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1	COMMONWEALTH OF PENNSYLVANIA	
2	DEPARTMENT OF STATE	
3	BUREAU OF PROFESSIONAL AND OCCUPATIONAL AFFAIRS	
4		
5	<u>FINAL MINUTES</u>	
6		
7	MEETING OF:	
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9	STATE BOARD OF VEHICLE MANUFACTURERS,	
10	DEALERS, AND SALESPERSONS	
11	VIA TELECONFERENCE	
12		
13	TIME: 10:32 A.M.	
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15	PENNSYLVANIA DEPARTMENT OF STATE	
16		
17	October 29, 2020	
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3 * * * 1 2 State Board of Vehicle Manufacturers, 3 Dealers, and Salespersons 4 October 29, 2020 * * * 5 6 [Pursuant to Section 708(a)(5) of the Sunshine Act, at 7 9:00 a.m. the Board entered into Executive Session with C. William Fritz II, Esquire, Board Counsel, for 8 9 the purpose of conducting quasi-judicial deliberations 10 and to receive advice of Counsel. The Board returned 11 to open session at 10:30 a.m.] * * * 12 13 The regularly scheduled meeting of the State 14 Board of Vehicle Manufacturers, Dealers, and 15 Salespersons was held on Thursday, October 29, 2020. Dan G. Murphy III, Chairman, called the meeting to 16 17 order at 10:32 a.m. * * * 18 19 Approval of minutes of the September 15, 2020 meeting 20 CHAIRMAN MURPHY: 21 Could I get an approval of the minutes? 22 MR. YINGST: 23 So moved. 24 MR. DAVIS: 25 Second.

4 1 CHAIRMAN MURPHY: 2 So moved and seconded. 3 Roll call. 4 5 6 Kyla Djannie, aye; George Mermon, aye; 7 Randall Derr, aye. Dale Yingst, aye; K. Kalonji Johnson, aye; Steve Fretz, aye; 8 9 Donald Stoy, aye; Angel Layton, aye; Dan 10 Murphy, aye. 11 [The motion carried unanimously.] * * * 12 13 [Chairman Murphy introduced new Board member, Angel 14 Layton, a representative from the Pennsylvania 15 Department of Transportation.] 16 17 [Theodore Stauffer, Executive Secretary, Bureau of 18 Professional and Occupational Affairs, announced that 19 the meeting was being recorded, and those who remained 20 on the line were giving their consent to being 21 recorded.] * * * 22 23 Report of Prosecutorial Division 24 [J. Karl Geschwindt, Esquire, Board Prosecutor, 25 presented the Consent Agreement for Case No. 20-60-

5 1 001163.] * * * 2 3 [Colby B. Widdowson, Esquire, Board Prosecution 4 Liaison, presented the Consent Agreement for Case No. 5 19-60-006406.1 * * * 6 7 [Monty J. Batson, Esquire, Board Prosecutor, presented 8 the Consent Agreement for File Nos. 16-60-06719 & 16-9 60 - 06720.110 * * * 11 [Adrianne R. McClendon, Certified Legal Intern, presented the Consent Agreement for Case No. 19-60-12 002928.1 13 * * * 14 15 MR. FRITZ: 16 The Board would entertain a motion to 17 approve the Consent Agreement at Case No. 20-60-001163. 18 19 MR. YINGST: 20 So moved. 21 MR. DERR: 22 Second. 23 CHAIRMAN MURPHY: 24 Roll call. 25

6 Kyla Djannie, aye; George Mermon, aye; 1 2 Randall Derr, aye; Kirk Davis, aye; Dale 3 Yingst, aye; Steve Fretz, aye; Donald 4 Stoy, aye; K. Kalonji Johnson, aye; Dan 5 Murphy, aye; and Angel Layton, aye. 6 [The motion carried unanimously. The Respondent's 7 name is Brad J. Steffey.] * * * 8 9 MR. FRITZ: 10 The Board would entertain a motion 11 approving the Consent Agreement at Case No. 19-60-006406. 12 MR. DERR: 13 14 So moved. 15 MR. MERMON: 16 Second. 17 CHAIRMAN MURPHY: Roll call. 18 19 20 Kyla Djannie, aye; George Mermon, aye; 21 Randall Derr, aye; Kirk Davis, aye; Dale 22 Yingst, aye; Donald Stoy, aye; Steve 23 Fretz, aye; Angel Layton, aye; K. 24 Kalonji Johnson, aye; and Dan Murphy, 25 aye.

