

**NEVADA REAL ESTATE COMMISSION
MINUTES**

VIA VIRTUAL MEETING

SEPTEMBER 1, 2020

9:07 AM

1-A) Introduction of Commissioners in Attendance

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

Commission Counsel: Deputy Attorney General Asheesh Bhalla and Deputy Attorney General Justin Taruc

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; Annalyn Carrillo, Education & Information Officer; Kimberly Smith, Education Supervisor; Deputy Attorney Generals Karissa Neff, Peter Keegan and Robert Werbicky representing the Division.

2) Public Comment

No public comment.

4-A) For possible action: Discussion and decision regarding the appeal of the Administrator's withdrawal of approval of an instructor pursuant to NAC.645.427.

Parties Present

Arthur Mann was present.

Deputy Attorney General Peter Keegan was present representing the Division.

Opening Statement

Mr. Keegan gave his opening statement.

Mr. Mann gave his opening statement.

State's Witness

Ann Angell testified.

The Commission questioned Ms. Angell.

The witness was dismissed.

Closing Statements

Mr. Mann gave his closing statement.

Mr. Keegan gave his closing statement.

Mr. Keegan asked that the documents submitted be admitted as State's Exhibits.

President Reiss stated that the documents would be admitted.

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Commissioner Gurr moved that the appeal of the Administrator's withdrawal of approval of an instructor pursuant to NAC 645.427 be denied. Seconded by Commissioner Barrett. Motion passed.

8-H) NRED v Shannon Janvrin, for possible action

Case # 2019-638

Parties Present

Shannon Janvrin was present.

Leo Flangas was present representing Ms. Janvrin.

Deputy Attorney General Karissa Neff was present representing the Division.

Preliminary Matters

Ms. Neff stated that a settlement had been reached. Ms. Neff stated that a settlement was presented at the last Commission meeting. Ms. Neff stated that there was confusion whether Ms. Janvrin could re-apply for her license. Ms. Neff stated that the Commission clarified the issue at the last Commission meeting. Ms. Neff read the settlement and the complaint into the record.

Settlement

- Respondent agrees to pay the Division \$15,000.00 as an administrative fine and \$708.72 in administrative costs for a total of \$15,708.72 as follows:
 - Respondent shall make monthly payments due the 1st of each month in the amount of \$261.81 starting November 1, 2020 until the total amount is paid in full.
- Revocation of all real estate licenses and property manager permits for a period of five years.

The Commission questioned Ms. Neff.

Mr. Flangas made a statement.

Commissioner Barrett moved to accept the stipulation as presented. Seconded by Commissioner Gurr. Motion passed.

8-Z) NRED v Ronald B. Stichter, for possible action

Case # 2018-1715

Parties Present

Ronald Stichter was not present.

Deputy Attorney General Peter Keegan was present representing the Division.

Preliminary Matters

Mr. Keegan stated that a settlement had been reached. Mr. Keegan stated that this matter stems from the cases NRED vs. Sherine Kuckhoff and NRED vs. Ron Hoy. Mr. Keegan stated that it is all related to the underlying factual allegations wherein. Mr. Keegan read the factual allegations and the stipulation into the record.

Settlement

- Respondent agrees to pay the Division \$2,000.00 as an administrative fine and \$1,206.16 in administrative costs within 30 days of the Commission's order approving the stipulation.

Commissioner Barrett moved to reject the stipulation as presented and requested a hearing be set. Seconded by Commissioner Plummer.

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Commissioner Barrett stated that the amount of the fine was light.

Commissioner Gurr spoke against the motion. Commissioner Gurr stated that the fine is sufficient to this matter.

Motion failed 2-3 with Commissioner Gurr, Commissioner Filios and President Reiss opposed.

Commissioner Gurr moved to accept the stipulation as presented. Seconded by Commissioner Filios. Motion passed.

8-AA) NRED v Sherine Kuckhoff, for possible action

Case # 2018-1714

Parties Present

Sherine Kuckhoff was present.

Deputy Attorney General Peter Keegan was present representing the Division.

Preliminary Matters

Mr. Keegan stated that a settlement had been reached. Mr. Keegan read the factual allegations and the stipulation into the record.

Settlement

- Respondent agrees to pay the Division \$10,000.00 as an administrative fine and \$2,132.32 in administrative costs within 90 days of the Commission's order approving the stipulation.

The Commission questioned Ms. Kuckhoff.

Commissioner Gurr moved to accept the stipulation as presented. Seconded by Commissioner Plummer. Motion passed.

8-Y) NRED v Ron Hoy, for possible action

Case # 2018-1716

Parties Present

Ron Hoy was present.

Deputy Attorney General Peter Keegan was present representing the Division.

Preliminary Matters

Mr. Keegan stated that a settlement had been reached. Mr. Keegan stated that this matter stems from cases NRED vs. Sherine Kuckhoff and NRED vs. Ronald B. Stichter. Mr. Keegan stated that it is all related to the underlying factual allegations wherein. Mr. Keegan read the stipulation into the record.

Settlement

- Respondent agrees to pay the Division \$2,000.00 as an administrative fine and \$1,206.16 in administrative costs within 30 days of the Commission's order approving the stipulation.

