

REAL ESTATE BOARD
MINUTES OF MEETING

July 12, 2012

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

Clifford L. Wells, Chairman
Joseph Funkhouser, II
Nathaniel Brown
Santee Ferebee
Anh Tu Do
Lynn G. Grimsley
Catherine M. Noonan
Steve Hoover

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

Gordon Dixon, Director
Mark Courtney, Deputy Director
Christine Martine, Executive Director
Bonnie Rhea Adams, Director of Complaint Analysis & Resolution
Kristin Clay, Legal Analyst
Kevin Hoeft, Education Administrator
Jeff Williams, Board Administrator
Emily Trent, Administrative Assistant

Steven Jack and Tom Payne from the Office of the Attorney General were present.

Mr. Wells called the meeting to order at 9:03 A.M.

Call to Order

A motion was made by Mr. Funkhouser and seconded by Ms. Ferebee to approve the agenda. The motion passed unanimously. Members voting "Yes" were Brown, Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

Agenda

A motion was made by Ms. Ferebee and seconded by Mr. Funkhouser to adopt the following minutes: May 10, 2012, Informal Fact-Finding Conference; May 17, 2012, Informal Fact-Finding Conference; May 22, 2012, (Licensing-Clay) Informal Fact-Finding Conference; May 22, 2012, (Licensing-Clarke) Informal Fact-Finding Conference; May 22, 2012, (Disciplinary) Informal Fact-Finding Conference; May 22,

Minutes

2012, Real Estate Board Meeting; May 24, 2012, Informal Fact-Finding Conference; and June 14, 2012, Informal Fact-Finding Conference. The motion passed unanimously. Members voting “Yes” were Brown, Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

Lawrence Marshall addressed the Board concerning the new Agency Law. No action was taken by the Board.

Public Comment

A motion was made by Ms. Ferebee and seconded by Mr. Funkhouser to approve the Fair Housing Sub-Committee minutes of May 22, 2012. The motion passed unanimously. Members voting “Yes” were Brown, Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

**Fair Housing
Minutes**

In the matter of **File Number 2012-02742, Clare Stimson**, the Board reviewed the record which consisted of the application file, transcript, and exhibits from the Informal Fact-Finding Conference, and the Summary of the Informal Fact-Finding Conference of the presiding officer. Clare Stimson, applicant, was present and addressed the Board. A motion was made by Ms. Ferebee and seconded by Mr. Hoover to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and, after consideration of the criteria contained in § 54.1-204.B of the *Code of Virginia* approve Ms. Stimson’s application for a real estate salesperson’s license. The motion passed unanimously. Members voting “Yes” were Brown, Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

**File Number 2012-
02742, Clare Stimson**

In the matter of **File Number 2012-01269, Minerva Smith**, the Board reviewed the record which consisted of the application file, transcript, and exhibits from the Informal Fact-Finding Conference, and the Summary of the Informal Fact-Finding Conference of the presiding Board member. Minerva Smith, applicant, was present and addressed the Board. A motion was made by Mr. Brown and seconded by Ms. Noonan to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference (IFF) to deny Ms. Smith’s application based upon the record. After reviewing the facts, the nature and seriousness of the crime, the Board thoroughly considered the record and the Amended Summary of the Informal Fact-Finding and the Recommendation. Further, after review of the record, and hearing from Smith, the Board is of the opinion that there is a

**File Number 2012-
01269, Minerva
Smith**

relationship between the crime and the extent to which the occupation might offer Smith an opportunity to engage in further criminal activity of the same type as that in which she had been convicted. In addition, the Board is of the opinion that allowing Smith licensure considering the special conditions placed on Smith by the court as part of her probation, specifically the reference to prohibiting self-employment and access to money, would not be in the best interest of protecting the health, safety, and welfare of the public. Therefore, the Board determined it could not protect the health, safety and welfare of the public and denies licensure at this time. The motion passed unanimously. Members voting "Yes" were Brown, Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

In the matter of **File Number 2012-03117, Laura Sterling**, the Board reviewed the record which consisted of the application file, 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. Ferebee and seconded by Mr. Hoover to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and, after consideration of the criteria contained in § 54.1-204.B of the *Code of Virginia* approve Ms. Stimson's application for a real estate salesperson's license. The motion passed unanimously. Members voting "Yes" were Brown, Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

