

NEVADA REAL ESTATE COMMISSION
MINUTES

MAY 5, 2015

Gaming Control Board
1919 College Parkway
Carson City, Nevada 89701

VIDEO CONFERENCE TO:

Grant Sawyer Building
Gaming Control Board
555 East Washington Avenue
Room 2450
Las Vegas, Nevada 89101

The meeting was called to order at 9:07 AM

1-A) INTRODUCTION OF COMMISSIONERS IN ATTENDANCE

Neil Schwartz, Clark County; Norma Jean Opatik, Nye County; Richard Johnson, Washoe County; and Sherrie Cartinella, Washoe County; Commissioner Reiss was not in attendance
Commission Counsel: Sarah Bradley

1-B) INTRODUCTION OF DIVISION STAFF IN ATTENDANCE

Joseph Decker, Administrator

From the Administration Section: Rebecca Hardin in Carson City and Teralyn Thompson in Las Vegas

From the Investigation Section: Jan Holle in Las Vegas and Kip Steele in Carson City

From the Education Section (in Las Vegas): Ingrid Trillo and VaNessa Finona

From the Attorney General's Office: Senior Deputy Attorney General Kim Arguello in Las Vegas and Keith Kizer, Deputy Attorney General in Carson City

Director's Office: Bruce Breslow, Director of Business and Industry

2) PUBLIC COMMENT

None.

4-14) NRED v DEBRA A. WARNER - Case # REN 11-03-03-054

Parties Present

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

John Aberasturi was present representing Ms. Warner.

Respondent was not present.

Preliminary Matters

Mr. Aberasturi presented a Stipulation and Order for Settlement of Disciplinary Action.

Ms. Arguello read the Jurisdiction, Summary of Factual Allegations Set Forth in the Complaint, Summary of Violations of Law Alleged in the Complaint, Discipline Authorized, and Settlement into the record.

Settlement

Respondent agreed to pay to the Division an \$8,000 administrative fine, plus costs of \$1,000 for a total due of \$9,000 due within 90 days of the date of the Commission's Order Approving Stipulation.

Respondent agreed to attend three hours of What Every Licensee Should Know continuing education and six hours of ethics designated courses, all to be completed within six months of the effective date of Commission's Order Approving Stipulation. The hours must be live education and will not count towards Respondent's continuing education requirements.

Mr. Aberasturi stated that Ms. Warner had read, understood, and signed the settlement.

Commissioner Opatik asked to change the continuing education classes as follows: three hours of What Every Licensee Should Know, three hours of ethics and three hours of property management.

Mr. Aberasturi stated that the Respondent would accept the education changes.

Commissioner Cartinella moved to accept the Stipulation in case # REN 11-03-03-054 with changes in regard to the education. Commissioner Opatik seconded. The motion carried unanimously

4-5) NRED v KAREN GREATHOUSE - Case # REN 10-03-01-050

4-6) NRED v KAREN GREATHOUSE - Case # REN 12-02-04-039

4-7) NRED v KAREN GREATHOUSE - Case # REN 13-06-02-034

Parties Present

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

Karen Greathouse was present.

Shawn Oliphant was present representing Ms. Greathouse.

Preliminary Matters

Mr. Oliphant presented a Stipulation and Order for Settlement of Disciplinary Action.

Ms. Arguello read the Jurisdiction, Summary of Factual Allegations Set Forth in the Complaint, Summary of Violations of Law Alleged in the Complaint, Discipline Authorized, and Settlement into the record.

Settlement

Respondent agreed to pay to the Division a total of \$20,000, which includes an administrative fine of \$14,000 and costs of \$6,000, within 90 days of the date of the Commission's Order Approving Stipulation.

Respondent agreed to attend three hours of What Every Licensee Should Know continuing education and six hours of ethics designated courses, all to be completed within twelve months of the effective date of the Commission's Order Approving Stipulation. The hours must be live education and will not count towards Respondent's continuing education requirements.

Ms. Greathouse stated that she had read, understood and signed the settlement.

Commissioner Schwartz asked to change the continuing education classes as follows: three hours of What Every Licensee Should Know, three hours of Ethics and three hours of Agency.

