

NEVADA REAL ESTATE COMMISSION MINUTES

VIA VIRTUAL AND IN PERSON MEETING

September 14, 2021

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

Spiridon Filios, Clark County; Lee Barrett, Clark County; Lee Gurr, Elko County; Russell Roth, Clark County; and Darrell Plummer, Washoe County

Commission Counsel: Senior Deputy Attorney General Sophia Long

1-B) Introduction of Division Staff in Attendance

Sharath Chandra, Administrator; Charvez Foger, Deputy Administrator; Jan Holle, Chief Compliance Audit Investigator; Annalyn Carrillo, Education & Information Officer; Antonio Brown, Education Supervisor; Shareece Bates, Administration Section Manager; Evelyn Pattee, Commission Coordinator; Kelly Valadez, Commission Coordinator; Deputy Attorney Generals Karissa Neff and Matthew Feeley representing the Division.

2) Public Comment

No Public Comment

3-G) For possible action: Discussion, nomination and election of officers for FY 22 Pursuant to NRS 645.110.

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

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

4-A) For possible action: Discussion and decision regarding license denial appeal:
Michael Codman File No. S-LDA-21-004

Parties Present

Michael Codman was present.

Billy Codman was present.

Susan Clark, Licensing Manager was present.

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

Commissioner Barrett moved that the Commission go into closed session. Seconded by Commissioner Gurr. Motion passed 4-0 with President Plummer abstaining.

The Commission went into closed session.

Commissioner Gurr moved that the Commission go back into open session. Seconded by Commissioner Roth. Motion passed 4-0 with President Plummer abstaining.

The Commission went back into open session.

Commissioner Barrett moved to grant Mr. Codman a real estate license. Seconded by Commissioner Roth. Motion passed 4-0 with President Plummer abstaining.

5-A) For possible action: Discussion and decision regarding respondent's Request for Reconsideration of disciplinary terms:

NRED v Shaun McDonald

Case # 2019-825

Parties Present

Shaun McDonald was present.

Deputy Attorney General Karissa Neff was present representing the Division.

Ms. Neff stated that there was an order entered against the respondent as a result of a default. Ms. Neff stated that at the last meeting in June, respondent requested a rehearing. Ms. Neff stated that the request was denied. Ms. Neff stated that today is the respondent's motion for reconsideration again that his case be reheard.

Mr. McDonald stated that the original email notification of the March 2-4, 2021 meeting was sent to the wrong email address due to a typo made by the commission coordinator. Mr. McDonald stated that the original complaint and documents were not sent to his current address therefore he didn't receive them and was not informed of the hearing. Mr. McDonald stated that he is now filing a motion for reconsideration to re-schedule the hearing. Mr. McDonald stated that he is asking for a chance to have his case heard.

Ms. Neff stated that this case was about a broker and his agent selling someone's property without a valid power of attorney. Ms. Neff stated that the reason why the Commission decided to deny his request for a rehearing in June was based on NAC 645.823. Ms. Neff stated that in the respondent's written petition for rehearing that was submitted, respondent basically admitted

that he should have been more careful about the power of attorney that he had. Ms. Neff stated that had Mr. McDonald exercised due diligence, there would be no disciplinary action before the Commission. Ms. Neff stated that in respondent's written petition for rehearing, he also explains hardships and that there is a pending civil matter related to the same disciplinary action. Ms. Neff stated that the pending civil matter does not impact the Division's disciplinary case today. Ms. Neff stated that if respondent is having monetary issues because of the judgement that was entered against him, that is a separate motion to bring before the Commission; a motion for relief from the order. Ms. Neff requested that Mr. McDonald's motion for reconsideration be denied.

President Plummer stated that this is a petition for reconsideration of disciplinary terms. President Plummer stated that we are not here to rehear the case.

The Commission questioned Mr. McDonald.

Commissioner Barrett stated that respondent could be placed on a payment plan.

Commissioner Gurr stated that a payment plan is not the only avenue in addressing this complaint. Commissioner Gurr stated that if the circumstances were compelling, the Commission could reduce the amount, increase the amount or change whatever needs to be changed. Commissioner Gurr stated that she would like to hear more about the case for reconsideration of the amount of the fines.

Commissioner Roth stated that he would like to hear more about the case.

Commissioner Barrett stated that it's interesting that the Commission reverses something after the case has been heard. Commissioner Barrett stated that when the Commission makes a decision, it's based upon the evidence provided. Commissioner Barrett stated that respondents have an obligation and duty to themselves to be present and defend themselves. Commissioner Barrett stated that he will vote negative to reversing the disciplinary decision.

