

REAL ESTATE BOARD
MINUTES OF MEETING

May 20, 2010

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

Byrl Taylor, Chair
Scott Gaeser, Vice-Chair
Carol Clarke
Clifford L. Wells
Nathaniel Brown
Judith L. Childress
Marjorie Clark
Florence Daniels
Sharon Johnson

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
Liz Hayes, Fair Housing Administrator
Earlyne Perkins, Legal Analyst
Kevin Hoeft, Education Administrator
Emily Trent, Administrative Assistant

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

Byrl Taylor called the meeting to order at 9:04 A.M.

Call to Order

A motion was made by Mr. Gaeser and seconded by Mr. Wells to approve the agenda. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Johnson, Taylor and Wells.

Agenda

A motion was made by Mr. Wells and seconded by Ms. Clark to adopt the following minutes: March 17, 2010, Real Estate Regulatory Review Committee Meeting; March 17, 2010, (11:00 a.m.) Informal Fact-Finding Conference; March 17, 2010, (1:30 p.m.) Informal Fact-Finding Conference; March 17, 2010, (2:30 p.m.) Informal Fact-Finding Conference; March 17,

Minutes

2010, (Licensing) Informal Fact-Finding Conference; March 18, 2010, Informal Fact-Finding Conference; March 18, 2010, Real Estate Board Meeting; April 8, 2010, (10:00 a.m.) Informal Fact-Finding Conference; April 8, 2010, (Licensing) Informal Fact-Finding Conference; April 12, 2010, Informal Fact-Finding Conference; and April 20, 2010, Informal Fact-Finding Conference. The motion passed unanimously. Members voting “Yes” were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Johnson, Taylor and Wells.

There was no public comment.

Liz Hayes, Fair Housing Administrator, updated the Board on the current Fair Housing case load.

In the matter of **Robert and Ann Lebrun v. United Property Associates, Inc. and Bernie J. Grablowsky, REB File Number 2009-03646**, the Board reviewed the record which consisted of the Final Investigative Report, Case Analysis and Recommendation and Official Consultation from the Office of the Attorney General. Gray Lawrence, Jr., Attorney for the respondents, was present and addressed the Board. A motion was made by Ms. Daniels and seconded by Ms. Clarke to close the case with a finding of no reasonable cause. The motion passed unanimously. Members voting “Yes” were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Johnson, Taylor and Wells.

In the matter of **John Woodson v. The New House Company, Erica Scott, and Catherine Corish dba Katie Corish, REB File Number 2010-01790**, the Board reviewed the record which consisted of the Final Investigative Report, and Case Analysis and Recommendation. A motion was made by Ms. Clark and seconded by Ms. Clarke to close the case with a finding of no reasonable cause. The motion passed unanimously. Members voting “Yes” were Brown, Clark, Childress, Clarke, Daniels, Gaeser, Johnson, Taylor and Wells.

In the matter of **RRCSB-AAA v. Thomas S. Underwood, REB File Number 2010-01029**, a motion was made by Mr. Wells and seconded by Ms. Clarke to approve the terms of the conciliation agreement as agreed to by the parties. The motion passed unanimously. Members voting “Yes” were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Johnson, Taylor and

Public Comment

Fair Housing Administrators Report

Robert and Ann Lebrun v. United Property Associates, Inc. and Bernie J. Grablowsky, REB File Number 2009- 03646

John Woodson v. The New House Company, Erica Scott, and Catherine Corish dba Katie Corish, REB File Number 2010-01790

Conciliation Agreement

Wells.

In the matter of **Crystal Walker v. Barry Schmidt, REB 2003-02670**, the Board went into closed session.

**Crystal Walker v.
Barry Schmidt, REB
2003-02670**

Closed Session

At 9:12A.M., Ms. Daniels offered a motion which was seconded by Mr. Wells, 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 and briefings by staff members pertaining to actual or probable litigation as permitted by §2.2-3711.A.7 of the *Code of Virginia*. The following non-members will be in attendance to reasonably aid the consideration of the topic: Tom Payne and Liz Hayes.

