

REAL ESTATE COMMISSION
NOVEMBER 15, 2011

Grant Sawyer Building
555 E. Washington Ave.
Room 4401
Las Vegas, NV 89101

VIDEO CONFERENCE TO:
Legislative Building
401 S. Carson St.
Room 3138
Carson City, NV 89701

MINUTES

Meeting started at 8:34 a.m.

1. COMMISSION/DIVISION BUSINESS

A) Introduction of Commissioners in Attendance

Marc Sykes, Bert Gurr, Richard Johnson, Paul Murad, David Boyer, and Deputy Attorney General, Rose Marie Reynolds, Commission Counsel.

B) Introduction of Division staff in Attendance

In Las Vegas: Gail Anderson, Administrator; Jan Holle, Chief Investigator; Susan Clark, Licensing Manager; Safia Anwari, Education Officer; Linda Chavez, Compliance Audit Investigator; Carolyn Washington, Compliance Audit Investigator; Ingrid Trillo, Education Program Officer; Joanne Gierer, Legal Administrative Officer; Rebecca Hardin, Commission Coordinator; Division Counsel, Kimberly Arguello, Senior Deputy Attorney General; Christopher Eccles, Deputy Attorney General; Daniel Ebihara, Deputy Attorney General.

In Carson City: Martha Alvarez, B&I Directors Office, monitoring Room 3138

2. PUBLIC COMMENT

President Boyer called for public comments. There were none in Las Vegas or Carson City.

3. COMMISSION/DIVISION BUSINESS

A) Discussion regarding Attorney General Case Status Report

Rose Marie Reynolds stated that the report was self-explanatory and she had no new information.

5. DISCIPLINARY ACTION

The following cases were continued after the agenda was distributed.

6. NRED v. Sandra J. Davis for possible action

Case No. RES 10-12-14-149

License Nos. PM.0163132 (Closed) & B.0039271.LLC (New Credential issued)

7. NRED v. Sandra J. Davis for possible action

Case No. RES 10-09-03-058

License Nos. PM.0163132 (Closed) & B.0039271.LLC (New Credential issued)

8. NRED v. Sandra J. Davis for possible action

Case No. RES 10-10-02-07

License Nos. PM.0163132 (Closed) & B.0039271.LLC (New Credential issued)

9. NRED v. Sandra J. Davis for possible action

Case No. RES 09-08-21-063

License Nos. PM.0163132 (Closed) & B.0039271.LLC (New Credential issued)

10. NRED v. Judy Gabriel for possible action

Case No. RES 11-05-32-409

License No. Unlicensed

11. NRED v. Gisela Galvan for possible action

Case No. RES 09-11-53-20

License No. S.0032250 (Active)

14. NRED v. Diane Wild for possible action

Case No. RES 11-05-31-408

License No. Unlicensed

The court reporter was sworn in.

1) NRED v. Boemio, Brooks

Case No. RES 10-08-13-040

License No. S0072963 (Active)

Ms. Boemio was present and represented by attorney Christopher Richardson.

Daniel Ebihara, Deputy Attorney General, was present on behalf of the Division.

The respondent was sworn in.

Mr. Ebihara read the stipulated facts and stated that Ms. Boemio agreed to a Stipulation.

The Respondent stated that she had read, understood, and signed the Stipulation.

Commissioner Sykes moved to accept stipulation. Commissioner Johnson seconded.
Motion carried.

2) NRED v. Gina Calver
Case No. RES 10-10-10-087
License No. Unlicensed

Respondent was not present or represented by counsel.

Daniel Ebihara, Deputy Attorney General, was present on behalf of the Division.

Joanne Gierer, Legal Administrative Officer was called to testify regarding service of notice and sworn in.

President Boyer asked about crossed-out sections of Documentation entered as evidence. Ms. Gierer stated that the correspondence sent to the Respondent included those corrections.

Commissioner Sykes moved that service is proven by the Division. Commissioner Johnson seconded. Motion carried.

Mr. Ebihara read the Factual Allegations and Violations of Law into the record.

Jan Holle, Chief Investigator, stated that the Division recommended a \$2,500 fine, plus \$716.62 in hearing costs, payable within 30 days of the effective date of the order.

Commissioner Johnson moved to accept the motion, as stated. President Boyer stated that the motion had been seconded, but none was audible on the recording.

Discussion ensued about the timeframe for payment of the fine and terms of collection.

President Boyer called for a vote on the motion. Motion carried.

3) NRED v. Francisco Aguila Canez
Case No. RES 11-09-08-078
License No. PM.0163283 (Inactive) & S.0065054 (Inactive)

The respondent was not present or represented by counsel.

Kimberly Arguello, Sr. Deputy Attorney General was present on behalf of the Division.

Joanne Gierer, Legal Administrative Officer was called to testify regarding service of notice.

Commissioner Sykes moved that service and by extension and by statute has proven factual allegations and the violations of law. Commissioner Gurr seconded. Motion carried.

Ms. Arguello read the Factual Allegations and Violations of Law into the record.

