

**REAL ESTATE COMMISSION MEETING  
DECEMBER 10, 2013  
GRANT SAWYER BUILDING  
555 E. WASHINGTON AVENUE, ROOM 4401  
LAS VEGAS, NEVADA 89101**

**VIDEO CONFERENCED TO:  
LEGISLATIVE BUILDING  
401 S. CARSON STREET, ROOM 3137  
CARSON CITY, NEVADA 89701**

**DECEMBER 10, 2013**

**8:34 A.M.**

**1-A) Introduction of Commissioners in attendance.**

Norman Jean Opatik, Sherrie Cartinella, Richard Johnson, Neil Schwartz, David Boyer.

Deputy Attorney General Sophia Long serving as Commission Counsel.

**1-B) Introduction of Division staff in attendance.**

In Las Vegas: Gail Anderson, Administrator; Jan Holle, Chief Compliance Audit Investigator; Linda Chavez, Compliance Audit Investigator; Carolyn Washington, Compliance Audit Investigator; Daryl McCloskey, Compliance Audit Investigator; Rebecca Hardin, Commission Coordinator; Corin Gadsby, Legal Administrative Officer; Christine Datian, Administrative Assistant III; Maria Martin, Administrative Assistant III; Safia Anwari, Education Officer; Ingrid Trillo, Education Program Officer; Senior Deputy Attorney Kimberly Arguello, Division Counsel; Deputy Attorney General Christopher Eccles.

In Carson City: Steven Aldinger, Deputy Administrator.

**1-C) Swearing in of Commissioner Sherrie Cartinella.**

President Boyer swore in Commissioner Cartinella

**1-D) Swearing in of Commissioner Neil Schwartz.**

President Boyer swore in Commissioner Schwartz.

**3-A) Discussion regarding Attorney General Case Status Report.**

Senior Deputy Attorney General Kimberly Arguello presented the report. Ms. Arguello stated that these are open cases that are in the Attorney General's Office. Ms. Arguello stated that these cases include cases that the Commission will be hearing today.

Commissioner Johnson asked the length of time that it takes from the time that a complaint is received until it gets before the Commission or closed.

Ms. Arguello stated that there is not a standard time frame. Ms. Arguello stated that she tries to get through as many cases as possible.

Commissioner Opatik asked what the number of cases open has been in the past.

Ms. Arguello stated that over the years it has been over one hundred and fifty cases.

## **2) Public Comments**

None

### **3-B) Discussion regarding the Disciplinary Report.**

Agenda item tabled until the next Commission meeting.

### **3-C) Discussion regarding the Compliance Section's current caseload report, including a summary of recent topics of complaints filed.**

Jan Holle presented this report for fiscal year 14.

- Nineteen complaints received in the North
- Four hundred and fifty-six complaints received in the South.
- Current number of cases under investigation in the North has remained at a steady level in fiscal year 14 while the numbers of cases under investigation in the South have increased.
- Increase in the number of cases under investigation in the South can mostly be attributed to cases opened in November 2013 related to broker trust account reconciliation violations.

Mr. Holle stated current issues under investigation are:

- Property managers failing to account for or remit funds
- Brokers failing to submit trust account reconciliations
- Trust account embezzlement to include brokers, property managers and their employees stealing monies held in trust accounts that belong to others
- Property managers mismanaging property and/or monies received from owners or tenants
- Unlicensed property management activity to include real estate licensees and non-licensees
- Unlicensed real estate activity to include those without appropriate Nevada licensure and out-of-state licensees
- Failure to exercise reasonable care and skill by real estate licensees to include mishandling of sales and lease transactions
- Failure to respond to clients or other agents working outside their level of expertise
- False promises to clients
- Failure to submit offers to include licensees holding offers in order to submit a more desirable offer or an offer where a licensee can represent both sides of the transaction.
- Failure to disclose status as a real estate licensee interests in the property or party involved in the transaction or material fact related to the property or transaction.

President Boyer asked the percentage of cases that are related to fraud, embezzlement or failing to remit funds.

Mr. Holle stated that it would be seventy percent.

Commissioner Opatik asked how prevalent the issue of not disclosing the fact that the agent has interests in the property is.

Mr. Holle stated that this issue is fairly insignificant compared to property management complaints received.

### **3-D) Discussion regarding the Administrative Sanction Report.**

Jan Holle presented this report. Mr. Holle stated that this report is on the administrative sanctions that the Division through the Administrator has imposed from July to November 2013. Mr. Holle stated that under NAC 645.695 the Commission has given the Administrator the

authority to impose administrative fines for violations of law that would not typically be brought before the Commission. Mr. Holle stated that the dollar levels are set in regulation.

### **3-E-1) Discussion regarding Administrator's report on personnel**

Gail Anderson presented this report.

- Administrative budget account received 8.4 new positions in the 2013 Legislative Session which were authorized to start October 1, 2013.
- Two positions restored to the Licensing Section in Las Vegas
- Three positions restored in the Compliance Section in Las Vegas which consisted of two investigators and an administrative assistant III
- Two positions restored in the Projects Section
- One administrative assistant III position restored to the Administrator's Office
- The .4 was a part time to full time position which is Rebecca Hardin's position as Commission Coordinator for two commissions
- 7.4 of these positions are funded through June 30, 2015 by Attorney General's settlement fund monies for prevention of fraud for consumer protection.
- One vacancy in the entire agency in the Common-Interest Communities program where the supervisory investigator was appointed as the Ombudsman for Owner's in Common-Interest Communities

### **3-E-2) Discussion regarding Administrator's report on status of data system customizations.**

Steven Aldinger presented this report. Mr. Aldinger stated that software enhancements to support sponsor uploading of continuing and post education course completion information are complete. Mr. Aldinger stated that beta testing is underway with key sponsors. Mr. Aldinger stated that sponsors email a spreadsheet identifying the licensee and course taken to the Division which the Education staff import to the licensee's SOAR credential record.

Commissioner Schwartz asked how long the process takes from the time the sponsor uploads the information that it can be obtained by the licensee.

Mr. Aldinger stated that sponsors have been asked to report the information to the Division within two business days. Mr. Aldinger stated that it would be the Division's intention to load the information within the Education Section into the database at least within two more days. Mr. Aldinger stated that there will be exception for holidays. Mr. Aldinger stated that he would like to caution licensees about taking a course on the 29<sup>th</sup> of the month that is their renewal anniversary and expecting it to be posted in time to renew. Mr. Aldinger stated that three or four business days are typical.

Commissioner Opatik asked the anticipated roll out date after beta testing.

Mr. Aldinger stated that the Division would like to start at the first of the year. Mr. Aldinger stated that until the Division gets results from beta testing and work through any issues that the initial sponsors have, the Division does not know for certain.

Mr. Aldinger stated that the Division is working on enhancements to the license look up internet function which allows the presentation of some license contact information. Mr. Aldinger stated that the software provider is determining which requested items can be presented without customization. Mr. Aldinger stated that the intent is to put as much information out there that is useful to the public and licensees.

Mr. Aldinger stated that development for an online My Account feature has begun. Mr. Aldinger stated that it is the Division's intention to allow a licensee to view and update certain contact information, view their own license status and completed continuing and post education records.

Mr. Aldinger stated that the Division is in the midst of updating all application forms to add the content required by Senate Bill 21 from the last legislative session. Mr. Aldinger stated that by January the Division must ask applicants if they have a State business license and if so, require the business license number. Mr. Aldinger stated that this is part of the State Controller's effort to ensure that debts to the State are satisfied prior to license issuance.

### **3-G-1) Discussion regarding Education Program Officer's report on Continuing Education Course Audit Program Report**

Ingrid Trillo presented the audit report to the Commission.

President Boyer stated that courses are audited on a random basis by the Division. President Boyer stated that additional reports are provided with the auditor's comments. President Boyer stated that Division staff determines whether there are issues that need to be taken up with the provider so that courses can get better. President Boyer stated that almost all new courses are audited.

Commissioner Schwartz asked what happens if the audit is not good and what information is sent to the sponsor.

Ms. Trillo stated that a letter goes to every sponsor whether or not the course receives a good audit or not. Ms. Trillo stated that if there is outdated information, it is brought to the attention of the sponsor and the sponsor must respond. Ms. Trillo stated that the sponsor usually will update that section and provide it to Division staff to review.

### **3-G-2) Discussion regarding Education Program Officer's report on issues on education certificates from sponsors.**

Ingrid Trillo presented this report to the Commission.

Gail Anderson stated that she asked Ms. Trillo to prepare this report to bring awareness to the situations that have arisen. Ms. Anderson stated that this is a result of the mid-term education submittal requirements where a licensee must submit their certificates and proof of education at the anniversary of the mid-term of their license. Ms. Anderson stated that as these certificates have been coming in, the Education staff has been entering them into the licensee's file in the Division's data system. Ms. Anderson stated that as the certificates have been coming in, there have been some interesting problems that have shown up on certificates that are being issued by sponsors.

Ms. Trillo presented the Commission with issues that have occurred.

