State Board of Certified Real Estate Appraisers December 19, 2019

BOARD MEMBERS:

Joseph D. Pasquarella, Chairman, Professional Member

Jeffrey L. Walters, Vice Chairman, Professional Member

Eric M. Lehmayer, Secretary, Professional Member - Absent

John Ausherman, Professional Member

Martha H. Brown, Esquire, Secretary of the Commonwealth designee

Merna T. Hoffman, Esquire, Deputy Attorney General, Office of Attorney General Designee

Mark Smeltzer, Professional Member

Paul H. Wentzel Jr., Senior Legislative Director, Department of Banking and Securities designee

BUREAU PERSONNEL:

Ronald K. Rouse, Esquire, Board Counsel Ray Michalowski, Esquire, Senior Board Prosecutor Liaison

Caroline A. Bailey, Esquire, Board Prosecutor Heidy M. Weirich, Board Administrator

Andrew LaFratte, MPA, Policy Office, Department of

Marc Farrell, Deputy Policy Director, Department of State

Kimberly A. Mattis, Director, Bureau of Finance and Operations, Department of State Amanda Richards, Fiscal Management Specialist 2,

Bureau of Finance and Operations

State Board of Certified Real Estate Appraisers December 19, 2019 (Continued)

ALSO PRESENT:

Mark Smeltzer Jr., S&T Bank
Alison Smeltzer, DITIO Appraisals
Justin Reis, Coalition of Pennsylvania Real Estate
Appraisers
Daniel A. Bradley, Chief Appraisal Officer,
McKissock LP

Michelle Czekalski Bradley, Appraisal Standards Board Marlene A. Wilson, Executive Director, Pennsylvania House of Representatives, Professional Licensure Committee

R. Scott Hartman, SRA, Vice President, Valuation & Consulting Services

4 * * * 1 State Board of Certified 2 3 Real Estate Appraisers 4 December 19, 2019 * * * 5 6 The regularly scheduled meeting of the State 7 Board of Certified Real Estate Appraisers was held on Thursday, December 19, 2019. Joseph D. Pasquarella, Chairman, Professional Member, officially called the 10 meeting to order at 9:07 a.m. A roll call was taken. * * * 11 12 Introduction of Audience Members 13 [Chairman Pasquarella requested the introduction of 14 audience members.] * * * 15 16 [Chairman Pasquarella introduced Mark Smeltzer as the 17 Board's newest member. 1 * * * 18 19 Evacuation Announcement 20 [Heidy M. Weirich, Board Administrator, reviewed the 21 emergency evacuation procedures for One Penn Center.] 22 23 Approval of minutes of the October 17, 2019 meeting 2.4 CHAIRMAN PASQUARELLA: 25 Let's have approval of the minutes.

5 there any discussion? Would someone 1 make a motion? 2 3 MR. WENTZEL: I'll make that motion. 4 MR. AUSHERMAN: 5 6 I'll second that motion. 7 CHAIRMAN PASQUARELLA: John seconds it. Any discussion? 9 in favor? Any opposed? 10 [The motion carried. Mr. Smeltzer abstained from 11 voting on the motion.] * * * 12 13 Report of Prosecutorial Division 14 [Caroline A. Bailey, Esquire, Board Prosecutor, 15 presented the Consent Agreement for File No. 18-70-16 007406.1 * * * 17 18 Report of Board Counsel - H.R. 3619 Appraisal Fee 19 Transparency Act of 2019 20 [Ronald Rouse, Esquire, Board Counsel, noted that H.R. 21 3619 passed in the House of Representatives. HR 3619 22 was then received by the Senate on September 23, 2019, 2.3 and referred to the Committee on Banking, Housing and 2.4 Urban Affairs. 25 Mr. Rouse explained the purpose of H.R. 3619 was

