. William Mackey, of Gallion, Alabama, to the Alabama Real Estate Appraisers Board. His term of office will expire May 5, 2026.

Respectfully submitted,

A handwritten signature in black ink that reads "Kay Ivey".

Kay Ivey
Governor

Done this 29th day of February 2024.

RECEIVED IN OFFICE OF
SECRETARY OF SENATE

3/4, 2024
A handwritten signature in black ink that reads "George W. Wright".
signed

OFFICE OF THE GOVERNOR

KAY IVEY
GOVERNOR



STATE CAPITOL
MONTGOMERY, ALABAMA 36130

(334) 242-7100
FAX: (334) 242-3282

STATE OF ALABAMA

February 29, 2024

To the Senate of Alabama
Alabama State House
Montgomery, Alabama 36130

Ladies and Gentlemen:

I have appointed, upon your confirmation, Mr. Tim Mills, of Mobile, Alabama, to the Alabama Real Estate Appraisers Board. His term of office will expire March 26, 2026.

Respectfully submitted,

A handwritten signature in black ink that reads "Kay Ivey".

Kay Ivey
Governor

Done this 29th day of February 2024.

RECEIVED IN OFFICE OF
SECRETARY OF SENATE

3/4, 2024
A handwritten signature in black ink that reads "Angela B. Wright".
signed

Exhibit B

Glenn E. Roper

From: Smith, Brenton <Brenton.Smith@AlabamaAG.gov>
Sent: Thursday, March 7, 2024 1:44 PM
To: Glenn E. Roper
Cc: Seiss, Ben
Subject: AAER v. Ivey -- Extension Request

Good afternoon Mr. Roper,

I'm going to be representing Governor Ivey in the suit you filed on behalf of American Alliance for Equal Rights in the Middle District of Alabama along with my colleague Ben Seiss (cc'd). I'm reaching out because we have a pleading deadline next Friday, but both of us have preexisting conflicts next week (I'm going to be out of the office for several days and he has a preliminary injunction hearing). We intend to move for a 14-day extension of our deadline to file a motion to dismiss. Would you please let us know whether we can represent that our motion for extension is unopposed?

Separately, I just wanted to give you a heads up regarding the membership of the Real Estate Appraisers' Board. Although your complaint only references a possible appointment to the public at-large position on the Board, my understanding is that there were multiple positions that were up for appointment and that the Governor has recently made appointments to those positions.

Thanks,

Brenton Smith

Brenton M. Smith
Assistant Attorney General

Constitutional Defense Division
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State of Alabama
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Exhibit C

MINUTES
ALABAMA REAL ESTATE APPRAISERS BOARD
RSA UNION STREET
SUITE 370
MONTGOMERY, AL 36104
November 9, 2023

MEMBERS PRESENT:

Mr. Chad Anderson (Chairman)
Mrs. Melanie Housh (Vice-Chairman)
Mr. Drew Watson
Mr. Roger Ball
Mr. Richard D. Pettey
Mr. Billy Cotter
Mr. Mark Haller
Mr. Robert Butler

MEMBERS ABSENT:

None

STAFF PRESENT:

Mrs. Lisa Brooks, Executive Director
Ms. Neva Conway, Legal Counsel
Mrs. Carolyn Greene, Executive Secretary
Mr. Jimmy Green, Investigator

GUESTS PRESENT:

Mr. Greg Fanin, Trainee
Mr. Scott DiBiasio, The Appraisal Institute

1.0 Mr. Chad Anderson, Chairman, called the meeting to order at 9:05 a.m. Mrs. Carolyn Greene, Executive Secretary, recorded the minutes. The meeting was held in the Suite 300 Conference Room of the RSA Union Building, 100 N. Union Street, Montgomery, Alabama. Prior notice of the meeting was posted on the Secretary of State's website on December 6, 2022, and updated on July 19, 2023, in accordance with the Alabama Open Meetings Act.

2.0 The meeting was opened with prayer led by Mr. Cotter and the Pledge of Allegiance, led by Mr. Haller.

3.0 Mr. Anderson asked Mrs. Greene to call a voice roll to establish a quorum. Board members present were Mr. Anderson, Mr. Mark Haller, Mr. Robert Butler, Mr. Billy Cotter, Mr. Rick Pettey, Mr. Roger Ball Mr. Drew Watson and Mrs. Melanie Housh. There were no members absent. A quorum was established.