- Certificates that do not have licensees name or license number on it
- No designation or an incorrect designation
- Sponsors correcting certificates by writing a line through incorrect information, changing the information and initialing changes which is not acceptable by the Division
- No deliver method on whether it was an internet or correspondence course
- Incorrect delivery method which are usually found in distance education
- Wrong, expired or no continuing education number
- Incorrect or no course title
- No date of instruction or completion date
- Zero course hours on the certificate

- No statement on the bottom of the education certificate stating that the course was approved by the Nevada Real Estate Commission
- Incorrect sponsor on certificate

Commissioner Cartinella asked if the new system will negate a lot of these problems and the type of sponsorship requirements the Division will have.

Ms. Anderson stated that the new system will help the Division find when the sponsor submits to the Division a roster that should match.

**3-F) For possible action: Discussion and possible action on Education Program Officer's report on Career Web School Audit response from the July 16-18, 2013 Audit Program Report.**

President Boyer stated that this agenda item was based on his audit and not being happy with the response. President Boyer stated that he asked Ms. Trillo to follow up with the provider.

Ingrid Trillo presented this report. Ms. Trillo stated these courses expired on September 30th. Ms. Trillo stated that one has not been renewed but the other courses will be on the following Commission agenda.

President Boyer stated that his concern is that it was a six hour course that should have been a three hour course because it was identical material twice. President Boyer stated that this did not make sense to him but the sponsor commented that this is a learning style.

Commissioner Opatik stated that she would not agree with allowing these types of courses from going forward.

**4-8) NRED v. Cynthia Hosbrook for possible action  
Case No. RES 13-05-04-313  
License No. S.0046407 (INACTIVE)**

**4-9) NRED v. Robert Hosbrook for possible action  
Case No. RES13-05-05-314  
License No. S.0168696 (CLOSED)**

Parties Present

Deputy Attorney General Daniel Ebihara was present representing the Division.

John Marciano was present representing Robert Hosbrook. Mr. Marciano stated that he was also present on behalf of William Terry, Esq. on behalf of Cynthia Hosbrook.

Robert Hosbrook and Cynthia Hosbrook were not present.

President Boyer stated that the former broker was not present but did respond.

Preliminary Matters

Mr. Ebihara stated that a settlement has been reached in both cases. Mr. Ebihara presented the Commission with settlements for both cases.

Senior Deputy Attorney General Kimberly Arguello read the stipulations into the record.

President Boyer asked Mr. Marciano if Cynthia Hosbrook has read and understands the stipulation.

Mr. Marciano stated that Ms. Hosbrook has read and understands the stipulation and Mr. Terry has read and executed this document.

Commissioner Opatik moved to accept the stipulation and settlement for Ms. Hosbrook that was provided. Seconded by Commissioner Schwartz. Motion carried unanimously.

Mr. Ebihara stated that the stipulation for settlement for Robert Hosbrook is identical Cynthia Hosbrook's stipulation for settlement other than the factual statement that Ms. Fuller is his mother-in-law.

The Commission agreed that the stipulation for settlement does not have to be read into the record.

Mr. Marciano agreed.

Commissioner Johnson moved to accept Robert Hosbrook's stipulation for settlement. Seconded by Commissioner Opatik. Motion carried unanimously.

**4-10) NRED v. David J. Johnson for possible action**

**Case No. RES 14-09-30-107**

**License No. S.0053303 (ACTIVE) and PM.0164445 (INACTIVE)**

Parties Present

David Johnson was present. Mr. Johnson was not represented by counsel.

Senior Deputy Attorney General Kimberly Arguello was present representing the Division.

Preliminary Matters

Ms. Arguello stated that a stipulation for settlement was reached and presented the Commission with the stipulation for settlement.

Ms. Arguello read the settlement agreement into the record.

President Boyer asked Mr. Johnson if he has read, understood and signed the stipulation.

Mr. Johnson stated that he had.

Commissioner Cartinella moved to approve the stipulation. Seconded by Commissioner Johnson. Motion carried unanimously.

**4-21) NRED v. Gordon D. Vician for possible action**

**Case No. RES 12-04-19-317**

**License No. B.0049444.INDV (EXPIRED)**

**4-22) NRED v. Gordon D. Vician for possible action**

**Case No. RES 13-08-08-042**

**License No. B.0049444.INDV (EXPIRED)**

**4-23) NRED v. Gordon D. Vician for possible action**

**Case No. RES 13-08-09-043**

**License No. B.0049444.INDV (EXPIRED)**

Parties Present

Gordon Vician was present. Mr. Vician was not represented by counsel.

Senior Deputy Attorney General Kimberly Arguello was present representing the Division.

Preliminary Matters

Ms. Arguello stated that the Division will present the Commission with a voluntary surrender in lieu of disciplinary action.

Ms. Arguello read the voluntary surrender in lieu of disciplinary action into the record. Ms. Arguello stated that it had been signed by Mr. Vician.

President Boyer asked Mr. Vician if he has read, understood and signed the voluntary surrender.

Mr. Vician stated that he did.

Commissioner Schwartz moved that the Commission accept the voluntary surrender in lieu of disciplinary action. Seconded by Commissioner Cartinella. Motion carried unanimously.

**6-1) For possible action: Discussion and possible action regarding respondent's petition for rehearing and motion for stay of deadline for fine and costs.**

**NRED v. Ima Jean Nikolich**

**Case No's. RES 13-07-18-018 and RES 13-08-32-066**

**License No's. BS.0013331 (Closed) and B.0013331.INDV (Revoked)**

President Boyer stated that he has personal knowledge of most of the facts in this case and feels that he would be unable to rule fairly. President Boyer stated that he would abstain from voting.

Commissioner Johnson took over as president of the Commission.

Parties Present

Deputy Attorney General Christopher Eccles was present representing the Division.

Tina Yan was present representing Ms. Nikolich.

Mr. Eccles stated that Ms. Nikolich did not appear at the Commission's last meeting where both cases were set for a disciplinary hearing. Mr. Eccles stated that since that time Ms. Nikolich has retained counsel and counsel filed a motion to vacate the Commission's default order on the basis that Ms. Nikolich was out of the country and did not receive notice of the complaints that were filed against her.

Mr. Eccles stated that the Division is not opposing the request to vacate the order. Mr. Eccles asked that the Commission order the respondent to file answers to these two complaints within thirty days and that these two cases be placed on the next Commission agenda as disciplinary hearings.

Mr. Eccles stated that counsel had to file a petition for judicial review wanting to preserve her rights to appeal based upon the default order. Mr. Eccles stated that if the Commission is going to vacate its prior order, there is nothing to appeal. Mr. Eccles requested that counsel state on the record that she would withdraw her petition for judicial review because the Commission would have a hearing at the next meeting. Mr. Eccles stated that if the order resulting from that meeting wished to be appealed, Ms. Nikolich could file for judicial review.

Ms. Yan stated asked that if the Commission grants her petition to vacate the order and allows her to file answers, she receive an extra week due to holidays until January 17<sup>th</sup>.

Commissioner Opatik moved to vacate the original order that was submitted and allow the respondent to respond to the Division within forty days and to grant the petition for rehearing. Seconded by Commissioner Schwartz. Motion carried with President Boyer abstaining.

**4-18) NRED v. Elva Morales for possible action**

**Case No. RES 10-01-26-186**

**License No. S.0030079 (ACTIVE)**

Parties Present

Elva Morales was present.

Ms. Morales' brokers were not present.

Ms. Morales was not represented by counsel.

Senior Deputy Attorney General Kimberly Arguello was present representing the Division.

Preliminary Matters

Ms. Arguello stated that the basis of the complaint is for non-response to the Division. Ms. Arguello stated that today Ms. Morales has provided some information that the Division has not seen before. Ms. Arguello stated that in order to move forward, the Division is requesting that the matter be continued until the next Commission meeting in order for the Division to review the information that has been received by Ms. Morales today. Ms. Arguello stated that Ms. Morales has no objection to that.

Commissioner Schwartz moved that the Commission continue this matter. Seconded by Commissioner Johnson. Motion carried unanimously.

**4-4) NRED v. Roman T. Fernandez for possible action**

**Case No. RES 13-07-07-007**

**License No. S.0026541 (ACTIVE)**

Parties Present

Roman Fernandez was present.

Mr. Fernandez's broker was present.

Mr. Fernandez was not represented by counsel.

Senior Deputy Attorney General Kimberly Arguello was present representing the Division.

Ms. Arguello stated that she would like to place some things on the record and then ask that the final order and decision be continued until the next hearing date to give Mr. Fernandez the opportunity to comply with the request of the two victims in this matter. Ms. Arguello stated that she would like Mr. Fernandez to be sworn in; Ms. Arguello will read the factual allegations and violations into the record, Ms. Arguello will ask if Mr. Fernandez admits to those factual allegations and violations and then the Commission will move forward with terms of discipline at the next Commission meeting.

The Commission agreed.

Ms. Arguello questioned Mr. Fernandez regarding the factual allegations.

President Boyer asked Mr. Fernandez if he is aware that he has the right to legal counsel.

Mr. Fernandez stated that he is aware.

Ms. Arguello read the factual allegations and violations into the record.

Ms. Arguello stated that Mr. Fernandez has agreed to repay all amounts owed to the complainants by the date of the next Commission meeting.

Mr. Fernandez agreed.

Ms. Arguello requested that this matter be continued until that time to decide on discipline at that time.

Commissioner Cartinella moved to continue this case until the next Commission meeting. Seconded by Commissioner Schwartz.

