REAL ESTATE APPRAISER BOARD

MINUTES OF MEETING

August 20, 2013

The Real Estate Appraiser Board met at the Department of Professional and Occupational Regulation, 9960 Mayland Drive, Richmond, Virginia. The following Board members were present:

H. Glenn James, Chair
Michael Miller, Vice-Chair
Chris Call
René Fonseca
Laura Sanchez del Solar
Jean Gannon
Mack Strickland
Robert Rochester

Board members absent from the meeting: Sandra Johnson
Scott Mayausky

DPOR Staff present for all or part of the meeting included:

Gordon Dixon, Director
Nick Christner, Deputy Director
Mark Courtney, Senior Director
Christine Martine, Executive Director
Kevin Hoeft, Board Administrator
Kristin Clay, Legal Analyst
Emily Trent, Administrative Assistant

Elizabeth Peay from the Office of the Attorney General was present.

Call to Order

Mr. James called the meeting to order at 10:01 AM.

Approval of Agenda

A motion was made by Mr. Miller and seconded by Ms. Sanchez del Solar to approve the agenda. The motion passed unanimously. Members voting "Yes" were Call, Fonseca, James, Gannon, Miller, Rochester, Sanchez del Solar and Strickland.

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Approval of Minutes

A motion was made by Mr. Miller and seconded by Mr. Call to approve the following minutes: May 21, 2013, Board Meeting; July 2, 2013, Informal Fact-Finding Conference; July 9, 2013, Informal Fact-Finding Conference and July 29, 2013, Informal Fact-Finding Conference. The motion passed unanimously. Members voting "Yes" were Call, Fonseca, James, Gannon, Miller, Rochester, Sanchez del Solar and Strickland.

Public Comment

Jayne Allen addressed the Board concerning computer software. No action was taken by the Board.

File Number 2014-00052, Cookie Wall

In the matter of **File Number 2014-00052, Cookie Wall,** the Board reviewed the application file, the transcript, and exhibits from the Informal Fact-Finding Conference, and the Summary of the Informal Fact-Finding Conference of the presiding Board member. Cookie Wall, applicant, and Susan Lower, witness, were present and addressed the Board.

At 10:25 A.M., Mr. Strickland offered a motion which was seconded by Mr. Call, that the Board meeting be recessed and that the Real Estate Appraiser Board immediately reconvene in closed meeting for the purpose of consultation with legal counsel and briefings by staff members pertaining to actual or probable litigation as permitted by §2.2-3711.A.7 of the *Code of Virginia*. The following non-members will be in attendance to reasonably aid the consideration of the topic: Christine Martine and Elizabeth Peay.

This motion is made with respect to the matter(s) identified as agenda item(s):

3. **File Number 2014-00052-Cookie Wall**

At 10:46 A.M., a motion was made by Mr. Strickland and seconded by Ms. Sanchez del Solar that the Board reconvene in open session.

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Certification

WHEREAS, the Real Estate Appraiser Board has convened a closed meeting on this date pursuant to an affirmative recorded vote in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, §2.2-3712 of the *Code of Virginia* requires a certification by this Real Estate Appraiser Board that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Real Estate Appraiser Board hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Real Estate Appraiser Board.

VOTE: 8-0

AYES: Call, Fonseca, James, Gannon, Miller, Rochester, Sanchez del Solar and Strickland.

NAYS: None.

ABSENT DURING THE VOTE: None

ABSENT DURING THE MEETING: Johnson and Mayausky.

File Number 2014-00052, Cookie Wall

In the matter of **File Number 2014-00052, Cookie Wall,** a motion was made by Mr. Strickland and seconded by Ms. Sanchez del Solar to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference to deny reinstatement of Ms. Wall's certified residential real estate appraiser license. The motion passed unanimously. Members voting "Yes" were Call, Fonseca, Gannon, James, Rochester, Sanchez del Solar and Strickland.

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As the presiding Board member, Mr. Miller did not participate in the discussion or vote pertaining to this matter.

