

Open House

A newsletter for Nevada Real Estate Licensees

Department of Business & Industry

Jan / Feb / March 2017

The Mission of the Nevada Real Estate Division

To protect the public and Nevada's real estate sectors by fairly and effectively regulating real estate professionals through licensure, registration, education and enforcement.

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CAPURRO OF WASHOE COUNTY SWORN IN AS COMMISSIONER

The December 2016 meeting of the Real Estate Commission began with the swearing in of Commissioner Wayne Capurro of Washoe County as the newest member of this Governor-appointed administrative board.



Wayne Capurro, right, is welcomed by Neil Schwartz, Commission President, at the December 2016 meeting.

Capurro has been a real estate broker-owner in Nevada for nearly 30 years. His services to the northern Nevada real estate industry are numerous and include his involvement with the Reno-Sparks Association of Realtors (RSAR) as President in 2008, on its various committees over the years, including as Chair of the Professional Standards Committee, and from 2001-2009, as a member of the Board of Directors.

He has also served on the Board of Directors of the Northern Nevada Regional Multiple Listing Service.

In addition to his real estate business and participation in the industry Associations, Capurro

provides an expert witness service in civil lawsuits.

In his personal life, Capurro is a graduate of the University of Nevada, Reno, and has 4 children and 2 grandchildren. Nine years ago, he authored and published a book, titled "WHITE Flag: America's First 9/11." He enjoys the great outdoors.

Capurro joins Commissioners Neil Schwartz (President), Devin Reiss and Lee Barrett of Clark County, and Norma Jean Opatik of Nye County to make up the current 5-member board. ◀

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**NEVADA REAL ESTATE
COMMISSION**

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Vice President
Clark County

LEE BARRETT
Secretary
Clark County

NORMA JEAN OPATIK
Commissioner
Nye County

WAYNE CAPURRO
Commissioner
Washoe County



Linda Chavez, center, is wished a happy retirement by Division Administrator Sharath Chandra, far right, and past Administrators, from left, Gail Anderson, Joan Buchanan, and Joseph (JD) Decker.

DIVISION THANKS CHAVEZ FOR 20 YEARS OF SERVICE

Division Administrators - past and present - came together in December to say goodbye to long-time Compliance Investigator, Linda Chavez, and to thank her for her 20 years of dedicated service to the State.

For 18 of her 20 years at NRED Chavez worked as a Compliance Investigator, mainly handling complaints and cases regarding property management, and monies belonging to others. After the 1998 adoption of the regulation requiring an annual submission of trust account reconciliations to NRED Chavez worked with the then-Administrator,

Joan Buchanan, to establish and implement the reporting format in 1999. She also contributed to writing and publishing the Division's reference manual, Trust Fund Accounting and Record Keeping for Nevada Broker.

Chavez was the go-to person for licensees and NRED staff who had questions about property management and landlord/tenant issues, or who needed clarification regarding client funds and trust accounting. She will be greatly missed. We would like to take this opportunity to wish her a very happy retirement. ◀

FEBRUARY HOLIDAY

The offices of the Nevada Real Estate Division will be closed on Monday, February 20th, in observance of President's Day.

MID-TERM EDUCATION REMINDER FOR LICENSES RENEWED BETWEEN JANUARY TO JUNE 2015

Unless you're ahead of the game, your mid-term education is due by the end of the month in which your license was renewed. That means, for a license renewed in January 2015, mid-term CE is due by the end of January 2017, for a license renewed in February 2015, mid-term CE is

due by the end of February 2017, and so on through June.

Remember, it is each individual licensee's responsibility to timely submit mid-term CE certificates to NRED. There is a penalty for late submission. In April 2016, the fine for late mid-term education went up

from \$100 to \$250.

While the penalty is an important factor, don't let it be the only, the driving, incentive to comply with the continuing education requirements to maintain your license. ◀

DID YOU KNOW ...?

For licensing purposes, only a Broker may file as a dba (doing business as). A Salesperson or Broker-Salesperson can incorporate his or her business as a PC (professional corporation), Limited Company, or LLC (limited liability corporation) but may not file as a dba.

...

Real estate licenses are issued only in the legal names of the licensing applicants, without nicknames. Business advertising and promotional materials in which nicknames are used must carry the licensee's name as it appears on the license.

...

