

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 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 proven. 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