

NEVADA REAL ESTATE COMMISSION
MINUTES

JULY 12, 2016

Grant Sawyer Building
555 East Washington Avenue
Room 4412
Las Vegas, Nevada 89101

VIDEO CONFERENCE TO:

The Legislative Building
401 South Carson Street
Room 2134
Carson City, Nevada 89701

The meeting was called to order at 9:11 AM

1-A) INTRODUCTION OF COMMISSIONERS IN ATTENDANCE

Devin Reiss, Clark County; Neil Schwartz, Clark County; Lee Barrett, Clark County;
Sherrie Cartinella, Washoe County; and Norma Jean Opatik, Nye County
Commission Counsel: Rose Marie Reynolds

1-B) INTRODUCTION OF DIVISION STAFF IN ATTENDANCE

Administrator Joseph (JD) Decker

In Carson City

Administrative Section: Deputy Administrator Michael Jory
Enforcement Section: Jaye Lindsay

In Las Vegas

Administrative Section: Teralyn Thompson and Rebecca Hardin
Enforcement Section: Chief Investigator Jan Holle
Education Section: Safia Anwari, Ingrid Trillo and Christine Smith
Licensing Section: Susan Clark and Sandra Saenz
Attorney General's Office: Deputy Attorney Generals Keith Kizer and Donald Bordelove

2) PUBLIC COMMENT

Steven Kitnick, Steven Kitnick Seminars, requested that the Division/Commission produce an opinion letter or information bulletin advising how enforcement of NAC 645.4438 should be handled.

7-1) MOTION TO VACATE COMMISSION DECISION FOR DAVID M. MARK - CASE # RES 13-04-11-299

Parties Present

Deputy Attorney General Keith Kizer was present representing the Division.
David Mark was not present.

Hearing

Mr. Kizer presented documents and stated that the Division did not oppose the motion.

Mr. Kizer read Mr. Mark's disciplinary order.

Commissioner Cartinella moved to vacate the Commission's decision. Commissioner Barrett seconded.
Motion carried unanimously.

4-2) RESPONDENT'S PETITION FOR REHEARING: NRED V PATRICIA PRASAD - CASE # 2014-4160

4-3) RESPONDENT'S PETITION FOR REHEARING: NRED V PATRICIA PRASAD - CASE # 2014-4238

Parties Present

Keith Kizer was present representing the Division.

Patricia Prasad was present.

Kristine Maxwell was present representing Ms. Prasad.

Ms. Maxwell made a statement.

Mr. Kizer deferred to the Commission.

Commissioner Schwartz moved to grant the rehearing for both cases. Commissioner Barrett seconded.

Commissioner Reiss moved to amend the motion state the correct case numbers. Commissioner Barrett seconded the amendment. Motion carried unanimously.

3-B) DISCIPLINARY REPORT

Teralyn Thompson presented this report and pointed out changes since the last Commission meeting.

8-7) NRED V REX F. HENRIOTT - CASE # 2014-3773

8-8) NRED V REX F. HENRIOTT - CASE # 2015-1184

Parties Present

Keith Kizer was present representing the Division.

Rex F. Henriott was not present.

State's Witness

Rebecca Hardin testified regarding proof of service.

Commissioner Schwartz moved that the Commission, pursuant to NAC 645.860, find that the Real Estate Division had proven service of notice to Rex F. Henriott in case #'s 2014-337 and 2015-1184. Commissioner Reiss amended the first case number to 2014-3773. Commissioner Barrett seconded.

Commissioner Reiss withdrew his amendment to the motion.

Commissioner Schwartz rescinded the motion regarding case #'s 2014-3773 and 2015-1184.

Commissioner Schwartz moved that the Commission, pursuant to NAC 645.860, find that the Real Estate Division had proven service to Rex F. Henriott, respondent in case number 2014-3773 and case number 2015-1184. Commissioner Reiss seconded. Motion carried unanimously.

Hearing

Mr. Kizer read the factual allegations, violations and discipline authorized for case # 2014-3773.

Mr. Kizer read the factual allegations and violations for case # 2015-1184.

Commissioner Reiss moved that pursuant to NAC 645.860 the factual allegations and violations of law in case #'s 2014-3773 and 2015-1184 had been proven. Commissioner Schwartz seconded. Motion carried unanimously.

Division's Recommendation for Discipline for Case # 2014-3773

Jan Holle stated the Division's would recommend the discipline authorized on page 3, paragraph 13 of the complaint as follows:

- Payment of the imposed administrative fine of \$2,500.00.
- Suspension of license until the fine is paid.

Commissioner Cartinella moved to accept the Division's recommendation. Commissioner Barrett seconded. Motion carried unanimously.

Division's Recommendation for Discipline for Case # 2015-1184

Jan Holle stated that there were a total of 25 violations of law and the Division would recommend the following:

1. Maximum fine of \$250,000.00 plus hearing and investigation cost of \$1,348.04 payable within 90 days of the effective date of the order.
2. Revocation of broker's license, business broker's license and property management permit.

Commissioner Cartinella moved to accept the recommendation of the Division. Commissioner Barrett seconded. Motion carried unanimously.

8-3) NRED v FREDERICK (FRED) BRILMAN - CASE # RES 14-10-22-135

Parties Present

Keith Kizer was present representing the Division.
Frederick (Fred) Brilman participated via telephone.
Scott Marquis was present representing Mr. Brilman.
Steven Kitnick, paralegal, was present on behalf of Mr. Brilman.