Mr. Anderson welcomed the guests and asked them to introduce themselves.

4.0 On motion by Mrs. Housh and second by Mr. Ball, the regular minutes for September 21, 2023, were approved as written. Motion carried by unanimous vote.

At this time, Mr, Scott DiBiasio discussed the Appraisal Institute's PAREA program with the Board.

At 9:24 a.m., Mr. Anderson opened the floor for discussion.

Mr. Ball made a motion to proceed with drafting the framework to move forward with PAREA as an alternative to the traditional supervisor/trainee model for gaining appraisal experience. Mr. Watson seconded the motion. The Board voted to approve the motion and it carried by unanimous vote.

Ms. Conway will draft the Administrative Code change and present it to the Board in January. Ms. Conway told the Board that the Governor's moratorium on new rulemaking by executive branch agencies is expected to expire on March 1, 2024.

5.0 Ms. Conway informed the Board that the hearing for Richard Maloy has been continued to the January 2024 Board meeting.

6.0 The Board discussed purchasing equipment, etc. to facilitate the ability to have increased Board member participation in Board meetings via electronic means.

Ms. Conway discussed the new Congressional districts and how that might impact appointments the Governor made but were never confirmed in 2023.

7.0 On motion by Mr. Ball and second by Mr. Butler, the following applications were voted on as listed. Motion carried.

7.1 **Trainee Real Property Appraiser applications approved:** William Blake Pharr and Alicia Renee Van Horn. **Applications approved:** None. **Applications denied:** None.

Trainee Real Property Appraiser Experience Logs for Review: Logs reviewed: William Clayton Collins and Marshall K. Davidson. **Log Reviews deferred:** Conner Alexander Daniel, Christopher Andrew Hamby and Larry Daniel Watts.

7.2 **State Registered Real Property Appraiser applications approved:** None. **Applications deferred:** None. **Applications denied:** None.

7.3 **Licensed Real Property Appraiser applications approved:** Pamela A. Gurak (Recip)(CA). **Applications deferred:** None. **Applications denied:** None.

7.4 **Certified Residential Real Property Appraiser applications approved:** Grant Dickey, Isaac Gordy, Stuart Gregg (Recip)(GA), Tom Andy Hackney (Recip)(TX), David Mark Hicks (Recip)(TN), and Bernard Pedersoli (Recip)(IL). **Applications deferred:** Carolina Brooke Bosarge, Joshua Gary Robinson, and Kellie Summerlin and Ronald Curtis Vaughn. **Applications denied:** None.

7.5 **Certified General Real Property Appraiser applications approved:** Marius Andreasen (Recip)(IL), Michael Preston Bates (Recip)(GA), Walter Edward Gardiner (Recip)(LA), James Edward Justus (Recip)(TN), Brian Palumbo (Recip)(NY), Jason Ribelin (Recip)(TX), Lawrence Saucer (Recip)(FL), Michael Allen Stavinoha (Recip)(TX), Travis Raymond Steckler (Recip)(TN), Mark Edward Trippel (Recip)(FL), David J. Wagner (Recip)(WI), Cody Woodyard (Recip)(TX), and R. Jason Wright. **Applications deferred:** None. **Applications denied:** None.

7.6 **Mentor applications approved:** Jeffrey Blake Carter, Timothy Clayton Harris, and Terry Preston Little. **Applications deferred:** Jack D. Couch II, Jason Lane Easter and Janice Lynnette Fendley. **Applications denied:** None.

The Board discussed the applications received from WAIV employees.

8.0 Mr. Pettey presented the Finance report for October 2023-2024, reported that the Board was 8% into Fiscal Year 2024 and 12% into budget expenditures and that there were no negative trends that could not be reconciled at this time.

On motion by Mr. Ball and second by Mrs. Housh, the Board voted to approve the Finance Report. Motion carried by unanimous vote.

9.0 On motion by Mrs. Housh and second by Mr. Haller, the following education courses and instructor recommendations on the November Education agenda were approved, deferred, or denied as indicated. Motion carried by unanimous vote.