President Plummer stated that he will also be ruling not to change the disciplinary terms.

Commissioner Gurr stated that the only thing respondent is guilty of is not telling the Division that he moved.

Commissioner Barrett stated that respondent has had due process.

Commissioner Filios stated that he understands both Commissioner Gurr and Commissioner Barrett's positions. Commissioner Filios stated that it concerns him when a respondent doesn't get an opportunity to state their case. Commissioner Filios stated that on the flip side, it concerns him when respondents don't show up and it turns into a default. Commissioner Filios stated that he has sympathy for the respondent because he wasn't at the March meeting, he got thrown into the system and the system grinded him up because it was a default. Commissioner Filios stated he doesn't want to hear the case today. Commissioner Filios stated that he would like to see the respondent get his day to plead his case to the Commission because he has not had a chance to.

Ms. Neff stated that at the June meeting, the petition for rehearing was before this Commission and the Commission voted not to rehear the case. Ms. Neff stated that had the Commission voted to rehear the case then the respondent's case could be heard. Ms. Neff stated that there is an order denying the petition for rehearing. Ms. Neff stated that the only way to get relief from the order is to timely appeal it and file a petition for judicial review which is 30 days from the date the Commission enters the order. Ms. Neff stated that was never done.

Mr. McDonald stated that in June he never got a chance to speak. Mr. McDonald stated that he was cut off halfway through his speech in trying to get his point across. Mr. McDonald stated that he still feels he needs to speak his case.

President Plummer read a portion of the June minutes into the record.

Commissioner Barrett stated that this petition is to address the financial matter. Commissioner Barrett stated again that this petition is not to rehear the case or reverse a decision that has already been made. Commissioner Barrett stated that the Commission considers payment plans all the time and that is why he asked the respondent what he could afford to pay monthly.

Commissioner Gurr stated that it is in the Commissions purview to reduce the amount of the fine.

Mr. McDonald stated that the fines are not accurate and that he is not being allowed the opportunity to express why the fines are not accurate.

Commissioner Roth stated that if the discussion is about changing or reducing the fine, then what happened in the case matters. Commissioner Roth stated that he can't vote on this matter without more knowledge of the case.

Commissioner Filios moved to reduce the fine to \$15,000.00 plus costs of the investigative hearing to be paid within 4 years. Seconded by Commissioner Barrett for discussion.

Commissioner Barrett stated that the consumer in this case was not protected which is what the Commission is supposed to do. Commissioner Barrett stated that reversing fines sends the message to agents that it's okay to keep doing what they are doing even if it's wrong. Commissioner Barrett stated that it's about the consumer that had a bad experience, not the agent. Commissioner Barrett stated that the original fine of \$30,000.00 is a reasonable amount and can be made in payments.

Commissioner Gurr moved to amend the motion to reduce the fines and costs to \$16,021.80 to be payable in full within 48 months with monthly payments not less than \$100.00. Motion died for lack of a second from Commissioner Barrett.

Motion failed 1-4 with Commissioner Barrett, Commissioner Gurr, Commissioner Roth and President Plummer opposed.

Commissioner Filios moved that the fine be reduced to \$15,000.00 plus costs with a monthly payment not to be less than \$100.00 all due and payable within 48 months. Seconded by Commissioner Gurr. Motion passed 4-1 with Commissioner Barrett opposed.

7-J) NRED v Sherryl L. Baca, for possible action

Case # 2019-1065

Parties Present

Sherryl Baca was present.

Deputy Attorney General Matthew Feeley was present representing the Division.

Preliminary Matters

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

Settlement

- Respondent agrees to pay the Division \$500.00 as an administrative fine and \$3,442.20 in administrative costs as follows:
 - Respondent shall make monthly payments due the 1st of each month in the amount of \$985.55 starting October 1, 2021 for 4 months.

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

7-L) NRED v David Howie, for possible action

Case # 2021-486

Parties Present

David Howie was not present.

Deputy Attorney General Matthew Feeley was present representing the Division.

Preliminary Matters

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

Settlement

- Respondent agrees to pay the Division \$1,250.00 as an administrative fine and \$1,206.16 in administrative costs as follows:
 - Respondent shall make monthly payments due the 1st of each month in the amount of \$614.04 starting October 1, 2021 for 4 months.

