

# NEVADA REAL ESTATE COMMISSION MINUTES

June 11, 2019

Nevada State Business Center  
3300 W. Sahara Avenue, Nevada Room  
Las Vegas, Nevada 89102

## VIDEO CONFERENCE TO:

Division of Insurance  
1818 College Parkway, Suite 103  
Carson City, Nevada 89706

The meeting was called to order at 9:00 AM

### **1-A) Introduction of Commissioners in Attendance**

Neil Schwartz, Clark County; Lee Gurr, Elko County; Wayne Capurro, Washoe County; Devin Reiss, Clark County and Lee Barrett, Clark County

Commission Counsel: Deputy Attorney General Asheesh Bhalla

### **1-B) Introduction of Division Staff in Attendance**

In Las Vegas: Sharath Chandra, Administrator; Teralyn Lewis, Administration Section Manager; Evelyn Pattee, Commission Coordinator; Jan Holle, Chief Compliance Audit Investigator; Leah Holmes, Education; Erica Arnold, Education; Deputy Attorney Generals Dennis Belcourt and Donald Bordelove representing the Division.

In Carson City: Ann Angell, Compliance Audit Investigator; Perry Faigin, Deputy Administrator.

### **2) Public Comment**

Jill Rowe, general counsel for certain Marcus & Millichap real estate agents, commented that an order was issued March 12, 2019. Ms. Rowe summarized the order and stated that her clients were receiving collection notices on fines that no longer exist. Ms. Rowe stated she did not see it on the agenda and would like an opportunity to address it.

Asheesh Bhalla stated there will be no discussion and her comments are noted for the record.

Bob Randolph and Tony Amato, representing the Nevada Business Brokers Association, commented on conflicting laws regarding business brokerage. Mr. Randolph stated that the Commission and Compliance Division determined that if there is no real estate interest involved, the transaction does not require licensing of any type. Mr. Randolph commented that they feel allowing unlicensed individuals to broker business transactions is not in the public's best interest. Mr. Randolph asked that the law be interpreted in the public's best interest. Mr. Randolph provided written public comment on this matter.

Tiffany Banks, general counsel for Nevada Association of Realtors, thanked Administrator Chandra, Director Brown and Senator Denis for their hard work on Senate Bill 230. Ms. Banks outlined the proposed implementation plan that the Association submitted for the new statutes. Ms. Banks stated that the Association has worked with the Division on a plan so there is time to work on internal procedures and the industry has time to make changes and come into compliance. Ms. Banks stated that the Nevada Association of Realtors will be actively engaged in the workshop process. Ms. Banks stated that

timelines may shift depending on how long it takes to adopt regulations but wanted a plan that can be shared with their members as questions arise.

**6-D) NRED v Patrick Sauter, for possible action**

**Case # 2016-3716**

Parties Present

Patrick Sauter was present.

Scott Marquis was present representing Mr. Sauter.

Deputy Attorney General Dennis Belcourt was present representing the Division.

Preliminary Matters

Mr. Belcourt stated that a settlement had been reached. Mr. Belcourt read the complaint and the settlement into the record.

Settlement

- Respondent agrees to pay the Division \$10,000 as an administrative fine and \$1,000 in administrative costs within 3 months of the Commission's order approving the stipulation.
- 6 hours of continuing education in broker management must be completed within 3 months of the effective date of the Commission's order approving the stipulation. Such continuing education shall not accrue toward license renewal requirements.

Commissioner Schwartz requested clarification of the costs of the investigation.

Ms. Pattee stated that the prehearing costs were \$939.42.

Commissioner Reiss moved to accept the stipulation as presented. Seconded by Commissioner Capurro. Motion passed.

**3-C) Discussion regarding the Attorney General's report.**

Brandee Mooneyhan, Deputy Attorney General, presented this report. Ms. Mooneyhan stated that she represents the Real Estate Division in 14 matters that previously came before the Commission with opposed discipline on several real estate professionals. Ms. Mooneyhan stated that these real estate professionals petitioned for a judicial review in the district court and the district court has remanded further proceedings. Ms. Mooneyhan stated that the 14 cases have been consolidated into a single case by the district court because the petitioners are all members of the same real estate firm, Marcus & Millichap. Ms. Mooneyhan stated that the district court agreed that the Commission should be given the first opportunity to consider the validity of the regulations, therefore it remanded the matter to allow consideration of the arguments. Ms. Mooneyhan stated that the district court set aside the discipline and is remanding for further proceedings under NRS 233B.131. Ms. Mooneyhan stated that the district court lists the cases pending proceedings and includes specific instructions "to hear Petitioner's evidence and arguments with respect to whether the cooperative certification regulatory framework exceeds the Commission's statutory authority, and/or violates the United States Constitution dormant commerce clause and/or Petitioner's rights of association and free speech under the First and Fourteenth Amendments, (2) determine the validity of the cooperative certification regulatory framework and (3) apply that determination to the disciplinary Decisions consistent with the courts order." Ms. Mooneyhan stated that she was present to give a verbal brief about the remand and provide the opportunity to decide how to carry it into effect.

**6-B) NRED v Arthur Tangora, for possible action**  
**Case # 2016-3715**

**Parties Present**

Arthur Tangora was present.

Johnathon Fayeghi was present representing Mr. Tangora.

Deputy Attorney General Dennis Belcourt was present representing the Division.

**Preliminary Matters**

Mr. Belcourt stated that a settlement had been reached. Mr. Belcourt read the complaint and the settlement into the record.