President Boyer stated that he is concerned that Mr. Fernandez's license is active and can do real estate. President Boyer stated that he would vote against this extension. President Boyer stated that for someone who has admitted these acts to be able to go out and do it again is a problem. President Boyer stated that he would agree to the continuance if Mr. Fernandez was not allowed to practice real estate between now and the next Commission hearing.

Commissioner Johnson agreed with President Boyer.

Commissioner Cartinella withdrew her motion. Commissioner Schwartz agreed to withdraw his second to the motion.

Ms. Arguello asked Mr. Fernandez to agree to have his license suspended until the next Commission meeting.

Mr. Fernandez agreed.

Commissioner Opatik moved to continue the matter until the next Commission meeting with the stipulation that Mr. Fernandez license be voluntarily suspended until the matter is heard by the Commission. Seconded by Commissioner Schwartz. Motion carried unanimously.

**4-24) NRED v. Chuang (Louis) Wei for possible action**

**Case No. RES 13-03-17-265**

**License No. B.0060535.INDV (EXPIRED); BS.0060535 (CLOSED) and PM.0162895 (CLOSED)**

Parties Present

Senior Deputy Attorney General Kimberly Arguello was present representing the Division.

Chuan (Louis) Wei was not present.

Mr. Wei's broker was not present.

State's Witness

Rebecca Hardin was called to testify on the service of the notice of complaint to Mr. Wei.

Mr. Arguello asked for a motion that the respondent was properly served in this matter.

Commissioner Opatik moved that the State has proven sufficient service of notice in this matter. Seconded by Commissioner Johnson.

President Boyer requested an amendment to the motion to state that because service was sufficient, by statute and by custom the allegations contained in the complaint are deemed true, correct and proven.

Commissioner Opatik accepted President Boyers amendment. Seconded by Commissioner Johnson.

Ms. Arguello read the factual allegations into the record.

Ms. Arguello asked that the documents contained in the Notice of Documents be admitted into evidence.

President Boyer admitted the documents into evidence.

Motion carried unanimously.

#### Division's Recommendation for Discipline

Jan Holle gave the Division's recommendation for discipline.

- Revocation of the respondent's real estate license and property management permit
- Commission fine of \$350,000.00 payable within 30 days of the order effective date
- Investigative and hearing cost of \$2,650.00 payable within 30 days of the order effective date
- Include all customary and normal collection language

Commissioner Johnson moved to accept the Division's recommendation for discipline. Seconded by Commissioner Cartinella. Motion carried unanimously.

#### **3-1) For possible action: Report and decision on September 24, 2013 Property Management Task Force Recommendations.**

Marc Sykes stated that he submitted a draft report to the Administrator.

The Commission did not receive a copy of Mr. Sykes draft report. President Boyer requested that Mr. Sykes read the document that he has and forward a copy to Rebecca Hardin for the Commission.

Mr. Sykes thanked the members of the task force. Mr. Sykes stated that the task force was comprised of Dierdre Felgar, Tanya Scarlette, Judy Cooke, Evelyn Murphy, Forest Barbee and Mr. Sykes.

Mr. Sykes stated that he provided the task force with the letter that Judy Cook had written to the Commission dated July 6, 2013. Mr. Sykes stated that the work group looked at the statute as it currently exists and reviewed Judy Cook's letter. Mr. Sykes stated that the existing NRS calls for a minimum of twenty-four hours of property management pre-licensing. Mr. Sykes stated that it was the opinion of the work group to remove some of the things that over time had become redundant and to fill that time with topics that might have more practical meaning.

Mr. Sykes stated that it was moved and passed to recommend to the Commission to remove NAC 645.800(2)(c) which is one hour related to computerized bookkeeping. Mr. Sykes stated that there are varieties of bookkeeping systems and it was the opinion of the work group that focusing on one was not in the interest of pre-licensing.

Mr. Sykes stated that the other item that was passed and moved for removal was NAC 645.800(2)(g) which is three hours related to property management for common-interest communities. Mr. Sykes stated that in the past someone with a property management permit was able to do community association management but that time is long gone. Mr. Sykes stated that the CAM program is its own separate issue at this point.

Mr. Sykes stated that the work group added several of the things that were in Judy Cook's letter and recommended by Forest Barbee. Mr. Sykes stated that it was moved and passed to recommend to the Commission that the following instructional elements be added to NAC 645.800(2):

- One and a half hours relating to Contractor's License Law because it is an interesting topic of conversation amongst property managers.
- One half hour relating to 1031 Exchanges.
- One hour relating to agent safety.
- One half hour relating to green building maintenance as it relates to commercial and multifamily properties.
- One half hour relating to the Soldiers and Sailors Civil Relief Act.

Commissioner Opatik moved accept the report as submitted by the task force and instructed that it be forward to the Legislative Counsel Bureau for drafting. Seconded by Commissioner Johnson. Motion carried unanimously.

**3-J) For possible action: Discussion and decision regarding revision of post licensing education curriculum and requirements.**

Commissioner Schwartz stated that he thinks that the present program is working but the Commission should have discussion on how to make it work better.

Commissioner Schwartz asked is the course doing what it was intended to do. Commissioner Schwartz asked how the results can be measured. Commissioner Schwartz asked does it need any changes or updates based on the results the Commission might get back.

Commissioner Schwartz stated that he has thoughts based on his experience in teaching modules to new people. Commissioner Schwartz asked if it should be required to be taken within the first six months rather than twelve months. Commissioner Schwartz stated that new licensees could go almost eleven months without this important training.

Commissioner Schwartz stated that to get a better understanding of effects of a course, a different evaluation form be created to try to get better feedback on these particular set of classes. Commissioner Schwartz stated that although all of the courses are approved, he does not believe that all licensees are getting the same information and the quality of instruction. Commissioner Schwartz suggested only having one written course for the entire State written by a selected committee of the Commission.

President Boyer requested adding this agenda item to the next Commission meeting agenda so that the Commission can get a copy of Commissioner Schwartz's suggestions and discuss.

Commissioner Schwartz agreed.

President Boyer requested that this item be placed on the Commission's next meeting agenda.

**9-1) Allied Business Schools, Inc. for possible action**  
**“Nevada Real Estate Principles, Practices, Procedures, Law and Ethics”**  
**Request: 90 Hours** **Internet**

- 9-2) National Association of Real Estate Investment Advisors for possible action  
 “REIA 201: Commercial Real Estate Investing”  
 Request: 8 Hours                      General                      Classroom
- 9-3) National Association of Real Estate Investment Advisors for possible action  
 “REIA 301: Investing in Real Estate Using Self-Directed Retirement Accounts”  
 Request: 8 Hours                      General                      Classroom
- 9-4) McKissock, LP for possible action  
 “Basics of Green Building for Real Estate”  
 Request: 4 Hours                      General                      Correspondence
- 9-5) McKissock, LP for possible action  
 “Contract Law from the Top Down”  
 Request: 3 Hours                      Contracts                      Correspondence
- 9-6) McKissock, LP for possible action  
 “Short Sales”  
 Request: 3 Hours                      General                      Correspondence
- 9-7) McKissock, LP for possible action  
 “What Real Estate Professionals Need to Know about FHA”  
 Request: 4 Hours                      General                      Correspondence
- 9-8) McKissock, LP for possible action  
 “Agency Law in Nevada”  
 Request: 3 Hours                      Agency                      Correspondence
- 9-9) McKissock, LP for possible action  
 “Code of Ethics”  
 Request: 3 Hours                      Ethics                      Correspondence
- 9-10) McKissock, LP for possible action  
 “A Day in the Life of a Buyer Agent”  
 Request: 3 Hours                      General                      Correspondence
- 9-11) McKissock, LP for possible action  
 “Preparing a Listing Agreement: An In-Depth Look”  
 Request: 4 Hours                      General                      Internet
- 9-13) McKissock, LP for possible action  
 “How to Work with Real Estate Investors Part 1”  
 Request: 3 Hours                      General                      Internet
- 9-14) McKissock, LP for possible action  
 “Real Estate Safety: Protect Yourself During a Showing”  
 Request: 3 Hours                      General                      Internet
- 9-17) Greater Las Vegas Association of REALTORS® for possible action  
 “Senior Real Estate Specialist (SRES)”  
 Request: 12 Hours                      General                      Classroom