If a real estate licensee obtains a property management permit in the first year of licensure where 30 hours of post-licensing education is required, an additional 3 hours of continuing education with a property management designation must be taken for permit renewal. The same is true for a business broker permit.

...

Licensees who have established My Account do not have to wait until their license renewal to update their contact information. They can keep their primary and mailing addresses, email addresses and phone numbers current with NRED as the changes occur by logging into My Account and personally editing that information.

...

NRED's website, <http://red.nv.gov>, provides calendars of classes and lists of distance education courses that are approved for credits. The calendars are updated weekly to list the classes of sponsors who submit their schedules to NRED. The listing of distance education courses is also updated monthly to add new courses and remove ones that are no longer active. The site provides the fullest available range of real estate education for credits. Licensees are encouraged to use this service to plan out their license renewal education over the course of the renewal period. ◀

What Every Licensee Should Know 2017

LAS VEGAS

Grant Sawyer Building
Room 1100,
555 E Washington Ave.,
Las Vegas, NV 89101

March 21

9 a.m. – Noon

May 16

9 a.m. – Noon

RENO

Reno/Sparks Association
of Realtors
5650 Riggins Court, Ste. #200,
Reno, NV 89502

April 5

1 p.m. – 4 p.m.

PRE-REGISTRATION REQUIRED!

<http://red.nv.gov/welsk/>

Disciplinary Actions / Stipulations

ACTIONS/DECISIONS

Real Estate Commission actions are not published in this newsletter until the 30-day period allowed for filing for Judicial Review has passed.

A Respondent's license is automatically suspended for failure to comply with a Commission Order, and the Division may institute debt collection proceedings to recover fines and costs.



ALLEGATIONS/STIPULATIONS

Stipulations occur when both the Respondent and Division have agreed to settlement conditions. A stipulation may or may not be an admission of guilt. Stipulations are presented to the Commission for final approval.

NAME	EFFECTIVE DATE / HEARING TYPE	ALLEGATIONS/ VIOLATIONS	DISCIPLINE/ SETTLEMENT
ERIC SHEVA BRANCH S.75794 (Active)	September 2016 Contested	Respondent pled guilty to misprision of felony and was sentenced to two years probation by the United States District Court for the District of Nevada. He violated NRS 645.633(1)(d)(2) by being convicted of a felony involving deceit and violated NRS 645.005 by failing to notify the Division in writing within 10 days of the plea.	\$1,000 fine.
CARINE JAKUBCZACK S.171226 (Revoked) PM.165190 (Inactive)	September 2016 Contested	Violated NRS 645.252(1)(b) on five occasions by not disclosing to each party as soon as practicable each source from which she received compensation as a result of a real estate transaction. Also, violated NRS 645.630(1)(b) on five occasions by making false promises of a character likely to influence, persuade or induce, and violated NRS 645.633(1)(h) on five occasions by not disclosing her interest in and compensation from a company that allegedly made repairs.	\$5,000 fine. Salesperson license revoked.
BORIS JAKUBCZACK S.171381 (Revoked)	September 2016 Contested	Violated NRS 645.252(1)(b) on five occasions by not disclosing to each party as soon as practicable each source from which he received compensation as a result of a real estate transaction. Also, violated NRS 645.630(1)(b) on five occasions by making false promises of a character likely to influence, persuade or induce, and violated NRS 645.633(1)(h) on five occasions by not disclosing he was manager of a company that allegedly made repairs.	\$75,000 fine. Salesperson license revoked.

Disciplinary Actions / Stipulations (Continued)