**Settlement**

- Respondent agrees to pay the Division \$20,000 as an administrative fine and \$986.23 in administrative costs as follows:
  - \$9,000 in fines and \$986.23 in costs June 30, 2019.
  - \$5,000 in fines on or before August 30, 2019.
  - \$6,000 in fines on or before October 31, 2019.
- 6 hours of continuing education in law/legislative, 3 hours of continuing education in ethics and 3 hours of continuing education in agency by August 11, 2019. Such continuing education shall not accrue toward license renewal requirements.

Mr. Tangora stated that he has read and agrees to the stipulation.

Commissioner Reiss moved to accept the stipulation as presented. Seconded by Commissioner Gurr.

Commissioner Schwartz stated that the amount of the stipulation doesn't warrant what occurred.

Commissioner Capurro stated that a big mistake was made but believes Mr. Tangora suffered enough. Commissioner Capurro stated that Mr. Tangora was issued a Cease and Desist Order and complied with that and no member of the public was harmed. Commissioner Capurro stated that he will not be in favor of increasing the fine.

Commissioner Reiss stated that he agrees with Commissioner Capurro. Commissioner Reiss stated that he favors higher fines towards the person that doesn't have a license and is trying to get around having a license.

Commissioner Barrett stated that he agrees with Commissioner Reiss.

Commissioner Gurr moved that the stipulation be accepted. Seconded by Commissioner Reiss. Motion passed 4 to 1 with Commissioner Schwartz opposed.

**6-J) NRED v Sung Larsen, for possible action**  
**Case # 2017-577**

**Parties Present**

Sung Larsen was present.

Broker, John Bostedt was present.

Deputy Attorney General Donald Bordelove was present representing the Division.

Mr. Bordelove asked that the notice of documents be admitted.

President Barrett stated that the notice of documents would be admitted.

### Opening Statements

Mr. Bordelove gave his opening statement.

Ms. Larsen gave her opening statement.

### State's Witness

Ms. Larsen testified.

The Commission questioned Ms. Larsen.

### State's Witness

Stevens Jones testified by telephone.

Ms. Larsen cross examined Mr. Jones.

The Commission questioned Mr. Jones.

The witness was dismissed.

Ms. Larsen stated her case.

### Closing Statements

Mr. Bordelove gave his closing statement.

### Factual Allegations

Commissioner Capurro moved that factual allegations 1-18 and violations 1-2 have been proven. Seconded by Commissioner Reiss.

Commissioner Gurr stated that she is wondering why the Commission heard this case. Commissioner Gurr stated that all of the statutes and administrative codes that are quoted and all of the circumstances, are meant to determine whether or not there has been misconduct or egregious actions as it relates to a real estate transaction. Commissioner Gurr stated that Ms. Larsen is a real estate licensee who failed to pay a loan that has nothing to do with a real estate transaction.

Commissioner Reiss stated that he believes the factual allegations are true. Commissioner Reiss stated that two people had a business transaction and it's hard to figure out what their terms were because there were so many things that took place.

Commissioner Capurro stated that he believes that there was a real estate transaction involved in this case because when a Realtor sells a home to someone; a relationship is developed. Commissioner Capurro stated that he believes that Ms. Larsen used that relationship to induce Mr. Jones to loan her money which Ms. Larsen did not re-pay. Commissioner Capurro stated that he found Mr. Jones testimony more compelling than Ms. Larsen's. Commissioner Capurro stated that is why he believes the factual allegations and violations were proven.

Commissioner Schwartz stated that he supports Commissioners Capurro and Reiss on their thoughts regarding whether this is a real estate transaction matter and whether it is really a violation based on the fact that it was a loan agreement between two people. Commissioner Schwartz stated that he believes the factual allegations were found to be true but doesn't agree the factual allegations caused a violation of the statutes stated.

Motion passed 4 to 1 with Commissioner Gurr opposed.

Mr. Bordelove stated that NRS 645.633 and NRS 645.630 require a real estate transaction. Mr. Bordelove stated that those statutes state any conduct that constitutes deceitful, fraudulent or dishonest dealings. Mr. Bordelove stated that he agrees with Commissioner Capurro's statements that the reason Ms. Larsen and Mr. Jones met was because Mr. Jones found Ms. Larsen as a Realtor and Mr. Jones relied and trusted Ms. Larsen as a licensure.

#### Violations of Law

Commissioner Reiss moved that violation 1 was proven. Seconded by Commissioner Schwartz. Motion passed 4 to 1 with Commissioner Gurr opposed.

Commissioner Reiss moved that violation 2 was proven. Seconded by Commissioner Capurro. Motion passed 4 to 1 with Commissioner Gurr opposed.

#### Division's Recommendation for Discipline

Jan Holle presented this:

- License revocation effective within 30 days of the effective date of the order.
- Fine amount of \$20,000 plus the cost of hearing and investigation to be paid at a time period of the Commission's discretion.

Ms. Pattee stated that the costs are \$1,229.75.

Commissioner Gurr stated that she does not feel there was any egregious behavior involved. Commissioner Gurr stated that she does not think this is a real estate related transaction despite the fact that Mr. Jones and Ms. Larsen developed a relationship while they were doing a real estate transaction. Commissioner Gurr stated that this is a case for civil courts, not for the Real Estate Commission.

Commissioner Capurro stated that the Commission is where an issue goes when it's a Realtor that defrauds somebody. Commissioner Capurro stated that had it not been for Ms. Larsen selling Mr. Jones a home, Ms. Larsen would have not been able to gain his trust.