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to amend the Financial Institution's Reform Recovery
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   and Enforcement Act (FIRREA) of 1989 in order to
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   provide the Appraisal Subcommittee (ASC) with the
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   following additional authority to: 1) To modify the
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   annual registry fees for appraisal management
   companies or AMCs, which would not take effect until
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   the ASC submits a report to Congress justifying the
   need for the new formula and its effect on fees; 2) To
   give ASC the authority to maintain a registry of
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   appraisal trainees and charge a lower trainee registry
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   fee in this case not to exceed $20, as well as define
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   a trainee appraiser as an individual who meets the
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   minimum criteria established for a trainee appraiser
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   and credentialed by a state appraiser, certifying and
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   licensing agency; and 3) To give the authority to
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   allow grants to states to assist with appraiser and
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   potential appraiser compliance with real property
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   appraiser qualification criteria.]
                              * * *
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   Status of Petition for Review of John Bonaventure
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     Sylvester Case No. 13-70-00325
   [Mr. Rouse explained this matter would be discussed in
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2.3
   Executive Session.]
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   House Bill 21 - Home Inspectors
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[Mr. Rouse stated, on January 9, 2019, there was a
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   memo from State Representatives Susan Helm and William
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   Kortz sent to all State House members regarding the
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   reintroduction of legislation to provide oversight to
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   home inspectors due to concerns that home inspectors
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   were the only profession not regulated in the home-
   buying process and not held to any specific
   professional standard with little recourse available
   to consumers. He explained this legislation would set
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   statewide standards for that profession and amend the
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   Real Estate Appraiser Certification Act to include
   that home inspectors must be licensed through the
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1.3
   State Board of Certified Real Estate Appraisers.
                                                       The
14
   legislation also provided for licensure by
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   endorsement, as well as licensure by reciprocity; a
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   continuing education component for home inspectors;
   remedies for home inspection services to consumers;
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   and qualifications for home inspectors in training.
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        Mr. Rouse indicated House Bill 21 would increase
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   the number of Board members to 15 for this Board of
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   Certified Real Estate Appraisers. He offered
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   additional information regarding this matter.
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        Mr. Rouse noted House Bill 21 was in the State
            The bill was referred to the Consumer
24
   Senate.
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Protection and Professional Licensure Committee of the

State Senate. He suggested that this bill be kept on the Board's radar as this Board would have to promulgate regulations within 18 months of the effective date of the Act.

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Marlene Wilson, Executive Director, PA House of Representatives, Professional Licensure Committee, commented on her work on this issue for many years and referred members to the Democratic Committee Analysis available online for further review. Ms. Wilson clarified that House Bill 21 would add one Pennsylvania assessor, one home inspector, and two appraisers to the Board. She answered questions from Board members regarding the matter. Ms. Wilson would provide a national chart of licensed home inspectors, the Bill analysis, and the letter from the Real Estate Appraiser Association for the Board to review. There was additional discussion regarding the matter.

Mark Farrell, Deputy Policy Director,

Pennsylvania Department of State, indicated for the record that the Governor's Office would have many of the same concerns with this bill that were just expressed.

Ray Michalowski, Esquire, Board Prosecutor

Liaison, commented on complaints received in the past
that a home inspector's connection to the Engineering

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1 | Board was stronger than this Board because when a home
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- 2 | inspector identifies a serious issue, the issue would
- 3 generally be referred to a structural engineer. Mr.
- 4 Michalowski would support having a position on this
- 5 Board for someone who was both an appraiser and
- 6 licensed evaluator.
- 7 Mr. Smeltzer explained there was a new definition
- 8 of personal inspection from the Appraisal Standards
- 9 Board for appraisers that specifically distinguishes
- 10 the practice of a home inspector, which he noted was
- 11 not at the level of this Board.
- 12 Chairman Pasquarella was in favor of evaluators
- 13 having a seat on the Board.]
- 14
- 15 | [Paul Wentzel, Secretary of Banking and Securities
- 16 designee, exited the meeting at 9:58 a.m.]
- 17
- 18 Appointment Kim Mattis, Director, Bureau of Finance
- 19 and Operations
- 20 [Kim Mattis, Director, and Amanda Richards, Bureau of
- 21 Finance and Operations, presented before the Board for
- 22 discussion of the Board's Budget.
- Ms. Mattis referred Board members to information
- 24 regarding renewable licensee counts of 4,358 which
- 25 increased that morning to 4,371, the 2017-2018 and