The Commission questioned Mr. Hoy.

Commissioner Gurr moved to accept the stipulation as presented. Seconded by Commissioner Barrett. Motion passed.

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8-R) NRED v Chaim Lurya, for possible action
Case # 2018-895

Parties Present

Chaim Lurya was present.

Sholomo Sherman was present representing Mr. Lurya.

Deputy Attorney General Karissa Neff was present representing the Division.

Preliminary Matters

Ms. Neff stated that a settlement had been reached. Ms. Neff read the complaint and the stipulation into the record.

Settlement

- Respondent agrees to pay the Division \$7,500.00 as an administrative fine and \$1,051.80 in administrative costs within 90 days of the Commission's order approving the stipulation.
- 6 hours of continuing education in contracts and 6 hours of continuing education in ethics to be completed within 90 days of the Commission's order approving the stipulation and such continuing education shall not accrue toward license renewal requirements.

Commissioner Gurr moved to accept the stipulation as presented. Seconded by Commissioner Barrett. Motion passed.

8-S) NRED v Hava Lurya, for possible action
Case # 2018-896

Parties Present

Hava Lurya was present.

Sholomo Sherman was present representing Ms. Lurya.

Deputy Attorney General Karissa Neff was present representing the Division.

Preliminary Matters

Ms. Neff stated that a settlement had been reached. Ms. Neff stated that the factual allegations were the same as NRED vs. Chaim Lurya. Ms. Neff read the stipulation into the record.

Settlement

- Respondent agrees to pay the Division \$2,500.00 as an administrative fine and \$743.00 in administrative costs within 90 days of the Commission's order approving the stipulation.

The Commission questioned Ms. Neff.

Commissioner Filios moved to accept the stipulation as presented. Seconded by Commissioner Barrett.

Commissioner Gurr stated that she is speaking against the motion. Commissioner Gurr stated that the fine is insufficient.

Motion passed 3-2 with Commissioners Gurr and Barrett opposed.

8-BB) NRED v Norma Jeanne Drayton, for possible action
Case # 2019-204

Parties Present

Norma Jeanne Drayton was present.

Bill Baker was present representing Ms. Drayton.

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Deputy Attorney General Peter Keegan was present representing the Division.

Preliminary Matters

Mr. Keegan stated that a settlement had been reached. Mr. Keegan read the factual allegations and stipulation into the record.

Settlement

- Respondent agrees to pay the Division \$4,000.00 as an administrative fine and \$2,781.68 in administrative costs within 60 days of the Commission's order approving the stipulation.

Commissioner Barrett moved to reject the stipulation as presented and requested a hearing be set. Seconded by Commissioner Gurr.

Commissioner Gurr stated that this is an egregious set of circumstances culminating in the respondent supplying false information to the Division's investigator. Commissioner Gurr stated that she supports the motion.

Commissioner Barrett stated that this is a case where we look at consumers thinking that the industry is dishonest and lacks integrity. Commissioner Barrett stated that he is concerned about the transaction.

President Reiss stated that the potential harm versus the penalty does not equate. President Reiss stated he would like to hear the matter.

Motion passed.

8-C) NRED v Ashan Perera, for possible action **Case # 2018-1619**

Parties Present

Ashan Perera was present.

Paul Connaghan was present representing Mr. Perera.

Deputy Attorney General Karissa Neff was present representing the Division.

Preliminary Matters

Ms. Neff stated that a settlement had been reached. Ms. Neff read the factual allegations and settlement into the record.

Settlement

- Respondent agrees to pay the Division \$1,000.00 as an administrative fine and \$837.44 in administrative costs within 60 days of the Commission's order approving the stipulation.

The Commission questioned Ms. Neff.

Mr. Connaghan made a statement.

Commissioner Barrett stated that he would like to see the fine significantly reduced. Commissioner Barrett recommended a fine of \$100.00 plus administrative costs in the amount of \$837.44 and that everything else in the stipulation remain the same.

Commissioner Plummer moved to reject the stipulation as presented for modification. Seconded by Commissioner Barrett. Motion passed 3-2 with Commissioners Gurr and Barrett opposed.

President Reiss stated that the matter will be tabled until after the lunch break.

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**8-V) NRED v Katherine D. Schander, for possible action
Case # 2018-160**

Parties Present

Katherine Schander was present.

Deputy Attorney General Peter Keegan was present representing the Division.

Preliminary Matters

Mr. Keegan stated that a settlement had been reached. Mr. Keegan read the factual allegations and settlement into the record.

Settlement

- Respondent agrees to pay the Division \$3,000.00 as an administrative fine and \$3,000.00 in administrative costs within 30 days of the Commission's order approving the stipulation.

Commissioner Filios moved to accept the stipulation as presented. Seconded by Commissioner Gurr.

The Commission questioned Mr. Keegan.

Motion passed.

**8-C) NRED v Ashan Perera, for possible action
Case # 2018-1619**

Parties Present

Ashan Perera was present.

Paul Connaghan was present representing Mr. Perera.

Deputy Attorney General Karissa Neff was present representing the Division.

Preliminary Matters

Ms. Neff stated that the stipulation was amended to reflect the Commission's recommendation.

