REAL ESTATE BOARD
MINUTES OF MEETING

January 24, 2013

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

Clifford L. Wells, Chairman
Joseph Funkhouser, II, Vice-Chair
Sandee Ferebee
Anh Tu Do
Lynn G. Grimsley
Catherine M. Noonan
Steve Hoover

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

Gordon Dixon, Director
Mark Courtney, Senior Director
Steve Arthur, Senior Director
Christine Martine, Executive Director
Liz Hayes, Fair Housing Administrator
Kristin Clay, Legal Analyst
Candace Howard, Legal Analyst
Kevin Hoeft, Education Administrator
Jeff Williams, Board Administrator
Emily Trent, Administrative Assistant

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

Call to Order

Mr. Wells called the meeting to Order at 9:13 A.M.

Agenda

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

Minutes

A motion was made by Ms. Ferebee and seconded by Ms. Noonan to adopt the following minutes: November 29, 2012, Real Estate Board Meeting; December 6, 2012, Informal Fact-Finding Conference; December 11, 2012, Informal Fact-Finding Conference; December 13, 2012, Informal Fact-Finding Conference; December 19, 2012, (Clay) Informal Fact-Finding

DRAFT

Conference; December 19, 2012, (Wells) Informal Fact-Finding Conference; December 19, 2012, (Brigil) Informal Fact-Finding Conference; January 7, 2013, (Clay) Informal Fact-Finding Conference; January 7, 2013, (Ferebee) Informal Fact-Finding Conference; and January 10, 2013, Informal Fact-Finding Conference. The motion passed unanimously. Members voting "Yes" were Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

Public Comment

There was no public comment.

Fair Housing Administrator's Report

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

Charles Collins v. Main Street Realty, Inc., REB File Number 2013-00232

In the matter of **Charles Collins v. Main Street Realty, Inc., REB File Number 2013-00232,** the Board reviewed the record which consisted of the Final Investigative Report, and Case Analysis and Recommendation. Charles Collins, complainant, addressed the Board via telephone conference. A motion was made by Ms. Ferebee and seconded by Mr. Hoover to find no reasonable cause. The motion passed unanimously. Members voting "Yes" were Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

Fair Housing Minutes

A motion was made by Ms. Ferebee and seconded by Ms. Noonan to approve the November 29, 2012, Fair Housing Sub-Committee minutes. The motion passed unanimously. Members voting "Yes" were Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

File Number 2013-00865, William Credle

In the matter of **File Number 2013-00865, William Credle,** the Board reviewed the record which consisted of the application file, transcript, and exhibits from the Informal Fact-Finding Conference, and the Summary of the Informal Fact-Finding Conference of the presiding officer. A motion was made by Ms. Ferebee and seconded by Mr. Funkhouser to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and, after consideration of the criteria contained in § 54.1-204.B of the *Code of Virginia* approve Mr. Credle's application for a real estate salesperson's license. The motion passed by majority vote. Members voting "Yes" were Do, Ferebee, Funkhouser, Hoover, Noonan and Wells. Ms. Grimsley voted "No."

DRAFT

File Number 2013-00866, Carl Ragland

In the matter of **File Number 2013-00866, Carl Ragland,** 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. Noonan and seconded by Ms. Ferebee to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference (IFF) to deny Mr. Ragland's application based upon the record. After reviewing the record and seriousness of Ragland's convictions and upon considering the appearance of a relationship between his crimes to the purpose for requiring a license to engage in the occupation of a licensed real estate salesperson, the Board is of the opinion they could not protect the health, safety and welfare of the public by allowing Ragland licensure at this time. The motion passed unanimously. Members voting "Yes" were Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

File Number 2013-00122, John Leone

In the matter of **File Number 2013-00122, John Leone,** 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. John Leone, applicant, and Lawrence Marshall, attorney for the applicant, were present and addressed the Board. A motion was made by Ms. Do and seconded by Ms. Grimsley to reject the recommendation contained in the Summary of the Informal Fact-Finding Conference (IFF) to deny Mr. Leone's application based upon the record, and instead approve Mr. Leone's application for a real estate salesperson's license, subject to an agreement for licensure for a period of two years wherein Mr. Leone and his broker will provide quarterly reports to the Board. The motion passed unanimously. Members voting "Yes" were Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

File Number 2013-00400, Kelly Smith

In the matter of **File Number 2013-00400, Kelly Smith,** the Board reviewed the record which consisted of the application file, transcript, and exhibits from the Informal Fact-Finding Conference, and the Summary of the Informal Fact-Finding Conference of the presiding officer. A motion was made by Ms. Hoover and seconded by Mr. Funkhouser to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and, after consideration of the criteria contained in § 54.1-204.B of the *Code of Virginia* approve Ms.

DRAFT

Smith's application for a real estate salesperson's license. The motion passed by majority vote. Members voting "Yes" were Do, Ferebee, Funkhouser, Hoover, Noonan and Wells. Ms. Grimsley voted "No."