Commissioner Reiss stated that this was a sloppy transaction between two people however it did arise out of that trust from the real estate transaction. Commissioner Reiss stated that he would be in favor of a lower fine amount or costs plus maybe a fine.

Commissioner Reiss moved that a fine in the amount of \$4,500 be imposed plus the costs of \$1,229.75 payable within 6 months of the effective date of the order. Seconded by Commissioner Capurro.

Commissioner Schwartz moved to amend the motion to include 3 hours of continuing education in ethics and 3 hours of continuing education in agency to be completed within 6 months of the effective date of the order. Seconded by Commissioner Reiss.

Motion passed 4 to 1 with Commissioner Gurr opposed.

Commissioner Gurr stated her opposition to the motion stating that \$4,500 is excessive and imposing continuing education is irrelevant because this is not a real estate related transaction.

Commissioner Gurr moved to amend the amended motion to impose a fine of \$1,500 which includes the costs of \$1,229.75 payable within 6 months of the effective date of the order. Seconded by Commissioner Reiss.

Motion passed 4-1 with Commissioner Barrett opposed.

**4-B) For possible action: Discussion and decision regarding license denial appeal:  
Cynthia Duffy File No. S-LDA-19-004**

Ms. Duffy requested that the Commission go into closed session.

The meeting went into closed session.

The meeting went into open session.

Commissioner Reiss moved to deny the granting of the real estate license. Seconded by Commissioner Schwartz.

Commissioner Capurro stated that he sees remorse and will be voting against the motion.

Commissioner Schwartz stated that he did not hear whether Ms. Duffy followed up with the people that were monetarily hurt to see if they were ever made whole. Commissioner Schwartz stated that the fact that Ms. Duffy did not respond to the Division, bears weight on his decision.

Commissioner Gurr stated that she feels Ms. Duffy has demonstrated remorse. Commissioner Gurr stated that she will be voting no on the motion.

Commissioner Reiss stated that he fully believes in a second chance and believes Ms. Duffy to be credible. Commissioner Reiss stated that Commission before that made a decision and a penalty was imposed. Commissioner Reiss stated that not enough effort has been made by Ms. Duffy to pay the fine and earn the trust of the public since that time.

Commissioner Schwartz confirmed that it wasn't the Commission that reduced the fine but a third party that had no connection to the original Commission's decision.

Commissioner Reiss restated the motion to deny the granting of the real estate license. Seconded by Commissioner Schwartz.

Motion passed 3-2 with Commissioners Gurr Capurro opposed.

**6-C) NRED v Patricia LeBeau-Witty, for possible action  
Case # 2017-64**

**Parties Present**

Patricia LeBeau-Witty was present.

Broker, Clyde Matt was present.

Deputy Attorney General Michelle Briggs was present representing the Division.

**Opening Statements**

Ms. Briggs gave her opening statement.

Ms. LeBeau-Witty gave her opening statement.

Ms. Briggs requested that the notice of documents be admitted.

President Barrett stated that the notice documents would be admitted.

**State's Witness**

Daryl McCloskey, Compliance Audit Investigator, testified.

Ms. LeBeau-Witty cross-examined Mr. McCloskey.

The witness was dismissed.

Ms. LeBeau-Witty stated her case.

Commissioner Reiss stated that he will recuse himself from discussion and voting regarding this matter.

The Commission questioned Ms. LeBeau-Witty.

#### Closing Statements

Ms. Briggs gave her closing statement.

Ms. LeBeau-Witty gave her closing statement.

Commissioner Capurro stated that he believed Ms. LeBeau-Witty when she stated that she was having an emotional breakdown and may account for some of the actions taken. Commissioner Capurro stated that he does not agree that it was not an accepted contract. Commissioner Capurro stated that he does not believe that Ms. LeBeau-Witty's ability to make a living in the real estate business should be taken away from her but that Ms. LeBeau-Witty needs to be accountable for the mistakes that were made.

#### Factual Allegations

Commissioner Schwartz moved that factual allegations 1-20 have been proven. Seconded by Commissioner Capurro.

Commissioner Gurr moved to amend the motion that factual allegations 1-19 have been proven. Seconded by Commissioner Capurro.

Commissioner Gurr stated that the phrasing of factual allegation 20 is incorrect and should be excluded.

Commissioner Schwartz stated that he disagreed with Commissioner Gurr regarding the wording of factual allegation 20.

Commissioner Capurro moved that factual allegations 1-19 have been proven. Seconded by Commissioner Gurr. Motion passed.

Commissioner Gurr moved that factual allegation 20 has not been proven. Seconded by Commissioner Capurro. Motion passed.

#### Violations of Law

Commissioner Gurr moved that violation 21 was proven. Seconded by Commissioner Capurro. Motion passed.

Commissioner Gurr moved that violation 22 was proven. Seconded by Commissioner Capurro. Motion passed.

Commissioner Gurr moved that violation 23 was proven. Seconded by Commissioner Capurro. Motion passed.

Commissioner Gurr moved that violation 24 was proven. Seconded by Commissioner Schwartz.

Commissioner Capurro stated that Ms. LeBeau-Witty did not deny writing those emails but does not believe that exercises unreasonable skill and care. Commissioner Capurro stated that he read the letter from Ms. Banks supporting Ms. LeBeau-Witty and found it compelling. Commissioner Capurro stated that he still believes Ms. LeBeau-Witty was going through an emotional breakdown. Commissioner Capurro stated that he will not vote in favor of violation 24.