File Number 2012-03117, Laura Sterling

In the matter of **File Number 2012-03130, Thomas Hilleary**, the Board reviewed the record which consisted of the application file, transcript, and exhibits from the Informal Fact-Finding Conference, and the Summary of the Informal Fact-Finding Conference of the presiding officer. Thomas Hilleary, applicant, was present and addressed the Board. A motion was made by Ms. Ferebee and seconded by Mr. Funkhouser to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and, after consideration of the criteria contained in § 54.1-204.B of the *Code of Virginia*, approve Mr. Hilleary's application for a real estate salesperson's license, subject to an agreement for licensure for a period of one year wherein Mr. Hilleary and his broker will provide quarterly reports to the Board. The motion passed unanimously. Members voting "Yes" were Brown, Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

File Number 2012-03130, Thomas Hilleary

In the matter of **File Number 2012-02721, Jackie Fowler**, the Board reviewed the record which consisted of the application file, 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 Mr. Hoover and seconded by Ms. Grimsley to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference (IFF) to deny Ms. Fowler's application based upon the record. After reviewing the facts and the nature of the crimes, the Board thoroughly considered the record, the Summary of the Informal Fact-Finding and the Recommendation, the Board is of the opinion that due to the nature, seriousness and recentness of Fowler's last involvement in the commission of a crime, and the relationship of the crimes to the purpose for requiring a license as well as Fowler not possessing the character or integrity to possess the credentials of a licensee, the Board determined that the relationship of the offenses and the Board's purpose to protect the health, safety and welfare of the public is significant and denies the license at this time. The motion passed unanimously. Members voting "Yes" were Brown, Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

File Number 2012-02721, Jackie Fowler

In the matter of **File Number 2012-03012, George Cheeks**, the Board reviewed the record which consisted of the application file, transcript, and exhibits from the Informal Fact-Finding Conference, and the Summary of the Informal Fact-Finding Conference of the presiding officer. George Cheeks, applicant, was present and addressed the Board. A motion was made by Ms. Ferebee and seconded by Ms. Noonan to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and, after consideration of the criteria contained in § 54.1-204.B of the *Code of Virginia*, approve Mr. Cheeks's application for a real estate salesperson's license, subject to an agreement for licensure for a period of one year wherein Mr. Cheeks and his broker will provide quarterly reports to the Board. The motion passed unanimously. Members voting "Yes" were Brown, Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

File Number 2012-03012, George Cheeks

In the matter of **File Number 2012-03013, Alan Rogers**, the Board reviewed the record which consisted of the application file, transcript, and exhibits from the Informal Fact-Finding Conference, and the Summary of the Informal Fact-Finding

File Number 2012-03013, Alan Rogers

Conference of the presiding officer. Alan Rogers, applicant, was present and addressed the Board. A motion was made by Ms. Ferebee and seconded by Mr. Funkhouser to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and, after consideration of the criteria contained in § 54.1-204.B of the *Code of Virginia*, approve Mr. Rogers's application for a real estate salesperson's license, subject to an agreement for licensure for a period of one year wherein Mr. Rogers and his broker will provide quarterly reports to the Board. The motion passed by majority vote. Members voting "Yes" were Brown, Do, Ferebee, Funkhouser, Grimsley, Hoover and Wells. Member voting "No" was Noonan.

In the matter of **File Number 2012-03116, Terrell Booker**, the Board reviewed the record which consisted of the application file, transcript, and exhibits from the Informal Fact-Finding Conference, and the Summary of the Informal Fact-Finding Conference of the presiding officer. Terrell Booker, applicant, was present and addressed the Board. A motion was made by Ms. Ferebee and seconded by Mr. Funkhouser to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and, after consideration of the criteria contained in § 54.1-204.B of the *Code of Virginia*, approve Mr. Booker's application for a real estate salesperson's license, subject to an agreement for licensure for a period of one year wherein Mr. Booker and his broker will provide quarterly reports to the Board. The motion passed by majority vote. Members voting "Yes" were Do, Ferebee, Funkhouser, Hoover and Wells. Members voting "No" were Brown, Grimsley and Noonan.

File Number 2012-03116, Terrell Booker

In the matter of **File Number 2012-03011, George Walker, III**, the Board reviewed the record which consisted of the application file, transcript, and exhibits from the Informal Fact-Finding Conference, and the Summary of the Informal Fact-Finding Conference of the presiding Board member. George Walker, III, applicant, was present and addressed the Board. A motion was made by Ms. Grimsley and seconded by Ms. Ferebee to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and approve Mr. Walker's application for a real estate broker's license. The motion passed unanimously. Members voting "Yes" were Brown, Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