APPRAISAL INSTITUTE – ALABAMA/MISSISSIPPI CHAPTER

New Application:

(CE) 2024-2025 7-Hour National USPAP Update Course – 7 Hours –
Classroom
(Instructor: Jacinto Munoz)

Both Course and Instructor Approved

APPRAISAL INSTITUTE – CHICAGO CHAPTER

New Applications:

(CE) 2024-2025 7-Hour National USPAP Update Course – 7 Hours –
Classroom
(Instructors: Brett Hall, Mark Smeltzer, and Craig Harrington)
Both Course and Instructors Approved

(CE) Fundamentals of Appraising Affordable Housing – 7 Hours -
Classroom
(Instructor: Claire Feuling)
Both Course and Instructor Approved

APPRAISER ELEARNING, LLC

New Application:

(CE) 2024-2025 7-Hour National USPAP Update Course – 7 Hours –
Classroom
(Instructors: Bryan Reynolds, Diana Jacob, Joshua Walitt, Gregory
Stephens, and Pam Teel)
Both Course and Instructors Approved

MCKISSOCK LLC

New Applications:

(CE) Live Webinar: 2024-2025 7-Hour National USPAP Update Course –
7 Hours - Online
(Instructors: Alan Hummel, Alex Gilbert, Charles Fisher, Charles
Huntoon, Dan Bradley, Diana Jacob, Greg Stephens, Howard
Kanter, Jo Traut, Josh Walitt, Julie Floyd, Kevin Hecht, Mel Black,
Pam Teel, Philicia Lloyd, Rob McClelland, Rob Abelson, Rob
Frazier, and Steve Maher)
Both Course and Instructors Approved

(CE) 2024-2025 7-Hour National USPAP Update Course – 7 Hours -
Online
(Instructor: Dan Bradley)
Both Course and Instructor Approved

- 10.0 **AB 21-22** On September 21, 2023, the Board approved a consent settlement with a Certified Residential Real Property Appraiser Sean Hollis, R00701 where the Licensee agreed to a six (6) month suspension of his license effective October 1, 2023, through March 31, 2024. The Violations in the report are: The appraiser does not analyze or address the four criteria relative to the highest and best use of the property. The appraiser indicates that the market is stable to increasing, however, there is no time adjustment.

- The subject site contains 9,800 SF. All of the comparables have larger sites. There is no support or explanation for the site adjustment or lack thereof. There is no support for site value in the appraisal or the work file.
- There is a difference in bedroom count from the subject to the comparables. There are adjustments for bedroom count with no support or explanation.
- There is a difference in bath count from the subject to the comparables. There are adjustments for bath count with no support or explanation.
- The appraiser indicates that there is no necessary adjustment for room count. However, given the fact that the comparables are 4-bedroom units, an adjustment for unit mix is appropriate.
- The subject contains 4,031 square feet which is larger than any of the comparables. There is an adjustment made with no corresponding support or explanation.
- The appraiser's concluded price per square foot is less than the indicated/adjusted range.
- The appraiser's concluded price per room is greater than the indicated/adjusted range.
- The appraiser's concluded price per bedroom is greater than the indicated/adjusted range.
- The subject site contains 9,800 SF. All of the comparables have larger sites. There is no support or explanation for the site adjustment or lack thereof. There is no support for site value in the appraisal or the work file.
- The appraiser has indicated MVS as the source of the cost for the improvements. However, there is no support in the appraisal or work file.

There is no support or explanation for depreciation. The rentals presented in the appraisal do not match the discussion.

There is no adjustment for the number of bedrooms in the rental presentation. This is typically a major factor in rental properties similar to the subject.

This an income producing property. Therefore, more explanation is needed for support of economic rent verses contract rent.

In the Replacement Reserve Schedule, the appraiser indicates the replacement of 1,400 yards of carpet. This equates to 12,600 square feet. This is incorrect.

The subject is an income producing property. The appraiser indicates that the Income Approach was included at the request of the client. Properties similar to the subject are bought and sold based on their ability to produce an income stream. The appraiser provides concluded values for each approach to value.

The appraiser's discussion in the reconciliation indicates that more consideration is given to the Income Approach. However, it appears that the appraiser gives more consideration to the Sales Comparison with support from the Income Approach. However, given the application of units of value outside of the ranges, see Sales Comparison Approach comments, it is not clear why this is the best indicator of value. The price per square foot, the

price per room, and the price per bedroom are outside the adjusted ranges. There is 15.79% difference between the Income Approach and the final estimate of value while there is only a 5.85% difference from the final estimate of value to the Cost Approach. Properties similar to the subject are bought and sold for their ability to produce income. The appraiser has not explained or supported the conclusions in the appraisal. More explanation supporting the reconciled final estimate of value is needed.