Preliminary Matters

Mr. Kizer submitted documents into the record which were admitted into evidence.
Mr. Marquis submitted documents into the record which were admitted into evidence.
Mr. Kizer read the Summary of Factual Allegations Set Forth in the Complaint and the Summary of Alleged Violations of Law Set Forth in the Complaint.
Mr. Marquis read the Summary of Respondent's Position into the record.
Mr. Kizer read the Settlement.

Settlement

- Respondent's salesperson license was inactive and was voluntarily surrendered prior to the entry of this stipulation.
- Respondent agreed that he shall not apply for any license issued by the Nevada Real Estate Division for a period of ten years.
- Respondent agreed to pay \$14,000.00 as an administrative fine to the Division.

Mr. Marquis read a statement from Mr. Brilman and Ms. Fraser.

President Opatik questioned Mr. Kizer.

Commissioner Reiss moved to reject the stipulation. Commissioner Schwartz seconded. Motion carried 4-1 with Commissioner Cartinella opposed.

8-6) NRED v CHRISTINE (CHRISSIE) FRASER - CASE # RES 14-10-23-136

Parties Present

Keith Kizer was present representing the Division.
Christine (Chrissie) Fraser participated via telephone.
Scott Marquis was present representing Ms. Fraser.
Steven Kitnick, paralegal, was present on behalf of Ms. Fraser.

Preliminary Matters

Mr. Kizer submitted documents into the record which were admitted into evidence.
Mr. Marquis submitted documents into the record which were admitted into evidence.

Mr. Kizer read the portions of the proposed Stipulation for Settlement that differed from Mr. Brilman's Stipulation for Settlement into the record.

Settlement

1. Respondent's salesperson license was inactive and was voluntarily surrendered prior to the entry of this Stipulation.
2. Respondent agreed that she shall not apply for any license issued by the Nevada Real Estate Division for a period of two years.
3. Respondent agreed to pay \$6,000.00 as an administrative fine to the Division.

Mr. Marquis read a statement from Mr. Brilman and Ms. Fraser.

Commissioner Schwartz questioned Mr. Marquis.

Commissioner Schwartz moved to reject the stipulation. Commissioner Barrett seconded. Motion carried 4-1 with Commissioner Cartinella opposed.

8-5) NRED v JACQUELINE EVANS - CASE # RES 14-08-08-048

Commissioner Schwartz recused himself because he worked with the respondent.

Parties Present

Deputy Attorney General Donald Bordelove was present representing the Division. Jacqueline Evans was present.

Preliminary Matters

Mr. Bordelove stated that there was a proposed Stipulation for Settlement of Disciplinary Action to present for the Commission's consideration.

Mr. Bordelove read the proposed Stipulation for Settlement into the record.

Settlement

- Respondent agreed to pay \$4,000.00 (\$3,500.00 as an administrative fine and \$500.00 in investigative costs).
- Respondent agreed that she would not apply for a permit to engage in property management in the State of Nevada for a period of five years.

Ms. Evans stated that she had read, understood and signed the stipulation.

Commissioner Barrett moved to reject the stipulation. Motion died for lack of a second.

Commissioner Reiss moved to accept the stipulation. Commissioner Cartinella seconded. Motion failed 2-2 with President Opatik and Commissioner Barrett opposed.

Commissioner Reiss moved to accept the stipulation. Commissioner Cartinella seconded. Motion failed 2-2 with President Opatik and Commissioner Barrett opposed.

Mr. Bordelove presented a revised stipulation.

Revised Stipulation

- Respondent agreed to pay \$5,000.00 (\$4,500.00 as an administrative fine and \$500.00 in investigative costs).
- Respondent agreed that she would never apply for a property management permit in the State of Nevada.
- Respondent agreed to attend three hours of What Every Licensee Should Know and three hours of ethics.

Ms. Evans agreed to the revised stipulation.

Commissioner Cartinella moved to approve the revised stipulation as follows:

- Payment of \$5000 (\$4,500 administrative fine and \$500 in investigative costs).
- Three hours of What Every Licensee Should Know and three hours of ethics.
- May not apply for a property management permit in the State of Nevada for ten years.

Ms. Evans agreed to the revision that changed the terms for applying for a property management permit.

Commissioner Barrett seconded the motion. Motion carried 3-1 with Commissioner Barrett opposed.

8-12) NRED v CARINA G. RIVERA - CASE # 2015-3901

Parties Present

Keith Kizer was present representing the Division.

Carina G. Rivera was present.

Michael Printy was present representing Ms. Rivera.

Preliminary Matters

Mr. Kizer submitted a proposed Stipulation for Settlement of Disciplinary Action.

Mr. Kizer read the proposed stipulation.

Settlement

- Respondent agreed that her real estate license is revoked and that she may not apply for any real estate license or permit in Nevada for five years.

Ms. Rivera stated that she had read, understood and agreed with the stipulation.

Commissioner Barrett moved to accept the stipulation. Commissioner Cartinella seconded. Motion carried unanimously.

5-1) COURSE DENIAL APPEAL – FILE NO. CDA-645-16-002 – COURSE: POST LICENSING EDUCATION

Parties Present

Arthur Mann was present.

Education/Information Manager Safia Anwari was present.

Timothy Treffinger was present representing Mr. Mann.

Education/Information Manager Safia Anwari stated why the course had been denied.

Mr. Mann provided the Commission with documents.

The Commission questioned Mr. Mann.