- 9-19) Greater Las Vegas Association of REALTORS® for possible action  
 “Military Relocation Professional (MRP)”  
 Request: 7 Hours                      General                      Classroom
- 9-21) Greater Las Vegas Association of REALTORS® for possible action  
 “The Listing Process SRS Module 2”  
 Request: 3 Hours                      General                      Classroom
- 9-22) Greater Las Vegas Association of REALTORS® for possible action  
 “Marketing the Listing SRS Module 3”  
 Request: 3 Hours                      General                      Classroom
- 9-23) Greater Las Vegas Association of REALTORS® for possible action  
 “Bringing it All Together SRS Module 4”  
 Request: 3 Hours                      General                      Classroom
- 9-24) First American Title’s Eagle U for possible action  
 “Bankruptcy Affect”  
 Request: 3 Hours                      General                      Classroom
- 9-25) First American Title’s Eagle U for possible action  
 “Title Insurance 101: Module One”  
 Request: 3 Hours                      General                      Classroom
- 9-26) First American Title’s Eagle U for possible action  
 “Communication Risks 101”  
 Request: 3 Hours                      General                      Classroom
- 9-27) Cook & Company Ltd. for possible action  
 “What’s New in Fair Housing? (Cases, Settlements & Trends for Property  
 Managers)”  
 Request: 3 Hours                      Ethics                      Classroom
- 9-28) Cook & Company Ltd. for possible action  
 “What’s New in Fair Housing? (Cases, Settlements & Trends for Property  
 Managers)”  
 Request: 3 Hours                      Property Management                      Classroom
- 9-29) The CE Shop, Inc. for possible action  
 “Client Advocacy in Commercial Real Estate”  
 Request: 3 Hours                      General                      Internet
- 9-30) The CE Shop, Inc. for possible action  
 “Investment Strategies in Commercial Real Estate”  
 Request: 3 Hours                      General                      Internet
- 9-31) The CE Shop, Inc. for possible action  
 “Hot Market Strategies”  
 Request: 3 Hours                      General                      Internet

- 9-32) The CE Shop, Inc. for possible action  
 “REO Properties: Responsibilities, Education and Opportunities for Real Estate Professionals”  
 Request: 6 Hours                      General                      Internet
- 9-33) The CE Shop, Inc. for possible action  
 “Brokerage Operations in Nevada”  
 Request: 3 Hours                      Broker Management                      Internet
- 9-34) Arens, JC for possible action  
 “Ethics-What Would You Do?”  
 Request: 3 Hours                      Ethics                      Classroom
- 9-35) Arens, JC for possible action  
 “Contracts-The Essentials”  
 Request: 3 Hours                      Contracts                      Classroom
- 9-36) Dague, Jimmy for possible action  
 “Why Was Someone Fined \$395,000? Compliance and the Commission”  
 Request: 4 Hours                      Ethics                      Classroom
- 9-37) Dague, Jimmy for possible action  
 “There’s a New Sherriff in Town- Understanding the Job of Manager or Broker”  
 Request: 4 Hours                      Broker Management                      Classroom
- 9-38) Servpro of NW Las Vegas for possible action  
 “Understanding Mold in the Restoration Industry of the Real Estate Profession”  
 Request: 3 Hours                      Property Management                      Classroom
- 9-39) Servpro of NW Las Vegas for possible action  
 “It’s Wet, What Next? The Need for Restorative Drying in the Real Estate Market”  
 Request: 3 Hours                      General                      Classroom
- 9-40) Pioneer School of Real Estate for possible action  
 “Risk Management”  
 Request: 3 Hours                      Broker Management                      Classroom
- 9-41) Pioneer School of Real Estate for possible action  
 “Fair Housing and You”  
 Request: 3 Hours                      Ethics                      Classroom
- 9-42) Berlino Cognoscenti Education Initiative for possible action  
 “Trustee Sale Agent & Investor Certification Course (TSAI)”  
 Request: 3 hours                      Contracts                      Classroom
- 9-45) Sterling Education Services, Inc. for possible action  
 “Fundamentals of Landlord-Tenant Law”  
 Request: 7 Hours                      General                      Classroom
- 9-46) Key Realty School LLC for possible action  
 “Ethics in Business”  
 Request: 3 Hours                      Ethics                      Classroom

**9-47) David Bindrup Law Firm, PLLC for possible action**  
**“Probate: A New Avenue of Revenue & Referrals for Real Estate Agents”**  
**Request: 3 Hours General Classroom**

**9-48) Steven Kitnick Seminars, LLC for possible action**  
**“Disclosure”**  
**Request: 3 Hours Agency Classroom**

**9-50) Windermere Prestige Properties for possible action**  
**“Contracts For Successful Transaction”**  
**Request: 3 Hours Contracts Classroom**

**9-51) Lied Institute for Real Estate Studies, UNLV for possible action**  
**“Southern Nevada’s Commercial Market Landscape: Now and Tomorrow”**  
**Request: 3 Hours General Classroom**

**9-52) Still Training for possible action**  
**“Critical Components of Commercial Real Estate”**  
**Request: 8 Hours General Classroom**

Commissioner Cartinella moved for a consent agenda. Seconded by Commissioner Johnson.

Commissioner Opatik would like to hold agenda items 9-15, 9-16 and 9-18 because she has the potential of teaching these courses.

Commissioner Cartinella stated that she does not have a conflict with any of these courses.

Commissioner Johnson stated that he would like to review the courses that were changed which are items 9-12, 9-20, 9-43, 9-53 and 9-54.

Commissioner Schwartz stated that he would like to pull item 9-44 since he is the sponsor and writer.

Ingrid Trillo requested that item 9-49 be pulled.

Motion carried unanimously.

**9-15) Greater Las Vegas Association of REALTORS® for possible action**  
**“Advanced Real Estate Brokerage: Conquering Risks & Resolving Conflicts”**  
**Request: 3 Hours Broker Management Classroom**

**9-16) Greater Las Vegas Association of REALTORS® for possible action**  
**“Mastering the Fundamentals of Being a Broker”**  
**Request: 3 Hours Broker Management Classroom**

**9-18) Greater Las Vegas Association of REALTORS® for possible action**  
**“2013 Nevada Law Update”**  
**Request: 3 Hours Law & Legislation Classroom**

President Boyer, Commissioner Opatik and Commissioner Schwartz abstained from voting on these classes due to their potential to be instructors.

Commissioner Cartinella moved to approve agenda items 9-15, 9-16 and 9-18. Seconded by Commissioner Johnson. Motion carried with three abstentions.

**9-44) Schwartz, Neil for possible action**  
**“Real Estate...It’s A Team Sport”**

**Request: 3 Hours Agency Classroom**

Commissioner Schwartz abstained from voting on this class.

The Commission agreed to accept this course as presented and recommended by staff. There was no motion or second.

**9-12) McKissock, LP for possible action**  
**“Niche Marketing: Narrow Your Focus”**

**Request: 3 Hours General Internet**

Commissioner Johnson stated that this course was originally general and now has been changed to personal development. Commissioner Johnson stated that he does not have a problem with the course but wanted to validate that the Commission is changing the designation.

Ingrid Trillo stated that she contacted McKissock regarding their request for general and told them that the course did not qualify for general credit. Ms. Trillo stated that the sponsor had no problem with the change.

Commissioner Schwartz moved that the Commission accept the change in designation. Seconded by Commissioner Johnson. Motion carried unanimously.

**9-20) Greater Las Vegas Association of REALTORS® for possible action**  
**“The Generations SRS Module 1”**

**Request: 3 Hours Personal Development Classroom**

Ingrid Trillo stated that this course expired and was resubmitted as a new course. Ms. Trillo stated that it was originally approved for personal development and the sponsor applied for personal development. Ms. Trillo stated that this course qualifies for more than personal development and would qualify for general designation. Ms. Trillo stated that this course is part of a one to four part certification course. Ms. Trillo stated that she changed the designation from personal development to general and the sponsor is aware.

Commissioner Opatik moved to approve the course to go from personal development to general as recommended by the Division. Seconded by Commissioner Johnson. Motion carried unanimously.

**9-43) Berlino Cognoscenti Education Initiative for possible action**  
**“Nevada Foreclosure Mediation Program Rules Update”**

**Request: 3 hours Contracts Classroom**

Ingrid Trillo stated that this course is all about mediation and nothing about contracts. Ms. Trillo stated that she contacted the sponsor and informed them that this course did not qualify for contracts. Ms. Trillo stated that the sponsor said okay.

**9-49) Estes, Barbara for possible action**  
**“FHA 203(k) Renovation Lending”**

**Request: 3 Hours Contracts Classroom**

Ingrid Trillo stated that the sponsor incorrectly submitted this course. Ms. Trillo stated that this is a general course and not contracts. Ms. Trillo stated that the sponsor meant to submit it as a general course. Ms. Trillo stated that it is incorrectly listed on the education summary.

Commissioner Opatik moved that the Commission approve the Division’s recommendations item 9-43 from contracts to general and item 9-49 from contracts to general. Seconded by Commissioner Cartinella. Motion carried unanimously.

**9-53) McWilliam, Charles for possible action**  
**“Red Flags in Real Estate, building Talk II”**  
**Request: 3 Hours Personal Development Classroom**

**9-54) WIN Home Inspection for possible action**  
**“Home Inspection: Why Home Inspections Are So Important”**  
**Request: 3 Hours Personal Development Classroom**

Ingrid Trillo stated that at the July Commission meeting there was an inspection course that came before the Commission that was for personal development, the sponsor requested it to be general and staff recommended general. Ms. Trillo stated that the Commission denied the general recommendation and approved the course for personal development. Ms. Trillo stated that she changed these courses to be consistent.

Ms. Trillo stated that Mr. McWilliam was not available and the other sponsor said that he wanted to speak to the Commission but he was not in attendance.

Commissioner Opatik stated that it is not an agent’s duty to be able to scrutinize a report given by the inspector.

Commissioner Johnson stated that it is educational but not something that is used or done daily. Commissioner Johnson stated that it has to be known enough to explain to a client what the inspector does. Commissioner Johnson stated that this would be more personal knowledge.

President Boyer stated that licensees need to be able to look at an inspection and possibly advise whether more needs to be done. President Boyer stated that his opinion is that these classes should remain general.

