

REAL ESTATE BOARD
MINUTES OF MEETING

November 19, 2009

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

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

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

Jay DeBoer, Director
Mark Courtney, Deputy Director
Nick Christner, Deputy Director
Christine Martine, Executive Director
Bonnie Rhea Adams, Director of Complaint Analysis, & Resolution
Liz Hayes, Fair Housing Administrator
Earlyne Perkins, Legal Analyst
Victoria Traylor, Legal Analyst
Kevin Hoeft, Education Administrator
Emily Trent, Administrative Assistant

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

Carol Clarke called the meeting to order at 9:10 A.M.

Call to Order

There was no public comment.

Public Comment

A motion was made by Ms. Clark and seconded by Ms. Johnson 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 Ms. Daniels and seconded by Ms. Johnson to adopt the following minutes: September 1, 2009,

Minutes

Broker Price Opinion Working Group Meeting; September 9, 2009, Informal Fact-Finding Conference; September 10, 2009, Informal Fact-Finding Conference; September 10, 2009, Real Estate Board Meeting; September 22, 2009, Informal Fact-Finding Conference; September 24, 2009, Informal Fact-Finding Conference; October 1, 2009, (Recovery Fund) Informal Fact-Finding Conference; October 1, 2009, Informal Fact-Finding Conference; October 2, 2009, Informal Fact-Finding Conference and October 15, 2009, Informal Fact-Finding Conference. The motion passed unanimously. Members voting “Yes” were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Johnson, Taylor and Wells.

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

In the matter of **Tamiko Wilson v. Foulger-Pratt Management, Inc. and Helen Cooper, REB File Number 2009-04070**, 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 Mr. Gaeser 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 **Jo Silas v. Brian Sivak, Tricia Berman, and Allegiance Realty Partners, LLC t/a Re/Max Allegiance, REB File Number 2009-04379**, the Board reviewed the record which consisted of the Final Investigative Report, and Case Analysis and Recommendation. A motion was made by Mr. Gaeser and seconded by Ms. Clark 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 M. Lalumandier v. Paul Goodman, REB File Number 2010-00198**, a motion was made by Mr. Gaeser and seconded by Ms. Clark 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 Wells.

**Fair Housing
Administrators
Report**

**Tamiko Wilson v.
Foulger-Pratt
Management, Inc.
and Helen Cooper,
REB File Number
2009-04070**

**Jo Silas v. Brian
Sivak, Tricia
Berman, and
Allegiance Realty
Partners, LLC t/a
Re/Max Allegiance,
REB File Number
2009-04379**

**Conciliation
Agreement**

In the matter of **Melissa Cartwright v. Charles Nimmo and F & W Management, LC, REB File Number 2009-02223**, a motion was made by Mr. Gaeser and seconded by Ms. Clark 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 Wells.

Conciliation Agreement

In the matter of **Rodney Hairston & Angelika Gibson v. Carson Carter & Ed Dolan, REB File Number 2010-00928**, a motion was made by Mr. Gaeser and seconded by Ms. Clark 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 Wells.

Conciliation Agreement

A motion was made by Mr. Gaeser and seconded by Ms. Clark to approve the Fair Housing Sub-Committee minutes of September 10, 2009. 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 2010-00973, Terry Vega**, 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. Ms. Vega, the applicant, was present and addressed the Board. A motion was made by Ms. Daniels and seconded by Ms. Johnson 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. Vega’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 2010-00973, Terry Vega

In the matter of **File Number 2010-01118, Steven Wagner**, 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. Wagner, the applicant, was present and addressed the Board. A motion was made by Mr. Wells and seconded by Ms. Clark to accept the recommendation contained in the Summary of the Informal

File Number 2010-01118, Steven Wagner

Fact-Finding Conference and, after consideration of the criteria contained in § 54.1-204.B of the *Code of Virginia*, approve Mr. Wagner'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.

In the matter of **File Number 2010-01119, Annette Robinson**, 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. Ms. Robinson, applicant, and Greg Robinson, witness, were present and addressed the Board. A motion was made by Ms. Johnson and seconded by Ms. Childress to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference to approve Ms. Robinson's application for a real estate salesperson's license, with the following amendment: Ms. Robinson's license is subject to an agreement for licensure for a period of one year wherein Ms. Robinson and her broker would provide quarterly reports to the Board. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Johnson, Taylor and Wells.