Respondent and her attorney agreed to the education changes.

Commissioner Schwartz moved to accept the stipulation for case #'s REN 13-06-02-034, REN 12-02-04-039 and REN 10-03-01-050 with the change in the education. Commissioner Opatik seconded. The motion carried unanimously

4-10) NRED v CINDY KRSHUL - Case # RES 14-02-01-472

Kimberly Arguello stated that this case had been taken off of the agenda.

4-11) NRED v SUSAN KAY LOWE - Case # REN 14-04-11-040

4-12) NRED v MICHELLE PLEVEL - Case # REN 14-06-06-061

Parties Present

Keith Kizer, Deputy Attorney General, was present representing the Division.

Respondents were not present.

Roderic Carucci was present representing Ms. Plevel.

James Walsh was present representing Ms. Lowe.

Hearing

Mr. Walsh asked President Johnson if he was going to recuse himself because the facts of these cases were the same as the facts of other cases where President Johnson had recused himself.

President Johnson disagreed and stated that he would not recuse himself.

Mr. Carucci and Mr. Walsh stated their reasons for requesting that President Johnson recuse himself.

President Johnson stated that he recused himself in the other cases because he had received prior information from someone involved with those cases who had asked for advice.

Commissioner Opatik moved that the Commission deny the request to have President Johnson recused based on the statement that President Johnson made. Commissioner Schwartz seconded. The motion carried with President Johnson abstaining.

Motions to Dismiss

Mr. Carucci presented his argument for dismissing the case against Ms. Plevel.

Mr. Kizer presented his argument against granting the motion to dismiss the case against Ms. Plevel.

Mr. Carucci responded to Mr. Kizer's argument.

Mr. Walsh presented his argument for dismissing the case against Ms. Lowe.

Mr. Kizer presented his argument against granting the motion to dismiss the case against Ms. Lowe.

Commissioner Cartinella moved to deny the motion to dismiss for Michelle Plevel, case REN 14-06-06-061. Commissioner Opatik seconded. The motion carried unanimously.

Commissioner Cartinella moved to deny the motion to dismiss for Susan K. Lowe, case REN 14-04-11-040. Commissioner Opatik seconded. The motion carried unanimously.

4-8) NRED v JASON JAIRAM - Case # 2014-3377

Parties Present

Keith Kizer, Deputy Attorney General, was present representing the Division.

Matthew Hippler was present representing Mr. Jairam.

Motion to Dismiss

Commissioner Opatik moved to deny the motion to dismiss for case # 2014-3377, Jason Jairam.

Commissioner Cartinella seconded. The motion carried unanimously.

4-13) NRED v ANITA SPENCER - Case # 2014-3376

Parties Present

Keith Kizer, Deputy Attorney General, was present representing the Division.
Matthew Hippler was present representing Ms. Spencer.

Motion to Dismiss

Commissioner Opatik moved to deny the motion to dismiss for case # 2014-3376, Anita Spencer.
Commissioner Cartinella seconded. The motion carried unanimously.

4-2) NRED v MICHAEL HARDING - Case # 2014-3378

Parties Present

Keith Kizer, Deputy Attorney General, was present representing the Division.
Michael Harding was present.
Matthew Hippler was present representing Mr. Harding.

Hearing

Mr. Kizer submitted the State's Exhibit 1. State's Exhibit 1 was admitted into evidence.
Mr. Kizer submitted the State's Exhibit 2. State's Exhibit 2 was admitted into evidence.
Mr. Hippler submitted Respondent's Exhibit A. Respondent's Exhibit A was admitted into evidence.
This case was recessed.

4-3) NRED v MARSHALL CARRASCO - Case # REN 14-05-04-044

Parties Present

Keith Kizer, Deputy Attorney General, was present representing the Division.
James Walsh was present representing Mr. Carrasco.