Commissioner Schwartz stated that he thinks that inspection courses should be for general credit. Commissioner Schwartz stated that many things that Jan Holle is finding are agents working out of their scope. Commissioner Schwartz stated that if these particular classes can teach an agent to stay in their scope and understand their responsibilities to a home inspection.

Commissioner Cartinella asked how many classes would be affected by this consistency.

Ms. Trillo stated that there are four inspection classes that were originally general.

Commissioner Cartinella moved that the Commission change the designation to general from personal development. Seconded by Commissioner Schwartz.

Commissioner Opatik stated that it concerns her when agents take courses that are more geared toward appraisal and outside of their scope or field of expertise. Commissioner Opatik stated that agents can find themselves in a precarious situation because they try to advise when they should not.

Motion failed 2 to 3 with Commissioners Cartinella, Opatik and Johnson opposed.

President Boyer stated that these courses will remain personal development courses.

**4-3) NRED v. John Densmore for possible action**  
**Case No. RES 12-05-43-367**  
**License No. BS.0047597 (INACTIVE) and B.0047597.CORP (NEW CREDENTIAL ISSUED)**

Parties Present

Senior Deputy Attorney General Kimberly Arguello was present representing the Division.

John Densmore was not present.

Mr. Densmore's brokers were present.

Ms. Arguello stated that the Commission received a letter from Mr. Densmore dated December 9, 2013. Ms. Arguello stated that Mr. Densmore's letter is not asking for this matter to be continued. Ms. Arguello stated that Mr. Densmore has failed to appear and would like to move forward with a failure to appear.

State's Witness

Rebecca Hardin was called to testify on the service of the notice of complaint to Mr. Densmore.

Ms. Arguello asked for a ruling that Mr. Densmore has been properly served in this matter and failed to appear today.

Commissioner Schwartz moved that the Commission accept the Division's position on the matter to move forward and because service was attempted, the facts and violations are considered proven. Seconded by Commissioner Johnson. Motion carried unanimously.

Ms. Arguello requested an amendment to the respondent's license number in the jurisdiction section of the complaint and number 1 of the factual allegations. Ms. Arguello stated that Mr. Densmore's license number should state BS.0047597.

President Boyer agreed to the amendment.

Ms. Arguello asked that documents contained in the Notice of Documents received by Mr. Densmore be admitted into evidence.

President Boyer agreed.

Ms. Arguello read the factual allegations and violations into the record.

Division's Recommendation for Discipline

Jan Holle gave the Division's recommendation for discipline.

- Revocation of the real estate license
- Commission fine of \$20,000.00 to be payable within 30 days of the effective date of the order
- Investigation and hearing cost of \$723.34 to be payable within 30 days of the effective date of the order
- Include all customary and normal collection language

Commissioner Johnson moved that the Commissioner accept the Division's recommendation for discipline. Seconded by Commissioner Cartinella. Motion carried unanimously.

**4-15) NRED v. Robert B. Benz for possible action**

**Case No. RES 12-11-04-134**

**License Nos. B.0020433.CORP (INACTIVE) and PM.0165025.BKR (CLOSED)**

Parties Present

Deputy Attorney General Christopher Eccles was present representing the Division.

Robert Benz was present. Mr. Benz was not represented by counsel.

#### Preliminary Matters

Mr. Eccles read the facts in the complaint that the respondent had agreed to. Mr. Eccles stated that paragraphs 1-11 of the complaint are true and correct, paragraphs 13 and 14 are true and paragraphs 16-21 are true. Mr. Eccles stated that Mr. Benz contest paragraphs numbered 12, 15 and 22.

Mr. Eccles stated that the Division's documents bates stamped 1-307 are true and correct and would like them placed into evidence as State's Exhibit 1.

President Boyer asked Mr. Benz if he agrees with the factual allegations read by Mr. Eccles.

Mr. Benz stated that he does.

#### Opening Statements

Mr. Eccles gave an opening statement.

Mr. Benz declined making an opening statement.

#### State's Witness

Robert Benz testified.

Mr. Benz gave his own cross examination.

Commissioner Opatik questioned Mr. Benz.

Mr. Benz did not call any witnesses.

#### Respondent's Witness

Mr. Benz gave a short statement.

Mr. Eccles cross-examined Mr. Benz.

#### Closing Statements

Mr. Eccles gave a closing statement.

Mr. Benz gave a closing statement.

#### Factual Allegations

Commissioner Johnson moved that factual allegations 12, 15 and 22 have been proven. Seconded by Commissioner Schwartz. Motion carried unanimously.

#### Violations of Law

Commissioner Johnson moved that all violations have been proven. Seconded by Commissioner Opatik. Motion carried unanimously.

#### Division's Recommendation for Discipline

Jan Holle gave the Division's recommendation for discipline.

- Revocation of real estate license and property management permit
- Commission fine of \$16,000.00 to be paid within 90 days of the effective date of the order

- Investigation and hearing cost of \$1,595.26 to be paid within 90 days of the effective date of the order
- Include all the customary and debt collection language

Commissioner Cartinella moved that the fine imposed would be \$10,000.00, cost of \$1,595.26 and revocation of the license with a consideration for a payment plan to be considered by the Commission. Seconded by Commissioner Schwartz.

Commissioner Schwartz suggested that the payment plan be spread out over a thirty-six month period

President Boyer suggested that the payment plan be spread out over sixty months. Commissioner Schwartz agreed to amend the motion to add a payment plan spread over sixty months. Commissioner Cartinella agreed to the amendment. President Boyer stated that the first payment would be due thirty days after the effective date of the order.

Motion carried unanimously.

**9-54) WIN Home Inspection for possible action**

**“Home Inspection: Why Home Inspections Are So Important”**

**Request: 3 Hours                      Personal Development                      Classroom**

President Boyer stated that the sponsor missed the discussion. President Boyer would like to give the sponsor the opportunity to address the Commission.

Andrew Lynam, owner and operator of WIN Home Inspection, commented. Mr. Lynam stated that it is concerning that a class that has been in service for over nine years is being considered for a change of designation. Mr. Lynam gave the Commission background on the course. Mr. Lynam asked why the class was requested for the designation change.

President Boyer stated that the definition of personal development, as stated in the regulations, was read in such a way that it is probable that the nine years that it has been a general designated course it should have been a personal development course.

Mr. Lynam stated that if the Commission is going to designate home inspection classes as personal development every other class that is not related to real estate or the realtor should be considered a personal development course. Mr. Lynam stated that it is imperative to the transaction and the process of the purchase of a home that the home inspection should be designated as a general course because it benefits the realtor in their process.

Commissioner Cartinella moved to re-open agenda item 9-54. Seconded by Commissioner Schwartz. Motion carried 4 to 1 with Commissioner Opatik opposed.

The Commission discussed the definition of personal development.

Commissioner Cartinella moved to retain the designation of general for agenda item 9-54. Seconded by Commissioner Schwartz.

Commissioner Johnson stated that he does not have a problem with changing the designation of the course but does have a problem with the Commission not being consistent.

Motion carried unanimously.

**9-53) McWilliam, Charles for possible action  
“Red Flags in Real Estate, Building Talk II”**

**Request: 3 Hours Personal Development Classroom**

Commissioner Opatik moved to re-open agenda item 9-53. Seconded by Commissioner Cartinella.

President Boyer stated that the sponsor of this course is a personal friend and business associate. President Boyer stated that he will not abstain from voting.

Commissioner Opatik stated that she does business with the McWilliams although she is not a personal friend.

Motion carried unanimously.

Commissioner Schwartz moved that the designation for personal development be presented under general. Seconded by Commissioner Johnson. Motion carried unanimously.

**4-13) NRED v. Konstantino Kouris for possible action**

**Case No. RES 12-11-05-135**

**License No. Unlicensed**

Parties Present

Deputy Attorney General Christopher Eccles was present representing the Division.

Konstantino Kouris was present. Mr. Kouris was not represented by counsel.

Preliminary Matters

Mr. Eccles stated that he spoke to Mr. Kouris and they have agreed that the factual allegations and violations occurred as alleged. Mr. Eccles stated that he and Mr. Kouris agreed to admit the State's exhibit into evidence. Mr. Eccles stated that these would be the same bate stamped documents that were admitted in the Robert Benz case. Mr. Eccles stated that the State has agreed to admit five pages of documents that Mr. Kouris provided to Mr. Eccles today which copies are of emails that Mr. Kouris believes support his case.

President Boyer stated that the exhibits have been admitted.

Mr. Eccles read the factual allegations and violations into the record.

Mr. Kouris gave a statement to the Commission.

President Boyer recessed this case until December 11, 2013

**10) Public Comments**

In Las Vegas: Fred Frazzetta stated that he is bothered that unlicensed individuals seem not to be held to the same standard as those that are licensed. Mr. Frazzetta asked what good are the fines if they are not paid or not able to collect. Mr. Frazzetta stated that since the Attorney General's Office is involved in these proceedings, why are there not more criminal prosecutions.