This motion is made with respect to the matter(s) identified as agenda item(s): **Fair Housing Item 3. Case File 2003-02670, Crystal Walker v. Barry Schmidt**

At 9:20 A.M., a motion was made by Mr. Gaeser and seconded by Ms. Daniels 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

Certification

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: 9-0

AYES: Brown, Childress, Clark, Clarke, Daniels, Gaeser, Johnson, Taylor and Wells.

NAYS: None.

ABSENT DURING THE VOTE: None.

ABSENT DURING THE MEETING: None.

In the matter of **Crystal Walker v. Barry Schmidt, REB File Number 2003-02670**, a motion was made by Ms. Clark and seconded by Ms. Daniels to approve the terms of the settlement agreement as presented and agreed to by the parties. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Johnson, Taylor and Wells.

**Crystal Walker v.
Barry Schmidt, REB
2003-02670**

A motion was made by Ms. Clark and seconded by Ms. Clarke to approve the Fair Housing Sub-Committee minutes of March 18, 2010. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Johnson, Taylor and Wells.

**Fair Housing
Minutes**

In the matter of **File Number 2010-02787, Luis Puccio**, 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. Mr. Puccio, the applicant, was present and addressed the Board. A motion was made by Mr. Wells and seconded by Ms. Daniels 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. Puccio's application for a real estate salesperson's license. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Johnson, Taylor and Wells.

**File Number 2010-
02787, Luis Puccio**

In the matter of **File Number 2010-03794, John Sasser**, 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. Mr. Sasser, applicant, was present and addressed the Board. A motion was made by Ms. Daniels, and seconded by Ms. Clarke to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and approve Mr. Sasser's application

**File Number 2010-
03794, John Sasser**

for a real estate salesperson's license. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Taylor and Wells.

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

In the matter of **File Number 2010-03536, Diane Bengele**, 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. Ms. Bengele, applicant, was present and addressed the Board. A motion was made by Ms. Clarke, and seconded by Ms. Clark to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference to approve Ms. Bengele's application for a real estate broker's license with a correction to the summary stating 2006 instead of 2000 in the fourth paragraph of the summation of facts in the summary. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Taylor and Wells.

File Number 2010-03536, Diane Bengele

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

In the matter of **File Number 2010-03690, Janneth Enriquez-Miranda**, 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. Ms. Enriquez-Miranda, applicant, was present and addressed the Board. A motion was made by Ms. Clarke, and seconded by Mr. Wells to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference to approve Ms. Enriquez-Miranda's application for a real estate broker's license. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Taylor and Wells.

File Number 2010-03690, Janneth Enriquez-Miranda

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

In the matter of **File Number 2010-03529, Charles Grant**, the Board reviewed the record which consisted of the application file, transcript and exhibits, and the Summary of

File Number 2010-03529, Charles Grant

the Informal Fact-Finding Conference of the presiding officer. Mr. Grant, applicant, was present and addressed the Board. A motion was made by Ms. Clarke and seconded by Mr. Wells 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*, deny Mr. Grant's application for a real estate salesperson's license. After reviewing the facts, the nature and seriousness of the offenses, the Board considered the extent and recurring pattern of Grant's overall involvement in criminal activity. The Board also noted the short amount of time which has elapsed since Grant's latest conviction. The Board further noted that subsequent to submitting an application for licensure, Grant was charged and convicted of another offense. In addition, the Board noted that Grant has failed to fully notify his potential broker of the extent of his criminal history. Further, the Board noted the lack of evidence to demonstrate Grant's rehabilitation or rehabilitative effort; therefore the Board determined that it could not protect the health, safety and welfare of the public. The motion passed by majority vote. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Taylor and Wells. Member voting "No" was Johnson.

In the matter of **File Number 2010-03581, Wanda Mogzec**, 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. Ms. Mogzec, applicant, was present and addressed the Board. A motion was made by Ms. Clarke, and seconded by Ms. Clark to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference to deny the real estate broker's license and instead issue Ms. Mogzec a real estate salesperson's license as she did not provide proof that she has been actively engaged as a salesperson/broker for 36 of the last 48 months. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Taylor and Wells.

File Number 2010-03581, Wanda Mogzec

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

Ms. Taylor turned the position of Chair over to Mr. Gaeser and recused herself from the meeting.