Motion to Dismiss

Mr. Walsh presented his argument for dismissing the case against Mr. Carrasco.
Mr. Kizer presented his argument against granting the motion to dismiss the case against Mr. Carrasco.
President Johnson recused himself due to prior knowledge about the case and passed the gavel to Commissioner Opatik.
Commissioner Schwartz moved to deny the motion for dismissal in case # REN 14-05-04-044.
Commissioner Cartinella seconded. The motion carried with President Johnson abstaining.

4-4) NRED v JOSHUA FONTENOT - Case # REN 15-08-07-012

President Johnson recused himself passing the gavel to Commissioner Opatik.

Parties Present

Keith Kizer, Deputy Attorney General, was present representing the Division.
James Walsh was present representing Mr. Fontenot.

Motion to Dismiss

Commissioner Schwartz moved to deny the motion to dismiss in case # REN 15-08-07-012. Commissioner Cartinella seconded. The motion carried with President Johnson abstaining.

4-9) NRED v KATRINA KARASAWA - Case # REN 15-08-08-013

President Johnson recused himself passing the gavel to Commissioner Opatik.

Parties Present

Keith Kizer, Deputy Attorney General, was present representing the Division.
James Walsh was present representing Ms. Karasawa.

Motion to Dismiss

Commissioner Schwartz moved to deny the motion to dismissal in case # REN 15-08-08-013.
Commissioner Cartinella seconded. The motion carried with President Johnson abstaining.

4-1) NRED v KYLE KRCH - Case # REN 14-05-07-047

Parties Present

Keith Kizer, Deputy Attorney General, was present representing the Division.
Kyle Krch was present.
Matthew Hippler was present representing Mr. Krch.

Hearing

Mr. Kizer submitted the State's Exhibit 1. State's Exhibit 1 was admitted into evidence.
Mr. Kizer submitted the State's Exhibit 2. State's Exhibit 2 was admitted into evidence.
Mr. Hippler submitted Respondent's Exhibit A. Respondent's Exhibit A was admitted into evidence.
Mr. Kizer read the factual allegations and violations of law into the record.
Mr. Kizer gave his opening statement.
Mr. Hippler gave his opening statement.

Respondent's Witness

Kyle Krch testified.
Mr. Kizer cross-examined Mr. Krch.
Mr. Hippler re-directed.
Commissioner Cartinella questioned Mr. Krch.
Commissioner Schwartz questioned Mr. Krch.
Commissioner Opatik questioned Mr. Krch.
President Johnson questioned Mr. Krch.
The witness was excused.

Respondent's Witness

Michael Harding testified.
Mr. Kizer cross-examined Mr. Harding.
Commissioner Opatik questioned Mr. Harding.
Commissioner Schwartz questioned Mr. Harding.
President Johnson questioned Mr. Harding.

Commissioner Cartinella questioned Mr. Harding.

The witness was excused.

Mr. Kizer gave his closing argument.

Mr. Hippler gave his closing argument.

The hearing was closed with Commission deliberation scheduled for the next day.

5) PUBLIC COMMENTS

None.

6) ADJOURNMENT

The meeting was recessed at 4:23PM on May 5, 2015.

DRAFT

MAY 6, 2015

Gaming Control Board
1919 College Parkway
Carson City, Nevada 89701

VIDEO CONFERENCE TO:
Grant Sawyer Building
Gaming Control Board
555 East Washington Avenue
Room 2450
Las Vegas, Nevada 89101

The meeting was called to order at 9:07 AM

1-A) INTRODUCTION OF COMMISSIONERS IN ATTENDANCE

Neil Schwartz, Clark County; Norma Jean Opatik, Nye County; Richard Johnson, Washoe County; and Sherrie Cartinella, Washoe County. Devin Reiss was not in attendance.
Commission Counsel: Gina Session and Sarah Bradley

1-B) INTRODUCTION OF DIVISION STAFF IN ATTENDANCE

Joseph Decker, Administrator
From the Administration Section: Rebecca Hardin in Carson City and Teralyn Thompson in Las Vegas
From the Investigation Section: Jan Holle in Las Vegas and Kip Steele in Carson City
From the Education Section (in Las Vegas): Ingrid Trillo and VaNessa Finona
From the Attorney General's Office: Senior Deputy Attorney General Kim Arguello in Las Vegas and Keith Kizer, Deputy Attorney General, in Carson City
Director's Office: Bruce Breslow, Director of Business and Industry

2) PUBLIC COMMENT

None.