File Number 2013-00331, Ken Keys, Jr.

In the matter of **File Number 2013-00331, Ken Keys, Jr.,** 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. Key Keys, Jr., applicant, was present and addressed the Board. A motion was made by Mr. Hoover and seconded by Ms. Ferebee 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. Keys' application for a real estate salesperson's license. The motion passed unanimously. Members voting "Yes" were Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

File Number 2013-00945, Andrew Decenzo

In the matter of **File Number 2013-00945, Andrew Decenzo,** 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. Andrew Decenzo, applicant, was present and addressed the Board. A motion was made by Ms. Ferebee and seconded by Mr. Funkhouser to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and, after consideration of the criteria contained in § 54.1-204.B of the *Code of Virginia* approve Mr. Decenzo's application for a real estate salesperson's license. The motion passed unanimously. Members voting "Yes" were Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

File Number 2013-01188, Angela Thompson

In the matter of **File Number 2013-01188, Angela Thompson,** 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. Angela Thompson, applicant, was present and addressed the Board. A motion was made by Mr. Hoover and seconded by Ms. Grimsley to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and, after consideration of the criteria contained in § 54.1-204.B of the *Code of Virginia* approve Ms. Thompson's application for a real

DRAFT

estate salesperson's license. The motion passed unanimously. Members voting "Yes" were Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

File Number 2013-00534, Naomi Sharp

In the matter of **File Number 2013-00534, Naomi Sharp,** 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. Naomi Sharp, applicant, was present and addressed the Board. A motion was made by Ms. Ferebee and seconded by Mr. Hoover to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and, after consideration of the criteria contained in § 54.1-204.B of the *Code of Virginia* approve Ms. Sharp's application for a real estate salesperson's license. The motion passed unanimously. Members voting "Yes" were Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

File Number 2013-00989, Alfred LesCallet, Jr.

In the matter of **File Number 2013-00989, Alfred LesCallet, Jr.,** 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. Grimsley and seconded by Ms. Ferebee 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. LesCallet's application for a real estate salesperson's license. The motion passed unanimously. Members voting "Yes" were Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

File Number 2013-00988, Kara Allen

In the matter of **File Number 2013-00988, Kara Allen,** 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. Kara Allan, applicant, was present and addressed the Board. A motion was made by Mr. Hoover and seconded by Mr. Funkhouser to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and, after consideration of the criteria contained in § 54.1-204.B of the *Code of Virginia* approve Ms. Allen's application for a real estate salesperson's license. The motion passed unanimously. Members voting "Yes" were Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

DRAFT

File Number 2013-00766, Michael Williford

In the matter of **File Number 2013-00766, Michael Williford,** 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. Michael Williford, applicant, and Brandon Smith, witness, were present and addressed the Board. A motion was made by Mr. Hoover and seconded by Ms. Ferebee 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. Williford's application for a real estate salesperson's license . The motion passed unanimously. Members voting "Yes" were Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

File Number 2013-00765, Mark Gregory

In the matter of **File Number 2013-00765, Mark Gregory,** the Board reviewed the record which consisted of the application file, transcript, and exhibits from the Informal Fact-Finding Conference, and the Summary of the Informal Fact-Finding Conference of the presiding officer. A motion was made by Ms. Ferebee and seconded by Ms. Noonan to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and, after consideration of the criteria contained in § 54.1-204.B of the *Code of Virginia* approve Mr. Gregory's application for a real estate salesperson's license. The motion passed unanimously. Members voting "Yes" were Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

File Number 2013-00826, Christopher Jones

In the matter of **File Number 2013-00826, Christopher Jones,** 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. Noonan and seconded by Mr. Hoover to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and, after consideration of the criteria contained in § 54.1-204.B of the *Code of Virginia* approve Mr. Jones' application for a real estate salesperson's license with a noted correction to the Summary of the Informal Fact-Finding Conference, changing the heading from Real Estate Appraiser Board to Real Estate Board. The motion passed unanimously. Members voting "Yes" were Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

DRAFT

File Number 2013-00495, Colby Elkin Buche Smyth

In the matter of **File Number 2013-00495, Colby Elkin Buche Smyth,** the Board reviewed the Consent Order as seen and agreed to by Mr. Smyth. A motion was made by Ms. Grimsley and seconded by Ms. Noonan to accept the proposed Consent Order offer wherein Mr. Smyth admits to a violation of 18 VAC 135-20-260.5 (Count 1) of the Board's 2003 Regulations and a violation of 18 VAC 135-20-260.6 (Count 2) of the Board's 2003 Regulations with a correction to the date in the Report of Findings, second paragraph, last sentence, to October, 2011, and agrees to a monetary penalty of $250.00 for the violation of Count 2, as well as $150.00 in Board costs, for a total of $400.00. In addition, for the violation of Count 2, Smyth agrees to complete at least three (3) classroom hours of Board-approved continuing education pertaining to Legal Updates and provide proof of attendance and successful completion within six (6) months of the effective date of the order. It is acknowledged that satisfactory completion of the above-referenced continuing education requirements, if applicable, for renewal of license. The motion passed unanimously. Members voting "Yes" were Do, Funkhouser, Grimsley, Hoover, Noonan and Wells.