File Number 2010-01119, Annette Robinson

In the matter of **File Number 2010-00688, Leonard T. Marsh**, 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. Marsh, applicant, was present and addressed the Board. A motion was made by Ms. Johnson and seconded by Ms. Daniels to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference to approve Mr. Marsh's application for a real estate salesperson's license, with the following amendment: Mr. Marsh's license is subject to an agreement for licensure for a period of one year wherein Mr. Marsh and his broker would provide quarterly reports to the Board. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Johnson, Taylor and Wells.

File Number 2010-00688, Leonard T. Marsh

In the matter of **File Number 2010-00486, Cynthia James**, the Board reviewed the record which consisted of the application file, transcript, and exhibits from the Informal

File Number 2010-00486, Cynthia James

Fact-Finding Conference, and the Summary of the Informal Fact-Finding Conference of the presiding officer. Ms. James, applicant, was present and addressed the Board. A motion was made by Ms. Clark and seconded by Mr. Gaeser to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference to approve Ms. James' application for a real estate salesperson's license, with the following amendment: Ms. James' license is subject to an agreement for licensure wherein Ms. James and her broker would provide quarterly reports to the Board until Ms. James is released from probation. Additionally, Ms. James will submit proof to the Board of her payment of the court-ordered restitution on a quarterly basis. The motion passed by majority vote. Members voting "Yes" were Brown, Clark, Clarke, Gaeser and Daniels. Members voting "No" were Childress, Johnson, Taylor and Wells.

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

Transfer of Chair

In the matter of **File Number 2009-00206, Patricia Hill**, 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. Ms. Hill, respondent, was present and addressed the Board. A motion was made by Ms. Daniels and seconded by Ms. Johnson to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and find a violation of 18 VAC 135-20-260.10 (Count 1) of the Board's 2003 Regulations, a violation of 18 VAC 135-20-260.11 (Count 2) of the 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 135-20-260.10 (Count 4) of the Board's 2003 Regulations. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Daniels, Johnson, Taylor and Wells.

File Number 2009-00206, Patricia Hill

A motion was made by Ms. Johnson and seconded by Mr. Wells to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and impose a monetary penalty of \$1,550.00 for the violation contained in Count 1, \$675.00 for the violation contained in Count 2, \$675.00 for the violation contained in Count 3, and \$1,550.00 for the violation contained in Count 4, for a total of

\$4,450.00. The Board also imposes revocation of license for the violation of Count 1, Count 2, Count 3 and Count 4. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Daniels, Johnson, Taylor and Wells.

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

Ms. Clarke returned and assumed the position of Chair.

Transfer of Chair

In the matter of **File Number 2009-04320, Cherry Lynn Rose**, 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. Cherry Lynn Rose, respondent, and Rock Wilson, complainant, were present and addressed the Board. A motion was made by Ms. Childress 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 135-20-260.11 (Count 1) of the Board's 2003 Regulations. The motion passed by majority vote. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels and Taylor. Member voting "No" was Gaeser.

File Number 2009-04320, Cherry Lynn Rose

A motion was made by Mr. Gaeser and seconded by Ms. Daniels to reject the recommendation contained in the Summary of the Informal Fact-Finding Conference and instead impose a monetary penalty of \$1,150.00 for the violation of Count 1, for a total of \$1,150.00. The Board also imposes probation of Rose's license for a period of two years (2) years. While on probation, Rose must report on a quarterly basis to the Board that she is in compliance with the rules and regulations of the Board. In addition, Rose shall attend and successfully complete eight (8) classroom hours of continuing education pertaining to Broker Management. The course must be completed in the classroom (no on-line courses). Rose must provide proof acceptable to the Board of the course completion. Satisfactory completion of the above-referenced continuing education hours will not count towards any continuing education requirements for renewal of license. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Johnson, Taylor and Wells.