Commissioner Barrett stated that respondent handled the transaction as far as demanding compensation and doing the inspections solely from another state without getting an agreement. Commissioner Barrett stated that the fine is too low.

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

President Plummer stated that he's disappointed in the dollar amount of the settlement knowing what the respondent did knowingly in the state of Nevada.

Commissioner Gurr stated that the settlement amount does not send a message out that if you want to do business in the state of Nevada, you better have a license. Commissioner Gurr stated that she is firmly in favor of the motion.

Motion passed 4-1 with Commissioner Filios opposed.

7-K) NRED v Anthony E. Laurian, for possible action

Case # 2020-1127

Parties Present

Anthony Laurian was present.

Deputy Attorney General Matthew Feeley was present representing the Division.

Preliminary Matters

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

Settlement

- Respondent agrees to pay the Division \$2,000.00 as an administrative fine and \$1,281.16 in administrative costs as follows:
 - Respondent shall make monthly payments due the 1st of each month in the amount of \$820.29 starting October 1, 2021 for 4 months.

The Commission questioned Mr. Laurian.

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

Commissioner Gurr stated that she's concerned that Mr. Laurian accepted a California Association of Realtors referral agreement as opposed to something prepared by a company in Nevada and went forward at that point with the transaction. Commissioner Gurr stated that she does not think Mr. Laurian is guilty of misrepresenting his client. Commissioner Gurr stated that Mr. Laurian did the best he could to get the transaction completed. Commissioner Gurr stated that she is a little concerned that the respondent thinks he's a broker associate when there is no such thing in the state of Nevada. Commissioner Gurr stated that she hopes the respondent will not represent himself in the future as a broker associate as opposed to a broker salesman.

Commissioner Barrett stated that respondent treated the party to the transaction like they were a licensee in the state of Nevada. Commissioner Barrett stated that he disagrees that respondent did the best for his client.

Commissioner Filios stated that this is the first time since he has been on the Commission that he has seen stipulation fines under \$5,000.00. Commissioner Filios stated that Division

investigative staff is showing a lot of leniency which they usually don't do. Commission Filios stated that if Division staff wants to show some leniency, let's just move on.

President Plummer stated that as a broker, agency is what is spent so much time on with agents. President Plummer stated that a broker salesperson more than a salesperson should know what an out of state agent tries to do. President Plummer stated that so many things went on and that it wasn't just one event. President Plummer stated that it was a series of events. President Plummer stated that he seconded the motion because he feels the fine is not large enough.

Motion failed 2-3 with Commissioners Gurr, Filios and Roth opposed.

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

3-H) For possible action: Discussion and decision to approve minutes of the June 15-17, 2021 meeting.

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

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

Antonio Brown presented this report. Mr. Brown reported on roster uploads for continuing education and new continuing education courses.

- June 2021, there were 1,269 roster uploads and 18 new courses.
- July 2021, there were 1,232 roster uploads and 26 new courses.
- August 2021, there were 1,327 roster uploads and 29 new courses.

3-A) Discussion regarding Administrator's report.

Sharath Chandra presented this report. Mr. Chandra stated that Charvez Foger is the new Deputy Administrator. Mr. Chandra stated that the Division has been without a Deputy Administrator for almost two years because of the pandemic and budget cuts. Mr. Chandra stated that the Division is working on a plan to potentially provide some licensing services in Carson City. Mr. Chandra stated that 20 percent of licensees are in the north. Mr. Chandra stated that the technology fee is now being collected. Mr. Chandra stated that statutorily, the technology fee gives the Division the ability to enhance technology such as the Division's licensing software as well as compliance and education software. Mr. Chandra stated that the Division is in the final stages of completing a request for proposal. Mr. Chandra stated that in the last legislative session, the governor's office gave the Division a one-shot appropriation of almost \$700,00.00 for technology which is coming out of the general fund. Mr. Chandra stated that the appropriation coupled with the technology fee should give the Division enough bandwidth to obtain the necessary technology. Mr. Chandra stated that his vision is like that of a bank where most transactions can be done online through a front face portal for consumers and licensees. Mr. Chandra stated that there will be a specific list of what the Division is looking for provided to vendors submitting bids. Mr. Chandra stated that a committee will then review the bids and pick the best product and service. Mr. Chandra stated that December or January is when the Division will have something to give to the finance committee for approval. Mr. Chandra stated that

everything will be done in phases. Mr. Chandra stated that there will be a regulation workshop to address items that need to be changed such as education and what “live” means to licensees and the Commission. Mr. Chandra stated that language in the regulation will be worked on that defines live education. Mr. Chandra stated that procedurally, proposed regulations will be brought to the Commission after which a more comprehensive document is drawn that will be open for public comment then back to the Commission to work through.