File Number 2012-03011, George Walker, III

In the matter of **File Number 2012-03125, Clinton Burnham**, the Board reviewed the record which consisted of the application file, transcript, and exhibits from the Informal Fact-Finding Conference, and the Summary of the Informal Fact-Finding Conference of the Board member. A motion was made by Mr. Funkhouser and seconded by Ms. Ferebee to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference to deny Mr. Burnham's application for a real estate broker's license. The Board determined Burnham does not meet the requirements of being actively engaged in real estate activities for 36 of the last 48 months preceding his application for licensure. The motion passed unanimously. Members voting "Yes" were Brown, Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

File Number 2012-03125, Clinton Burnham

In the matter of **File Number 2012-03127, Vikram Bhalla**, the Board reviewed the record which consisted of the application file, transcript, and exhibits from the Informal Fact-Finding Conference, and the Summary of the Informal Fact-Finding Conference of the presiding Board member. Vikram Bhalla, applicant, was present and addressed the Board. A motion was made by Mr. Funkhouser and seconded by Mr. Hoover to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and approve Mr. Bhalla's application for a real estate broker's license. The motion passed by majority vote. Members voting "Yes" were Brown, Do, Ferebee, Funkhouser, Grimsley, Hoover and Wells. Member voting "No" was Noonan.

File Number 2012-03127, Vikram Bhalla

In the matter of **File Number 2012-02058, Michael Turner**, the Board reviewed the record which consisted of the application file, transcript, and exhibits from the Informal Fact-Finding Conference, and the Summary of the Informal Fact-Finding Conference of the Board member. Michael Turner, applicant, appeared and addressed the Board. A motion was made by Ms. Noonan and seconded by Ms. Do to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference to deny Mr. Turner's application for a real estate broker's license nor was his experience equivalent to such requirement. The Board determined Turner does not meet the requirements of being actively engaged in real estate activities for 36 of the last 48 months preceding his application for licensure. The motion passed unanimously. Members voting "Yes" were Brown, Do,

File Number 2012-02058, Michael Turner

Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

In the matter of **File Number 2012-00439, Richard Santiago Crespo**, the Board reviewed the record which consisted of the investigative file, transcripts, and exhibits from the Informal Fact-Finding Conference, and the Summary of the Informal Fact-Finding Conference of the presiding Board member, and a written response from Mr. Crespo addressing the Board. A motion was made by Mr. Funkhouser and seconded by Ms. Ferebee to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and find a violation of 18 VAC 135-20-310.2 (Count 1) of the Board's 1999 Regulations. The motion passed unanimously. Members voting "Yes" were Brown, Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

File Number 2012-00439, Richard Santiago Crespo

A motion was made by Ms. Ferebee and seconded by Mr. Funkhouser to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference to impose a monetary penalty of \$1,000.00 for the violation contained in Count 1, for a total of \$1,000.00. In addition, Crespo's license will be placed on probation and he shall be required to complete three (3) classroom hours of Board-approved continuing education pertaining to Ethics and Standards of Conduct, four (4) classroom hours of Board approved continuing education pertaining to Real Estate Contracts, and eight (8) classroom hours of Board approved continuing education pertaining to Broker Management. Such course(s) shall be completed in the classroom. Further, Crespo shall provide evidence acceptable to the Board that he successfully completed the course(s) within three (3) months of the effective date of the Order. The above-referenced continuing education hours will not count towards any education requirements, if applicable, for initial licensure, or for renewal, reinstatement, or activation of a license. The motion passed unanimously. Members voting "Yes" were Brown, Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

Mr. Wells turned the position of Chair over to Mr. Funkhouser and recused himself from the meeting.

Transfer of Chair

In the matter of **File Number 2012-01747, Calvin Coleman**, the Board reviewed the Consent Order as seen and agreed to by Mr. Coleman. A motion was made by Ms. Grimsley and seconded by Ms. Noonan to accept the proposed Consent

File Number 2012-01747, Calvin Coleman

Order offer wherein Mr. Coleman admits to a violation of 18 VAC 135-20-310.2 (Count 1) of the Board's 1999 Regulations and agrees to a monetary penalty of \$600.00 for Count 1, as well as \$150.00 in Board costs, for a total of \$750.00. In addition, for the violation of Count 1, Coleman agrees to complete at least two (2) classroom hours of Board-approved continuing education pertaining to Escrow Management and provide proof of attendance and successful completion within six (6) months of the effective date of the Order. The course must be completed in the classroom. It is acknowledged that satisfactory completion of the above-referenced continuing education hours will not count towards any continuing education requirements, if applicable, for renewal of license. The motion passed unanimously. Members voting "Yes" were Brown, Do, Ferebee, Funkhouser, Grimsley, Hoover and Noonan.

As the Board member who reviewed the file, Mr. Wells did not participate in the discussion or vote on this matter.

