

**NEVADA REAL ESTATE COMMISSION
MINUTES**

March 26, 2019

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

VIDEO CONFERENCE TO:

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

The meeting was called to order at 9:00 AM

1-A) Introduction of Commissioners in Attendance

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

Commission Counsel: Deputy Attorney General Asheesh Bhalla

1-B) Introduction of Division Staff in Attendance

In Las Vegas: Sharath Chandra, Administrator; Teralyn Lewis, Administration Section Manager; Evelyn Pattee, Commission Coordinator; Daryl McCloskey, Compliance Audit Investigator; Joanne Gierer, Compliance Audit Investigator; Safia Anwari, Education Information Officer; Kimberly Smith, Education Supervisor; Deputy Attorney Generals Dennis Belcourt, Vivienne Rakowsky and Donald Bordelove representing the Division.

In Carson City: Ann Angell, Compliance Audit Investigator and Dan Walsh, Compliance Audit Investigator.

2) Public Comment

No public comment.

5-A) For possible action: Discussion and decision regarding reinstatement denial appeal:

Derrick Blythe Keller

File No. S-LDA-18-013

Parties Present

Derrick Blythe Keller was present.

Jason Wiley was present representing Mr. Keller.

Susan Clark, Licensing Manager, was present.

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

The Commission went back into open session.

Commissioner Reiss moved to approve the reinstatement of the license for Derrick Keller. Seconded by Commissioner Capurro. Motion passed.

9-B) NRED v Ken Baxter, for possible action

Case # 2016-2121

Parties Present

Deputy Attorney General Dennis Belcourt was present representing the Division.
Terry Coffing was present representing Mr. Baxter.

Preliminary Matters

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

Settlement

- Respondent agrees to pay the Division \$1,600 as an administrative fine and \$2,400 in administrative costs within 60 days of the Commission's order approving the stipulation.
- 3 hours of continuing education in ethics and 3 hours of continuing education in contracts. All must be completed within 120 days of the effective date of the Commission's order approving the stipulation. Such continuing education shall not accrue toward license renewal requirements.

Mr. Coffing stated that the proposed stipulation adequately addresses the complicated relationship between the two parties mentioned in the complaint. Mr. Coffing stated that Mr. Baxter sought the advice of an attorney and obtained a written opinion that Mr. Baxter could undertake the actions that was taken. Mr. Coffing stated that there was an underlying civil litigation that was resolved to everyone's satisfaction and the parties have executed mutual releases amongst themselves as a result of that.

Commissioner Capurro requested verification that the civil litigation has resolved the issues between the parties.

State's Witness

Zsolt Szorenyi testified that the civil litigation between him and Mr. Baxter was resolved.

Commissioner Reiss stated he doesn't have a problem with the stipulation but tends to have a problem when the respondent isn't present to agree to the terms.

Commissioner Reiss moved to accept the stipulation as presented. Seconded by Commissioner Gurr. Motion passed 4 to 1 with President Barrett opposed.

9-A) NRED v Stephen Baxter, for possible action

Case # 2017-2356

9-C) NRED v Megan Barry, for possible action

Case # 2017-2062

Parties Present

Deputy Attorney General Dennis Belcourt was present representing the Division.
Stephen Baxter was present.
Megan Barry was present.
Paul Larson was present representing Ms. Barry and Mr. Baxter.
Charles Gianelloni was present representing Ms. Barry and Mr. Baxter.

Preliminary Matters

Mr. Belcourt stated that these two matters are related and requested to proceed with both matters together.

The Commission agreed.

Opening Statements

Mr. Belcourt gave an opening statement.
Mr. Larson gave an opening statement.
Mr. Gianelloni gave an opening statement.

President Barrett called on the Commissioners for their opinion as to whether they want to move the case forward or accept the Motion to Dismiss.

Commissioner Capurro stated that he sees a difference between Ms. Barry and Mr. Baxter.
Commissioner Capurro stated that he doesn't know if the two cases can be heard together if expected to rule one way or another on both at the same time.

Commissioner Reiss stated that he doesn't have enough information to determine if brokering occurred.
Commissioner Reiss stated that without hearing the facts that he couldn't make that determination.

Commissioner Gurr stated that she agrees with Commissioner Reiss and needs more information.

President Barrett denied the Motion to Dismiss and moved the case forward.

Mr. Belcourt requested a spreadsheet be admitted as an exhibit.

President Barrett stated the spreadsheet would be admitted as State's Exhibit 2.

State's Witness

Megan Barry testified.

