

**NEVADA COMMISSION OF APPRAISERS OF REAL ESTATE
MEETING
APRIL 24, 2024, MINUTES**

**VIA IN PERSON AND WEBEX VIRTUAL MEETING
APRIL 23, 2024**

Nevada State Business Center
3300 W. Sahara Avenue
4th Floor, Nevada Room
Las Vegas, Nevada 89102

VIDEO CONFERENCE TO:
Nevada Division of Insurance
1818 East College Parkway
Suite 103
Carson City, Nevada 89706

1) Commission/Division Business:

- A) President Wright called the meeting to order at 9:05 A.M.
Introduction of Commissioners in Attendance: John Wright, Larry Michael Gandy Jr., Scott Krueger, Timothy O'Brien, and John Ivey, a quorum was established.

Commission Counsel: Deputy Attorney General, Ziwei Zheng.

B) Introduction of Division Staff in Attendance

Sharath Chandra, Administrator; Charvez Foger, Deputy Administrator; Shareece Bates, Administration Section Manager; James Silva, Compliance Audit Investigator; Kelly Valadez, Commission Coordinator; and Maria Gallo, Commission Coordinator.

Phil Su, Senior Deputy Attorney General, and Christal Keegan, Deputy Attorney General representing the Division.

2) Public Comment

None

3) Discussion and Decision Regarding Respondent's Petition for Reconsideration of Education:

A. NRED v. Nathan S. Slaman, for possible action

Case Nos. 2017-2137, AP18.003.S; 2020-787, AP21.012.S and 2021-299, AP21.034.S

License No. A.0006908-CR (Active)

Parties Present

Christal Keegan, Deputy Attorney General, was present representing the Division.

Nathan Slaman, Respondent, was present.

Ms. Keegan stated this was Mr. Slaman's petition and he has burden of proof and should state his case first.

Mr. Slaman stated one of the courses that was agreed to in his global settlement was a 30-hour USPAP class, that is no longer offered by any provider of appraisal education. Mr. Slaman asked what other course he could take to fulfill his obligation. Mr. Slaman stated there is a 15-hour USPAP class he could take, and he would also be required to take a 7-hour USPAP class when he renews his license so that would make a total of 22-hours of USPAP.

President Wright asked Division staff if there is a 30-hour USPAP class.

James Silva stated there is not a 30-hour USPAP class.

Commissioner O'Brien stated the Appraisal Foundation offers a 7-hour update course and a 15-hour USPAP course, typically used for pre-licensing and/or disciplinary matters. Commissioner O'Brien stated the 15-hour course is a more thorough view of the course.

Ms. Keegan stated Mr. Slaman had 3 cases that were consolidated into one global settlement. Ms. Keegan stated there were many USPAP violations within those cases and he should be required to take the 30 hours of continuing education (CE) that was agreed to in the global settlement, and the State is opposed to Mr. Slaman asking for a reduction in the total number of CE credits. Ms. Keegan also stated that the request for reconsideration is untimely as it comes nearly one-year after the signed settlement.

The Commissioners questioned Mr. Slaman.

The Commissioners discussed the disciplinary action to take against the Respondent.

Commissioner O'Brien moved that in case NRED v. Nathan S. Slaman, License No. A.0006908-CR to accept the 2024-2025 15-hour USPAP class in lieu of the requirement of the not less than a 30-hour USPAP class and that it will not count towards the renewal of his license. Seconded by Commissioner Krueger. Motion passed.

4) Discussion and Possible Action Regarding Respondent's Motion To Reconsider Revocation Order:

A) NRED v. THOMAS L. WITHERBY, for possible action

Case No. 2020-492, AP21.04.S

License No. A.0001528-CR (Revoked)

Parties Present

Christal Keegan, Deputy Attorney General was present representing the Division.

Ellsie Lucero, Esq., was present representing the Respondent.

Thomas Witherby, Respondent, was present virtually.

