

**Minutes of Meeting
VIRGINIA REAL ESTATE BOARD
INFORMAL FACT-FINDING CONFERENCES
FEBRUARY 9, 2005 (9:00 A.M.)**

The Virginia Real Estate Board convened in Richmond, Virginia, for the purpose of holding Informal Fact-Finding Conferences pursuant to the Administrative Process Act.

Marjorie Clark and Judith Childress, Board Members, presided. No other Board Members were present.

Amy Chappell appeared for the Department of Professional and Occupational Regulation.

The conferences were recorded by Inge Snead & Associates, LTD.

The Summaries or Consent Orders are attached unless no decision was made.

Disc=Disciplinary Case
Lic=Licensing Application

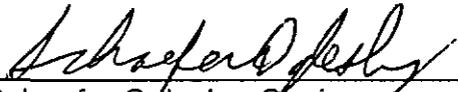
C=Complainant/Claimant
A=Applicant
R=Respondent/Regulant
PB=Principal Broker
SA=Sales Agent
Invest=Investigator
W=Witness

PARTICIPANTS

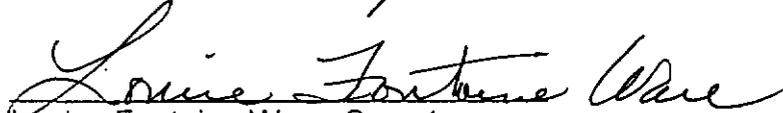
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|----|--|--|
| 1. | Michael S. Lauler
File Number 2005-02554 (Lic) | Michael Lauler – A |
| 2. | Susan Ronan
File Number 2005-02247 (Lic) | Susan Ronan – A (by telephone)
Karen Davis – W (by telephone) |
| 3. | Matilda Russell
File Number 2004-01169 (Disc)
No decision made | Matilda Russell – R
Clay Macon – R's Atty |

The meeting adjourned at 4:00 p.m.

Virginia Real Estate Board



Schaefer Oglesby, Chairman



Louise Fontaine Ware, Secretary

COPY TESTE:

Custodian of Records

**IN THE
COMMONWEALTH OF VIRGINIA
REAL ESTATE BOARD**

Re: Michael Scott Lauler
Application

File Number: 2005-02554

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On December 20, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Michael Scott Lauler. The Notice included the Informal Fact-Finding Conference Referral Memorandum, which contained the facts regarding the application. The certified mail was signed for and received.

On February 9, 2005, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Michael Lauler, Applicant; Amy Chappell, Staff Member; Marjorie Clark, Presiding Board Member; and Judith Childress, Assisting Board Member.

RECOMMENDATION

Based upon the evidence and the IFF, the following is recommended regarding the application requirements as outlined in the IFF Conference Referral Memorandum:

Lauler became a licensed sales agent by examination on February 12, 1997. He is applying for an upgrade to associate broker. Lauler has completed the education requirements and passed the examination; however, he is requesting a waiver of the Board's requirement that he be actively engaged in real estate activity for 36 of the preceding 48 months. During the IFF, Lauler explained that he is also a CPA and a loan officer. From January through April of each year, he is engaged in tax preparation; therefore, during those months, he cannot meet the definition of being "actively engaged" for 40 hours per week. He explained that he is seeking an associate broker's license so that he can manage and train new agents to help grow the real estate firm. Lauler explained that his principal broker, Brett Peck, would like to share the responsibility of managing new sales agents with him. In support of his waiver request, Lauler submitted a letter of support from Mr. Peck, which indicates that Lauler has served as a mentor to junior salespersons and that he considers Lauler a resourceful and dedicated agent deserving of an associate broker's license.

During the IFF, Lauler stated that he had initially joined this firm through the CPA part of the business, and he candidly admitted that the tax preparation will remain

the core of his business. Lauer also stated that when he is not engaged in tax preparation, he spends an average of 20 to 40 hours a week on real estate activity because he is also a mortgage loan officer. The principal broker recognizes his time commitments and continues to encourage Lauer to become an associate broker with his firm.

