

NEVADA REAL ESTATE COMMISSION
MINUTES

May 23, 2017

Nevada State Business Center
3300 West Sahara Avenue
4th Floor - Nevada Room
Las Vegas, Nevada 89102

VIDEO CONFERENCE TO:
Department of Business &
Industry Director's Office
1830 College Pkwy. – 1st Floor
Carson City, Nevada 89706

The meeting was called to order at 9:10 AM

1-A) INTRODUCTION OF COMMISSIONERS IN ATTENDANCE

Devin Reiss, Clark County; Lee Barrett, Clark County; Norma Jean Opatik, Nye County;
Wayne Capurro, Washoe County; and Neil Schwartz, Clark County
Commission Counsel: Deputy Attorney General Asheesh Bhalla

1-B) INTRODUCTION OF DIVISION STAFF IN ATTENDANCE

In Las Vegas: Administrator Sharath Chandra; Administration Section Manager Teralyn Thompson;
Commission Coordinator Rebecca Hardin; Chief Compliance Audit Investigator Jan Holle; Education &
Information Officer Safia Anwari; and Continuing Education Program Supervisor Kimberly Smith

Division Counsel: Sr. Deputy Attorney General Keith Kizer and Deputy Attorney General Donald Bordelove

In Carson City: Deputy Administrator Sharon Jackson

2) PUBLIC COMMENT

Candice Noel, Keller/Williams Realty, requested an amendment to NAC 645.110(1)(e) to allow the use of common names that were previously held with the Division. Ms. Noel stated that it affects licensees' financially to change a name that has been used for marketing for years.

3-G) DISCUSSION REGARDING PROPOSED CHANGES TO THE SELLER'S REAL PROPERTY DISCLOSURE FORM

David Sanders, General Counsel for the Greater Las Vegas Association of Realtors; Wendy Divecchio, CEO Greater Las Vegas Association of Realtors and Tiffany Banks, Nevada Association of Realtors were present to present this item.

Tiffany Banks, Nevada Association of Realtors, stated that she submitted written testimony regarding proposed changes to the Seller's Real Property Disclosure (SRPD) concerning solar panels and the Southern Nevada Water Authority (SNWA).

David Sanders, General Counsel for the Greater Las Vegas Association of Realtors, stated that the solar panel issue could derail a transaction and that currently there is no requirement to disclose the nature of solar panels. Mr. Sanders stated that it is in the best interest of both licensees and consumers to have that information disclosed early in the transaction by making it a part of the SRPD.

Mr. Sanders stated that another issue is the SNWA's Smart Landscape Program, which was created by NRS 111.390 through NRS 111.440 and allows any government agency and in some cases non-profit organizations to create a conservation easement over a property. Mr. Sanders stated that these easements would preclude future use and a potential buyer would not be aware of restrictions. Mr. Sanders stated that even though that information is provided on the title, it's not typically disclosed at the beginning of the transaction, which could cause problems.

The Commission supported the changes and suggested modification of the language for the solar panel.

Forrest Barbee, Berkshire Hathaway Home Service Nevada Properties, stated that he was in support of both of the changes because that information needs to be discovered even before the listing appointment.

President Schwartz stated that the language needed to be redone and reviewed by the Division and the Attorney General. President Schwartz suggested that it should also be included in the Disclosure Guide.

3-A-2) ADMINISTRATOR'S REPORT ON LEGISLATION THAT AFFECTS THE REAL ESTATE DIVISION AND THE REAL ESTATE COMMISSION

Administrator Chandra reviewed legislation affecting the Real Estate Division.

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

Administrator Chandra stated that the Education section had a number of new people.

Administrator Chandra stated that challenges with parking and signage at the new location were being worked on and should be resolved within the next 30 to 60 days.

Administrator Chandra stated that customer service interaction has increased by implementing a new process to handle walk-ins.

4-10) NRED v ANTHONY KERSHAW - CASE # 2015-2905

Commissioner Reiss recused himself citing prior conversations and knowledge.

Parties Present

Deputy Attorney General Donald Bordelove was present representing the Division.

Timothy Wiseman was present representing Mr. Kershaw.

Mr. Kershaw was not present.

Preliminary Matters

Mr. Wiseman requested a continuance on behalf of Mr. Kershaw.

Commissioner Opatik moved to grant the continuance. Commissioner Barrett seconded. Motion carried 4-0. Commissioner Reiss abstained.

4-11) NRED v BARBARA MARIN - CASE # 2015-3529

Parties Present

Deputy Attorney General Donald Bordelove was present representing the Division.

Barbara Marin was present via telephone.

Preliminary Matters

Mr. Bordelove stated that there was a settlement agreement.