Commissioner Gurr stated that she concurs with Commissioner Capurro. Commissioner Gurr stated that the statute mentioned in violation 24 is not the appropriate one to facilitate this particular charge and is not applicable. Motion failed.

Commissioner Gurr moved that violation 25 was proven. Seconded by Commissioner Schwartz.

Motion passed.

Commissioner Gurr moved that violation 26 was proven. Seconded by Commissioner Schwartz. Motion passed.

Division's Recommendation for Discipline

Jan Holle presented this:

- Fine amount of \$10,000 plus the cost of hearing and investigation to be paid within 6 months of the effective date of the order.
- 3 hours of continuing education in agency and 3 hours of continuing education in ethics to be completed within 6 months of the effective date of the order. Such continuing education shall not accrue toward license renewal requirements.

Ms. Pattee stated that the costs are \$1,616.64.

Commissioner Barrett stated that he would like to see Ms. LeBeau-Witty's license be reduced from broker-salesperson to salesperson.

Commissioner Capurro moved that the license be reduced from broker-salesperson to salesperson. Seconded by Commissioner Schwartz. Motion passed 3-1 with Commissioner Capurro opposed and Commissioner Reiss abstained.

Commissioner Schwartz moved that a fine of \$10,000 be imposed plus the costs of \$1,616.64 payable within 6 months of the effective date of the order along with 3 hours of continuing education in agency and 3 hours of continuing education in ethics to be completed within 6 months of the effective date of the order and such continuing education shall not accrue toward license renewal requirements. In addition, license be reduced from broker salesperson to salesperson within 30 days of the effective date of the order. Seconded by Commissioner Gurr.

Commissioner Capurro stated that this is the first offense and Ms. Lebeau-Witty has done nothing wrong in 25 years until now. Commissioner Capurro stated that \$10,000 due within 6 months is too much and would like to see it reduced to \$5,000 or give Ms. LeBeau-Witty at least one year to pay the fine.

Commissioner Capurro moved to amend the amount of the fine to \$5,000 and leave everything else the same. Seconded by Commissioner Gurr.

Commissioner Barrett stated that the \$10,000 fine imposed is very lenient.

Commissioner Barrett stated that ignorance of the law is no defense. Commissioner Barrett stated that the fine recommended by the Division was fair and equitable.

Commissioner Gurr stated that she understands Commissioner Capurro in that this is a first-time offense and that some compassion is in order. Commissioner Gurr stated that there were some violations that did not show up such as failing to disclose. Commissioner Gurr stated that she is not in favor of reducing the fine but is in favor of increasing the amount of time to pay the fine.

Commissioner Capurro withdrew his last amendment.

Commissioner Capurro moved to amend the amount of time to pay the fine from 6 months to 1 year. Seconded by Commissioner Gurr.

Commissioner Schwartz stated 365 days was too long to wait for a payment.

Commissioner Capurro withdrew his last amendment.



Commissioner Capurro moved to amend the amount of time to pay the fine to \$5,000 plus \$1,616.64 due within 6 months of the effective date of order and the remaining \$5,000 due within 1 year of the effective date of the order along with 3 hours of continuing education in agency and 3 hours of

continuing education in ethics to be completed within 6 months of the effective date of order and license reduced from broker-salesperson to salesperson effective immediately. Seconded by Commissioner Schwartz. Motion passed.

**6-A) NRED v Amrit Bhandari, for possible action**

**Case # 2017-169**

Parties Present

Deputy Attorney General Michelle Briggs was present representing the Division.  
Andrew Pastwick was present representing Mr. Bhandari.  
Amrit Bhandari was present.

Preliminary Matters

Mr. Pastwick stated that a settlement had been reached. Ms. Briggs read the complaint and the settlement into the record.

Settlement

- Respondent's license be reduced from individual broker to broker-salesperson and Respondent will not supervise as a broker-salesperson for a period of 2 years effective within 30 days.
- Respondent agrees to not apply for a property manager permit from the Division.
- 3 hours of continuing education in ethics and 3 hours of continuing education in contracts to be completed within 6 months of the effective date of the order. Such continuing education shall not accrue toward license renewal requirements.
- Respondent agrees to pay the Division \$3,200 as an administrative fine within 30 days of the effective date of the order.

Ms. Pattee stated that the costs were \$1,081.00.

Commission questioned Ms. Briggs and Mr. Pastwick.

Commissioner Reiss moved to accept the stipulation as presented. Seconded by Commissioner Capurro.

Mr. Bhandari stated that he understands the stipulation and agrees to the terms.

Motion passed 4-1 with Commissioner Barrett opposed.

**5-A) For possible action: Discussion and decision regarding respondent's petition for rehearing and reconsideration of disciplinary terms:**

**NRED v Jason Farrant**

**Case # 2017-1167**

Parties Present

Deputy Attorney General Dennis Belcourt was present representing the Division.  
Andrew Pastwick was present representing Mr. Farrant.  
Jason Farrant was present.

Mr. Pastwick stated that he is asking the Commission to reconsider their September 10, 2018 ruling and that it be set aside today and set for a hearing at a later date. Mr. Pastwick stated that the reason being is Mr. Farrant did not get notice of the September hearing and that's why he did not attend the September hearing. Mr. Pastwick stated that Mr. Farrant was getting medical treatment when the letter was delivered to his office. Mr. Pastwick stated that Mr. Farrant only got notice when his employer, Tam Apartments, notified him of the Commission's decision.