7 [The motion carried unanimously. The Respondent's 1 2 name is Daniel M. Deaugustine.] * * * 3 MR. FRITZ: 4 5 The Board would entertain a motion to 6 approve the Consent Agreements at File 7 Nos. 16-60-06719 & 16-60-06720. 8 MR. DAVIS: 9 Motion. 10 CHAIRMAN MURPHY: 11 Is there a second? MR. DERR: 12 Second. 13 14 CHAIRMAN MURPHY: 15 Roll call. 16 17 Kyla Djannie, aye; George Mermon, aye; 18 Randall Derr, aye; Kirk Davis, aye; Dale 19 Yingst, aye; Steve Fretz, aye; Donald 20 Stoy, aye; Angel Layton, aye; K. Kalonji 21 Johnson, aye; and Dan Murphy, aye. 22 [The motion carried unanimously. The Respondents' 23 names are Richard J. Muse Jr. and Pamela A. Muse.] * * * 24 MR. FRITZ: 25

The Board would entertain a motion to 1 2 approve the Consent Agreement at Case 3 No. 19-60-002928. MR. DERR: 4 5 So moved. CHAIRMAN MURPHY: 6 7 Is there a second? 8 MR. YINGST: 9 Second. 10 CHAIRMAN MURPHY: 11 Roll call. 12 13 Kyla Djannie, aye; George Mermon, aye; 14 Randall Derr, aye; Kirk Davis, aye; Dale 15 Yingst, aye; Steve Fretz, aye; Donald 16 Stoy, aye; Angel Layton, aye; K. Kalonji 17 Johnson, aye; and Dan Murphy, aye. 18 [The motion carried unanimously. The Respondent's 19 name is Edward Leyberman.] * * * 20 21 Report of Board Counsel 22 [C. William Fritz II, Esquire, Board Counsel, 23 announced the new Probable Cause Screening Committee 24 of Angel Layton, Dale Yingst, and George Mermon, who 25 will be contacted with any probable cause matters.]

9 * * * 1 2 CHAIRMAN MURPHY: 3 Does somebody want to make a motion and 4 second for approval? 5 MR. DAVIS: 6 So moved. 7 CHAIRMAN MURPHY: 8 Second? 9 MR. DERR: 10 Second. 11 CHAIRMAN MURPHY: 12 Roll call. 13 14 Kyla Djannie, aye; George Mermon, aye; 15 Randall Derr, aye; Kirk Davis, aye; Dale 16 Yingst, aye; Steve Fretz, aye; Donald 17 Stoy, aye; Dan Murphy, aye; and K. 18 Kalonji Johnson, aye. 19 [The motion carried unanimously.] * * * 20 21 [C. William Fritz II, Esquire, Board Counsel, 22 addressed status of cases, noting 62 open files. He 23 also noted 8 current active protest matters with only 24 1 having a hearing scheduled at the beginning of next 25 year and 7 stayed.

Mr. Fritz referred to 16A-6015 regarding fee 1 2 increases, noting regulatory counsel will be providing 3 edits. 4 Mr. Fritz referred to 16A-6011 regarding the out-5 of-state RV fee, which was currently at the Office of 6 Attorney General and moving along. 7 Mr. Fritz requested Board members inform him on any matters where they would need to recuse themselves 8 9 after reviewing the status of cases. 10 Mr. Fritz addressed the possible General Order of 11 Delegation, which would add to the language for 12 immediate temporary suspension cases that will 13 automatically be delegated to the hearing examiner.] 14 * * * 15 MR. FRITZ: 16 We want to vote on approving this new 17 General Delegation Order. 18 CHAIRMAN MURPHY: 19 Motion and a second, please? 20 MR. MERMON: 21 So moved. 2.2 MR. DAVIS: 23 Second. 24 CHAIRMAN MURPHY: 25 So moved and seconded. Roll call.