Amended Settlement

- Respondent agrees to pay the Division \$100.00 as an administrative fine and \$837.44 in administrative costs within 60 days of the Commission's order approving the stipulation.

Commissioner Gurr moved to accept the amended stipulation. Seconded by Commissioner Barrett.

President Reiss confirmed that the stipulation was accepted by Mr. Connaghan.

Motion passed.

**8-B) NRED v Arlandus Rene White, for possible action
Case # 2018-1305**

Parties Present

Arlandus White was present.

Deputy Attorney General Karissa Neff was present representing the Division.

Preliminary Matters

Ms. Neff stated that a settlement had been reached. Ms. Neff read the complaint and settlement into the record.

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Settlement

- Respondent agrees to pay the Division \$1,500.00 as an administrative fine and \$770.90 in administrative costs within 30 days of the Commission's order approving the stipulation.
- 3 hours of continuing education in agency and 3 hours of continuing education in contracts to be completed within 180 days of the Commission's order approving the stipulation and such continuing education shall not accrue toward license renewal requirements.

The Commission questioned Mr. White.

Commissioner Gurr moved to accept the stipulation as presented. Seconded by Commissioner Barrett. Motion passed.

8-J) NRED v Cynthia L. Glickman, for possible action

Case # 2019-508

Parties Present

Cynthia Glickman was present.

Steven Mack was present representing Ms. Glickman.

Deputy Attorney General Robert Werbicky was present representing the Division.

Preliminary Matters

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

Settlement

- Respondent agrees to pay the Division \$3,000.00 as an administrative fine and \$1,449.65 in administrative costs by September 30, 2020.
- 3 hours of continuing education in ethics and 3 hours of continuing education in agency to be completed by December 31, 2020 and such continuing education shall not accrue toward license renewal requirements.

Commissioner Plummer moved to accept the stipulation as presented. Seconded by Commissioner Barrett. Motion passed.

8-I) NRED v Rebecca L. Cordova, for possible action

Case # 2017-2135

Parties Present

Rebecca Cordova was present.

Justin Zarcone was present representing Ms. Cordova.

Deputy Attorney General Karissa Neff was present representing the Division.

Preliminary Matters

Ms. Neff stated that a settlement had been reached. Ms. Neff stated that a settlement was presented at the March 2020 Commission meeting. Ms. Neff stated that the settlement was rejected. Ms. Neff stated that material changes have been made to the settlement. Ms. Neff stated that the respondent was not present at the March 2020 Commission meeting. Ms. Neff read the allegations and settlement into the record.

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Settlement

- Respondent agrees to pay the Division \$5,000.00 as an administrative fine and \$1,490.00 in administrative costs within 120 days of the Commission's order approving the stipulation.
- 3 hours of continuing education in ethics and 3 hours of continuing education in agency to be completed within 60 days of the Commission's order approving the stipulation and such continuing education shall not accrue toward license renewal requirements.
- Respondent shall not apply for a property management permit for a period of 10 years.
- Respondent's broker license be reduced to a salesperson's license for a period of 5 years.

The Commission questioned Ms. Neff.

Mr. Zarcone gave a statement.

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

8-U) NRED v Cindy Krshul, for possible action

Case # 2018-1703

Parties Present

Cindy Krshul was not present.

Deputy Attorney General Peter Keegan was present representing the Division.

Mr. Keegan stated that the Division would submit that there was proper service upon Ms. Krshul.

State's Witness

Evelyn Pattee, Commission Coordinator, testified regarding service of complaint.

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

Mr. Keegan read the factual allegations and violations of law into the record.

Commissioner Filios moved that the factual allegations and violations were proven. Seconded by Commissioner Gurr. Motion passed.

Division's Recommendation for Discipline

Jan Holle presented this:

- \$25,000.00 administrative fine plus the cost of hearing and investigation in the amount of \$1,555.52 to be paid within 90 days of the effective date of the order.
- Revocation of all real estate licenses and property manager permits.

Commissioner Gurr moved to accept the recommendation of the Division. Seconded by Commissioner Barrett. Motion passed.

8-W) NRED v Michelle Lanae Harmon, for possible action

Case # 2018-1466

Parties Present

Michelle Lanae Harmon was not present.

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Deputy Attorney General Peter Keegan was present representing the Division.

Mr. Keegan stated that the Division would submit that there was proper service upon Ms. Harmon.

State's Witness

Evelyn Pattee, Commission Coordinator, testified regarding service of complaint.

Mr. Keegan read the complaint into the record.

Commissioner Gurr moved that that the Commission pursuant to NAC 645.860 find that the Real Estate Division has proven service of notice to respondent and that the factual allegations and violations of law were proven. Seconded by Commissioner Plummer. Motion passed.

Division's Recommendation for Discipline

Jan Holle presented this:

- \$40,000.00 administrative fine plus the cost of hearing and investigation in the amount of \$2,816.04 to be paid within 90 days of the effective date of the order.
- Revocation of all real estate licenses and property manager permits.

Commissioner Barrett moved to accept the recommendation of the Division. Seconded by Commissioner Plummer. Motion passed.

