

**NEVADA REAL ESTATE COMMISSION
MINUTES**

VIA VIRTUAL MEETING

JUNE 15, 2021

9:00 AM

1-A) Introduction of Commissioners in Attendance

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

Commission Counsel: Deputy Attorney General Asheesh Bhalla

1-B) Introduction of Division Staff in Attendance

Sharath Chandra, Administrator; Evelyn Pattee, Commission Coordinator; Kelly Valadez, Commission Coordinator; Jan Holle, Chief Compliance Audit Investigator; Annalyn Carrillo, Education & Information Officer; Deputy Attorney Generals Peter Keegan, Karissa Neff, Robert Werbicky and Matthew Feeley representing the Division.

1-C) Swearing in of newly appointed Commissioner

Russell Roth was sworn in.

2) Public Comment

Louis Alexander Gasper stated that he is available to answer any questions regarding the case and administrative disciplinary action against Paul Murad.

3-H) For possible action: Discussion, nomination and election of the president of the Nevada Real Estate Commission.

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

4-A) For possible action: Discussion and decision regarding license denial appeal: Nickolas Cikity File No. S-LDA-21-003

Parties Present

Nickolas Cikity was present.

Susan Clark, Licensing Manager was present.

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

Commissioner Gurr moved that the Commission go into closed session. Seconded by Commissioner Filios. Motion passed.

The Commission went back into open session.

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

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

Parties Present

Michael 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 Roth. Motion passed.

The Commission went back into open session.

Commissioner Filios moved to grant Mr. Codman a real estate license. Seconded by Commissioner Barrett. Motion failed 2-2 with President Plummer abstaining.

**4-C) For possible action: Discussion and decision regarding license denial appeal:
Robert Zangel File No. S-LDA-21-005**

Parties Present

Robert Zangel was present.

Greg Clemens was present.

Greg Duffield was present.

Maria Wilman was present.

Steve Wilkinson was present.

Susan Clark, Licensing Manager was present.

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

Commissioner Barrett moved that the Commission go into closed session. Seconded by Commissioner Gurr. Motion passed.

The Commission went back into open session.

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

**7-A) For possible action: Discussion and decision concerning Real Estate Advisory Review
Committee application
Mark Sivek, License No.: BS.0062592.PC**

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

6-A) For possible action: Discussion and decision regarding respondent's petition for rehearing 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.

Mr. McDonald stated that he never received notice of the last hearing that he was scheduled to attend. Mr. McDonald stated that he moved from Las Vegas to California to be closer to his family. Mr. McDonald stated that the notice was mailed to the Las Vegas address therefore he did not receive the notice. Mr. McDonald stated that he would like to be able to state his case.

Ms. Neff stated that the Division opposes the petition for rehearing. Ms. Neff stated that the complaint and accompanying documents were served to the last address on file at the Division. Ms. Neff stated that it is the respondent's burden to keep the address updated so that he would receive proper notice. Ms. Neff stated that the Division has certificates of service that shows the documents were forwarded and delivered to the respondent's Corona, California address on February 10, 2021. Ms. Neff stated that the meeting Mr. McDonald was supposed to attend was March 2-4, 2021. Ms. Neff stated that the Division emailed Mr. McDonald a link to the meeting on March 1, 2021. Ms. Neff stated that on March 4, 2021, after the meeting concluded, Mr. McDonald stated that he did not know about the meeting. Ms. Neff stated that the petition should also be denied because it is untimely since it was not filed within 10 days of receiving the Commission's decision. Ms. Neff stated that Mr. McDonald was emailed the default order on March 4, 2021 and didn't file the petition for rehearing until March 26, 2021. Ms. Neff stated that in the petition for rehearing, Mr. McDonald fails to show any law or fact which is required under the statute, that the Commission has overlooked. Ms. Neff stated that in the petition for rehearing, Mr. McDonald mentions the lawsuit that is related to this case and that it's been hard on him financially. Ms. Neff stated that if Mr. McDonald is concerned about the amount of the default judgement filed against him and wants relief from that, it's a different motion that should be considered by the Commission.

