

**BOARD FOR BRANCH PILOTS MEETING  
MINUTES**

The Virginia Board for Branch Pilots met on Monday, June 13, 2011, at the Virginia Port Authority, 600 World Trade Center, Norfolk, Virginia, with the following members present:

Charles R. Amory, Jr.  
Captain Robert H. Callis, III  
Bruce R. Cherry  
Captain Milton B. Edmunds  
Thomas P. Host III  
Captain John A. Morgan, Jr.  
Meade G. Stone, Jr.

Board members Captain J. William Cofer recused himself from this meeting and William M. Martin III was not present for the meeting.

Staff present for the meeting were:

Gordon N. Dixon, Director  
Mark N. Courtney, Deputy Director of Licensing and Regulation  
Kathleen (Kate) R. Nosbisch, Executive Director

Cynthia H. Norwood and Steven P. Jack were present from the Office of the Attorney General.

Finding a quorum of the Board present, Mr. Cherry, President, called the meeting to order at 10:25 a.m.

**Call to Order**

Captain Callis moved to approve the agenda. Mr. Host seconded the motion which was unanimously approved by Messrs. and Captains: Amory, Callis, Cherry, Edmunds, Host, Morgan and Stone.

**Approval of  
Agenda**

Mr. Amory moved to approve the minutes from the April 28, 2011, board meeting. Mr. Stone seconded the motion which was unanimously approved by Messrs. and Captains: Amory, Callis, Cherry, Edmunds, Host, Morgan and Stone.

**Approval of  
Minutes**

At 10:30 p.m., Mr. Stone moved that the board meeting be recessed and that the Board for Branch Pilots immediately reconvene in a closed session under the *Virginia Freedom of Information Act* for purpose of consultation with legal counsel relating to the application for license of Walter Hugh McCrory, Jr., a matter lawfully exempted from open meeting requirements under the "consultation with legal counsel" exemption contained in §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: Kathleen (Kate) R. Nosbisch, Gordon N. Dixon, Mark N. Courtney, Cynthia H. Norwood and Steven P. Jack. Mr. Host seconded the motion which was unanimously approved by

**Closed Session –  
Discussion of  
Henrico County  
Circuit Court  
Decision  
Regarding Walter  
Hugh McCrory,  
Jr.**

Messrs. and Captains: Amory, Callis, Cherry, Edmunds, Host, Morgan and Stone.

The Board recessed at 12:20 p.m.

The recess was concluded at 12:57 p.m. Mr. Stone moved that the Board for Branch Pilots immediately reconvene in a closed session under the *Virginia Freedom of Information Act* for purpose of consultation with legal counsel relating to the application for license of Walter Hugh McCrory, Jr., a matter lawfully exempted from open meeting requirements under the “consultation with legal counsel” exemption contained in §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: Kathleen (Kate) R. Nosbisch, Gordon N. Dixon, Mark N. Courtney, Cynthia H. Norwood and Steven P. Jack. Mr. Host seconded the motion which was unanimously approved by Messrs. and Captains: Amory, Callis, Cherry, Edmunds, Host, Morgan and Stone.

**Recess**

**Closed Session –  
Discussion of  
Henrico County  
Circuit Court  
Decision  
Regarding Walter  
Hugh McCrory,  
Jr.**

**CERTIFICATION OF CLOSED MEETING**

**WHEREAS**, the Board for Branch Pilots has convened a closed meeting on this date pursuant to an affirmative recorded vote, and 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 the Board that such closed meeting was conducted in conformity with Virginia law;

**NOW, THEREFORE, BE IT RESOLVED** that the Board certifies that, to the best of each member’s knowledge, (I) only public business matters lawfully exempted from open session requirements by Virginia law were discussed in the closed meeting to which the certification resolution applies, and (II) only such business matters as were identified in the motion by which the close meeting was convened were heard, discussed or considered by the Board.

**VOTE:** 7-0

**AYES:** Amory, Callis, Cherry, Edmunds, Host, Morgan and Stone

**NAYS:** 0

**ABSENT FROM MEETING:** 2 – Cofer and Martin

At 1:00 p.m., the closed session was adjourned and the Board immediately reconvened in open session.

**Open Meeting**

On the 20<sup>th</sup> of May 2011, the Circuit Court of Henrico County entered the

following order:

VIRGINIA: IN THE CIRCUIT COURT FOR HENRICO COUNTY

WALTER H. McCrory, JR.,

Petitioner,

v.

CASE NO. 087CL10-2342

VIRGINIA BOARD FOR BRANCH PILOTS,

Respondent.

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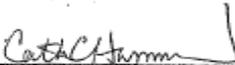
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**FINAL ORDER**

Before the Court is the Petition for Appeal filed by petitioner Walter H. McCrory, Jr., pursuant to Rule 2(A):2 of the Rules of the Supreme Court of Virginia and Section 2.2-4003, et. seq. of the Virginia Administrative Process Act of the Code of Virginia; said Petition being an appeal from the June 14, 2010 Final Opinion and Order of respondent Virginia Board for Branch Pilots. The Court has carefully reviewed the Petition for Appeal, the Brief in Support of Petition for Appeal, Brief in Opposition to Petition for Appeal, the Reply Brief and the Record from the proceedings below (including the transcript of the hearing of April 29, 2010), and has heard the arguments of counsel. The Court holds that the Board's determination denying Petitioner's Application for Licensure as a Branch Pilot is not supported by substantial evidence and that a reasonable mind reviewing the evidence presented would necessarily have come to a different conclusion than the Board did; and this Court therefore REVERSES and VACATES the Board's Final Opinion and Order of June 14, 2010, and REMANDS this matter to the Board for further proceedings consistent with this Court's determinations.

In further support of its ruling, the Court adopts and incorporates its findings stated at the hearing on May 6, 2011, and the Court reserves the right to issue a further written opinion.

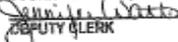
It is so ORDERED.  
Entered this 20<sup>th</sup> day of May, 2011.

  
Honorable Catherine C. Hammond, Circuit Judge

We ask for this:

Robert W. McFarland, (VSB #24021)  
R. Trent Taylor, (VSB #47488)  
McGuireWoods LLP  
9000 World Trade Center  
Norfolk, VA 23510  
757/640-3718

  
Robert W. McFarland

A COPY TESTE:  
YVONNE G. SMITH, CLERK  
  
DEPUTY CLERK

Seen and exceptions to Court's ruling noted:

Cynthia H. Norwood, Senior Assistant Attorney General  
(VSB #23094)  
Steven P. Jack, Assistant Attorney General  
(VSB #95580)  
Office of the Attorney General  
900 East Main Street  
Richmond, VA 23219

  
Steven P. Jack

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Mr. Host moved to appeal the Henrico County Circuit Court judgment to the Virginia Court of Appeals. Mr. Amory seconded the motion which was unanimously approved by Messrs. and Captains: Amory, Callis, Cherry, Edmunds, Host, Morgan and Stone.

Ms. Norwood stated that she will file the notice of appeal in accordance with Rules of Court and that the process may take two to three months.

There was no other business.

**Other Business**

Conflict of Interest forms were completed by all members present.

**Conflict of  
Interest Forms**

There being no further business, the meeting was adjourned at 1:20 p.m.

**Adjourn**

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Bruce R. Cherry, President

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Gordon N. Dixon, Secretary

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