In the matter of **File Number 2012-00729, Walter Herbert Turner**, the Board reviewed the record which consisted of the investigative file, transcript, and exhibits from the Informal Fact-Finding Conference, and the Summary of the Informal Fact-Finding Conference of the presiding Board member. Walter Herbert Turner, respondent, and Lawrence Marshall, attorney for the respondent, appeared and addressed the Board. A motion was made by Ms. Ferebee and seconded by Ms. Grimsley to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and find a violation of 18 VAC 135-20-260.5 (Count 1) of the Board's 2003 Regulations. The motion passed unanimously. Members voting "Yes" were Brown, Do, Ferebee, Funkhouser, Grimsley, Hoover and Noonan.

File Number 2012-00729, Walter Herbert Turner

A motion was made by Ms. Ferebee and seconded by Mr. Hoover to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference to impose no monetary penalty for the violation contained in Count 1. In addition, for the violation of Count 1, the Board imposes the following sanction(s): Turner's license will be placed on probation for a period of two (2) years. While on probation, Turner, and his broker, will provide quarterly reports to the Board that he is in compliance with the rules and regulations of the Board. The motion passed unanimously. Members

voting “Yes” were Brown, Do, Ferebee, Funkhouser, Grimsley, Hoover and Noonan.

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

In the matter of **File Number 2012-00129, Joseph Michael Howren**, the Board reviewed the record which consisted of the investigative file, 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 Ms. Ferebee and seconded by Ms. Noonan to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and find a violation of 18 VAC 135-20-260.11 (Count 1) of the Board’s 2003 Regulations. The motion passed unanimously. Members voting “Yes” were Brown, Do, Ferebee, Funkhouser, Grimsley, Hoover and Noonan.

File Number 2012-00129, Joseph Michael Howren

A motion was made by Ms. Ferebee and seconded by Ms. Grimsley to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference to impose no monetary penalty for the violation contained in Count 1. In addition, for the violation of Count 1, the Board imposes the revocation of license. The motion passed unanimously. Members voting “Yes” were Brown, Do, Ferebee, Funkhouser, Grimsley, Hoover and Noonan.

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

In the matter of **File Number 2012-00757, Kimper Shane Morris**, the Board reviewed the record which consisted of the investigative file, 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 Ms. Ferebee and seconded by Ms. Noonan to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and find a violation of 18 VAC 135-20-180.C.3 (Count 1) of the Board’s 2008 Regulations, a violation of 18 VAC 135-20-180.A.2 (Count 2) of the Board’s 2008 Regulations, and a violation of 18 VAC 135-20-260.10 (Count 3) of the Board’s 2003 Regulations. The motion passed unanimously. Members voting “Yes” were Brown, Do, Ferebee, Funkhouser,

File Number 2012-00757, Kimper Shane Morris

Grimsley, Hoover and Noonan.

A motion was made by Ms. Ferebee and seconded by Mr. Hoover to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference to impose a monetary penalty of \$2,500.00 for the violation contained in Count 1, \$2,500.00 for the violation contained in Count 2, and \$2,500.00 for the violation contained in Count 3, for a total of \$7,500.00. In addition, the Board imposes revocation of license for the violation on Count 1, Count 2 and Count 3. In addition, for the violation of Count 1, Morris' license shall be placed on probation. While on probation, Morris shall be required to complete three (3) classroom hours of Board-approved continuing education pertaining to Escrow. Such course(s) shall be completed in a classroom. Morris shall provide evidence acceptable to the Board that he has attended and successfully completed the courses within three (3) months of the effective date of the Order. The above-referenced education courses will not count towards any continuing education requirements, if applicable, for renewal, reinstatement, or activation of a license. The motion passed unanimously. Members voting "Yes" were Brown, Do, Ferebee, Funkhouser, Grimsley, Hoover and Noonan.

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

In the matter of **File Number 2012-00465, Pamela P. Harvey**, the Board reviewed the record which consisted of the investigative file, 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 Ms. Ferebee and seconded by Mr. Hoover to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and find no violation of 18 VAC 135-20-300.7 (Count 1) of the Board's 2008 Regulations, find a violation of 18 VAC 135-20-180.B.1.c (Count 2) of the Board's 2008 Regulations, a violation of 18 VAC 135-20-185.C.3 (Count 3) of the Board's 2003 Regulations, and a violation of §54.1-2133.A.6 (Count 4) of the *Code of Virginia*. The motion passed unanimously. Members voting "Yes" were Brown, Do, Ferebee, Funkhouser, Grimsley, Hoover and Noonan.