3-A) ADMINISTRATOR'S REPORT ON LEGISLATIVE UPDATES THAT AFFECT THE REAL ESTATE DIVISION

Administrator Decker presented an update on the progress of Assembly Bills 475 and 478. Administrator Decker stated that the budget proposition which would have allowed the Division to pursue self-funding was not supported by the real estate associations and would not succeed.

3-B) DISCUSSION REGARDING CONFIDENTIALITY OF COMPLAINTS FILED WITH THE DIVISION

President Johnson commented that licensees might be reluctant to file complaints because of potential repercussions.

Administrator Decker stated that the complaints were confidential during the investigation but would become public if it went to a disciplinary hearing.

3-C) DISCUSSION REGARDING A DIVISION ADVISORY OPINION REGARDING THE USE OF THE DUTIES OWED BY A NEVADA REAL ESTATE LICENSEE FORM

Administrator Decker stated that an advisory opinion had been issued and placed on the Nevada Real Estate Division's website. Administrator Decker stated that the opinion states that a referring agent is not required

nor does the Division encourage agents to sign a Duties Owed form. Administrator Decker stated that the Duties Owed form is not appropriate for a referring agent because it puts the agent in a position where the agent is obligated to that client in a way which that scenario is not designed to facilitate.

3-A) ADMINISTRATOR'S REPORT ON LEGISLATIVE UPDATES THAT AFFECT THE REAL ESTATE DIVISION

Commissioner Opatik asked to revisit the legislative updates on Assembly Bills 475 and 478.

Commissioner Opatik asked the ramifications of those bills not passing.

Administrator Decker stated the alternative to the self-funded proposal is to remain a general fund agency and lose 7.4 employees currently being paid for by the National Mortgage Settlement Fund which is expiring. Administrator Decker stated that losing those people would be a 25% staff cut which would compromise investigations and administration.

Bruce Breslow, Business and Industry Director, stated that the intent for the last two years was to bring a bill to the Legislature to self-fund the Real Estate Division. Director Breslow stated that Administrator Decker spent a lot of time working with the different parts of the industry. Director Breslow stated that at the budget hearing, the Nevada Association of Realtors testified against the Division's budget plan. Director Breslow stated that he and Administrator Decker met with the Realtors and their position is that realtors pay enough fees and that the State should give some of those fees back rather than make realtors pay more.

Commissioner Opatik asked if this will be something that will be pursued again in two years.

Director Breslow stated that he will not pursue it again because of the feedback received from the Association of Realtors. Director Breslow stated that if the Division wants to be self-funded in the future, the real estate community would have to sponsor a bill or have somebody sponsor the bill and bring it forward. Director Breslow stated that the agency will support it.

4-1) NRED v KYLE KRCH - Case # REN 14-05-07-047 (continued from 05/05/15)

Parties Present

Keith Kizer, Deputy Attorney General, was present representing the Division.

Kyle Krch was present.

Matthew Hippler was present representing Mr. Krch.

Mr. Hippler asked the Commission to rule on his motion to dismiss the Krch case.

Commissioner Opatik moved that this deny the motion to dismiss based on the evidence and testimony.

Commissioner Cartinella seconded. The motion carried unanimously.

Commission Deliberation

Commissioner Schwartz moved that general factual allegations 1-8 had been proven. Commissioner Opatik seconded. The motion carried unanimously.

Commissioner Cartinella moved to accept the factual allegations in case REN 14-05-07-047, items 9-19. Commissioner Schwartz seconded. The motion carried unanimously.

Commissioner Schwartz moved that factual allegations 20-29 found in case REN 14-05-07-047 have been proven. Commissioner Cartinella seconded. The motion carried unanimously.

Commissioner Cartinella moved to approve the factual allegations for case REN 14-05-07-047, items 30-39. Commissioner Schwartz seconded. The motion carried unanimously.

Commissioner Opatik moved that this Commission agree that the factual allegations in items 40-48 have been proven. Commissioner Schwartz seconded. The motion carried unanimously.