Mr. Belcourt stated that the decision was issued in November 2018 and that a motion for rehearing was not received until January 2019. Mr. Belcourt stated that under both NRS 233B.130 and NAC 645, the time limit for petitioning for rehearing is 15 days after the date of service of a final decision.

Mr. Belcourt stated that the Decision was sent out November 16, 2018. Mr. Belcourt stated that the letter requesting a rehearing was sent out on January 22, 2019 and was received January 25, 2019; which is well past the deadline for a request for rehearing. Mr. Belcourt stated that he views this as an obstacle to this Commission hearing on deciding to grant a new hearing.

The Commission questioned Mr. Farrant.

Mr. Pastwick stated that the delay could have been through his office due to the holidays and the fact that he had to make sure Tam Apartments didn't have a conflict with him representing their manager, which also took additional time.

Mr. Belcourt stated that his recommendation is to deny the petition for rehearing.

Commissioner Schwartz moved to grant a rehearing at a date set by the Division. Seconded by Commissioner Gurr. Motion passed 3-2 with Commissioners Reiss and Barrett opposed.

**6-E) NRED v Manish "Tom" Patel, for possible action**  
**Case # 2015-566**

**Parties Present**

Deputy Attorney General Michelle Briggs was present representing the Division  
Mr. Patel was not present.

Ms. Briggs stated that Mr. Patel lives in California and filed an answer on his own behalf and hired an attorney. Ms. Briggs stated that she spoke to Mr. Patel's attorney who stated that he was going to meet with Mr. Patel. Ms. Briggs stated that Mr. Patel did not show up for the meeting with his attorney because of a possible family issue and Mr. Patel did not intend on showing up for the Commission meeting. Ms. Briggs stated that the attorney told her he was no longer representing Mr. Patel.

Ms. Briggs requested that the notice of documents be admitted.

President Barrett stated that the notice of documents would be admitted.

Ms. Briggs stated the Division would submit that there was proper service upon Mr. Patel.

**State's Witness**

Evelyn Pattee, Commission Coordinator, testified regarding service of the complaint.

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

Commissioner Reiss moved that the Commission pursuant to NAC 645.860 find that the Real Estate Division has proven service of notice to respondent. Seconded by Commissioner Gurr.  
Motion passed.

Commissioner Schwartz moved that the factual allegations were proven. Seconded by Commissioner Reiss. Motion passed.

Commissioner Reiss moved that the violation of law was proven. Seconded by Commissioner Schwartz. Motion passed.

**Division's Recommendation for Discipline**

Jan Holle presented this:

- Fine in the amount of \$32,000 plus the cost of hearing and investigation to be paid within 30 days of the effective date of the order.

Ms. Pattee stated the costs were \$1,192.45.

Commissioner Reiss moved that a fine of \$32,000 be imposed plus costs of \$1,192.45 due within 30 days of the effective date of the order. Seconded by Commissioner Schwartz. Motion passed.

**7) Public Comment**

Nate Lasoff, Realtor, commented that he is advocating for more continuing education for Realtors. Mr. Lasoff commented that 24 hours of continuing education every 2 years is not enough.

**8) For Possible Action: Adjournment**

Meeting recessed at 4:15 p.m. on June 11, 2019.

NOT APPROVED BY COMMISSION

June 12, 2019

Nevada State Business Center  
3300 W. Sahara Avenue, Nevada Room  
Las Vegas, Nevada 89102

**VIDEO CONFERENCE TO:**

Nevada Department of Business & Industry  
1830 College Parkway, Suite 100  
Carson City, Nevada 89706

The meeting was called to order at 9:00 AM

**1-A) Introduction of Commissioners in Attendance**

Neil Schwartz, Clark County; Lee Gurr, Elko County; Wayne Capurro, Washoe County; Devin Reiss, Clark County and Lee Barrett, Clark County

Commission Counsel: Deputy Attorney General Asheesh Bhalla

**1-B) Introduction of Division Staff in Attendance**

In Las Vegas: Sharath Chandra, Administrator; Teralyn Lewis, Administration Section Manager; Evelyn Pattee, Commission Coordinator; Jan Holle, Chief Compliance Audit Investigator; Kimberly Smith, Education Supervisor; Erica Arnold, Education; Deputy Attorney General Dennis Belcourt representing the Division.

In Carson City: Ann Angell, Compliance Audit Investigator; Perry Faigin, Deputy Administrator.

**2) Public Comment**

No public comment.

**3-A) Discussion regarding Administrator's report.**

Sharath Chandra reported on personnel matters:

- Perry Faigin is the new Deputy Administrator.
- The Education Information Officer position is vacant, and the recruitment process is taking place.

Mr. Chandra reported on Division issues:

- A technology consultant is working to assess the needs of the Division. The time frame is 30 days, after which there will be a report that will help to determine the scope of what is needed and how to move forward.
- Customer service has always been the Division's focus and will continue to be the focus. Feedback is welcome and Division staff want to hear about good and bad experiences so improvements can be made.
- The Division is doubling the number of courses offered and updating course content. Commissioner Barrett was part of the work group that came up with recommendations for the property managers course which is now built in and there's enough information to develop a manual at some point that can be shared. The course will be taught across the 2 years and content is still being developed. Any feedback is welcome.