11 1 2 Kyla Djannie, aye; George Mermon, aye; 3 Randall Derr, aye; Kirk Davis, aye; Dale 4 Yingst, aye; Steve Fretz, aye; Donald 5 Stoy, aye; Angel Layton, aye; K. Kalonji 6 Johnson, aye; and Dan Murphy, aye. 7 [The motion carried unanimously.] * * * 8 9 MR. FRITZ: 10 The Board would entertain a motion to 11 approve the following Adjudications and 12 Commonwealth v. Shame K. George Orders: 13 t/d/b/a Car Score Auto Sales, Case No. 14 16-60-10111; Commonwealth v. Austin Dean 15 Gooch, Case No. 19-60-005703; 16 Commonwealth v. Jason Lape, Case No. 19-17 60-014368; Commonwealth v. Angelo C. 18 Manganello, Case No. 19-60-006260. 19 CHAIRMAN MURPHY: 20 Motion and a second? 21 MR. MERMON: 2.2 So moved. 23 MR. YINGSGT: 24 Second. 25 CHAIRMAN MURPHY:

12 Roll call. 1 2 3 Kyla Djannie, aye; George Mermon, aye; 4 Randall Derr, aye; Kirk Davis, aye; Dale 5 Yingst, aye; Steve Fretz, aye; Donald 6 Stoy, aye; Angel Layton, aye; K. Kalonji 7 Johnson, aye; and Dan Murphy, aye. 8 [The motion carried. Randall Derr recused himself 9 from deliberations and voting on the motion for Case 10 No. 19-60-014368, Jason Lape.] * * * 11 12 MR. FRITZ: 13 The Board would entertain a motion to 14 adopt the proposed Adjudication and 15 Order of Rebecca Acosta, Case No. 18-60-16 005114. CHAIRMAN MURPHY: 17 Motion? 18 19 MR. DAVIS: 20 Second. 21 CHAIRMAN MURPHY: 22 So moved and seconded. Roll call. 23 24 Kyla Djannie, aye; George Mermon, aye; 25 Randall Derr, aye; Kirk Davis, aye; Dale

Yingst, aye; Steve Fretz, aye; Donald 1 2 Stoy, aye; Angel Layton, aye; K. Kalonji 3 Johnson, aye; Dan Murphy, aye. 4 [The motion carried unanimously.] * * * 5 6 MR. FRITZ: 7 The Board recommends a motion be made to direct Board counsel to draft the final 8 9 Adjudication and Order in the matter of 10 Michael Papp, Case No. 17-60-12723. 11 CHAIRMAN MURPHY: Motion? 12 MR. DAVIS: 13 14 Second. 15 MR. DERR: 16 Second. 17 CHAIRMAN MURPHY: 18 So moved and seconded. Roll call. 19 20 Kyla Djannie, aye; George Mermon, aye; 21 Randall Derr, aye; Kirk Davis, aye; Dale 22 Yingst, aye; Steve Fretz, aye; Donald 23 Stoy, aye; Angel Layton, aye; K. Kalonji 24 Johnson, aye; and Dan Murphy, aye. 25 [The motion carried unanimously.]

14 * * * 1 2 Application Review 3 MR. FRITZ: The Board would entertain a motion to 4 5 approve the following applicants: Jose 6 Delgado, Tracy Davis, and Abdulsalam 7 Moustafa. 8 CHAIRMAN MURPHY: 9 Motion? 10 MR. STOY: 11 So moved. 12 CHAIRMAN MURPHY: 13 Second? MR. DAVIS: 14 15 Second. 16 CHAIRMAN MURPHY: 17 So moved and seconded. Roll call. 18 19 Kyla Djannie, aye; George Mermon, aye; 20 Randall Derr, aye; Kirk Davis, aye; Dale 21 Yingst, aye; Steve Fretz, aye; Donald 22 Stoy, aye; Angel Layton, aye; K. Kalonji 23 Johnson, aye; and Dan Murphy, aye. 24 [The motion carried unanimously.] * * * 25