Commissioner Schwartz moved that factual allegations numbers 49-53 for the Anchor Point Drive property in case REN 14-05-07-047 have been proven. Commissioner Opatik seconded. The motion carried unanimously.

Commissioner Schwartz moved that the factual allegations found in items 54-63, the Dodge Drive property, in case REN 14-05-07-047 have been proven. Commissioner Opatik seconded. The motion carried unanimously.

Commissioner Cartinella moved to accept the factual allegations in case REN14-05-07-047, items 64-72 have been proven. Commissioner Opatik seconded. The motion carried unanimously.

Commissioner Cartinella moved to accept the factual allegations in case REN 14-05-07-047, items 73-80 have been proven. Commissioner Opatik seconded. The motion carried unanimously.

Commissioner Opatik moved that the Commission accept the allegations 81-90 to be proven. Commissioner Schwartz seconded. The motion carried unanimously.

Commissioner Schwartz moved that factual allegations numbers 91-100 regarding the D'Arcy Street property found in case REN 14-05-07-047 have been proven. Commissioner Opatik seconded. The motion carried unanimously.

Commissioner Schwartz moved violation 101 was proven regarding Respondent violating NRS 645.633(1)(h), pursuant to NAC 645.605(6) and/or NRS 645.252(2), on 8 occasions by not dealing fairly with sellers in case REN 14-05-07-047. Commissioner Cartinella seconded. The motion carried unanimously.

Commissioner Schwartz moved violation 102 was proven regarding Respondent violating NRS 645.633(1)(i) pursuant to NAC 645.605(6) and/or NRS 645.252(2), on eight occasions by not representing the above sellers with absolute fidelity. Commissioner Opatik seconded. The motion carried unanimously.

Commissioner Cartinella moved violation 103 was proven regarding Respondent violating NRS 645.633(1)(h), pursuant to NAC 645.605(6) and /or NRS 645.252(2), on eight occasions by not dealing fairly with the above sellers' mortgage lenders. Commissioner Schwartz seconded. The motion carried unanimously.

Commissioner Schwartz moved violation 104 was proven regarding Respondent violating NRS 645.252(1)(c) and /or NAC 645.640(1)(a) on six occasions by failing to disclose in writing that he had an interest in the transaction or was acquiring, leasing or disposing of the property for himself or for a member, firm, or entity with which he has a relationship, in case REN 14-05-07-047. Commissioner Opatik seconded. The motion carried unanimously.

Commissioner Schwartz moved violation 105 was proven regarding Respondent violating NAC 645.600(1) on nine occasions by failing to maintain adequate supervision of Spencer, Jairam, and Harding. Commissioner Opatik seconded. The motion carried unanimously.

Division's Recommendation for Discipline

- Fines of \$102,000.00 consisting of the following:
 - Violation 104: six violations at \$10,000 each totaling \$60,000
 - Violation 101: eight violations at \$1,000 each totaling \$8,000
 - Violation 102: eight violations at \$1,000 each totaling \$8,000
 - Violation 103: eight violations at \$1,000 each totaling \$8,000
 - Violation 105: nine violations at \$2,000 each totaling \$18,000
- Costs: \$10,128.67
- Education: 15 hours of continuing education consisting of the following:
 - 6 hours of broker management
 - 3 hours of contracts
 - 3 hours of agency
 - 3 hours of ethics
- Fines are to be paid and education is to be completed within 90-180 days.

Mr. Hippler made a statement.

Commissioner Schwartz moved that the recommendations for REN 14-05-07-047 be accepted and approved by the Commission for a total fine of \$102,000.00 in violations, plus \$10,128.67 in costs and additional continuing education credits of 6 hours of broker management, 3 hours of ethics, 3 hours of agency, and 3 hours of contracts, all to be done within 180 days. Education must be live and will not count toward renewal requirements. Commissioner Cartinella seconded. The motion carried unanimously.

4-2) NRED v Michael Harding - Case # 2014-3378 (continued from 05/05/15)

Parties Present

Keith Kizer, Deputy Attorney General, was present representing the Division.