Transfer of Chair

In the matter of **File Number 2010-02174, Wesley A. Coons**, the Board reviewed the Consent Order as seen and agreed to by Mr. Coons. A motion was made by Ms. Daniels and seconded by Ms. Clark to accept the proposed Consent Order offer wherein Mr. Coons admits to a violation of §6.6.5 (Count 1) of the Board's 1992 Regulations, and a violation of §6.7.6 (Count 1) of the Board's 1995 Regulations, and agrees to no monetary penalty 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 \$750.00. In addition, Coons agrees to complete at least eight (8) classroom hours of Board-approved continuing education pertaining to Ethics and Standards of Conduct 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, Childress, Clark, Clarke, Daniels, Gaeser, and Johnson.

File Number 2010-02174, Wesley A. Coons

Due to possible conflict of interest, Mr. Wells abstained from voting or discussion in the matter.

As the Board member who reviewed the file, Ms. Taylor did not vote or participate in discussion concerning this matter.

Ms. Taylor returned and assumed the position of Chair.

Transfer of Chair

In the matter of **File Number 2010-02788, Hattie Lattimore**, 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. Daniels, and seconded by Ms. Clarke 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. Lattimore's application for a real estate salesperson's license. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke,

File Number 2010-02788, Hattie Lattimore

Daniels, Gaeser, Johnson, Taylor and Wells.

In the matter of **File Number 2010-02687, Karriem Muhammad**, 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. Daniels, and seconded by Ms. Clarke 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. Muhammad's application for a real estate salesperson's license. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Johnson, Taylor and Wells.

File Number 2010-02687, Karriem Muhammad

In the matter of **File Number 2010-03693, Shane Abercrombie**, 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. Johnson and seconded by Ms. Daniels 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. Abercrombie's application for a real estate salesperson's license, with the following amendment: Mr. Abercrombie's license is subject to an agreement for licensure for a period of two years wherein Mr. Abercrombie will provide quarterly reports to the Board. The motion passed by majority vote. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Johnson and Wells. Members voting "No" were Gaeser and Taylor.

File Number 2010-03693, Shane Abercrombie

In the matter of **File Number 2010-03691, Laura Lynn Wolf**, the Board reviewed the record which consisted of the application file, transcript and exhibits, and the Summary of the Informal Fact-Finding Conference of the presiding officer. A motion was made by Mr. Wells and seconded by Ms. Daniels 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*, deny Ms. Wolf's application for a real estate salesperson's license. After reviewing the facts and nature of the crimes, the Board acknowledged that although Wolf's

File Number 2010-03691, Laura Lynn Wolf

overall involvement in criminal activity is not extensive, Wolf did provide false and inaccurate information on her application. The Board noted it troubling that Wolf did not disclose any misdemeanor or felony convictions on her application for licensure. Equally bothersome to the Board, Wolf failed to inform her potential broker of the extent of her criminal convictions. The Board is of the opinion that Wolf may not possess the character or integrity to hold a license. Further, the Board is of the opinion that there is a relationship between Wolf's crimes and her fitness to perform the duties and discharge the responsibilities of the occupation; therefore, the Board determined it could not protect the health, safety and welfare of the public if a license was issued. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Johnson, Wells and Taylor.

In the matter of **File Number 2010-03496, Wendy Coates**, 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. A motion was made by Mr. Wells and seconded by Ms. Clarke to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and approve Coates's application for a Real Estate Pre-license Education Instructor Certification in Real Estate Appraisal but deny her request for a Real Estate Pre-license Education Instructor Certification in Principles and Practices of Real Estate. The motion passed unanimously. Members voting "Yes" were Brown, Clark, Clarke, Daniels, Gaeser, Johnson, Taylor and Wells.

File Number 2010-03496, Wendy Coates

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

In the matter of **File Number 2009-03171, Kimberly Dawn Hunt**, 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. Daniels and seconded by Mr. Wells 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 Board's 2003 Regulations, a violation of 18 VAC 135-20-260.11 (Count 2)

File Number 2009-03171, Kimberly Dawn Hunt

of Board's 2003 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, Clark, Clarke, Daniels, Gaeser, Johnson, Taylor and Wells.