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

In the matter of **File Number 2009-03777, Virginia Real Estate Transaction Recovery Act Claim of Troy Dando (Claimant) and Harry Michael Singleton, Jr. (Regulant)** the Board reviewed the record, which consisted of the Recovery Act claim form and review, transcript, exhibits from the Informal Fact-Finding Conference, and the Summary of the Informal Fact-Finding Conference of the presiding Board member. Mr. Dando, claimant, and Melissa Krause, witness, were present and addressed the Board. A motion was made by Ms. Daniels and seconded by Mr. Wells to adopt the recommendation to deny the claim for payment pursuant to Code of Virginia §54.1-2214.8 which states in part "...the claimant shall file with the proper bankruptcy court a complain under 11 U.S.C §523 (a) and obtain an order determining dischargeability of the debt. Further, the claimant's debt was discharged by the bankruptcy court. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Taylor and Wells.

File Number 2009-03777, Virginia Real Estate Transaction Recovery Act Claim of Troy Dando (Claimant) and Harry Michael Singleton, Jr. (Regulant)

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 2009-02381, Charles Wade Bengel**, the Board reviewed the Consent Order as seen and agreed to by Mr. Bengel. A motion was made by Ms. Daniels and seconded by Ms. Clark to accept the proposed Consent Order offer wherein Mr. Bengel admits to 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, and agrees to a monetary penalty of \$1,650.00 for the violation contained in Count 1, \$2,500.00 for the violation contained in Count 2, as well as \$150.00 in Board costs for a total of \$4,300.00. In addition, Bengel 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

File Number 2009-02381, Charles Wade Bengel

continuing education requirements, if applicable, 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 2009-01355, Nancy Walker**, 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. Nancy Walker, respondent, Doug Kay, attorney for the respondent, and Sherry Day, complainant, were present and addressed the Board. A motion was made by Ms. Daniels and seconded by Ms. Childress to reject the recommendation contained in the Summary of the Informal Fact-Finding Conference and instead close the file with no violation of 18 VAC 135-20-260.10 (Count 1) of the Board's 2003 Regulations. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Taylor and Wells.

File Number 2009-01355, Nancy Walker

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 2008-00705, John A. Ruff**, 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 Mr. Wells and seconded by Ms. Taylor to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and find *two violations* of §54.1-2135.A.1 (Count 1) of *Code of Virginia*, find *two violations* of 18 VAC 135-20-185.C.3 (Count 2) of the Board's 2003 Regulations, a violation of 18 VAC 135-20-240 (Count 3) of the Board's 2003 Regulations, a violation of 18 VAC 135-20-185-C.1 (Count 4) of the Board's 2003 Regulations, and a violation of 18 VAC 135-20-260.10 (Count 5) of the Board's 2003 Regulations. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Taylor and Wells.

File Number 2008-00705, John A. Ruff

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 to impose a monetary penalty of \$450.00 for each violation contained in Count 1, \$1,000.00 for each violation contained in Count 2, \$800.00 for the violation contained in Count 3, and \$750.00 for the violation contained in Count 4, and no monetary penalty for the violations contained in Count 5, for a total of \$4,450.00. In addition, the Board imposes revocation of license for the violation of Count 2, Count 3 and Count 5. In addition, the board imposes the following sanctions: 1) for the violation of Count 1, Ruff's license will be placed on probation until such time as he provides evidence acceptable to the Board that he has attended and successfully completed three (3) hours of continuing education pertaining to Property Management approved by the Board. The course(s) shall be completed in the classroom (no on-line courses). Ruff must provide proof acceptable to the Board of the course completion within six (6) months of the execution of the Order. Satisfactory completion of the above-referenced courses will not count towards any continuing education requirements for renewal of license; and 2) for the violation of Count 4, the Board voted that Ruff's license be placed on probation until such time as he provides evidence acceptable to the Board that he has attended and successfully completed three (3) hours of continuing education pertaining to Escrow Management approved by the Board. The course(s) shall be completed in the classroom (no on-line courses). Ruff must provide proof acceptable to the Board of the course completion within six (6) months of the execution of the Order. Satisfactory completion of the above-referenced courses will not count towards any continuing education requirements for renewal of 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.

The Board recessed from 10:35 A.M. to 10:45 A.M.