File Number 2013-03048, Paul Taylor

In the matter of **File Number 2013-03048, Paul Taylor,** the Board reviewed the application file, the transcript, and exhibits from the Informal Fact-Finding Conference, and the Summary of the Informal Fact-Finding Conference of the presiding officer. A motion was made by Ms. Sanchez del Solar and seconded by Mr. Strickland to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference to approve Mr. Taylor's application for a certified residential real estate appraiser license. The motion passed unanimously. Members voting "Yes" were Call, Fonseca, Gannon, James, Miller, Rochester, Sanchez del Solar and Strickland.

File Number 2013-03049, Paul Taylor

In the matter of **File Number 2013-03049, Paul Taylor,** the Board reviewed the investigative file, the transcript, and exhibits from the Informal Fact-Finding Conference, and the Summary of the Informal Fact-Finding Conference of the presiding Board member. A motion was made by Mr. Strickland and seconded by Mr. Rochester to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and find a violation of 18 VAC 130-20-180.K.4 (Count 1) of the Board's 2008 Regulations and find a violation of 18 VAC 130-20-180.K.5 (Count 2) of the Board's 2008 Regulations. The motion passed unanimously. Members voting "Yes" were Call, Fonseca, Gannon, James, Miller, Rochester, Sanchez del Solar and Strickland.

A motion was made by Mr. Strickland and seconded by Ms. Sanchez del Solar to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and impose no monetary penalty for the violation contained in Count 1, and $500.00 for the violation contained in Count 2, for a total of $500.00. The motion passed unanimously. Members voting "Yes" were Call, Fonseca, Gannon, James, Miller, Rochester, Sanchez del Solar and Strickland.

File Number 2013-00547, Fred A. Smith

In the matter of **File Number 2013-00547, Fred A. Smith,** the Board reviewed the investigative file, the transcript, and

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exhibits from the Informal Fact-Finding Conference, and the Summary of the Informal Fact-Finding Conference of the presiding Board member. A motion was made by Mr. Miller and seconded by Mr. Strickland to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and find a violation of 18 VAC 130-20-180.K.4 (Count 1) of the Board's 2008 Regulations. The motion passed unanimously. Members voting "Yes" were Call, Fonseca, Gannon, James, Miller, Rochester, Sanchez del Solar and Strickland. A motion was made by Mr. Strickland and seconded by Mr. Call to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and find a violation of 18 VAC 130-20-180.K.5 (Count 2) of the Board's 2008 Regulations. The motion passed unanimously. Members voting "Yes" were Call, Fonseca, Gannon, James, Miller, Rochester, Sanchez del Solar and Strickland.

A motion was made by Mr. Miller and seconded by Mr. Strickland to reject the recommendation contained in the Summary of the Informal Fact-Finding Conference and instead impose a monetary penalty of $1,000.00 for the violation contained in Count 1. In addition, for the violation of Count 1, the Board imposes the following sanctions: Smith's license is placed on probation subject to the following terms: 1) Smith's license shall be placed on probation for a period of one (1) year as of the effective date of the order. During the one (1) year probationary period, Smith shall not violate any of the Board's regulations. 2) Smith shall complete a Qualifying Education ("QE") Commercial Appraisal Course approved by The Appraisal Foundation and/or the Board within ninety (90) days of the execution of the order. Such course(s) shall total a minimum of thirty (30) hours and each course shall include an examination. Upon successful course completion, Smith shall provide the Board with proof of passing the exam. It is acknowledged that satisfactory completion of the above-referenced course(s) will not count towards any continuing or pre-license education requirements needed for license renewal, reinstatement, or upgrade. The motion passed unanimously. Members voting "Yes" were Call, Fonseca, Gannon, James, Miller, Rochester, Sanchez del Solar and

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Strickland.

A motion was made by Mr. Strickland to reject the recommendation contained in the Summary of the Informal Fact-Finding Conference and instead impose a monetary penalty of $1,000.00 for the violation contained in Count 2 due to prior disciplinary action. The motion was withdrawn.