File Number 2012-00465, Pamela P. Harvey

A motion was made by Ms. Ferebee and seconded by Mr.

Hoover to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference to impose a monetary penalty of \$1,500.00 for the violation contained in Count 2, \$1,300.00 for the violation contained in Count 3, and \$500.00 for the violation contained in Count 4, for a total of \$3,300.00. Further, for the violation of Count 4, the Board imposes revocation of Harvey's broker's license. In addition, for the violation contained in Count 3, Harvey shall be required to complete three (3) classroom hours of Board-approved continuing education pertaining to Escrow Management. Such course(s) shall be completed in the classroom. Harvey shall provide evidence acceptable to the Board that she has attended and successfully completed the continuing education within three (3) months of the effective date of the order. As to Count 4, Harvey shall be required to complete three (3) classroom hours of Board-approved continuing education pertaining to Property Management. Such course(s) shall be completed in the classroom. Harvey shall provide evidence acceptable to the Board that she has attended and successfully completed the continuing education within three (3) months of the effective date of the order. Satisfactory completion of the above-referenced courses will not count towards any continuing education requirements, if applicable, for renewal, reinstatement or activation of license. The motion passed unanimously. Members voting "Yes" were Brown, Do, Ferebee, Funkhouser, Grimsley, Hoover and Noonan.

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

Mr. Wells returned and assumed the position of Chair.

The Board recessed from 10:10 A.M. to 10:23 A.M.

In the matter of **File Number 2012-01724, Donald Ray Cahoon**, the Board reviewed the Consent Order as seen and agreed to by Mr. Cahoon. A motion was made by Ms. Noonan and seconded by Mr. Brown to accept the proposed Consent Order offer wherein Mr. Cahoon admits to a violation of 18 VAC 135-20-310.2 (Count 1) of the Board's 1999 Regulations and 18 VAC 135-20-260.10 (Count 2) of the Board's 2003 Regulations and agrees to a monetary penalty of \$500.00 for the violation of Count 1, \$1,650.00 for the violation of Count 2, as well as \$150.00 in Board costs, for a total of \$2,300.00.

Transfer of Chair

Break

File Number 2012-01724, Donald Ray Cahoon

In addition, for the violation of Count 1, Cahoon agrees to complete at least three (3) classroom hours of Board-approved continuing education pertaining to Real Estate Contracts and for violation of Count 2, Cahoon agrees to complete at least three (3) hours of Board-approved continuing education in Real Estate Agency and provide proof of attendance and successful completion within six (6) months of the effective date of the Order. The course must be completed in the classroom. It is acknowledged that satisfactory completion of the above-referenced continuing education hours will not count towards any continuing education requirements, if applicable, for renewal of license. The motion passed unanimously. Members voting "Yes" were Brown, Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

In the matter of **File Number 2012-00391, Mark Alan Westerbeck**, the Board reviewed the Consent Order as seen and agreed to by Mr. Westerbeck. A motion was made by Ms. Ferebee and seconded by Mr. Hoover to accept the proposed Consent Order offer wherein Mr. Westerbeck admits to a violation of §54.1-2131.A.4 (Count 1) of the *Code of Virginia*, a violation of §54.1-2132.A.4 (Count 2) of the *Code of Virginia*, and 18 VAC 135-20-180.B.1.a (Count 3) of the Board's 2008 Regulations and agrees to a monetary penalty of \$500.00 for the violation contained in Count 1, \$400.00 for the violation contained in Count 2, \$500.00 for the violation contained in Count 3, as well as \$150.00 in Board costs, for a total of \$1,550.00. In addition, for the violation of Count 1, Westerbeck agrees to complete at least four (4) classroom hours of Board-approved continuing education pertaining to Ethics and Standards of Conduct and at least four (4) hours of Board-approved continuing education in Real Estate Contracts. Also, for violation of Count 3, Westerbeck agrees to complete at least four (4) classroom hours pertaining to Escrow Management. Westerbeck agrees to provide proof of attendance and successful completion of the above-referenced education requirement within six (6) months of the effective date of the order. The course(s) must be completed in the classroom. It is acknowledged that satisfactory completion of the above-referenced continuing education hours will not count towards any continuing education requirements, if applicable, for renewal of license. The motion passed unanimously. Members voting "Yes" were Brown, Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