In the matter of **File Number 2009-00069, Lawrence Lewis Lindsey**, the Board reviewed the record which consisted of the investigative file, transcript, and exhibits from the Informal

Break

File Number 2009-00069, Lawrence Lewis Lindsey

Fact-Finding Conference, and the Summary of the Informal Fact-Finding Conference of the presiding Board member. Lawrence Lewis Lindsey, respondent, and John C. Bazaz, attorney for the respondent, were present and addressed the Board. A motion was made by Ms. Clark and seconded by Ms. Johnson to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and find a violation of 18 VAC 135-20-185.A (Count 1) of Board's 2003 Regulations, find a violation of 18 VAC 135-20-185.B (Count 2) of the Board's 2003 Regulations, a violation of 18 VAC 135-20-185.C.2 (Count 3) of the Board's 2003 Regulations, and a violation of 18 VAC 135-20-260.10 (Count 4) of the Board's 2003 Regulations and note that the date referenced in the Informal Fact-Finding Summary be corrected from June 8, 2009 to read July 8, 2009. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Johnson, Taylor and Wells.

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 to impose a monetary penalty of \$875.00 for the violation contained in Count 1, \$875.00 for the violation contained in Count 2, \$1,000.00 for the violation contained in Count 3, and \$1,550.00 for the violation contained in Count 4, for a total of \$4,300.00. In addition, the Board imposes revocation of license for the violation of Count 1, Count 3 and Count 4. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Johnson, Taylor and Wells.

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 2009-01896, Mirtes Sousa Happy-Nysven**, a request was made to stay the decision of the Board to impose revocation of Ms. Happy-Nysven's salesperson's license. William Kovatch, attorney for the respondent, was present and addressed the Board. A motion was made by Ms. Childress and seconded by Ms. Johnson to deny the request for stay of revocation of Ms. Happy-Nysven's salesperson's license. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Daniels, Johnson, Taylor and Wells.

Old Business

As the presiding Board member, Ms. Clarke did not participate

in the discussion or vote pertaining to this matter.

In the matter of **File Number 2010-00912, Tara C. Hermon**, 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 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 Ms. Hermon'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 2010-00912, Tara C. Hermon

In the matter of **File Number 2010-00084, Karen Anderson**, 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. Taylor to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference to approve Ms. Anderson's application for a real estate salesperson's license, with the following amendment: Ms. Anderson's license is subject to an agreement for licensure for a period of two year wherein Ms. Anderson and her broker would provide quarterly reports to the Board. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Johnson, Taylor and Wells.

File Number 2010-00084, Karen Anderson

In the matter of **File Number 2010-00689, Jeffrey McElhinny**, 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. Johnson and seconded by Ms. Daniels to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference to deny Mr. McElhinny's application based upon the record. Based on McElhinny's description of his experience and the information presented at the Informal Fact-Finding Conference, the lack of continuous service and educational requirements for a real estate broker's license. Further,

File Number 2010-00689, Jeffrey McElhinny

McElhinny does not meet the requirements of being actively engaged in real estate activities for 36 of the last 48 months. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, 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 2009-04452, Temor M. Sharifi**, the Board reviewed the Consent Order as seen and agreed to by Mr. Sharifi. A motion was made by Ms. Johnson and seconded by Ms. Clark to accept the proposed Consent Order offer wherein Mr. Sharifi 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. In addition, for the violation of Count 1, Sharifi agrees to revocation of his license. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Johnson, Taylor and Wells.

File Number 2009-04452, Temor M. Sharifi

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 2009-04254, Jen K. Kim**, the Board reviewed the Consent Order as seen and agreed to by Ms. Kim. A motion was made by Ms. Johnson and seconded by Ms. Daniels to accept the proposed Consent Order offer wherein Ms. Kim 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. In addition, for the violations of Count 1 and Count 2, Kim agrees to revocation of her license. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Johnson, Taylor and Wells.

File Number 2009-04254, Jen K. Kim

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 2009-01960, Barbara Anne Mancini**, the Board reviewed the record which consisted of the investigative file, transcript, and exhibits from the Informal

File Number 2009-01960, Barbara Anne Mancini

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 135-20-250 (Count 1) of the Board's 2003 Regulations, and a violation of 18 VAC 135-20-280.2 (Count 2) of the Board's 2003 Regulations. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Johnson, Taylor and Wells.

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 \$1,500.00 for the violation contained in Count 1, and \$1,000.00 for the violation contained in Count 2, for a total of \$2,500.00. In addition, the Board imposes revocation of license for the violation of Count 1 and Count 2. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Johnson, Taylor and Wells.