Commissioner Gurr stated that Ms. Neff made compelling and valid points. Commissioner Gurr stated that if the petitioner wants to come back for reconsideration of the actual disciplinary action, that's a different story. Commissioner Gurr stated that she is not in favor of respondent's request to reinstate his license and take away the fine.

Commissioner Barrett stated that he supports Commissioner Gurr's statement.

Commissioner Barrett moved to deny the request for rehearing. Seconded by Commissioner Gurr. Motion passed.

8-N) NRED v Mark Daniel Heckert, for possible action

Case # 2018-340

Parties Present

Mark Daniel Heckert 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 \$4,000.00 as an administrative fine and \$3,307.20 in administrative costs as follows:
 - Respondent shall make monthly payments due the 1st of each month in the amount of \$1,826.80 starting July 1, 2021 for 4 months.
- 6 hours of continuing education in ethics to be completed within 2 months of the Commission's order approving the stipulation and such continuing education shall not accrue toward license renewal requirements.
- Suspension of broker-salesperson's license for 1 year.

Commissioner Filios moved that the factual allegations and violations are proven. Seconded by Commissioner Barrett. Motion passed.

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

8-J) NRED v Guan Wang, for possible action

Case # 2018-954

Parties Present

Guan Wang was present.

Ngoc Phan was present representing Mr. Wang.

Deputy Attorney General Karissa Neff was present representing the Division.

Preliminary Matters

Ms. Neff stated that this case was set for the December 2020 meeting and proceeded as a default judgement against Mr. Wang. Ms. Neff stated that Mr. Wang petitioned for a rehearing and it was granted at the last commission meeting. Ms. Neff stated that the parties since have reached a settlement. Ms. Neff read the factual allegations and settlement into the record.

Settlement

- Respondent agrees to pay the Division \$7,500.00 as an administrative fine and \$897.44 in administrative costs as follows:
 - Respondent shall make monthly payments due the 1st of each month in the amount of \$699.79 starting July 1, 2021 until paid in full.

- 3 hours of continuing education in agency and 3 hours of continuing education in contracts 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.

The Commission questioned Mr. Wang.

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

8-P) NRED v Jessica Lynn Razzari, for possible action

Case # 2019-1388

Parties Present

Jessica Lynn Razzari 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. Razzari.

State's Witness

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

Mr. Keegan moved for the entry of default against Ms. Razzari for failure to appear.

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 Gurr. Motion passed.

Mr. Keegan 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 Barrett. Motion passed.

Division's Recommendation for Discipline

Jan Holle presented this:

- \$30,000.00 administrative fine plus the cost of the hearing and investigation in the amount of \$1,744.24 to be paid within 60 days of the effective date of the order.
- Revocation of real estate license and property manager permit.

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

8-H) NRED v Paul Murad, for possible action

Case # 2019-1011

Parties Present

Paul Murad was not present.

Deputy Attorney General Matthew Feeley was present representing the Division.

Preliminary Matters

Mr. Feeley stated that he had received a voice mail the previous evening from an attorney claiming to represent Mr. Murad. Mr. Feeley stated that in the message, the attorney requested an additional continuance. Mr. Feeley stated that he also received an email from the attorney stating that he could not be present due to a scheduling conflict. Mr. Feeley requested that the matter be tabled.

President Plummer stated that the matter will be tabled.

8-A) NRED v Brian Nelson, for possible action
Case # 2018-600

Parties Present

Brian Nelson was present.

Deputy Attorney General Peter Keegan was present representing the Division.

Preliminary Matters

Mr. Keegan stated that Mr. Nelson submitted a Motion to Dismiss.

President Plummer stated that this case was close to ending at the last hearing.

Commissioner Barrett moved to deny the Motion to Dismiss. Seconded by Commissioner Gurr. Motion passed.

Mr. Keegan stated that there was an objection filed by Mr. Nelson's admission of the State's exhibits. Mr. Keegan stated that the exhibits were admitted into evidence at the March hearing. Mr. Keegan stated that the objection filed is dated June 15, 2021. Mr. Keegan stated that at the last hearing in March, he had completed the Division's direct examination of Mr. Nelson.

The Commission recapped and discussed the complaint.

Mr. Nelson stated his Case in Chief.

The Commission questioned Mr. Nelson.

Closing Statements

Mr. Keegan gave his closing statement.

