

NEVADA REAL ESTATE COMMISSION
MINUTES

OCTOBER 5, 2016
The Legislative Building
401 South Carson Street
Room 2134
Carson City, Nevada 89701

VIDEO CONFERENCE TO:
Grant Sawyer Building
555 East Washington Avenue
Room 4412
Las Vegas, Nevada 89101

The meeting was called to order at 9:00 AM

1-A) INTRODUCTION OF COMMISSIONERS IN ATTENDANCE

Lee Barrett, Clark County; Devin Reiss, Clark County; Norma Jean Opatik, Nye County; Sherrie Cartinella, Washoe County; and Neil Schwartz, Clark County
Commission Counsel: Sarah Bradley, Senior Deputy Attorney General

1-B) INTRODUCTION OF DIVISION STAFF IN ATTENDANCE

In Carson City

Sharath Chandra, Michael Jory, Jan Holle, Jaye Lindsay, and Rebecca Hardin

In Las Vegas

Teralyn Thompson, Safia Anwari, Lenora Mills, Susan Clark, and Sandra Saenz

2) PUBLIC COMMENT

Arthur Mann stated that he had requested that his class be put on the October agenda for consideration, but it was not on the agenda.

Sarah Bradley stated that Mr. Mann could comment on the class but the Commission could not make any decision because the item was not on the current meeting's agenda.

President Schwartz stated that the Division would investigate the matter so the class could be put on the December meeting agenda.

Cherie Williams, Chief Executive Officer with the Reno/Sparks Association of Realtors, read a letter regarding the structure of post-licensing education into the record (see attached).

Ms. Williams read a letter commenting on the definition of the law/legislative designation and how it is defined by the Division.

Teresa McKee, Chief Executive Officer for with the Nevada Association of Realtors, welcomed the new Real Estate Division Administrator Sharath Chandra.

Administrator Chandra introduced himself and gave a brief overview of his background and hopes for the future of the Division.

Candice Hulery, broker at Keller Williams Realty in Sparks, commented on the regulation NAC 645.610(1)(e), regarding using a name other than the name appearing on a licensee's license. Ms. Hulery proposed being able to use a fictitious name or a dba name to allow a licensee to continue doing business with their established business name after there has been a name change (such as marriage).

3) REGULATION WORKSHOP FOR LCB FILE NO. R004-16

Workshop started at 9:30 AM on October 5, 2016.

Members of the Commission Present: Commissioners Schwartz, Opatik, Cartinella, Reiss, and Barrett
Acting as Commission Council: Sarah Bradley

Division Staff Present in Las Vegas and Carson City:

Sharath Chandra, Michael Jory, Jan Holle, Jaye Lindsay, Rebecca Hardin, Safia Anwari, Lenora Mills, Susan Clark, Sandra Saenz, and Teralyn Thompson

Section 1: No comment.

Section 2: No comment.

Section 3:

Cindy Weber, ABC Real Estate School, requested more concrete information on what the Division was looking for and how a credit report would be evaluated.

Licensing Manager Susan Clark stated that the language that has been in the regulation regarding liquid assets and bank statements had been found over the years to not be a good representation of what an applicant for a broker's license financial condition is. Ms. Clark stated that the language for obtaining a credit report has been in the regulation for many years but the Division relied on submitting bank statements. Ms. Clark stated that going forward the intent was to obtain a standard credit report.

President Schwartz asked if the Division had any definition of a poor credit report and any guidelines on how that judgement would be made.

Sarah Bradley stated that the Division should put the standards that were going to be used into regulation so the public would know the requirements.

Commissioner Opatik suggested setting a definite number on the FICO score.

Sarah Bradley stated that if the Division set a specific number, it would be bound by that number, which may be subject to fluctuation for a variety of reasons.

Teralyn Thompson stated that she didn't believe the intent of the Division was to just use the credit report when determining a broker's financial standings.

Steven Goldman, Realty One Group, stated that a credit report is not a FICO score and the regulation should state a credit score if that's what the Division is looking for.

Section 4: No comment.

Section 5: No comment.

Section 6: No comment.

Section 7: No comment.

Section 8: No comment.

Section 9: No comment.

Section 10: No comment.

Section 11:

Cindy Weber, ABC Real Estate School asked if the Division had any plans to increase the maximum amount of hours available for attending Commission meetings.

Commissioner Opatik stated that the majority of the Commission felt that increasing the amount of continuing education credits available for attending Commission meetings was worth pursuing.

Ben Florsheim, Harcourts NV1, questioned the use of the July 1, 2015 date in regards to the four year licensing period throughout, because that date would be irrelevant as of July 1, 2017.