3-B) Discussion regarding the Disciplinary Report.

Shareece Bates presented this report. Ms. Bates 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.

7-I) NRED v Philip M. Marcus, for possible action
Case # 2019-1065

Parties Present

Philip Marcus was present.

Colli McKiever was present representing Mr. Marcus.

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 \$1,669.24 in administrative costs by January 1, 2022.
- Respondent agrees to pay restitution in the amount of \$40,000.00 to the complainant by January 1, 2022.
- Respondent shall provide proof of the restitution payment to the Division with 5 days of completing the payment of restitution.
- Revocation of all licenses and permits for a period of 10 years.

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

7-A) NRED v Jules Mitchell Lehr, for possible action
Case # 2019-521

Parties Present

Jules Mitchell Lehr was present.

Kathryn Holbert was present representing Mr. Lehr.

Deputy Attorney General Karissa Neff was present representing the Division.

Preliminary Matters

Ms. Neff stated that this case was called in June and was in the process of questioning Investigator McCloskey. Ms. Neff stated that this case was continued to this meeting. Ms. Neff stated that she received a notice of documents from opposing counsel on September 7, 2021. Ms. Neff stated that the documents that were listed include the declaration of Jules Lehr and Jason Mattson. Ms. Neff stated that the Commission ruled to strike the declarations at the June meeting.

President Plummer stated that the case will now continue.

State's Witness

Daryl McCloskey testified.

Ms. Holbert cross-examined Mr. McCloskey.

Ms. Neff re-examined Mr. McCloskey.

Ms. Holbert re-cross-examined Mr. McCloskey.

The Commission questioned Mr. McCloskey.

The witness was dismissed.

State's Witness

Edward Labate testified.

Ms. Holbert cross-examined Mr. Labate.

The Commission questioned Mr. Labate.

The witness was dismissed.

Respondent's Witness

Jules Mitchell Lehr testified.

Ms. Neff cross-examined Mr. Lehr.

Ms. Holbert re-examined Mr. Lehr

The Commission questioned Mr. Lehr.

The witness was dismissed.

President Plummer stated that this matter will continue tomorrow.

8) Public Comment

No public comment.

9) For Possible Action: Adjournment

Meeting recessed at 4:40 p.m. on September 14, 2021.

NOT APPROVED BY COMMISSION

VIA VIRTUAL AND IN PERSON MEETING

September 15, 2021

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

Lee Gurr, Elko County; Lee Barrett, Clark County; Russell Roth, Clark County; and Darrell Plummer, Washoe County

President Plummer stated that Commissioner Filios would be present later in the day.

Commission Counsel: Deputy Attorney General Justin Taruc

1-B) Introduction of Division Staff in Attendance

Sharath Chandra, Administrator; Charvez Fogar, Deputy Administrator; Jan Holle, Chief Compliance Audit Investigator; Daryl McCloskey, Compliance Audit Investigator; Shareece Bates, Administration Section Manager; Evelyn Pattee, Commission Coordinator; Kelly Valadez, Commission Coordinator; Annalyn Carrillo, Education & Information Officer; Antonio Brown, Education Supervisor; Deputy Attorney Generals Karissa Neff and Matthew Feeley representing the Division.

2) Public Comment

No Public Comment

7-B) NRED v Robyn L. Hadem, for possible action

Case # 2018-1029

Parties Present

Robyn Hadem was not present.

Deputy Attorney General Karissa Neff was present representing the Division.

Ms. Neff stated that this complaint was filed July 31, 2020. Ms. Neff stated that to date, there has been no resolution of the case. Ms. Neff stated that a notice of default was mailed to Ms. Hadem September 7, 2021.

Ms. Neff moved for the entry of default against Ms. Hadem.

Ms. Neff stated that the Division would submit that there was proper service upon Ms. Hadem.

State's Witness

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

Ms. Neff asked that the certificates of mailing and green cards be admitted as exhibit 1.

President Plummer stated that the certificates of mailing and green cards would be admitted.

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

Ms. Neff read the factual allegations and violations of law into the record.