Mr. Treffinger made a statement.

Commissioner Reiss moved to deny the appeal. Commissioner Schwartz seconded. Motion carried unanimously.

8-11) NRED v THOMAS G. MOLER - CASE # 2015-950

Parties Present

Keith Kizer was present representing the Division.

Thomas G. Moler was not present.

State's Witness

Rebecca Hardin testified regarding proof of service.

Commissioner Schwartz moved that the Commission, pursuant to NAC 645.860, find that the Real Estate Division had proven service of notice to the respondent Thomas G. Moler in case # 2015-950. Commissioner Barrett seconded. Motion carried unanimously.

Hearing

Mr. Kizer read the Finding of Facts and Conclusions of Law.

Mr. Kizer read a letter from Mr. Moler.

Commissioner Barrett moved that pursuant to NAC 645.860 the factual allegations and violations of law in the case of the Real Estate Division versus Tom Moler had been proven. Commissioner Schwartz seconded. Motion carried unanimously.

Division's Recommendation

Jan Holle stated Mr. Moler had paid \$500 of the \$2,000 administrative fine and the Division would recommend payment of the balance of the fine and the license be suspended until the balance is paid.

Commissioner Reiss moved to accept the recommendation that the fine be paid within 30 days of the effective date of the order and if not done so the license will be suspended. Commissioner Barrett seconded. Motion carried unanimously.

8-2) NRED v ERIC SHEVA BRANCH - CASE # 2014-3725

Parties Present

Keith Kizer was present representing the Division.

Eric Sheva Branch was present.

Daniel Albregts was present representing Mr. Branch.

Preliminary Matters

Mr. Kizer stated that the parties were stipulating to the factual allegation, items 1-4 in the complaint.

Mr. Albregts agreed to the stipulation.

Mr. Kizer submitted exhibit A which was accepted into evidence with no objection.

Commissioner Schwartz moved to accept the stipulation and that the facts had been proven. Commissioner Cartinella seconded. Motion carried 4-1 with Commissioner Barrett opposed.

Mr. Kizer pointed out that the complaint referenced NRS 645.995 on page 2, line 6. Mr. Kizer stated that that number had been changed to NRS 645.615 by the Legislature and asked that an amendment be allowed to reflect the change. Mr. Kizer stated that the wording had not been changed; only the number.

Mr. Albregts had no objection.

Hearing

Mr. Kizer presented his case.

Mr. Albregts presented his case.

The Commission questioned Mr. Branch.

Mr. Kizer made a statement.

Commissioner Reiss moved that the violations were proven in that Respondent violated NRS 645.633(1)(d)(2) by being convicted of a felony involving deceit and that Respondent violated NRS 645.615 by failing to notify the Division in writing that he entered a plea of guilty to a crime involving deceit within 10 days after the plea of guilty. Commissioner Barrett seconded. Motion carried 4-1 with Commissioner Cartinella opposed.

Division's Recommendation for Discipline

Jan Holle stated that Division would recommend a fine of \$1,000, which is \$500 for each violation, plus costs of investigation and hearing of \$1,318.41, payable in 30 days of the effective date of the order.

Commissioner Reiss moved to impose a fine of \$1,000, that being \$500 for each offense, plus costs of investigation and hearing of \$1,318.41, payable within 60 days of the effective date of the order.

Commissioner Barrett seconded. Motion carried unanimously.

6-1) LICENSE DENIAL APPEAL: SAM M. COHEN - FILE NO. S-LDA-16-008

Parties Present

Sam M. Cohen, Appellant
Licensing Section Customer Service Supervisor Sandra Saenz
Administrator J. D. Decker

Mr. Cohen requested that the session be closed.

Commissioner Reiss moved to close the hearing pursuant to NRS 241.030(1). Commissioner Schwartz seconded. Motion carried unanimously.

The hearing was closed.

Commissioner Cartinella moved to reconvene. Commissioner Schwartz seconded. Motion carried unanimously.

The hearing was reopened.

Commissioner Cartinella moved to grant Mr. Cohen his Nevada real estate license. Commissioner Barrett seconded. Motion carried 4-1 with President Opatik opposed.

8-4) NRED V CHRISTIAN DELGADO - CASE # RES 14-09-20-097

Parties Present

Keith Kizer was present representing the Division.
Christian Delgado was not present.

State's Witness

Rebecca Hardin testified regarding proof of service.

Commissioner Barrett moved that the Commission, pursuant to NAC 645.860, find that the Real Estate Division had proven service of notice to Christian Delgado on case # RES 14-09-20-097. Commissioner Schwartz seconded. Motion carried unanimously.

Hearing

Mr. Kizer read the Factual Allegations and Violations.

Commissioner Schwartz moved that pursuant to NAC 645.860 the factual allegations and violations of law in the case of the Real Estate Division versus respondent Christian Delgado in case # RES 14-09-20-097 had been proven. Commissioner Barrett seconded. Motion carried unanimously.

Division's Recommendation

Jan Holle stated the Division would recommend the maximum fine of \$5,000 for each violation for a total of \$15,000 plus \$1,392.92 for the cost of the hearing and investigation

Commissioner Cartinella moved to accept the recommendation of the Division. Commissioner Barrett seconded. Motion carried unanimously.

6-2) LICENSE DENIAL APPEAL: VENUS HOLIDAY -FILE NO. S-LDA-16-007

Parties Present

Venus Holiday, Appellant
Licensing Section Customer Service Supervisor Sandra Saenz
Administrator J. D. Decker

Hearing

Ms. Holiday requested that the session be closed.