A motion was made by Ms. Daniels and seconded by Mr. Gaeser to reject the recommendation contained in the Summary of the Informal Fact-Finding Conference and instead impose a monetary penalty of \$1,000.00 for the violation contained in Count 1, and \$2,500.00 for the violation contained in Count 2, and \$500.00 for the violation contained in Count 3, for a total of \$4,000.00. The Board also imposes the following sanctions: for the violation of Count 1, Hunt's license will be placed on probation. While on probation, Hunt shall be required to attend and successfully complete three (3) classroom hours of Board approved continuing education pertaining to Ethics and Standard of Conduct, and three (3) classroom hours of Board approved continuing education pertaining to Contracts. Such course(s) shall be completed in a classroom. Further, Hunt shall provide evidence acceptable to the Board that she has 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 Board required education requirements, if applicable, for renewal, reinstatement, or activation of a license. In addition, for violation of Count 2, the Board imposes suspension of Hunt's license for a period of six (6) months. Further, for the violation of Count 2, Hunt's license will be placed on probation for a period of two (2) years. While on probation, Hunt, and her broker, will provide quarterly reports to the Board that she is in compliance with the rules and regulations of the Board. The monetary penalty was increased and requirement of quarterly reporting included for the violation of Count 2, to be consistent with previous Board action of similar violations of the regulation and due to the egregious and serious nature of the violation. The motion passed unanimously. Members voting "Yes" were Brown, Clark, Clarke, Daniels, Gaeser, Johnson, Taylor and Wells.

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

In the matter of **File Number 2010-01874, Malcolm M. Norris**, the Board reviewed the Consent Order as seen and

File Number 2010-01874, Malcolm M.

agreed to by Mr. Norris. A motion was made by Mr. Gaeser and seconded by Ms. Johnson to accept the proposed Consent Order offer wherein Mr. Norris admits to a violation of 18 VAC 135-20-260.10 (Count 1) of the Board's 2003 Regulations, and agrees to a monetary penalty of \$1,650.00 for the violation contained in Count 1, as well as \$150.00 in Board costs for a total of \$1,800.00. In addition, for violation of Count 1, Norris 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) classroom hours of Board-approved continuing education pertaining to Real Estate Contracts and provide proof of attendance and successful completion within ninety (90) days of the effective date of this order. These courses 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 failed. Members voting "No" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Johnson and Taylor.

Norris

A motion was made by Ms. Clarke and seconded by Ms. Johnson to reject the proposed Consent Order offer and instead offer a Consent Order wherein Mr. Norris admits to a violation of 18 VAC 135-20-260.10 (Count 1) of the Board's 2003 Regulations, and agrees to a monetary penalty of \$1,650.00 for the violation contained in Count 1, as well as \$150.00 in Board costs for a total of \$1,800.00. In addition, for violation of Count 1, revocation of license. Also, Norris 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) classroom hours of Board-approved continuing education pertaining to Real Estate Contracts and provide proof of attendance and successful completion within ninety (90) days of the effective date of this order. These courses 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. If Mr. Norris does not accept the counteroffer within 10 days, the case will proceed to an Informal Fact-Finding Conference. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Johnson and Taylor.

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 2010-02544, Tonya Kay Smith**, the Board reviewed the Consent Order as seen and agreed to by Ms. Smith. A motion was made by Ms. Daniels and seconded by Ms. Clarke to accept the proposed Consent Order offer wherein Ms. Smith admits to a violation of 18 VAC 135-20-260.10 (Count 1) of the Board's 2003 Regulations, and agrees to no monetary penalty for the violation contained in Count 1, as well as \$500.00 in Board costs for a total of \$500.00. In addition, for violation of Count 1, Smith agrees:

File Number 2010-02544, Tonya Kay Smith

- to voluntary revocation of her broker license, with the simultaneous issuance of a salesperson license, effective on the date of execution of this Order by the Board;
- to not apply for a broker license for three (3) years from the effective date of this Order; and
- to provide proof satisfactory to the Board that she has retaken and completed the 180 class/clock hours of Board-approved broker pre-license education courses or the current education requirement at the time application is made.

The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Taylor and Wells.