1 2018-2019 sources of revenue, 2017-2018 and 2018-2019

- 2 actual expenditures, and the current budget. Ms.
- 3 Mattis noted the expenses as of December 9, 2019.]
- 4 ***
- 5 | [Merna Hoffman, Office of Attorney General designee,
- 6 exited the meeting at 10:02 a.m.]
- 7
- 8 Mattis noted the remaining balance for the 2019-
- 9 2020 fiscal year and indicated that the Board's
- 10 revenue was still exceeding its expenses, which she
- 11 referred to as a good healthy bottom line.]
- 12 ***
- 13 | [Merna Hoffman, Office of Attorney General designee,
- 14 re-entered the meeting at 10:06 a.m.]
- 15 ***
- 16 | [Ms. Mattis referred to the 2017-2018, 2018-2019 and
- $17 \mid 2019-2020$ Board member expenses for review. She noted
- 18 | the current Board member expenses.]
- 19 ***
- 20 Report of Board Counsel (Continued) Regulations to
- 21 Discuss Act 41
- 22 | [Mr. Rouse provided an update with regard to Act 41,
- 23 Licensure by Endorsement, by noting his writing of the
- 24 regulations for licensure that certify evaluators by
- 25 endorsement consistent with the Board's determinations

on addressing the issue of substantial equivalency and competency.]

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Certified Real Estate Appraisers Regulations - Amended [Mr. Rouse stated the regulations had been amended to comply with federal law, and specifically included updates to qualification criteria for general and residential real estate appraisers and licensed trainees. The amendments adopted and incorporated the AQB qualification criteria by reference, so the Board would not have to amend its regulations every time there was an update to the minimum standard criteria.

Mr. Rouse stated these amended regulations were supplied to the Board and would be published in the January 2020 edition of the Pennsylvania Bulletin.]

* * *

Appraisal Subcommittee - Temporary Waiver FAQs

[Mr. Rouse noted the ASC put out responses to

frequently asked questions regarding the issue of

temporary waiver authority. He explained that the ASC

has authority under the Financial Institutions Reform,

Recovery and Enforcement Act (FIRREA) of 1989 to waive

credential requirements if a person's eligible to

perform appraisals for federally-related

transactions.]

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2 [Paul Wentzel, Secretary of Banking and Securities

3 designee, reentered the meeting at 10:15 a.m.]

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5 | [Mr. Rouse referred Board members to 12CFR part 1102

6 | for further information regarding ASC regulations and

procedures for processing temporary waiver requests.

B He further discussed some frequently asked questions.]

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10 Report of Board Chairman

11 | [Joseph D. Pasquarella, Chairman, Professional Member,

12 referred to the Illinois Board warning on hybrid

13 appraisals, as well as some warnings and/or concerns

14 from the Illinois Board of Real Estate Appraisers. He

15 explained this was an attempt to have appraisers rely

16 on inspections conducted by a third party, which would

17 | include home inspectors.

18 | Chairman Pasquarella stated inspection physical

19 information data was collected, including tests and

20 measurements of the building and an analysis of the

21 | condition of the improvements. He noted the

22 | inspection would then be transmitted to a real estate

23 appraiser, who would rely on that physical

24 description.

25 Chairman Pasquarella noted the Illinois Board

would be satisfactory in compliance as long as the home inspector was not opining on value, quality, or functional obsolescence. He also noted a concern for room count and possibly building measurements.

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Chairman Pasquarella also noted a concern for practice in Pennsylvania, because those items were considered filtered data. He stated home inspectors provide information relative to the quality rating of the improvement, which would be factored into the appraisal by the appraiser, and those pieces really could only be opined by and factored into the valuation by an appraiser who is licensed because it would provide significant appraisal assistance to the appraiser.

Chairman Pasquarella noted the home inspector would have to be a licensed appraiser in order to perform both roles. He mentioned this would put an enormous amount of liability on the appraiser if there was an issue with the report, because he or she would be accepting that report and implementing it into the valuation. He commented that Illinois was warning that this filtered data can only be provided by a licensed appraiser.