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

Division's Recommendation for Discipline

Jan Holle presented this:

- \$500.00 administrative fine plus the cost of the hearing and investigation in the amount of \$451.54 to be paid within 30 days of the effective date of the order.

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

7-E) NRED v Jamel Ramzi, for possible action

Case # 2021-277

Parties Present

Jamel Ramzi was present.

Deputy Attorney General Matthew Feeley was present representing the Division.

Mr. Feeley asked that the notice of documents be admitted as State's Exhibits.

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

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

Opening Statements

Mr. Feeley gave his opening statement.

Mr. Ramzi gave his opening statement.

State's Witness

Jamel Ramzi testified.

The Commission questioned Mr. Ramzi.

The witness was dismissed.

Mr. Ramzi stated his case.

Closing Statements

Mr. Feeley gave his closing statement.

Mr. Ramzi gave his closing statement.

Commissioner Roth stated that it's a known fact that the respondent did not notify the Division of the felony.

Commissioner Gurr read aloud NRS 645.633. Commissioner Gurr stated that it boils down to whether the Commission is going to let respondent keep his license based on the Commission's determination of whether the respondent is guilty of moral turpitude. Commissioner Gurr stated that the crime of moral turpitude is pretty fluid in terms of interpretation. Commissioner Gurr read aloud the definition of moral turpitude. Commissioner Gurr stated that it's clear that the respondent did not notify the Division in 10 days.

Commissioner Barrett stated that the statute states that the Division shall not issue a license until at least 3 years after either restitution or parole has been completed. Commissioner Barrett stated that parole has not been completed. Commissioner Barrett stated that it's proven that respondent did not notify the Division in 10 days so that is a not an issue to argue. Commissioner Barrett stated that part of the respondent's probation says specifically that respondent can't be alone with children. Commissioner Barrett stated that he believes the real issue is moral turpitude and what defines moral turpitude. Commissioner Barrett stated that he knows how the court system can suck the life out of people however the moral turpitude thing goes back to the consumer's trust in the Commission making sure the public is protected. Commissioner Barrett stated that protecting the public is a huge part in the decision-making process. Commissioner Barrett stated that moral turpitude is fluid intentionally for people to make conscientious decisions.

Commissioner Roth stated that the respondent suffered enough for failing to notify the Division of the felony. Commissioner Roth stated that after reading about moral turpitude, it does seem like a high bar to be guilty of.

Factual Allegations

Commissioner Gurr moved that factual allegations 1 and 2 have been proven. Seconded by Commissioner Barrett. Motion passed.

Commissioner Gurr moved that factual allegations 5 through 10 have been proven. Seconded by Commissioner Barrett. Motion passed.

Commissioner Barrett moved that factual allegations 3 and 4 have been proven. Seconded by President Plummer. Motion failed 2-2.

Commissioner Gurr moved that violation 1 has been proven. Seconded by Commissioner Roth. Motion passed.

Commissioner Gurr moved that violation 2 has not been proven. Seconded by Commissioner Roth. Motion failed 2-2.

Division's Recommendation for Discipline

Jan Holle presented this:

- \$2,000.00 administrative fine plus the cost of the hearing and investigation in the amount of \$1,842.26 to be paid within 6 months of the effective date of the order.
- License suspension of at least the end of the probation period with respondent appearing before the Commission for review prior to being issued a license.

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

6-A) For possible action: Discussion and decision concerning Real Estate Advisory Review Committee application:
Natalie Hafen, License No.: B.0034833.LLC

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

6-B) For possible action: Discussion and decision concerning Real Estate Advisory Review Committee application:
Rachel Nan Alexander, License No.: B.1001231.INDV

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

7-H) NRED v Anson Blair Wenzel, for possible action
Case # 2019-224

Parties Present

Anson Wenzel was not present.

Deputy Attorney General Matthew Feeley was present representing the Division.

Mr. Feeley moved for the entry of default against Mr. Wenzel.

Mr. Feeley stated that the Division would submit that there was proper service upon Mr. Wenzel.

State's Witness

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

Mr. Feeley asked that the certificates of mailing and green cards be admitted as exhibits.

President Plummer stated that the certificates of mailing and green cards would be admitted.

Commissioner Barrett moved 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.

State's Witness

Mert Gumusbasoglu testified

The Commission questioned Mr. Gumusbasoglu.

The witness was dismissed.

Mr. Feeley 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 Barrett. Motion passed.