Since Lauer's tax preparation activities will always consume his time for four months of every year, and since the principal broker could continue to use Lauer's skills as a sales manager and trainer of younger agents without a broker's license, we recommend that the waiver be denied.

REAL ESTATE BOARD

By: _____
Marjorie Clark
Presiding Board Member

Date: _____

Judith Childress
Assisting Board Member

Date: _____

BASIS UPON WHICH APPLICANT MAY NOT MEET BOARD REGULATORY REQUIREMENTS:
EXPERIENCE VERIFICATION

Pursuant to VA Code or Board Regulation §: 18 VAC 135-20-40.2; and §54.1-2105.B

Facts: (Include name of Court, convicted of, Code §, misdemeanor or felony and date of order.)

Michael S. Lauler applied for a real estate broker's license by examination on November 30, 2004, and did not meet the experience verification requirements on his application as follows:

Mr. Lauler did not provide independent verification of experience showing that he was actively engaged as a real estate salesperson and/or broker for 36 of the 48 months preceding his application for licensure.

**IN THE
COMMONWEALTH OF VIRGINIA
REAL ESTATE BOARD**

Re: Susan A. Ronan
Application

File Number: 2005-02247

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On December 20, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Susan A. Ronan. The Notice included the Informal Fact-Finding Conference Referral Memorandum, which contained the facts regarding the application. The certified mail was signed for and received.

On February 9, 2005, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Susan Ronan, Applicant (by telephone); Karen Davis, Witness (by telephone); Amy Chappell, Staff Member; Marjorie Clark, Presiding Board Member; and Judith Childress, Assisting Board Member.

PRIOR REGULATORY VIOLATIONS

In accordance with 18 VAC 135-20-60.9, the applicant's prior disciplinary violations were considered using the analytical framework contained within § 54.1-204.B of the Code of Virginia.

1. The nature and seriousness of the violation;

Ronan represented the seller in a 1998/1999 real estate transaction. At the time of settlement in early 1999, the buyer (McDonough) voiced his dissatisfaction with repairs to the property's hardwood floors. The settlement agent issued a check for \$1,100, payable to both the buyer and the contractor who had attempted to repair the hardwood floors. McDonough was instructed to pay the contractor only upon satisfactory completion of the work. McDonough ended up choosing a different contractor to complete the work. Unbeknownst to Ronan, the settlement agent re-issued the \$1,100 check to the new contractor. The seller then learned that she was still responsible for paying the original contractor since he had not been allowed to correct the job.

McDonough subsequently filed a complaint and Guaranty Fund claim with the Maryland Real Estate Commission. The matter was finally resolved when the settlement agent and Ronan each agreed to pay half of the \$1,100 that was

owed to the original contractor. The Commission found in favor of McDonough in the amount of \$550.00. Ronan immediately repaid the Guaranty Fund.

We believe that the problem occurred because of the mismanagement of settlement escrow account in which Ronan was not directly involved.

2. The relationship of the violation to the purpose for requiring a license to *engage in the occupation*;

The purpose of licensure is to protect the health, safety, and welfare of the public. While there is a relationship between the prior regulatory violation and the purpose for requiring a license, Ronan's prior violation has not affected her ability to work as a proficient and knowledgeable real estate professional. Additionally, Ronan testified that this is the only regulatory violation since her initial licensure in 1992. We, therefore, find that the relationship between Ronan's prior regulatory violation and the purpose for requiring a license is not significant enough to deny licensure in Virginia.

3. The extent to which the occupation or profession might offer an opportunity to engage in further activity of the same type as that in which the person had been involved;

Because the prior regulatory violation involved real estate activity, the occupation itself could offer Ronan an opportunity to engage in further activity leading to regulatory violations. However, Ronan testified that the 1999 violation was an isolated, and somewhat unique, incident. Based on her testimony and years of experience, we do not believe that Ronan will engage in further regulatory violations.

4. The relationship of the violation to the ability, capacity or fitness required to perform the duties and discharge the responsibilities of the occupation or profession;

Based on her credible testimony at the IFF, we do not find that there is a relationship between her prior regulatory violation and her ability, capacity or fitness to work as a proficient and knowledgeable real estate professional. Again, we find that the prior violation was somewhat unique and Ronan has worked over ten years and has been re-licensed in Maryland three times since this incident.

