

REAL ESTATE BOARD

MINUTES OF MEETING

January 22, 2004

The Real Estate Board met at the Department of Professional and Occupational Regulation, 3600 W. Broad Street, Richmond, Virginia. The following Board members were present:

S. Ronald Owens, Chairman
Marjorie Clark
Florence Daniels
Gerald S. Divaris
Sharon Parker Johnson
Herman Key, Jr.
R. Schaefer Oglesby
Frank J. Quayle
Byrl Phillips Taylor

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

Sandra Whitley Ryals, Chief Deputy Director
Karen W. O'Neal, Deputy Director
Christine Martine, Executive Director
John Cancelleri, Fair Housing Administrator
Carol Mitchell, Dispute Resolution Manager
Liz Hayes, Fair Housing Investigative Supervisor
Earlyne Perkins, Legal Assistant
Camille C. Palmer, Administrative Assistant

No representative from the Office of the Attorney General was present.

Chairman Owens called the meeting to order at 9:13 a.m.

Call to Order

No one addressed the Board during the **Public Comment period**.

Public Comment Period

A motion was made by Mr. Oglesby and seconded by Ms. Johnson to approve the **agenda** as amended. The motion passed unanimously. Members voting "Yes" were Owens, Oglesby, Clark, Daniels, Divaris, Johnson, Key, Quayle and Taylor. There were no negative votes.

Agenda

A motion was made by Mr. Oglesby and seconded by Ms. Johnson to adopt the **minutes** of the **November 20, 2003 IFF Conferences**. The motion passed unanimously. Members voting "Yes" were Owens,

Minutes

Oglesby, Clark, Daniels, Divaris, Johnson, Key, Quayle and Taylor. There were no negative votes.

A motion was made by Ms. Clark and seconded by Mr. Divaris to adopt the **minutes** of the **November 24, 2003 IFF Conferences**. The motion passed unanimously. Members voting "Yes" were Owens, Oglesby, Clark, Daniels, Divaris, Johnson, Key, Quayle and Taylor. There were no negative votes.

A motion was made by Mr. Oglesby and seconded by Ms. Johnson to adopt the **minutes** of the **December 3, 2003 IFF Conferences**. The motion passed unanimously. Members voting "Yes" were Owens, Oglesby, Clark, Daniels, Divaris, Johnson, Key, Quayle and Taylor. There were no negative votes.

A motion was made by Mr. Oglesby and seconded by Ms. Johnson to adopt the **minutes** of the **December 4, 2003 Board Meeting**. The motion passed unanimously. Members voting "Yes" were Owens, Oglesby, Clark, Daniels, Divaris, Johnson, Key, Quayle and Taylor. There were no negative votes.

A motion was made by Ms. Johnson and seconded by Mr. Oglesby to adopt the **minutes** of the **December 16, 2003 IFF Conferences**. The motion passed unanimously. Members voting "Yes" were Owens, Oglesby, Clark, Daniels, Divaris, Johnson, Key, Quayle and Taylor. There were no negative votes.

A motion was made by Ms. Johnson and seconded by Mr. Oglesby to adopt the **minutes** of the **December 17, 2003 IFF Conferences**. The motion passed unanimously. Members voting "Yes" were Owens, Oglesby, Clark, Daniels, Divaris, Johnson, Key, Quayle and Taylor. There were no negative votes.

A motion was made by Ms. Johnson and seconded by Mr. Oglesby to adopt the **minutes** of the **December 18, 2003 IFF Conferences**. The motion passed unanimously. Members voting "Yes" were Owens, Oglesby, Clark, Daniels, Divaris, Johnson, Key, Quayle and Taylor. There were no negative votes.

A motion was made by Mr. Key and seconded by Ms. Daniels to close as no cause the following cases identified in the fair housing report as:

Dan and Velma Sturdivant v. John Leland, REB File Number 2004-00506

Fair Housing
Administrator's Report

Sherman and Elizabeth Ayers v. Donna Fenderson and Real Estate III, REB File Number: 2003-03172

The motion passed unanimously. Members voting "Yes" were Owens, Oglesby, Clark, Daniels, Divaris, Johnson, Key, Quayle and Taylor. There were no negative votes.