Michael Harding was present.

Matthew Hippler was present representing Mr. Harding.

Hearing

Mr. Kizer read the factual allegations and violations of law into the record.

Mr. Hippler stated that he and Mr. Kizer had spoken already with respect to the evidence in the Harding case and asked the Commission to admit into evidence all of the documentation and testimony that was presented in Mr. Krch's hearing.

Sarah Bradley, Commission Counsel, clarified that President Johnson had said that the exhibits were so admitted and the transcript of the testimony provided in Mr. Krch's hearing by Mr. Krch and Mr. Harding were also deemed testimony and evidence for Mr. Harding's case.

Mr. Kizer gave his opening statement.

Mr. Hippler gave his opening statement.

Mr. Hippler requested a ruling on the motion to dismiss Mr. Harding's case.

Commissioner Opatik moved to deny the motion to dismiss on case 2014-3378. Commissioner Cartinella seconded. The motion carried unanimously.

Respondent's Witness

Michael Harding testified.

Mr. Kizer had no questions for Mr. Harding.

Commissioner Opatik questioned Mr. Harding.

Commissioner Cartinella questioned Mr. Harding.

Commissioner Schwartz questioned Mr. Harding.

President Johnson questioned Mr. Harding.

Mr. Kizer cross-examined Mr. Harding.

The witness was excused.

Mr. Kizer gave his closing argument.

Mr. Hippler gave his closing argument.

The hearing was closed.

Commission Deliberation

Commissioner Schwartz moved that factual allegations 1-7 in case 2014-3378 had been proven. Commissioner Opatik seconded. The motion carried unanimously.

Commissioner Schwartz moved that the factual allegations 8-19 under the property Wall Canyon Drive in case 2014-3378 had been proven as factual. Commissioner Cartinella seconded. The motion carried unanimously.

Commissioner Schwartz moved that the factual allegations 20-30 under Picasso Drive in case 2014-3378 had been proven as factual. Commissioner Opatik seconded. The motion carried unanimously.

Commissioner Schwartz moved that the factual allegations 31-41 under Tioga Way in case 2014-3378 had been proven. Commissioner Opatik seconded. The motion carried unanimously.

Commissioner Opatik moved that the Commission accept factual allegations 42-51 regarding Limonite Court had been proven as accurate pursuant to the testimony given and the documentation received. Commissioner Cartinella seconded. The motion carried unanimously.

Commissioner Cartinella moved to accept factual allegations 52-62 in case 2014-3378. Commissioner Schwartz seconded. The motion carried unanimously.

Commissioner Cartinella moved to accept factual allegations 63-72 in case 2014-3378 had been proven. Commissioner Schwartz seconded. The motion carried unanimously.

Commissioner Schwartz moved that factual allegations 73-83 for the Cervino Drive property under case 2014-3378 had been proven. Commissioner Cartinella seconded. The motion carried unanimously.

Commissioner Schwartz moved that the factual allegations 84-94 for D'arcy Street in case 2014-3378 had been proven. Commissioner Opatik seconded. The motion carried unanimously.

Commissioner Schwartz moved that violation 95 regarding Respondent violating NRS 645.633(1)(h), pursuant to NAC 645.605(6) and/or NRS 645.252(2), on three occasions by not dealing fairly with the above sellers, were proven and the facts within the case substantiated that. Commissioner Cartinella seconded.

Commissioner Schwartz modified his motion on violation 95. Commissioner Schwartz moved that Respondent violated NRS 645.633(1)(h), pursuant to NAC 645.605(6) and/or NRS 645.252(2), on three occasions by not dealing fairly. Commissioner Cartinella seconded. The motion carried 3-1 with Commissioner Opatik opposing.

Mr. Hippler objected to the alteration of the complaint.

Commissioner Schwartz moved that violation 96 regarding Respondent violating NRS 645.633(1)(h) pursuant to NAC 645.605(6) and/or NRS 645.252(2), on three occasions by not dealing fairly with the above sellers' mortgage lenders. Commissioner Cartinella seconded. The motion failed unanimously.