Teralyn Thompson stated that the July 1, 2015 date for four-year licensees will be applicable until July 1, 2019.

Section 12: No comment.

Section 13: No comment.

Ms. Thompson read the repealed sections of 645.120 and 645.799.

The workshop was closed at 10:20 AM.

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

Administrator Chandra stated that Continuing Education Program Supervisor, Ingrid Trillo, had taken the Education Information Officer position under the Ombudsman.

Mr. Chandra stated that two vacant positions in the Licensing section had been filled.

4-A-2) Discussion Regarding Administrator's Report on the Division's Las Vegas Office Moving to Another Location

Mr. Chandra stated that the Real Estate Division would be moving from the Bradley Building on East Sahara to the Wells Fargo building on West Sahara in January 2017.

4-A-3) DISCUSSION REGARDING ADMINISTRATOR'S REPORT ON THE DIVISION'S BUDGET.

Administrator Chandra stated that the Division had taken existing numbers and projected them out and came in at a flat budge, therefore it is essentially a continuation of what the Division had in the past. Mr. Chandra stated that the first priority would be to get positions currently funded on a temporary funding stream into the regular budget.

Mr. Chandra stated that although the budget enhancements were not expected, the Division would start looking at opportunities within the budget that focus on technology.

4-B) DISCUSSION REGARDING THE DISCIPLINARY REPORT

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

4-C) COMPLIANCE SECTION'S CURRENT CASELOAD REPORT AND TOTALS FOR FY2016, INCLUDING A SUMMARY OF RECENT TOPICS OF COMPLAINTS FILED

Jan Holle presented this report. Mr. Holle summarized the reports.

Mr. Holle listed the current issues under investigation.

Commissioner Opatik asked if Mr. Holle had begun the 546A requirement for all brokers.

Mr. Holle stated that there was a new requirement, as of July, that all brokers are to submit either a trust account reconciliation if they have trust accounts or an affidavit, which is form 546A, that states that they are not required to submit reconciliations to the Division. Mr. Holle stated that the purpose of the requirement is so the Division would have an idea of what a broker is or isn't doing

Commissioner Barrett stated that most people do not have a real understanding of how much is done when the Division gets notification of an issue before a complaint is actually being filed

Mr. Holle stated that he reviews every complaint and looks for whether the Division has jurisdiction over the issue that's being alleged; if there is a possibility that an issue can be resolved or whether it is something that needs to be investigated.

Mr. Holle stated that approximately 75% of licensees had fines and the majority of the fines were for mid-term education. Mr. Holle stated that a mid-term education fine is discipline and it is recorded as such on a licensee's record.

4-D) ADMINISTRATIVE SANCTION REPORT

Chief Investigator Jan Holle presented this report and summarized changes since the last meeting.

4-E-1) CONTINUING EDUCATION SUPERVISOR'S REPORT ON CONTINUING EDUCATION COURSE AUDIT PROGRAM REPORT

Safia Anwari presented this report.

President Schwartz explained the continuing education course program.

4-E-2) CONTINUING EDUCATION SUPERVISOR'S REPORT ON CONTINUING EDUCATION CERTIFICATE ISSUES AND MIDTERM EDUCATION RECORD-KEEPING

Safia Anwari presented this report. Ms. Anwari stated that certificates issued without license numbers is an ongoing issue.

President Schwartz clarified that it was the sponsor's responsibility to put license numbers on the certificates, not licensees.

Commissioner Opatik asked if certificates had been corrected to reflect the fact that the Division has approved them with the permission of the Commission.

Safia Anwari stated that certificates had been corrected and all sponsors had been notified.

President Schwartz asked about the possibility of requiring sponsors to use the certificate provided by the Division.

Safia Anwari stated that it was not in regulation so the Division could not require using that certificate.

4-E-3) CONTINUING EDUCATION SUPERVISOR'S REPORT ON CONTINUING EDUCATION AND POST EDUCATION ROSTER UPLOAD SUBMITTALS ISSUES

Safia Anwari stated that the rosters were coming in without issues.

President Schwartz asked about issues with My Account on the Division's website.

Safia Anwari stated it was going well and the numbers had gone up.

4-F) DISCUSSION AND DECISION REGARDING THE DIVISION'S PROPOSED STRUCTURING OF THE NAC 645.4442 POST-LICENSING EDUCATION CURRICULUM INTO A 5-DAY PROGRAM OF PRESCRIBED SESSIONS

President Schwartz talked about the background of post-licensing education.

Cherie Williams stated that it was difficult for licensees who start a program with one sponsor and had to move to another sponsor because the classes were not designed the same. Ms. Williams stated that consistency in scheduling is important with the starting time and hours of each being the same each day.