Commissioner Schwartz moved to close the hearing pursuant to NRS 241.030(1). Commissioner Barrett seconded. Motion carried unanimously.

The hearing was closed.

Commissioner Reiss moved to reopen the hearing. Commissioner Schwartz seconded. Motion carried unanimously.

The hearing was reopened.

Commissioner Cartinella moved to reinstate Ms. Holiday's license. Commissioner Schwartz seconded. The motion carried unanimously.

9) PUBLIC COMMENT

Kelly Kuntz, Help-U-Sell Integrity Real Estate, commented on the problems and ethics of dual agency and suggested that the issue be placed on a future agenda.

10) ADJOURNMENT

Commissioner Schwartz moved to adjourn. Commissioner Reiss seconded. Motion carried unanimously.

The meeting was recessed on July 12, 2016 at 4:08 PM.

JULY 13, 2016

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555 East Washington Avenue
Room 4412
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The Legislative Building
401 South Carson Street
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The meeting was called to order at 9:05 AM

1-A) INTRODUCTION OF COMMISSIONERS IN ATTENDANCE

Devin Reiss, Clark County; Neil Schwartz, Clark County; Lee Barrett, Clark County;
Sherrie Cartinella, Washoe County; and Norma Jean Opatik, Nye County
Commission Counsel: Rose Marie Reynolds

1-B) INTRODUCTION OF DIVISION STAFF IN ATTENDANCE

Administrator Joseph (JD) Decker

In Carson City

Administrative Section: Deputy Administrator Michael Jory

In Las Vegas

Administrative Section: Teralyn Thompson and Rebecca Hardin

Enforcement Section: Chief Jan Holle

Education Section: Safia Anwari, Ingrid Trillo and Holly Ducharme

Attorney General's Office: Deputy Attorney Generals Keith Kizer and Donald Bordelove

2) PUBLIC COMMENT

Marty Zabib stated that it would be advantageous for new licensees to take their post-licensing sooner rather than later and suggested that the one-year deadline be shortened.

3-D) ADMINISTRATIVE SANCTION REPORT

Chief Investigator Jan Holle presented this report, summarizing changes since the last report.

3-C) COMPLIANCE SECTION'S CURRENT CASELOAD REPORT, INCLUDING A SUMMARY OF RECENT TOPICS OF COMPLAINTS FILED

Jan Holle presented this report. Mr. Holle stated that the fine for turning in education certificates late had increased in April of 2016 from \$100 to \$250.

President Opatik asked Mr. Holle to expound on agents mishandling earnest money deposits.

Mr. Holle stated that the most prevalent problem is licensees not turning money over to a specific escrow broker within in a timely manner.

Commissioner Schwartz suggested beginning the process of investigating whether property managers should be bonded and insured.

Administrator Decker stated that changing the requirements of property manager permits would require a legislative change and suggested that it was something the associations might want their lobbyists to add to their list of issues to be pursued at the next legislative session.

3-E-1) EDUCATION AND INFORMATION MANAGER'S REPORT ON THE FY/2016 BUDGETED AND ACTUAL EXPENDITURES ON THE EDUCATION AND RESEARCH FUND PROJECTS

Education/Information Manager Safia Anwari presented this report. Ms. Anwari stated that expenditures were less than the budgeted amount.

Administrator Decker stated that the number of printed copies of the Residential Disclosure Guide was reduced from 10,000 copies to 6,000 copies.

3-E-2 INSTRUCTOR DEVELOPMENT WORKSHOP 2016, AN EDUCATION AND RESEARCH FUND PROJECT APPROVED BY THE COMMISSION, AND OFFERED BY THE DIVISION IN RENO AND LAS VEGAS ON JUNE 21ST AND 22ND, RESPECTIVELY

Safia Anwari presented this report.

Ms. Anwari stated that instructor workshops happened every year.

Commissioner Schwartz stated that it should be mandatory for instructors to attend the workshop at least once every two years.

Administrator Decker stated that the Division did not have the mechanism to require attendance but that the Division had started, based on audit feedback, assigning that course as part of disciplinary action required for instructors to retain the Division's approval to teach.

3-K) DIVISION'S REQUEST TO APPROVE BUDGET FOR THE CONTINUING EDUCATION COURSE ENTITLED "TRUST ACCOUNTING MANAGEMENT AND COMPLIANCE" UNDERWRITTEN BY THE EDUCATION AND RESEARCH FUND

Safia Anwari stated that the Division had been budgeted for twelve classes of "What Every Licensee Should Know" per year, but due to course attendance the number of classes had been reduced to six. Ms. Anwari stated that the Division was requesting that the funds for the six cancelled classes be used to fund the new "Trust Accounting Management and Compliance" course.

This item was tabled until the budget was determined.

8-1) NRED v YERANUHI (ANNA) ARAKELYAN - CASE # RES 13-06-06-345

Parties Present

Deputy Attorney Keith Kizer was present representing the Division.

Yeranuhi (Anna) Arakelyan was present.

Becky Pintar was present representing Ms. Arakelyan.

Preliminary Matters

Mr. Kizer stated that there was a proposed Stipulation for Settlement of Disciplinary Action to present for the Commission's consideration.

Mr. Kizer read the proposed Stipulation for Settlement into the record.