A motion was made by Mr. Oglesby and seconded by Ms. Clark to approve the **Fair Housing Minutes of December 4, 2003**. The motion passed unanimously. Members voting "Yes" were Owens, Oglesby, Clark, Daniels, Divaris, Johnson, Key, Quayle and Taylor. There were no negative votes.

In the matter of **File Number 2002-00465, David Dieu Nuyen**, the Board reviewed the record which consisted of the disciplinary file, transcript, exhibits from the IFF, and the presiding board member's summary. Mr. Nuyen, respondent, was present and addressed the Board. A motion was made by Ms. Daniels and seconded by Mr. Key to reconvene the Informal Fact Finding Conference, since Mr. Nuyen did not receive notification of the first IFF. The motion passed unanimously. Members voting "Yes" were Owens, Oglesby, Clark, Daniels, Divaris, Johnson, Key and Taylor. There were no negative votes. Mr. Quayle, who conducted the Informal Fact Finding Conference, did not participate in the discussion or vote in this matter.

In the matter of **File Number 2003-00900, William A. Carter**, the Board reviewed the record which consisted of the disciplinary file, transcript, exhibits from the IFF, and the proposed Consent Order. Mr. Carter, respondent, and Mr. Manuel Capsalis, respondent's attorney, were present and addressed the Board. A motion was made by Mr. Divaris to accept the terms of the proposed Consent Order. There was no second to the motion.

A motion was made by Ms. Daniels and seconded by Mr. Key based upon review of the record, which consisted of the disciplinary file, the transcripts and exhibits from the IFF and the proposed Consent Order, to reject the terms of the proposed Consent Order and enter a Final Order accepting the facts in the proposed Consent Order finding a violation of the Board's 1999 regulation 18 VAC 135-20-260 (5). The motion passed by majority vote. Members voting "Yes" were Oglesby, Daniels, Johnson, Key, Quayle and Taylor. Member "Abstaining" from the vote was Divaris. Mr. Owens and Ms. Clark, who conducted the Informal Fact Finding Conference did not participate in the discussion or vote in this matter.

Fair Housing Minutes

File Number 2002-00465
David Dieu Nuyen

File Number 2003-00900
William A. Carter

A motion was made by Ms. Daniels and seconded by Ms. Johnson to revoke Mr. Carter's real estate salesperson's license due to the egregious nature of the crime, a portion of which occurred in a real estate office, and the violation of the public trust due to a real estate licensee's continual contact with the public. The motion passed by majority vote. Members voting "Yes" were Oglesby, Daniels, Johnson, and Taylor. Members voting "No" were Divaris, Key and Quayle. Mr. Owens and Ms. Clark, who conducted the Informal Fact Finding Conference did not participate in the discussion or vote in this matter.

In the matter of **File Number 2004-01638, Richard Vance Ziglar, II**, the Board reviewed the record, which consisted of the application file, transcript, exhibits from the IFF, and the presiding officer's summary. Mr. Ziglar, applicant, was present and addressed the Board. A motion was made by Mr. Oglesby and seconded by Ms. Daniels to accept the recommendation contained in the Summary of the Informal Fact Finding Conference to approve Mr. Ziglar's application for a real estate salesperson's license. The motion passed unanimously. Members voting "Yes" were Owens, Oglesby, Clark, Daniels, Divaris, Johnson, Key, Quayle and Taylor. There were no negative votes.

File Number 2004-01638
Richard Vance Ziglar, II

In the matter of **File Number 2004-01639, Yvette Anita Gregory**, the Board reviewed the record, which consisted of the application file, transcript, exhibits from the IFF, and the presiding officer's summary. Ms. Gregory, applicant, was present and addressed the Board. A motion was made by Mr. Oglesby and seconded by Ms. Johnson to accept the recommendation contained in the Summary of the Informal Fact Finding Conference to approve Ms. Gregory's application for a real estate salesperson's license. The motion passed unanimously. Members voting "Yes" were Owens, Oglesby, Clark, Daniels, Divaris, Johnson, Key, Quayle and Taylor. There were no negative votes.