Mr. Nelson gave his closing statement.

Commissioner Filios moved that the factual allegations were proven. Seconded by Commissioner Barrett.

Commissioner Gurr stated she did not do many short sale transactions in Elko County. Commissioner Gurr stated that she did not see any reference to being a husband and wife or boyfriend and girlfriend, mother and son etc. that the arm's length had to do with the seller of the property and the buyer of the property. Commissioner Gurr stated that her concern is about doing a blanket motion that proves all factual allegations. Commissioner Gurr stated that she

disagrees with Mr. Keegan that a relationship between the broker and her husband had to be disclosed in writing.

Commissioner Barrett stated to look at 645.252(2) and 645.605(4)(b). Commissioner Barrett stated that statute is serious about disclosure of persons or companies. Commissioner Barrett stated that he thinks it's a general provision of the statute and it goes under gross negligence. Commissioner Barrett stated that there was a possibility of fraud during that time period so gross negligence would mean that the parties involved were not aware that there were things going on such as the compensation that wasn't being disclosed to them because the paperwork they were getting showed a 3 percent compensation, not a 75 dollar compensation. Commissioner Barrett stated that the compensation was changed during the transaction as evidenced by Mr. Keegan's closing statement. Commissioner Barrett stated that it would be considered a material fact that you are related to somebody when you are disclosing it to a third party.

Commissioner Gurr stated that she is not on the other side of the coin as far as the compensation issues. Commissioner Gurr stated that she just disagrees that the statutes relate to a broker and his or her salespersons and the relationship thereto.

Commissioner Filios stated that when he was buying and selling land and writing contracts, you had to disclose if you are a licensee and any member of the LLC who is a licensee. Commissioner Filios stated that everything was disclosed in the purchase contracts and listing agreements because it is the right thing to do and you are supposed to do it. Commissioner Filios stated that full disclosure of who is involved in the transaction is good practice.

Motion passed 3-1 with Commissioner Gurr opposed and Commissioner Roth abstaining.

Commissioner Filios moved that violation 1 has been proven. Seconded by Commissioner Barrett. Motion passed 4-0 with Commissioner Roth abstaining.

Commissioner Filios moved that violation 2 has been proven. Seconded by Commissioner Barrett. Motion passed 3-1 with Commissioner Gurr opposed and Commissioner Roth abstaining.

Commissioner Filios moved that violation 3 has been proven. Seconded by Commissioner Barrett. Motion passed 4-0 with Commissioner Roth abstaining.

Division's Recommendation for Discipline

Jan Holle presented this:

- \$180,000.00 administrative fine plus the cost of the hearing and investigation in the amount of \$5,527.52 to be paid within 6 months of the effective date of the order.
- Revocation of all licenses and permits.

Commissioner Barrett moved to accept the recommendation of the Division. Seconded by Commissioner Filios. Motion passed 4-0 with Commissioner Roth abstaining.

8-G) NRED v Robyn L. Hadem, for possible action
Case # 2018-1029

Parties Present

Robyn Hadem was not present.

Deputy Attorney General Robert Werbicky was present representing the Division.

Preliminary Matters

Mr. Werbicky stated that he anticipated Ms. Hadem being present. Mr. Werbicky stated that Ms. Hadem attended part of the December 2020 hearing and part of the March 2021 hearing. Mr. Werbicky requested the matter be tabled to try to reach Ms. Hadem.

President Plummer stated that the matter will be tabled.

8-D) NRED v Cynthia L. Glickman, for possible action
Case # 2018-1649

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 asked that State's and Respondent's exhibits be admitted.

President Plummer stated that the exhibits would be admitted.

Opening Statements

Mr. Werbicky gave his opening statement.

Mr. Mack gave his opening statement.

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

Mr. Werbicky stated that requesting the Commission go into closed session is an unusual request and not a situation typically seen. Mr. Werbicky stated that he doesn't see any reason that this matter would require a closed session. Mr. Werbicky stated that he does not have a strong opposition to it going into closed session.

Commissioner Gurr moved to go to closed session. Seconded by Commissioner Roth. Motion passed 4-1 with Commissioner Barrett opposed.

Commissioner Barrett moved to go back into open session. Seconded by Commissioner Gurr. Motion passed with Commissioner Roth opposed.