Chairman Pasquarella noted a warning in the article to the AMC, where an appraiser cannot use

filtered data. He stated, since the AMC was also regulated by that state Board, they gave a fair warning that if an appraisal did not rely on these reports, it could be problematic and raise liability in the case of the licensees of AMC.

Chairman Pasquarella noted areas that could be problematic regarding quality and condition, because it relates to effective age, utility of the building, the functional obsolescence of the building, and even room count.

Mr. Smeltzer commented that condition and quality are opinions an appraiser draws and should not be from a non-appraiser going out in the field and pulling this information. He stated appraisers do not consider comparables, look at the properties and then get the room count. The appraisers base their valuation off of the multiple listing service and county data, which are third-party services.

Chairman Pasquarella commented that appraisers cannot inspect all of the comparables. If an appraiser does inspect a property and would have a difference of opinion, having a post-inspection from the inspector's count of the room for the subject property being appraised, the appraiser would assume liability.

Mr. Ausherman expressed a concern with regard to receiving accurate information. He opined the gross living area (GLA) was more important than a room count due to the possibility of being off 500-600 square feet in the measurement of the house.

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Mr. Smeltzer discussed identifying the person collecting the data as someone who has contributed. Contribution is analysis. A third-party source would not be as reliable as some of the trained sources.

Mr. Michalowski discussed utilizing hybrid appraisals. He noted other states are using hybrid appraisals, especially states where there is a large landmass and small population. The biggest concern was not using trained home inspectors.

R. Scott Hartman, SRA, Vice President, Valuation & Consulting Services, noted spending the last 18 months as a special consultant to the chief appraiser at Freddie Mac. He noted the context that a hybrid would be used, such as in very low risk loans. Fannie Mae and Freddie Mac ran a pilot program to see whether or not a bifurcated appraisal could be used to lower cost and increase the time in the transaction.

Mr. Hartman stated, in the pilot program from the Freddie Mac side, the data collectors were home inspectors, real estate agents, insurance inspectors,

and other professionals who held themselves out as
capable. The best results were from the insurance
inspectors because they had been trained. Freddie Mac
found that the results were not accurate, so Freddie
Mac was not using the bifurcated appraisal after the
pilot due to significant accuracy issues.

Mr. Hartman stated the Director of the Federal Housing Finance Agency (FHFA), Mark Calabria, gave Fannie and Freddie very specific direction not to move forward after that pilot with bifurcated appraisals or hybrid appraisals until after coming out of conservatorship. He stated the Fannie Mae perspective was that Fannie was trying to twist Mr. Calabria's arm into reconsidering, because Fannie Mae's chief appraiser, Lyle Radke, believed that this was the process of the future.

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Chairman Pasquarella referred to the Association of Appraiser Regulatory Officials (AARO) Conference. Amazing amount of insight. Topics were on point, informative, and helpful. It was a three-day conference from October 18-20, 2019, which covered various topics from the Appraisal Subcommittee (ASC) and The Appraisal Foundation (TAF) updates. It also included discussion on the evaluation, the waiver, and Board issues.

Mr. Rouse expressed the value of the AARO 1 2 Conference, which referenced resources that are 3 available to state regulators through The Appraisal 4 Foundation. He noted www.appraisalfoundation.org to 5 be informative regarding changes, modifications, and 6 requirements in the future. Recently, there was The Appraisal Foundation documentation of the changes coming to the Uniform Standards of Professional Appraiser Practice (USPAP), because the 2020-2021 10 USPAP document was available. The Appraisal 11 Foundation has a memo that references all of the 12 changes. 13 Mr. Rouse noted, in addition, on the website, 14 there are samples of nonresidential restricted 15 appraisal reports and residential restricted appraisal 16 reports as well as a chart of the types of 17 consignments an appraiser can accept in order to 18 comply with USPAP standards. He suggested reviewing 19 the new information, modifications, and how to comply 2.0 with all of the requirements. 21

Chairman Pasquarella encouraged members to attend the upcoming Association of Appraiser Regulatory Officials Conference.