President Boyer stated that the Division is an administrative agency not a criminal agency. President Boyer stated that the Commission is in no position under the Nevada Revised Statute to issue criminal indictments or start criminal investigations. President Boyer stated that the overwhelming majority of large fines imposed never get paid. President Boyer stated that the teeth are that person will never be licensed again in Nevada. President Boyer stated that their license revocation is reported to the Association of Real Estate Licensed Law Officials which

means that if there is an attempt to obtain a real estate license in another jurisdiction, that revocation will come up and will probably result in a denial.

Mr. Frazzetta suggested a change in the law.

**11) Adjournment**

Meeting was recessed on December 10, 2013 at 4:33 p.m.

**REAL ESTATE COMMISSION MEETING  
DECEMBER 11, 2013  
GRANT SAWYER BUILDING  
555 E. WASHINGTON AVENUE, ROOM 4401  
LAS VEGAS, NEVADA 89101**

**VIDEO CONFERENCED TO:  
LEGISLATIVE BUILDING  
401 S. CARSON STREET, ROOM 3137  
CARSON CITY, NEVADA 89701**

**DECEMBER 11, 2013**

**8:34 A.M.**

**1-A) Introduction of Commissioner in attendance.**

Norman Jean Opatik, Sherrie Cartinella, Richard Johnson, Neil Schwartz, David Boyer.

Deputy Attorney General Sophia Long serving as Commission Counsel.

**1-B) Introduction of Division staff in attendance.**

In Las Vegas: Gail Anderson, Administrator; Jan Holle, Chief Compliance Audit Investigator; Carolyn Washington, Compliance Audit Investigator; Daryl McCloskey, Compliance Audit Investigator; Rebecca Hardin, Commission Coordinator; Corin Gadsby, Legal Administrative Officer; Ingrid Trillo, Education Program Officer; Senior Deputy Attorney Kimberly Arguello, Division Counsel; Deputy Attorney General Christopher Eccles.

In Carson City: Steven Aldinger, Deputy Administrator.

**2) Public Comment**

None

**4-13) NRED v. Konstantino Kouris for possible action**

**Case No. RES 12-11-05-135**

**License No. Unlicensed**

**Parties Present**

Deputy Attorney General Christopher Eccles was present representing the Division.

Konstantino Kouris was present. Mr. Kouris was not represented by counsel.

**Preliminary Matters**

Mr. Kouris continued with his statement to the Commission.

Commissioner Opatik questioned Mr. Kouris.

President Boyer questioned Mr. Kouris.

Commissioner Opatik moved the Commission accept the stipulation of facts and violations as stated. Seconded by Commissioner Johnson. Motion carried unanimously.

**Division's Recommendation for Discipline**

Jan Holle gave the Division's recommendations for discipline.

- Commission fine of \$10,000.00 payable within 90 days of the effective date of the order.

- Normal and customary language for default.

Commissioner Schwartz moved to accept the Division's recommendation for discipline. Seconded by Commissioner Cartinella.

Commissioner Opatik recommended that Mr. Kouris be placed on a payment plan because the respondent is making the public whole. Commissioner Opatik recommended giving the respondent thirty-six months to make equal amount payments with the first payment due thirty days after the effective date of the order.

Commissioners Schwartz and Cartinella accepted Commissioner Optaik's amendment.

Commissioner Johnson stated that he is opposed to the payment plan. Commissioner Johnson stated that the fine could be paid now but if the fine was bigger, he could understand a payment plan.

Motion carried 4 to 1 with Commissioner Johnson opposed.

**4-14) NRED v. Lyudmyla Radchenko for possible action**  
**Case No. RES 12-06-28-398**  
**License No. Unlicensed**

Parties Present

Lyudmyla Radchenko was present. Ms. Radchenko was not represented by counsel.

Deputy Attorney General Christopher Eccles was present representing the Division.

Ms. Radchenko stated that she would like to receive a continuance to obtain counsel.

Mr. Eccles stated that he does not object to Ms. Radchenko's request for a continuance.

Commissioner Cartinella moved to allow a continuance. Seconded by Commissioner Johnson. Motion carried unanimously.

**7-1-A) For possible action: License Denial Appeal for Decision. Motion to close session to review the license denial appeal of ANDREW DAVID RHEE, FILE No. S-LDA-14-003 and why the applicant should or should not be granted a license.**

Andrew David Rhee was present. Mr. Rhee stated that he would prefer a closed session.

Commissioner Cartinella moved as per NRS 241.030 to go into closed session to discuss the character, alleged misconduct and professional competence. Seconded by Commissioner Johnson. Motion carried unanimously.

**7-1-B) For possible action: License Denial Appeal for Decision. Discussion in closed session.**

The Commission went into closed session while the Commission reviewed Mr. Rhee's license denial appeal.

Commissioner Schwartz moved to go into open session. Seconded by Commissioner Johnson. Motion carried unanimously.

**7-1-C) For possible action: License Denial Appeal for Decision. Discussion and possible action in open session.**

Commissioner Cartinella moved to grant Andrew Rhee a Nevada Real Estate license with the stipulation that if any further license or permit be requested, Mr. Rhee would have to appear before the Commission. Seconded by Commissioner Johnson.

Commissioner Cartinella stated that she feels strongly that Mr. Rhee has proven that the situation that transpired many years ago has been rectified as much as he can. Commissioner Cartinella stated that she feels that debt to society has been paid and he deserves another chance.

Motion carried unanimously.

**4-20) NRED v. Sharon (Dylan) Shina for possible action**

**Case No. RES 13-11-05-153**

**License No. S.0062067 (ACTIVE)**

Parties Present

Deputy Attorney General Christopher Eccles was present representing the Division.

Sigal Chattah was present representing the respondent.

Sharon (Dylan) Shina was present.

Preliminary Matters

Mr. Eccles stated that he has prepared a stipulation of facts in liability regarding the complaint for disciplinary action against the respondent. Mr. Eccles stated that the parties have signed the original stipulation and Mr. Eccles provided copies of the stipulation to the Commission. Mr. Eccles read the stipulation into the record.

Commissioner Opatik moved that the Commission accept the stipulation as presented. Seconded by Commissioner Johnson. Motion carried unanimously.

Division's Recommendation for Discipline

Jan Holle gave the Division's recommendation for discipline.

- Revocation of real estate license
- Commission fine of \$115,000.00 payable within 90 days
- All normal and customary collection language

Ms. Chattah stated that there are several litigating circumstances that the Commission should be privy to. Ms. Chattah stated that Mr. Shina has been a licensed real estate agent in Nevada since 2004 and has never had any complaints against him. Ms. Chattah stated that all allegations in the complaint have to do with property management. Ms. Chattah stated that Mr. Shina completed the property management continuing education but did not obtain a property management permit. Ms. Chattah stated that Mr. Shina accepts the allegations and violations in the complaint. Ms. Chattah stated that none of the violations have to do with fraud. Ms. Chattah stated that a recommended provision as part of a settlement or restitution would be for Mr. Shina to pay his broker some type of restitution in light of the fact that the broker would have had some commission coming from those particular properties. Ms. Chattah stated that the way the brokerage was split was between ten and twenty percent of a commission for property management which would have been between one thousand to fifteen hundred dollars for the offenses.

Ms. Chattah stated that because the natures of the violations involve more negligence and there is no evidence of fraud, Ms. Chattah would like to recommend that Mr. Shina perform one hundred hours of continuing education. Ms. Chattah stated that these types of violations are something that can be remediated with the proper education instead of the Division's recommendation for

discipline. Ms. Chattah stated that she does not believe that Mr. Shina's actions rise to that effect.

Ms. Chattah stated that another recommendation would be that Mr. Shina refrains from obtaining any additional licenses for five years and if any additional license were attempted to be obtained after the five year period that Mr. Shina appear before the Commission. Ms. Chattah stated that she would request no more than \$15,000.00 in fines to be paid within 180 days. Ms. Chattah stated that they would request a recommendation of the suspension of Mr. Shina's license for not more than 30-60 days if a suspension of Mr. Shina's license is in order.

Commissioner Opatik questioned Mr. Shina.

Commissioner Johnson questioned Mr. Shina.

Commissioner Schwartz questioned Mr. Shina.

Commissioner Johnson moved to accept the recommendation of \$115,000.00 Commission fine due and payable over sixty months of payments, the revocation of the license and all of customary collection language. Seconded by Commissioner Opatik. Motion carried unanimously.

**5-1) For possible action: Discussion and possible action regarding respondent's petition to reconsider terms of the Commission's order**

**NRED v. Martin Barrera**

**Case No. RES 12-09-21-091**

**License No.: S.0167874 (ACTIVE)**

Deputy Attorney General Christopher Eccles stated that at the Commission's February meeting, the Commission ordered discipline against Mr. Barrera after a contested hearing. Mr. Eccles stated that the allegations in that complaint related to Mr. Barrera going to the auction and bidding on properties for clients which the Division and the Commission agreed was real estate activity. Mr. Eccles stated that the Commission fined Mr. Barrera \$30,000.00 plus investigation and hearing costs and ordered that payments be payable in monthly installments of \$500.00. Mr. Eccles stated that Mr. Barrera has filed a petition with the Commission asking the Commission to modify the Commission's prior order of discipline so that Mr. Barrera can make payments of \$200.00 per month. Mr. Eccles stated that he spoke with Mr. Barrera and Mr. Barrera told Mr. Eccles that he has taken some continuing education courses which make it clear to him that the activities that he was conducting regarding transactions at auctions were real estate activities.