President Plummer stated that this case will resume on June 16, 2021 from the beginning.

3-A) Discussion regarding Administrator's report.

Sharath Chandra presented this report. Mr. Chandra stated that there were two bills that were introduced at the legislative session. Mr. Chandra stated that one bill was the technology bill. Mr. Chandra stated that the Division has always been looking to enhance technology. Mr. Chandra stated that the goal is to get to a point where a lot of tasks become automated. Mr. Chandra stated that the Division received a one-time appropriation of \$700,000.00 from the general fund that will help jumpstart the technology. Mr. Chandra stated that the second bill was SB276. Mr. Chandra stated that a \$15.00 technology fee will be attached to a licensee's renewal every two years. Mr. Chandra stated that the money collected for technology will remain with the Division to accumulate then be used for technology enhancements. Mr. Chandra stated that the Division's priorities are automating licensing and moving everything to a digital front throughout the Division. Mr. Chandra stated that there was a self-funding bill that would have taken the Division out of the general fund. Mr. Chandra stated that the bill did not get a lot of traction. Mr. Chandra stated that is still a major goal of the Division. Mr. Chandra stated that the Division is now open to the public. Mr. Chandra stated that a building wide requirement is that both staff and the public wear a mask. Mr. Chandra stated that there have been a couple staff transitions so there are vacancies that the Division is looking to fill including a Deputy Administrator. Mr. Chandra stated that his goal is to have one more education workshop addressing live, online education versus virtual. Mr. Chandra stated that the Commission will need to propose regulations to make any changes.

3-B) Discussion regarding the Disciplinary Report.

President Plummer stated that this has been tabled to the next Real Estate Commission meeting.

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-I) For possible action: Discussion and decision to approve minutes of the March 2-4, 2021 meeting.

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

9) Public Comment

No public comment.

10) For Possible Action: Adjournment

Meeting recessed at 4:40 p.m. on June 15, 2021.

VIA VIRTUAL MEETING

JUNE 16, 2021

9:00 AM

1-A) Introduction of Commissioners in Attendance

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

Commission Counsel: Deputy Attorney General Asheesh Bhalla

1-B) Introduction of Division Staff in Attendance

Sharath Chandra, Administrator; Evelyn Pattee, Commission Coordinator; Kelly Valadez, Commission Coordinator; Jan Holle, Chief Compliance Audit Investigator; Annalyn Carrillo, Education & Information Officer; Deputy Attorney Generals Peter Keegan, Karissa Neff, Robert Werbicky and Matthew Feeley representing the Division.

2) Public Comment

No public comment.

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

Case # 2018-1649

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 asked that State's and Respondent's exhibits be admitted.

President Plummer stated that the exhibits would be admitted.

Opening Statements

Robert Werbicky gave his opening statement.

Mr. Mack gave his opening statement.

State's Witness

Maria Martin testified.

Mr. Mack cross-examined Ms. Martin.

Mr. Werbicky re-examined Ms. Martin.

Mr. Mack re-cross-examined Ms. Martin.

Mr. Werbicky re-examined Ms. Martin.

The Commission questioned Ms. Martin.

The witness was dismissed.

State's Witness

Latanya Riley testified.

Mr. Mack cross-examined Ms. Riley.

The Commission questioned Ms. Riley

The witness was dismissed.

President Plummer stated that Respondent's additional exhibits 3, 4 and 5 would be admitted.

Respondent's Witness

Cynthia Glickman testified.

Mr. Werbicky cross-examined Ms. Glickman.

President Plummer stated that Respondent's exhibit 6 would be admitted.

Mr. Mack re-examined Ms. Glickman.

The Commission questioned Ms. Glickman.

The witness was dismissed.

Closing Statements

Mr. Werbicky gave his closing statement.

Mr. Mack gave his closing statement.