Preliminary Matters

Ms. Keegan stated in NRS 241.020 the Commission cannot act on items that are not listed on the agenda. Ms. Keegan stated Mr. Witherby's motion is for reconsideration of the revocation order and was not requested or noticed as a rehearing. Ms. Keegan stated Mr. Witherby had a chance to present his case and wants the Commission to stay focused on the reconsideration of the revocation order. Ms. Keegan stated the Commission should not take any action for the reconsideration of the fine and costs, Mr. Witherby's motion specifically asked for the reconsideration of the revocation order. Ms. Keegan stated Mr. Witherby is represented by counsel and they did not amend their motion and they also did not clarify when submitting their opposition. Ms. Keegan stated she will defer to the Commission on how

they want to handle oral arguments. Ms. Keegan stated that Mr. Witherby just filed an opposition to the motion to dismiss last week and Ms. Keegan would like an opportunity to give a response.

Ms. Lucero stated the content of the motion does mention revocation and fine. Ms. Lucero stated their intent is to ask the Commission to reconsider the severity of the discipline imposed in the Order that was issued on October 10, 2023, based on a default. Ms. Lucero stated Mr. Witherby's license was "closed" at the time of the order and Mr. Witherby could not have reinstated his license because he moved to Florida to take care of his parents. Ms. Lucero stated the Commission imposed a fine of \$10,000 per violation and the allegations of law, when taken as true during a default, do not warrant that harsh of a fine. Ms. Lucero stated that although there were errors in Mr. Witherby's report, there was no harm done to the public and the impact of the severity of the discipline on Mr. Witherby was great. Ms. Lucero stated that because this discipline is reported to the ASC database, Mr. Witherby cannot get work in Florida as an appraiser. Ms. Lucero stated when Mr. Witherby tried to get work in another field, he still could not get work because of the revocation. Ms. Lucero stated Mr. Witherby recently received a letter from Florida stating his appraiser license will be revoked based on the Nevada revocation order. Ms. Lucero stated that Mr. Witherby is unable to work, the \$60,000 fine is more than a normal person could afford and has had a significant impact on his life. Ms. Lucero asked the Commission to consider a \$1,000 fine per violation and a reversal of the revocation to enable Mr. Witherby to earn a living, as the Commission discussed during the October 2023 hearing. Ms. Lucero cited NRS 645C.460 and NRS 645C.525 in support of her position that the Commission may reconsider the Order.

Ms. Keegan stated pursuant to NRS 233B.130, Mr. Witherby's request is untimely. Ms. Keegan stated the Commission may be wondering why this case is on the agenda because the Division has a favorable court decision, the court upheld the Commission's order revoking the license and the maximum fine, so the Commission does not need to reconsider anything at this point. Ms. Keegan stated doing so will create problems that will undermine the original Order. Ms. Keegan stated the Commission also does not have jurisdiction due to the untimeliness of the request.

Ms. Lucero stated it was Ms. Keegan who suggested they file the motion to try and find some relief from the severity of the order. Ms. Lucero stated the Commission is the entity that is tasked with enforcing disciplinary action, and they are present to ask the Commission to reconsider the severity of the disciplinary action. Ms. Lucero stated this case is not about fraud, it is about minor mistakes and now Mr. Witherby cannot work and cannot pay the \$60,000 fine.

President Wright asked Commission Counsel whether the Commission has the jurisdiction to reconsider their prior default order.

Ms. Zheng stated this case has been heard at least two times before the Commission and the District Court has affirmed the Commission's decision. As Commission Counsel, Ms. Zheng advised the Commission not to reopen the facts of the case, as that might set a precedent for other cases. Ms. Zheng stated there are two choices for Mr. Witherby's counsel, they can have the parties stipulate on the side for a payment plan, or they can file a motion for modification of the fees. Ms. Zheng stated again that counsel would highly advise not to reopen the facts of the case.

Ms. Lucero asked for the statute referencing modification of the fees.

Ms. Zheng stated the statute was NRS 233B.131.

Ms. Keegan stated that under NRS 233B.131(3) modification of a decision can happen only after receipt of additional evidence and additional evidence has not been presented in this case. Ms. Keegan stated the State's position is supported by NRS 233B.130 (4). Ms. Keegan stated the request was for the Commission to reconsider their prior revocation order which is subject to a 15-day window which has long since passed.