Commissioner Schwartz moved that violation 96 regarding Respondent violating NRS 645.633(1)(h) pursuant to NAC 645.605(6) and/or NRS 645.252(2), on three occasions by not dealing fairly with above sellers' mortgage lenders was not proven in case # 2014-3378. Commissioner Cartinella seconded. The motion carried unanimously.

Commissioner Schwartz moved that violation 97 regarding Respondent violating NRS 645.252(1)(c) and /or NAC 645.640(1)(a), by failing to disclose in writing that he had an interest in the transaction or was acquiring, leasing or disposing of the property for himself or for a member, firm, or entity with which he has such a relationship in case 2014-3378. Commissioner Opatik seconded. The motion carried unanimously.

Division's Recommendation for Discipline

- Fine of \$23,000.00 consisting of the following:
 - Violation 97: two violations at \$10,000 each totaling \$20,000
 - Violation 95: three violations at \$1,000 each totaling \$3,000
- Costs: \$3,167.37
- Education: 15 live education credits, not counting for continuing education, consisting of the following:
 - 6 hours of ethics
 - 3 hours of contracts
 - 3 hours of agency
 - 3 hours of What Every Licensee Should Know
- Fines are to be paid and education is to be completed within 180 days.

Commissioner Cartinella moved to accept the State's recommendation in regard to violations in case 2014-3378 for a total fine of \$23,000.00 plus costs of \$3,167.37, with education not counting toward renewal consisting of 6 hours of ethics, 3 hours of contracts, 3 hours of agency, and 3 hours of What Every Licensee Should Know, live classes. Fine and costs are to be paid and the classes to be taken within 180 days. Commissioner Schwartz seconded. The motion carried unanimously.

3-D) DISCUSSION REGARDING LISTING, SELLING, AND ADVERTISING OF NEVADA PROPERTY BY OUT-OF-STATE COMPANIES, AND THE DISCUSSION OF, AND CHANGES TO, THE NEVADA OUT-OF-STATE CO-OPERATIVE CERTIFICATE

Administrator Decker stated that this had been changed on the out-of-state cooperative certificate to specify the certificate is good for one transaction. Administrator Decker stated that if that transaction is not completed within one year, the certificate will have to be renewed. Administrator Decker stated that a cooperative broker does not have to send in something saying which property, if any, was acquired during that time period.

President Johnson asked how to get the word out because Nevada realtors may not realize the amount of liability they're taking on by doing a cooperative certificate. President Johnson suggested placing a notice of liability on the certificate.

Administrator Decker stated that he is not sure the Division could give legal advice concerning liability but can discuss it in a newsletter or make an announcement regarding that change.

President Johnson asked if it was legal or illegal for a sign to have only an out of-state number relative to advertising through signs or internet. President Johnson stated that there are a lot of advertising with signs showing an out-of-state number and a local number. President Johnson stated that there are people on the internet advertising sales in the State of Nevada.

Jan Holle stated that he looks into those reports every day and to report and the Division will look into it.

3-E) DISCUSSION REGARDING ISSUES OF WATER RIGHTS AS REAL PROPERTY OR PERSONAL PROPERTY

President Johnson commented that there are issues regarding water rights in the North and South. President Johnson stated that problems arise as the economy changes. Building started and water prices go up. President Johnson stated that he asked numerous attorneys and gets a different answer from every one of them. President Johnson stated that if it's real property then transfer tax can be charged. President Johnson stated that if it's personal property, anybody can sell it. President Johnson stated that the reverse is not true and water brokers are selling water that's in the land. President Johnson stated that if it's real property water brokers are breaking the law and vice versa, if brokers are going to declare it to be personal property, there should be a way to collect all transfer fees that clients have been paying for the last five or more years.

President Johnson stated that there needs to be a decision on whether this is right or wrong, who can or cannot sell, and charging transfer taxes because all that's going to come back to haunt us as the economy grows.

Administrator Decker asked if it is a county issue.