NAME	EFFECTIVE DATE/ HEARING TYPE	ALLEGATIONS/ VIOLATIONS	DISCIPLINE/ SETTLEMENT
REX F. HENRIOTT B.17799 (Revoked) BUSB.6809 (Revoked) PM.163019 (Revoked)	September 2016 Contested	Commingled the money of his clients with his own or converted the money of others to his own use, violating NRS 645.630(1)(h) on 18 occasions. Additionally, failed to notify the Division of the names of the banks in which he maintained trust accounts; impeded or attempted to impede the Division investigation by supplying false information; failed to promptly deposit money in a separate checking account (located in a bank or credit union in this state) that was designated as a trust account; maintained a custodial or trust account from which money could be withdrawn without the signature of a licensee; failed to do his utmost to protect the public against fraud, misrepresentation or unethical practices related to real estate; failed to comply with a request by the Division to provide documents and/or a written response and failed to timely file an appeal.	\$252,500 fine. Real estate licenses and property manager permit revoked.
THOMAS G. MOLER B.1202 (Active) PM.162371 (Active)	September 2016 Contested	Failed to fully pay fine or timely file an appeal of the Notice of Violation with Imposition of Administrative Fine from May 2015. He had been fined \$2,000 for failing to collect rent from a tenant for months without late fees assessed or eviction pursuant to the contract, and for failing to timely turn over the security deposit to the new property management company.	Ordered to pay balance on \$2,000 fine within 30 days.
CATHERINE C. RAMUS B.13221 (Revoked) PM.0163936 (Revoked)	June 2016 Stipulated Settlement	Committed 18 violations of NRS 645.252 (2) by allowing her clients' trust accounts to become overdrawn resulting in bank fees being charged against owner funds. Committed 8 violations of NRS 645.630 (1)(f) by failing to account for and/or remit client funds within a reasonable time. Committed 39 violations of NRS 645.630(1)(h) by comingling and or converting client trust account funds with her own, using client funds for office expenses, personal medical bills and cash withdrawals.	\$14,000 fine. Real estate license and property management permit revoked.

**3,782
EXPIRED**

As of January 2017, the following number of real estate licenses in the Division system are expired:

- Broker: 551
- Broker-Salespersons: 706
- Salespersons: 2,525
- Total: 3,782

A real estate license must be renewed within one year of its expiration date or it will be permanently closed. To check the status of a license, go to [License Lookup](http://red.nv.gov) at <http://red.nv.gov>.

Disciplinary Actions / Stipulations (Continued)

NAME	EFFECTIVE DATE/ HEARING TYPE	VIOLATION OR STIPULATION	DISCIPLINE/ SETTLEMENT
MARTY ZABIB B.1001012 (Revoked) BS.1001012 (Revoked) PM.163861 (Revoked)	September 2016 Contested	Violated NRS 645.630(1)(a) by making material misrepresentations regarding the supposed purchase of a property. Violated NRS 645.633(1)(h) pursuant to NAC 645.605(6) by breaching his obligation of absolute fidelity to his principals' interest, which shows gross negligence and incompetence. Also, converted the money of others to his own use, failed to maintain a place of business within the state, failed to provide requested documents to the Division, and failed to supply a written response to the Division.	\$60,000 fine. Real estate licenses and property management permit revoked.
ARTUR TERABELIAN B.60225 (Active) BS.60225 (Closed) PM.165519 (Active)	September 2016 Contested	Misrepresented himself in a property management agreement and residential lease agreement as a broker when he was not licensed as a broker, a violation of NRS 645.630(1)(a) . Also, violated NRS 654.633(1)(i) by having his broker's signature forged upon real estate transaction documents.	\$12,000 fine. Agency: 6 hours Ethics: 6 hours
STEVEN ABOULAFIA S.40153 (Active)	February 2016 Contested	Respondent violated NRS 645.995 by failing to notify the Division of a felony conviction and plea agreement. He was adjudicated guilty pursuant to a plea agreement entered for a felony harboring illegal aliens. Additionally, being convicted of a felony relating to the practice of the licensee violated NRS 645.633(1)(d)(1) and/or (2) .	\$20,000 fine. WELSK: 3 hours Ethics: 3 hours Agency: 3 hours Contracts: 3 hours

DEPARTMENT OF BUSINESS AND INDUSTRY
REAL ESTATE DIVISION

realest@red.nv.gov

<http://red.nv.gov>

OPEN RANGE DISCLOSURE

Open Range Disclosure – [Form 551](#)

The Open Range disclosure informs the buyer of property adjacent to open land that livestock grazing on the adjacent land may be permitted to enter the property. The disclosure also informs the buyer that the property may be subject to county or State rights of way. [NRS 113.065](#).

When Is the Open Range Disclosure Required?

When improved or unimproved property for sale is adjacent to:

- a) public lands;
- b) pre-existing R.S. 2477 rights of ways;
- c) existing easements that may be unrecorded, undocumented or unsurveyed.

Who must provide the Disclosure?

The seller of the property adjacent to open range must provide the disclosure to the prospective buyer of the property.