6-A) For possible action: Discussion and decision regarding license denial appeal: Justin Sigstad File No. S-LDA-20-005

Parties Present

Justin Sigstad was present.

Kevin Sigstad was present.

Susan Clark, Licensing Manager for the Real Estate Division, stated the reason Mr. Sigstad's application for salesperson license was denied.

Mr. Sigstad gave his statement.

Commissioner Gurr moved to grant Mr. Sigstad a real estate license. Seconded by Commissioner Barrett. Motion passed.

6-B) For possible action: Discussion and decision regarding license denial appeal: Braylon Robinson File No. S-LDA-21-001

Parties Present

Braylon Robinson was present.

Susan Clark, Licensing Manager for the Real Estate Division, stated the reason Mr. Robinson's application for salesperson license was denied.

Mr. Robinson gave his statement.

The Commission questioned Mr. Robinson.

Commissioner Filios moved to grant Mr. Robinson a real estate license. Seconded by Commissioner Gurr. Motion passed.

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8-K) NRED v Hung Yeh, for possible action
Case # 2019-472

Parties Present

Hung Yeh was present.

Deputy Attorney General Robert Werbicky was present representing the Division.

Preliminary Matters

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

Settlement

- Respondent agrees to pay the Division \$3,000.00 as an administrative fine and \$2,162.19 in administrative costs for a total of \$5,162.19 as follows:
 - Respondent shall make monthly payments due the 1st of each month in the amount of \$172.07 starting October 1, 2020 for 30 months.
- 9 hours of continuing education in property management to be completed by December 31, 2020 and such continuing education shall not accrue toward license renewal requirements.

Mr. Yeh made a statement.

The Commission questioned Mr. Yeh.

Commissioner Plummer moved to reject the stipulation as presented. Seconded by Commissioner Barrett.

Motion failed 2-3 with President Reiss and Commissioners Gurr and Filios opposed.

Commissioner Filios moved to accept the stipulation as presented. Seconded by Commissioner Gurr. Motion passed 3-2 with Commissioners Plummer and Barrett opposed.

8-A) NRED v Anthony Wilham, for possible action
Case # 2018-815

Parties Present

Anthony Wilham was present.

Deputy Attorney General Karissa Neff was present representing the Division.

Preliminary Matters

Ms. Neff stated that this case was initially filed on May 15, 2020. Ms. Neff stated that a Notice of Default was issued August 18, 2020 because an Answer was not received in the 30-day period after the initial complaint was filed. Ms. Neff stated that an Answer was received August 28, 2020. Ms. Neff requested a default judgement against Mr. Wilham and requested that the purported Answer be stricken.

President Reiss denied the motion for default.

Opening Statements

Ms. Neff gave her opening statement.

Mr. Wilham gave his opening statement.

Mr. Wilham requested documents provided be admitted.

Ms. Neff objected to documents or witnesses being admitted that were not provided 5 days prior to the hearing.

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President Reiss stated that the documents would not be admitted. President Reiss stated that the decision to allow a witness will be decided later.

Ms. Neff asked that the notice of documents be admitted as State's Exhibits.

President Reiss stated that the notice of documents would be admitted.

State's Witness

Daryl McCloskey, Compliance Audit Investigator, testified.

9) Public Comment

No public comment.

10) For Possible Action: Adjournment

Meeting recessed at 4:41 p.m. on September 1, 2020.

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VIA VIRTUAL MEETING

SEPTEMBER 2, 2020

9:00 AM

1-A) Introduction of Commissioners in Attendance

Lee Gurr, Elko County; Lee Barrett, Clark County; Devin Reiss, Clark County; Darrell Plummer, Washoe County and Spiridon Filios, 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; Annalyn Carrillo, Education & Information Officer; Kimberly Smith, Education Supervisor; Deputy Attorney Generals Karissa Neff and Robert Werbicky representing the Division.

2) Public Comment

No public comment.

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

NRED v Hillary Brown

Case # 2018-1087

Parties Present

Deputy Attorney General Karissa Neff was present representing the Division.

Mitchell Bisson was present representing Hillary Brown.

Hillary Brown was not present.

Ms. Neff stated that the Respondent is requesting a petition for rehearing and a stay of the decision. Ms. Neff stated that the Respondent tried to attend the last meeting and was not able to get through due to technical issues. Ms. Neff stated that a default judgement was entered against Ms. Brown. Ms. Neff stated that the Division is not opposing Ms. Brown's request for a rehearing.

Mr. Bisson stated that because of the Covid-19 pandemic, Ms. Brown's office in California was closed between March and July 2020. Mr. Bisson stated that the hearing notice for the June 17, 2020 hearing was not received until July 2, 2020. Mr. Bisson stated that on the day of the hearing, Ms. Brown received a call from someone that was listening to the hearing and called Ms. Brown. Mr. Bisson stated that Ms. Brown was on a boat with her children when she received the call. Mr. Bisson stated that Ms. Brown tried to call in and was disconnected. Mr. Bisson stated that Ms. Brown immediately notified the Division and hired him to file the petition. Mr. Bisson stated that NAC 645.820 constitutes a rehearing and a stay of the fine in this matter. Mr. Bisson stated that the property in question was never sold and a commission was never received.