President Schwartz stated that modules should be in the order most important to new licensees, starting off with professionalism and things of that nature.

Commissioner Opatik stated that there should be something in the outline to clarify that there should be a quiz at the end of each module.

President Schwartz stated that some topics had been shortened, some topics had been lengthened and that the logistics of putting the classes in the proper order resulted in two of the five days scheduled being a different length than the remaining three days.

Commissioner Reiss stated that he would like to eliminate AM/PM from the schedule so modules could be offered one at a time for more than five days.

Ms. Williams asked about the plan to lessen the amount of time licensees have to complete their post-licensing education from twelve to six months.

President Schwartz stated that it would require a legislation change and that he was going to move forward to find a way to get that changed.

4-G) DISCUSSION AND DECISION REGARDING PROPOSED CHANGES, ADDITIONS AND DELETIONS TO NAC 645 INCLUDING BUT NOT LIMITED TO: LCB FILE NO. R004-16; INCLUDING REVIEW OF PUBLIC COMMENTS FROM THE REGULATION WORKSHOP HELD OCTOBER 5, 2016.

Commissioner Reiss stated that he was fine with everything.

Commissioner Opatik commented regarding the law and legislature classes that were discussed. Ms. Opatik stated that the emphasis of recent statutes needed to be removed and rephrased to state relative statutes.

Commissioner Reiss stated that it could just end at “Nevada law” without adding the emphasis.

President Schwartz stated the definition of law and legislative classes and that they are not supposed to contain just Nevada law.

Commissioner Reiss moved to accept the proposed regulation of LCB R004-16 with the changes mentioning “Nevada law with an emphasis on” to just say “Nevada law” and changes proposed by Ms. Thompson changing the difference between “issue” and “renew”. Commissioner Barrett seconded. Motion carried unanimously.

4-I) DISCUSSION REGARDING THE SEPTEMBER 21-25, 2016 ARELLO CONFERENCE ATTENDED BY COMMISSIONERS

President Schwartz stated that ARELLO stands for the Association of Real Estate License Law Officials. President Schwartz stated that three Commissioners attended the conference in Vancouver.

Commissioner Opatik stated that many of the speakers were extremely good and the round tables provided a lot of information. Ms. Opatik stated that Nevada is far beyond some of the other states; that some states do not license or permit property managers; and that other states have many of the same issues as Nevada.

Commissioner Barrett stated that he had attended the Commissioners College which gave insight and information on the pressures of and how to be a better commissioner.

President Schwartz stated that the Commissioners College talked about licensing, administration, policies, commissioner rights, duties and liabilities. Mr. Schwartz stated that attendance at this meeting is an absolute must in order for the leaders in the industry to stay current and on the leading edge to what’s happening in the industry.

5-1) DISCUSSION AND DECISION REGARDING RESPONDENT’S PETITION FOR RECONSIDERATION OF DISCIPLINARY TERMS: NRED V STEVEN ABOULAFIA - CASE # RES 14-02-44-515

Mr. Aboulafia was not present. This item was tabled.

6-1) LICENSE DENIAL APPEAL FOR DECISION: MICHAEL BATT - FILE NO. S-LDA-17-001

Licensing Manager Susan Clark was present in Las Vegas.
Michael Batt was present in Carson City.

Mr. Batt requested that the hearing be closed.

Commissioner Cartinella moved to go into closed session. Commissioner Barrett seconded. Motion carried unanimously.

The hearing was closed.

The hearing was reopened.

Commissioner Cartinella moved to allow Mr. Batt to have his Nevada real estate license. Commissioner Barrett seconded.

Commissioner Cartinella spoke in favor of her motion.

Commissioner Opatik spoke against the motion.

Commissioner Reiss spoke against the motion.

The motion failed 4-1 with Commissioner Cartinella voting in favor.

7-2) NRED v MARY E. MCQUATTIE - CASE # 2015-1825

Parties Present

Senior Deputy Attorney General Peter Keegan was present representing the Division.
Mary E. McQuattie was present.

Preliminary Matters

Mr. Keegan stated that he and Ms. McQuattie had stipulated to the admissibility of the documents each had provided to the other in advance of the hearing.

Mr. Keegan stated that Ms. McQuattie brought other documents to the hearing. Mr. Keegan stated that he had to review the new documents before stipulating to their admissibility.

Mr. Keegan stated that he would not object to the additional documents.

All documents were admitted into evidence.

Hearing

Mr. Keegan gave his opening statement.

Ms. McQuattie gave her opening statement.

State's Witness

Ms. McQuattie testified.