Ms. Weirich noted the Association of Appraiser Regulatory Officials Conference will be April 3-5,

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2 2020, in San Antonio, Texas. She also mentioned there will be investigator and administrator training on April 1, 2020.

Chairman Pasquarella noted a topic of discussion related to evaluation being conducted by certified appraisers. He discussed states requiring the mandatory use of certified appraisers and appraisals being conducted under USPAP. He also noted receiving a proposal from a major national bank to conduct an evaluation and previously turning down the proposal. Following the conference, the proposals were being accepted.

Jeffrey L. Walters, Vice Chairman, explained to the non-professional members the guidelines for evaluations, the definition of a restricted appraisal report, and the USPAP guidelines. He discussed non-licensed appraisers conducting evaluations and appraisals, who should be subjected to prosecution. USPAP may promote standards for licensed and non-licensed appraisers.

Mr. Smeltzer reviewed side-bar discussion on discipline. He noted the appraisal boards regulate the appraisers, not the general public.

Michelle Czekalski Bradley, Appraisal Standards Board, continued the discussion regarding following

the USPAP requirements. She noted the Association of 1 2 Appraiser Regulatory Officials Conference in April 2020 would be discussing this issue at length. 3 4 Bradley discussed labeling reports as an appraisal 5 report or a restricted appraisal report. She opined 6 the individuals most trained and qualified to conduct evaluation services may not be the individuals performing these services. She discussed the Board considering one reporting standard and tabling 10 conforming exposure drafts. Public comments on the

matter are received at the public meetings.

R. Scott Hartman, SRA, Vice President,
Valuation & Consulting Services, discussed the
perspective of the institute to figure out a way to
get appraisers back into the evaluation process. He
noted efforts to get the public to respect the
evaluation process. Mr. Hartman reviewed his active
practice to review bank policies for appraisals. He
discussed additional requirements and costs to a
borrower and/or consumer upon submission of an
appraisal versus the submission of an evaluation
report. Mr. Hartman has suggested to banks to change
their policies to permit the submission of restricted
reports.]

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- 1 Real Estate Degree Program
- 2 | [Chairman Pasquarella stated the Appraisal Foundation
- 3 has a program that will evaluate universities'
- 4 | Bachelor and Master's Degree program real estate
- 5 courses for approval guidelines. He specifically
- 6 noted the universities at the graduate level, such as
- 7 | Florida International, Texas A&M, University of
- 8 | Florida, and Wisconsin. The undergraduate programs
- 9 are separately analyzed, specifically Lehigh
- 10 University in Pennsylvania.
- 11 Chairman Pasquarella discussed the importance of
- 12 recognizing the approved courses of the Appraisal
- 13 | Foundation to provide the industry with additional
- 14 | qualified appraisers. He reached out to Temple
- 15 University and Villanova University regarding Lehigh
- 16 University's undergraduate program. He discussed the
- 17 | Board analyzing and accepting the Appraisal
- 18 | Foundation's evaluations in order to recognize real
- 19 estate courses offered by universities.
- 20 The Board discussed reviewing the website of the
- 21 Appraisal Foundation in order to confirm the courses
- 22 | meet the hours and educational requirements of the
- 23 Board before the Board accepts the courses. Mr.
- 24 | Smeltzer suggested the universities submit the courses
- 25 | through the Appraiser Qualifications Board (AQB) for

processing and Board acceptance of the courses.

Chairman Pasquarella discussed the Board becoming comfortable with the Appraiser Foundation review of courses through the AQB so the Board would accept the courses approved by the Appraiser Foundation. Mr. Smeltzer again suggested contacting and encouraging the universities to seek approval of their courses through the AQB. Chairman Pasquarella welcomed the positive feedback on the matter.]

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[Pursuant to Section 708(a)(5) of the Sunshine Act, at 11:24 a.m. the Board entered into Executive Session with Ronald Rouse, Esquire, Board Counsel, to have attorney-client consultations and for the purpose of conducting quasi-judicial deliberations regarding the matters before Board. The Board returned to open session at 12:26 a.m.]