Jan Holle, Chief Investigator, stated that the Division, recommended a \$150,000 fine, plus \$872.87 for the cost of the hearing, payable within 90 days of the effective date of the order, plus revocation of salesman license and property management permit.

Commissioner Johnson moved to accept the proposal, as stated. Commissioner Sykes seconded. Motion carried.

**12) NRED v. Joel P. Silverman
Case No. RES 11-09-15-085
License No. B.0003840.LLC (Active) & PM.0162327.BKR (Active)**

Respondent was present and not represented by counsel.

Kimberly Arguello, Sr. Deputy Attorney General was present on behalf of the Division.

Ms. Arguello stated that a stipulation for settlement has been reached.

The respondent was sworn in.

Ms. Arguello read the stipulation into the record.

The respondent stated that he has read, understood, and prepared to sign the stipulation.

Commissioner Sykes moved to approve the proposal, as stated. Commissioner Gurr seconded.

Discussion ensued on timeline of restitution to clients.

President Boyer called for a vote. Motion carried.

3. COMMISSION/DIVISION BUSINESS

**K) Discussion and possible action regarding Respondent's petition to reconsider
Commission's order.**

**1. NRED v. Benedict Prasad
Case No. S08-09-09-093**

The respondent was present and not represented by counsel.

The respondent was sworn in and stated his appeal.

Christopher Eccles, Deputy Attorney General, was present on behalf of the Division.

Discussion ensued.

Commissioner Gurr moved to deny the petition. Commissioner Johnson seconded.
Motion carried.

6. LICENSE DENIAL APPEAL

(1) Note: Portions of this discussion may be closed in accordance with NRS 241.030

Respondent was present and represent by council Jack Buchannan.

A. Motion to close session to review the license denial appeal of **KENT PRESTON, FILE NO. S-LDA-11-007**, and why applicant should or should not be granted a license.

Commissioner Gurr moved to close this portion of the session. Commissioner Sykes seconded. Motion carried.

B. Discussion in closed session.

Commissioner Gurr moved to reopen the meeting. Commissioner Sykes seconded. Motion carried.

C. Discussion and possible action in open session.

Commissioner Sykes moved to deny the appellant's appeal. Commissioner Johnson seconded. Motion carried.

3. COMMISSION/DIVISION BUSINESS

E) Discussion regarding Administrator's report on:

Gail Anderson, Administrator, presented the following agenda items:

1. Division's schedule for server and software upgrades:

The Administration budget was approved for scheduled equipment replacements, based on a five to six year replacement schedule.

There is a plan for a conversion to virtual servers, tentatively scheduled for implementation in January of 2012.

2. What is available through the Division's on-line lookup:

Currently there is a licensee lookup quick link on Division homepage, which enables a quick search of the Division's licensing database. Additional enhancements are expected after scheduled upgrades. Discussion ensued.

3. Personnel:

Rebecca Hardin was introduced as the new part-time Commission Coordinator for both the Real Estate Commission and the Commission of Appraisers. The position of Publication Writer in the Real Estate Education section is in the process of being filled. The Project Section's part-time employee retired and that section is currently unstaffed. This position is in the process of being reclassified from a grade 38 Projects Chief to a grade 36 Projects Reviewer. Reclassification of the position to a lower grade will allow the position to become full-time. The Program Training Officer position in the Common Interest Communities Program is vacant and is posted for recruitment.

Lunch break – 11:30 a.m. to 1:00 p.m.

5. DISCIPLINARY ACTION

4) NRED v. Yuen Wan Ivy Chan Case No. RES 11-11-22-199 License No. S.0167437 (Active in Renewal)

Ms. Chan was present and not represented by counsel.

Kimberly Arguello, Sr. Deputy Attorney General, was present on behalf of the Division.

Ms. Arguello stated that Ms. Chan has agreed to stipulate to all the facts and the violation.

President Boyer asked the respondent if she understood that by stipulating, she was agreeing with what the State was saying and those facts were true. Ms. Chan agreed and was sworn in.

Ms. Arguello stated there were no longer any witnesses, because they had the stipulations.

Ms. Arguello read the factual allegation and admitted violations of law.

President Boyer verified that there was no stipulation the respondent had been able to read or sign, but she received the complaint and has agreed to the factual allegations and the violations of law, as stated. Ms. Arguello stated that there was no plan to draft the stipulation for the respondent's signature, since the respondent has admitted to the facts and violations, and asked to Commission to find that violations had occurred and move on to discipline.

Per Commission Council, President Boyer asked again if Ms. Chan agreed with the stipulated facts and the violation of law.

Commissioner Sykes moved to accept the stipulated facts and the stipulated violations of law. Commissioner Gurr seconded. Motion carried.

Jan Holle, Chief Investigator, stated that the Division, recommended a \$2,500 fine, and the respondent not be allowed to apply for a property management permit for a period of two years.

Ms. Chan made a statement concerning her actions, saying that her English wasn't good. She did not understand the questions, so she copied them so her broker could explain them to her.

Commissioner Murad asked if the test was administered in other languages. The Division answered that it is not.