A motion was made by Mr. Miller and seconded by Mr. Call to reject the recommendation contained in the Summary of the Informal Fact-Finding Conference and instead impose a monetary penalty of $1,000.00 for the violation contained in Count 2, for a total of $2,000.00. In addition, for the violation contained in Count 2, Smith's license is suspended for a period of three (3) months. The increase in severity of the above-referenced sanctions are due to Smith's past disciplinary action involving similar conduct and the severity and egregiousness of violations in this matter. The motion passed unanimously. Members voting "Yes" were Call, Fonseca, Gannon, James, Miller, Rochester, Sanchez del Solar and Strickland.

File Number 2013-01829, Heyne M. Ampuero

In the matter of **File Number 2013-01829, Heyne M. Ampuero,** the Board reviewed the Consent Order as seen and agreed to by Mr. Ampuero. A motion was made by Mr. Miller and seconded by Mr. Call to accept the proposed Consent Order wherein Mr. Ampuero admits to a violation of 18 VAC 130-20-180.D (Count 1) of the Board's 2008 Regulations, and agrees to a monetary penalty of $350.00 for the violation contained in Count 1, as well as $150.00 in Board costs, for a total of $500.00. In addition, for violation of Count 1, Ampuero is required to complete a classroom Upper Level Residential Appraisal Course approved by The Appraisal Foundation or the Board within six (6) months of the execution of the Order. Such course shall be a minimum of 30 classroom hours and shall not be a distance education course ("*distance education*" means an educational process based on the geographical separation of provider and student, i.e., CD-ROM, on-line learning, correspondence courses, etc.). Upon successful course completion, Ampuero shall provide the Board with proof of passing the exam. It is acknowledged that satisfactory

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completion of the above-referenced course will not count towards any continuing or pre-license education requirements needed for license renewal, reinstatement, or upgrade. The motion passed unanimously. Members voting "Yes" were Call, Fonseca, Gannon, James, Miller, Rochester, Sanchez del Solar and Strickland.

File Number 2013-01055, Ryan James Lusk

In the matter of **File Number 2013-01055, Ryan James Lusk,** the Board reviewed the Consent Order as seen and agreed to by Mr. Lusk. A motion was made by Ms. Sanchez del Solar and seconded by Mr. Strickland to accept the proposed Consent Order wherein Mr. Lusk admits to a violation of 18 VAC 130-20-180.E (Count 1) of the Board's 2008 Regulations, and a violation of 18 VAC 130-20-180.D (Count 2) of the Board's 2008 Regulations, and agrees to a monetary penalty of $500.00 for the violation contained in Count 1, $500.00 for the violation contained in Count 2, as well as $150.00 in Board costs, for a total of $1,150.00. In addition, for violation of Counts 1 and 2, Lusk is required to complete a 15-hour USPAP course approved by The Appraisal Foundation or the Board within six (6) months of the execution of the Order. Upon successful course completion, Lusk shall provide the Board with proof of passing the exam. It is acknowledged that satisfactory completion of the above-referenced course will not count towards any continuing or pre-license education requirements needed for license renewal, reinstatement, or upgrade. Further, for violation of Count 1, Lusk agrees to probation of his license until Lusk completes the education described above and provides the Board with satisfactory proof thereof. During this probation, Lusk agrees to comply with the regulations of the Real Estate Appraiser Board. If Lusk violates any terms of this probation, his license may be revoked, pending review by the Board or any of its agents.
The motion passed unanimously. Members voting "Yes" were Fonseca, Gannon, James, Miller, Rochester, Sanchez del Solar and Strickland.

As the Board member who reviewed the file, Mr. Call did not participate in the discussion or vote pertaining to this matter.

