

**NEVADA REAL ESTATE COMMISSION
MINUTES**

VIA VIRTUAL MEETING

NOVEMBER 17, 2020

9:07 AM

1-A) Introduction of Commissioners in Attendance

Lee Gurr, Elko County; Darrell Plummer, Washoe County; Spiridon Filios, Clark County; Lee Barrett, Clark County and Devin Reiss, Clark County

Commission Counsel: Deputy Attorney General Asheesh Bhalla

1-B) Introduction of Division Staff in Attendance

Sharath Chandra, Administrator; Teralyn Lewis, Administration Section Manager; Evelyn Pattee, Commission Coordinator; Jan Holle, Chief Compliance Audit Investigator; Daryl McCloskey, Compliance Audit Investigator; Deputy Attorney Generals Brandee Mooneyhan, Peter Keegan and Vivienne Rakowsky representing the Division.

2) Public Comment

No public comment.

3-A) For possible action: Limited Evidentiary Hearing

First Judicial District Court Consolidated Case# 18OC00041B remanded parties: Alvin Mansour, Kevin Mansour, Gordon Robert Allred, Perry White, Nenad Zikovic, Todd Manning, Anthony D'Ambrosia, John Glass, Glen Kunofsky, Edward Otocka, Gaurab Reja and James Ventura

Parties Present

Todd Manning was present.

Perry White was present.

Michael Feder, Jill Rowe and Seth Mott were present representing the combined parties.

Deputy Attorney Generals Peter Keegan, Vivienne Rakowsky and Brandee Mooneyhan were present representing the Division.

Preliminary Matters

Ms. Rowe stated that NRS 645.060 precludes members from serving on the Commission for a period of greater than 6 years. Ms. Rowe stated that President Reiss has served for 6 years. Ms. Rowe stated that President Reiss's term expired October 31, 2020. Ms. Rowe stated that President Reiss was appointed November 1, 2014. Ms. Rowe stated that President Reiss does not have the authority to preside over, perform or attend these proceedings. Ms. Rowe stated that if President Reiss does preside or attend this hearing, the State court could set aside the order for lack of authority.

President Reiss denied the request.

Ms. Rowe objected for the record.

Ms. Rowe stated that a motion to recuse the Commission was filed.

Mr. Keegan stated that the Division filed an opposition to the motion.

NEVADA REAL ESTATE COMMISSION MINUTES

President Reiss stated that he has reviewed the motion and the State's position. President Reiss with sole authority denied the motion.

Ms. Rowe stated her argument. Ms. Rowe requested a ruling from the full Commission.

President Reiss denied the motion. President Reiss stated that each Commissioner is expected to recuse themselves if they feel the need. President Reiss stated that there is no need to recuse himself.

Ms. Rowe stated that a motion to dismiss was filed. Ms. Rowe requested a ruling from the full Commission.

President Reiss stated that he has seen the motion and the Division's opposition to motion to dismiss.

President Reiss with sole authority denied the motion.

Ms. Rowe addressed and responded to issues raised in the opposition to the motion to dismiss.

President Reiss with sole authority denied the motion.

Ms. Rowe stated that the entire case should be heard by the Commission including all evidence.

President Reiss stated that the Commission is hearing the evidence that was left out of prior testimony. President Reiss stated that the cases will not be heard.

Ms. Rowe requested a ruling from the full Commission.

President Reiss stated that with sole authority, the decision has been made that the cases will not be heard today.

Opening Statements

Ms. Rowe gave her opening statement.

Ms. Rakowsky gave her opening statement.

Respondent's Witness

Alan Wallace testified.

Ms. Rakowsky stated that the Division will object if Ms. Rowe is qualifying Mr. Wallace as an expert witness.

Ms. Rakowsky cross-examined Mr. Wallace.

Ms. Rowe re-examined Mr. Wallace.

The witness was dismissed.

Respondent's Witness

Sharath Chandra, Administrator, testified.

**NEVADA REAL ESTATE COMMISSION
MINUTES**

4) Public Comment

No public comment.

5) For Possible Action: Adjournment

Meeting recessed at 4:34 p.m. on November 17, 2020.