President Wright restated the motion before the Commission is the reconsideration of the revocation order.

Commissioner O'Brien deferred to the legal opinions cited and without new evidence being presented, does not believe the Commission has authority.

President Wright restated that the court did affirm the decision and denied the petition for relief. The Commissioners discussed the disciplinary action to take against the Respondent.

Commissioner Ivey stated he did not see a reason to reconsider the order.

Commissioner Gandy stated it was impracticable to reconsider the order without a rehearing of the case that may change the outcome.

Commissioner O'Brien stated in the case NRED v. Thomas L. Witherby Case No. 2020-492, AP21.04.S License No. A.0001528-CR (revoked) move that the motion to reconsider revocation order is rejected. Seconded by Commissioner Gandy. Motion carried.

5) Discussion and Possible Action By the Commission:

A) NRED v. BRADLEY W. CORN, for possible action

Case No. 2021-512 AP21.038.N

License No. A.0005827-CR (Inactive)

Parties Present

Phil Su, Senior Deputy Attorney General was present representing the Division.

Preliminary Matters

Mr. Su gave a preliminary history of the case.

Mr. Su stated because neither the Respondent nor legal counsel was present this case should proceed as a default case.

Maria Gallo testified to the certificate of mailing and proof of service of the documents.

Mr. Su moved that certificate of mailing and proof of service into the record.

President Wright moved that certificate of mailing and proof of service was given.

Mr. Su moved to admit State's exhibits 1-107 into the record.

President Wright moved to admit State's exhibits 1-107 into the record.

Mr. Su moved that this case should be a default case and that all factual allegations and violations of law are true.

Commissioner O'Brien moved that case NRED v. Bradley W. Corn Case No. 2021-512 AP21.038.N License No. A.0005827-CR (Inactive) proper delivery of service was proven. Seconded by Commissioner Krueger. Motion Passed.

Mr. Su gave a summary of the case.

Commissioner O'Brien moved that case NRED v Bradley W. Corn Case No. 2021-512 AP21.038.N License No. A.0005827-CR (Inactive) should proceed as a default case and the factual allegations and violations of law are true. Seconded by Commissioner Krueger. Motion Passed.

Mr. Su stated the recommended discipline is \$10,000 for each of the fourteen (14) violations of law, revocation of license and the Division's fees and costs.

Ms. Gallo gave testimony to the reasonable, actual, necessary fees and costs of the Division in the amount of \$5,619.51

The Commissioners discussed the disciplinary action to take against the Respondent.

Commissioner O'Brien moved for revocation of Respondent's license in case NRED v. Bradley W. Corn Case No. 2021-512 AP21.038.N License No. A.0005827-CR (Inactive). Seconded by Commissioner Gandy. Motion carried.

Commissioner O'Brien moved for the Division's fees and costs of \$5,619.51 in case NRED v. Bradley W. Corn Case No. 2021-512 AP21.038.N License No. A.0005827-CR (Inactive) be paid within eighteen (18) months. Seconded by Commissioner Gandy. Motion carried.

Commissioner O'Brien moved in case NRED v. Bradley W. Corn Case No. 2021-512 AP21.038.N License No. A.0005827-CR (Inactive) that the Respondent pay \$140,000 in administrative fines within eighteen (18) months. Seconded by Commissioner Krueger. Motion carried.

6) Commission/Division Business:

A) Discussion regarding the Administrators report.

Sharath Chandra stated there are two updates to go over, the technology update is progressing forward with the goal to get everything up in running in a year from now. Mr. Chandra stated the second update is the work has begun for the next legislative agenda and the Division is pushing for self-funding. Mr. Chandra stated that opening a northern office to share in the workload and northern licensees can engage with the Division is important and tied into self-funding. Mr. Chandra stated the Division has found a new Appraisal Program Manager – Rebecca Bruce, who has been with the State for many years and with the Division for 6 years as a Real Estate Compliance Audit Investigator.