File Number 2012-00391, Mark Alan Westerbeck

In the matter of **File Number 2012-02628, Jennifer Louise Kelly**, the Board reviewed the record which consisted of the investigative file, 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 Ms. Ferebee and seconded by Ms. Grimsley to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and find three violations of 18 VAC 135-20-220.A.3 (Count 1) of the Board's 2008 Regulations, a violation of 18 VAC 135-20-290.2 (Count 2) of the Board's 2003 Regulations, a violation of 18 VAC 135-20-300.9 (Count 3) of the Board's 2008 Regulations, a violation of 18 VAC 135-20-260.11 (Count 4) of the Board's 2003 Regulations, a violation of 18 VAC 135-20-260.11 (Count 5) of the Board's 2003 Regulations and a violation of 18 VAC 135-20-260.10 (Count 6) of the Board's 2003 Regulations. The motion passed unanimously. Members voting "Yes" were Brown, Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

File Number 2011-02628, Jennifer Louise Kelly

A motion was made by Ms. Ferebee and seconded by Mr. Hoover to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference to impose a monetary penalty of \$500.00 for each violation contained in Count 1, \$1,000.00 for the violation contained in Count 2, \$1,500.00 for the violation contained in Count 3, \$2,500.00 for the violation contained in Count 4, \$2,500.00 for violation contained in Count 5, \$2,500.00 for the violation contained in Count 6, for a total of \$11,150.00. The Board also imposes the following sanctions: revocation of license for the violation contained in Count 2, Count 3, Count 4, Count 5 and Count 6. In addition, Kelly's license will be placed on probation. While on probation, Kelly shall comply with the following sanctions: for the violation contained in Count 1, Kelly shall be required to complete three (3) classroom hours of Board-approved continuing education pertaining to Real Estate Agency. Such course shall be completed in the classroom. Kelly shall provide evidence acceptable to the Board that she has attended and successfully completed the continuing education within three (3) months of the effective date of the order. Satisfactory completion of the above-referenced courses will not count towards any continuing education requirements, if applicable, for renewal, reinstatement or activation of license. For the violation of Count 2, Kelly shall be required to complete three (3) classroom hours of Board-approved continuing education

pertaining to Ethics and Standards of Conduct, and three (3) classroom hours of Board-approved continuing education pertaining to Real Estate Contracts. Such courses shall be completed in a classroom. Kelly shall provide evidence acceptable to the Board that she has attended and successfully completed the continuing education within three (3) months of the effective date of the order. The above-referenced courses will not count towards any continuing education requirements, if applicable, for renewal, reinstatement or activation of license. The motion passed unanimously. Members voting "Yes" were Brown, Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

In the matter of **File Number 2012-01865, Richard DiGiovanna**, the Board reviewed the Consent Order as seen and agreed to by Mr. DiGiovanna. A motion was made by Mr. Hoover and seconded by Ms. Grimsley to accept the proposed Consent Order offer wherein Mr. DiGiovanna admits to a violation of 18 VAC 135-20-180.B.1.a (Count 1) of the Board's 2008 Regulations, and agrees to a monetary penalty of \$500.00 for Count 1, as well as \$150.00 in Board costs, for a total of \$650.00. In addition, for the violation of Count 1, DiGiovanna agrees to complete at least three (3) classroom hours of Board-approved continuing education pertaining to Real Estate Contracts and provide proof of attendance and successful completion within six (6) months of the effective date of the order. The course(s) must be completed in the classroom. It is acknowledged that satisfactory completion of the above-referenced continuing education hours will not count towards any continuing education requirements, if applicable, for renewal of license. The motion passed unanimously. Members voting "Yes" were Brown, Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

File Number 2012-01865, Richard DiGiovanna

In the matter of **File Number 2012-01226, Joyce S. Whitaker**, the Board reviewed the Consent Order as seen and agreed to by Ms. Whitaker. A motion was made by Mr. Hoover and seconded by Ms. Noonan to accept the proposed Consent Order offer wherein Ms. Whitaker admits to a violation of 18 VAC 135-20-180.B.1.a (Count 1) of the Board's 2008 Regulations, and agrees to a monetary penalty of \$500.00 for Count 1, as well as \$150.00 in Board costs, for a total of \$650.00. In addition, for the violation of Count 1, Whitaker agrees to complete at least two (2) classroom hours of Board-approved continuing education pertaining to Real Estate

File Number 2012-01226, Joyce S. Whitaker

Contracts and provide proof of attendance and successful completion within six (6) months of the effective date of the order. The course(s) must be completed in the classroom. It is acknowledged that satisfactory completion of the above-referenced continuing education hours will not count towards any continuing education requirements, if applicable, for renewal of license. The motion passed unanimously. Members voting "Yes" were Brown, Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