Commissioner Barrett stated that this is a case of a consumer that was unfamiliar with the process of selling a short sale and in her mind believes that she might have been taken advantage of by the broker/buyer. Commissioner Barrett stated that he always thought the date on the contract was important. Commissioner Barrett stated that he makes sure the contract is dated when it's signed. Commissioner Barrett stated that one of the things that bothers him is the file. Commissioner Barrett stated that it's not up to the agent or the broker to decide what they are going to put in or peel out of the file that's submitted to the Division when requested. Commissioner Barrett stated that the file should have everything that's involved in the transaction because everything is pertinent. Commissioner Barrett stated that the initial \$1000.00 fine, in hindsight probably would have been paid if it didn't have the wording of fraud. Commissioner Barrett stated that the file issue still bothers him and he is still concerned about dates. Commissioner Barrett stated that it was not just one document that the date was incorrect

but multiple documents. Commissioner Barrett stated that he is going to take into consideration how frantic a short sale can be with the banks wanting everything right away.

President Plummer stated that he looked at the signatures to compare each letter and noticed a significant change in the letter T. President Plummer stated that Ms. Riley in her testimony stated she altered the way she signed and gave the reasons why. President Plummer stated he had a recent situation with a client signing a document and for whatever reason they did not put the date on it. President Plummer stated that he will not put the date in for clients. President Plummer stated that he will hand the document back to the client to be dated or if it's after the fact, will give it back to them to date it. President Plummer stated that the first violation refers to by virtue of the forgery of the documents. President Plummer stated that he has not heard anything that suggests Ms. Glickman forged Ms. Riley's signature.

Commissioner Gurr stated that as a Real Estate Commissioner, she knows that when a transaction file is requested, it means everything should be included. Commissioner Gurr stated that it could be confusing to some when a letter from the Division is received requesting documentation. Commissioner Gurr stated that some may wonder if it means everything that had to do with that listing file or whether it's specifically regarding the transaction that is the subject of the complaint. Commissioner Gurr stated that regarding the dates, she can see that if you're busy and have a licensed assistant that you place faith and trust in that you might not check every single document. Commissioner Gurr stated that on the other hand, brokers are in charge of and responsible for everything that goes on as a broker along with everything that goes out of your office from the agents that are affiliated with you.

Mr. Werbicky read the factual allegations into the record.

Commissioner Gurr moved that factual allegations 1 through 11 have been proven. Seconded by Commissioner Barrett.

Commissioner Gurr moved to amend the motion to factual allegations 1 through 7 and factual allegations 9 through 11 have been proven. Seconded by Commissioner Filios. Amended motion passed. Motion passed.

Commissioner Gurr moved that factual allegation 8 has not been proven. Seconded by Commissioner Roth. Motion passed 4-1 with Commissioner Barrett opposed.

Commissioner Gurr moved that the violation has not been proven. Seconded by Commissioner Barrett.

Commissioner Gurr read the violation into the record.

Motion passed 4-1 with Commissioner Barrett opposed.

No disciplinary action was ordered by the Commission.

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

NRED v Linda S. Hartman

Case # 2019-640

Parties Present

Linda Hartman was present.

Bret Whipple was present representing Ms. Hartman.

Deputy Attorney General Peter Keegan was present representing the Division.

Mr. Whipple stated that they are asking the Commission to re-address the issue regarding the fine in this case. Mr. Whipple stated that the basis for that is this came to the Commission directly from the Reno Sparks panel. Mr. Whipple stated that the same exact facts were brought to the Reno Sparks ethics panel. Mr. Whipple stated that Ms. Hartman was fined \$15,000.00 in front of that panel. Mr. Whipple stated and suggested that there is a double jeopardy issue when being fined twice monetarily for the exact same facts.

Mr. Keegan stated that at the March hearing, the Commission ordered a fine of \$12,000.00, comprised of three individual \$4,000.00 fines for the applicable violations plus 3,285.71 in costs. Mr. Keegan stated that there was not an incumbent suspension that was in the original Reno Sparks Association of Realtors case. Mr. Keegan stated that this Commission also ordered 18 hours of CE. Mr. Keegan stated that the position of the Division is that the eighth amendment does not apply because Reno Sparks Association of Realtors has nothing to do with the government. Mr. Keegan stated that the eighth amendment only applies to government actions. Mr. Keegan stated that the fact that the respondent is part of an association which is voluntary in nature has nothing to do with the underlying discipline here.

Commissioner Barrett stated that these are separate issues since you could go before an ethics panel and be fined, then go before a regulatory board that supervises what you should do regulatorily and possibly a civil court all for the same allegations. Commissioner Barrett stated that he will not adjust his vote.