Mr. Bordelove read the Jurisdiction, Summary of Factual Allegations Set Forth in Complaint, Summary of Violations Alleged in Complaint and Settlement into the record.

Settlement

Respondent agreed to the following:

- Voluntary surrender of all licenses, including real estate license and property management permit;
- Not to apply for any real estate license or permit in Nevada for three years from the effective date of the order.

Ms. Marin stated that she had read and understood the agreement.

Commissioner Capurro moved to accept the stipulation. Commissioner Opatik seconded. Motion carried 4-1 with Commissioner Barrett opposing.

4-13) NRED v YAWEN (AMY) PAN - CASE # 2016-974

Parties Present

Senior Deputy Attorney General Keith Kizer was present representing the Division.

Andrew Pastwick was present representing the Respondent.

Yawen (Amy) Pan was present.

Preliminary Matters

Mr. Pastwick stated that Ms. Pan was not acceptable to the plea agreement.

The hearing was recessed to allow Mr. Pastwick time to confer with Ms. Pan.

4-7) NRED v HEATHER HICKS - CASE # RES 14-10-09-122

Parties Present

Deputy Attorney General Donald Bordelove was present representing the Division.

Heather Hicks was present.

Preliminary Matters

Mr. Bordelove read the Jurisdiction, Summary of Factual Allegations Set Forth in Complaint, Summary of Violations Alleged in Complaint and Settlement into the record.

Settlement

Respondent agreed to the following:

- \$2,500.00 administrative fine plus \$500.00 costs for a total of \$3,000.00.
 - The fine is to be paid in monthly installments beginning with \$500.00 due 7 days from the effective date of the Order, followed by payments of \$50.00 on the 15th of each month thereafter until paid in full;
- Continuing education to completed within six months of the effective date of the Order to include:
 - 6 hours of agency
 - 6 hours of contracts
 - 6 hours of ethics

Ms. Hicks stated that she had read, agreed to and signed the stipulation.

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

4-13) NRED v YAWEN (AMY) PAN - CASE # 2016-974 (resumed)

Parties Present

Senior Deputy Attorney General Keith Kizer was present representing the Division.

Andrew Pastwick was present representing the Respondent.

Yawen (Amy) Pan was present

Preliminary Matters

Mr. Kizer stated that there was a proposed stipulation for settlement of disciplinary action.

Mr. Kizer read the Summary of Factual Allegations Set Forth in Complaint, Summary of Violations Alleged in Complaint and Settlement into the record.

Mr. Pastwick made a statement.

Ms. Pan made a statement.

Settlement

Respondent agreed to the following:

- Administrative fine of \$1,000.00 plus costs of \$250.00 totaling \$1,250.00 payable within 30 days of the date of the Commission's Order Approving Stipulation.

At the Commission's request the discipline was changed and the Respondent agreed to the following:

- Administrative fine of \$485.00 plus costs of \$765.00 payable within 30 days of the date of the Commission's Order Approving Stipulation.

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

4-16) NRED v GREGORY D. SMITH - CASE # 2015-2785

Parties Present

Senior Deputy Attorney General Keith Kizer was present representing the Division.

Gregory Smith was present.

Preliminary Matters

Mr. Kizer stated that the parties had stipulated to each other's documents, which were accepted into evidence.

Hearing

Mr. Kizer made his opening statement.

Mr. Smith made his opening statement.

State's Witness

Gregory Smith testified.

The Commission questioned Mr. Smith.

Mr. Kizer gave his closing statement.

Mr. Smith gave his closing statement.

President Schwartz read factual allegation 1 into the record.

Commissioner Reiss moved that factual allegation 1 was proven. Commissioner Opatik seconded. Motion carried unanimously.

President Schwartz read factual allegation 2 into the record.

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

President Schwartz read factual allegation 3 into the record.

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

President Schwartz read factual allegation 4 into the record.

Commissioner Opatik moved that factual allegation 4 was proven. Commissioner Reiss seconded. Motion carried unanimously.

President Schwartz read factual allegation 5 into the record.
Commissioner Capurro moved that factual allegation 5 was proven. Commissioner Opatik seconded.
Motion carried unanimously.

President Schwartz read factual allegation 6 into the record.
Commissioner Reiss moved that factual allegation 6 was proven. Commissioner Opatik seconded. Motion carried unanimously.

President Schwartz read factual allegation 7 into the record.
Commissioner Opatik moved that factual allegation 7 was proven. Commissioner Barrett seconded. Motion carried unanimously.

President Schwartz read factual allegation 8 into the record.
Commissioner Barrett moved that factual allegation 8 was proven. Commissioner Capurro seconded. Motion carried unanimously.

Factual allegation 9 was withdrawn by the State.