Commissioner Sykes asked Ms. Chan if she had cheated on the test just for personal reasons, to further her ability to pass the test and a subsequent version of the test. Her intent was not to pass the questions on to an educational provider. Ms. Chan reiterated that she just wanted to review the questions with her broker.

Commissioner Murad moved that the fine be \$500, with a payment plan of \$50 for 10 months and Ms. Chan be allowed to apply for the property management permit in 6 months. President Boyer seconded for the purpose of discussion. Discussion ensued.

The motion failed 3 to 2.

Commissioner Gurr moved for a fine of \$500, payable within two months, and not allowing Ms. Chan to sit for the Property Management license test for 12 months. Commissioner Murad seconded. Motion carried.

15) NRED v. Daunshari Wong-Culotta
Case No. RES 11-07-05-005
License No. B.0015620.CORP (Invalidated) & S.0015620 (Suspended)

Ms. Wong-Culotta was present and not represented by an attorney.

Christopher Eccles, Deputy Attorney General, was present on behalf of the Division.

Mr. Eccles stated that although the Division is prepared to move forward with this case, he had no objection to Ms. Culotta's request for a continuance.

Commissioner Gurr moved to continue this case to the next regularly scheduled Southern Commission hearing. Commissioner Johnson seconded. Motion carried

5) NRED v. G. Michael Cota
Case No. RES 10-10-09-086
License No. BS.0031676 (Inactive)

The respondent was not present or represented by counsel.

Kimberly Arguello, Sr. Deputy Attorney General, was present on behalf of the Division.

Joanne Gierer was called to testify regarding service of notice. Ms. Gierer stated that although the original mailing address of the respondent proved no longer valid, the returned mail contained a forwarding address. Both notices were forwarded to the new address by regular and certified. The certified mail was delivered and signed for. The notice sent via regular mail was not returned to the Division.

Commissioner Sykes moved that the Division has proven service and by extension and by statute that they have proven the factual allegations and the violations of law. Commissioner Johnson seconded. Motion carried.

Ms. Arguello read the Factual Allegations and Violations of Law into the record.

Jan Holle, Chief Investigator, stated that the Division recommended the following discipline: a \$40,000 fine, plus costs of \$1,013.62, payable in 90 days of the effective date of the order, and license revocation.

Commissioner Sykes moved to accept the State's recommendation. Commissioner Gurr seconded. Motion carried.

13) NRED v. Douglas Sutfin
Case No. RES 09-06-33-396
License No. Unlicensed

The respondent was not present or represented by counsel.

Kimberly Arguello, Sr. Deputy Attorney General, was present on behalf of the Division.

Joanne Gierer was called to testify regarding service of notice. Ms. Gierer stated that the complaint was sent both certified and regular mail to Mr. Sutfin's last known address and both

mailings were returned to the Division with no forwarding address. An attempt was made to find other addresses for the respondent, but none were found.

Commissioner Sykes moved that the State has proven service and by statute had proven the factual allegations and the violations of law. Commissioner Johnson seconded. Motion carried.

Ms. Arguello read the Factual Allegations and Violations of Law into the record.

Jan Holle, Chief Investigator, stated that the Division recommended the following discipline: a \$5,000 fine plus \$792.54 in hearing costs, to be paid within 30 days of the effective date of the order.

Commissioner Murad moved to accept the Division's recommendation. Commissioner Johnson seconded.

A friendly amendment was offered by Commissioner Gurr to increase the fine to \$10,000. Ms. Arguello stated that \$5,000 was the maximum amount allowable. The amendment was withdrawn by Commissioner Gurr.

Original motion carried.

7. EDUCATION

President Boyer stated that this portion of the agenda is typically taken as a consent item, with members of the Commission being allowed to pull items for review and discussion.

Commissioner Johnson requested items 2, 3, 4, 5, 6, 8, 14 and 15 be pulled.

President Boyer stated that the consent portion of the agenda included items 1, 7, 9, 10, 11, 12, 13, 16, 17 through 23 and 24 through 30 and asked for a motion.

Commissioner Sykes moved to approve the education consent agenda. Commissioner Johnson seconded. Motion carried.

Commissioner Johnson stated his reason for asking that items 2, 3, 4 and 5 be pulled was based on staff recommendation.

Ingrid Trillo, Education Program Officer, recommend denial, because the applications were incomplete and had been for seven months.

Commissioner Sykes moved to accept the recommendation of staff with respect to agenda items 2, 3, 4 and 5. Commissioner Gurr seconded. Motion carried.

President Boyer moved on to item 6, The CE Shop "BPO's: The Agent's Role in the Valuation Process"

Ms. Trillo, provided copies of the Nevada Revised Statute regarding Broker Price Opinion and documentation provided by The CE Shop. She stated that the course title and content includes the term 'valuation'.

Gail Anderson, Administrator stated that the Broker Price Opinion in the state of Nevada has a specific definition and some specific requirements. The question and concern was allowing the teaching of a course for continuing education credit in the state of Nevada that does not include the Nevada specific requirements for preparing a Broker Price Opinion. The term 'valuation' was also an issue.