Commissioner Gurr stated that she is in full support and concurs with Commissioner Barrett. Commissioner Gurr stated that had the Commission heard information that there had been civil litigation and respondent got fined whatever the amount, it would make no difference. Commissioner Gurr stated that this is a hearing with an investigation regarding a privileged licensee that either did or did not violate the statute or regulatory code.

Commissioner Barrett stated that the Commission just had a hearing where someone was in a civil case and the Commission never asked what the penalty was on the civil case because it didn't make any difference.

Commissioner Filios stated that he sympathizes with the respondent however being a member of the Reno Sparks Board of Realtors is an election, dues are paid and they have their own set of rules and they can discipline under those rules.

Commissioner Gurr moved to deny the request for reconsideration of disciplinary terms. Seconded by Commissioner Barrett. Motion passed.

8-F) NRED v George L. Anderson, III, for possible action
Case # 2019-862

Parties Present

George L. Anderson, III was not present.
Deputy Attorney Karissa Neff was present representing the Division.

Ms. Neff moved for the entry of default against Mr. Anderson.

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

State's Witness

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

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.

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 Filios. Motion passed.

Division's Recommendation for Discipline

Jan Holle presented this:

- \$10,000.00 administrative fine plus the cost of the hearing and investigation in the amount of \$738.72 to be paid within 90 days of the effective date of the order.
- Revocation of all property manager permits.

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

8-I) NRED v Nga Diep, for possible action
Case # 2018-1280

Parties Present

Nga Diep was present.
Brian Walters was present representing Ms. Diep.
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 \$14,466.51 as an administrative fine and \$1,887.83 in administrative costs within 30 days of the Commission's order approving the settlement.
- 3 hours of continuing education in agency and 3 hours of continuing education in broker management to be completed within 60 days and such continuing education shall not accrue toward license renewal requirements.

Commissioner Barrett moved to reject the stipulation as presented and requested a hearing be set. Motion died for lack of a second.

Commissioner Barrett stated that he would like to hear the case because there were 38 instances totaling \$48,658.96 in compensation. Commissioner Barrett stated that's not accidental. Commissioner Barrett stated that this is a broker that collected compensation 38 times.

Commissioner Gurr stated that stipulations are reached when it is to the benefit of the Division. Commissioner Gurr stated that is why she did not second Commissioner Barrett's motion.

Commissioner Roth stated that the Division appears aggressive. Commissioner Roth stated that if the Division thinks the stipulation is the right thing to do, he will vote for it.

Commissioner Filios stated that it's a difficult situation to weigh the gravity of what the respondent did. Commissioner Filios stated that it was two years of not renewing a permit. Commissioner Filios stated that on the other hand there is Division staff that is relied upon to make judgement calls for the benefit of the public and the benefit of the respondent.

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

8-G NRED v Robyn L. Hadem, for possible action

Case # 2018-1029

Parties Present

Robyn Hadem was not present.

Deputy Attorney General Robert Werbicky was present representing the Division.

Preliminary Matters

Mr. Werbicky stated that Ms. Hadem attended the last two commission meetings waiting for her matter to be called. Mr. Werbicky stated that he received emails last night and this morning from the respondent. Mr. Werbicky read the emails and stated that the respondent is requesting a continuance.

Commissioner Barrett move to grant the continuance. Seconded by Commissioner Filios. Motion passed.

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

Annalyn Carrillo stated that there were no audits to submit.

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

Annalyn Carrillo presented this report. Ms. Carrillo reported on roster uploads for continuing education:

- March 2021, there were 1,298 roster uploads.
- April 2021, there were 1,179 roster uploads.
- May 2021, there were 1,177 roster uploads.

3-G) Discussion regarding the monitoring and content of distance education classes and instructor experience requirements as it relates to subject matter.