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 2009-03296, Debra L. Medina**, the Board reviewed the Consent Order as seen and agreed to by Ms. Medina. A motion was made by Ms. Daniels and seconded by Mr. Wells to accept the proposed Consent Order offer wherein Ms. Medina admits to 2 *violations* of 18 VAC 135-20-270.3 (Count 1) of the Board's 2003 Regulations, 2 *violations* of 18 VAC 135-20-180.C.2 (Count 2) of the Board's 2003 Regulations, 2 *violations* of 18 VAC 135-20.180.B.1.c (Count 3) of the Board's 2003 Regulations, and 2 *violations* of 18 VAC 135-20-260.10 (Count 4) of the Board's 2003 Regulations, and agrees to a monetary penalty of \$1,000.00 for each violation contained in Count 1, \$400.00 for each violation contained in Count 2, \$1,000.00 for each violation contained in Count 3, and \$1,250.00 for each violation contained in Count 4, as well as \$150.00 in Board costs for a total of \$7,450.00. In addition, for the violation of Counts 1 and 4, Medina agrees to revocation of her license. The motion passed unanimously. Members voting "Yes" were Brown, Clark, Clarke, Childress, Daniels, Gaeser, Taylor and Wells.

File Number 2009-03296, Debra L. Medina

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 2009-02921, Virginia Real Estate Transaction Recovery Act Claim of Barrial K. Ross (Claimant) and Charles Antonio Wigington (Regulant)** the Board reviewed the record, which consisted of the Recovery Act claim form and review, transcript, 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. Daniels to reject the recommendation to approve the claim and instead denies payment based on the fact that Wigington was acting in the capacity of a principal in the transaction and pursuant to Code of Virginia §54.1-2214.A which states in part "...occurred in connection with a transaction involving the sale, lease, or management or real property by the regulant acting in the capacity of a real estate broker or real estate salesperson and not in the capacity of a principal, or on his own account..". The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Taylor and Wells.

File Number 2009-02921, Virginia Real Estate Transaction Recovery Act Claim of Barrial K. Ross (Claimant) and Charles Antonio Wigington (Regulant)

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 2009-02434, Ann Clarke Dollard**, 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. Clark and seconded by Ms. Childress to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and find a violation of 18 VAC 135-20-210 (Count 1) of the Board's 2008 Regulations. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Taylor and Wells.

File Number 2009-02434, Ann Clarke Dollard

A motion was made by Ms. Clark and seconded by Ms. Childress to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference to impose a monetary penalty of \$100.00 for the violation contained in

Count 1, for a total of \$100.00. In addition, the Board imposes the following sanctions: Dollard's license will be placed on probation until such time as she provides evidence acceptable to the Board that she has attended and successfully completed four (4) classroom hours of continuing education pertaining to real estate contracts. The course must be completed in the classroom. Dollard must provide proof acceptable to the Board of the course completion within six (6) months of the execution of the Order. Satisfactory completion of the above-referenced course will not count towards any continuing education requirements for renewal of license. Failure to comply with all the terms of the Order within specified time will result in the automatic suspension of Dollard's license until such time as there is compliance with all terms of the Order. 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 2009-02612, Ernest Marion Dill**, 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. Childress and seconded by Ms. Daniels to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference and find a violation of §54.1-2131.A.4 (Count 1) of the *Code of Virginia*, and a violation of 18 VAC 135-20-260.1 (Count 2) of the Board's 2003 Regulations. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Taylor and Wells.

File Number 2009-02612, Ernest Marion Dill

A motion was made by Ms. Clark to accept the recommendation contained in the Summary of the Informal Fact-Finding Conference, with no second the motion failed.

A motion was made by Mr. Gaeser and seconded by Mr. Wells to reject the recommendation contained in the Summary of the Informal Fact-Finding Conference and instead impose a monetary penalty of \$500.00 for the violation contained in Count 1, and \$1,000.00 for the violation contained in Count 2, for a total of \$1,500.00. In addition, the Board imposes

revocation of license for the violation of Count 2 due to Dill making a misrepresentation on the application and to be consistent with previous Board actions for similar violations. 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 2008-04500, Sergio J. Herrera**, 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 Mr. Gaeser 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 the Board's 2003 Regulations. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Taylor and Wells.