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Commissioner Gurr moved to grant a rehearing and reconsideration of disciplinary terms. Seconded by Commissioner Barrett. Motion passed.

5-A For possible action: Discussion and decision regarding respondent's petition for rehearing and reconsideration of disciplinary terms:

NRED v Frederick Britton

Case # 2017-2125

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

NRED v Frederick Britton

Case # 2018-161

Parties Present

Deputy Attorney General Karissa Neff was present representing the Division.

Frederick Britton was not present.

Ms. Neff stated that the petitions for rehearing were set for the last meeting. Ms. Neff stated that at Mr. Britton's request, they were continued to today. Ms. Neff read the factual allegations in Case # 2017-2125 and Case # 2018-161. Ms. Neff stated that a default judgement was entered against Mr. Britton in both cases for failure to appear. Ms. Neff stated that although Mr. Britton was in contact with the Division prior to the hearing and given instruction on how to request a continuance, he did not properly do so. Ms. Neff stated that Mr. Britton's request for a rehearing was untimely. Ms. Neff stated that Mr. Britton's request for a rehearing was due to the Division by April 14, 2020 pursuant to NAC 645.820. Ms. Neff stated that the Order was mailed to Mr. Britton on March 31, 2020 and was received by certified mail on April 4, 2020. Ms. Neff stated that Mr. Britton submitted his request for a rehearing on May 4, 2020. Ms. Neff stated that Mr. Britton did not move for a stay and his appeal rights have expired. Ms. Neff requested the Commission reject the petition.

Commissioner Filios moved to deny the request for a rehearing in both cases. Seconded by Commissioner Barrett. Motion passed.

8-D) NRED v Joshua Michaeli, for possible action

Case # 2018-394

Parties Present

Joshua Michaeli was not present.

Jon Field was present representing Mr. Michaeli.

Deputy Attorney General Robert Werbicky was present representing the Division.

Preliminary Matters

Mr. Werbicky stated that a settlement had been reached. Mr. Werbicky read the factual allegations and settlement into the record.

Settlement

- Respondent agrees to pay the Division \$4,000.00 as an administrative fine and \$803.08 in administrative costs by October 31, 2020.

Mr. Field made a statement.

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Commissioner Barrett moved to accept the stipulation as presented. Seconded by Commissioner Plummer. Motion passed.

8-E) NRED v Joshua Michaeli, for possible action
Case # 2018-1542

Parties Present

Joshua Michaeli was not present.

Jon Field was present representing Mr. Michaeli.

Deputy Attorney General Robert Werbicky was present representing the Division.

Preliminary Matters

Mr. Werbicky stated that a settlement had been reached. Mr. Werbicky read the factual allegations and settlement into the record.

Settlement

➤ Respondent agrees to pay the Division \$4,000.00 as an administrative fine and \$2,670.84 in administrative costs by October 31, 2020.

Mr. Field made a statement.

The Commission questioned Mr. Field.

Commissioner Barrett moved to accept the stipulation as presented. Seconded by Commissioner Plummer. Motion passed.

7-A) For possible action: Discussion and decision concerning Real Estate Advisory Review
Committee application:

Thanh-Thuy N. Tran, License No.: B.1000986.LLC

Commissioner Barrett moved to approve the application. Seconded by Commissioner Gurr. Motion passed.

8-A) NRED v Anthony Wilham, for possible action
Case # 2018-815

Parties Present

Anthony Wilham was present.

Deputy Attorney General Karissa Neff was present representing the Division.

State's Witness

Daryl McCloskey, Compliance Audit Investigator, testified.

Mr. Wilham cross-examined Mr. McCloskey.

The witness was dismissed.

State's Witness

Anthony Wilham testified.

The witness was dismissed.

Ms. Neff rested her case.

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Respondent's Witness

Evelyn Pattee, Commission Coordinator, testified.

The witness was dismissed.

Respondent's Witness

Daryl McCloskey, Compliance Audit Investigator, testified.

The Commission questioned Mr. McCloskey.

The witness was dismissed.

Mr. Wilham stated his case.

The Commission questioned Mr. Wilham.

Closing Statements

Ms. Neff gave her closing statement.

Mr. Wilham gave his closing statement.

Commissioner Filios stated that the Commission Coordinator and the Division fell down on the job regarding notice. Commissioner Filios stated that if Mr. Wilham went to the Division to move his license, there is no doubt the Division had the new address. Commissioner Filios stated that the Commission Coordinator just went with the old address. Commissioner Filios stated that the Commission should consider allowing Mr. Wilham the opportunity to get a lawyer to represent his case more clearly to the Commission.