The Commission questioned Ms. McQuattie.

The State closed its case.

Respondent's Witness

Ms. McQuattie testified.

Mr. Keegan made a statement with respect to Ms. McQuattie's testimony.

Mr. Keegan questioned Ms. McQuattie.

Commissioner Barrett questioned Mr. Keegan.

Mr. Keegan gave his closing statement.

Ms. McQuattie gave her closing statement.

Commissioner Cartinella moved that factual allegations 1-5; 17-22; and 25 had been proven. Commissioner Barrett seconded. Motion carried unanimously.

Commissioner Reiss moved that factual allegation 6 was proven as stated, “Jim and Alex Kingzett and Marco and Karen Fiorello, entered into an Exclusive Right to Sell Contract, which engaged CIRES to list and sell real property referred to as the Geothermal Rail Industrial Development, LLC (“GRID”) and Geothermal Resources Industrial Park (“GRIP””, removing the date. Commissioner Cartinella seconded. Motion carried unanimously.

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

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

Commissioner Reiss moved that factual allegation 9 was proven. Commissioner Cartinella seconded. Motion carried unanimously.

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

Commissioner Reiss moved that factual allegation 11 was proven. Commissioner Opatik seconded. Motion carried unanimously.

Commissioner Reiss moved that factual allegation 12 was proven. Commissioner Barrett seconded. Motion carried unanimously.

Commissioner Reiss moved that factual allegation 13 was proven. Commissioner Barrett seconded. Motion carried unanimously.

Commissioner Reiss moved that factual allegation 14 was proven. Commissioner Barrett seconded. Motion carried unanimously.

Commissioner Reiss moved that factual allegation 15 was proven. Commissioner Opatik seconded. Motion carried unanimously.

Commissioner Reiss moved that factual allegation 16 was proven. Commissioner Barrett seconded. Motion carried unanimously.

Commissioner Reiss moved that violations 23 and 24 were proven. Commissioner Barrett seconded. Motion carried unanimously.

Division’s Recommendation for Discipline

Jan Holle stated that Division would recommend the following discipline:

- A total fine of \$10,500 plus investigation and hearing costs of \$2,632.94 payable within 6 months of the effective date of the order
- 9 hours of continuing education not to be counted toward license renewal; completed within 90 days of the effective date of the order. Classes must be live and consist of the following classes:
 - ↳ 3 hours of agency
 - ↳ 3 hours of contracts
 - ↳ 3 hours of ethics

Commissioner Reiss moved to accept the Division’s recommendation for discipline. Commissioner Barrett seconded. Motion carried unanimously.

4-J) DISCUSSION AND DECISION TO APPROVE MINUTES OF THE JULY 12-13, 2016 MEETING

Commissioner Barrett moved to approve the minutes. Commissioner Opatik seconded. Motion carried unanimously.

4-H) DISCUSSION REGARDING DIVISION'S REVISION TO THE DUTIES OWED BY A NEVADA REAL ESTATE LICENSEE FORM.

President Schwartz stated that it had been previously decided that the Commission did not want a two page form but wanted to have the supplemental page of licensees as a separate form and wanted the watermark "For Use If Required" removed from across the page.

The item was tabled.

8. PUBLIC COMMENT

None.

9) ADJOURNMENT

The meeting recessed at 4:30 PM.

OCTOBER 6, 2016
The Legislative Building
401 South Carson Street
Room 2134
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VIDEO CONFERENCE TO:
Grant Sawyer Building
555 East Washington Avenue
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Las Vegas, Nevada 89101

The meeting was called to order at 9:00 AM

1-A) INTRODUCTION OF COMMISSIONERS IN ATTENDANCE

Lee Barrett, Clark County; Devin Reiss, Clark County; Norma Jean Opatik, Nye County; Sherrie Cartinella, Washoe County; and Neil Schwartz, Clark County
Commission Counsel: Sarah Bradley, Senior Deputy Attorney General

1-B) INTRODUCTION OF DIVISION STAFF IN ATTENDANCE

In Carson City

Sharath Chandra , Rebecca Hardin and Michael Jory

In Las Vegas

Teralyn Thompson and Safia Anwari

2) PUBLIC COMMENT

None.

4-H) DISCUSSION REGARDING DIVISION'S REVISION TO THE DUTIES OWED BY A NEVADA REAL ESTATE LICENSEE FORM... continued from October 5th

Commissioner Opatik stated that it was determined that the documents would be divided into forms 525 and 525A so that it would not be a two-page printout. Commissioner Opatik stated that the other issue was when to use the supplemental list of licensees.