President Wright asked when a workshop for Practical Applications of Real Estate Appraisal (PAREA) would take place.

Mr. Chandra stated the Division is in the process of completing a regulation for Real Estate. Afterwards, the Division will work on proposed regulations including PAREA, processes for interns and a few other things. The Division will then bring the regulation to the commission during a public workshop. Mr.

Chandra stated the Division is a little behind in their timeline before a PAREA or regulation workshop can be done.

Commissioner O'Brien asked if the Division could utilize a "newsletter" to get the word out to appraisers about "what you do when you get a complaint". Commissioner O'Brien stated because the Commission had two cases come before them where the Respondent was not present to defend themselves, which led to the maximum penalties levied against them.

Mr. Chandra stated that was a great suggestion which could be a benefit to other Commissions. Mr. Chandra stated it's important that licensees abide by the rules and understand that part of the enforcement process is the levying of fines. Mr. Chandra stated there is an educational element as well. Mr. Chandra stated the Division has a new Publications Writer that might be able to get a newsletter together like the previous Program Manager had before, or the Division could send out an "Informational Bulletin" about this issue.

B) Discussion regarding the Disciplinary Report.

Shareece Bates presented this report. The Commission was provided with the report in the meeting packet.

C) Discussion regarding Appraisal Program Manager's report on compliance caseload.

James Silva presented this report. The Commission was provided with the report in the meeting packet.

President Wright asked if the State is out of compliance with the number of cases that are over 365 days old.

Mr. Silva stated technically "yes" however during the federal audit they were sympathetic to the State's employee turnover, the problem is having Standard 3 reviews done on some of the cases.

Commissioner O'Brien asked if we are having problems getting Standard 3 reviewers in certain parts of the state.

Mr. Silva stated there used to be 3 reviewers in the North and 4 reviewers in the South, now there is 1 reviewer in the South and 1 reviewer in the North that the Division is having a hard time contacting.

Mr. Chandra stated this is an issue for the new Program Manager, to figure out if we must cast a wide net to find the right people.

Charvez Foger stated he was working with the previous Program Manager to go outside of the State to find Standard 3 reviewers especially for Northern Nevada.

President Wright asked if those potential reviewers must obtain a Nevada Appraisal license and the problem is getting reviewers for Northern Nevada that are Certified Residential or Certified General.

Mr. Foger stated those potential reviewers must obtain a Nevada license and both Certified Residential and Certified General Appraisers are needed.

Ms. Bates stated a Request for Proposal (RFP) was issued last year for 3 months and currently we are working with 1 Standard 3 reviewer that only wants to work on properties in the South.

Commissioner O'Brien stated he is happy to provide guidance if the Division needs people in the North. Commissioner O'Brien stated at the time the RFP's were issued everyone was working, however now work has slowed down.

D) Discussion and possible action to review the 2024 edition of the Uniform Standards of Professional Appraisal Practice (USPAP) published by The Appraisal Foundation for its suitability in this State pursuant to NAC 645C.400.

Commissioner O'Brien moved to adopt the 2024 edition of the USPAP as the current standard. Seconded by Commissioner Gandy. Motion carried.

E) For possible action: Discussion and possible action to approve the minutes for the January 16-17, 2024, meeting.

Commissioner Gandy moved to approve the minutes for the January 16-17, 2024, meeting. Seconded by Commissioner Krueger. Motion carried.

7) FOR POSSIBLE ACTION: DISCUSSION AND DECISION ON DATE, TIME, PLACE, AND AGENDA ITEMS FOR UPCOMING MEETING(S).

The next CARE meeting: July 23-25, 2024

Commissioner O'Brien asked to have an agenda item about "valuation of short-term rentals".

8) PUBLIC COMMENT:

Commissioner Wright thanked Division staff for their efforts to fill the gaps when staffing issues occur.

9) FOR POSSIBLE ACTION: ADJOURNMENT

The meeting was adjourned at 11:50 AM

Minutes Prepared by: _____
Maria Gallo, Commission Coordinator