The Commission questioned Ms. Barry.

Commissioner Schwartz requested the Division provide the dates that Ms. Barry was licensed.

Susan Clark, Licensing Manager, stated that Ms. Barry originally received her salesperson license December 24, 2015. Ms. Clark stated that Ms. Barry was with Elite Realty until May 13, 2016 then changed to Resolution Realty on May 31, 2016. Ms. Clark stated that Ms. Barry inactivated her license December 19, 2017. Ms. Clark stated that Ms. Barry's license expired December 31, 2018.

Mr. Gianelloni questioned Ms. Barry.

The witness was dismissed.

State's Witness

Stephen Baxter testified.

The Commission questioned Mr. Baxter.

The witness was dismissed.

State's Witness

Mark Wildes testified.

The Commission questioned Mr. Wildes.

Closing Statements

Mr. Gianelloni gave his closing statement.

Mr. Belcourt gave his closing statement.

Factual Allegations – Megan Barry

Commissioner Reiss moved that factual allegations 1, 2, 3 and 4 were proven. Seconded by Commissioner Schwartz. Motion passed.

Commissioner Reiss moved that factual allegations 6, 7 and 8 were proven. Seconded by Commissioner Capurro.

Commissioner Reiss withdrew his motion that factual allegations 6, 7 and 8 were proven. Second withdrawn by Commissioner Capurro.

Commissioner Gurr moved that factual allegation 8 was proven. Seconded by Commissioner Capurro. Motion passed.

Commissioner Reiss moved that factual allegation 5 was proven as amended to read “RESPONDENT and HUB have caused HUB to enter into Residential Real Estate Purchase Contracts with numerous owners of real property with the expectation of subsequently assigning the rights of HUB under said contracts to buyers.” Seconded by Commissioner Capurro. Motion passed.

Commissioner Capurro moved that factual allegation 6 was proven as amended to read “HUB, directly, and Barry and Baxter, indirectly, received compensation in excess of \$850,000.” Seconded by Commissioner Gurr. Motion passed 3 to 2 with Commissioner Gurr and President Barrett opposed.

Commissioner Reiss moved that factual allegation 7 was not proven. Seconded by Commissioner Schwartz. Motion passed.

Violations of Law – Megan Barry

Commissioner Reiss moved that violation 9 was proven. Seconded by Commissioner Schwartz. Motion passed 3 to 2 with Commissioner Gurr and Commissioner Capurro opposed.

Commissioner Reiss moved that violation 10 was proven. Seconded by Commissioner Schwartz. Motion passed 3 to 2 with Commissioners Gurr and Capurro opposed.

Commissioner Reiss moved that violation 11 was proven. Seconded by Commissioner Schwartz. Motion passed.

Factual Allegations – Stephen Baxter

Commissioner Reiss moved that factual allegations 1, 2, 3 and 4 were proven. Seconded by Commissioner Schwartz. Motion passed.

Commissioner Reiss moved that factual allegation 5 was proven as amended to read “HUB, directly, and Baxter and Barry, indirectly, received compensation for said transactions in the form of assignment fees paid by the buyers.” Seconded by Commissioner Schwartz. Motion passed.

Commissioner Gurr moved that factual allegation 6 was not proven. Seconded by Commissioner Schwartz. Motion passed.

Commission Gurr moved that factual allegation 7 was proven. Seconded by Commissioner Schwartz. Motion passed.

Violations of Law- Stephen Baxter

Commissioner Capurro moved that violation 8 was not proven. Seconded by Commissioner Gurr. Motion passed 4 to 1 with Commissioner Reiss opposed.

Division's Recommendation for Discipline – Megan Barry

Daryl McCloskey presented this:

- Fine of \$25,000 plus cost of hearing and investigation of \$2,947.87 to be payable within 90 days of effective date of order.
- Revocation of license.

Commissioner Capurro stated that \$25,000 is excessive for what Ms. Barry did. Commissioner Gurr agreed.

Commissioner Capurro moved that a fine of \$1,000 be imposed plus the costs of \$2,947.87 and license revocation. Seconded by Commissioner Gurr. Motion failed 2 to 3 with Commissioners Reiss, Schwartz and President Barrett opposed.

Commissioner Reiss moved to accept the Division's recommendation for discipline. Seconded by Commissioner Schwartz. Motion passed 3 to 2 with Commissioners Capurro and Gurr opposed.