President Schwartz read factual allegation 10 into the record.
Commissioner Reiss moved that factual allegation 10 was proven. Commissioner Barrett seconded. Motion carried unanimously.

President Schwartz read factual allegation 11 into the record.
Commissioner Reiss moved that factual allegation 11 was proven. Commissioner Barrett seconded. Motion carried unanimously.

President Schwartz read factual allegation 12 into the record.
Commissioner Reiss moved that factual allegation 12 be amended to read, "Respondent failed to remit \$32,000.00 to Wong" was proven. Commissioner Barrett seconded. Motion carried unanimously.

President Schwartz read factual allegation 13 into the record.
Commissioner Reiss moved that factual allegation 13 be amended to read, "On or about November 7, 2014; Respondent admitted that he owed Wong \$32,000.00 and that Respondent would begin paying that money to Wong at a rate of \$5,000.00 per month starting on January 15, 2015" was proven. Commissioner Barrett seconded. Motion carried unanimously.

President Schwartz read factual allegation 14 into the record.
Commissioner Capurro moved that factual allegation 14 was proven. Commissioner Barrett seconded. Motion carried unanimously.

President Schwartz read factual allegation 15 into the record.
Commissioner Barrett moved that factual allegation 15 was proven. Commissioner Reiss seconded. Motion carried unanimously.

President Schwartz read factual allegation 16 into the record.
Commissioner Reiss moved that factual allegation 16 was proven. Commissioner Barrett seconded.

After discussion Commissioner Reiss withdrew his motion. Commissioner Barrett seconded the withdrawal.
Commissioner Reiss moved that factual allegation 16 amended to read, "After receiving Wong's Statement of Fact, Respondent now claims that he was entitled to the \$32,000.00 in compensation" was proven. Commissioner Barrett seconded. Motion carried unanimously.

Violation 17 was withdrawn by the State.

President Schwartz read violation 18 into the record.
Commissioner Capurro moved that violation 18 was proven. Commissioner Opatik seconded. Motion carried unanimously.

President Schwartz read violation 19 into the record.
Commissioner Opatik moved that violation 19 was proven. Commissioner Barrett seconded. Motion carried unanimously.

President Schwartz read violation 20 into the record.

Commissioner Reiss moved that violation 20 was proven. Commissioner Barrett seconded. Motion carried unanimously.

Recommendation for Discipline

Chief Compliance Audit Investigator Jan Holle stated that the Division recommended the following:

- Fine of \$15,000.00
- Hearing and investigation costs \$1,511.72
- Revocation of Respondent's real estate license and property manager permit.

Mr. Smith made a statement.

Commissioner Barrett moved to accept the recommendation of the Division with fine and costs to be paid within 6 months of the date of the Order. Commissioner Capurro seconded. Motion carried unanimously.

3-H) DISCUSSION REGARDING HAVING A PROPERTY MANAGEMENT LICENSE

Commissioner Opatik stated that requiring a license would be a legislative issue, but increasing the education requirements might be done without legislative action. Commissioner Opatik asked Administrator Chandra if it was possible to make that increase.

Administrator Chandra stated that all sides of this issue should be heard before making changes to the process. Administrator Chandra stated that if this was truly an industry challenge and something that needed to be addressed, statute would probably be the way to go. Administrator Chandra recommended having discussions to determine which route to take.

Anna Hensley with Black, Black and Cherry Real Estate Group, stated that education was part of the solution and sometimes the issue came down to brokers not being educated, not passing the education on to their staffs and not holding firm to agents not crossing the line. Ms. Hensley stated that education should include entering into and understanding property management agreements, what is involved in entering a tenant into a leasing environment, using licensed/insured vendors and squatter issues.

Forrest Barbee, Berkshire Hathaway Home Service Nevada Properties, stated that the current pre-licensing program for property manager permits is focused on passing the test, but does not really delve into how to set up, run and conduct property management. Mr. Barbee stated another education component missing is on the broker and broker-sales side because at some point they may be supervising property managers. Mr. Barbee stated that additional education should include trust accounting, property management and commercial in depth.

Kelly Kuntz, Help-U-Sell Integrity Real Estate, stated that there was insufficient education for property managers. Mr. Kuntz stated that many brokers get involved with property management but don't dedicate enough understanding to the potential danger. Mr. Kuntz stated that he would like to see the Commission take a step for advancing as much education time as reasonable and possible for people getting involved in property management.

Larry Sweet stated that there should be an apprenticeship type program where people would work under a property manager for 5 years.

President Schwartz stated that the real responsibility needs to be with brokers who handle property management and perhaps each individual property manager should be required to have a bond.