The appraisal lacks discussion and explanation for adjustments as well as support and reasoning for the reconciled final opinion of value.

The appraisal does not contain a sufficient highest and best use analysis with explanation and support. **STANDARDS RULE 1-3, 1-4, 2-2, USPAP, 2020-2021 Edition.**

AB 22-29 On September 21, 2023, the Board approved a consent settlement with Certified General Real Property Appraiser Gilbert P. Johnson, G00144 where the Licensee agreed to pay a \$875 Administrative Fine. The violations in the report are: The licensee's work file did not contain data to support the licensee's opinions and conclusions. Licensee did not research and analyze the difference in the subject property and the comparable sales utilized to accurately determine the differences in the condition of the subject property and the comparable sales. Licensee made several adjustments to the comparable sales used in the Sales Comparison Approach to value without market support or explanation in the report or work file. This makes the sales comparison approach non-credible due to lack of support. This indicates that the licensee did not correctly employ the sales comparison approach to value to produce a credible appraisal. Licensee did not properly research and analyze the data to make credible market adjustments to the comparable sales utilized in the sales comparison approaches to value in the appraisal. Under Site value the licensee does not state where his opinion of value came from or what method was used. Licensee's reporting of data and opinions and conclusions that were not supported by relevant evidence or logic make this report misleading. Licensee's report failed to have sufficient information to support by relevant evidence and logic the licensee's opinions and conclusions and therefore the intended users could not properly understand the report properly. **RECORD KEEPING RULE, SCOPE OF WORK RULE, SCOPE OF WORK ACCEPTABILITY, STANDARDS RULE 1-1 (a), STANDARDS RULE 1-4(a), STANDARDS RULE 1-4(b)(i), STANDARDS RULE 2-1(a), STANDARDS RULE 2-1(b), USPAP, 2020-2021 Edition.**

Ms. Conway discussed with the Board the investigative status charts. Ms. Conway reported that 10 new Appraiser complaints and no new Appraisal Management Company (AMC) complaints were received since the September 2023 Board meeting, 12 complaints were dismissed, and 2 complaints were settled, leaving a total of 41 open complaints.

- 11.0 The Board reviewed Probable Cause Report **AB-22-46**: With Mrs. Housh and Mr. Anderson recusing, on motion by Mr. Haller and second by Mr. Ball, the Board voted that probable cause does not exist and to issue a Letter of Counsel. Motion carried by unanimous vote.

The Board reviewed Probable Cause Report **AB-22-47**: With Mr. Anderson and Mr. Ball recusing, on motion by Mrs. Housh and second by Mr. Butler, the Board voted that probable cause does not exist and to issue a Letter of Counsel. Motion carried by unanimous vote.

The Board reviewed Probable Cause Report **AB-22-49**: With Mr. Haller and Mr. Anderson recusing, on motion by Mrs. Housh and second by Mr. Watson, the Board voted that probable cause does exist and to set this case for a hearing. Mr. Butler abstained. Motion carried.

The Board reviewed Probable Cause Report **AB-23-27**: With Mrs. Housh recusing, on motion by Mr. Haller and second by Mr. Butler, the Board voted that probable cause does not exist and to issue a Letter of Counsel. Motion carried by unanimous vote.

The Board reviewed Probable Cause Report **AB-23-30**: With Mr. Haller recusing, on motion by Mr. Watson and second by Mrs. Housh, the Board voted that probable cause does not exist and to issue a Letter of Counsel. Motion carried by unanimous vote.

The Board reviewed Probable Cause Report **AB-23-32**: With Mr. Ball recusing, on motion by Mr. Pettey and second by Mr. Butler, the Board voted that probable cause does not exist and to dismiss this case. Motion carried by unanimous vote.

The Board reviewed Probable Cause Report **AB-23-33 companion to AB-23-34**: With Mr. Haller recusing, on motion by Mr. Pettey and second by Mr. Cotter, the Board voted that probable cause does not exist and to issue a Letter of Counsel. Motion carried by unanimous vote.

The Board reviewed Probable Cause Report **AB-23-34 companion to AB-23-33**: With Mr. Haller recusing, on motion by Mr. Pettey and second by Mr. Cotter, the Board voted that probable cause does not exist and to issue a Letter of Counsel. Motion carried by unanimous vote.