Settlement

- Respondent agreed to pay to the Division \$12,000.00 as an administrative fine and \$2,000.00 in costs for a total of \$14,000.00.
- Respondent agreed to attend twelve hours of continuing education in the area designated as property management.

Ms. Arakelyan stated that she had read and agreed with the stipulation.

Commissioner Schwartz moved to reject the stipulation. Commissioner Barrett seconded. Motion carried unanimously.

The hearing was paused while the Mr. Kizer and Ms. Pintar went into discussion.

3-J) DISCUSSION AND DECISION REGARDING COMMISSION ATTENDANCE AT THE ARELLO 2016 ANNUAL CONFERENCE SCHEDULED FOR SEPTEMBER 21-25, 2016.

Administrator Decker stated that ARELLO is the Association of Real Estate License Law Officials. Mr. Decker stated that the Nevada Association of Realtors had offered money for sending some of the Commissioners to the next ARELLO conference.

Commissioner Schwartz reported on the estimated cost for attending the conference.

President Opatik, Commissioner Schwartz and Commissioner Barrett stated that they wanted to attend.

8-1) NRED V YERANUHI (ANNA) ARAKELYAN - CASE # RES 13-06-06-345...CONTINUED

Parties Present

Deputy Attorney Keith Kizer was present representing the Division.

Yeranuhi (Anna) Arakelyan was present.

Becky Pintar was present representing Ms. Arakelyan.

Preliminary Matters

Ms. Pintar made a statement.

Mr. Kizer made a statement and amended the education portion of the settlement.

Ms. Arakelyan agreed with the changes.

Revised Settlement

- Respondent agreed to pay to the Division \$12,000.00 as an administrative fine and \$2,000.00 in costs for a total of \$14,000.00.
- Respondent agreed to attend twelve hours of continuing education as follows:
 - ↳ 3 hours of ethics
 - ↳ 3 hours of agency
 - ↳ 6 hours of property management.

Commissioner Schwartz moved to accept the revised stipulation. Commissioner Barrett seconded. Motion carried unanimously.

8-14) NRED V ARTUR TERABELIAN - CASE # RES 13-08-20-054

Parties Present

Deputy Attorney Keith Kizer was present representing the Division.

Artur Terabelian was present.

Steven Mack was present representing Mr. Terabelian.

Preliminary Matters

Mr. Kizer stated that the Division was withdrawing factual allegations 3, 7, and 9-16 and violations 25, 26, and 28 from the complaint.

Commissioner Cartinella moved to accept the amended complaint. Commissioner Reiss seconded. Motion carried unanimously.

Mr. Kizer made read the proposed settlement.

Settlement

- Respondent agreed to pay to the Division \$12,000.00 as an administrative fine and \$2,000.00 in costs for a total of \$14,000.00.
- Respondent agreed to attend twelve hours of continuing education as follows:
 - ↳ 6 hours of ethics
 - ↳ 6 hours of agency

Mr. Terabelian agreed with the settlement.

Commissioner Reiss moved to accept the stipulation. Commissioner Schwartz seconded. Motion carried 4-1 with Commissioner Barrett opposed.

8-13) NRED v ANTHONY SHAW - CASE # 2015-2627

Parties Present

Keith Kizer was present representing the Division.

Anthony Shaw participated via telephone.

Pamela Lawson was present representing Mr. Shaw.

Preliminary Matters

Mr. Kizer stated that there was a proposed stipulation.

Mr. Kizer read the Summary of Factual Allegations Set Forth in the Complaint section of the Stipulation for Settlement of Disciplinary Action.

Ms. Lawson read the Respondent's Summary of Response to Allegations in the Complaint section of the Stipulation for Settlement of Disciplinary Action.

Mr. Kizer read the Settlement section of the Stipulation for Settlement of Disciplinary Action.

Settlement

- Respondent agreed that all of his real estate licenses and property manager permit are revoked and that he may not apply for any real estate license or permit in Nevada for ten years.
- Respondent agreed to pay \$45,000.00 as an administrative fine to the Division.

Mr. Shaw stated that he heard and agreed to the settlement.

Commissioner Barrett moved to accept the stipulation. Commissioner Reiss seconded. Motion carried unanimously.

8-15) NRED v MARTY ZABIB, - CASE # 2015-722

Parties Present

Deputy Attorney Keith Kizer was present representing the Division.

Marty Zabib was present.

Hearing

Mr. Zabib objected to the State's exhibits which were not accepted into evidence.

Mr. Kizer gave his opening statement.

Mr. Zabib gave his opening statement.

Mr. Kizer submitted State's Exhibit 1 which was admitted into evidence with no objection.

Mr. Kizer submitted State's Exhibit 2 which was admitted into evidence with no objection.

Mr. Kizer submitted State's Exhibit 3 which was admitted into evidence with no objection.

State's Witness

Carolyn Washington testified.

Mr. Zabib cross-examined Ms. Washington.

The witness was dismissed.

Mr. Kizer submitted State's Exhibit 4 which was admitted into evidence with no objection.

The State closed its case.

Mr. Zabib presented his case.

Respondent's Witness

Marty Zabib testified.

Mr. Kizer cross-examined Mr. Zabib.

The Commission questioned Mr. Zabib.

Geraldine Kirk-Hughes, attorney for the claimants in the district court hearing, made a statement.

Mr. Kizer gave his closing statement.

Mr. Zabib gave his closing statement.

Commissioner Reiss moved that factual allegation 1 was proven. Commissioner Schwartz seconded.