- The Division had two legislative bills that worked their way through legislative session. There is additional work to be done by the Division however no fiscal impact is expected.

**3-H-1) Discussion regarding 2019 legislative bills and bill draft requests (“BDR”) related to NRS 645 which may impact the Commission and/or Division including, but not limited to Senate Bill 230 relating to real estate; revising provisions relating to advertisements by real estate licensees; revising educational requirements which must be satisfied by an applicant for licensure as a real estate salesperson, real estate broker or real estate broker-salesperson; revising provisions governing the maintenance of certain licenses by real estate brokers and owner-developers; revising provisions governing certain regulations of the Real Estate Commission relating to the curriculum and subject matter of continuing education; and providing other matters properly relating thereto.**

Sharath Chandra stated that this bill addressed licensee concerns regarding the use of nicknames. Mr. Chandra stated that licensees are required to put their license number on their advertising. Mr. Chandra stated that the Division will not issue licenses with a nickname on it. Mr. Chandra stated that the license will be issued with the licensee’s name however licensees can use their nickname when advertising if it includes the licensee’s license number. Mr. Chandra stated that the Commission will need to create regulations with parameters as to “what is a nickname” in order to implement this change. Mr. Chandra stated that if licensees want to start using nicknames now, it is encouraged.

Mr. Chandra commented on the increase to education. Mr. Chandra stated that the Commission has the authority to dictate what the extra 12 hours of continuing education will consist of. Mr. Chandra stated that once regulations have been approved, the increase in continuing education requirements will go into effect.

**3-H-2) Discussion regarding 2019 legislative bills and bill draft requests (“BDR”) related to NRS 645 which may impact the Commission and/or Division including, but not limited to Assembly Bill 319 relating to professional licensing; authorizing a person to petition professional or occupational licensing board for a determination of whether the person’s criminal history will disqualify him or her from obtaining a license; requiring a professional or occupational licensing board to implement a process for such a petition; establishing certain requirements for such process; requiring a professional or occupational licensing board to make a quarterly report to the Legislative Counsel Bureau with certain information; and providing other matters properly relating thereto.**

Sharath Chandra stated that this bill was a significant for every licensing agency within the State due to the process where predetermination is made on background checks. Mr. Chandra stated that the process will allow someone to petition the Division obtain a decision as to whether their criminal background will allow them to be approved for a license.

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

Teralyn Lewis presented this report. Ms. Lewis provided the Commission with a written report and summarized updates from the last Commission meeting.

**3-F-3) Discussion regarding Continuing Education Supervisor’s reports on continuing education and post education roster upload submittals issues.**

Kimberly Smith presented this report. Ms. Smith stated that in March 2019, there were 1,228 roster uploads and 0 midterm certificates. Ms. Smith stated that in April 2019, there were 848 roster uploads and 0 midterm certificates. Ms. Smith stated that in May 2019, there were 1,674 roster uploads and 0 midterm certificates. Ms. Smith stated that the quality of the uploads has improved. Ms. Smith stated that there are still a lot of people who call in as opposed to going online to “My Account” to turn in their certificates.

**3-F-1) Discussion regarding Continuing Education Supervisor’s reports on continuing education Course audit program report.**

Kimberly Smith presented this report. Ms. Smith stated she would add sponsor responses to the report in the future per Commissioner Schwartz's request.

**6-F) NRED v Tyson R. Delacruz, for possible action**  
**Case # 2016-115**

Parties Present

Deputy Attorney General Dennis Belcourt was present representing the Division.  
Mr. Delacruz was present.

Opening Statements

Mr. Belcourt gave his opening statement.  
Mr. Delacruz gave his opening statement.

State's Witness

Lisa Rodriquez testified by telephone.

Mr. Belcourt requested that the notice of documents be admitted.

President Barrett stated that the notice of documents would be admitted.

Mr. Belcourt continued his examination of the witness.

Mr. Delacruz cross-examined Ms. Rodriquez.

The Commission questioned Ms. Rodriquez.

Mr. Belcourt continued his examination of the witness.

Mr. Belcourt requested an additional document be admitted.

President Barrett stated that the document would be admitted.

The witness was dismissed.

State's Witness

Daryl McCloskey, Compliance Audit Investigator, testified.

Mr. Delacruz cross-examined Mr. McCloskey.

The witness was dismissed.

Mr. Delacruz stated his case.

The Commission questioned Mr. Delacruz.

Mr. Belcourt questioned Mr. Delacruz.

Closing Statements

Mr. Belcourt gave his closing statement.  
Mr. Delacruz gave his closing statement.

Factual Allegations

Commissioner Schwartz moved that factual allegations 1-19 were proven. Seconded by Commissioner Reiss.

Commissioner Gurr moved to amend factual allegation 5 by removing “Respondent caused the locks to be changed.” Seconded by Commissioner Schwartz. Motion passed 3-2 with President Barrett and Commissioner Reiss opposed.

Commissioner Schwartz moved that factual allegations 1-19 as amended were proven. Seconded by Commissioner Reiss. Motion passed.

#### Violations of Law

Commissioner Reiss moved that all violations were proven. Seconded by Commissioner Schwartz.

Commissioner Gurr stated that she would like to vote on each violation separately.

Commissioner Capurro stated that he has a problem with violation 26 and violation 20.

Motion passed 3-2 with Commissioners Gurr and Capurro opposed.

#### Division’s Recommendation for Discipline

Jan Holle presented this:

- Respondent’s license be revoked effective within 30 days of the effective date of the order.
- Fine in the amount of \$35,000 plus the cost of hearing and investigation to be paid within 1 year of the effective date of the order.