5. The extent and nature of the person's past regulatory violation(s);

Ronan stated that the 1999 violation was the only regulatory violation against her since initial licensure in 1992. We also find that the decision by the Guaranty Fund was not an official real estate board sanction. Ronan explained that it was a business decision to pay the Guaranty Fund claim rather than continue with further investigatory and administrative proceedings.

6. The age of the person at the time of the commission of the regulatory violation(s);

Ronan was approximately 43 years of age at the time of the violation.

7. The amount of time that has elapsed since the person's last involvement in a regulatory violation;

The underlying transaction leading up to the complaint was in 1999; therefore, it has been six (6) years since Ronan's involvement in a regulatory violation.

8. The conduct and work activity of the person prior to and following the regulatory violation; and

Ronan has worked for Long & Foster since 1992, over ten years. There have been no regulatory violations prior to or since the 1999 violation.

9. Evidence of the person's rehabilitation or rehabilitative following the violation.

She agreed to, and promptly, re-paid the Guaranty Fund. Additionally, she has been re-licensed three times since this incident.

RECOMMENDATION

Based upon the evidence and the IFF, and in consideration of the criteria outlined, the following is recommended regarding the application as outlined in the IFF Conference Referral Memorandum:

We recommend approval of Ronan's application for licensure as an associate broker by reciprocity.

REAL ESTATE BOARD

By: _____

Marjorie Clark
Presiding Board Member

Date: _____

By: _____

Judith Childress
Assisting Board Member

Date: _____



REGULATORY PROGRAMS DIVISION
APPLICATION REVIEW
INFORMAL FACT FINDING CONFERENCE REFERRAL MEMORANDUM

To: Adjudication Section, CID Date: 11/22/04
From: Christine Martine Board: Real Estate

Re: Applicant Name: Susan A. Ronan

Applied For: X License Certification Registration

Type Applied For: Real Estate Broker by Reciprocity
(as marked on application)

Reviewed By:

Board Member

Christine Martine
Staff Member

IFF Requested by Whom:

Applicant

When: 11/19/04
(date)

How: telephone
(letter, telephone, etc.)

COMMENTS: THIS APPLICATION SHOULD BE HEARD BY A BOARD MEMBER AS IT INVOLVES PREVIOUS DISCIPLINARY ACTION BY ANOTHER STATE BOARD.

BASIS UPON WHICH APPLICANT MAY NOT MEET BOARD REGULATORY REQUIREMENTS:
PREVIOUS DISCIPLINARY ACTION

Pursuant to VA Code or Board Regulation §: 18 VAC 135-20-60 5 and 9

FACTS: (Include name of Court, convicted of, Code §, misdemeanor or felony and date of order.)

Susan A. Ronan applied for a real estate broker's license by reciprocity on November 5, 2004, and disclosed a previous disciplinary action on her application as follows:

On May 24, 2000, the Maryland Real Estate Commission entered into a Proposed Order with Susan Ronan in which the Maryland Real Estate Commission awarded the Claimant \$550.00 from the Maryland Real Estate Commission Guaranty Fund as it was established that Claimant sustained actual loss in the amount of \$550.00 as a result of the actions by the Respondent and is entitled to reimbursement under The Annotated Code of Maryland, Business Occupations and Professions Article, Title 17, Section 505. The Order stated that the proposed decision will become final if neither party files written exceptions within thirty days of receipt of this decision.

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

TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government

- 1. Name: Marjorie Clark
- 2. Title: Presiding Board Member
- 3. Agency: Real Estate Board
- 4. Transaction: Informal Fact-Finding Conferences on February 9, 2005
- 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.

Marjorie M. Clark
Signature

2-9-05
Date

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

TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government

1. Name: Judith Childress
2. Title: Presiding Board Member
3. Agency: Real Estate Board
4. Transaction: Informal Fact-Finding Conferences on February 9, 2005
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.

Judith L. Childress
Signature

2/9/2005
Date