The Board reviewed Probable Cause Report **AB-23-35**: With Mrs. Housh recusing, on motion by Mr. Pettey and second by Mr. Haller, the Board voted that probable cause does not exist and to dismiss this case. Motion carried by unanimous vote.

The Board reviewed Probable Cause Report **AB-23-36**: With Mr. Ball recusing, on motion by Mr. Haller and second by Mrs. Housh, the Board voted that probable cause does not exist and to dismiss this case. Motion carried by unanimous vote.

The Board reviewed Probable Cause Report **AB-23-37**: With Mrs. Housh recusing, on motion by Mr. Ball and second by Mr. Cotter, the Board voted that probable cause does not exist and to dismiss this case. Motion carried by unanimous vote.

The Board reviewed Probable Cause Report **AB-23-38**: With Mr. Ball recusing, on motion by Mr. Watson and second by Mr. Butler, the Board voted that probable cause does not exist and to dismiss this case. Motion carried by unanimous vote.

The Board reviewed Probable Cause Report **AB-23-39**: With Mr. Haller recusing, on motion by Mr. Cotter and second by Mr. Pettey, the Board voted that probable cause does not exist and to dismiss this case. Motion carried by unanimous vote.

The Board reviewed Probable Cause Report **AB-23-40**: With Mrs. Housh recusing, on motion by Mr. Haller and second by Mr. Pettey, the Board voted that probable cause does not exist and to dismiss this case. Motion carried by unanimous vote.

12.0 There were no Consent Settlement Orders to review at this time.

13.0 The following reciprocal licenses were issued since the July Board meeting: Marius Andreasen ('G' IL), Michael Preston Bates ('G' GA), Walter Edward Gardiner ('G' LA), Stuart Gregg ('R' GA), Pamela A. Gurak ('L' CA), Tom Andy Hackney ('R' TX), David Mark Hicks ('R' TN), James Edmund Justus ('G' TN), Brian Palumbo ('G' NY), Bernard Pedersoli ('R' IL), Jason Ribelin ('G' TX), Lawrence Saucer ('G' FL), Michael Allen Stavinoha ('G' TX), Travis Raymond Steckler ('G' TN), Mark Edward Trippel ('G' FL), David James Wagner ('G' WI), and Cody Woodyard ('G' TX).

14.0 The Temporary Permit report was provided to the Board for their information.

15.0 The Appraisal Management report was provided to the Board for their information.

16.0 The renewal report was included for Board information.

The Board discussed the meeting dates for 2024. On motion by Mr. Ball and second by Mr. Haller, the Board voted to move the Board meetings to the 2nd Thursday of every other month. Motion carried by unanimous vote.

Mr. Anderson discussed the possible purchase of iPads for Board meeting use. This item was tabled.

17.0 Ms. Conway reported on the Investigator/contract employee position. She informed the Board that she needs specifics for the RFP. The Board discussed the contractor holding a designation as a review appraiser or ten years of review experience. Mr. Watson suggested requesting specifications from other states and stated that he had met some resources at AARO.

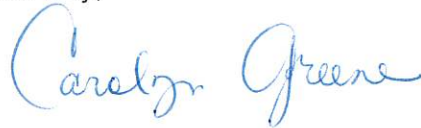
Mrs. Brooks discussed the purchase of eUSPAP books for all Alabama licensees. Mr. Pettey made a motion to provide each Alabama appraiser a copy of USPAP, with the cost not to exceed \$100 per book. Mr. Ball seconded the motion. Mr. Butler opposed the motion. The motion carried. Mrs. Brooks will contact someone at the Foundation to determine how this will be carried out.

Mr. Butler suggested that the Board consider moving renewals to every other year and reducing the license fees. Mrs. Brooks and Ms. Conway explained that those changes would take an act of the Legislature.

18.0 Mr. Butler asked Mrs. Greene for a status on the report he requested of race and gender of appraisers licensed in Alabama. Mrs. Greene reported that this information is still forthcoming as renewals are being completed and licensees enter this information into the new licensing system.

19.0 At 11:35 a.m., on motion by Mr. Pettey and second by Mr. Ball, the Board voted to adjourn the regular Board meeting. Motion carried by unanimous vote. The Board's tentative meeting schedule for 2024 is January 11th, March 14th, May 9th, July 11th, September 12th, and November 14th, held in the RSA Union 3rd Floor Conference Room, 100 Union Street, Montgomery, AL 36104.