Commissioner Reiss stated that verbiage should be added underneath the top box of the form that would trigger someone looking at that page to know that there was a second page required.

Commissioner Opatik stated that limiting the amount of verbiage on the form might make more room on that page.

President Schwartz stated that the verbiage needed to be decided and asked whether the Commission needed to talk to the Division and counsel about exactly what should be put on the form because it is a Division form.

Administrator Chandra stated that the Commission needed to let the Division know all of the things of importance on the form and then the Division would put something together that incorporates most of the feedback.

Commissioner Cartinella asked if it was necessary to have additional licensees on the form.

Commissioner Barrett stated it was necessary because with technology and with people being able to get into files from the Internet, it would help prevent someone from seeing documents that they shouldn't be able to see.

Commissioner Reiss stated that everyone that has their hands on a client's file should be obligated the same way and have their name tied to those duties.

Commissioner Barrett stated that when we look at the duties owed, one of the first lines of the duties to the client is to exercise reasonable care which goes back to the fundamentals of why all of those team members should be on the form. Commissioner Barrett stated that they have an obligation of reasonable skill and care.

Commissioner Cartinella stated that it had to be very clear that the supplemental form was only necessary if there were additional licensees.

Safia Anwari stated that just a few words were necessary on the form to indicate whether or not the supplemental form was needed.

President Schwartz stated that the term “licensee” should be used instead of team member to avoid including non-licensed staff.

Commissioner Opatik stated that all brokers have to sit down with their associates and explain what the duties owed means.

Mr. Chandra stated that the Division would go back, review the notes, put the language together and run it by counsel to make sure it is correct.

Commissioner Cartinella asked if it would be required to use this supplemental form rather than another duties owed form.

Commissioner Opatik stated that individual licensees having individual forms creates the possibility of someone saying they only received one form. Ms. Opatik stated that by using the supplemental form, it indicates on the duties owed form that there are additional licensees and the supplemental form must be attached.

Commissioner Barrett stated that the supplemental form offered clarity of the agency relationship.

Commissioner Opatik requested that the separation of the forms be done before the December meeting.

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

Teralyn Thomson stated that the next Real Estate Commission meeting was scheduled for December 5th, 6th and 7th in the south. Ms. Thompson stated the Division would bring the Commission proposed meeting dates for 2017.

4-L) DISCUSSION REGARDING COMMISSIONER’S SPEAKING ENGAGEMENT REQUESTS AND GUIDANCE FROM COMMISSION COUNSEL REGARDING DISCLOSURES

Sarah Bradley stated that when a commissioner has a speaking engagement, they are speaking as a private individual and are not to speaking for the Commission unless specifically authorized to do so by the Commission.

4-M) COMMISSIONER COMMENTS.

Commissioner Cartinella stated that this would be her last meeting and that it had been a pleasure to serve.

President Schwartz thanked Commissioner Cartinella for her hard work.

Commissioner Opatik presented Commissioner Cartinella with a plaque in appreciation of all of her dedicated service to the real estate industry and to the Commission.

Commissioner Opatik stated that she appreciated all the work that staff had done.

Commissioner Reiss stated that he had enjoyed working with Commissioner Cartinella and commended President Schwartz on doing a great job at his first meeting at the helm.

Commissioner Barrett stated that it had been a great meeting and encouraged everyone to attend Commission meetings.

Commissioner Opatik stated that she wanted to put increasing the hours received for attending Commission meetings on the next agenda to discuss changing the continuing education numbers to allow licensees to attend more meetings for credit.

Commissioner Schwartz stated that he and Commissioner Opatik were developing a new class that was two-thirds based on the Commission, how it works, how to become a member, and how to file a complaint which is not covered in any present continuing education class.

Commissioner Opatik stated that she wanted licensees to come to every Commission hearing and if licensees can get some credits for every Commission hearing, there's liable to be more people to attend.

Commissioner Barrett stated that Commission meetings were a reality check for licensees and gives them the opportunity to see that there's a fair hearing; that there's due process; and there's a system in place to help them through the process.

Teralyn Thompson stated that Commissioner Opatik's suggestion of getting more than six credits within a licensing period would require a change to regulation.

5-1) DISCUSSION AND DECISION REGARDING RESPONDENT'S PETITION FOR RECONSIDERATION OF DISCIPLINARY TERMS: NRED v STEVEN ABOULAFIA - CASE # RES 14-02-44-515

Mr. Aboulafia was not present.

Commissioner Reiss moved to deny the request. Commissioner Cartinella seconded. Motion carried unanimously.

8) PUBLIC COMMENT

None.

9) ADJOURNMENT

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

The meeting was adjourned on October 6, 2016 at 10:00AM