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

In the matter of **File Number 2010-00126, Ron L. Gregory**, the Board reviewed the Consent Order as seen and agreed to by Mr. Gregory. A motion was made by Ms. Daniels and seconded by Ms. Clarke to accept the proposed Consent Order offer wherein Mr. Gregory admits to a violation of 18 VAC 135-20-260.11 (Count 1) of the Board's 2003 Regulations, and a violation of 18 VAC 135-20-300.9 (Count 2) of the Board's 2008 Regulations, and agrees to a monetary penalty of \$850.00 for the violation contained in Count 1, \$550.00 for the violation contained in Count 2, as well as \$150.00 in Board costs for a total of \$1,550.00. In addition, for violation of

File Number 2010-00126, Ron L. Gregory

Counts 1 and 2, Gregory 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 this 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 by majority vote. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser and Taylor. Member voting "No" was Wells.

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

In the matter of **File Number 2010-00158, Codjoe Lucas**, the Board reviewed the Consent Order as seen and agreed to by Mr. Lucas. A motion was made by Ms. Daniels and seconded by Ms. Clarke to accept the proposed Consent Order offer wherein Mr. Lucas admits to a violation of 18 VAC 135-20-185.C.3 (Count 1) of the Board's 2003 Regulations, a violation of 18 VAC 135-20-185.C.2 (Count 2) of the Board's 2003 Regulations, and a violation of 18 VAC 135-20-185.A (Count 3) of the Board's 2003 Regulations, and agrees to no monetary penalty for the violation contained in Counts 1-3. In addition, for violation of Counts 1-3, Lucas agrees to revocation of his license. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Taylor and Wells.

File Number 2010-00158, Codjoe Lucas

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

In the matter of **File Number 2010-02369, Andrea S. Zember**, the Board reviewed the Consent Order as seen and agreed to by Ms. Zember. A motion was made by Ms. Daniels and seconded by Ms. Clarke to accept the proposed Consent Order offer wherein Ms. Zember admits to a violation of 18 VAC 135-20-210 (Count 1) of the Board's 2008 Regulations, a violation of 18 VAC 135-20-180.B.1.a (Count 2) of the Board's 2008 Regulations, and agrees to a monetary penalty of \$200.00 for the violation contained in Count 1, \$300.00 for the

File Number 2010-02369, Andrea S. Zember

violation contained in Count 2, as well as \$150.00 in Board costs for a total of \$650.00. The motion passed unanimously. Members voting “Yes” were Brown, Childress, Clark, Clarke, Daniels, Taylor and Wells.

As the Board members who reviewed the file, Ms. Johnson and Mr. Gaeser did not participate in the discussion or vote pertaining to this matter.

In the matter of **File Number 2010-03493, Donald C. Lacey**, the Board reviewed the Consent Order as seen and agreed to by Mr. Lacey. A motion was made by Ms. Childress and seconded by Mr. Wells to accept the proposed Consent Order offer wherein Mr. Lacey admits to a violation of 18 VAC 135-20-260.5 (Count 1) of the Board’s 2003 Regulations, and agrees to no monetary penalty for the violation contained in Count 1, as well as \$150.00 in Board costs for a total of \$150.00. In addition, for violation of Count 1, Lacey agrees to revocation of his license. The motion passed unanimously. Members voting “Yes” were Brown, Childress, Clark, Clarke, Daniels, Taylor and Wells.

File Number 2010-03493, Donald C. Lacey

As the Board members who reviewed the file, Ms. Johnson and Mr. Gaeser did not participate in the discussion or vote pertaining to this matter.

In the matter of **File Number 2010-00525, Tonia Monique Carver**, the Board reviewed the Consent Order as seen and agreed to by Ms. Carver. A motion was made by Ms. Clark and seconded by Ms. Daniels to accept the proposed Consent Order offer wherein Ms. Carver admits to a violation of 18 VAC 135-20-260.10 (Count 1) of the Board’s 2003 Regulations, a violation of 18 VAC 135-20-180.B.1.a (Count 2) of the Board’s 2008 Regulations, and agrees to a monetary penalty of \$1,650.00 for the violation contained in Count 1, \$500.00 for the violation contained in Count 2, as well as \$150.00 in Board costs for a total of \$2,300.00. In addition, Carver agrees to complete at least three (3) classroom hours of Board-approved continuing education pertaining to Ethics and Standards of Conduct and provide proof of attendance and successful completion within six (6) months of the effective date of this 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,

File Number 2010-00525, Tonia Monique Carver

for renewal of license. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Taylor and Wells.