Ms. Anderson also expressed concern about the term 'valuation' in the course title, Even though the curriculum covers what a Broker Price Opinion is and states that it is not an appraisal, the title could be misleading.

Commissioner Johnson had some concern with the use of 'valuation' and suggested the terminology issue should be rectified.

Commissioner Sykes moved to continue this education agenda item to the next meeting so the sponsors or the creators of the course have a chance to wordsmith it a little bit and make it a little bit clearer. Commissioner Johnson seconded.

President Boyer opened a discussion in regards to the term 'valuation' and the clarity of the description of the course.

President Boyer called for a vote. Motion carried.

- 8. The CE Shop, Inc.
"E-Pro Certification Program: Day 2"
Request: 8 Hours General Internet

Ms. Trillo recommended this course for denial because there is a course just like this one that was approved with just one application of a day one and two all combined for three hours of personal development even though it was a 16-hour course. This sponsor applied for it as two separate courses.

Discussion ensued.

Commissioner Sykes moved to approve as three hours of personal development CE. Commissioner Gurr seconded. Motion carried.

- 14. Western Title Company
"Everything You Need to Know About Title"
Request: 3 Hours General Classroom
- 15. Western Title Company
"Everything You Need to Know About Escrow"
Request: 3 Hours General Classroom

Commissioner Johnson withdrew his objection to items 14 and 15.

Commissioner Sykes moved to approve staff's recommendation on items 14 and 15. Seconded by Commissioner Gurr. Motion carried.

DISCUSSION AGENDA

NEW REAL ESTATE CONTINUING EDUCATION COURSES

1. Real Estate Division
"Trust Accounting Management and Compliance"
Request: 3 Hours Broker Management Classroom
2. Career Web School
"RESPA Reform"
Request: 3 Hours General Internet
3. Career Web School
"Income Capitalization Overview"
Request: 6 Hours General Internet
4. Career Web School
"Sales Comparison Approach"
Request: 6 Hours General Internet
5. Career Web School
"Cost Approach Overview"
Request: 6 Hours General Internet
6. The CE Shop, Inc.
"BPO's: The Agent's Role in the Valuation Process"
Request: 8 Hours General Internet
7. The CE Shop, Inc.
"E-Pro Certification Program: Day 1"
Request: 8 Hours General Internet
8. The CE Shop, Inc.
"E-Pro Certification Program: Day 2"
Request: 8 Hours General Internet
9. The CE Shop, Inc.
"Seniors Real Estate Specialist (SRES) Designation Course"
Request: 16 Hours General Internet
10. ABC School of Real Estate
"Nevada Legislative Update 2011"
Request: 6 Hours Law & Legislation Correspondence
11. ABC School of Real Estate
"Nevada Legislative Update 2011"
Request: 6 Hours Law & Legislation Internet
12. ABC School of Real Estate
"Practical Applications: Property Management Update II"
Request: 3 Hours Property Management Internet
13. ABC School of Real Estate
"Practical Applications: Business Brokerage III"
Request: 3 Hours Business Broker Internet

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|-----|---|--------------------------|-------------------|----------------|
| 14. | Western Title Company "Everything You Need to Know About Title" | Request: 3 Hours | General | Classroom |
| 15. | Western Title Company "Everything You Need to Know About Escrow" | Request: 3 Hours | General | Classroom |
| 16. | Still Training, LLC "Certified Commercial Advisor" | Request: 16 Hours | General | Classroom |
| 17. | Still Training, LLC "Real Estate Investment Analyst/Course 1" | Request: 12 Hours | General | Classroom |
| 18. | Still Training, LLC "Certified Professional Negotiator" | Request: 6 Hours | General | Classroom |
| 19. | Reno/Sparks Association of REALTORS® "Agency in Nevada; What Every Practitioner Should Know" | Request: 4 Hours | Agency | Classroom |
| 20. | Reno/Sparks Association of REALTORS® "What's Your EQ (Ethical Quotient)?" | Request: 3 Hours | Ethics | Classroom |
| 21. | Reno/Sparks Association of REALTORS® "Dealing with the Distressed Property Reality" | Request: 4 Hours | General | Classroom |
| 22. | McKissock, LP "1031 Exchanges – Increase Your Expertise" | Request: 3 Hours | General | Internet |
| 23. | McKissock, LP "Closing Procedures and Settlement Costs" | Request: 6 Hours | General | Internet |
| 24. | McKissock, LP "Live Webinar: Current Issues in Fair Housing" | Request: 3 Hours | Ethics | Internet |
| 25. | Lee K. Barrett "Legislative Realtor Update 2011" | Request: 4 Hours | Law & Legislation | Classroom |
| 26. | Lee K. Barrett "Risk Management for Brokers" | Request: 4 Hours | Broker Management | Classroom |
| 27. | Key Realty School LLC "Nevada Legal Update 4" | Request: 3 Hours | Law & Legislation | Correspondence |