Commissioner Barrett suggested doing some public hearings to get as much information as possible in order to make an intelligent decision and to be in position for the 2019 legislative session. Commissioner Barrett stated that some immediate changes could probably be made as well.

Elizabeth Leon stated that managing apartments entailed very different issues than managing single family homes and should be included in the property management discussions.

President Schwartz stated that the Commission would form a committee, chaired by one of the Commissioners and have public meetings where people could talk about this in more detail. President Schwartz stated that the committee would put together some suggestions and ideas to pass on to the Division to see if legislative changes were needed, changes could be made under the NAC or a combination of both.

4-12) NRED v ALISHA MORGAN - CASE # 2015-2144

Parties Present

Senior Deputy Attorney General Keith Kizer was present representing the Division. Alisha Morgan was not present.

Preliminary Matters

Mr. Kizer requested that this item be taken off of the agenda.

Commissioner Barrett moved to remove the case from the agenda. Commissioner Capurro seconded. Motion carried unanimously.

4-4) NRED v BETH S. GARDNER - CASE # 2016-1775

Parties Present

Senior Deputy Attorney General Keith Kizer was present representing the Division. Beth S. Gardner was present.

Preliminary Matters

Mr. Kizer submitted the State's exhibits, which were accepted into evidence without objection.

Ms. Gardner read her statement into the record.

Mr. Kizer stated that Ms. Gardner had stipulated to the facts and violations.

The Commission questioned Ms. Gardner.

Commissioner Capurro moved that Factual Allegations 1-12 were proven. Commissioner Barrett seconded. Motion carried unanimously.

Mr. Kizer made a closing statement.

President Schwartz read Violation 13.

Commissioner Opatik moved that Violation 13 was proven. Commissioner Reiss seconded. Motion carried unanimously.

Recommendation for Discipline

Chief Compliance Audit Investigator Jan Holle stated that the Division would recommend the following:

- Payment of \$692.58 for the cost of the hearing and investigation
- Revocation of license.

Ms. Gardner made a statement.

Commissioner Reiss moved to impose the following discipline:

- \$20,000.00 administrative fine, plus \$692.58 for the costs of the hearing and investigation due in six months of the date of the order
- 12 hours of continuing education in the area of ethics to be completed in six months

Commissioner Capurro seconded. Motion carried 3-2 with Commissioners Barrett and Opatik opposed.

Ms. Gardner asked for a payment plan of \$250.00 a month until the fine is paid in full.

Commissioner Reiss moved to create a payment plan of \$250.00 per month, beginning within 30 days of the effective date of the Order, until the entire amount of the fine and costs are paid in full. Commissioner Barrett seconded. Motion carried 4-1 with Commissioner Opatik opposed.

4-19) NRED v LARRY SWEET - CASE # 2015-1605

Parties Present

Senior Deputy Attorney General Keith Kizer was present representing the Division.
Larry Sweet was present.

President Schwartz stated that he had prior dealings with Mr. Sweet, but did not feel that would have any effect on his judgement in this matter and did not recuse himself.

Mr. Sweet stated that he had no problem with President Schwartz not recusing himself.

Preliminary Matters

Mr. Kizer stated that this case was an action for an order confirming an administrative fine.

Hearing

Mr. Kizer gave a synopsis of the points and authorities of the Action for Order Confirming Administrative Fine.

State's Witness

Larry Sweet testified.

President Schwartz asked Mr. Sweet if he was prepared to follow the direction of the Division and pay the administrative fine of \$500.00.

Mr. Sweet agreed to pay the administrative fine.

Mr. Kizer stated that based on Mr. Sweet's statement, the Division requested payment of the fine and that Mr. Sweet's license be suspended or revoked until paid.

Mr. Sweet made a comment.

President Schwartz questioned Mr. Sweet.

Commissioner Opatik moved that the Commission issue an order for payment of \$500.00 and suspension of Mr. Sweet's license and property manager permit until the fine is paid. Commissioner Barrett seconded. .
Motion carried unanimously.

4-17) NRED v DESIREE (DEE) SWEET - CASE # 2015-1606

Parties Present

Senior Deputy Attorney General Keith Kizer was present representing the Division.
Desiree (Dee) Sweet was present.

Preliminary Matters

Mr. Kizer stated that this case was an action for an order confirming an administrative fine.

Hearing

Mr. Kizer gave a synopsis of the points and authorities of the Action for Order Confirming Administrative Fine.

State's Witness

Desiree Sweet made a statement.

Commissioner Barrett moved that the Commission issue an order for \$1,000.00 with payments of \$50.00 per month beginning within 30 days of the order until paid in its entirety. Commissioner Opatik seconded.
Motion carried unanimously.