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

In the matter of **File Number 2010-00887, Charles Allen Burnette**, the Board reviewed the Consent Order as seen and agreed to by Mr. Burnette. A motion was made by Mr. Wells and seconded by Ms. Childress to accept the proposed Consent Order offer wherein Mr. Burnette admits to a violation of 18 VAC 135-20-300.9 (Count 1) of the Board's 2003 Regulations, and agrees to a monetary penalty of \$550.00 for the violation contained in Count 1, as well as \$150.00 in Board costs for a total of \$700.00. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Taylor and Wells.

File Number 2010-00887, Charles Allen Burnette

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

In the matter of **File Number 2010-02325, Gregory Scott Baron**, the Board reviewed the Consent Order as seen and agreed to by Mr. Baron. A motion was made by Mr. Wells and seconded by Ms. Daniels to accept the proposed Consent Order offer wherein Mr. Baron admits to a violation of 18 VAC 135-20-220.A.3 (Count 1) of the Board's 2008 Regulations, and agrees to a monetary penalty of \$500.00 for the violation contained in Count 1, as well as \$150.00 in Board costs for a total of \$650.00. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Johnson, Taylor and Wells.

File Number 2010-02325, Gregory Scott Baron

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

In the matter of **File Number 2010-01543, Kulthida Mibun Stallings**, the Board reviewed the Consent Order as seen and agreed to by Ms. Stallings. A motion was made by Ms. Daniels and seconded by Ms. Johnson to accept the proposed Consent Order offer wherein Ms. Stallings admits to a

File Number 2010-01543, Kulthida Mibun Stallings

violation of 18 VAC 135-20-260.5 (Count 1) of the Board's 2003 Regulations, a violation of 18 VAC 135-20-260.6 (Count 2) of the Board's 2003 Regulations, and agrees to no monetary penalty for the violation contained in Count 1, \$250.00 for the violation contained in Count 2, as well as \$150.00 in Board costs for a total of \$400.00. In addition, Stallings agrees to complete at least three (3) classroom hours of Board-approved continuing education pertaining to Ethics and Standards of Conduct and provide proof of attendance and successful completion within six (6) months of the effective date of this 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, Childress, Clark, Clarke, Daniels, Johnson, Taylor and Wells.

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

In the matter of **File Number 2010-02305, Richard W. Thompson**, the Board reviewed the record which consisted of the application file, transcript and exhibits, and the Summary of the Informal Fact-Finding Conference of the presiding Board member. 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 and, after consideration of the criteria contained in § 54.1-204.B of the *Code of Virginia*, Board Regulations 18 VAC 135-20-30.4 and 18 VAC 135-20-30.9, deny Mr. Thompson's application for a real estate salesperson's license. The Board considered the record, including the information obtained from the Central Criminal Records Exchange, and in consideration of the criteria outlined in § 54.1-204.B. After reviewing the facts and the nature of the crimes, the Board is of the opinion that Thompson, being approximately 39 years old at the time of the last offense and, as such, was of a sufficient age to recognize the difference between right and wrong. In addition, the Board considered the extent and relationship of Thompson's crimes and his fitness to perform the duties and discharge the responsibilities of the occupation. Further, the Board noted that due to the recentness and nature of Thompson's latest conviction, and that during the January

File Number 2010-02305, Richard W. Thompson

2010 IFF Thompson's admission of recent drug use, that Thompson has failed to demonstrate evidence of rehabilitation. Therefore, the Board determined that it could not protect the health, safety and welfare of the public. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Johnson, Oglesby and Taylor.

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

In the matter of **File Number 2010-02166, Debbie S. Maxam**, the Board reviewed the Consent Order as seen and agreed to by Ms. Maxam. A motion was made by Mr. Wells and seconded by Ms. Johnson to accept the proposed Consent Order offer wherein Ms. Maxam 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 \$500.00 for the violation contained in Count 1, as well as \$150.00 in Board costs for a total of \$650.00. In addition, for violation of Count 1, Maxam agrees to complete at least eight (8) 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 this 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.

File Number 2010-02166, Debbie S. Maxam

The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Johnson, Taylor and Wells.