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|---|-------------------------|-----------|-----------|
| 28. Realty One Group "HAFA and Traditional Short Sales" | Request: 3 Hours | General | Classroom |
| 29. Greater Las Vegas Association of Realtors® "Risk Management Update 2011" | Request: 3 Hours | Contracts | Classroom |
| 30. Nevada Association of Realtors® "Nevada Contracts: Recipe for Success" | Request: 4 Hours | Contracts | Classroom |

CHANGE OF HOURS REQUEST

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| 31. McKissock, LP. "Agency Law in Nevada" | Request: 3 Hours | Agency | Internet |
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3. COMMISSION/DIVISION BUSINESS

L) Discussion regarding possible unlicensed activity occurring at foreclosure auctions:

Commissioner Murad stated that there are unlicensed people, not purchasing for themselves, at foreclosure auctions. He asked that steps be taken to clarify the requirements of trustee sales and/or provide guidance of activity at foreclosure auctions.

Discussion ensued about laws and regulations already in place covering this matter, as well as possible solutions to distribute information concerning same.

Commissioner Murad suggested that the Commission offer an advisory opinion on the specific matter of foreclosure auctions and proactive steps be taken to make all parties aware of the protocol.

President Boyer named a work group, including Commissioner Murad and himself, be formed to draft a Position Paper, specifically dealing with the issue of foreclosure auctions, to be presented at the next Commission meeting.

Commissioner Gurr stated that since this was not an actionable item, possible solutions could be explored outside of this meeting and the current discussion should be discontinued in favor of moving on to the next agenda item.

C) Compliance Caseload Report.

Jan Holle, Chief Investigator, summarized the report.

G) Discussion and possible action regarding revisions to the Residential Disclosure Guide.

Gail Anderson, Administrator and Safia Anwari, Education Officer presented this item. Ms. Anderson acknowledged and thanked Ms. Anwari for her contribution, in the absence of the Publication Writer, to revising and consolidating the booklet.

Ms. Anderson stated that Legislative Senate Bill 314 changed law to say that the Seller Real Property Disclosure form cannot be waived. New and/or expanded language is proposed to point out specifically that sometimes a seller has never lived on the property and may have no knowledge of the condition of the property. The buyer is advised to obtain an independent inspection performed by a properly licensed home inspector. That would also be

correspondingly reflected on the form, saying never occupied by the person. The new language would also state that this form must be fully and properly completed. If the seller has no knowledge, "NO" is an appropriate answer to the "are you aware" questions. Each question must be answered. Explanations of any Yes answers and a properly executed signature by the seller are also required. The buyer may only sign the form after full and proper completion by the seller. The buyer's rights and options are also addressed.

Commissioner Gurr moved to accept and approve the proposed revisions to the Residential Disclosure Guide. Commissioner Johnson seconded. Motion carried.

H) Discussion concerning changes to the Seller Real Property Disclosure form #547 revised 10/01/11.

Gail Anderson and Safia Anwari presented this item.

Commissioner Murad asked that "Investor" be added as a choice on the form.

Discussion ensued about necessity and space on the form for the addition. A consensus was reached that the form should not be revised any further at this time.

Commissioner Sykes asked Administrator Anderson for a response regarding agencies using the SRPD as a questionnaire, inserting the information into the form, printing and submitting it. Ms. Anderson stated that a licensee should never fill out a SRPD 547 form behalf of a client, unless they are the owner of the property.

Commissioner Sykes raised the question of incomplete or inaccurate SRPDs in respect to buyer's claims of inadequate information prior to purchase.

Discussion ensued about the various aspects of information included on the form and buyer's recourse concerning property conditions.

I) Discussion concerning the Continuing Education Audit Report.

Ingrid Trillo, Education Program Officer, was available for questions from the Commission.

J) Discussion regarding dual designation of courses approved for continuing education by the Commission.

Ingrid Trillo, Education Program Officer, explained that staff cannot always determine which classification is being certified, because the sponsors sometimes put both designations on their certificates.

A discussion ensued about possible solutions to this problem.

8. PUBLIC COMMENTS

President Boyer called for public comments. There were none in Las Vegas or Carson City.

Today's meeting recessed at 4:06 p.m.

REAL ESTATE COMMISSION
NOVEMBER 16, 2011

Grant Sawyer Building
555 E. Washington Ave.
Room 4412
Las Vegas, NV 89101

VIDEO CONFERENCE TO:
Legislative Building
401 S. Carson St.
Room 3138
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MINUTES

Meeting started at 8:35 a.m.

1. COMMISSION/DIVISION BUSINESS

B) Introduction of Commissioners in Attendance

Paul Murad, Clark County; Richard Johnson, Washoe County; Bert Gurr, Elko County; Marc Sykes, Washoe County; David Boyer, Clark County; Rose Marie Reynolds, Commission Attorney.

C) Introduction of Division staff in Attendance

In Las Vegas: Gail Anderson, Administrator; Susan Clark, Licensing Manager; Safia Anwari, Education Officer; Ingrid Trillo, Education Program Officer; Joanne Gierer, Legal Administrative Officer; Rebecca Hardin, Commission Coordinator; and Division Counsel, Kimberly Arguello, Senior Deputy Attorney General.