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

File Number 2012-02544, Toya Lodon

In the matter of **File Number 2012-02544, Toya Lodon,** the Board reviewed the Consent Order as seen and agreed to by Ms. Lodon. A motion was made by Mr. Hoover and seconded by Ms. Noonan to accept the proposed Consent Order offer wherein Ms. Lodon admits to a violation of 18 VAC 135-20-210 (Count 1) of the Board's 2008 Regulations and a violation of 18 VAC 135-20-160.B (Count 2) of the Board's 2008 Regulations with a correction to the Report of Findings, correcting the license number for Agency Realty to 0226-022775, and agrees to a monetary penalty of $400.00 for the violation of Count 1, $250.00 for the violation of Count 2, as well as $150.00 in Board costs, for a total of $800.00. In addition, for the violation of Counts 1 and 2, Lodon agrees to complete at least three (3) classroom hours of Board-approved continuing education pertaining to Ethics and Standards of Conduct and at least three (3) classroom hours of Board-approved continuing education pertaining to Real Estate Contracts and provide proof of attendance and successful

DRAFT

completion within six (6) months of the effective date of the order. It is acknowledged that satisfactory completion of the above-referenced continuing education requirements, if applicable, for renewal of license. The motion passed unanimously. Members voting "Yes" were Do, Funkhouser, Grimsley, Hoover, Noonan and Wells.

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

File Number 2012-03816, Masoda Sultana

In the matter of **File Number 2012-03816, Masoda Sultana,** the Board reviewed the Consent Order as seen and agreed to by Ms. Sultana. A motion was made by Ms. Noonan and seconded by Mr. Funkhouser to accept the proposed Consent Order offer wherein Ms. Sultana 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 $1,000.00 for the violation of Count 1, as well as $150.00 in Board costs, for a total of $1,150.00. In addition, for the violation of Count 1, Sultana agrees to complete at least three (3) classroom hours of Board-approved continuing education pertaining to Real Estate Contracts and at least three (3) classroom hours of Board-approved continuing education pertaining to Escrow Management. Sultana agrees to provide proof of attendance and successful completion within three (3) months of the effective date of the order. The courses must be completed in the classroom. It is acknowledged that satisfactory completion of the above-referenced continuing education requirements, if applicable, for renewal of license. The motion passed unanimously. Members voting "Yes" were Do, Funkhouser, Grimsley, Hoover, Noonan and Wells.

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

File Number 2013-00233, J. W. Grodt

In the matter of **File Number 2013-00233, J. W. Grodt,** the Board reviewed the Consent Order as seen and agreed to by Mr. Grodt. A motion was made by Mr. Hoover and seconded by Ms. Noonan to accept the proposed Consent Order offer wherein Mr. Grodt admits to a violation of 18 VAC 135-20-180.B.1.a (Count 1) of the Board's 2008 Regulations and agrees to $150.00 in Board costs, for a total of $150.00. The

DRAFT

motion failed. Members voting "Yes" were Hoover and Noonan. Members voting "No" were Do, Funkhouser, Grimsley and Wells. A motion was made by Ms. Grimsley and seconded by Ms. Ferebee to reject the proposed Consent Order offer and extend a counter offer wherein Groudt admits to a violation of 18 VAC 135-20-180.B.1.a (Count 1) of the Board's 2008 Regulations and agrees to $450.00 for the violation contained in Count 1, as well as $150.00 in Board costs, for a total of $600.00. If Grodt does not accept the counter offer within 14 days the case will proceed to an Informal Fact-Finding Conference. The motion passed by majority vote. Members voting "Yes" were Do, Ferebee, Grimsley, Noonan and Wells. Member voting "No" was Hoover.

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

File Number 2012-03795, Danna Lee Beard-Middleton

In the matter of **File Number 2012-03795, Danna Lee Beard-Middleton,** the Board reviewed the Consent Order as seen and agreed to by Ms. Beard-Middleton. A motion was made by Mr. Funkhouser and seconded by Mr. Hoover to accept the proposed Consent Order offer wherein Ms. Beard-Middleton 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 $100.00 for the violation of Count 1, as well as $150.00 in Board costs, for a total of $250.00. The motion passed by majority vote. Members voting "Yes" were Do, Ferebee, Funkhouser, Hoover and Wells. Member voting "No" was Grimsley.