Commissioner Reiss rescinded his motion and Commissioner Schwartz seconded.

Commissioner Reiss moved that factual allegation 1, amended to read "Respondent, at all relevant times mentioned in the complaint, was subject to the jurisdiction of the Division and the provisions of NRS chapter 645 and NAC chapter 645" was proven. Commissioner Schwartz seconded. Motion carried unanimously.

Commissioner Reiss moved that factual allegation 2 was proven. Commissioner Schwartz seconded. Motion carried unanimously.

Commissioner Reiss moved that factual allegation 3 was proven. Commissioner Schwartz seconded. Motion carried unanimously.

Commissioner Reiss moved that factual allegation 4 was not proven. Commissioner Schwartz seconded. Motion carried unanimously.

Commissioner Reiss moved that factual allegation 5 was proven. Commissioner Schwartz seconded. Motion carried unanimously.

Commissioner Reiss moved that factual allegation 6 was proven. Commissioner Schwartz seconded. Motion carried unanimously.

Commissioner Reiss rescinded his motion. Commissioner Schwartz seconded.

Commissioner Reiss moved that factual allegation 6 was proven with the amendment that "Yahav travelled from Israel and went to the properties." Commissioner Schwartz seconded. Motion carried unanimously.

Commissioner Reiss moved that factual allegation 7 was proven. Commissioner Schwartz seconded. Motion carried unanimously.

Commissioner Reiss moved that factual allegation 8 was proven. Commissioner Schwartz seconded. Motion carried unanimously.

Commissioner Reiss moved that factual allegation 9 was not proven. Commissioner Schwartz seconded. Motion carried unanimously.

Commissioner Reiss moved that factual allegation 10 was proven. Commissioner Schwartz seconded. Motion carried unanimously.

Commissioner Reiss moved that factual allegation 11 was proven as amended to read "Zabib signed an agreement to return money to the Complainants." Commissioner Schwartz seconded. Motion carried unanimously.

Commissioner Reiss moved that factual allegations 12 and 13 were proven. Commissioner Schwartz seconded. Motion carried unanimously.

Commissioner Reiss moved that factual allegation 14 was not proven. Commissioner Schwartz seconded. Motion carried 4-1 with Commissioner Barrett opposed.

Commissioner Reiss moved that factual allegation 15 was proven as amended to read "Complainants were awarded a judgement which includes the return of the original investment, pre-judgement interest, costs, attorney's fees and punitive damages." Commissioner Schwartz seconded. Motion carried unanimously.

Commissioner Reiss moved that violation 16 was proven. Commissioner Schwartz seconded. Motion carried unanimously.

Commissioner Reiss moved that violation 17 was not proven. Commissioner Schwartz seconded. Motion carried unanimously.

Commissioner Reiss moved that violation 18 was proven. Commissioner Schwartz seconded. Motion carried 4-1 with Commissioner Cartinella opposed.

Commissioner Reiss moved that violation 19 was proven. Commissioner Schwartz seconded. Motion carried unanimously.

Commissioner Reiss moved that violation 20 was proven. Commissioner Schwartz seconded. Motion carried 4-1 with Commissioner Cartinella opposed.

Division's Recommendation

Jan Holle stated the Division would recommend the following:

- A fine of \$7,500.00 for each violations for a total of \$30,000.00 plus \$1,406.26 for the cost of the hearing and investigation and
- Revocation of the real estate license and property management permit.

Commissioner Reiss moved that:

- A fine be imposed of \$7,500.00 per violation for a total of \$30,000.00.
- Costs of \$1,406.26.
- Downgrade of license from broker to salesperson.

Commissioner Cartinella seconded.

After discussion Commissioner Reiss amended his motion as follows:

- A fine be imposed of \$7,500 per violation for a total of \$30,000.
- Costs of \$1,406.26.
- Downgrade of license from broker to salesperson.
- Revocation of the property management permit.

Commissioner Cartinella seconded the amendment. Motion carried 3-2 with President Opatik and Commissioner Barrett opposed.

4-1) RESPONDENT'S PETITION FOR REHEARING: NRED v BLANCA PAREDES - CASE # 2015-1917

Parties Present

Keith Kizer was present representing the Division.

Blanca Paredes was present.

Ms. Paredes made a statement.

Mr. Kizer stated that the Division had no objections.

Commissioner Cartinella moved to grant the rehearing. Commissioner Schwartz seconded. Motion carried unanimously.

8-16) NRED v MARTY ZABIB, - CASE # 2015-2676

Parties Present

Deputy Attorney Keith Kizer was present representing the Division.

Marty Zabib was present.

Hearing

Mr. Kizer gave his opening statement.

Mr. Zabib gave his opening statement.

State's Witness

Carolyn Washington testified.

Mr. Zabib crossed-examined.

Mr. Kizer submitted State's Exhibit 1.

Mr. Zabib stated that he could not stipulate to the admission of the exhibit.

Mr. Zabib stated that he wanted to wait until his lawyer could be present and asked for a continuance.

Mr. Kizer objected to a continuance.

The hearing was paused to allow Mr. Zabib time retrieve his documents and/or contact his attorney.

8-9) NRED v BORIS JAKUBCZACK - CASE # RES 14-03-48-668

Parties Present

Deputy Attorney Keith Kizer was present representing the Division.

Boris Jakubczack was present.

Preliminary Matters

Mr. Jakubczack requested a continuance for himself and Carine Jakubczack.