In the matter of **File Number 2012-01906, Gee Neo Chang**, the Board reviewed the Consent Order as seen and agreed to by Ms. Chang. A motion was made by Ms. Noonan and seconded by Ms. Ferebee to accept the proposed Consent Order offer wherein Ms. Chang admits to a violation of 18 VAC 135-20-180.B.1.a (Count 1) of the Board's 2008 Regulations, and agrees to a monetary penalty of \$500.00 for Count 1, as well as \$150.00 in Board costs, for a total of \$650.00. In addition, for the violation of Count 1, Chang agrees to complete at least four (4) classroom hours of Board-approved continuing education pertaining to Escrow Management and provide proof of attendance and successful completion within six (6) months of the effective date of the order. The course(s) must be completed in the classroom. It is acknowledged that satisfactory completion of the above-referenced continuing education hours will not count towards any continuing education requirements, if applicable, for renewal of license. The motion passed unanimously. Members voting "Yes" were Brown, Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

File Number 2012-01906, Gee Neo Chang

In the matter of **File Number 2012-01958, Polycarp Ombati**, the Board reviewed the Consent Order as seen and agreed to by Mr. Ombati. A motion was made by Ms. Ferebee and seconded by Ms. Grimsley to accept the proposed Consent Order offer wherein Mr. Ombati admits to a violation of 18 VAC 135-20-180.B.1.a (Count 1) of the Board's 2008 Regulations, and agrees to a monetary penalty of \$500.00 for Count 1, as well as \$150.00 in Board costs, for a total of \$650.00. In addition, for the violation of Count 1, Ombati agrees to complete at least three (3) classroom hours of Board-approved continuing education pertaining to Real Estate Contracts and provide proof of attendance and successful completion within six (6) months of the effective date of the order. The course(s) must be completed in the classroom. It is

File Number 2012-01958, Polycarp Ombati

acknowledged that satisfactory completion of the above-referenced continuing education hours will not count towards any continuing education requirements, if applicable, for renewal of license. The motion passed unanimously. Members voting “Yes” were Brown, Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

In the matter of **File Number 2012-01704, Kathryn Montalbano**, the Board reviewed the Consent Order as seen and agreed to by Ms. Montalbano. A motion was made by Ms. Grimsley and seconded by Ms. Noonan to accept the proposed Consent Order offer wherein Ms. Montalbano admits to a violation of 18 VAC 135-20-180.B.1.a (Count 1) of the Board’s 2008 Regulations, and a violation of 18 VAC 135-20-310.2 (Count 2) of the Board’s 1999 Regulations, and agrees to a monetary penalty of \$500.00 for the violation contained in Count 1, \$600.00 for the violation contained in Count 2, as well as \$150.00 in Board costs, for a total of \$1,250.00. In addition, for the violation of Count 1, Montalbano agrees to complete at least four (4) classroom hours of Board-approved continuing education pertaining to Escrow Management and provide proof of attendance and successful completion within six (6) months of the effective date of the order. The course(s) must be completed in the classroom. It is acknowledged that satisfactory completion of the above-referenced continuing education hours will not count towards any continuing education requirements, if applicable, for renewal of license. The motion passed unanimously. Members voting “Yes” were Brown, Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

File Number 2012-01704, Kathryn Montalbano

At 10:58 A.M., Mr. Funkhouser offered a motion which was seconded by Ms. Ferebee, that the Board meeting be recessed and that the Real Estate Board immediately reconvene in closed meeting for the purpose of consultation with legal counsel pertaining to legal matters within the jurisdiction of the Board 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: Steven Jack, Gordon Dixon, Mark Courtney and Christine Martine.

Closed Session

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

Administrative Issues – Death of Broker request

At 11:18 A.M., a motion was made by Ms. Noonan and seconded by Ms. Do that the Board reconvene in open session.

WHEREAS, the Real Estate 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 Board that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Real Estate 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 Board.

VOTE: 8-0

AYES: Brown, Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

NAYS: None.

ABSENT DURING THE VOTE: None.

ABSENT DURING THE MEETING: None.

A motion was made by Mr. Funkhouser and seconded by Mr. Hoover to rescind previously given authority as a result of new information provided to the Board which indicates the individual previously granted authority, Babar Rehman, no longer has authority to close the business pursuant to a Court Order and grant authority to Sumaira Nadeem to carry on the business of her deceased husband, a broker, for 180 days for the purpose of concluding the business pursuant to §54.1-2109 of the Code of Virginia. The motion passed unanimously. Members voting "Yes" were Brown, Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

Administrative Issue

Ms. Martine gave the Board an update on the regulations. No action was taken by the Board.