9-G) NRED v Gary Hawton and Lisa Hawton, for possible action

Case # 2016-3740 & 2016-3741

Parties Present

Deputy Attorney General Donald Bordelove was present representing the Division. Mr. and Ms. Hawton were not present.

Mr. Bordelove stated the Division would submit that there was proper service upon Mr. and Ms. Hawton.

State's Witness

Evelyn Pattee, Administrative Assistant III, testified regarding service of the complaint.

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

Commissioner Schwartz moved that pursuant to NAC 645.860 the factual allegations and violations of law have been proven. Seconded by Commissioner Reiss. Motion passed.

Division's Recommendation for Discipline

Daryl McCloskey presented this:

- Fine each respondent \$5,000 plus cost of hearing and investigation of \$1,271.84 to be payable within 90 days of effective date of order.
- Issuance of a Cease and Desist Order.

Commissioner Schwartz moved to accept the Division's recommendation for discipline. Seconded by Commissioner Reiss. Motion passed.

9-I) NRED v Aaron Spears, for possible action

Case # 2017-389

Parties Present

Deputy Attorney General Vivienne Rakowsky was present representing the Division. Mr. Spears was not present.

Ms. Rakowsky stated the Division would submit that there was proper service upon Mr. Spears.

State's Witness

Evelyn Pattee, Administrative Assistant III, testified regarding service of the complaint.

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

Commissioner Schwartz read the factual allegations into the record.

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

Commissioner Schwartz read the violations of law into the record.

Commissioner Reiss moved that the violations of law were proven. Seconded by Commissioner Gurr. Motion passed.

Division's Recommendation for Discipline

Daryl McCloskey presented this:

- Fine of \$5,000 plus cost of hearing and investigation of \$1,147.80 to be payable within 60 days of effective date of order.

Commissioner Reiss moved to accept the Division's recommendation for discipline. Seconded by Commissioner Capurro. Motion passed.

9-J) NRED v Heather Etchings, for possible action

Case # 2017-390

Parties Present

Deputy Attorney General Vivienne Rakowsky was present representing the Division. Ms. Etchings was present.

Opening Statement

Ms. Rakowsky gave her opening statement.

Ms. Etchings stated that she stipulates to a written statement admitted by Ms. Rakowsky along with all the other documents provided to the Commission.

President Barrett stated that all the documents would be admitted.

State's Witness

Ms. Etchings testified.

Opening Statement

Ms. Etchings gave her opening statement.

The Commission questioned Ms. Etchings.

The hearing was continued to the next day due to time constraints.

10) Public Comment

No public comment.

11) For Possible Action: Adjournment

Meeting recessed at 4:26 p.m. on March 26, 2019

March 27, 2019

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

VIDEO CONFERENCE TO:

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

The meeting was called to order at 9:00 AM

1-A) Introduction of Commissioners in Attendance

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

Commission Counsel: Deputy Attorney General Asheesh Bhalla

2) Public Comment

No public comment.

1-B) Introduction of Division Staff in Attendance

In Las Vegas: Sharath Chandra, Administrator; Teralyn Lewis, Administration Section Manager; Evelyn Pattee, Commission Coordinator; Daryl McCloskey, Compliance Audit Investigator; Joanne Gierer, Compliance Audit Investigator; Safia Anwari, Education Information Officer; Kimberly Smith, Education Supervisor; Deputy Attorney Generals Dennis Belcourt and Vivienne Rakowsky representing the Division.

In Carson City: Ann Angell, Compliance Audit Investigator and Dan Walsh, Compliance Audit Investigator.

3-A) Discussion regarding Administrator's report.

Sharath Chandra presented this report.

- Deputy Administrator position vacant in Northern Nevada. Sharon Jackson was in that position and has retired. Resumes are being reviewed and interviews will be conducted to fill that position.
- Budget and legislative session. The Division had two bills: Assembly Bill 31 and Senate Bill 39. Senate Bill 230 is sponsored by Senator Denis regarding nickname usage, education and giving credit for experience and longevity for continuing education. The Division is following Senate Bill 199 regarding changes to real property requiring the waiver of interest and penalties imposed for the late payment of property taxes under certain circumstances and requiring certain licensed professionals to provide notice to unrepresented purchasers of real property of the amount of certain taxes for which the purchasers are responsible. Senate Bill 117 requires the Division to work with the Recorders' offices to develop a form that goes on top of a recording that allows for homeowners to redact certain elements in that conveyance. The Division's compromised language on Senate Bill 230 is to place license numbers on advertisements.

3-B) Discussion regarding the Disciplinary Report.