Mr. Kizer stated that the Division objected to the request.

President Opatik denied the request for continuances.

Mr. Kizer submitted State's Exhibit 1 which was admitted into evidence with no objection.

Hearing

Mr. Kizer gave his opening statement.

Mr. Jakubczack gave his opening statement.

State's Witness

Ariana Popescu testified.

Mr. Jakubczack cross-examined Ms. Popescu.

Commissioner Barrett questioned Ms. Popescu.

The witness was dismissed.

The State closed its case.

Mr. Jakubczack presented his case.

Respondent's Witness

Boris Jakubczack testified.

The Commission questioned Mr. Jakubczack.

Mr. Kizer cross-examined Mr. Jakubczack.

Mr. Jakubczack closed his case.

Mr. Kizer gave his closing statement.

Mr. Jakubczack did not have a closing statement.

Commissioner Reiss moved that the factual allegations and violations were proven with one modification to allegation 74 to read "Simon had traveled to Las Vegas." Commissioner Schwartz seconded. Motion carried unanimously.

Division's Recommendation

Jan Holle stated that there were a total of 15 violations of law and the Division would recommend the following:

- A fine of \$5,000 per violation for a total of \$75,000 plus \$2,460.50 for the cost of the hearing and investigation,
- Revocation of the real estate license.

Mr. Jakubczack made a statement.

Commissioner Cartinella moved to accept the Division's recommendation. Commissioner Schwartz seconded. Motion carried unanimously.

8-16) NRED v MARTY ZABIB, - CASE # 2015-2676 ...CONTINUED

Parties Present

Deputy Attorney Keith Kizer was present representing the Division.

Marty Zabib was present.

Preliminary Matters

Mr. Kizer stated that the Division and the Respondent had a proposed settlement to present to the Commission for approval as follows.

- The Respondent agreed to a revocation of all licenses and the Division will not request any type of fine or costs with respect to this case.

Mr. Zabib stated that he accepted the settlement.

Commissioner Schwartz moved to accept the settlement. Commissioner Barrett seconded. Motion carried unanimously.

8-10) NRED v CARINE JAKUBCZACK - CASE # RES 14-03-49-669

Parties Present

Deputy Attorney Keith Kizer was present representing the Division.
Carine Jakubczack was not present.

Boris Jakubczack was present representing Carine Jakubczack. The Division had no objection.

Preliminary Matters

Mr. Kizer stated that there was a proposed settlement.

Proposed Settlement

Mr. Kizer stated that the proposed settlement was as follows:

- The license and permit are revoked.
- \$5,000 fine

Mr. Jakubczack had no objection to the settlement.

Commissioner Cartinella moved to accept the proposed settlement. Commissioner Schwartz seconded.
Motion carried unanimously.

3-H) DISCUSSION REGARDING DIVISION'S RESTRICTION ON THE USE OF NICKNAMES ON LICENSES PURSUANT TO NAC 645.610(1)(E)

Administrator Decker stated that the Division would no longer allow nicknames to be entered into the Division's database or placed on licenses due to enforcement issues.

3-K) DIVISION'S REQUEST TO APPROVE BUDGET FOR THE CONTINUING EDUCATION COURSE ENTITLED "TRUST ACCOUNTING MANAGEMENT AND COMPLIANCE" UNDERWRITTEN BY THE EDUCATION AND RESEARCH FUND ...CONTINUED

Administrator Decker restated that the Division was requesting that funds allocated for six cancelled "What Every Licensee Should Know" classes be used to fund six new "Trust Accounting Management and Compliance" courses with four courses in the South and two courses in the North.

Commissioner Cartinella moved to accept the recommendation of the Division to convert six of the "What Every Licensee Should Know" classes from the South and turn them into six Trust Account courses, sending two to the North. Commissioner Schwartz seconded. Motion carried unanimously.

3-F) DISCUSSION REGARDING DIVISION'S REVISION TO THE DUTIES OWED BY A NEVADA REAL ESTATE LICENSEE FORM

Safia Anwari presented a new supplemental form for team licensees.

Administrator Decker asked for input from the Commission.

President Opatik stated that there should be a reference on the supplemental disclosure to all of the duties owed that are listed on page one.

Commissioner Reiss stated that the word "supplemental" sounded like there should be something else there.

Commissioner Barrett suggested a "see supplemental form" line on page one with a place for a checkmark.

Commissioner Cartinella stated that she did not want page "1 of 2" and "2 of 2" on the forms.

President Opatik stated that the supplemental form should reference 645 and state that the licensees listed were also bound by the duties owed.

Commissioner Schwartz suggested that the supplemental form should state that the licensees on this form are bound to the duties owed of a Nevada licensee.

Administrator Decker stated that underlined word "OR" on the duties owed form under "Licensees Acting for Both Parties: The Licensee" would be much larger.

Commissioner Schwartz requested that the "MAY OR MAY NOT" be placed on one line.

3-M) DISCUSSION AND DECISION TO APPROVE MINUTES OF THE MARCH 15-16, 2016 MEETING

Commissioner Cartinella moved to approve. Commissioner Barrett seconded. Motion carried unanimously.

3-P) DISCUSSION, NOMINATION AND ELECTION OF OFFICERS FOR FY 17 PURSUANT TO NRS 645.110.

Commissioner Cartinella nominated President Opatik for president.

Commissioner Reiss nominated Commissioner Schwartz for president.

President Opatik declined the nomination.