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

File Number 2012-00986, Dwayne Caricofe

In the matter of **File Number 2012-00986, Dwayne Caricofe,** the Board reviewed the record which consisted of the investigative file, transcripts, and exhibits from the Informal Fact-Finding Conference, and the Summary of the Informal Fact-Finding Conference of the presiding Board member. Dwayne Caricofe, respondent, and Kimberly Caricofe, witness, were present and addressed the Board. A motion was made by Ms. Grimsley and seconded by Ms. Ferebee to accept the recommendation contained in the Summary of the Informal

DRAFT

Fact-Finding Conference and find a violation of 18 VAC 135-20-260.10 (Count 1) of the Board's 2003 Regulations, and a violation of 18 VAC 135-20-260.11 (Count 2) of the Board's 2003 Regulations. The motion passed unanimously. Members voting "Yes" were Do, Ferebee, Funkhouser, Grimsley, Hoover and Wells.

A motion was made by Ms. Grimsley and seconded by Ms. Ferebee to amend the recommendation contained in the Summary of the Informal Fact-Finding Conference to impose a monetary penalty of $1,250.00 for the violation contained in Count 1. In addition, for Count 1, Caricofe's license shall be placed on probation for two (2) years. While on probation, Caricofe and his broker will provide quarterly reports to the Board that he is in compliance with the Board regulations. Caricofe shall be required to complete two (2) classroom hours of Board approved continuing education pertaining to Escrow and two (2) classroom hours of Board approved continuing education pertaining to Legal Updates. Such course(s) shall be completed in a classroom, and Caricofe shall provide evidence acceptable to the Board that the course(s) have been successfully completed within three (3) months of the effective date of the order. The above-referenced continuing education hours will not count towards any continuing education requirements, if applicable for renewal, reinstatement, or activation of a license. The motion passed unanimously. Members voting "Yes" were Do, Ferebee, Funkhouser, Grimsley, Hoover and Wells.

A motion was made by Ms. Grimsley and seconded by Mr. Hoover to reject the recommendation contained in the Summary of the Informal Fact-Finding Conference to impose license revocation and instead impose a monetary penalty of $1,250.00 for the violation contained in Count 2, for a total monetary penalty of $2,500.00. In addition, for Count 2, Caricofe's license shall be placed on probation for two (2) years. While on probation, Caricofe and his broker will provide quarterly reports to the Board that he is in compliance with the Board regulations. The motion passed unanimously. Members voting "Yes" were Do, Ferebee, Funkhouser, Grimsley, Hoover and Wells.

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

DRAFT

File Number 2012-03251, Joel Glen Horning

In the matter of **File Number 2012-03251, Joel Glen Horning,** the Board reviewed the Consent Order as seen and agreed to by Mr. Horning. A motion was made by Mr. Funkhouser to accept the proposed Consent Order offer. With no second, the motion failed.

A motion was made by Ms. Grimsley and seconded by Ms. Noonan to reject the proposed Consent Order offer and extend a counter offer wherein Horning admits to a violation of 18 VAC 135-20-180.B.1.a (Count 1) of the Board's 2008 Regulations and agrees to $450.00 for the violation contained in Count 1, as well as $150.00 in Board costs, for a total of $600.00. In addition, for the violation of Count 1, Horning agrees to complete at least three (3) classroom hours of Board-approved continuing education pertaining to Real Estate Contracts and provide proof of attendance and successful completion within six (6) months of the effective date of the order. The course 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 Horning does not accept the counter offer within 14 days the case will proceed to an Informal Fact-Finding Conference. The motion passed by majority vote. Members voting "Yes" were Do, Ferebee, Grimsley, Noonan and Wells. Member voting "No" was Funkhouser.

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

File Number 2013-00452, Mechele A. Brown

In the matter of **File Number 2013-00452, Mechele A. Brown,** the Board reviewed the Consent Order as seen and agreed to by Ms. Brown. A motion was made by Mr. Funkhouser and seconded by Ms. Ferebee to accept the proposed Consent Order offer. The motion failed. Members voting "Yes" were Funkhouser and Ferebee. Members voting "No" were Do, Grimsley, Noonan and Wells. A motion was made by Ms. Noonan and seconded by Ms. Grimsley to reject the proposed Consent Order offer and extend a counter offer wherein Brown admits to a violation of 18 VAC 135-20-180.B.1.a (Count 1) of the Board's 2008 Regulations and agrees to $450.00 for the violation contained in Count 1, as well as $150.00 in Board costs, for a total of $600.00. In

DRAFT

addition, for the violation of Count 1, Brown agrees to complete at least three (3) classroom hours of Board-approved continuing education pertaining to Escrow Management and provide proof of attendance and successful completion within six (6) months of the effective date of the order. The course must be completed in the classroom. It is acknowledged that satisfactory completion of the above-referenced continuing education hours will not count towards any continuing education requirements, if applicable, for renewal of license. If Horning does not accept the counter offer within 14 days the case will proceed to an Informal Fact-Finding Conference. The motion failed. Members voting "Yes" were Grimsley and Noonan. Member voting "No" was Do, Ferebee, Funkhouser and Wells.

A motion was made by Mr. Funkhouser to accept the proposed Consent Order offer. With no second, the motion failed.