4-17) NRED v DESIREE (DEE) SWEET - CASE # 2015-1818

Parties Present

Senior Deputy Attorney General Keith Kizer was present representing the Division.
Desiree (Dee) Sweet was present.

Preliminary Matters

Mr. Kizer stated that this case was an action for an order confirming an administrative fine.

Hearing

Mr. Kizer gave a synopsis of the points and authorities of the Action for Order Confirming Administrative Fine.

State's Witness

Desiree Sweet made a statement.

Commissioner Opatik moved that the fine of \$1,000.00 be paid in \$50.00 per month increments beginning 21 months of the effective date of the order. Commissioner Barrett seconded. Motion carried unanimously.

4-15) NRED v JOSHUA (JOSH) RAMOS - CASE # 2015-3310

Parties Present

Senior Deputy Attorney General Keith Kizer was present representing the Division.
Joshua (Josh) Ramos was not present.

State's Witness

Rebecca Hardin testified regarding proof of service.

Commissioner Capurro moved that the Commission, pursuant to NAC 645.860, find that the Real Estate Division had proven service of notice. Commissioner Barrett seconded. Motion carried unanimously.

Hearing

Mr. Kizer submitted exhibits which were admitted into evidence.

Mr. Kizer summarized the exhibits.

Commissioner Capurro moved that the factual allegations and violations of law were proven. Commissioner Opatik seconded. Motion carried unanimously.

Commissioner Capurro moved that the violation of law were proven. Commissioner Opatik seconded. Motion carried unanimously.

Division's Recommendation for Discipline

Chief Compliance Audit Investigator Jan Holle stated that the Division would recommend the following:

- A fine of \$10,000.00 plus the costs of hearing and investigation of \$418.79, all payable within 90 days of the effective date of the order
- Revocation of the real estate license.

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

4-8) NRED v ROSA KELLER -CASE # RES 14-01-109-447

Parties Present

Senior Deputy Attorney General Keith Kizer was present representing the Division.
Rosa Keller was not present.

Preliminary Matters

Mr. Kizer stated that this case was an action for an order confirming an administrative fine.

State's Witness

Rebecca Hardin testified regarding proof of service.

Commissioner Capurro moved that the Commission, pursuant to NAC 645.860, find that the Real Estate Division had proven service of notice. Commissioner Opatik seconded. Motion carried unanimously.

Commissioner Capurro moved to confirm the administrative fine. Commissioner Barrett seconded. Motion carried unanimously.

4-9) NRED v ROSA KELLER - CASE #'S 2015-305 & 2015-1893

Parties Present

Senior Deputy Attorney General Keith Kizer was present representing the Division.

Rosa Keller was not present.

Preliminary Matters

Mr. Kizer asked for an amendment of this action, because case 2015-305 was not a part of this hearing.

Mr. Kizer stated that case 2015-1893 was an action for an order confirming an administrative fine.

Mr. Kizer asked for a finding of proper service based on Ms. Hardin's prior testimony.

Commissioner Capurro moved that the Commission, pursuant to NAC 645.860, find that the Real Estate Division had proven service of notice. Commissioner Opatik seconded. Motion carried unanimously.

Commissioner Reiss moved to impose an order to pay \$500.00. Commissioner Opatik seconded. Motion carried unanimously.

4-6) NRED v RAYMOND F. HALDEMAN - CASE # 2015-1161

Parties Present

Senior Deputy Attorney General Keith Kizer was present representing the Division.

Raymond F. Haldeman was present.

Page Haldeman was present to assist Mr. Haldeman.

Preliminary Matters

Mr. Kizer stated that this case was an action for an order confirming an administrative fine.

Hearing

Mr. Kizer gave a synopsis of the points and authorities of the Action for Order Confirming Administrative Fine.

State's Witness

Raymond Haldeman testified.

Compliance Audit Investigator Daryl McCloskey testified.

Education/Information Manager Safia Anwari testified.

The Commission questioned the witnesses.

Commissioner Reiss moved that the order be imposed for the \$500.00 fine. Commissioner Barrett seconded.

Commissioner Reiss rescinded the motion. Commissioner Barrett rescinded his second.

Commissioner Reiss moved that the order to pay the \$500.00 fine be imposed, payable within 30 days of the effective date of the order. Commissioner Opatik seconded. Motion carried unanimously.

4-22) NRED v MICHAEL S. YU - CASE # 2014-3238

Parties Present

Senior Deputy Attorney General Keith Kizer was present representing the Division. Michael S. Yu was not present.

Preliminary Matters

Mr. Kizer stated that this case was an action for an order confirming an administrative fine.

State's Witness

Rebecca Hardin testified regarding proof of service.