Ms. Pattee stated the costs were \$2,896.78.

Commissioner Reiss moved to impose a \$35,000 fine plus costs of \$2,896.78 to be paid within 1 year from the effective date of the order and license revocation within 30 days of the effective date of the order. Seconded by Commissioner Schwartz.

Commissioner Gurr stated that the Commission should contemplate the fact that the language that was changed in factual allegation 5 was not changed in the violations. Commissioner Gurr stated that she did not see a violation as set forth in 26. Commissioner Gurr stated that the violations that were true were not egregious enough for a new agent and that a \$35,000 fine is excessive.

Commissioner Capurro stated he agrees with Commissioner Gurr. Commissioner Capurro stated that Mr. Delacruz made big mistakes but credits Mr. Delacruz for coming to the hearing and being honest. Commissioner Capurro stated that he thinks \$35,000 is excessive.

Commissioner Reiss stated that the question is how much weight should be put on each of the violations. Commissioner Reiss stated that he can agree that there was less culpability or less damage in some of the violations. Commissioner Reiss stated that what was done is criminal in nature. Commissioner Reiss stated that he believes a person was fully taken advantage of.

Commissioner Schwartz stated that Mr. Delacruz went through licensure and should have known better. Commissioner Schwartz stated that Mr. Delacruz did not lean on his broker for assistance which led Commissioner Schwartz to believe there was some intent other than just not knowing what to do.

Commissioner Barrett stated that the Duties Owed is probably one of the most important documents to get involved with because it states “reasonable skill and care” which is taken to protect people. President Barrett stated that there was conflicting testimony regarding the violations. President Barrett stated that \$35,000 is high.

Motion passed 3-2 with Commissioners Gurr and Capurro opposed.

#### **6-G) NRED v Tyson R. Delacruz, for possible action** **Case # 2017-1345**

#### Parties Present

Deputy Attorney General Dennis Belcourt was present representing the Division.  
Mr. Delacruz was present.

Opening Statements

Mr. Belcourt gave his opening statement.

Mr. Delacruz gave his opening statement.

State's Witness

Daryl McCloskey, Compliance Audit Investigator, testified.

Mr. Belcourt requested that the notice of documents be admitted.

President Barrett stated that the notice of documents would be admitted.

Mr. Belcourt continued his examination of the witness.

The Commission questioned Mr. McCloskey.

The witness was dismissed.

The Commission questioned Mr. Delacruz.

Mr. Delacruz stated his argument.

The Commission continued questioning Mr. Delacruz.

Closing Statements

Mr. Belcourt gave his closing statement.

Mr. Delacruz gave his closing statement.

Factual Allegations

Commissioner Reiss moved that all factual allegations were proven. Seconded by Commissioner Schwartz. Motion passed.

Violations of Law

Commissioner Reiss moved that all violations were proven. Seconded by Commissioner Schwartz. Motion passed.

Division's Recommendation for Discipline

Jan Holle presented this:

- Fine in the amount of \$10,000 plus the cost of hearing and investigation to be paid within 1 year of the effective date of the order.

Ms. Pattee stated the costs were \$1,753.95.

Commissioner Reiss moved that a fine of \$10,000 be imposed plus costs of \$1,753.95 to be paid within 1 year from the effective date of the order. Seconded by Commissioner Schwartz. Motion passed.

**4-A) For possible action: Discussion and decision regarding license denial appeal:  
Jimmy L. Wilson File No. S-LDA-19-003**

Mr. Wilson requested that the Commission go into closed session.

The meeting went into closed session.

The meeting went into open session.



Commissioner Reiss moved to deny the granting of the real estate license. Seconded by Commissioner Schwartz.

Commissioner Gurr stated that she was speaking in opposition of the motion and believes that if Mr. Wilson is to be given a second chance.

Commissioner Schwartz stated that he is speaking in favor to the motion because even though time has gone by, there was no effort made by Mr. Wilson to pay what is owed.

Commissioner Capurro stated that he agrees with Commissioner Schwartz. Commissioner Capurro stated that he is troubled by the lack of attempted restitution of the original fine. Commissioner Capurro stated that he has no doubt that Mr. Wilson is a good salesperson and has a commendable demeanor, however it's a privileged license. Commissioner Capurro stated that he would like to see Mr. Wilson come back having done something to rectify with the Division. Motion passed 3-2 with Commissioners Gurr and Capurro opposed.

**6-I) NRED v Stephen Barcel, for possible action**  
**Case # 2017-2286**

Parties Present

Deputy Attorney General Dennis Belcourt was present representing the Division.  
Mr. Barcel was not present.

Mr. Belcourt stated the Division would submit that there was proper service upon Mr. Barcel.

State's Witness

Evelyn Pattee, Commission Coordinator, testified regarding service of the complaint.

Commissioner Reiss moved that the Commission pursuant to NAC 645.860 find that the Real Estate Division has proven service of notice to the respondent. Seconded by Commissioner Schwartz. Motion passed.

Mr. Belcourt read the factual allegations and violation of law into the record.

Commissioner Schwartz moved that the factual allegations 1-7 were proven. Seconded by Commissioner Capurro. Motion passed.

Commissioner Reiss moved that violation 8 was proven. Seconded by Commissioner Schwartz. Motion passed.