In the matter of **File Number 2010-01047, Reginald Cleveland Henderson**, the Board reviewed the Consent Order as seen and agreed to by Mr. Henderson. A motion was made by Ms. Johnson and seconded by Ms. Clarke to accept the proposed Consent Order offer wherein Mr. Henderson admits to a violation of 18 VAC 135-20-300.10 (Count 1) of the Board's 2008 Regulations, and agrees to a monetary penalty of \$1,000.00 for the violation contained in Count 1, as well as \$150.00 in Board costs for a total of \$1,150.00. In addition, for violation of Count 1, Henderson agrees to complete at least three (3) classroom hours of Board-approved continuing education pertaining to Ethics and Standards of Conduct and

File Number 2010-01047, Reginald Cleveland Henderson

provide proof of attendance and successful completion within six (6) months of the effective date of this 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, Childress, Clark, Clarke, Daniels, Gaeser, Johnson, Taylor and Wells.

In the matter of **File Number 2010-00986, Judith A. Harris**, the Board reviewed the Consent Order as seen and agreed to by Ms. Harris. A motion was made by Ms. Johnson and seconded by Ms. Daniels to accept the proposed Consent Order offer wherein Ms. Harris 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 \$200.00 for the violation contained in Count 1, as well as \$150.00 in Board costs for a total of \$350.00. In addition, for violation of Count 1, Harris agrees to complete at least eight (8) 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 this 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.

File Number 2010-00986, Judith A. Harris

The motion passed unanimously. Members voting “Yes” were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Johnson, Taylor and Wells.

In the matter of **File Number 2009-01896, Mirtes Happy-Nysven**, the Board reviewed the Consent Order as seen and agreed to by Ms. Happy-Nysven. A motion was made by Ms. Johnson and seconded by Ms. Childress to reject the proposed Consent Order offer wherein Mr. Happy-Nysven admits to a violation of 18 VAC 135-20-260.10 (Count 1) of the Board’s 2003 Regulations, and agrees to a monetary penalty of \$750.00 for the violation contained in Count 1, as well as \$150.00 in Board costs for a total of \$900.00. In addition, for violation of Count 1, Happy-Nyven agrees to complete at least eight (8) classroom hours of Board-approved education

File Number 2009-01896, Mirtes Happy-Nysven

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 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, Childress, Clark, Clarke, Daniels, Gaeser, Johnson Taylor and Wells.

A motion was made by Ms. Clarke and seconded by Ms. Johnson to remand the case to an Informal Fact-Finding Conference. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Johnson, Taylor and Wells.

Ms. Taylor turned the position of Chair over to Mr. Gaeser and recused herself from the meeting.

Transfer of Chair

In the matter of **File Number 2010-00821, Debra E.P. Franklin**, 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. Johnson and seconded by Ms. Daniels to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and find a violation of 18 VAC 135-20-170.A.1 (Count 1) of Board's 2008 Regulations, a violation of 18 VAC 135-20-185.C.3 (Count 2) of Board's 2003 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, Clark, Clarke, Childress, Daniels, Gaeser, Johnson and Wells.

File Number 2010-00821, Debra E.P. Franklin

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 impose a monetary penalty of \$750.00 for the violation contained in Count 1, \$2,500.00 for the violation contained in Count 2, and \$2,000.00 for the violation contained in Count 3, for a total of \$5,250.00. The Board also imposes the following sanctions: Revocation of license for the violation contained in Count 1, Count 2, and Count 3. The motion passed unanimously.

Members voting “Yes” were Brown, Clark, Childress, Clarke, Daniels, Gaeser, Johnson and Wells.

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

In the matter of **File Number 2009-04354, Ramon E. Portillo**, 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. Johnson and seconded by Ms. Clarke to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and find *4 violations* of 18 VAC 135-20-260.11 (Count 1) of Board’s 2003 Regulations, a violation of 18 VAC 135-20-260.10 (Count 2) of Board’s 2003 Regulations, a violation of 18 VAC 135-20-260.11 (Count 3) of the Board’s 2003 Regulations, and a violation of 18 VAC 135-20-260.11 (Count 4) of the Board’s 2003 Regulations. The motion passed unanimously. Members voting “Yes” were Brown, Clark, Clarke, Childress, Gaeser, Johnson and Wells.