File Number 2004-01639
Yvette Anita Gregory

In the matter of **File Number 2004-01640, John Eric Stanley**, the Board reviewed the record, which consisted of the application file, transcript, exhibits from the IFF, and the presiding officer's summary. Mr. Stanley, applicant and Mr. Kneedler, applicant's attorney, were present and addressed the Board. A motion was made by Mr. Oglesby and seconded by Ms. Johnson to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference to approve Mr. Stanley's application for a real estate salesperson's license with changes as noted in Mr. Lane Kneedler's letter dated January 20, 2004. The motion passed unanimously. Members voting "Yes" were Owens, Oglesby, Clark, Daniels, Divaris, Johnson, Key, Quayle and Taylor. There were no negative votes.

File Number 2004-01640
John Eric Stanley

In the matter of **File Number 2002-00679, James M. McClain, Sr.**, the Board reviewed the record which consisted of the disciplinary file, transcript, exhibits from the IFF, and the presiding board member's summary. Mr. McClain was present but did not address the Board. A motion was made by Ms. Johnson and seconded by Ms. Daniels finding no violation and to close Counts I and II of this file. The motion passed unanimously. Members voting "Yes" were Owens, Clark, Daniels, Divaris, Johnson, Key and Taylor. There were no negative votes. Mr. Oglesby, who conducted the Informal Fact-Finding Conference, did not participate in the discussion or vote in this matter.

File Number 2002-00679
James M. McClain, Sr.

In the matter of **File Number 2003-01071, Dimitrois Soulios**, the Board reviewed the record which consisted of the disciplinary file, transcript, exhibits from the IFF, and the presiding board member's summary. Mr. Soulios was not present. A motion was made by Ms. Johnson and seconded by Ms. Daniels to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference finding a violation of the Board's 1999 Regulation 18 VAC 135-20-180(B)(1)(a) for Count I. The motion passed unanimously. Members voting "Yes" were Owens, Oglesby, Clark, Daniels, Divaris, Johnson, Key and Taylor. There were no negative votes. Mr. Quayle, who conducted the Informal Fact Finding Conference, did not participate in the discussion or vote in this matter.

File Number 2003-01071
Dimitrois Soulios

A motion was made by Ms. Clark and seconded by Ms. Daniels rejecting the recommendation contained in the Summary of the Informal Fact-Finding Conference increasing the \$250.00 monetary penalty to \$500.00 due to prior violation of a similar nature and the seriousness of the violation. The motion passed by majority vote. Members voting "Yes" were Owens, Oglesby, Clark, Daniels, Divaris, Johnson and Taylor. Member voting "No" was Key. Mr. Quayle, who conducted the Informal Fact Finding Conference, did not participate in the discussion or vote in this matter.

In the matter of **File Number 2003-00286, Patricia D. Helquist**, the Board reviewed the record which consisted of the Consent Order. Ms. Helquist was not present. A motion was made by Ms. Johnson and seconded by Ms. Daniels to ratify the Consent Order finding a violation of the Board's 1999 Regulation 18 VAC 135-20-260(5), for Count I, imposing a \$200 monetary penalty; finding a violation of the Board's 1999 Regulation 18 VAC 135-20-260(6) for Count II, imposing a \$100.00 monetary penalty.

File Number 2003-00286
Patricia D. Helquist
Consent Order

Helquist also is required to satisfactorily complete a 2 hours course in Ethics, Standards of Conduct and Real Estate Laws and Regulations, from

a Board approved school, within one year from the date of the acceptance of this Consent Order by the Board, and report completion of this course to the Board in a form acceptable to the Board.

Additionally, Helquist and her broker are required to report to the Board, on a quarterly basis for a term of two years, from the date Helquist's real estate salesperson's license is activated.

Helquist also is required to pay Board costs in the amount of \$200.00. A monetary penalty is imposed.