**NEVADA REAL ESTATE COMMISSION
MINUTES**

VIA VIRTUAL MEETING

NOVEMBER 18, 2020

9:00 AM

1-A) Introduction of Commissioners in Attendance

Lee Barrett, Clark County; Spiridon Filios, Clark County; Lee Gurr, Elko County; Darrell Plummer, Washoe County and Devin Reiss, Clark County

Commission Counsel: Deputy Attorney General Asheesh Bhalla

1-B) Introduction of Division Staff in Attendance

Sharath Chandra, Administrator; Teralyn Lewis, Administration Section Manager; Evelyn Pattee, Commission Coordinator; Deputy Attorney Generals Brandee Mooneyhan, Peter Keegan and Vivienne Rakowsky representing the Division.

2) Public Comment

Steven Kitnick stated that laws and regulations need to be passed that protect real estate licensees from unscrupulous brokers. Mr. Kitnick stated that he is getting contacted regarding a broker in town that is not paying real estate agents. Mr. Kitnick stated that we cannot continue to allow real estate brokers to use real estate agent's money for their own purposes.

3-A) For possible action: Limited Evidentiary Hearing

First Judicial District Court Consolidated Case# 18OC00041B remanded parties: Alvin Mansour, Kevin Mansour, Gordon Robert Allred, Perry White, Nenad Zikovic, Todd Manning, Anthony D'Ambrosia, John Glass, Glen Kunofsky, Edward Otocka, Gaurab Reja and James Ventura
Parties Present

Todd Manning was present.

Perry White was present.

Michael Feder, Jill Rowe and Seth Mott were present representing the combined parties.

Deputy Attorney Generals Peter Keegan, Vivienne Rakowsky and Brandee Mooneyhan were present representing the Division.

Respondent's Witness

Sharath Chandra, Administrator, testified.

Ms. Rakowsky cross-examined Mr. Chandra.

Ms. Rowe re-examined Mr. Chandra.

The witness was dismissed.

Respondent's Witness

Jan Holle, Chief Compliance Audit Investigator, testified.

Ms. Rakowsky cross-examined Mr. Holle.

Ms. Rowe re-examined Mr. Holle.

**NEVADA REAL ESTATE COMMISSION
MINUTES**

The Commission questioned Mr. Holle.

The witness was dismissed.

Respondent's Witness

Daryl McCloskey, Compliance Audit Investigator, testified.

Ms. Rakowsky cross-examined Mr. McCloskey.

The Commission questioned Mr. McCloskey.

The witness was dismissed.

4) Public Comment

No public comment.

5) For Possible Action: Adjournment

Meeting recessed at 2:18 p.m. on November 18, 2020.

**NEVADA REAL ESTATE COMMISSION
MINUTES**

VIA VIRTUAL MEETING

NOVEMBER 19, 2020

9:00 AM

1-A) Introduction of Commissioners in Attendance

Lee Barrett, Clark County; Spiridon Filios, Clark County; Lee Gurr, Elko County; Darrell Plummer, Washoe County and Devin Reiss, Clark County

Commission Counsel: Deputy Attorney General Asheesh Bhalla

1-B) Introduction of Division Staff in Attendance

Sharath Chandra, Administrator; Teralyn Lewis, Administration Section Manager; Evelyn Pattee, Commission Coordinator; Jan Holle, Chief Compliance Audit Investigator; Daryl McCloskey, Compliance Audit Investigator; Deputy Attorney Generals Brandee Mooneyhan, Peter Keegan and Vivienne Rakowsky representing the Division.

2) Public Comment

No public comment.

3-A) For possible action: Limited Evidentiary Hearing

First Judicial District Court Consolidated Case# 18OC00041B remanded parties: Alvin Mansour, Kevin Mansour, Gordon Robert Allred, Perry White, Nenad Zikovic, Todd Manning, Anthony D'Ambrosia, John Glass, Glen Kunofsky, Edward Otocka, Gaurab Reja and James Ventura

Parties Present

Michael Feder, Jill Rowe and Seth Mott were present representing the combined parties.

Deputy Attorney Generals Peter Keegan, Vivienne Rakowsky and Brandee Mooneyhan were present representing the Division.

Closing Statements

Ms. Rowe gave her closing statement.

Ms. Rakowsky gave her closing statement.

Commissioner Barrett stated that NAC 645.185(11) is lawful. Commissioner Barrett stated that the Commission did not exceed its statutory rules. Commissioner Barrett stated that based on Marcus & Millichap's own internal memo, the cases were justified based on unlicensed brokerage activities of advertising, marketing, listing and selling real estate in violation of NRS 645.230 and NRS 645.235(2). Commissioner Barrett stated that he questions Marcus & Millichap's internal documents, one of which states no out of state agent information shall be included in marketing and advertising material and cannot include out of state licensee information.