File Number 2009-04354, Ramon E. Portillo

A motion was made by Mr. Wells and seconded by Ms. Johnson to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference to impose a monetary penalty of \$2,500.00 for each violation contained in Count 1, \$1,000.00 for the violation contained in Count 2, \$2,500.00 for the violation contained in Count 3, and \$2,500.00 for the violation contained in Count 4, for a total of \$16,000.00. The Board also imposes the following sanctions: Revocation of license for the violation contained in Count 1, Count 2, Count 3 and Count 4. The motion passed unanimously. Members voting “Yes” were Brown, Childress, Clark, Clarke, Gaeser, Johnson and Wells.

As the presiding Board member and Board member who reviewed the file, Ms. Taylor and Ms. Daniels did not participate in the discussion or vote pertaining to this matter.

Ms. Taylor returned and assumed the position of Chair.

Transfer of Chair

A motion was made by Mr. Wells and seconded by Ms. Daniels to adopt the revised Residential Property Disclosure Statement. The motion passed unanimously. Members voting

Administrative Issues

“Yes” were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Johnson, Taylor and Wells.

A motion was made by Ms. Clarke and seconded by Ms. Johnson to allow Board staff to request information from Ms. Dolan-Gianniny in a form which makes it easier for the Board to determine compliance with the Consent Order in regards to File Number 2009-03797. The motion passed unanimously. Members voting “Yes” were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Johnson, Taylor and Wells.

The Board reviewed the Education Committee Report. A motion was made by Ms. Johnson and seconded by Ms. Clarke to accept the recommendation from the Education Committee to amend Regulation 18 VAC 135-20-360.F to change the length of course approval from five years to three years during the next regulation review. The motion passed unanimously. Members voting “Yes” were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Johnson, Taylor and Wells.

Education Committee Report

A motion was made by Ms. Johnson and seconded by Ms. Clarke to accept the recommendation from the Education Committee to establish a guidance document on course approval for correspondence courses. The motion passed unanimously. Members voting “Yes” were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Johnson, Taylor and Wells.

The Board recessed from 10:51 A.M. to 11:01 A.M.

Break

Kevin Hoeft, Education Administrator, updated the Board on course audits completed by staff. No action was taken by the Board.

Other

In the matter of **File Number 2009-04348, Francis H. Payne, Jr.**, 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. Mr. Payne, respondent, was present and addressed the Board. A motion was made by Ms. Daniels and seconded by Ms. Clark 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.2 (Count 1) of Board’s 2003 Regulations, and a violation of 18 VAC 135-20-260.11 (Count 2) of Board’s 2003 Regulations. The motion passed

File Number 2009-04348, Francis H. Payne, Jr.

unanimously. Members voting “Yes” were Brown, Clark, Clarke, Childress, Daniels, Gaeser, Johnson and Taylor.

A motion was made by Ms. Daniels and seconded by Mr. Gaeser to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference to impose a monetary penalty of \$2,000.00 for the violation contained in Count 1, and \$1,650.00 for the violation contained in Count 2, for a total of \$3,650.00. The Board also imposes the following sanctions: Revocation of license for the violation contained in Count 1 and Count 2. The motion passed by majority vote. Members voting “Yes” were Brown, Clark, Gaeser, Taylor and Wells. Members voting “No” were Johnson and Clarke.

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

Ms. Johnson gave the Board an update on the Regulatory Review Committee. No action was taken by the Board.

Old Business

A motion was made by Ms. Clarke and seconded by Ms. Johnson commending Ms. Daniels and Ms. Clark for their eight (8) years of service to the Real Estate Board and the Commonwealth of Virginia. The motion passed unanimously. Members voting “Yes” were Brown, Clark, Clarke, Childress, Daniels, Gaeser, Johnson and Taylor.

New Business

A motion was made by Ms. Clarke and seconded by Ms. Johnson to draft and send a letter of appreciation from the Board to former Director, Jay DeBoer for his exemplary service to the Real Estate Board. The motion passed unanimously. Members voting “Yes” were Brown, Clark, Clarke, Childress, Daniels, Gaeser, Johnson and Taylor.

Mr. Courtney gave the Board a report on an exam incident. No action was taken by the Board.

There being no further business, the Board adjourned at 11:45 A.M.

Adjourn

Gordon Dixon, Secretary

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