Mr. Barrera stated that he is having a lot of hardship because of the real estate situation. Mr. Barrera stated that he has done the continuing education that the Commission asked of him and he learned that what he was doing was not right.

Commissioner Opatik asked Mr. Barrera if he has made any of payments that the Commission ordered.

Mr. Barrera stated that he has not because the order took a long time to get from his attorney. Mr. Barrera stated that he went to the Division himself to get a copy of the order and then wrote a letter to the Commission explaining his situation.

President Boyer stated that he will give the gavel to the vice president in order for Commissioner Boyer to make a motion.

Commissioner Boyer moved that the Commission reduce Mr. Barrera's monthly payments from \$500.00 to \$200.00 with the first payment due on or before February 1, 2014 and continuing at \$200.00 per month until the first Commission meeting of 2015, to have Mr. Barrera come back to the Commission to provide the Commission with W-2's and 1099's to show Mr. Barrera's income for 2014 and let the Commission decide whether to continue. Seconded by Commissioner Cartinella.

Commissioner Boyer stated that at the level of income that Mr. Barrera is mentioning, five hundred dollars will not work. Commissioner Boyer stated that some years will be better than other years and things are likely to improve. Commissioner Boyer stated that when things do improve the State should recover those funds quicker. Commissioner Boyer stated that by reviewing this during the first Commission meeting in 2015, there will be at least a year's worth of payments and the Commission can determine a year's worth of income based on documents filed with the Internal Revenue Service.

Commissioner Opatik stated that she would like to recommend allowing payments of two hundred dollars for a year then revert back to the five hundred dollars per month and have Mr. Barrera appear before the Commission for the first meeting in 2015.

Commissioner Johnson stated that he does not like burdening the Commission with bringing this case back.

Motion carried 4 to 1 with Commissioner Opatik opposed.

**4-17) NRED v. David M. Mark for possible action**

**Case No. RES 13-04-11-299**

**License No. S.0072514 (CLOSED) and BS.0072514 (CLOSED)**

Parties Present

Senior Deputy Attorney General Kimberly Arguello was present representing the Division.

David Mark was not present.

State's Witness

Rebecca Hardin testified regarding sending notice of hearing to Mr. Mark.

Ms. Arguello requested that the Commission acknowledge that Mr. Mark has been served properly and that by statute the factual allegations and violations contained in the complaint are true.

Commissioner Opatik moved that the State has proved sufficient service and that by statute and custom the factual allegations and violations of law have been proven true. Seconded by Commissioner Johnson. Motion carried unanimously.

Ms. Arguello asked that documents contained in the Notice of Documents be admitted into evidence.

President Boyer stated that documents will be admitted.

Ms. Arguello read the factual allegations and violations of law into the record.

Division's Recommendation for Discipline

Jan Holle gave the Division's recommendation for discipline.

- Commission fine of \$40,000.00 to be payable within 30 days of the effective date of the order
- Investigation and hearing cost of \$600.49 to be payable within 30 days of the effective date of the order
- Revocation of the real estate licenses
- All normal and customary collection language

Commissioner Johnson moved to accept the Division's recommendation as stated. Seconded by Commissioner Opatik. Motion carried unanimously.

**4-19) NRED v. Kory L. Scheeler for possible action**

**Case No. RES 13-08-24-058**

**License No. S.0016337 (ACTIVE)**

Senior Deputy Attorney General Kimberly Arguello stated that this case has been continued.

**4-5) NRED v. Sarah Goldstein for possible action**

**Case No. RES 11-03-25-338**

**License Nos. B.00039746.PTNR (ACTIVE) and PM.0139746.BKR (CLOSED)**

Senior Deputy Attorney General Kimberly Arguello stated that Ms. Goldstein's daughter contacted her to inform Ms. Arguello that Ms. Goldstein is still out of state dealing with her son who has had multiple strokes. Ms. Arguello stated that she does not have a problem with continuing this case because Ms. Goldstein is not a danger to the public; she is not in the State and has no licenses.

Commissioner Opatik moved that the Commission continue this case until the next Commission meeting. Seconded by Commissioner Schwartz. Motion carried unanimously.

**4-2) NRED v. Martha Craddock for possible action**

**Case No. RES 10-01-08-168**

**License No. S.0041250 (INACTIVE)**

Parties Present

President Boyer stated that Ms. Craddock's broker was in attendance at yesterday's meeting but could not attend today.

Senior Deputy Attorney General Kimberly Arguello was present representing the Division.

Martha Craddock was not present.

State's Witness

Rebecca Hardin testified regarding sending notice of hearing to Ms. Craddock.

Ms. Arguello asked that the Commission find proper service has been accomplished with regards to Martha Craddock, that Ms. Craddock has failed to appear and as a result the factual allegations and violations of law are taken as true.

Commissioner Opatik moved that the Commission stipulate that the State has proven sufficient service of notice and that by statute and custom the factual allegations and violations of law have been proven to be true. Seconded by Commissioner Schwartz. Motion carried unanimously.

Ms. Arguello asked for a motion to approve some amendments to the complaint. Ms. Arguello stated that in violations of law it list NAC 645.605(1)(a). Ms. Arguello stated that the (a) should be deleted. Ms. Arguello stated that under discipline authorized pursuant to should be NAC and not NRS.

Commissioner Opatik moved that corrections stated by counsel be made to the order. Seconded by Commissioner Johnson. Motion carried unanimously.

President Boyer stated that the Commission will accept the exhibits.

Ms. Arguello read the factual allegations and violations of law into the record.

Division's Recommendation for Discipline

Jan Holle gave the Division's recommendation for discipline.

- License to be suspended until the administrative fine is paid in full.

Commissioner Opatik stated that she is perturbed that the respondent has not responded to anything that the Division requested. Commissioner Opatik stated that the fine of \$2,000.00 is relatively light and has been ignored for two years.

Commissioner Opatik moved to revoke Ms. Craddock's license. Seconded by Commissioner Johnson. Motion carried unanimously.

**4-1) NRED v. Rigoalberto (Rigo) Cardenas for possible action**

**Case# RES 13-09-19-093**

**License No. S.0071962 (INACTIVE)**

Parties Present

Rigoalberto Cardenas was not present.

Deputy Attorney General Christopher Eccles was present representing the Division.

State's Witness

Rebecca Hardin testified regarding sending notice of hearing to Mr. Cardenas.

Mr. Eccles stated that based upon the testimony of Ms. Hardin, he would like the Commission to find that the Division has properly served Mr. Cardenas with all of the documents, that he is not here and that Mr. Eccles be allowed to submit the matter based upon the complaint. Mr. Eccles stated that NAC 645.860 allows the Commission to proceed on this basis.

Commissioner Opatik moved that the Commission stipulate that the State has proven proper and sufficient service of the notice and that the respondent has failed to appear. Seconded by Commissioner Johnson. Motion carried unanimously.

Mr. Eccles stated that he would like the Commission to admit certain documents into evidence. Mr. Eccles stated that he would like to admit the green card showing that the Division had accomplished that mailing and the exhibits bates stamped 1-20.

President Boyer stated that the documents will be admitted.

Commissioner Opatik moved that the factual allegations and violations of law have been proven by statute and custom. Seconded by Commissioner Johnson. Motion carried unanimously.

Mr. Eccles read the complaint into the record.

President Boyer stated that Mr. Cardenas' broker was in attendance yesterday but the Commission was unable to get to the case.

Division's Recommendation for Discipline

Jan Holle gave the Division's recommendation for discipline.

- Revocation of the real estate license
- Commission fine of \$50,000.00 to be paid within 30 days of the effective date of the order
- Investigative and hearing cost of \$1,278.65 to be paid within 30 days of the effective date of the order
- All the normal and customary collection language

Commissioner Johnson moved that the Commission accept the State's recommendation for discipline. Seconded by Commissioner Schwartz. Motion carried unanimously.

**8-1-A) For possible action: Appeal of Instructor Denial for Decision**

**Motion to close session to consider the qualifications (experience, education and teaching experience) of NICK NICHOLSON as an instructor in the field in which the person will be providing instruction of the following courses:**

- **CE.5598002-RE-Commission Hearings: Case Studies IV-3 hours-Broker Management-Classroom for Steven Kitnick Seminars**
- **CE.5598002-RE-Commission Hearings: Case Studies IV-3 hours-Ethics-Classroom for Steven Kitnick Seminars**
- **CE.5654000-RE-NRS Legislative Update 2013-3 hours-Law & Legislations-Classroom for Steven Kitnick Seminars**
- **CE.5587000-RE-Ethics for the Nevada Real Estate Licensees-3 hours-Ethics-Classroom for Steven Kitnick Seminars**
- **CE.3592000-RE-Fiduciary Duties-3 hours-Agency-Classroom for Steven Kitnick Seminars**
- **CE.5239000-RE-Nevada Agency Relationships-Agency-Classroom for Steven Kitnick Seminars**

Nick Nicholson was present and stated that he did not need for the Commission to go into closed session.

**8-1-C) Discussion and possible action in open session**

Senior Deputy Attorney General Kimberly Arguello was present representing the Division.

Ingrid Trillo was present for the Division.

Nick Nicholson was present.

Steven Kitnick was present.