Commissioner Capurro moved that the Commission, pursuant to NAC 645.860, find that the Real Estate Division had proven service of notice. Commissioner Barrett seconded. Motion carried unanimously.

Commissioner Capurro moved that Michael S. Yu be required to pay the \$1,500.00 fine as requested within 30 days. Commissioner Barrett seconded. Motion carried unanimously.

5) PUBLIC COMMENT

None.

6) ADJOURNMENT

The meeting was recessed at 4:25 PM on May 23, 2017

MAY 24, 2017

Nevada State Business Center
3300 West Sahara Avenue
4th Floor - Nevada Room
Las Vegas, Nevada 89102

VIDEO CONFERENCE TO:
Department of Business & Industry
Director's Office
1830 College Pkwy. – 1st Floor
Carson City, Nevada 89706

The meeting was called to order at 9:05 AM

1-A) INTRODUCTION OF COMMISSIONERS IN ATTENDANCE

Devin Reiss, Clark County; Lee Barrett, Clark County; Norma Jean Opatik, Nye County;
Wayne Capurro, Washoe County; and Neil Schwartz, Clark County
Commission Counsel: Deputy Attorney General Asheesh Bhalla

1-B) INTRODUCTION OF DIVISION STAFF IN ATTENDANCE

In Las Vegas: Administrator Sharath Chandra; Administrative Section Manager Teralyn Thompson;
Commission Coordinator Rebecca Hardin; Chief Compliance Audit Investigator Jan Holle; Education &
Information Officer Safia Anwari; and Continuing Education Program Supervisor Kimberly Smith
Division Counsel: Sr. Deputy Attorney General Keith Kizer and Deputy Attorney General Donald Bordelove
In Carson City: Deputy Administrator Sharon Jackson and Building Specialist Kate Morra

2) PUBLIC COMMENT

Melissa Zimmelman stated that the property manager continuing education was fairly similar to previous continuing education, so something fresh involving just property management for those permit holders would be a big deal. Ms. Zimmelman stated that sometimes homeowners do not come forward with their complaints because they know that the process is so arduous.

Crystal Sherry stated that it was time to educate the brokers, designated property managers and permit holders so they could keep a more watchful eye on the managers under them.

President Schwartz stated that Commissioner Barrett would be heading a committee to gather input to come up with possible solutions for property manager issues and would report their findings to the Commission.

Cindy Weber, ABC Real Estate School, asked for comments from the commissioners who had attended the Association of Real Estate License Law Officials (ARELLO) conference about what other states had tried and what had or had not worked for them.

President Schwartz stated he had not heard of any solutions yet, but he would be attending the ARELLO conference this fall where maybe someone might have thought of how to solve the problem.

Steve Kitnick, Steven Kitnick Seminars, stated that people who are in the business of property management could partner with professional educators to help produce courses because there doesn't seem to be enough offerings.

4-5) NRED v RAYMOND F. HALDEMAN - CASE # RES 14-06-16-1176

Parties Present

Senior Deputy Attorney General Keith Kizer was present representing the Division.

Raymond F. Haldeman was present.

Page Haldeman was present to assist Mr. Haldeman.

Preliminary Matters

Mr. Kizer stated that a stipulation for a settlement had been decided.

Hearing

Mr. Kizer submitted exhibits that were admitted into evidence without objections.

Mr. Kizer stated that the parties also stipulated to all of the factual allegation and violations.

Settlement

Mr. Kizer stated that the parties had agreed to a settlement as follows:

- \$2,500.00 fine plus \$500.00 in costs, due in full six months from the effective date of the order.

Mr. Haldeman stated that he accepted the settlement.

Mr. Kizer read the factual allegations and violations into the record.

Page Haldeman made a statement.

Commissioner Opatik moved that factual allegations had been proven. Commissioner Capurro seconded. Motion carried unanimously.

President Schwartz read Violation 9.

Commissioner Reiss moved that Violation 9 was proven. Commissioner Barrett seconded. Motion carried unanimously.

President Schwartz read Violation 10.

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

President Schwartz read Violation 11.

Commissioner Reiss moved that Violation 11 was proven. Commissioner Barrett seconded. Motion carried unanimously.

Revised Settlement

Mr. Kizer corrected the settlement as follows:

- \$2,175.00 fine plus \$825.00 in costs due in full six months from the effective date of the order.

Commissioner Barrett moved to accept the settlement. Commissioner Reiss seconded.

Commissioner Opatik requested an amendment, adding 3 hours of continuing education in area of trust accounting.

The final settlement was amended as follows:

- \$2,175.00 fine plus \$825.00 in costs due in full six months from the effective date of the order.
- 3 hours of continuing education in the area of trust accounting.