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File Number 2013-00092, Ronald Leon Shumate

In the matter of **File Number 2013-00092, Ronald Leon Shumate,** the Board reviewed the Consent Order as seen and agreed to by Mr. Shumate. A motion was made by Mr. Call and seconded by Ms. Sanchez del Solar to accept the proposed Consent Order wherein Mr. Shumate admits to a violation of 18 VAC 130-20-180.E (Count 1) of the Board's 2008 Regulations, a violation of 18 VAC 130-20-180.D (Count 2) of the Board's 2008 Regulations, a violation of 18 VAC 130-20-180.D (Count 3) of the Board's 2008 Regulations, a violation of 18 VAC 130-20-180.D (Count 4) of the Board's 2008 Regulations, and agrees to a monetary penalty of $750.00 for the violation contained in Count 1, $750.00 for the violation contained in Count 2, $750.00 for the violation contained in Count 3, and no monetary penalty for the violation contained in Count 4, as well as $150.00 in Board costs, for a total of $2,400.00. In addition, for violation of Count 4, Shumate agrees to suspension of his license for a period of ninety (90) days. Further, for violation of Counts 1 - 4, Shumate agrees to complete a Qualifying Education ("QE") Residential Appraisal Course approved by The Appraisal Foundation or the Board within ninety (90) days of the execution of the Order. Such course(s) shall total a minimum of thirty (30) hours and each course shall include an examination. Upon successful course completion, Shumate shall provide the Board with proof of passing the exam. Failure to complete the QE Residential Appraisal Course within ninety (90) days of the execution of the Order will extend Shumate's license suspension until the QE Residential Appraisal Course is completed and proof of completion submitted to the Board. It is acknowledged that satisfactory completion of the above-referenced course(s) will not count towards any continuing or pre-license education requirements needed for license renewal, reinstatement, or upgrade. The motion passed unanimously. Members voting "Yes" were Call, Fonseca, Gannon, James, Rochester, Sanchez del Solar and Strickland.

As the Board member who reviewed the file, Mr. Miller did not participate in the discussion or vote pertaining to this matter.

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File Number 2013-00093, Michelle Lynn Shumate

In the matter of **File Number 2013-00093, Michelle Lynn Shumate,** the Board reviewed the Consent Order as seen and agreed to by Ms. Shumate. A motion was made by Mr. Strickland and seconded by Mr. Rochester to accept the proposed Consent Order wherein Ms. Shumate admits to a violation of 18 VAC 130-20-180.E (Count 1) of the Board's 2008 Regulations, a violation of 18 VAC 130-20-180.D (Count 2) of the Board's 2008 Regulations, a violation of 18 VAC 130-20-180.D (Count 3) of the Board's 2008 Regulations, a violation of 18 VAC 130-20-180.D (Count 4) of the Board's 2008 Regulations, and agrees to a monetary penalty of $750.00 for the violation contained in Count 1, $750.00 for the violation contained in Count 2, $750.00 for the violation contained in Count 3, and no monetary penalty for the violation contained in Count 4, as well as $150.00 in Board costs, for a total of $2,400.00. In addition, for violation of Count 4, Shumate agrees to suspension of her license for a period of ninety (90) days. Further, for violation of Counts 1 - 4, Shumate agrees to complete a Qualifying Education ("QE") Residential Appraisal Course approved by The Appraisal Foundation or the Board within ninety (90) days of the execution of the Order. Such course(s) shall total a minimum of thirty (30) hours and each course shall include an examination. Upon successful course completion, Shumate shall provide the Board with proof of passing the exam. Failure to complete the QE Residential Appraisal Course within ninety (90) days of the execution of the Order will extend Shumate's license suspension until the QE Residential Appraisal Course is completed and proof of completion submitted to the Board. It is acknowledged that satisfactory completion of the above-referenced course(s) will not count towards any continuing or pre-license education requirements needed for license renewal, reinstatement, or upgrade. The motion passed unanimously. Members voting "Yes" were Call, Fonseca, Gannon, James, Rochester, Sanchez del Solar and Strickland.

As the Board member who reviewed the file, Mr. Miller did not participate in the discussion or vote pertaining to this matter.

Break

The Board recessed from 11:20A.M. to 11:40A.M.

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Administrative Issues

Kevin Hoeft gave regulatory review update on fee adjustments and general review. No action was taken by the Board.

Christine Martine gave regulatory review update on AMC's. No action was taken by the Board.