A motion was made by Ms. Ferebee and seconded by Ms. Grimsley to adopt the following resolution to honor the years of dedicated service by former Board Member Carol Clarke to the Board:

Resolution

RESOLUTION IN HONOR OF

Carol F. Clarke

WHEREAS, **Carol F. Clarke**, has faithfully and diligently served as a member of the Real Estate Board since 2004; and

WHEREAS, **Carol F. Clarke**, has devoted generously of her time, talent and leadership to the Board; and

WHEREAS, **Carol F. Clarke**, 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 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 Board this twelfth day of July, 2012 that **Carol F. Clarke** be given all honors and respect due her for her outstanding service to the Commonwealth and its citizens and the Real Estate 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.

The motion passed unanimously. Member voting "Yes" were Brown, Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

A motion was made by Ms. Ferebee and seconded by Ms. Grimsley to adopt the following resolution to honor the years of dedicated service by former Board Member Judith L.

Resolution

Childress to the Board:

RESOLUTION IN HONOR OF

Judith L. Childress

WHEREAS, **Judith L. Childress**, has faithfully and diligently served as a member of the Real Estate Board since 2004; and

WHEREAS, **Judith L. Childress**, has devoted generously of her time, talent and leadership to the Board; and

WHEREAS, **Judith L. Childress**, 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 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 Board this twelfth day of July, 2012 that **Judith L. Childress** be given all honors and respect due her for her outstanding service to the Commonwealth and its citizens and the Real Estate 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.

The motion passed unanimously. Member voting "Yes" were Brown, Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

A motion was made by Ms. Ferebee and seconded by Ms. Grimsley to adopt the following resolution to honor the years of dedicated service by former Board Member Sharon P. Johnson to the Board:

Resolution

RESOLUTION IN HONOR OF

Sharon P. Johnson

WHEREAS, **Sharon P. Johnson**, has faithfully and diligently served as a member of the Real Estate Board since 2008; and

WHEREAS, **Sharon P. Johnson**, has devoted generously of her time, talent and leadership to the Board; and

WHEREAS, **Sharon P. Johnson**, 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 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 Board this twelfth day of July, 2012 that **Sharon P. Johnson** be given all honors and respect due her for her outstanding service to the Commonwealth and its citizens and the Real Estate 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.

The motion passed unanimously. Member voting “Yes” were Brown, Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

Blake Hegemann of Virginia Association of Realtors, and Michael Lafayette of Richmond Association of Realtors, presented information to the Board on when a brokerage agreement needs to be used pursuant to new agency law.

New Business

The Board appointed a workgroup to draft a guidance document regarding interpretation of the agency law. Board members Joe Funkhouser, Steve Hoover, Sandee Ferebee and Cathy Noonan volunteered to serve on the workgroup.

A motion was made by Mr. Funkhouser and seconded by Ms. Ferebee to accept the July 12, 2012, Education Committee Report. The motion passed unanimously. Members voting “Yes” were Brown, Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

Education

A motion was made by Ms. Grimsley and seconded by Ms. Ferebee to approve the “New Real Estate Salesperson 30-Hour Educational Curriculum Guidelines” guidance document which describes the phase-out of the current Post License Education program for new salespersons and the phase-in of the new Post License Education program for new salespersons. This document supersedes and replaces Guidance Document 2021 – “Real Estate Advisory Council’s Report Regarding Post-Licensure Education.” The motion passed unanimously. Members voting “Yes” were Brown, Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

A motion was made by Ms. Grimsley and seconded by Ms. Ferebee to determine the broker pre-license education completed by reciprocal applicants from Montana is “comparable in content and duration and scope” to the broker pre-license education required by the Board and accept the 60 hours of broker pre-license education completed by broker license reciprocal applicants from Montana toward the Board’s 180 classroom-hour broker pre-license education requirement. Broker license reciprocal applicants from Montana must make up the difference in hours by completing a Board-approved 45-hour Real Estate Brokerage Broker Pre-license education course and two other Board-approved 45-hour Broker Pre-license education courses. The motion passed unanimously. Members voting “Yes” were Brown, Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

Mr. Dixon opened the floor for nominations for the position of Vice-Chair of the Real Estate Board. Clifford Wells nominated Joseph “Joe” Funkhouser for the position of Vice-Chair. With no other nominations, Joe Funkhouser was named Vice-Chair by acclamation.

New Business

A motion was made by Ms. Ferebee and seconded by Ms. Noonan to direct staff to develop a policy regarding the authority to shut a company and the granting of authority to conclude the business pursuant to §54.1-2109 of the *Code of Virginia*. The motion passed unanimously. Members voting “Yes” were Brown, Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

There being no further business, the Board adjourned at 12:11 P.M.

Adjourn

Clifford Wells, Chair

Gordon Dixon, Secretary

DRAFT