Division's Recommendation for Discipline

Jan Holle presented this:

- Fine of \$43,495 plus cost of hearing and investigation to be payable within 30 days of effective date of order.

Ms. Pattee stated the costs are \$1,000.60.

Commissioner Reiss moved to impose a fine of \$43,495 plus costs of \$1,000.60 payable within 30 days of the effective date of the order. Seconded by Commissioner Capurro. Motion passed.

**6-K) NRED v David Evan Cooper, for possible action**  
**Case # 2018-12**

Parties Present

Deputy Attorney General Dennis Belcourt was present representing the Division.  
Mr. Cooper was not present.

Mr. Belcourt stated the Division would submit that there was proper service upon Mr. Cooper.

State's Witness

Evelyn Pattee, Commission Coordinator, testified regarding service of the complaint.

Commissioner Reiss moved that the Commission pursuant to NAC 645.860 find that the Real Estate Division has proven service of notice to the respondent. Seconded by Commissioner Schwartz. Motion passed.

Mr. Belcourt read the factual allegations and violation of law into the record.

Commissioner Schwartz moved that factual allegations 1-6 were proven. Seconded by Commissioner Reiss. Motion passed.

Commissioner Reiss moved that violation 7 was proven. Seconded by Commissioner Schwartz. Motion passed.

Division's Recommendation for Discipline

Jan Holle presented this:

- Fine of \$5,000 plus cost of hearing and investigation to be payable within 30 days of effective date of order.

Ms. Pattee stated the costs are \$535.00.

Commissioner Reiss moved to impose a fine of \$5,000 plus costs of \$535.00 payable within 30 days of the effective date of the order. Seconded by Commissioner Gurr. Motion passed.

**6-L) NRED v Roslynn Phoenix-Myrick, for possible action**

**Case # 2018-182**

Parties Present

Deputy Attorney General Dennis Belcourt was present representing the Division.

Ms. Phoenix-Myrick was not present.

Mr. Belcourt stated the Division would submit that there was proper service upon Ms. Phoenix-Myrick.

State's Witness

Evelyn Pattee, Commission Coordinator, testified regarding service of the complaint.

Commissioner Reiss moved that the Commission pursuant to NAC 645.860 find that the Real Estate Division has proven service of notice to the respondent. Seconded by Commissioner Schwartz. Motion passed.

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

Commissioner Schwartz moved that factual allegations 1-9 were proven. Seconded by Commissioner Capurro. Motion passed.

Commissioner Reiss moved that violations 10-14 were proven. Seconded by Commissioner Gurr. Motion passed.

Division's Recommendation for Discipline

Jan Holle presented this:

- Revocation of real estate license and property management permit.
- Fine of \$50,000 plus cost of hearing and investigation to be payable within 30 days of effective date of order.

Ms. Pattee stated the costs are \$1,288.77.

Commissioner Reiss moved to impose a fine of \$50,000 plus costs of \$1,288.77 due and payable within 30 days of the effective date of the order plus revocation of the real estate license and property management permit. Seconded by Commissioner Schwartz. Motion passed.

**6-M) NRED v Ronald Macko, for possible action**  
**Case # 2017-1970**

**Parties Present**

Deputy Attorney General Dennis Belcourt was present representing the Division.  
Mr. Macko was not present.

Mr. Belcourt stated the Division would submit that there was proper service upon Mr. Macko.

**State's Witness**

Evelyn Pattee, Commission Coordinator, testified regarding service of the complaint.

Commissioner Reiss moved that the Commission pursuant to NAC 645.860 find that the Real Estate Division has proven service of notice to the respondent. Seconded by Commissioner Schwartz. Motion passed.

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

Commissioner Schwartz moved that factual allegations 1-9 were proven. Seconded by Commissioner Capurro. Motion passed.

Commissioner Reiss moved that violations 10-11 were proven. Seconded by Commissioner Schwartz. Motion passed.

**Division's Recommendation for Discipline**

Jan Holle presented this:

- Fine of \$30,000 plus cost of hearing and investigation to be payable within 30 days of effective date of the order.
- Revocation of real estate license and property management permit.

Ms. Pattee stated the costs are \$930.40.

Commissioner Reiss moved to impose a fine of \$30,000 plus costs of \$930.40 payable within 30 days of the effective date of the order plus revocation of the real estate license and property management permit. Seconded by Commissioner Gurr. Motion passed.

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

Jan Holle presented this report. Mr. Holle provided the Commission with a written report and summarized.

**3-E) Discussion regarding the Administrative Sanction Report.**

Jan Holle presented this report. Mr. Holle provided the Commission with a written report and summarized.

**3-G) Discussion regarding Real Estate Division Waiver Form No. 636 and Authorization to Negotiate Directly with Seller Form No. 637.**

Commissioner Gurr provided written comment on this matter. Commissioner Gurr stated her concerns that Forms 636 and 637 are possibly being used inappropriately. Commissioner Gurr requested the Commission and Real Estate Division work to consider ways and means to avoid the use of these forms for other than the intended purpose.

Sharath Chandra stated that suggestions to make changes to the forms can be placed on a future commission meeting agenda.

**3-I) For possible action: Discussion and decision to approve minutes of the March 26-27, 2019 meeting.**

Commissioner Gurr moved to approve the minutes as presented. Seconded by Commissioner Schwartz. Motion passed.

**7) Public Comment**

No public comment.

**8) For Possible Action: Adjournment**

The meeting adjourned on June 12, 2019 at 3:24 p.m.

NOT APPROVED BY COMMISSION