In Carson City: Martha Alvarez, Directors Office.

2. PUBLIC COMMENT

President Boyer called for public comments. There were none in Las Vegas or Carson City.

4. WORKSHOP:

A) 11/16/11 @ 8:30 a.m. REGULATION WORKSHOP FOR LCB FILE No. R093-10:

Workshop by the Nevada Real Estate Commission to adopt proposed regulations known as LCB File No. R093-10, which establishes the following:

- < A regulation relating to licensing and education in real estate;
- < Revises the general requirements for continuing education for first time licensees;
- < Revises the specific requirements for renewal of license other than initial license and for reinstatement of license;
- < Revises the courses required for first-year licenses; exempt licensees; standards for courses; and
- < Providing other matters properly relating thereto.

President Boyer stated the following. "This is the time and place set to receive comment from all interested persons regarding the adoption of regulations that pertain to Chapter 645 of the Nevada Administrative Code known as LCB File No. R093-10 as posted by notice of this workshop on or about October 27, 2011. Today is Wednesday, November 16, 2011. The time is approximately 8:37. The workshop is scheduled for here at the Sawyer Building and in Carson City at the Legislative Building. We have had introductions. Copies of the proposed regulations are available by the sign-in sheets. The current proposed language is a result of input from many sources. It's important to emphasize that this workshop is a continuation of the process of collecting input from all interested parties. The purpose of this workshop is to give all interested persons a reasonable opportunity to submit data, views or arguments regarding the adoption of regulations that pertain to Chapter 645 of the Nevada Administrative Code. The following is the procedure for today's hearing. We will receive your comments in the order in which the proposed regulations are drafted. Please approach the speaker's table in an orderly fashion when the section you wish to address is announced. In order to give everyone an opportunity to state their views, you'll be given three minutes to speak. Each time you speak, please begin by stating your name and business affiliation. If you have written material, you would like to submit, please hand it to Joanne Gierer as you leave the speaker's table. In Carson City, please leave written comments by the sign-in sheets. After we have completed the proposed regulations, we will call for final comments on any of the previous sections. Please do not repeat anything you have submitted in writing or have previously given testimony on. Having gone through this LCD line by line the last time, I am not going to do so again, other than to say I will start with section one and ask if there is any comment from any member of the public here or in Carson City. Then as we get to the amendments that have been proposed today, we will stop and discuss those. In section one, is there any additional public comment?"

Gail Anderson, Administrator asked if an edit, allowing for the electronic submittal of, not just provide a certificate, had been missed on E.

President Boyer stated that language was used on page six of the LCB draft. Rather than the words "*copy of certificate*", they used "*proof of completion*".

Ms. Anderson asked that that same language be used in subsection 1(E), as well.

Cindy Weber, ABC Real Estate School, asked if the end of section 1, subsection 7, meant that a broker or licensee that's out of state would be exempt from the live classroom and they could take an interactive or televideo course?

President Boyer stated that he believed that was the intent. However, even though it says [more than 100 miles from] a city in this state, there are some people, in California, Arizona or Utah perhaps, who do live within a hundred miles from a city in this state.

Add New Language to Section 1 (5) of LCB #R093-10 amending Nevada Association of Realtors 645.4442

Add New Language to Section of LCB #R093-10 amending NAC 645.448

President Boyer brought up the first new language proposed, which was in new subsection b stating that up to six hours of the Division's course "What Every Licensee Should Know" may be included, if the designation corresponds to fulfill a required area.

Commissioner Sykes moved to remove the first amendment dealing with "What Every Licensee Should Know" and thereby remove it from consideration as part of the workshop document, stating that it's already provided for in statute, so there is no need for it to be particularly addressed as an additional item in the post licensing statute at this time.

President Boyer verified that Commissioner Sykes was suggesting that both amendments concerning Every Licensee Should Know should be postponed to a later date. Amendments were tabled.

Teresa McKee, representing the Nevada Association of Realtors, requested that every section addressing Nevada law include federal, state and local law, with emphasis on recent statutory and regulatory changes. Any place where it talks about Nevada law should read "changes to federal, state and local law." It may also include compliance and discipline, as reported by the Division.

Ms. Anderson stated that she wanted to make it clear that this has to do with law changes, not existing federal or county laws. The focus, as established by this commission, has been on law update.

Section Two:

No comments.

Section Three:

No comments.

New Amendments

President Boyer cited new language to be added as follows. "The requirements set forth in NAC 645.4442, as amended in Section 1 of LCB File No. R093-10 shall be effective for first time licensees due to renew after June 30, 2012." He referenced the passages as Amendments C and D, stating that D is similar to C, but it discusses the effective date for licensees due to renew, not first time licensees.

Gail Anderson spoke in support of incorporating language in both of these areas, stating that it's going to be very important to make clear to licensees when these new regulations take place. They are effective when their legislative commission approves them and they are filed.