1 MR. FRITZ: 2 The Board would entertain a motion 3 approving the Application of Douglas Marinos to probation concurrent with his 4 5 criminal probation. MR. DERR: 6 7 So moved. 8 CHAIRMAN MURPHY: 9 Second? 10 MR. YINGST: 11 Second. 12 CHAIRMAN MURPHY: 13 So moved and seconded. Roll call. 14 15 Kyla Djannie, aye; George Mermon, aye; 16 Randall Derr, aye; Kirk Davis, aye; Dale 17 Yingst, aye; Steve Fretz, aye; Donald 18 Stoy, aye; Angel Layton, aye; K. Kalonji 19 Johnson, aye; and Dan Murphy, aye. 20 [The motion carried unanimously.] * * * 21 22 MR. FRITZ: 23 The Board would entertain a motion 24 approving the Application of Nicholas 25 Mongan subject to a 2-year probationary

16 1 period. 2 MR. MERMON: 3 So moved. 4 MR. DERR: 5 Second. CHAIRMAN MURPHY: 6 7 So moved and seconded. Roll call. 8 9 Kyla Djannie, aye; George Mermon, aye; 10 Randall Derr, aye; Kirk Davis, aye; Dale 11 Yingst, aye; Steve Fretz, aye; Donald 12 Stoy, aye; K. Kalonji Johnson, aye; and 13 Dan Murphy, aye. 14 [The motion carried unanimously.] * * * 15 16 Report of Board Chairman 17 [Dan G. Murphy III, Chairman, addressed Board terms 18 and vacancies and recommended temporary extensions.] * * * 19 20 Report of Board Administrator 21 [Janice Cline, Board Administrator, noted meeting dates for 2020 and 2021 for the Board's review. 2.2 23 Mr. Fritz recommended Board members inform Ms. 24 Cline if they are unable to attend any of the 25 scheduled dates.

Chairman Murphy thanked Mr. Stoy for all of his 1 2 years of service. 3 Mr. Stoy commended everyone involved with the 4 Board meetings. He also thanked Commissioner Johnson 5 and Governor Wolf for the proclamation he received. Commissioner Johnson thanked Mr. Stoy for his 6 7 service and being an exemplary model of public 8 service. Mr. Fritz recommended everyone look at their 9 10 quorum and USQ time.] * * * 11 Report of Commissioner 12 13 [K. Kalonji Johnson, Commissioner, Bureau of 14 Professional and Occupational Affairs, thanked Board 15 members for continued patience while maneuvering 16 through virtual meetings. 17 Commissioner Johnson congratulated Mr. Stoy for 18 his years of service. He welcome Angel Layton to the 19 Board, stating that her presence will complement the 20 Board. He also welcomed Mr. Davis back to the Board. 21 Commissioner Johnson thanked Ms. Cline and Board 22 counsel, noting they have been remarkable throughout 23 the last several months.] * * * 24 25 Appointment - Act 53 of 2020 List of Relevant Crimes

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1 Presentation

2 [K. Kalonji Johnson, Commissioner, Bureau of 3 Professional and Occupational Affairs, addressed Act 4 53, noting it to be a comprehensive piece of 5 legislation that reformed the way criminal history is 6 used to make determinations about licensure. He 7 stated Act 53 was passed in June 2020 with an 8 effective date of 180 days.

Commissioner Johnson discussed his directives to 9 10 oversee the publication of the list of offenses 11 relative to each of the boards and commissions under the statutory auspices of Act 53. He was also 12 13 directed to provide the opportunity for business 14 members within the regulated communities to review the 15 list, provide feedback, and consult with the boards for approval of the lists. 16

17 Commissioner Johnson stated Chief Deputy Counsel 18 Montgomery and Board counsel reviewed the crimes code, 19 practice act, and disciplinary procedures and curated 20 a list of criminal offenses that directly relate to 21 the profession.

22 Commissioner Johnson explained that Act 53 23 creates opportunities for more equitable outcomes and 24 provides transparency in the licensure process. He 25 mentioned the Bureau will also create a best practices

guide for the public, licensees, and perspective
licensees to better navigate the journey from layman
to professional. He commented that the list of
offenses was not a terminal list and would have to go
through the regulatory review process.

6 Cynthia K. Montgomery, Esquire, Deputy Chief 7 Counsel, Department of State, explained that the items 8 on the list were intended to be crimes that would 9 directly relate to the profession and provide a 10 definition of "directly relates." She stated most of 11 the offenses are theft, fraud, and forgery.