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

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

Joanne Gierer presented this report. Ms. Gierer provided the Commission with a written report and summarized.

3-D) Discussion regarding the Administrative Sanction Report.

Joanne Gierer presented this report. Ms. Gierer provided the Commission with a written report and summarized.

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

Kimberly Smith presented this report. Ms. Smith stated that December 2018 and January 2019 were combined. Ms. Smith stated that there were 1,027 roster uploads and 27 midterm certificates. Ms. Smith stated that for February 2019 there were 1,057 roster uploads and 31 midterm certificates. Ms. Smith stated that the Division is looking at the midterm certificate process to phase out by July, 2019.

3-E-1) Discussion regarding Continuing Education Supervisor’s reports on continuing education course audit program report.

Kimberly Smith presented this report. Ms. Smith stated there were 8 audits done since the last Commission meeting.

3-E-2) Discussion regarding Continuing Education Supervisor’s reports on continuing education certificate issued and midterm education record-keeping.

3-E-4) Discussion regarding Continuing Education Supervisor’s reports on online registration for Real estate licensees to receive continuing education credits for attending Real Estate Commission meetings.

Kimberly Smith presented these reports. Ms. Smith stated that when licensees are registering online to attend Commission meetings for continuing education credits; licensees need to use their real estate license number and not social security numbers or public ID numbers.

8-A) Steven Kitnick Seminars LLC

“Commission Hearings: Case Studies X”

Request: 3 Hours Broker Management

Classroom

8-B) Steven Kitnick Seminars LLC

“Commission Hearings: Case Studies X”

Request: 3 Hours Ethics

Classroom

Parties Present

Steven Kitnick was present.

Kimberly Smith, Education Supervisor, was present.

Safia Anwari, Education Information Officer, was present.

Opening Statements

Mr. Kitnick gave his opening statement.

Ms. Smith stated that the course was denied due to the course outline being the same for both courses. Ms. Smith stated that the Division was looking for more of a customization to quantify and qualify the designations that Mr. Kitnick submitted since the Division added the other two course designations.

Commissioner Schwartz stated the courses being the same should not be a valid point to deny an application.

Commissioner Reiss stated that he sees seventy minutes in the course outline that are not explained as to what exactly is being discussed other than discussing a case study. Commissioner Reiss stated that he doesn't see why these courses wouldn't be approved except for the seventy minutes .

Mr. Kitnick asked the Commission to provisionally approve the Broker Management course and would provide the Division with the cases that will be discussed when the course is launched.

Commissioner Reiss stated that he would rather see what the cases are and what they pertain to in order to approve the course.

Commissioner Gurr stated that new course submittals should include new information, new material and needs to be a little more complete. Commissioner Gurr stated that the application submitted should be specific enough for the Division to determine whether issues are going to be addressed that should be considered Broker Management or Ethics or Law or Agency.

Commissioner Gurr moved to deny the appeal. Seconded by Commissioner Schwartz. Motion passed 3 to 2 with President Barrett opposed and Commissioner Capurro abstaining.

Commissioner Schwartz moved that the Division allow Mr. Kitnick to resubmit the course and waive the application fee. Seconded by Commissioner Reiss. Motion passed.

9-J) NRED v Heather Etchings, for possible action

Case # 2017-390

Parties Present

Deputy Attorney General Vivienne Rakowsky was present representing the Division.
Ms. Etchings was present.

Preliminary Matters

Ms. Rakowsky stated that a settlement had been reached. Ms. Rakowsky read the settlement into the record.

Settlement

- Respondent agrees to pay \$1,000 to the Division within 180 days of the date of the Commission's order approving the stipulation.
- Respondent agrees to pay the Division's investigation costs and attorney's fees of \$1,489.30.
- 3 hours of continuing education in agency and 3 hours of continuing education in What Every Licensee Should Know. All must be completed within 180 days of the effective date of the Commission's order approving the stipulation. Such continuing education shall not accrue toward license renewal requirements.

Ms. Etchings stated that she read and understands the stipulation.

Commissioner Schwartz stated that he was very unhappy with the 180 days to complete the education. Commissioner Schwartz stated that he would like the education completed within 30 days.

Commissioner Reiss stated that, in his opinion, the respondent did things right. Commissioner Reiss stated there was no intent.

Commissioner Capurro stated that Ms. Etchings did not knowingly commit a violation. Commissioner Capurro stated that Ms. Etchings' testimony was very honest. Commissioner Capurro stated that the stipulation was way too severe.