President Boyer wanted to make sure that everybody that had been licensed as a first-time licensing or have renewed since 1 July of this year understood that requirements had gone up.

Gail Anderson proposed adding a penalty of \$500, in addition to the involuntary inactivation of a license by the Division, for failure to comply with the post-licensing educational requirements.

Susan Clark, Licensing Manager, reviewed the penalties for failing to renew a license in a timely manner, by the expiration date.

Gail Anderson stated that there might be more incentive for people to keep up on the requirements if the penalty involved more than the involuntary inactivation. In addition, the

inactivation involves a lot of paperwork and if it's a broker, it's an entire office shut down, so there's even more involved.

Commissioner Sykes brought up a prior workshop on this subject matter, where they had a discussion about having the education be done on the honor system. He asked if anyone was familiar with how other states who use the honor system handle fines for those who don't meet their education requirements.

Soozi Jones Walker, former Commissioner, stated discussions were held in prior workshops about having an administrative fine, in addition to involuntary inactivation of the license, because there needs to be a more substantial penalty for those who do not comply. Ms. Jones Walker commented that other states, such as California and Arizona, have fines for everything.

Commissioner Sykes continued the conversation by asking for Ms. Jones Walker's if her experience was somewhat consistent with what they do in other states with four-year license renewals, but two-year educational requirements and asking for a recommendation.

Ms. Jones Walker stated that the workgroup really didn't suggest a specific dollar amount, but the fines had to be enough that they were more than just the "cost of doing business".

Commissioner Sykes suggested one fine for brokers and perhaps a lesser fine for salespeople?

Ms. Jones Walker stated that there was already a different grading system for salespeople versus broker-sales and brokers.

Commissioner Gurr stated that the first four years through this system was going to be highly confusing to everybody. He suggested that there should be a time period to learn the system. Keep the \$30 reinstatement fine and then, in four years or whenever, these fines would go into place, so that everybody understands you have to take [classes] every two years

Commissioner Gurr asked if there were any allowances for people who can't physically get to a classroom. If somebody's had extenuating circumstances, is there any leeway to allow them to get their education and renew, without an additional fine.

Ms. Jones Walker stated that there used to be a hardship clause, but it had been removed out of the Division's purview, at their specific request, because it created a huge burden on the staff.

More discussion ensued concerning the timing of the proposed fines in relationship with license renewal, using some of the commissioners as specific examples.

Commissioner Gurr restated his concerns about imposing fines on the first phase through this four-year period; that it would be better to get through one licensing period to see how people respond. Then, impose additional fines after that.

Ms. Jones Walker stated that the real estate license is a privilege license, which means that licensees need to know how to operate their businesses. If the goal is to protect the public, the question is what we need to do to make the licensee do the right thing.

President Boyer expressed the opinion that we need to get through the first cycle before we start fining people. And on a related note, he noted that the workgroup that Soozie Jones Walker chaired did such great work. He stated his inclination to stop trying to wordsmith and

make everything perfect; to just get it done. That might reduce the amount of uncertainty for licensees that have renewed since July and still think they're only going to have to do 24 hours to renew in 2015.

Commissioner Gurr suggested language in that would allow a new administrative fine up to a number for salespeople and up to a number for brokers. Then, if it looked like things are getting rampant and runaway, a fine could be assessed. He stated that when a licensee has to give up their license for a month or more, it's a pretty heavy penalty, especially if they've got deals in progress that have to be stopped.

Commissioner Sykes stated that the easiest way to implement the fine is to do it without the grace period, with the fine structure being more along the lines of \$150 for salespeople and \$250 for brokers, something that is certainly more than a cost of doing business, but not enough to necessarily be punitive or prohibit people from renewing their license

Commissioner Gurr suggested assessing the broker for each licensee that fails to comply.

Ms. Jones Walker stated that if the Commission decided to do nothing, there are already substantial penalties and fines to the brokers for allowing any of their salespeople to work with an inactive license. The \$30 fine, however, is not stiff enough to encourage salespeople to comply. There may be a need for an additional incentive to get people to do the right thing.

Commissioner Gurr suggested \$100 across the board, this time, with the regulation being reviewed every two years to see if it needs to be adjusted.

Forrest Barbee, Prudential American Group, stated that he viewed the issue differently. He felt that was not about licensing. He disconnect the educational renewal from the licensing process and I chose to look at license renewal and educational requirements as separate as separate events, separate entities. He wanted to keep his agents focused on the fact that they have a two-year education requirement, if this all goes through. He was on board with involuntary inactivation, where the broker is notified. He felt that connecting the education requirements with the license renewal was causing confusion.

President Boyer called the workshop closed at 09:32.

3. COMMISSION/DIVISION BUSINESS

B) Discussion regarding the Disciplinary Report

Joanne Gierer distributed copies and explained the report.

Commissioner Murad asked for details of the collection process and what happens to unpaid accounts.

Ms. Gierer stated that once an account misses the payment plan, if they still have a license, they would be suspended by Ms. Clark. Within a month the collection process starts, with the Fiscal section turning the account over to the Controller's office, who has an outside collection agency. We don't sell our accounts. We have an agency that maintains collections for us.