Commissioner Gurr stated that the agenda for this meeting accurately reflects the First Judicial Court's order with specific directive for the cause of this hearing which is set out in paragraph 28 of the order. Commissioner Gurr stated that her interest was hearing arguments and seeing evidence that addressed the items on the agenda, particularly the freedom of speech and rights of association.

Commissioner Gurr stated that with the exception to a few questions pertaining to witnesses' opinions about how Nevada's cooperative certificate requirement does or does not affect the dormant commerce clause, nothing was addressed to whether the regulatory cooperative certification framework exceeds the

NEVADA REAL ESTATE COMMISSION MINUTES

Commissioner's statutory authority, nor any discussion, evidence or arguments relating to petitioner's rights of association and free speech under Amendments to the Constitution. Commissioner Gurr stated that instead, she heard a lot of questions that attempted to get witnesses to testify that procedures might not have been precisely followed or the procedures were flawed or the people following the procedures were flawed. Commissioner Gurr stated that she heard a concerted effort to get matters "on the record" for a future legal action in a court of law. Commissioner Gurr stated that she is frustrated that matters were not properly addressed, rather diverted to a completely different purpose.

Commissioner Gurr stated that she cannot understand why it is "greedy" for Nevada licensees to want to keep the money in Nevada but not "greedy" for out of state licensees to want 100% of the compensation for themselves, rather than collaborate with a Nevada licensee and compensate that licensee. Commissioner Gurr stated that it is important and appropriate to require out of state licensees to work with a Nevada licensee on Nevada real estate transactions. Commissioner Gurr stated that those who practice in Nevada, know the laws and the customs in Nevada. Commissioner Gurr stated that the petitioners either did not know the law or blatantly disregarded it. Commissioner Gurr stated that a large commercial transaction is different in intent and practice than other types of real estate transactions, however it is not reasonable or practicable to have two separate sets of laws for two different real estate transactions. Commissioner Gurr stated that Ms. Rowe misstated paragraph 24 of the court's order that a cooperative certificate should be required for all transactions. Commissioner Gurr stated that there is no limitation to transactions. Commissioner Gurr stated that if an out of state licensee wants to get a cooperative certificate to represent a buyer, no one says that he or she cannot. Commissioner Gurr stated that there is a requirement for transactions involving sellers.

Commissioner Plummer stated that he disagreed with witness Alan Wallace's interpretation of the difference between a commercial and residential deal. Commissioner Plummer stated that there is always an attempt to separate commercial and residential deals with residential deals being based on emotion. Commissioner Plummer stated that there are residential transactions that are ran by the numbers with single family homes being purchased in bulk.

Commissioner Filios stated that having done commercial real estate in Nevada and other states and holding licenses in other states, he finds it perplexing that a licensee in another state expects to do business in Nevada or any other state but feel they are not subject to the rules and regulations of that state. Commissioner Filios stated that in other states where he is licensed, he is required to take classes, pass tests and prove that he can perform in those states. Commissioner Filios stated that it is reasonable to expect licensees in other states to conform to Nevada's laws and it does not affect the commerce clause.

President Reiss stated that he heard complete twisting and misstating of the law in people's comments, none of which have bearing. President Reiss stated that in teaching State law, regarding the cooperative certificate, he has not seen it administered any way other than the way it has been administered. President Reiss stated that as far as any changes to the laws, the Commission sits through days of NAC changes being read. President Reiss stated that the meeting is open for anyone to comment.

President Reiss stated that witness, Mr. Wallace, seems well educated, however, has zero credibility. President Reiss stated that Mr. Wallace's testimony is one person's opinion. President Reiss stated that he has seen emotion and non-emotion on both commercial and residential sides. President Reiss stated that on the non-emotion side, it is ridiculous to think that a buyer would not buy a commercial or investment property in Nevada because they would not be able to use the agent of their choice from

NEVADA REAL ESTATE COMMISSION MINUTES

another state when they turn around to sell. President Reiss stated that IDX, Internet Data Exchange, is a way of allowing the marketing of properties across the state so long as credit is given to the listing agent and the state's laws are abided by. President Reiss stated that each state has their laws and the ability to set forth their rules and regulations.

Commissioner Gurr moved that the regulation and statutory framework providing for the certification of cooperation is valid and is valid as applied to the remanded parties and moves that the Commission affirms all previous orders and discipline imposed. Seconded by Commissioner Barrett. Motion passed.

4) Public Comment

No public comment.

5) For Possible Action: Adjournment

Meeting adjourned at 10:44 a.m. on November 19, 2020.