The motion passed unanimously. Members voting "Yes" were Oglesby, Daniels, Divaris, Johnson, Key, Quayle and Taylor. There were no negative votes. Mr. Owens and Ms. Clark, who conducted the Informal Fact Finding Conference, did not participate in the discussion or vote in this matter.

In the matter of **File Number 2004-00807, Felicia Wu**, the Board reviewed the record which consisted of the application file, transcript, exhibits from the IFF, and the presiding Board Member's summary. Ms. Wu was not present. A motion was made by Mr. Key and seconded by Ms. Johnson to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference to approve Ms. Wu's application for a real estate Broker's license, with the stipulation that Wu enter into an Agreement for Licensure requiring that she work under the supervision of a Broker for the term of three years and that Wu not have any management of escrow funds except under the direct supervision of her principal broker. The motion was withdraw.

File Number 2004-00807
Felicia Wu

A motion was made by Ms. Johnson and seconded by Mr. Key to reject the recommendation contained in the Summary of the Informal Fact-Finding Conference and deny Ms. Wu's license application as a real estate broker because based upon the evidence Wu does not possess the experience or training in escrow management and that Ms. Wu will not complete the terms of the October 2001 Consent Agreement until October 2004. The motion passed unanimously. Members voting "Yes" were Oglesby, Daniels, Divaris, Johnson, Key, Quayle and Taylor. There were no negative votes. Mr. Owens and Ms. Clark, who conducted the Informal Fact Finding Conference, did not participate in the discussion or vote in this matter.

In the matter of **File Number 2004-02359, Patricia L. Kahut**, the Board reviewed the record which consisted of the application file, transcript, exhibits from the IFF, and the presiding officer's summary. Ms. Kahut was not present. A motion was made by Ms. Johnson and seconded by Ms. Daniels to accept the recommendation contained in the

File Number 2004-02359
Patricia L. Kahut

Summary of the Informal Fact-Finding Conference to approve Ms. Kahut's application for a real estate salesperson's license. The motion passed unanimously. Members voting "Yes" were Clark, Daniels, Divaris, Johnson, Key, Quayle and Taylor. There were no negative votes. Mr. Owens recused himself due to a conflict of interest. Mr. Oglesby, who conducted the Informal Fact Finding Conference, did not participate in the discussion or vote in this matter.

In the matter of **File Number 2004-01544, David Brian Bessey**, the Board reviewed the record which consisted of the application file, transcript, exhibits from the IFF, and the presiding officer's summary. Mr. Bessey was not present. A motion was made by Ms. Johnson and seconded by Ms. Daniels to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference to approve Mr. Bessey's application for a real estate salesperson's license. The motion passed unanimously. Members voting "Yes" were Owens, Oglesby, Clark, Daniels, Divaris, Johnson, Key, Quayle and Taylor. There were no negative votes.

File Number 2004-01544
David Brian Bessey

In the matter of **File Number 2004-01545, Dayna R. Patrick**, the Board reviewed the record which consisted of the application file, transcript, exhibits from the IFF, and the presiding officer's summary. Ms. Patrick was not present. A motion was made by Mr. Oglesby and seconded by Ms. Daniels to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference to approve Ms. Patrick's application for a real estate salesperson's license. The motion passed unanimously. Members voting "Yes" were Owens, Oglesby, Clark, Daniels, Divaris, Johnson, Key, Quayle and Taylor. There were no negative votes.

File Number 2004-01545
Dayna R. Patrick

In the matter of **File Number 2004-01546, Roger G. Gatewood**, the Board reviewed the record which consisted of the application file, transcript, exhibits from the IFF, and the presiding officer's summary. Mr. Gatewood was not present. A motion was made by Ms. Johnson and seconded by Mr. Oglesby to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference to approve Mr. Gatewood's application for a real estate salesperson's license. The motion passed by majority vote. Members voting "Yes" were Oglesby, Daniels, Johnson, Key and Quayle. Members voting "No" were Owens, Clark, Divaris and Taylor.