A motion was made by Ms. Do and seconded by Ms. Grimsley to reject the proposed Consent Order offer and extend a counter offer wherein Brown admits to a violation of 18 VAC 135-20-180.B.1.a (Count 1) of the Board's 2008 Regulations and agrees to $450.00 for the violation contained in Count 1, as well as $150.00 in Board costs, for a total of $600.00. In addition, for the violation of Count 1, Brown agrees to complete at least four (4) classroom hours of Board-approved continuing education pertaining to Real Estate Contracts and four (4) classroom hours of Board-approved continuing education pertaining to Escrow Management and provide proof of attendance and successful completion within six (6) months of the effective date of the order. The course(s) must be completed in the classroom. It is acknowledged that satisfactory completion of the above-referenced continuing education hours will not count towards any continuing education requirements, if applicable, for renewal of license. If Brown does not accept the counter offer within 14 days the case will proceed to an Informal Fact-Finding Conference. The motion passed by majority vote. Members voting "Yes" were Do, Ferebee, Grimsley, Noonan and Wells. Member voting "No" was Funkhouser.

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

DRAFT

File Number 2012-03333, Judy Elizabeth Short

In the matter of **File Number 2012-03333, Judy Elizabeth Short,** the Board reviewed the Consent Order as seen and agreed to by Ms. Short. A motion was made by Ms. Ferebee and seconded by Mr. Funkhouser to accept the proposed Consent Order offer wherein Ms. Short 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 $200.00 for the violation of Count 1, as well as $150.00 in Board costs, for a total of $350.00. The motion passed by majority vote. Members voting "Yes" were Do, Ferebee, Funkhouser and Wells. Members voting "No" were Grimsley and Noonan.

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

File Number 2012-03356, Alie Joseph DeRoche

In the matter of **File Number 2012-03356, Alie Joseph DeRoche,** the Board reviewed the Consent Order as seen and agreed to by Mr. DeRoche. A motion was made by Ms. Grimsley and seconded by Ms. Ferebee to accept the amended Consent Order offer wherein Mr. DeRoche admits to a violation of 18 VAC 135-20-180.B.1.a (Count 1) of the Board's 2008 Regulations and agrees to a monetary penalty of $500.00 for the violation of Count 1, as well as $150.00 in Board costs, for a total of $650.00. In addition, the Board shall waive imposition of the $500.00 monetary penalty for Count 1 provided DeRoche agrees to complete at least six (6) hours of continuing education pertaining to Real Estate Contracts and provides proof of attendance and successful completion within six (6) months of the effective date of the order. If DeRoche fails to comply with these conditions, then the full monetary penalty will be automatically imposed. It is acknowledged that satisfactory completion of the above-referenced continuing education requirements 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 Do, Ferebee, Funkhouser, Grimsley and Wells. Member voting "No" was Noonan.

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

DRAFT

File Number 2012-03645, Edna Ledoux Jamieson

In the matter of **File Number 2012-03645, Edna Ledoux Jamieson,** the Board reviewed the Consent Order as seen and agreed to by Ms. Jamieson. A motion was made by Mr. Funkhouser and seconded by Ms. Ferebee to accept the proposed Consent Order offer wherein Ms. Jamieson admits to a violation of 18 VAC 135-20-260.5 (Count 1) of the Board's 2003 Regulations and agrees to $150.00 in Board costs, for a total of $150.00. Further, for violation of Count 1, Jamieson agrees to successfully complete the Virginia Real Estate Board Salesperson Pre-License Education Requirements in effect at the time of ratification of the Order. Such education must be completed after the effective date of this Order and proof of such completion must be submitted to the Board within one (1) year thereafter. In addition, for violation of Count 1, Jamieson agrees to a two (2) year probation of her license as of the effective date of this Order. During this two (2) year probation, Jamieson agrees to: (1) Not be in violation of any regulations of the Real Estate Board for transactions occurring after the effective date of this order; and (2) Not be in violation of any local, state, or federal laws or regulations. If Jamieson violates any terms of this probation, her license shall be automatically revoked. Jamieson understands the right to have this revocation considered in an informal fact-finding conference and/or formal hearing under Sections 2.2-4019, 2.2-4020, and 2-2.4021 of the Code of Virginia, and knowingly and voluntarily waives any rights to these proceedings. The motion passed unanimously. Members voting "Yes" were Do, Ferebee, Funkhouser, Grimsley, Noonan and Wells.

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

Transfer of Chair

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

File Number 2013-00850, Claudia Alison Costello

In the matter of **File Number 2013-00850, Claudia Alison Costello,** 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 Ms. Noonan and seconded by Ms. Grimsley to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference to deny Ms. Costello's application for a real estate broker's license.

DRAFT

The Board determined Costello does not meet the current requirement for a broker's license and has not been actively engaged as a salesperson/broker for 36 of the 48 months preceding application for licensure. The motion passed unanimously. Members voting "Yes" were Do, Ferebee, Funkhouser, Grimsley, Hoover and Noonan.