Commissioner Barrett stated that he did not hear during Mr. Wilham's testimony that he checked with an attorney to confirm that this is not under the jurisdiction of the Real Estate Division. Commissioner Barrett stated that looking at the different elements Mr. Wilham did during the time of running his business, prior to ever being involved with the Real Estate Division, Mr. Wilham read the statutes enough to realize that you had to be a property owner or have some rights to the property. Commissioner Barrett stated Mr. Wilham would lease the property then sublease the property, circumventing that issue. Commissioner Barrett stated that regarding consumer protection, Mr. Wilham has a privileged license which is real estate related. Commissioner Barrett stated that one of the reasons that one of Mr. Wilham's previous brokers asked Mr. Wilham to leave is because one of the short term tenants was causing a disturbance in the neighborhood which is a liability that a company doesn't want. Commissioner Barrett stated that a lot of brokerages do not want that liability. Commissioner Barrett stated that this is going to be an interesting case because up north around Lake Tahoe, this is being done and more people are doing this other than Mr. Wilham. Commissioner Barrett stated that Mr. Wilham knows he has a privileged license and Mr. Wilham didn't make any attempt to protect himself or his brokerage by doing some investigating as to whether he should be doing this a different way and whether he should he have some legal opinion.

Commissioner Gurr stated that when dealing with the livelihood and reputation of a licensee, when sending notices out, there's an obligation to check for the most current address and not one that was even a week or two weeks old and in some cases much older than that. Commissioner Gurr stated that she does not see a relationship in this case with consumer protection as it relates to real estate activities and as then further relates to having a duties owed, a discussion of agency with every person who stays in a short term rental. Commissioner Gurr stated that it is not a typical lease agreement situation where there is an expectation that you are going to have those portions of the bundle of rights as your right to occupy and enjoy, use the property and/or in the absence of a written agreement, to the contrary, doing a sublease. Commissioner Gurr stated that her feeling is that Mr. Wilham's attempt to get leases and subleases had nothing to do with trying to subvert the real estate statutes and regulations, rather was a result of interpretation of those entities within Clark County where he was doing business might require

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some type of ownership interest in order to lease on short term. Commissioner Gurr stated that looking at the State's exhibits presented, Mr. Wilham made every possible attempt to get some guidance from the Real Estate Division and other places to see if there were any statutory, regulatory, position statements or white paper on what was required of a licensee that was also helping with short term rentals. Commissioner Gurr stated that when the initial complaint was filed, Mr. Wilham made an honest and over attempt to determine whether what he had been doing was contrary to what the Division was requiring. Commissioner Gurr stated that Mr. Wilham immediately went and obtained a property management permit based on the guidance and opinion of Mr. McCloskey. Commissioner Gurr stated that she is going to err on the side of caution and say that Mr. Wilham has not violated statute in any manner.

Commissioner Plummer stated that a white paper is needed within the NRS with legal opinion on short term rentals. Commissioner Plummer stated that whether it is one night or a year stay, there is a process of in and out and possible damage to the home. Commissioner Plummer stated that Mr. Wilham is managing, providing the service, marketing and moving monies. Commissioner Plummer stated that there is only the definition of property management per NRS 645.019 that states all these things. Commissioner Plummer stated that in a gray area such as this, guidance should be sought. Commissioner Plummer stated that these are rentals in some capacity.

Commissioner Filios stated that Mr. Wilham is in a gray area and it is hard to find an attorney to help navigate the gray area.

Commissioner Barrett stated that he agrees with Commissioner Plummer in that there should be white paper referencing this issue. Commissioner Barrett stated that just because it is not spelled out in the statute, does not mean that it is not covered. Commissioner Barrett stated that he agrees with the notice issue. Commissioner Barrett stated however that there is responsibility that falls on brokers and agents when they know an issue has come up, to follow up with the status.

President Reiss stated that a continuance was granted in this case. President Reiss stated that Mr. Wilham stated that he assumed the next meeting would be in December. President Reiss stated that was the wrong assumption. President Reiss stated that he has been dealing with this issue for 3-4 years and working with municipalities and writing the language that each is governed by. President Reiss stated that he completely gets what Mr. Wilham is doing and understands it. President Reiss stated that the 30 days is unclear. President Reiss stated that in the absence of something that is clear, licensure requirements supersede. President Reiss stated that he would not rely on legal hot lines as they are not the best source for information and that he would not necessarily rely on the Division for information because that is not what they are primarily there to do. President Reiss stated that when it concerns ones means of business, it is better to find a professional to help make decisions. President Reiss stated that there are some steps Mr. Wilham should have taken. President Reiss stated that he also finds Mr. Wilham, from a business sense, did what he was allowed to do.

Commissioner Plummer stated that Mr. Wilham researched outside the State of Nevada's jurisdiction to create some sense of right or wrong which may have kept him moving down the wrong path. Commissioner Plummer stated that there are costs involved setting up an organizational entity such as Mr. Wilham's company. Commissioner Plummer stated that it would be worth spending money for a legal opinion to ensure the company is aligned with Mr. Wilham's real estate license. Commissioner Plummer stated that there is a correlation of relationship between the parties because the people Mr. Wilham leases property from are also potentially people who have bought and listed with Mr. Wilham. Commissioner Plummer stated that as a broker, he would be very nervous if any of his agents did one of these let alone set up an entire company marketing it at the level Mr. Wilham did. Commissioner Plummer stated that researching other states but not getting an attorney's opinion showed bad judgement.

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Factual Allegations

Commissioner Gurr moved that factual allegations 1 through 5 have been proven. Seconded by Commissioner Barrett. Motion passed.