Gail Anderson added that legal notices are sent through our fiscal section before they are turned over to the Controller's office. Then the state takes on the collection process. They do use a collection service, who reports back and credits us when a debt is collected. That is kept on the discipline report.

3. COMMISSION/DIVISION BUSINESS

D) Discussion and possible action to approve minutes of the July 19-21, 2011 meeting.

Commissioner Gurr moved to approve the minutes of the July meeting, as presented.
Commissioner Johnson seconded. Motion carried.

3. COMMISSION/DIVISION BUSINESS

F) Discussion and possible action regarding proposed regulatory changes to NAC 645, including but not limited to R093-10.

President Boyer called for a motion on whether to add Amendment A, which would add new language to section 1-5, enabling licensees to include up to six hours of the Division's course What Every Licensee Should Know.

Commissioner Sykes moved that Amendment A be removed from the proposed regulation.
Commissioner Johnson seconded. Motion carried

Amendment B would make What Every Licensee Should Know a requirement.

Commissioner Sykes moved that Amendment B be removed from the proposed regulation.
Commissioner Johnson seconded. Motion carried

Amendment C was adding the language concerning the effective date for first-time licensees due renew after June 30, 2012.

Commissioner Sykes moved to accept what was referred to as Amendments C and D, the implementation of timelines for implementation of the proposed regulations. Commissioner Gurr seconded. Motion carried

President Boyer cited a verbal amendment, suggested by the Nevada Association of Realtors, regarding adding language to the CE dealing with not just changes in state law but in federal and local.

Commissioner Sykes suggested the last amendment be tabled until a later meeting for consideration after the adoption of the current proposed regulations.

Commissioner Sykes moved to table the NVAR proposed amendment. Commissioner Gurr seconded. Motion carried.

The final amendment was the proposal to change the language in section 1e from "copy of the certificate" to "proof of completion" within the first year, immediately after licensing.

Commissioner Sykes moved that the language be revised to be consistent in allowing for electronic transmittal. Commissioner Gurr seconded. Motion carried.

Commissioner Sykes moved to add an administrative fine of \$100 for failure to complete continuing education for the two-year cycle. Commissioner Johnson seconded.

President Boyer added to the motion, whether it's for first-time licensees or renewing licensees, failure to complete required education.
Motion carried.

Commissioner Sykes moved to forward the amended piece of regulation to an adoption hearing at the next meeting of the Nevada Real Estate Commission. Commissioner Gurr seconded.

President Boyer asked if we relied on the Legislative Counsel Bureau to draft this. Are we fairly confident we would have this back in form by the next Commission hearing?

Ms. Gierer stated that she was not confident that we could have it back, due to staff reductions, but it would be done as soon as possible.

Commissioner Gurr offered a friendly amendment to the motion to include verbiage stating "or when ready by LCB".

The revised motion was to move this forward to adoption at the earliest possible Commission hearing after the Legislative Counsel Bureau gives it back to us.

Revised motion carried.

3. COMMISSION/DIVISION BUSINESS

M) Discussion regarding Commission meeting documentation provided in electronic format.

Commissioner Gurr liked the idea, but thought that having the printed package at the table, as well, would be helpful.

Commissioner Sykes liked the idea, but would like to add a PDF file that could allow notes to be added.

Commissioner Murad thought it was a great idea. He suggested that data could be put on a secure server so even the flash drive would not be necessary.

Gail Anderson stated that not every building has wireless capabilities.

Commissioner Johnson would like separate files for each item.

3. COMMISSION/DIVISION BUSINESS

N) Discussion and possible action concerning proposed meeting schedule for calendar year 2012.

Gail Anderson proposed the following five meeting dates for 2012.

1. February 14, 15, 16 -- South
2. April 17, 18, 19 -- North
3. June 26, 27, 28 -- South
4. September 11, 12, 13 -- North
5. November 6, 7, 8 -- South

3. COMMISSION/DIVISION BUSINESS

O) Discussion and possible action on date, time, place & agenda items for upcoming meetings.

Gail Anderson suggested that, even though 093-10 has not been adopted yet, perhaps a workshop should be scheduled for 157-08, based on where we think we're going with 093.

President Boyer agreed.

3. COMMISSION/DIVISION BUSINESS

P) Commission Comments

Commissioner Murad would encourage over scheduling so the meeting time would be filled.

Commissioner Sykes thanked staff for electronic distribution of documentation.

President Boyer thanked staff for making job easier.

Teresa McKee, Nevada Association of Realtors, offered help and/or advice in regards the foreclosure auction issue. The last NAR Board of Directors meeting discussed this activity and she believes that their 2012 president, President Blane Johnson, was going to create a presidential advisory group to discuss this activity also. They would be more than happy to help within the Real Estate Commission's workgroup or at least compare notes after these meetings occur

8. PUBLIC COMMENT

President Boyer called for public comments. There were none in Las Vegas or Carson City.

President Boyer adjourned the meeting at 10:25.