Division's Recommendation for Discipline

Jan Holle presented this:

- \$55,000.00 administrative fine plus the cost of the hearing and investigation in the amount of \$4,572.08 to be paid within 90 days of the effective date of the order.
- Revocation of all licenses and permits.

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

7-A) NRED v Jules Mitchell Lehr, for possible action

Case # 2019-521

Parties Present

Jules Mitchell Lehr was present.

Kathryn Holbert was present representing Mr. Lehr.

Deputy Attorney General Karissa Neff was present representing the Division.

Closing Statements

Ms. Neff gave her closing statement.

Ms. Holbert gave her closing statement.

Commissioner Barret stated that he's going to use Informational Bulletin 12 as a benchmark and what Jules Mitchell Lehr (JJ) uses to make decisions on how he's going to practice real estate. Commissioner Barrett stated that there is no evidence that respondent's fees or commissions were made out to the Broker because the respondent does not keep any records of that. Commissioner Barrett stated that respondent's compensation is being paid directly to him in cash. Commissioner Barrett stated that respondent stated he got paid \$300 but in his own documentation, he states \$600. Commissioner Barrett stated that never in his 6 years tender on the Commission has he seen an individual come before the Commission 3 times in less that 5 years. Commissioner Barrett stated that he wonders if respondent claimed the \$300 cash he said he received in compensation to the Internal Revenue Service. Commissioner Barrett stated that there are a lot of other things that JJ does besides what's being brought up. Commissioner Barrett stated that the amount of documentation proves that not only should JJ not get off on this particular case, JJ should no longer have a real estate license.

Commissioner Roth stated that he does not agree with Commissioner Barrett. Commissioner Roth stated that without Mr. Li's testimony, he can't buy the second half as to whether respondent practiced property management without a permit or how the money transferred.

Commissioner Filios stated that the State proved its case but the one nagging point is why Mr. Li refused to testify or give a statement to the negative or the positive of JJ. Commissioner Filios stated that it's odd that respondent and Mr. Li both signed the lease. Commissioner Filios stated that it's also odd that someone would pay \$3500 in cash.

President Plummer stated that the broker never knew anything about the money moving around. President Plummer stated that cash moving around has always scared him. President Plummer stated that the respondent stated that he thought Mr. Li might later use him to sell the house. President Plummer stated that respondent did not have a listing to help with the initial rent portion of a listing or sale. President Plummer stated that it's unfortunate that Mr. Li is not present but there is enough preponderance of evidence with what's been heard from counsel that the facts have been proven.

Commissioner Gurr moved that factual allegations 1 through 3 have been proven. Seconded by Commissioner Barrett. Motion passed.

Commissioner Gurr moved that factual allegations 4 through 7 have been proven. Seconded by Commissioner Barrett. Motion passed.

Commissioner Barrett moved that factual allegation 8 has been proven. Seconded by Commissioner Gurr. Motion passed 3-2 with Commissioners Gurr and Roth opposed.

Commissioner Barrett moved that factual allegation 9 has been proven. Seconded by Commissioner Gurr. Motion passed.

Commissioner Barrett moved that factual allegation 10 has been proved. Seconded by Commissioner Gurr. Motion passed.

Commissioner Barret moved that violation 12 has been proven. Seconded by Commissioner Gurr. Motion passed.

Commissioner Barret moved that violation 13 has been proven. Seconded by Commissioner Gurr. Motion passed.

Commissioner Barrett moved that violation 14 has been proven. Seconded by Commissioner Filios. Motion passed 4-1 with Commissioner Gurr opposed.

Commissioner Barrett moved that violation 15 has been proven. Seconded by Commissioner Gurr. Motion passed.

Commissioner Barrett moved that violation 11 has been proven. Seconded by Commissioner Filios. Motion passed 4-1 with Commissioner Gurr opposed.

Division's Recommendation for Discipline

Jan Holle presented this:

- The cost of the hearing and investigation in the amount of \$3,092.04 to be paid within 60 days of the effective date of the order.
- Revocation of all licenses.

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

7-G) NRED v Pamela Jo Green, for possible action

Case # 2020-866

Parties Present

Pamela Jo Green was present.

Deputy Attorney General Karissa Neff was present representing the Division.

Preliminary Matters

Ms. Neff stated that a notice of default was filed against Ms. Green on September 2, 2021. Ms. Neff stated that she will leave it up to the Commission's discretion since Ms. Green has shown up today whether they would like to proceed and hear the case or proceed as a default.