Commissioner Gurr moved to reject the stipulation as entered. Seconded by Commissioner Schwartz. Motion passed.

Factual Allegation

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

Violations of Law

Commissioner Reiss moved that the violation was not proven. Seconded by Commissioner Capurro. Motion passed.

No disciplinary action was ordered by the Commission.

**9-L) NRED v Cristina Morales, for possible action
Case # 2018-1008**

Parties Present

Deputy Attorney General Vivienne Rakowsky was present representing the Division. Ms. Morales was not present.

Ms. Rakowsky stated that the Division would submit that there was proper service upon Ms. Morales.

State's Witness

Evelyn Pattee, Administrative Assistant III, testified regarding service of the complaint.

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

Commissioner Schwartz moved the factual allegations and violations of law were proven. Seconded by Commissioner Gurr. Motion passed.

Division's Recommendation for Discipline

Daryl McCloskey presented this:

- Fine of \$5,000 plus cost of hearing and investigation of \$1,301.38 to be payable within 60 days of effective date of order.

Commissioner Reiss moved to accept the Division's recommendation for discipline. Seconded by Commissioner Schwartz. Motion passed.

**6-A) For possible action: Discussion and decision regarding license denial appeal:
Juan Guerrero-Flores
File No. S-LDA-19-001**

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

The Commission went back into open session.

Commissioner Gurr moved to approve the application for a salesperson license. Seconded by Commissioner Reiss.

Commissioner Capurro stated that he would like to see Mr. Flores come before the Commission in Carson City in three months.

Commissioner Schwartz stated he agrees with Commissioner Capurro.

Commissioner Gurr withdrew the motion to approve the application for a salesperson license. Second withdrawn by Commissioner Reiss.

Commissioner Gurr moved that Mr. Flores's license denial appeal be continued at the August 20-22, 2019 Real Estate Commission meeting in Carson City. Seconded by Commissioner Schwartz. Motion passed.

9-F) NRED v Katherine Hunter (a.k.a Hunter-Jones), for possible action
Case # 2017-2158

Parties Present

Deputy Attorney General Dennis Belcourt was present representing the Division. Ms. Hunter was not present.

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

State's Witness

Evelyn Pattee, Administrative Assistant III, testified regarding service of the complaint.

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

Commissioner Schwartz read the factual allegations into the record.

State's Witness

Antonio Sena testified.

Commissioner Schwartz moved that factual allegations 1 through 5 were proven. Seconded by Commissioner Gurr. Motion passed.

Commissioner Schwartz read the violations of law into the record.

Commissioner Reiss moved that the violations of law were proven. Seconded by Commissioner Gurr. Motion passed.

Division's Recommendation for Discipline

Daryl McCloskey presented this:

- Fine of \$30,000 plus cost of hearing and investigation of \$932.38 to be payable within 90 days of effective date of order.
- Revocation of license.

Commissioner Reiss moved to accept the Division's recommendation for discipline. Seconded by Commissioner Capurro. Motion passed.

9-E) NRED v Craig S. Sevy, for possible action
Case # 2016-116

Parties Present

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

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

State's Witness

Evelyn Pattee, Administrative Assistant III, testified regarding service of the complaint.

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

Commissioner Schwartz moved the factual allegations and violations of law were proven. Seconded by Commissioner Reiss. Motion passed.

Division's Recommendation for Discipline

Daryl McCloskey presented this:

- Fine of \$30,000 plus cost of hearing and investigation of \$797.38 to be payable within 60 days of effective date of order.
- Revocation of license.

Commissioner Reiss moved to accept the Division's recommendation for discipline. Seconded by Commissioner Schwarz. Motion passed.

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

NRED v Beth S. Gardner

Case # 2016-1775

License No.: S.0051771.LLC

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

The Commission went back into open session.

Commissioner Capurro moved to approve the request to have the license reinstated and payment plan reduced to \$150 per month until paid in full. Seconded by Commissioner Schwartz. Motion passed.

4-A) For possible action: Discussion and decision concerning Real Estate Advisory Review

Committee application:

Georgia Purpura

License No.: BS.0061455.LLC/MGR

Commissioner Schwartz moved to accept the application for the advisory review committee from Georgia Purpura. Seconded by Commissioner Reiss. Motion passed.

3-G) For possible action: Discussion and decision to approve minutes of the December 4, 2018 meeting.

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

10) Public Comment

No public comment.

11) For Possible Action: Adjournment

The meeting adjourned on March 27, 2019 at 12:18 p.m.