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19 MR. ROUSE:

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Pursuant to Section 708(a)(5) of the Sunshine Act, the Board entered into executive session with Board Counsel to have attorney-client consultations and for the purpose of conducting quasi-judicial deliberations regarding

22 the Consent Agreement at No. 2 of the 1 2 agenda; the status of Petition for 3 Review of John Bonaventure Sylvester, No. 4 of the agenda; the Application of 4 5 Certified Residential Real Estate Appraiser of Yaroslav Kovaliv, No. 14 of 6 the agenda; and the Application for Certified General Appraiser for Jane 9 Grace Utzman, No. 15 of the agenda. 10 At this time, if we go to the 11 Consent Agreement for No. 2. 12 MS. BROWN: 1.3 I make a motion to adopt the Consent Agreement and Order as negotiated by the 14 15 Commonwealth's prosecuting attorney in File No. 18-70-007406. 16 17 CHAIRMAN PASQUARELLA: 18 Do we have a second? 19 MR. WENTZEL: 20 Second. 21 CHAIRMAN PASQUARELLA: 22 Any discussion? All in favor? Any 2.3 opposed? 24 [The motion carried unanimously. The name in that 25 case is BPOA vs. Frisco Lender Services, LLC.]

23 * * * 1 2 MR. ROUSE: 3 The next item will be No. 14 on the 4 agenda. MR. WALTERS: 5 6 I make a motion to provisionally deny 7 the Application of Certified Residential 8 Real Estate Appraiser of Yaroslav 9 Kovaliv. 10 CHAIRMAN PASQUARELLA: 11 Do we have a second? 12 MR. SMELTZER: 13 Second. 14 CHAIRMAN PASQUARELLA: 15 Any discussion? All in favor? Any 16 opposed? 17 [The motion carried unanimously.] * * * 18 19 MR. WALTERS: 20 I make a motion to provisionally deny 21 the Application for Certified General 22 Appraiser for Jane Grace Utzman. 23 CHAIRMAN PASQUARELLA: 24 Do we have a second? 25 MR. WENTZEL:

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1
                  Second.
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   CHAIRMAN PASQUARELLA:
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                  Any discussion? All in favor?
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                  opposed?
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   [The motion carried unanimously.]
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   Correspondence - No Report
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   Continuing Education Committee - No Report
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   [Chairman Pasquarella made an announcement regarding
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   the open seats for two professional members and two
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   public members on the Board.]
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   Adjournment
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   MR. WALTERS:
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                  I'll make a motion to adjourn.
   MS. BROWN:
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19
                  Second.
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   CHAIRMAN PASQUARELLA:
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                  Any discussion? All in favor?
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                  opposed?
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   [The motion carried unanimously.]
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   [There being no further business, the State Board of
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   Certified Real Estate Appraisers Meeting adjourned at
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   12:31 p.m.]
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                          CERTIFICATE
        I hereby certify that the foregoing summary
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   minutes of the State Board of Certified Real Estate
11
   Appraisers meeting, was reduced to writing by me or
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   under my supervision, and that the minutes accurately
13
   summarize the substance of the State Board of
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   Certified Real Estate Appraisers meeting.
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18
                               Derek Richmond,
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                               Minute Clerk
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                               Sargent's Court Reporting
                                  Service, Inc.
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		December 19, 2019	
	TIME	AGENDA	
	9:07	Official Call to Order	
	9:08	Roll Call	
	9:10	Approval of Minutes	
	9:11	Report of Prosecutorial Division	
	9:14	Report of Board Counsel	
	10:02	Appointment - Kimberly A. Mattis, Director, Bureau of Finance and Operations; Amanda Richards, Fiscal Management Specialist 2, Bureau of Finance and Operations Budget Presentation	
	10:13	Report of Board Counsel (Continued)	
	10:18	Report of Board Chairman	
	11:24 12:26	Executive Session Return to Open Session	
	12:26	Motions	
	12:31	Adjournment	