President Plummer stated that the case will be heard.

Ms. Neff asked that State's exhibits be admitted.

President Plummer stated that State's exhibits would be admitted.

Opening Statements

Ms. Neff gave her opening statement.

Ms. Green gave her opening statement.

State's Witness

Maria Martin testified.

The witness was dismissed.

State's Witness

Wendy Beaty testified.

Ms. Green questioned Ms. Beaty.

The witness was dismissed.

State's Witness

David Nadeau testified.

Ms. Neff asked that the small claims judgement be admitted as State's exhibit.

President Plummer stated that the small claims judgement would be admitted.

The witness was dismissed.

State's Witness

John Neu testified.

The witness was dismissed.

State's Witness

Fred Czarske testified.

The witness was dismissed.

The Commission questioned Ms. Green.

Closing Statements

Ms. Neff gave her closing statement.

Ms. Green did not give a closing statement.

Division's Recommendation for Discipline

Jan Holle presented this:

- \$375,000.00 administrative fine plus the cost of the hearing and investigation in the amount of \$3,965.82 to be paid within 90 days of the effective date of the order.
- Revocation of all licenses and permits.

Commissioner Filios moved that all allegations and violations have been proven. Seconded by Commissioner Barrett. Motion passed.

Commissioner Gurr stated that her concern if respondent hadn't used up all the money, respondent could have made everyone whole. Commissioner Gurr stated that if the respondent can't come up with enough money for restitution, there's a good chance respondent will be in jail for the embezzlement charges if those are proven. Commissioner Gurr stated that putting such a stiff financial penalty on respondent means that maybe that money will not be available to make restitution to make the parties whole.

President Plummer stated that he has seen the Commission fine amounts far more than this and never discuss the victim and the ability to make restitution. President Plummer stated that his responsibility is not to fine less so that others can get paid. President Plummer stated that the fine is deservedly owed. President Plummer stated that he's not supposed to make his decision on whether the fine is collected or not.

Commissioner Barrett stated that there were four people that testified and stated that their lives have been completely changed because respondent wanted to buy gold with their money. Commissioner Barrett stated that it is hard for him because the witnesses didn't get enough time to express everything but what they did express is their complete disgust in our system. Commissioner Barrett stated that even if all the rules were followed perfectly, it wouldn't have been discovered because all the facts were lied about to the Division. Commissioner Barrett stated he is not going to vote in favor of any discount on the amount of money owed. Commissioner Barrett stated that what the respondent did to the industry's reputation as real estate agents and brokers is priceless.

President Plummer stated that it's not what respondent did with the money but how the respondent went about the process of doing it with falsification of everything. President Plummer stated that even though the respondent admitted to all factual allegations and violations, it was important for the respondent to hear what the witnesses had to say. President Plummer stated that he has no desire to do anything different with the proposed fines.

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

3-F) Discussion regarding changes to the Real Estate Termination from Company or Broker Form No. 505.

President Plummer presented this and read the handout that was provided to the Commission. Commissioner Barrett stated that he agrees the form should be changed and is a discussion that needs to go forward. Commissioner Barrett stated that it should be put on the October agenda or another agenda for more discussion. Commissioner Barrett stated it might require going to the local association to address so it becomes a legislative change. President Plummer stated that his property management agents are confused as to if they can market their services in Fernley if the permit is under the broker in Reno. President Plummer stated that his agents should be able to do business all over the State of Nevada. President Plummer stated that it's the psychology of having to terminate his own agent to move them a block away that bothers him. Commissioner Gurr stated that the problem is if you terminate the agent on Friday because they want to move over the weekend, they can't do any deals until it gets processed. Susan Clark, Licensing Manager stated that the Division is on a path now with the increase in funds to get a new data base or additions to the current one so that the broker can go in electronically to terminate an individual and place them with a new broker. Jan Holle, Chief Compliance Audit Investigator stated that the Division is trying to prevent agents from having an outside office that they set up as their own and act as a broker. Commissioner Filios stated that it's a legislative change that doesn't take place until 2023. Commissioner Filios stated that a new form could be created that would be strictly a transfer within a brokerage office. Deputy Administrator Charvez Foger stated that once a draft is created and sent to him, he will get with Mr. Holle and Ms. Clark for any edits needed after which it can be sent to the Division's Deputy Attorney General for recommendations then to the Administrator for a decision.

8) Public Comment

No public comment.

9) For Possible Action: Adjournment

Meeting recessed at 4:33 p.m. on September 15, 2021.