File Number 2004-01546
Roger G. Gatewood

In the matter of **File Number 2004-01572, Todd J. Fuller**, The Board reviewed the record which consisted of the application file, transcript, exhibits from the IFF, and the presiding officer's summary. Mr. Fuller was not present. Mr. Fuller sent a letter to Ms. Martine dated January

File Number 2004-01572
Todd J. Fuller

15, 2004 to withdraw his request for a real estate license. By consensus, the Board granted Mr. Fuller's request.

In the matter of **File Number 2004-01573, Sandra Marin**, the Board reviewed the record which consisted of the application file, transcript, exhibits from the IFF, and the presiding officer's summary. Ms. Marin was not present. A motion was made by Ms. Daniels and seconded by Mr. Oglesby to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference to approve Ms. Marin's application for a real estate salesperson's license. The motion passed unanimously. Members voting "Yes" were Owens, Oglesby, Clark, Daniels, Divaris, Johnson, Key, Quayle and Taylor. There were no negative votes.

**File Number 2004-01573
Sandra Marin**

Ms. Carol Mitchell gave a presentation of the DPOR Alternative Dispute Resolution Program. No action was necessary

**The DPOR Alternative
Dispute Resolution
Program**

The Board considered the request of Joann F. Poladian, daughter of the late J.H. Poladian, principal broker and sole proprietor of Potomac Management Company, to allow Ms. Poladian to close out the real estate business of Potomac Management Company for 180 days for the purpose of concluding the business in accordance with § 54.1-2109 of the Code of Virginia. A motion was made by Ms. Daniels and seconded by Ms. Johnson to allow Joann F. Poladian, to close out the real estate business of Potomac Management Company in accordance with § 54.1-2109 of the Code of Virginia. The motion passed unanimously. Members voting "Yes" were Owens, Oglesby, Clark, Daniels, Divaris, Johnson, Key, Quayle and Taylor. There were no negative votes.

Death of Broker

Mr. Owens read the Education Committee Report. A motion was made by Ms. Daniels and seconded by Mr. Oglesby to approve the recommendations contained in the **January 21, 2004 Education Committee Report**. The motion passed unanimously. Members voting "Yes" were Owens, Oglesby, Clark, Daniels, Johnson, Key, Quayle and Taylor. There were no negative votes.

**Education Committee
Report**

By consensus, Mr. Oglesby was appointed Chairman of the Education Committee, Ms. Johnson was appointed Vice-Chairman and Ms. Taylor will join the committee.

The Board discussed Home Inspection Referrals. No action was necessary.

New Business

The Board held a discussion regarding possible future Board member

training. No action was necessary.

Mr. Divaris left the meeting at 11:15 a.m.

Mr. Owens read a letter from Mr. Marshall, for discussion, regarding electronic recording of documents. By consensus, the Board determined that the regulations do not require paper records as long as the broker can provide the required records in the necessary format including electronic format or hard copy.

A motion was made by Ms. Johnson and seconded by Mr. Key to adjourn the meeting at 11:40 a.m.

Adjourn


S. Ronald Owens, Chairman


Louise Fontaine Ware, Secretary

Copy Teste:

Custodian of the Record

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

TRANSACTIONAL DISCLOSURE STATEMENT

1. Name: S. Ronald Owens
2. Title: Chairman- Virginia Real Estate Board
3. Agency: Department of Professional and Occupational Regulation
4. Transaction: Board Meeting
5. Nature of Personal Interest Affected by Transaction: None

6. I declare that:

(a) I am a member of the following business, profession, occupation, or group, the members of which are affected by the transaction: _____

None

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.

Dated: January 22, 2004

Signature: _____

S. Ronald Owens

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

TRANSACTIONAL DISCLOSURE STATEMENT

1. Name: Byrl Phillips Taylor
2. Title: Member- Virginia Real Estate Board
3. Agency: Department of Professional and Occupational Regulation
4. Transaction: Board Meeting
5. Nature of Personal Interest Affected by Transaction: _____

6. I declare that:

(a) I am a member of the following business, profession, occupation, or group, the members of which are affected by the transaction: _____

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.