Sincerely,



Carolyn Greene
Executive Secretary
/cg

APPROVED: 
Chad Anderson, Chairman

Exhibit D

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

AMERICAN ALLIANCE FOR EQUAL
RIGHTS, a nonprofit corporation,

Plaintiff,

v.

KAY IVEY, in her official capacity as
Governor of the State of Alabama,

Defendant.

Civil Action No. 2:24-cv-00104-RAH-JTA

DECLARATION OF EDWARD BLUM

I, Edward Blum, declare as follows:

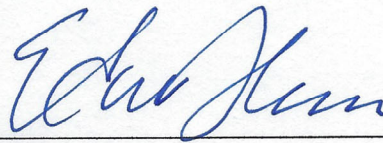
1. I am over the age of 18, of sound mind, and otherwise competent to sign this declaration.
2. I am the President of the American Alliance for Equal Rights.
3. American Alliance for Equal Rights is a nationwide membership organization dedicated to challenging distinctions and preferences made on the basis of race and ethnicity.
4. The Alliance's members are harmed by racially discriminatory laws like Alabama Code § 34-27A-4, which requires the Governor of Alabama to ensure that the Alabama Real Estate Appraisers Board (AREAB) has at least two members "of a minority race." This requirement excludes some of the Alliance's members solely because of their race.
5. The Alliance has at least one member who is ready and able to be appointed to AREAB, but cannot because she is of the wrong race.
6. I have witnessed firsthand the retaliation that individuals can receive for bringing litigation challenging racial preferences. I supported Abigail Fisher in her challenge to affirmative

action in *Fisher v. Univ. of Texas at Austin*, 570 U.S. 297 (2013), and *Fisher v. Univ. of Texas at Austin*, 579 U.S. 365 (2016). Ms. Fisher “endured consistent harassment since 2008” “[a]s a direct result of [her] involvement in that case.” *SFFA v. Harvard Coll.*, No. 1:15-cv-14176 (D. Mass. Apr. 29, 2016), ECF 150-4 ¶ 3. She experienced “threats” and “insults” from across the country, and she suffered professionally. *See id.* ¶¶ 5, 9–10. Ms. Fisher explained that these experiences “often led [her] to second-guess [her] involvement in the case and as an advocate against unlawful affirmative action policies.” *Id.* ¶ 11.

7. Based on my experience and discussions with many individuals, I believe many individuals would not challenge laws like Alabama Code § 34-27A-4 absent the anonymity protections that associations provide.

8. Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 11, 2024.



Edward Blum
President of American Alliance for Equal Rights

Exhibit E

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

AMERICAN ALLIANCE FOR EQUAL
RIGHTS, a nonprofit corporation,

Plaintiff,

v.

KAY IVEY, in her official capacity as
Governor of the State of Alabama,

Defendant.

Civil Action No. 2:24-cv-00104-RAH-JTA

DECLARATION OF MEMBER A

I, Member A, declare as follows:

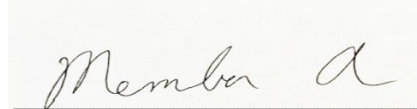
1. I am over the age of 18, of sound mind, and otherwise competent to sign this declaration.
2. I am Member A referred to in the Complaint filed by the American Alliance for Equal Rights against Governor Ivey in the above-captioned case.
3. I am an adult citizen of Alabama who resides in Prattville, Alabama.
4. I am ready and able to apply for the public member position on the Alabama Real Estate Appraisers Board (AREAB). Before the Complaint was filed, I submitted an application for that position using the online application form available on the Governor's website, https://governor.alabama.gov/assets/2023/06/Gubernatorial_Application_2023.pdf.
5. I am not a racial minority.
6. I meet all the nonracial requirements for appointment to a public member position on AREAB. I am not engaged in the practice of real estate appraising, and neither is my husband.

7. I became a member of American Alliance for Equal Rights because I support its mission as well as this lawsuit.

8. I am signing this declaration under a pseudonym because if my participation in this litigation becomes public, I fear the possibility of reprisal.

9. Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on March 11, 2024.

A handwritten signature in cursive script that reads "Member A". The signature is written in black ink on a light-colored background.

Member A