NOT APPROVED BY COMMISSION

VIA VIRTUAL AND IN PERSON MEETING

September 16, 2021

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

Lee Barrett, Clark County; Lee Gurr, Elko County; Russell Roth, Clark County; Spiridon Filios, Clark County and Darrell Plummer, Washoe County

Commission Counsel: Deputy Attorney General Justin Taruc

1-B) Introduction of Division Staff in Attendance

Sharath Chandra, Administrator; Charvez Foger, Deputy Administrator; Jan Holle, Chief Compliance Audit Investigator; Rebecca Bruce, Compliance Audit Investigator; Shareece Bates, Administration Section Manager; Evelyn Pattee, Commission Coordinator; Kelly Valadez, Commission Coordinator; Annalyn Carrillo, Education & Information Officer; Antonio Brown, Education Supervisor; Deputy Attorney Generals Karissa Neff and Matthew Feeley representing the Division.

2) Public Comment

No Public Comment

7-F) NRED v Kim Collin, for possible action

Case # 2019-892

Parties Present

Kim Collin aka Kim Coy was present.

Deputy Attorney General Karissa Neff was present representing the Division.

Preliminary Matters

Ms. Neff stated that a notice of default was filed against Ms. Coy around May 11, 2021. Ms. Neff stated that she will leave it up to the Commission's discretion whether they would like to proceed with a contested case or proceed as a default.

President Plummer stated that the case will be heard.

Ms. Neff asked that State's exhibits be admitted.

President Plummer stated that the State's exhibits would be admitted.

Opening Statements

Ms. Neff gave her opening statement.

Ms. Coy gave her opening statement.

State's Witness

Alan Taylor testified.

Ms. Coy cross-examined Mr. Taylor.

The Commission questioned Mr. Taylor.

The witness was dismissed.

State's Witness

Kim Coy testified.

The Commission questioned Ms. Coy.

The witness was dismissed.

Closing Statements

Ms. Neff gave her closing statement.

Ms. Coy gave her closing statement.

Commissioner Barrett stated that he believes Ms. Coy was probably in a position that when her boss told her to write an offer in an employer/employee situation, that she was following direct leadership from her boss. Commissioner Barrett stated that it bothers him that the respondent never knew about the case. Commissioner Barrett stated that this is a series of unfair circumstances for the respondent.

President Plummer stated that he's concerned that the broker as an instructor never gave Informational Bulletin 10 to his employee. President Plummer stated that whether Bradford Roberts asked or not, it should be understood by the respondent that the dealing is with another person that is not a peer, but a licensee that has a license to perform and represent a seller in a huge transaction. President Plummer stated that he can't feel remorse for the respondent but also doesn't think there should be a huge fine. President Plummer stated that he feels for the respondent because he can see respondent was not properly informed or given bulletin 10 for guidance. President Plummer stated that there is still a responsibility as an adult whether told or not and it should not be used as an out clause.

Commissioner Roth stated that before he votes, he needs to know what the penalty is. Commissioner Roth stated that he doesn't consider the respondent the guilty party in this transaction.

Commissioner Filios stated that if a fine is imposed, it should be a low fine.

Commissioner Gurr stated that the only thing Ms. Coy did was fill out a form based on instructions from the broker and the buyer that sat next to her and told her what to put on the form. Commissioner Gurr stated that respondent was not writing an offer. Commissioner Gurr stated that the fact that Ms. Coy was hired by a broker owner of a company and did not train her, far outweighs the fact that she worked as a transaction coordinator 8 or 9 years prior to that.

Division's Recommendation for Discipline

Jan Holle presented this:

- \$500.00 administrative fine plus the cost of the hearing and investigation in the amount of \$1,813.79 to be paid within 6 months of the effective date of the order.

Commissioner Gurr moved that factual allegations 1 through 22 have been proven. Seconded by Commissioner Barrett. Motion passed.

Commissioner Gurr moved that factual allegation 23 has not been proven. Seconded by Commissioner Barrett. Motion passed 4-1 with President Plummer opposed.

Commissioner Gurr moved that the violation has not been proven. Seconded by Commissioner Filios. Motion passed 4-1 with President Plummer opposed.

No disciplinary action was ordered by the Commission.

8) Public Comment

No public comment.

9) For Possible Action: Adjournment

Meeting adjourned at 10:53 a.m. on September 16, 2021.

Prepared by: Evelyn Pattee