Ms. Montgomery referred to § 3113(e) regarding acts of violence, where an individual convicted of a crime of violence may be granted a license if at least 3 years from incarceration or 3 years from imposition of the sentence have lapsed, the individual has remained conviction-free, and demonstrates significant rehabilitation.

Ms. Montgomery also stated the Board must be convinced that the individual did not pose a substantial risk to the health or safety of the public, customers, or clients or a substantial risk of further criminal convictions. She mentioned that the violent crimes are provided in Act 53, where all boards must follow § 3113(e) when considering violent

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1 crimes.

2	Ms. Montgomery mentioned the Board is tasked with				
3	determining whether the list of crimes are directly				
4	related to the profession and should remain on the				
5	list. She explained that crimes on the list gives				
6	notice to individuals thinking of entering the				
7	occupation of vehicle sales as to what types of crimes				
8	the Board deems to be related to the profession.				
9	Ms. Montgomery noted the list of crimes would be				
10	incorporated into a best practices guide that lets				
11	individuals know how the Board considers criminal				
12	history information, what crimes are directly related				
13	to the various professions, and the process of				
14	convincing the Board they do not pose a risk to the				
15	public or risk of further criminal convictions. She				
16	stated the burden was on the applicant or licensee to				
17	demonstrate they are not a risk if the crime is on the				
18	list.				
19	Ms. Montgomery addressed rebuttable presumption,				
20	where individuals with crimes on the list of offenses				
21	directly related to the profession would be believed				

22 to pose a significant risk to the safety of their 23 clients or the public or a significant risk of further 24 criminal convictions. She noted the individual would 25 have to prove they do not pose such a risk.

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Ms. Montgomery explained the two-stage analysis, noting the first stage is to determine whether the crime is on the list as directly related, where the burden is on the applicant or licensee to demonstrate they do not pose a risk to the public.

6 Ms. Montgomery stated the crimes, not on the list 7 of directly related to the profession, would need an 8 individualized assessment using criteria set forth in 9 § 3113(c) to determine whether the individual does 10 pose such a risk or should be granted a license 11 notwithstanding the criminal conviction.

Ms. Montgomery commented that many of the factors all of the boards consider anyway but had been laid out in the statute and provided in the best practices guide so licensees know what to present to the Board.

Ms. Montgomery addressed preliminary

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17 determination, where an individual could ask in 18 advance whether their criminal history would pose an 19 impediment to licensure or an applicants. She noted 20 this to be utilized when imposing discipline as well. 21 She stated the Commonwealth must demonstrate the 22 conviction does pose such a risk if the crime is not 23 on the list.

24 Mr. Fretz noted the Board sees a lot of informal 25 matters concerning DUI and drug charges that happened

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a decade ago and questioned whether those would still 1 2 require the Board's approval or would that go through 3 the license process without the Board's approval. Ms. Montgomery noted the Board to be one of the 4 5 few boards that do informal conferences for individuals with criminal history and did not think 6 7 that would change with regard to crimes that are not 8 on the list. She stated it would be the crimes on the 9 list where the Board may or may not want to have an 10 informal conference and go straight to a hearing. 11 Ms. Montgomery stated the Board could still 12 consider crimes that are not on the list by performing an individualized assessment to determine if the 13 14 person poses a risk. She noted Board staff could 15 still just process applications if the Board is not concerned about an offense. 16 17 Mr. Fritz noted the importance of focusing on 18 crimes directly related to the vehicle sales 19 profession as far as protecting the public. He noted 20 focusing on fraud, anything to do with money, odometer

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tampering, and stealing money. He mentioned that he

individuals think they will automatically be denied.

He commented that the list was not set in stone and

did not want to put anything on the list to make

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could be amended.

Chairman Murphy requested clarification of
 whether the list was produced by the Commissioner for
 the Board and not produced by legislation or the
 governor.

5 Commissioner Johnson explained that it is a 6 directive from legislature, and Act 53 requires 7 everyone to do this. He emphasized that none of the 8 responsibilities of the Board have changed. He 9 mentioned the directive in terms of publication puts 10 the deadline at December 26 for the list.