Kimberly Arguello answered that it could be a county issue, a state issue, a federal issue or an Indian land issue. Ms. Arguello stated that there are a lot of different resources and there is no definitive answer. Ms. Arguello stated that since 2008, the Nevada Supreme Court has clarified that the transfer of water rights can be separate from the property that it is attached to but those transfers must be done by a deed. Ms. Arguello stated that this gives some indication because it is a deeded transfer; it may be real property. Ms. Arguello stated that there's no statute or case law and nothing has come down to clarify that.

Commissioner Opatik stated that the Recorder in Nye County said if it's actually working water rights, they're real property. Commissioner Opatik stated that if they are just certificated or just pieces of paper that you want to transfer before you lose the right, it is considered personal property. Commissioner Opatik stated that it would be nice if the State of Nevada would come down with some kind of guidelines.

President Johnson asked if it changes from real to personal, at what point does that happen.

Administrator Decker stated that this was something that the Division would look into for next session and suggested that the Commission try to find a sponsor for a legislative bill.

3-F) DISCUSSION AND DECISION REGARDING PROCEDURES FOR OBTAINING AND GRANTING A CONTINUANCE PURSUANT TO NAC 645.830.

Administrator Decker stated that the Commission needs some kind of outline for determining whether or not to grant continuances.

Commissioner Schwartz stated that currently continuances are set for the next regularly scheduled Commission meeting. Commissioner Schwartz stated that if there is a hardship on that person attending the regularly scheduled Commission meeting, it is the respondent's duty to come back to the Commission and request a change.

Ms. Arguello stated that if a respondent expresses a concern that it would be a hardship for them and their witnesses, the Division would take that into consideration in terms of when the case would be heard.

Sarah Bradley stated that NAC 645.830 does not say anything about the location. Ms. Bradley stated that the regulation talks about the reason for requesting a continuance, that the request has to be in writing and that the request "will not be granted unless it is made in good faith and not merely for delay." Ms. Bradley stated that it is reasonable to say that the Commission will grant a continuance but it's for the Commission's next meeting regardless of location.

Administrator Decker stated that there is a statute that says the Division will schedule a meeting in the North if you are a northern licensee and in the South if you are a southern licensee. Administrator Decker stated that if that's the meeting for which you requested a continuance, the Division has fulfilled the obligation of that statute.

3-G) DISCUSSION AND DECISION REGARDING ALLOWING LICENSEES TO RECEIVE CONTINUING EDUCATION CREDIT FOR EVERY MEETING OF THE REAL ESTATE COMMISSION ATTENDED

Commissioner Opatik stated that hearings are extremely educational and suggested changing the continuing education number per meeting so licensees could sit through an entire case if it lasted more than one day. Commissioner Opatik stated that the Commission might get more participation if the Division gives ethics, agency or any one of the core courses that can be learned from a Commission hearing.

Commissioner Schwartz stated that while the violations were monumentally educational, the other part of learning is Commission/Division business.

Commissioner Schwartz stated that it is an educational situation where our fellow licensees can see that there is business, other than violations, to be conducted in order to make licensees' jobs safer and easier.

Administrator Decker commented that he was concerned more with the portion of the meeting licensees were hearing, rather than the number the continuing education credits offered. Administrator Decker stated that three hours of opening statements on the first day is not educational. Administrator Decker stated that the deliberation, adjudication and Commission/Division business, whether it be contributing language to regulations or legislative updates on bills that are being sponsored, is also important. Administrator Decker stated that the Division will look into what can be done as far as the continuing education hours.

Teralyn Thompson read NAC 645.467(1) which states "the Commission will grant credit for continuing education, not to exceed 6 hours during a licensing period, to a licensee for attending a meeting of the Commission."

Sarah Bradley commented that this will require a regulation change.

Administrator Decker mentioned that LCB File No. R097-14 involves education.

3-H) DISCUSSION ON DATE, TIME, PLACE & AGENDA ITEMS FOR UPCOMING MEETINGS

Ms. Thompson stated the next meeting would be on September 15-17, 2015 at an undetermined location.

Administrator Decker introduced the Deputy Administrator Michael Jory.

5) PUBLIC COMMENTS

None.

6) ADJOURNMENT

The meeting was adjourned at 3:03PM on May 6, 2015.