Commissioner Barrett accepted the amendment. Commissioner Reiss seconded the amendment. The amended motion carried unanimously.

14) NRED v DONALD B. PARKER - CASE # RES 14-06-04-1164

Commissioner Opatik recused herself due to communication with Mr. Parker.

Parties Present

Deputy Attorney General Donald Bordelove was present representing the Division.
Barney Ales was present representing Mr. Parker.
Donald Parker was present.

Preliminary Matters

Mr. Bordelove stated there was a stipulation for a settlement of disciplinary action for approval.

Mr. Bordelove read the Jurisdiction, Summary of Factual Allegations Set Forth in Complaint and Summary of Violations of Law Alleged in Complaint.

Mr. Ales read the Summary of Respondent's Response to Allegations in Complaint.

Settlement

Respondent agreed to the following:

- Voluntary surrender of all property manager permits and prohibited from applying for any permit in Nevada for five years from the effective date of the order
- Voluntary surrender of all licenses, including the broker license and prohibited from applying for any real estate license in Nevada for three years from the effective date of the order.

Mr. Parker stated that he had read and agreed to the stipulation.

Commissioner Reiss moved to accept the stipulation as entered. Commissioner Barrett seconded. Motion carried 4-0 with Commissioner Opatik abstaining.

4-21) NRED v GARY M. WILSON - CASE # 2014-4418

Parties Present

Senior Deputy Attorney General Keith Kizer was present representing the Division.
Gary Wilson was present.

The hearing was postponed due to technical issues.

3-I) DISCUSSION AND DECISION TO APPROVE MINUTES OF THE MARCH 14-16, 2017 MEETING

Commissioner Reiss moved for approval. Commissioner Opatik seconded.

Commissioner Capurro pointed out an error in the minutes.

The Commission voted unanimously to approve the corrected minutes.

4-21) NRED v GARY M. WILSON - CASE # 2014-4418...resumed

Parties Present

Senior Deputy Attorney General Keith Kizer was present representing the Division.
Gary Wilson was present.
Patrick Chapin was present via telephone representing Mr. Wilson.

Preliminary Matters

Mr. Kizer stated there was a stipulation for a settlement for the Commission's review and approval.

Keith Kizer read Summary of Factual Allegations Set Forth in the Complaint and Summary of Violations of Law Alleged in the Complaint.

Settlement

Respondent agreed to the following:

- Voluntary surrender of salesperson license effective immediately.
- May not apply to the Division for any real estate license or permit for a period of at least one year from the effective date of the order approving settlement agreement.
- Fine of \$400.00 for investigative costs, payable within 30 days of the date of the Commission's order approving stipulation.

Mr. Chapin stated that Mr. Wilson had read and agreed to the stipulation.

Commissioner Opatik stated that Mr. Wilson should not be allowed to apply for a license for at least three years.

This item was tabled.

4-20) NRED v WEI (VICTOR) XU WANG - CASE #'s RES 14-10-01-114 & 2015-3531

Parties Present

Senior Deputy Attorney General Keith Kizer was present representing the Division. Wei (Victor) Xu Wang was not present.

State's Witness

Rebecca Hardin testified regarding proof of service.

Commissioner Capurro moved that the Commission, pursuant to NAC 645.860, find that the Real Estate Division had proven service of notice. Commissioner Barrett seconded. Motion carried unanimously.

Hearing

Mr. Kizer submitted exhibits which were admitted into evidence.

Mr. Kizer read the factual allegations and violations into the record.

Commissioner Capurro moved that the factual allegations were proven. Commissioner Barrett seconded. Motion carried unanimously.

Mr. Kizer read the violations into the record.

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

Commission Capurro moved that violation 20 was proven. Commissioner Reiss seconded. Motion carried unanimously.

Commission Capurro moved that violation 21 was proven. Commissioner Opatik seconded. Motion carried unanimously.

Commission Capurro moved that violation 22 was proven. Commissioner Opatik seconded. Motion carried unanimously.

Commission Capurro moved that violation 23 was proven. Commissioner Opatik seconded. Motion carried unanimously.

Division's Recommendation for Discipline

Chief Compliance Audit Investigator Jan Holle stated that the Division would recommend the following:

- \$50,000.00 fine plus the costs of hearing and investigation of \$978.25, all payable within 90 days of the effective date of the order
- Revocation of the real estate license and property manager permit.

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

4-21) NRED v GARY M. WILSON - CASE # 2014-4418...resumed

Parties Present

Senior Deputy Attorney General Keith Kizer was present representing the Division.

Gary Wilson was present.

Patrick Chapin was present via telephone representing Mr. Wilson.

Preliminary Matters

Mr. Chapin stated that Mr. Wilson had agreed to modify the settlement.