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

File Number 2013-00348, Carla H. Walker

In the matter of **File Number 2013-00348, Carla H. Walker,** the Board reviewed the Consent Order as seen and agreed to by Ms. Walker. A motion was made by Ms. Grimsley and seconded by Ms. Noonan to accept the proposed Consent Order offer wherein Ms. Walker 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 $750.00 for the violation of Count 1, as well as $150.00 in Board costs, for a total of $900.00. In addition, for violation of Count 1, Walker agrees to complete at least four (4) classroom hours of Board-approved education pertaining to Escrow Management and provide proof of attendance and successful completion within six (6) months of the effective date of the order. The course must be completed in the classroom. It is acknowledged that satisfactory completion of the above-referenced education hours will not count towards any continuing education requirements, if applicable, for renewal of license. The motion passed unanimously. Members voting "Yes" were Do, Ferebee, Funkhouser, Grimsley, Hoover, and Noonan.

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

File Number 2012-03394, Thomas Charles Merical, III

In the matter of **File Number 2012-03394, Thomas Charles Merical, III,** the Board reviewed the Consent Order as seen and agreed to by Mr. Merical. A motion was made by Ms. Noonan and seconded by Ms. Grimsley to accept the proposed Consent Order offer wherein Mr. Merical admits to a violation of 18 VAC 135-20-260.5 (Count 1) of the Board's 2003 Regulations, a violation of 18 VAC 135-20-265.6 (Count 2) of the Board's 2003 Regulations and agrees to a monetary penalty of $750.00 for the violation of Count 2, as well as $150.00 in Board costs, for a total of $900.00. The motion

DRAFT

passed unanimously. Members voting "Yes" were Do, Ferebee, Funkhouser, Grimsley, Hoover and Noonan.

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

Transfer of Chair

Mr. Wells returned and assumed the position of Chair.

File Number 2012-03509, Agustina Davis

In the matter of **File Number 2012-03509, Agustina Davis,** the Board reviewed the Consent Order as seen and agreed to by Ms. Davis. Agustina Davis, respondent, was present and addressed the Board. A motion was made by Mr. Hoover and seconded by Ms. Noonan to accept the proposed Consent Order offer wherein Ms. Davis 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 $250.00 for Count 1, as well as $150.00 in Board costs, for a total of $400.00. In addition, for violation of Count 1, Davis agrees to complete at least three (3) classroom hours of Board-approved continuing education pertaining to Real Estate Contracts and provide proof of attendance and successful completion within six (6) months of the effective date of the Order. The course 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 Do, Ferebee, Funkhouser, Hoover, Noonan and Wells.

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

File Number 2012-03464, Richard O. Samit

In the matter of **File Number 2012-03464, Richard O. Samit,** the Board reviewed the Consent Order as seen and agreed to by Mr. Samit. A motion was made by Mr. Hoover and seconded by Ms. Ferebee to accept the proposed Consent Order offer wherein Mr. Samit admits to a violation of 18 VAC 135-20-290.2 (Count 1) of the Board's 2003 Regulations, and agrees to a monetary penalty of $400.00 for Count 1, as well as $150.00 in Board costs, for a total of $550.00. In addition, for violation of Count 1, Samit agrees to complete at least three (3) classroom hours of Board-approved continuing education pertaining to Real Estate Contracts and

DRAFT

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

File Number 2012-03454, Timothy B. Johnson

In the matter of **File Number 2012-03454, Timothy B. Johnson,** the Board reviewed the Consent Order as seen and agreed to by Mr. Johnson. A motion was made by Mr. Hoover and seconded by Mr. Funkhouser to accept the proposed Consent Order offer wherein Mr. Johnson admits to a violation of 18 VAC 135-20-180.B.1.b (Count 1) of the Board's 2008 Regulations, a violation of 18 VAC 135-20-180.B.1.c (Count 2) of the Board's 2008 Regulations, and a violation of 18 VAC 135-20-300.7 (Count 3) of the Board's 2008 Regulations and agrees to a monetary penalty of $700.00 for the violation Count 1, $1,250.00 for the violation of Count 2, $500.00 for the violation of Count 3, as well as $150.00 in Board costs, for a total of $2,600.00. In addition, the Board shall waive $350.00 of the monetary penalty for Count 1, $650.00 of the monetary penalty for Count 2, and $250.00 of the monetary penalty for Count 3 provided Johnson completes four (4) hours of Board-approved continuing education pertaining to Escrow Management and four (4) hours of Board-approved continuing education pertaining to Property Management and provides proof of attendance and successful completion within six (6) months of the effective date of the Order. If Johnson fails to comply with these conditions, then the full monetary penalty will be automatically imposed. 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 Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

File Number 2013-00002, Virginia F. Wilder

In the matter of **File Number 2013-00002, Virginia F. Wilder,** the Board reviewed the Consent Order as seen and agreed to by Ms. Wilder. A motion was made by Mr. Hoover and seconded by Ms. Grimsley to accept the proposed Consent Order offer wherein Ms. Wilder admits to a violation of 18