Commissioner Gurr moved that factual allegations 6 through 11 have been proven. Seconded by Commissioner Barrett. Motion passed 4-1 with Commissioner Filios opposed.

Commissioner Plummer moved that factual allegations 12 through 14 have been proven. Seconded by Commissioner Barrett. Motion passed 4-1 with Commissioner Filios opposed.

Commissioner Barrett moved that factual allegations 15 through 19 have been proven. Seconded by Commissioner Gurr. Motion passed 4-1 with Commissioner Filios opposed.

Commissioner Barrett moved that factual allegations 20 through 25 have been proven. Seconded by Commissioner Plummer. Motion passed 4-1 with Commissioner Filios opposed.

Commissioner Barrett moved that factual allegations 26 through 29 have been proven. Seconded by Commissioner Plummer. Motion failed all Commissioners opposed.

Commissioner Gurr moved that factual allegation 26 has been proven. Seconded by Commissioner Barrett. Motion passed 4-1 with Commissioner Filios opposed.

Commissioner Gurr moved that factual allegation 28 has been proven. Seconded by Commissioner Barrett. Motion passed 4-1 with Commissioner Filios opposed.

Commissioner Gurr moved that factual allegation 29 with an amended date of September 19, 2018, has been proven. Seconded by Commissioner Plummer. Motion passed 4-1 with Commissioner Filios opposed.

Commissioner Gurr moved that factual allegation 27 has not been proven. Seconded by Commissioner Barrett. Motion passed.

Violations of Law

Commissioner Barrett moved that violation 30 has been proven. Seconded by Commissioner Plummer.

Commissioner Gurr stated that she is speaking in opposition to the motion because she does not believe a property manager permit is required for short term rental transactions. Commissioner Gurr stated that this was not property management in the truest intention of the statute.

Commissioner Plummer stated that the NRS statute that exists does not lack clarity. Commissioner Plummer stated that the statute lacks additional information. Commissioner Plummer stated that the statute suggests that a property manager permit was required.

Commissioner Filios stated that the Commission is here to protect the public. Commissioner Filios stated that he wonders what member of the public was harmed. Commissioner Filios stated that since this is a gray area and no member of the public was harmed, deference should go to the respondent.

Motion passed 3-2 with Commissioners Gurr and Filios opposed.

Commissioner Plummer moved that violation 31 has been proven. Seconded by Commissioner Barrett. Motion passed 3-2 with Commissioners Gurr and Filios opposed.

Commissioner Plummer moved that violation 32 has been proven. Seconded by Commissioner Barrett. Motion passed 3-2 with Commissioners Gurr and Filios opposed.

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Commissioner Gurr moved that violation 33 has not been proven. Seconded by Commissioner Barrett. Motion passed.

Commissioner Plummer moved that violation 34 has been proven. Seconded by Commissioner Barrett. Motion passed 3-2 with Commissioners Gurr and Filios opposed.

Division's Recommendation for Discipline

Jan Holle presented this:

- \$20,000 administrative fine plus the cost of hearing and investigation in the amount of \$2,170.85 to be paid within 12 months of the effective date of the order.

Commissioner Barrett moved that a fine of \$5,000 be imposed plus costs of \$2,170.85 to be paid within 12 months of the effective date of the order. Seconded by Commissioner Plummer. Motion passed 3-2 with Commissioners Gurr and Filios opposed.

3-A) Discussion regarding Administrator's report.

Sharath Chandra presented this report. Mr. Chandra stated that there will be significant changes as revenues are being looked at. Mr. Chandra stated that the Division is general funded and is dependent on the coffers. Mr. Chandra stated that the Division is at the bottom of the totem pole with regards to the priorities of the State. Mr. Chandra stated that there are going to be significant budgetary challenges going forward.

Mr. Chandra stated that there are going to be changes in education, compliance and licensing. Mr. Chandra stated that in his time with the Division, he has tried to understand what is important and what needs to be focused on. Mr. Chandra stated that he is making decisions based on what he sees, where the advantages are and maximizing rather than minimizing. Mr. Chandra stated that he is looking at anything that can be leveraged by other resources or other technologies. Mr. Chandra stated that the goal is never to shortchange the licensees or the people that depend on the Division on a day to day basis. Mr. Chandra stated that the intent is to manage with resources and asking staff for extraordinary things than they are already doing. Mr. Chandra stated that he will get more into the details as the next budget cycle approaches.

Mr. Chandra stated that there is an online portal for license renewals through My Account and more information needs to be available to licensees to make it easier, under the constraints of the existing software. Mr. Chandra stated that currently everything comes in the mail which creates challenges because of the volume of mail. Mr. Chandra stated that with regards to the Division reopening, the goal is to try to get back to some semblance of normal in the next couple months. Mr. Chandra stated that will start with cycling staff back in since a lot of staff is telecommuting. Mr. Chandra stated that any feedback, help or constructive criticism from the Commission is always welcome.

Mr. Chandra stated that the regulation is almost complete except for a couple of technical issues that are being dealt with the Legislative Council Bureau. Mr. Chandra stated that once the final document is received, an adoption hearing will be scheduled.

Commissioner Plummer stated his concerns regarding the process of moving licensees from one office to another under the same brokerage.