Revised Settlement

Respondent agreed to the following:

- Voluntary surrender of salesperson license effective immediately.
- May not apply to the Division for any real estate license or permit for a period of three years from the effective date of the order approving settlement agreement.
- Fine of \$400.00 for investigative costs, payable within 30 days of the date of the Commission's order approving stipulation.

Commissioner Opatik moved to accept the modified settlement. Commissioner Reiss seconded. Motion carried 4-1 with Commissioner Barrett opposed.

3-B) DISCUSSION REGARDING THE DISCIPLINARY REPORT

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

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

Chief Compliance Audit Investigator Jan Holle presented this report. Mr. Holle read the report into the record.

3-D) DISCUSSION REGARDING THE ADMINISTRATIVE SANCTION REPORT

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

3-E) DISCUSSION AND DECISION REGARDING THE EDUCATION AND INFORMATION MANAGER'S FY18 EDUCATION AND RESEARCH FUND PROJECTS BUDGET PLAN FOR COMMISSION APPROVAL PURSUANT TO NRS 645.842

Education/Information Manager Safia Anwari presented a request to the Commission to approve the budget plan for fiscal year 18 for ongoing multiple projects.

President Schwartz stated that the education fund subsidizes the presentation of classes, such as What Every Licensee Should Know, the continuing education audit program, instructor development training and the reprint and upgrade of the real estate disclosure guide.

Commissioner Barrett moved to approve the budget for the Education Research Fund project on What Every Licensee Should Know, trust account management and compliance, education audit programs, instructor development, Residential Disclosure Guide, Nevada Law and Reference Guide for a total of \$18,380.00. Commissioner Opatik seconded. Motion carried unanimously.

3-F) DISCUSSION REGARDING CONTINUING EDUCATION SUPERVISOR’S REPORT ON CONTINUING EDUCATION COURSE AUDIT PROGRAM REPORT; CONTINUING EDUCATION CERTIFICATE ISSUES AND MIDTERM EDUCATION RECORD-KEEPING; CONTINUING EDUCATION AND POST EDUCATION ROSTER UPLOAD SUBMITTALS ISSUES

Kimberly Smith presented the report on the roster uploads and the midterm certificates.

President Schwartz asked about the status of My Account and explained how it worked.

Safia Anwari explained how to establish a My Account.

Ms. Anwari stated that even though continuing education certificates were uploaded to the Division by the education provider, licensees still need to turn in actual certificates.

President Schwartz asked if there were any trends or comments in the continuing education class evaluations that might be need to be addressed.

Ms. Anwari stated that licensees don’t take advantage of the opportunity to give an objective evaluation.

Ms. Anwari stated that the few licensees that take advantage of the opportunity generally will comment on the content.

Ms. Anwari stated that she had recently made some changes to the auditors’ report. Ms. Anwari stated that she thought it might be a good idea to update the report and have a few less items on the evaluation form for students.

Commissioner Barrett suggested having students fill out the evaluation form prior to the end of the class.

President Schwartz requested that the Education staff look at the evaluation form and come back to the Commission with some suggestions and ideas.

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

Teralyn Thompson stated that the next Commission meeting was tentatively scheduled for August 15-17, 2017 in the South.

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

Deputy Attorney General Asheesh Bhalla stated that the Commission is a legal entity that meets and discusses items in open and deliberate manner however the commissioners are all individuals and members of the public. Mr. Bhalla stated that it was important for the commissioners to not confuse what they say or do in their personal capacity with actions of the board. Mr. Bhalla stated that before somebody speaks in a personal capacity on behalf of the board, it would be prudent to come before the board and ask for permission so everyone is on the same page.

President Schwartz asked Mr. Bhalla to create a disclosure statement that the commissioners could read at the beginning of a public speech.

Commissioner Barrett asked about members of the public trying to talk to a commissioner about something that may come in front of the Commission.

Mr. Bhalla stated that typically board members are involved in the industry as everyone is an active market participant and people will come into contact with commissioners. Mr. Bhalla stated that Commission members should not be involved in investigations at any point and would have to recuse themselves if that matter did come before the board.

3-L) COMMISSIONER COMMENTS

Commissioner Opatik stated that, in addition to the increase in requirements for a property manager permit, the Commission should not abandon the thought of additional instruction or permit for commercial and asked that commercial real estate be put on the next agenda.

Commissioner Barrett stated that he was excited about **exploring** solutions for property manager issues and would report back to the Commission.

5) PUBLIC COMMENT

None.

6) ADJOURNMENT

Commissioner Barrett moved to adjourn the meeting. Commissioner Opatik seconded. Motion carried

The meeting was adjourned at 11:15 AM on May 24, 2017.