President Opatik nominated Commissioner Reiss for vice-president.

Commissioner Schwartz nominated Commissioner Barrett for secretary.

The Commission voted unanimously for FY-17 officers as follows:

President: Commissioner Schwartz

Vice-President: Commissioner Reiss

Secretary: Commissioner Barrett

3-A-1) DISCUSSION REGARDING ADMINISTRATOR'S REPORT ON PERSONNEL

Tabled until next Commission meeting.

3-A-2) DISCUSSION REGARDING ADMINISTRATOR'S REPORT ON DIVISION UPDATE REGARDING DIVISION BUDGET

Tabled until next Commission meeting.

3-I-1) DISCUSSION REGARDING CONTINUING EDUCATION SUPERVISOR'S REPORT ON CONTINUING EDUCATION COURSE AUDIT PROGRAM REPORT

Tabled until next Commission meeting.

3-I-2) DISCUSSION REGARDING CONTINUING EDUCATION SUPERVISOR'S REPORT ON CONTINUING EDUCATION CERTIFICATE ISSUES AND MIDTERM EDUCATION RECORD-KEEPING

Tabled until next Commission meeting.

3-I-3) DISCUSSION REGARDING CONTINUING EDUCATION SUPERVISOR'S REPORT ON CONTINUING EDUCATION AND POST EDUCATION ROSTER UPLOAD SUBMITTALS ISSUES

Tabled until next Commission meeting.

3-L) DISCUSSION AND DECISION REGARDING THE DIVISION'S PROPOSED STRUCTURING OF THE NAC 645.4442 POSTLICENSING EDUCATION CURRICULUM INTO A 5-DAY PROGRAM OF PRESCRIBED SESSIONS

Tabled until next Commission meeting.

3-N) DISCUSSION AND DECISION ON DATE, TIME, PLACE & AGENDA ITEMS FOR UPCOMING MEETINGS

Tabled until next Commission meeting.

3-O) DISCUSSION REGARDING COMMISSIONER'S SPEAKING ENGAGEMENT REQUESTS

Tabled until next Commission meeting.

3-Q) COMMISSIONER COMMENTS.

Tabled until next Commission meeting.

9) PUBLIC COMMENT

See attached written comment from J. Michael Schaefer.

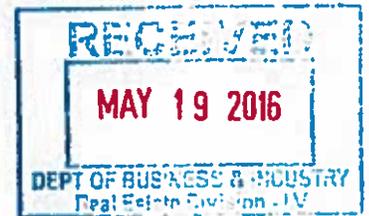
10) ADJOURNMENT

Commissioner Barrett moved to adjourn. Commissioner Schwartz seconded. Motion carried unanimously.

The meeting was adjourned on July 13, 2016 at 4:30PM

J.MICHAEL SCHAEFER, JD
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Las Vegas, NV 89134 Tel. 702-466-5407 E: oz.bluean@yahoo.com



5-18-16

Commissioner, Nevada Real Estate Division
2501 E Sahara Ave Ste 102,
Las Vegas, NV 89104

COMPLAINT

I have discussed this issue with Board of Realtors and they say it is 100% something of your concern.

I am adamant that any real estate licensee selling any home be required to in writing provide a list of all services necessary to that home that someone has to contact.

Last December I bought a HOA residence at SunCitySummerlin, but this is not just a HOA issue, it is relevant to any home buyer.

The broker after I moved in phones and reads me six or seven institutions I need to contact. No phone no. Just names. I spent time finding phone numbers and call all. Most of them tell me not to bother to call, like Trash, Sewer, Water, they say "we pick up the ownership change from recorded deed". Deed recorded 12/22 and I moved in.

When I called SWG, there is no way I can leave a message, no email I can send ti, I am told to call back during business hours. Maybe they can get away with that, but should not the real estate licensee give a WRITTEN not oral list, and would not a writing indicate they are available only MF, not holidays, and you risk cessation of service only with SWG if you do not establish an account.

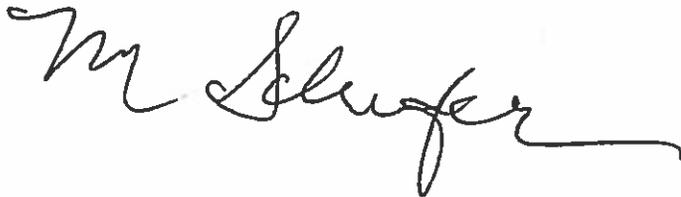
For past half centry I have lived in condos where there is no gas bill, i pay association dues only and that covers that. THis can be confusing to non-english speaking citizens, if it is confusing to this GeorgetownLaw graduate.

So SWG appears Tuesday after Saturday, quietly turns off my heat, does not leave a note, does not knock on my door, just kills the service and leaves. I spent 3 days

thinking my pilot light blew out, asking handymen for help. Finally we find out SWG was there and killed it! Without leaving a flier, or knocking on door. Their answer, "we did not know it was occupied". They should assume it is occupied. I call PUC and they to require a special notice would impact rates of all consumers and that is not appropriate. But they are at my home ANYWAY, please knock or leave a note!!

RECOMMEND: You require all licensees to provide written disclosure to every home buyer as to entities that need to be contacted, and maybe those that do not (that pick it up off the recording), as part of required materials. I spent 3 days in 30 degree temperate and feel Nevadans are being neglected by failure of the industry to cure itself.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Schuler". The signature is written in a cursive style with a long horizontal flourish at the end.