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Staff Members

Staff members participating during the meeting included Roderick Atkinson, Board Administrator; Gina Sams, Administrative Assistant; Rodney Pigford and Michael “Doc” Smith, Office of Investigations and Enforcement; Rowland Alston, Office of Disciplinary Counsel; Kyle Tennis, Office of Advice Counsel.

Approval of Agenda

MOTION

On the motion of Mr. Lockwood, seconded by Mr. Rinehart, the Commission voted unanimously in favor to approve the April 22, 2021 Agenda.

Chair’s Remarks– (Andy Lee)

Chair Lee forwent providing remarks.

Disciplinary Hearings

**Stephen Miernicki**

Chair Lee opened the hearing and confirmed the presence of the Respondent, Mr. Stephen Miernicki.

The purpose of the hearing was held to consider the charges in Case Numbers 2019-487 and 2019-493.

The identity of Mr. Miernicki was confirmed by the Court Reporter via government-issued ID; and thereafter was sworn in.

The Respondent, Mr. Miernicki, presented the following pre-hearing motion:

Respondent’s Pre-Hearing Motion

Mr. Miernicki submitted a motion to dismiss based on procedural grounds and the jurisdiction of the Commission.

Mr. Rowland Alston, representative of the State with the Office of Disciplinary Counsel, presented the procedural history and the efforts made to be forth coming with the Respondent in this case. The State argued against Respondent’s motion to dismiss and requested that Respondent’s motion be denied.

**Executive Session- Convened 10:53 a.m.**

MOTION

91 On the motion of Mr. Lockwood, seconded by Mr. Bethune, the Commission voted  
92 unanimously in favor to enter into Executive Session for the purpose of receiving legal  
93 advice.

94

95 **Executive Session- Reconvened 11:15 a.m.**

96

97 **MOTION**

98 On the motion of Mr. Burnett, seconded by Ms. Mitchell, the Commission voted  
99 unanimously in favor to exit from Executive Session where legal advice was received,  
100 and no votes were taken.

101

102 **MOTION**

103 On the motion of Mr. Lockwood, seconded by Mr. Rinehart, the Commission voted  
104 unanimously in favor to deny Mr. Stephen Miernicki's Pre-Hearing Motion of Dismissal.  
105 The motion passed.

106

107 Chairman Lee recognized Mr. Alston, the State's Representative, to present his opening  
108 statement.

109

110 Mr. Rowland Alston, Office of Disciplinary Counsel provided his opening statement and  
111 explained the reason for the Hearing was to present two cases. Both cases, Case  
112 Numbers 2019-487 and 2019-493, concern allegations of misconduct in the practice of  
113 property management; both cases included allegations of failure to remit funds belonging  
114 to another in a reasonable time, and failure to properly cooperate with the investigator for  
115 the Commission for the production of requested documents.

116

117 Chairman Lee recognized the Respondent, Mr. Miernicki, to present his opening  
118 statement.

119

120 Mr. Miernicki presented his opening statement whereby explained events which lead to  
121 the complaint. Mr. Miernicki also reported the rationale of his actions.

122

123 Mr. Alston called the State's Investigator, Mr. Michael "Doc" Smith, to be sworn in to  
124 present his testimony regarding this case. After the witness was sworn, Mr. Alston  
125 directly examined the witness, at which time exhibits were discussed, and then the  
126 examination was concluded.

127

128 Mr. Miernicki cross-examined Mr. Michael "Doc" Smith.

129

130 Recess- 12:23 p.m. until 12:37 p.m.

131 Chairman Lee called for a short recess.

132 Following the brief recess, Mr. Miernicki continued with the cross examination of Mr.  
133 Smith where exhibits were presented, and then the examination was concluded. After  
134 redirect and re-cross examinations, the Commission asked questions of the witness.

135

136 Mr. Alston called the State's second witness, Mr. John Hilliard Robinson to be sworn in to  
137 testify. After the witness was sworn, Mr. Alston examined the witness where exhibits  
138 were presented, and then the examination was concluded.