Resolution – Diane Quigley

A motion was made by Ms. Gannon and seconded by Mr. Strickland to adopt the following resolution to honor the years of dedicated Board service by former Board Member Diane Quigley:

RESOLUTION IN HONOR OF

Diane Quigley

WHEREAS, **Diane Quigley**, has faithfully and diligently served as a member of the Real Estate Appraiser Board since 2005; and

WHEREAS, **Diane Quigley**, has devoted generously of her time, talent and leadership to the Board; and

WHEREAS, **Diane Quigley**, has endeavored at all times to render decisions with fairness, good judgment, and in the best interest of the Board; and

WHEREAS, the Real Estate Appraiser Board wishes to acknowledge its gratitude and deepest appreciation for devoted service of a person who is held in high esteem by the members of the Board and the citizens of the Commonwealth.

NOW THEREFORE BE IT RESOLVED, by the Real Estate Appraiser Board this twentieth day of August, 2013 that Diane Quigley be given all honors and respect due her for her outstanding service to the Commonwealth, citizens and the Real Estate Appraiser Board; and

BE IT FURTHER RESOLVED, that this Resolution be presented to her and be made a part of the official minutes of the Board so that all may know of the high regard in which she is held.

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The motion passed unanimously. Members voting "Yes" were Call, Fonseca, James, Gannon, Miller, Rochester, Sanchez del Solar and Strickland.

Resolution – Richard Pruitt

A motion was made by Ms. Gannon and seconded by Mr. Strickland to adopt the following resolution to honor the years of dedicated Board service by former Board Member Richard Pruitt:

RESOLUTION IN HONOR OF

Richard Pruitt

WHEREAS, **Richard Pruitt**, has faithfully and diligently served as a member of the Real Estate Appraiser Board since 2005; and

WHEREAS, **Richard Pruitt**, has devoted generously of his time, talent and leadership to the Board; and

WHEREAS, **Richard Pruitt**, has endeavored at all times to render decisions with fairness, good judgment, and in the best interest of the Board; and

WHEREAS, the Real Estate Appraiser Board wishes to acknowledge its gratitude and deepest appreciation for devoted service of a person who is held in high esteem by the members of the Board and the citizens of the Commonwealth.

NOW THEREFORE BE IT RESOLVED, by the Real Estate Appraiser Board this twentieth day of August, 2013 that **Richard Pruitt** be given all honors and respect due him for his outstanding service to the Commonwealth, citizens and the Real Estate Appraiser Board; and

BE IT FURTHER RESOLVED, that this Resolution be presented to him and be made a part of the official minutes of the Board so that all may know of the high regard in which he is held.

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The motion passed unanimously. Members voting "Yes" were Call, Fonseca, James, Gannon, Miller, Rochester, Sanchez del Solar and Strickland.

Resolution – John C. Harry, III

A motion was made by Ms. Gannon and seconded by Mr. Strickland to adopt the following resolution to honor the years of dedicated Board service by former Board Member John C. Harry, III:

RESOLUTION IN HONOR OF

John C. Harry, III

WHEREAS, **John C. Harry, III**, has faithfully and diligently served as a member of the Real Estate Appraiser Board since 2009; and

WHEREAS, **John C. Harry, III**, has devoted generously of his time, talent and leadership to the Board; and

WHEREAS, **John C. Harry, III**, has endeavored at all times to render decisions with fairness, good judgment, and in the best interest of the Board; and

WHEREAS, the Real Estate Appraiser Board wishes to acknowledge its gratitude and deepest appreciation for devoted service of a person who is held in high esteem by the members of the Board and the citizens of the Commonwealth.

NOW THEREFORE BE IT RESOLVED, by the Real Estate Appraiser Board this twentieth day of August, 2013 that **John C. Harry, III** be given all honors and respect due him for his outstanding service to the Commonwealth, citizens and the Real Estate Appraiser Board; and

BE IT FURTHER RESOLVED, that this Resolution be presented to him and be made a part of the official minutes of the Board so that all may know of the high regard in which he is held.

The motion passed unanimously. Members voting "Yes"

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were Call, Fonseca, James, Gannon, Miller, Rochester, Sanchez del Solar and Strickland.

There being no further business, the meeting adjourned at 11:53 A.M.

Adjourn

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H. Glenn James, Chair

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Gordon Dixon, Secretary

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