Ms. Djannie agreed with this list, noting a similar approach was taken at the Office of Attorney General, where it is looked at from a review standpoint for the applicant process as opposed to automatic denial or approval.

Ms. Montgomery noted no comments were received 16 17 from interested parties and stakeholders. She stated 18 the intent of this list was to identify the crimes the 19 Board deems related to the vehicle profession and to 20 look at it through the definition of the statute. 21 Mr. Fritz stated the list is not requiring 22 prosecutors to prosecute the licensee if they have 23 this conviction and is also not saying if it is not on this list that they cannot prosecute them.] 2.4

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* * *

24 1 MS. MONTGOMERY: 2 The vote today would be to authorize the 3 Commissioner to publish the list. Не subsequently has to promulgate it as a 4 5 regulation. It has to be published by 6 the end of the year. 7 CHAIRMAN MURPHY: 8 Let's go ahead and have a motion and 9 second and vote on approving it. MR. DAVIS: 10 11 So moved. 12 MR. DERR: Second. 13 14 CHAIRMAN MURPHY: 15 So moved and seconded. Roll call. 16 17 Kyla Djannie, aye; George Mermon, aye; 18 Randall Derr, aye; Kirk Davis, aye; Dale 19 Yingst, aye; Steve Fretz, aye; Donald 20 Stoy, aye; Angel Layton, aye; K. Kalonji 21 Johnson, aye; Dan Murphy, aye. 22 [The motion carried unanimously.] 23 * * * 24 [Dan G. Murphy III, Chairman, mentioned former 25 roundtable discussions between PennDOT, the attorney

general, and the Board to be beneficial to like issues 1 2 and would like to see those again. 3 Mr. Fritz noted participating in those 4 discussions and found them to be productive. He will 5 try to get those started those again in the new year 6 because of the quarantines and COVID-19. 7 Mr. Davis requested information regarding the delay from PennDOT in providing paperwork and 8 9 registrations to people. 10 Ms. Layton mentioned a slight backlog in the 11 processing units as far as registrations are 12 concerned. 13 Chairman Murphy suggested PennDOT recognize 14 delays and apply something showing they will not be 15 punitive regarding that issue.] * * * 16 17 Adjournment CHAIRMAN MURPHY: 18 19 I entertain a motion to adjourn. 20 MR. DAVIS: 21 So moved. 2.2 MR. DERR: 23 Second. 24 CHAIRMAN MURPHY: 25 So moved and seconded. We stand

1 adjourned. 2 [The motion carried unanimously.] 3 * * * [The State Board of Vehicle Manufacturers, Dealers, 4 5 and Salespersons Meeting adjourned at 12:05 p.m.] * * * 6 7 8 CERTIFICATE 9 10 I hereby certify that the foregoing summary minutes of the State Board of Vehicle Manufacturers, 11 12 Dealers and Salespersons meeting, was reduced to 13 writing by me or under my supervision, and that the 14 minutes accurately summarize the substance of the 15 State Board of Vehicle Manufacturers, Dealers and Salespersons meeting. 16 17 18 19 20 Derek Richmond, 21 Minute Clerk 2.2 Sargent's Court Reporting 23 Service, Inc. 24 25 26

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1 2 3 4 5 6 7 8 9	STATE	BOARD OF VEHICLE MANUFACTURERS, DEALERS, AND SALESPERSONS REFERENCE INDEX	
4 5 6		October 29, 2020	
/ 8 9	TIME	AGENDA	
10 11 12	9:00 10:30	Executive Session Return to Open Session	
12 13 14	10:32	Official Call to Order	
15 16	10:36	Approval of Minutes	
17	10:37	Report of Prosecutorial Division	
19	10:46	Report of Board Counsel	
21	10:53	Application Review	
23	10:56	Report of Board Chairman	
25 26	11:05	Appointment - Act 53 of 2020 Crimes Presentation	
28 29 30	12:05	Adjournment	
32			
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20 22234567890 12334567890 12334567890 4123456789 41234567890	10:53 10:56 11:05	Application Review Report of Board Chairman Appointment - Act 53 of 2020 Crime Presentation	S