File Number 2008-04500, Sergio J. Herrera

A motion was made by Mr. Gaeser and seconded by Mr. Wells 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, for a total of \$750.00. The Board also imposes the following sanctions: Herrera's license will be placed on probation until such time as he provides evidence acceptable to the Board that he has attended and successfully completed four (4) classroom hours of continuing education pertaining to Real Estate Contracts. The course(s) must be completed in the classroom. Herrera must provide proof acceptable to the Board of the course completion within six (6) months of the execution of the Order. Satisfactory completion of the above-referenced course will not count towards any continuing education requirements for renewal of license. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Taylor and Wells.

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

In the matter of **File Number 2009-03696, S. Charles Volpe**,

File Number 2009-

the Board reviewed the Consent Order as seen and agreed to by Mr. Volpe. A motion was made by Mr. Gaeser and seconded by Ms. Taylor to accept the proposed Consent Order offer wherein Mr. Volpe admits to a violation of 18 VAC 135-20-180.C.5 (Count 1) of the Board's 2003 Regulations, a violation of 18 VAC 135-20-260.10 (Count 2) of the Board's 2003 Regulations, *nine violations* of §54.1-2135.A.1 (Count 3) of the *Code of Virginia*, a violation of 18 VAC 135-20-185.C.3 (Count 4) of the Board's 2003 Regulations, a violation of 18 VAC 135-20-260.11 (Count 5) of the Board's 2003 Regulations, a violation of 18 VAC 135-20-180.A.1 (Count 6) of the Board's 2003 Regulations, a violation of 18 VAC 135-20-180.C.4 (Count 7) of the Board's 2003 Regulations, a violation of 18 VAC 135-20-300.9 (Count 8) of the Board's 2003 Regulations and agrees to a monetary penalty of \$500.00 for the violation contained in Count 1, \$2,500.00 for the violation contained in Count 2, \$200.00 for each violation contained in Count 3, \$2,500.00 for the violation contained in Count 4, \$2,500.00 for the violation contained in Count 5, \$900.00 for the violation contained in Count 6, \$1,750.00 for the violation contained in Count 7, \$1,000.00 for the violation contained in Count 8, as well as \$150.00 in Board costs for a total of \$13,600.00. In addition, for violation of Count 1 through Count 8, the Board shall waive imposition of the monetary penalties, and in exchange, Volpe agrees to revocation of his 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.

A motion was made by Ms. Childress and seconded by Ms. Daniels to extend the contract with PSI examination services provider by one year. The current contract will expire on May 31, 2010. The extension will continue the contract to May 31, 2011. The motion passed unanimously. Members voting "Yes" were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Johnson, Taylor and Wells.

A motion was made by Mr. Gaeser and seconded by Ms. Daniels to approve the Real Estate Board Education Committee recommendation to send an e-mail to all Board-approved education providers reminding them to submit

**03696, S. Charles
Volpe**

Administrative Issues

Education

adequate information, as outlined in “Required Attachment #2” of the CE/PLE Course Application, for prospective CE/PLE course instructors. The motion passed unanimously. Members voting “Yes” were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Johnson, Taylor and Wells.

A motion was made by Mr. Gaeser and seconded by Ms. Daniels to approve education provider Lawyers Title Insurance Corporation’s request that it’s September 17, 2009, CE course, “Deed Warranties, Tenancies and Decedants’ Estates,” as recommended by the Real Estate Board Education Committee. The motion passed unanimously. Members voting “Yes” were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Johnson, Taylor and Wells.

A motion was made by Mr. Gaeser and seconded by Ms. Daniels to approve a guidance document informing Board-approved online education providers to require licensees to stay engaged online in approved courses for at least 50 minutes to receive one hour CE/PLE credit. 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. Childress and seconded by Ms. Johnson to accept the November 18, 2009, Education Committee Report. 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 Mr. Gaeser and seconded by Ms. Taylor to accept the Broker Price Opinion Guidance Document as presented to the Board. The motion passed unanimously. Members voting “Yes” were Brown, Childress, Clark, Clarke, Daniels, Gaeser, Johnson, Taylor and Wells.

Old Business

Kevin Hoeft, Education Administrator, updated the Board on the Virginia Real Estate Board Advisory Council and presented a report. No action was taken by the Board.

New Business

There being no further business, the Board adjourned at 12:30 P.M.

Adjourn

Carol F. Clarke, Chair

Jay DeBoer, Secretary

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