DRAFT

VAC 135-20-210 (Count 1) of the Board's 2008 Regulations, and agrees to $250.00 in Board costs, as well as $150.00 in Board costs, for a total of $400.00. Members voting "Yes" were Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

File Number 2012-02711, Jeannette Dorise McCallum

In the matter of **File Number 2012-02711, Jeannette Dorise McCallum,** the Board reviewed the Consent Order as seen and agreed to by Ms. McCallum. A motion was made by Ms. Noonan and seconded by Ms. Ferebee to accept the proposed Consent Order offer wherein Ms. McCallum admits to a violation of 18 VAC 135-20-180.C.3 (Count 1) of the Board's 2008 Regulations, a violation of 18 VAC 135-20-185.A (Count 2) of the Board's 2003 Regulations and agrees to a monetary penalty of $1,200.00 for the violation contained in Count 1, $800.00 for the violation contained in Count 2, as well as $150.00 in Board costs, for a total of $2,150.00. In addition, for violation of Counts 1 and 2, McCallum agrees to complete at least eight (8) classroom hours of Board-approved continuing education pertaining to Broker Management and Supervision 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 Do, Ferebee, Funkhouser, Hoover, Noonan and Wells.

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

File Number 2012-01293, Rodney Green

In the matter of **File Number 2012-01293, Rodney Green,** the Board reviewed the Consent Order as seen and agreed to by Mr. Green. A motion was made by Ms. Ferebee and seconded by Mr. Hoover to accept the proposed Consent Order offer wherein Mr. Green admits to a violation of 18 VAC 135-20-210 (Count 1) of the Board's 2008 Regulations, and agrees to a monetary penalty of $200.00 for Count 1, as well as $150.00 in Board costs, for a total of $350.00. In addition, for violation of Count 1, Green agrees to complete at least two (2) classroom hours of Board-approved continuing education pertaining to Real Estate Contracts and provide proof of

DRAFT

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

File Number 2013-00169, Nathan Russell Carl

In the matter of **File Number 2013-00169, Nathan Russell Carl,** the Board reviewed the Consent Order as seen and agreed to by Mr. Carl. A motion was made by Mr. Funkhouser and seconded by Mr. Hoover to accept the proposed Consent Order offer wherein Mr. Carl admits to a violation of 18 VAC 135-20-180.B.1.a (Count 1) of the Board's 2008 Regulations, and agrees to a monetary penalty of $500.00 for Count 1, as well as $150.00 in Board costs, for a total of $650.00. In addition, for violation of Count 1, Carl agrees to complete at least three (3) classroom hours of Board-approved continuing education pertaining to Escrow Management and provide proof of attendance and successful completion within six (6) months of the effective date of the Order. The course must be completed in the classroom. It is acknowledged that satisfactory completion of the above-referenced continuing education hours will not count towards any continuing education requirements, if applicable, for renewal of license. The motion passed unanimously. Members voting "Yes" were Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

File Number 2013-00278, James Wilkerson, Jr.

In the matter of **File Number 2013-00278, James Wilkerson, Jr.,** the Board reviewed the Consent Order as seen and agreed to by Mr. Wilkerson. A motion was made by Ms. Noonan and seconded by Ms. Grimsley to reject the proposed Consent Order offer and extend a counter offer wherein Wilkerson admits to a violation of 18 VAC 135-20-190.B (Count 1) of the Board's 2008 Regulations and agrees to $300.00 for the violation contained in Count 1, as well as $150.00 in Board costs, for a total of $450.00. The motion passed unanimously. Members voting "Yes" were Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

File Number 2012-02870, Brian David

In the matter of **File Number 2012-02870, Brian David Davis,** the Board reviewed the Consent Order as seen and

Davis

agreed to by Mr. Davis. A motion was made by Mr. Hoover and seconded by Ms. Ferebee to accept the proposed Consent Order wherein Mr. Davis admits to a violation of §54.1-2133.A.4 (Count 1) of the *Code of Virginia*, and agrees to a monetary penalty of $450.00 for the violation contained in Count 1, as well as $150.00 in Board costs, for a total of $600.00. In addition, for violation of Count 1, Davis agrees to complete at least eight (8) classroom hours of Board-approved continuing education pertaining to Ethics and Standards of Conduct and at least three (3) classroom hours of Board-approved continuing education pertaining to Real Estate Contracts, and to provide proof of attendance and successful completion within six (6) months of the effective date of the Order. The 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 passed by majority vote. Members voting "Yes" were Do, Ferebee, Funkhouser, Grimsley, Hoover and Wells. Member voting "No" was Noonan.