Dated: January 22, 2004

Signature: 

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

TRANSACTIONAL DISCLOSURE STATEMENT

1. Name: Herman Key, Jr.
2. Title: Member - Virginia Real Estate Board
3. Agency: Department of Professional and Occupational Regulation
4. Transaction: Board Meeting
5. Nature of Personal Interest Affected by Transaction: _____

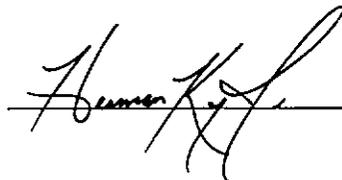
6. I declare that:

(a) I am a member of the following business, profession, occupation, or group, the members of which are affected by the transaction: _____

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.

Dated: January 22, 2004

Signature: _____



STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT

TRANSACTIONAL DISCLOSURE STATEMENT

1. Name: Marjorie Clark
2. Title: Member - Virginia Real Estate Board
3. Agency: Department of Professional and Occupational Regulation
4. Transaction: Board Meeting
5. Nature of Personal Interest Affected by Transaction: None

6. I declare that:

(a) I am a member of the following business, profession, occupation, or group, the members of which are affected by the transaction: None

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.

Dated: January 22, 2004

Signature: Marjorie M. Clark

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

TRANSACTIONAL DISCLOSURE STATEMENT

1. Name: Gerald S. Divaris
2. Title: Member – Virginia Real Estate Board
3. Agency: Department of Professional and Occupational Regulation
4. Transaction: Board Meeting
5. Nature of Personal Interest Affected by Transaction: _____

6. I declare that:

(a) I am a member of the following business, profession, occupation, or group, the members of which are affected by the transaction: _____

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.

Dated: January 22, 2004

Signature: 

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

TRANSACTIONAL DISCLOSURE STATEMENT

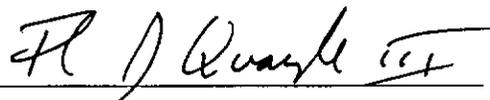
1. Name: Frank J. Quayle, III
2. Title: Member - Virginia Real Estate Board
3. Agency: Department of Professional and Occupational Regulation
4. Transaction: Board Meeting
5. Nature of Personal Interest Affected by Transaction: _____

6. I declare that:

(a) I am a member of the following business, profession, occupation, or group, the members of which are affected by the transaction: _____

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.

Dated: January 22, 2004

Signature: 

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

TRANSACTIONAL DISCLOSURE STATEMENT

1. Name: Sharon Parker Johnson
2. Title: Member - Virginia Real Estate Board
3. Agency: Department of Professional and Occupational Regulation
4. Transaction: Board Meeting
5. Nature of Personal Interest Affected by Transaction: _____

6. I declare that:

(a) I am a member of the following business, profession, occupation, or group, the members of which are affected by the transaction: _____

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.

Dated: January 22, 2004

Signature: _____

Sharon P. Johnson

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

TRANSACTIONAL DISCLOSURE STATEMENT

1. Name: Florence Daniels
2. Title: Member - Virginia Real Estate Board
3. Agency: Department of Professional and Occupational Regulation
4. Transaction: Board Meeting
5. Nature of Personal Interest Affected by Transaction: _____

6. I declare that:

(a) I am a member of the following business, profession, occupation, or group, the members of which are affected by the transaction: _____

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.

Dated: January 22, 2004

Signature: *Florence Daniels*

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTERESTS ACT**

TRANSACTIONAL DISCLOSURE STATEMENT

1. Name: R. Schaefer Oglesby
2. Title: Vice Chairman - Virginia Real Estate Board
3. Agency: Department of Professional and Occupational Regulation
4. Transaction: Board Meeting
5. Nature of Personal Interest Affected by Transaction: _____

6. I declare that:

(a) I am a member of the following business, profession, occupation, or group, the members of which are affected by the transaction: _____

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.

Dated: January 22, 2004

Signature: _____

R. Schaefer Oglesby