[NRS 113.065](#) requires the seller to:

- Disclose to the purchaser information regarding grazing on open range;
 - Retain a copy of the disclosure document signed by the purchaser acknowledging the date of receipt by the purchaser of the original document;
 - Provide a copy of the signed disclosure document to the purchaser; and
- Record, in the office of the county recorder in the county where the property is located, the original disclosure document that has been signed by the purchaser.

When must the Disclosure be provided?

The prospective buyer must receive and sign the disclosure form acknowledging the original date of receipt of the disclosure **before the sales agreement is signed**.

What should the licensee do?

The listing agent of a property that has open range or unimproved land adjacent to the listed property should be alerted to investigate county or State records for information about the adjoining land, or advise the seller to do so.

If records do not reveal any easements or rights of way, the licensee should counsel the seller to exercise caution by disclosing the possibility that roaming livestock, rights of way or easements could exist that would affect the prospective buyer's use and enjoyment of the property. The Open Range disclosure is recommended regardless of whether the adjoining land is fenced off or unfenced.

JUDGMENT CLAIMS PAID FROM RECOVERY FUND

A December 2016 judgement claim in the amount of \$8,990 was ordered by the Justice Court and approved by Administrator Sharath Chandra for payment to Rodolfo Gutierrez and Cruz Sanabria from the Real Estate Education, Research and Recovery Fund (ERRF) in settlement of claims against licensee Benjamin Donlon and Mike Donlon Realty Inc.

Pursuant to NRS 645.847, Donlon's real estate license is suspended and he

may not hold an active license in Nevada until he repays the fund in full, plus the required interest.

A separate claim for \$1,500 by Helen Moshayedi against Kirk Niesen was approved in September. Niesen's license was previously revoked by Real Estate Commission order in October 2014.

In cases of fraud, misrepresentation or deceit, the law permits recovery of

final court judgments against real estate agents of up to \$25,000 per licensee. Claims by petition from the judgment-rendering court may be made to the Administrator, and claimant must show that all reasonable efforts to obtain payment from the judgment debtor have been exhausted. Only awarded damages are recoverable; the costs and expenses of litigation cannot be claimed from the Fund. ◀

DIVISION UPDATES

NEW HIRE

REAL ESTATE EDUCATION
Kimberly Smith, CE Program Supervisor

POSITION CHANGE

OMBUDSMAN'S OFFICE
Ingrid Trillo, Education and Information Officer

REAL ESTATE COMPLIANCE
Holly Ducharme, Administrative Assistant III, Trust Account Reviews
Maria Martin, Investigator I

Trust Accounting Management and Compliance: CE Class

PRE-REGISTRATION REQUIRED!

LAS VEGAS

Grant Sawyer Building
Room 1100,
555 E Washington Ave.,
Las Vegas, NV 89101

February 8

9 a.m. – Noon

March 29

9 a.m. – Noon

May 3

9 a.m. – Noon

<http://red.nv.gov/tar/>

Real Estate Statistics through December 2016

	BROKER		BROKER SALESPERSON		SALESPERSON		TOTALS	
County	Active	Inactive	Active	Inactive	Active	Inactive	Active	Inactive
Unknown	33	0	28	5	123	14	214	19
Carson City	38	28	38	9	146	30	222	67
Churchill	13	11	5	3	46	9	64	23
Clark	1,792	403	2,195	417	12,401	1,846	16,388	2,666
Douglas	66	16	72	16	247	38	385	70
Elko	21	4	18	7	68	15	107	26
Esmeralda	0	0	0	0	1	0	1	0
Eureka	1	1	0	0	1	0	2	1
Humboldt	6	4	3	4	24	1	33	9
Lander	2	1	2	0	3	0	7	1
Lincoln	3	1	0	0	5	2	8	3
Lyon	27	10	19	7	114	18	160	35
Mineral	1	0	0	0	2	1	3	1
Nye	35	9	14	11	100	24	149	44
Out Of State	317	101	225	103	536	247	1,078	451
Pershing	2	0	1	0	0	0	3	0
Storey	1	0	1	0	4	1	6	1
Washoe	390	182	411	105	2,052	283	2,853	570
White Pine	3	0	3	1	5	3	11	4
Total	2,751	771	3,035	688	15,878	2,532	21,664	3,991