Commissioner Plummer stated his concerns regarding having to have original signatures vs. electronic signatures on Division forms.

Commissioner Plummer stated his concerns regarding continuing education instructors.

Commissioner Gurr stated that she agrees with Commissioner Plummer regarding having to terminate a licensee just to move them to a different location.

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Commissioner Barrett stated his concerns regarding brokers not completing transfer paperwork in a timely manner.

Commissioner Barrett stated his concerns regarding liability when an agent opens their own brokerage and the timing of termination by the current broker.

Commissioner Plummer stated his concerns regarding the Division requiring a broker salesperson designation to be the broker manager in a branch office.

Commissioner Plummer stated his concerns regarding the property manager permit and requirements for there to be a designated property manager permit holder at any office or branch office where there are property manager licensees operating.

Commissioner Gurr stated her concerns regarding virtual meetings and witnesses.

Commissioner Gurr stated that she would like to see the return in the ability to look up an agent's status and their brokerage on the Division's website.

Commissioner Gurr stated her concerns regarding the Division having more up to date information on current addresses for respondents.

3-B) Discussion regarding the Disciplinary Report.

Teralyn Lewis presented this report. Ms. Lewis provided the Commission with a written report.

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

Jan Holle presented this report. Mr. Holle provided the Commission with a written report and summarized.

3-D) Discussion regarding the Administrative Sanction Report.

Jan Holle presented this report. Mr. Holle 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 reported on roster uploads for continuing education:

- June 2020, there were 1,052 roster uploads.
- July 2020, there were 1,288 roster uploads.
- August 2020, there were 1,062 roster uploads.

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

Kimberly Smith stated that there were no audits to submit.

3-F) Discussion regarding changes to the Real Estate Division Waiver Form No. 636 and Authorization to Negotiate Directly with Seller Form No. 637.

3-G) Discussion regarding Duties Owed by a Nevada Real Estate Licensee Form No. 525.

Sharath Chandra stated that a committee or a group that has a working committee needs to make recommended changes to these forms and submit markup documents to the Division. Mr. Chandra stated that once we have the markups, it can be looked at by the Division. Mr. Chandra stated that any changes need to be done carefully because there is only one opportunity to get it right.

Commissioner Gurr stated that she will submit markup documents to the Division for review.

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3-H) Discussion regarding the use of online cloud-based peer-to-peer software platforms to conduct Division approved continuing education courses.

Commissioner Barrett stated that outlying areas would benefit if this remains in place. Commissioner Barrett stated that as we come out of the pandemic, it should be strongly considered making this part of a model. Commissioner Barrett stated that maybe a group of educators could give their opinions on this issue as well.

Sharath Chandra stated that once the emergency declaration is lifted, the regulations must be followed. Mr. Chandra stated that at that point, any changes made must be made by the Commission.

President Reiss stated that an education work group will be put together to look at this issue along with other education related issues.

3-I) Discussion regarding possible changes to NRS 645 requiring property managers permit holders to be bonded.

Commissioner Filios made this presentation and stated the importance of making this change.

Sharath Chandra explained the regulatory and statutory process. Mr. Chandra stated that to begin the process, Commission should propose something to the organizations with expertise in this matter. Mr. Chandra stated that these organization can take it to lobbyists that can find a law maker that understands the situation and can introduce the change to the Legislature. Mr. Chandra stated that the Division will testify and offer support.

3-J) Discussion regarding amendments to NRS 645 and/or NAC 645 to allow brokers to operate without a physical office location.

Commissioner Gurr made this presentation and stated that there are more and more virtual offices because there are those that want to move into a more modern business model. Commissioner Gurr gave an example of a company that is in Las Vegas and recruiting agents to do business in Elko. Commissioner Gurr stated that she questions the accountability of a broker in one town with agents doing business in another town.

Commissioner Plummer stated that an office could have 100 agents that work miles away from the physical office. Commissioner Plummer questioned if an agent is conducting business in Elko, for example, does that require their broker to be in Elko.

Deputy Attorney General Asheesh Bhalla stated that there is pending litigation around this matter. Mr. Bhalla stated that discussion should be kept focused specifically on any potential changes that the Commission wants to make. Mr. Bhalla stated that discussion should be more limited at this time.

3-K) For possible action: Discussion, nomination and election of officers for FY21 pursuant to NRS 645.110

Commissioner Barrett moved for Commissioner Reiss to be president. Seconded by Commissioner Gurr. Motion passed 4-1 with Commissioner Reiss abstaining.

Commissioner Barrett moved for Commissioner Plummer to be vice-president. Seconded by Commissioner Gurr. Motion passed 4-1 with Commissioner Plummer abstaining.

Commissioner Barrett moved for Commissioner Gurr to be secretary. Seconded by Commissioner Filios. Motion passed 4-1 with Commissioner Gurr abstaining.

3-L) For possible action: Discussion and decision to approve minutes of the June 16-18, 2020 meeting.

Commissioner Barrett moved to approve the minutes as presented. Seconded by Commissioner Filios. Motion passed.

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9) Public Comment

No public comment

10) For Possible Action: Adjournment

Meeting adjourned at 3:04 p.m. on September 2, 2020.