139  
140 Mr. Miernicki cross-examined Mr. Robinson.

141  
142 Recess- 2:14 p.m. until 2:26 p.m.

143 Chairman Lee called for a short recess and upon returning, the following action was  
144 taken:

145  
146 **Executive Session- Convened 2:27 p.m.**

147  
148 **MOTION**

149 On the motion of Mr. Lockwood, seconded by Mr. Rinehart the Commission voted  
150 unanimously in favor to enter into Executive Session for the purpose of receiving legal  
151 advice.

152  
153 **Executive Session- Reconvened 2:34 p.m.**

154  
155 **MOTION**

156 On the motion of Mr. Bethune, seconded by Mr. Lockwood, the Commission voted  
157 unanimously in favor to exit from Executive Session where legal advice was received,  
158 and no votes were taken.

159  
160 Mr. Miernicki continued with the cross examination of Mr. Robinson, and then the  
161 examination was concluded. Mr. Alston stated he had no further questions for Mr.  
162 Robinson. After brief questioning by the Commission Mr. Robinson's testimony  
163 concluded.

164  
165 Chairman Lee recognized Mr. Miernicki for him to present his case before the  
166 Commission.

167  
168 Mr. Miernicki presented his case before the Commission, answered questions from the  
169 Commission, and the following action was taken:

170  
171 **Executive Session- Convened 3:30 p.m.**

172  
173 **MOTION**

174 On the motion of Mr. Bethune, seconded by Mr. Lockwood, the Commission voted  
175 unanimously in favor to enter into Executive Session for the purpose of receiving legal  
176 advice.

177  
178 **Executive Session- Convened 3:48 p.m.**

179  
180 **MOTION**

181 On the motion of Mr. Rinehart, seconded by Ms. Mitchell, the Commission voted  
182 unanimously in favor to exit from Executive Session where legal advice was received,  
183 and no votes were taken.

184  
185 Commissioner Burnett was excused from the remainder of the meeting at 3:48 p.m.  
186

187 Chairman Lee called for closing statements.

188  
189 Mr. Alston provided a closing argument statement.  
190 Mr. Miernicki providing his closing argument.  
191

192 **Executive Session- Convened 4:26 p.m.**

193  
194 **MOTION**  
195 On the motion of Mr. Rinehart, seconded by Mr. Lockwood, the Commission voted  
196 unanimously in favor to enter into Executive Session for the purpose of receiving legal  
197 advice.

198  
199 **Executive Session- Convened 4:33 p.m.**  
200

201 **MOTION**  
202 On the motion of Mr. Bethune, seconded by Mr. Mitchell, the Commission voted  
203 unanimously in favor to exit from Executive Session where legal advice was received,  
204 and no votes were taken.

205  
206 **MOTION**  
207 Mr. Rinehart made the following motion: all three statutory violations as set forth in the  
208 Amend Formal Complaint were proven, and a fine of \$5,000 per violation, for a total  
209 fine of \$15,000 should be imposed. The Respondent has 120 days to complete the seven-  
210 hour Property Manager-in-Charge course and to pay the fine. If the Respondent is  
211 noncompliant with the conditions of the Order within 120 days, the Respondent's license  
212 shall be revoked. Mr. Bethune seconded the motion. Ms. Mitchell, Mr. Bethune, and Mr.  
213 Rinehart voted in favor of the motion, and Chairman Lee and Mr. Lockwood voted  
214 against the motion. The motion passed.

215  
216 **Unfinished Business**  
217  
218 There was not any Unfinished Business brought before the Commission.  
219

220 **Executive Session**  
221  
222 Executive Session was not required.  
223

224 **Public Comments.**  
225  
226 There were no public comments received.  
227

228 **Adjournment**

229

230 **MOTION**

231 On the motion of Mr. Lockwood, seconded by Ms. Mitchell, the Commission voted  
232 unanimously in favor to adjourn. Time of Adjournment was 4:57 p.m.