File Number 2013-00235, Margaret Dianne Smith

In the matter of **File Number 2013-00235, Margaret Dianne Smith,** the Board reviewed the Consent Order as seen and agreed to by Ms. Smith. A motion was made by Mr. Hoover and seconded by Ms. Noonan to accept the proposed Consent Order offer wherein Mr. Carl admits to a violation of 18 VAC 135-20-180.B.1.a (Count 1) of the Board's 2008 Regulations, and agrees to a monetary penalty of $500.00 for Count 1, as well as $150.00 in Board costs, for a total of $650.00. In addition, for violation of Count 1, Smith agrees to complete at least three (3) classroom hours of Board-approved continuing education pertaining to Escrow Management and provide proof of attendance and successful completion within six (6) months of the effective date of the Order. The course must be completed in the classroom. It is acknowledged that satisfactory completion of the above-referenced continuing education hours will not count towards any continuing education requirements, if applicable, for renewal of license. The motion passed unanimously. Members voting "Yes" were Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

Break

The Board recessed from 10:47 A.M. to 10:56 A.M.

DRAFT

Administrative Issues

Steve Arthur, Senior Director of IT & Special Projects, gave the Board an update on EAGLES. No action was taken by the Board.

Brian Sivak and Barrie Bowers, attorney for Mr. Sivak addressed the Board requesting a settlement of appeal regarding File Number 2012-00406.

Closed Session

At 11:07 A.M., Mr. Funkhouser offered a motion which was seconded by Mr. Hoover, that the Board meeting be recessed and that the Real Estate Board immediately reconvene in closed meeting for the purpose of consultation with legal counsel pertaining to legal matters within the jurisdiction of the Board as permitted by §2.2-3711.A.7 of the *Code of Virginia*. The following non-members will be in attendance to reasonably aid the consideration of the topic: Steven Jack, Mark Courtney, Christine Martine and Gordon Dixon.

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

-Administrative Issue-2012-00406-Brian Sivak-Request for settlement

At 11:24 A.M., a motion was made by Mr. Hoover and seconded by Ms. Ferebee that the Board reconvene in open session.

Certification

WHEREAS, the Real Estate Board has convened a closed meeting on this date pursuant to an affirmative recorded vote in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, §2.2-3712 of the *Code of Virginia* requires a certification by this Real Estate Board that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Real Estate Board hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Real Estate Board.

DRAFT

VOTE: 7-0

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

NAYS: None.

ABSENT DURING THE VOTE: None

ABSENT DURING THE MEETING: None.

Administrative Issue

A motion was made by Mr. Hoover and seconded by Ms. Ferebee to deny the request for settlement regarding File Number 2012-00406, Brian Sivak. The motion passed unanimously. Members voting "Yes" were Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

Amy M. Dolan-Gianniny and Lawrence Marshall, attorney for Ms. Dolan-Gianniny addressed the Board requesting reconsideration of the Consent Order terms in File Number 2009-03797. A motion was made by Mr. Hoover and seconded by Mr. Funkhouser to accept the request to amend the Consent Order terms listed in File Number 2009-03797 as noted in the letter to the Board from Mr. Marshall and add as an addendum to the Consent Order in File Number 2009-03797. The motion passed unanimously. Members voting "Yes" were Do, Ferebee, Funkhouser, Hoover, Noonan and Wells.

Due to a possible conflict of interest, Ms. Grimsley recused herself from the discussion and vote in this matter.

Election of Officers

Mr. Courtney opened the floor for nominations for the position of Chair of the Real Estate Board. Sandee Ferebee nominated Joe Funkhouser for the position of Chair; the motion was seconded by Steve Hoover. Lynn Grimsley nominated Clifford Wells for the position of Chair, the nomination failed with no second. With no other nominations, the nominations were closed. Joe Funkhouser was named Chair by acclamation.

Mr. Courtney opened the floor for nominations for the position of Vice-Chair of the Real Estate Board. Cathy Noonan

DRAFT

nominated Sandee Ferebee for the position of Vice-Chair; the motion was seconded by Lynn Grimsley. With no other nominations, Sandee Ferebee was named Vice-Chair by acclamation.

Administrative Issues

Christine Martine updated the Board on regulatory review performed in accordance with the Governor's Regulation Review Initiative. A motion was made by Ms. Ferebee and seconded by Ms. Grimsley that the Board will not file a NOIRA to begin the regulatory review process pursuant to the Governor's Regulation Review Initiative.

Education

A motion was made by Mr. Hoover and seconded by Ms. Ferebee to approve the January 23, 2013, Education Committee Report. The motion passed unanimously. Members voting "Yes" were Do, Ferebee, Funkhouser, Grimsley, Hoover, Noonan and Wells.

New Business

A motion was made by Mr. Hoover and seconded by Ms. Ferebee to require all consent orders to be reviewed by a member of the Real Estate Board. The motion passed by majority vote. Members voting "Yes" were Ferebee, Hoover, Grimsley and Noonan. Members voting "No" were Do, Funkhouser and Wells.

A motion was made by Mr. Hoover to require all Informal Fact-Finding Conferences to be heard by a member of the Real Estate Board. With no second, the motion failed.

Adjourn

There being no further business, the Board adjourned at 12:15 P.M.

_____
Joseph Funkhouser, II, Chair

_____
Gordon Dixon, Secretary

DRAFT