Ms. Trillo stated that Mr. Nicholson was not approved for these courses because Mr. Nicholson was not licensed and had no practical experience. Ms. Trillo stated that Mr. Nicholson is not a licensee for broker management, ethics, law legislation and agency.

Mr. Nicholson stated that he is the national director for First American Eagle University in charge of education. Mr. Nicholson stated that he has been in the industry for thirty years and for ten years he has created non-continuing education classes in all categories. Mr. Nicholson stated that for five years he regularly travels to Washington, D.C. to testify on behalf of the real estate industry and the State of Nevada. Mr. Nicholson stated that there is no way to separate ethics, agency and law because they are intertwined. Mr. Nicholson stated that when he submitted his applications for Steven Kitnick's classes, those classes had established criteria and were already created.

Steven Kitnick stated that he does not see anything in NAC 645 that requires someone to have a real estate license as criteria. Mr. Kitnick referred to NAC 645.426(4)(a)(2). Mr. Kitnick stated that the Education Section might have a restrictive or narrower definition on what it means to have experience in the field. Mr. Kitnick stated that Mr. Nicholson has more than enough experience in the field. Mr. Kitnick stated that if the Commission finds that lacking, Mr. Kitnick requested that the Commission approve Mr. Nicholson for a limited period with conditions.

Mr. Nicholson stated that he has taken the ninety hours of pre-licensing and will be taking the real estate exam after the holidays.

Ms. Arguello read NAC 645.426(4). Ms. Arguello stated that nowhere in Mr. Nicholson's background is real estate or anything related to courses that Mr. Nicholson wants to teach. Ms. Arguello stated that Mr. Nicholson's principal occupation is teaching. Ms. Arguello stated that it has to be the principal occupation with regards to courses taught and not teaching in general.

Commissioner Schwartz asked if Mr. Nicholson does obtain his license, how long he has to be in that position for the Division to consider that as his principal occupation.

Ms. Arguello stated that if it is Mr. Nicholson's principal occupation, the Division would look at subsection NAC 645.426(4)(a) through (c).

Commissioner Schwartz asked why Mr. Nicholson was approved for the first three classes and not the other classes.

Ms. Trillo stated that she found Mr. Nicholson to be experienced in the area of escrow and title since they deal with contracts all of the time. Ms. Trillo stated that is why Mr. Nicholson was approved for contracts and escrow classes that are not pertaining to this sponsor.

Commissioner Johnson moved that the Commission accept the recommendation of the Division. Seconded by Commissioner Opatik.

President Boyer stated that someone who spent thirty years in the title and escrow business has as much or more experience as many of the licensees and instructors. President Boyer stated that he disagrees with the determination that thirty years in title and escrow does not constitute experience.

Motion carried 3 to 2 with President Boyer and Commissioner Schwartz opposed.

#### **4-6) NRED v. Teresita De Jesus Gomez for possible action**

**Case No. RES 12-03-05-270**

**License No. S.0078169 (EXPIRED) and PM.0163965 (CLOSED)**

##### Parties Present

Deputy Attorney General Christopher Eccles was present representing the Division.

Teresita De Jesus was not present.

Mr. Eccles stated that Ms. Gomez filed an affidavit after the complaint was served upon her. Mr. Eccles stated that he spoke with Ms. Gomez and she stated that she was unable to get off work but did not request a continuance.

##### State's Witness

Rebecca Hardin testified regarding sending notice of hearing to Ms. Gomez.

Mr. Eccles stated that based upon the testimony of Ms. Hardin, he would like the Commission to find that the Division has properly served Ms. Gomez.

Commissioner Opatik moved that the Commission finds that the State has proven sufficient service to Ms. Gomez. Seconded by Commissioner Cartinella. Motion carried unanimously.

Mr. Eccles asked that the State's exhibits be admitted into evidence. Mr. Eccles stated that he thought that Ms. Gomez had sent the Division the affidavit but it was only sent to Mr. Eccles which is why it was not part of the Commission's meeting packet. Mr. Eccles gave a copy of the affidavit to President Boyer.

President Boyer admitted the exhibits into evidence.

Mr. Eccles read the complaint and violations of law into the record.

#### Division's Recommendation for Discipline

Jan Holle gave the Division's recommendation for discipline.

- Revocation of real estate license and property management permit
- Commission fine of \$90,000.00 to be paid within 30 days of the effective date of the order
- Investigation and hearing cost of \$1,233.68 to be paid within 30 days of the effective date of the order
- Normal and customary collection language

Commissioner Johnson moved to accept the Division's recommendation as presented. Seconded by Commissioner Schwartz. Motion carried unanimously.

#### **4-7) NRED v. Jeff B. Goodsitt for possible action**

**Case No. RES 13-07-34-034**

**License No. S.0049634 (INACTIVE) and PM.0149634 (INACTIVE)**

#### Parties Present

Jeff Goodsitt was not present.

Deputy Attorney General Christopher Eccles was present representing the Division.

Mr. Eccles stated that he would like to prove notice pursuant to NAC 645.860 and submit the matter based upon the complaint.

#### State's Witness

Rebecca Hardin testified regarding sending notice of hearing to Mr. Goodsitt.

Mr. Eccles stated that based upon the testimony of Ms. Hardin, he would request that the Commission find that the Division properly served Mr. Goodsitt and would like to offer into evidence the certified green card that appears to be signed by Mr. Goodsitt.

Commissioner Opatik moved that the Commission pursuant NAC 645.860 find that the State has proven sufficient service of notice to Mr. Goodsitt and that by statute and custom the factual allegations and violations of law are deemed true and proven. Seconded by Commissioner Schwartz. Motion carried unanimously.

#### State's Witness

Jan Holle testified on the authenticity of the documents.

Mr. Eccles stated that based upon Mr. Holle's testimony, he thinks the documents have been authenticated and would like to hand them out to the Commission to be admitted.

President Boyer agreed and stated that the documents will be admitted.

Mr. Eccles read the complaint into the record.

#### Division's Recommendation for Discipline

Jan Holle gave the Division's recommendation for discipline.

- Commissioner order the respondent to cease solicitation of real estate services on the website
- Revocation of real estate license and property management permit
- Commission fine of \$30,000.00 to be paid within 30 days of the effective date of the order
- Investigative and hearing costs of \$1,137.99 to be paid within 30 days of the effective date of the order
- Normal and customary collection language

Commissioner Opatik moved that the Commission adopt the recommendation of the Division. Seconded by Commissioner Johnson. Motion carried unanimously.

#### **3-H-1) Status report and discussion concerning proposed regulations LCB File # R157-08.**

Gail Anderson presented this report. Ms. Anderson stated that the Legislature passed a law in the 2013 session that says that regulations that become two years old may not be move forward without explicit permission from the Legislative Commission to do so. Ms. Anderson stated that LCB File R157-08 is more than two years old and is from the 2008 fiscal year. Ms. Anderson stated that the regulation had seven workshops. Ms. Anderson stated that there are things in the regulation that were addressed in LCB File R093-10 which is the regulation that addressed the four year licensing and mid-term education requirements. Ms. Anderson stated that this file needs to be withdrawn. Ms. Anderson stated that the Division will review it in light of what has already been passed in LCB File R093-10 to see if there is anything remaining that the Division would like to propose and request a new regulation number.

#### **3-H-2) Status report and discussion concerning proposed regulations LCB File # R003-10.**

Gail Anderson presented this report. Ms. Anderson stated that this regulation is all education. Ms. Anderson stated that this regulation has also timed out and needs to be withdrawn. Ms. Anderson stated that there is a section that proposes some changes to standards for courses NAC 645.450. Ms. Anderson stated that she can bring at the next Commission meeting, the core of some of the proposed changes and it sounds like the Commission might want to consider some other regulation changes on the education arena that could turn into a new regulation.

#### **3-H-3) Status report and discussion concerning proposed regulations LCB File # R071-12.**

Gail Anderson presented this report. Ms. Anderson stated that the Division received a Legislative Counsel Bureau draft. Ms. Anderson stated that there have been two workshops on this regulation using agency drafts. Ms. Anderson stated that the Legislative Counsel Bureau draft may not have all changes that the Commission made at previous meetings. Ms. Anderson stated that the Legislative Counsel Bureau draft is ready to be noticed for a workshop. Ms. Anderson stated that part of the regulation process requires a small business impact statement be drafted to solicit input for any regulation that is proposed. Ms. Anderson stated that this regulation will be noticed for a workshop at the Commission's next meeting.

#### **3-K) For possible action: Proposed schedule of meetings for calendar year 2014.**

- March 25-27, 2014 in the south

- June 24-26, 2014 to be determined based on if there are cases for disciplinary hearings in the north
- October 14-16, 2014 in the south
- January 6-8, 2015 in the south

The Commission agreed to these dates.

**10) Public Comment**

None

**3-M) Commissioner Comments**

Commissioner Schwartz thanked the Commission and Division staff.

Commissioner Cartinella stated that she is the only person on the Commission who is not an educator and would welcome any help from Division staff. Commissioner Cartinella stated that she would like to add something to the agenda for the next meeting regarding the seller's real property disclosure. Commissioner Cartinella stated that she would like the Commission to consider eliminating the initial line on page 4.

**11) Adjournment**

Meeting adjourned on December 11, 2013 at 2:43 p.m.