President Plummer stated that in his experience going into some of the online schools, there is no audit process or technology which exists that keeps the student in that system where they check in. President Plummer stated that without a management process, 3 hours could be done in substantially less time. President Plummer stated that while the material that's provided by the accredited school may be 3 hours of content, some of the classes are 30 pages and some are 150 pages that includes the NRS statutes. President Plummer stated that he's not sure how the documents in of themselves, establish the content of the course. President Plummer stated that he does not find that a great learning experience. President Plummer stated that's how we end up with people that don't get the proper continuing education that we would like to see. President Plummer stated that he's seen great live presenters and terrible live presenters. President Plummer stated that he's seen great live virtual instructors where he has recently gone and sat for the 3 required hours. President Plummer stated that it's live, interactive, the instructors know how to use the chat and they have caught up with the zoom world. President Plummer stated that it could be even more effective, if done well, in a zoom platform than in a classroom where someone is sleeping in the back corner. President Plummer stated that he was asked by the instructor to present the desire from the student and instructor for the live, from their home, virtual, required to be there for 3 hours class to the Commission. President Plummer stated that some of the online classes that aren't doing the entire 3 hours can cheat the system.

Commissioner Barrett stated that it's important if there is still another education workshop, that President Plummer receive an invitation to attend because that would be the format to bring this topic up. Commissioner Barrett stated that some of the classes that are 180 minutes or are supposed to be, people run through the class or they go get a cup of coffee for 2 hours then come back and finish the class. Commissioner Barrett stated that he would rather see the zoom format be used especially in the rural areas but it needs to be supervised. Commissioner Barrett stated that he would not want to give up the 50 percent live classes.

Commissioner Gurr stated that she's been asked to audit a number of distance education courses. Commissioner Gurr stated that there were some 3 hour classes that she literally finished in 20 minutes. Commissioner Gurr stated that others had incredibly good methods of making sure students were going to have to spend time on the class where you could not advance sooner than

7 minutes, for example, to the next slide. Commissioner Gurr stated that she would hate to see all distance education classes completely disappear. Commissioner Gurr stated that she would like to see the Advisory Review Committee continue to monitor distance education classes. Commissioner Gurr stated that hopefully the education workgroup is looking very closely at strict guidelines about having to be in front of the camera for the entire 3 hours and that the camera be far enough away to see if people are paying attention.

9) Public Comment

Steven Kitnick stated that he's done over 2,500 classes with 8,200 students rotating in and out and that he has something to offer the education workgroup. Mr. Kitnick stated that the education workgroups should be broadened up instead of consisting of the usual people. Mr. Kitnick stated that he might have been the first one in the state to institute live video conferencing. Mr. Kitnick stated that he has done over 200 zoom classes and he does not let people drive around or lay in their bed during the classes. Mr. Kitnick stated that he hopes live video conferencing is allowed to continue but he is looking forward to doing live classes because there are a lot of people who want to be in the live classroom.

10) For Possible Action: Adjournment

Meeting recessed at 4:50 p.m. on June 16, 2021.

VIA VIRTUAL MEETING

JUNE 17, 2021

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: Deputy Attorney General Asheesh Bhalla

1-B) Introduction of Division Staff in Attendance

Sharath Chandra, Administrator; Evelyn Pattee, Commission Coordinator; Kelly Valadez, Commission Coordinator; Jan Holle, Chief Compliance Audit Investigator; Annalyn Carrillo, Education & Information Officer; Deputy Attorney Generals Peter Keegan, Karissa Neff, Robert Werbicky and Matthew Feeley representing the Division.

2) Public Comment

No public comment.

8-E) NRED v David J. Weeks, for possible action

Case # 2018-1054

Parties Present

David Weeks was present.

Deputy Attorney General Robert Werbicky was present representing the Division.

Preliminary Matters

Mr. Weeks stated that his only witness was not notified about the hearing. Mr. Weeks requested a continuance.

Mr. Werbicky stated that Mr. Weeks requested a continuance for the December 2020 Real Estate Commission meeting. Mr. Werbicky stated that it's the responsibility of the respondent to obtain their witnesses unless they request a subpoena from the Commission. Mr. Werbicky stated that he opposes the continuance.

Commissioner Filios moved to deny the continuance. Seconded by Commissioner Gurr. Motion passed 4-1 with Commissioner Roth opposed.

Mr. Werbicky asked that the State's exhibits be admitted.

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

Mr. Werbicky stated that he has specific objections to Respondent's exhibits. Mr. Werbicky stated that there are handwritten notes in the exhibits that constitute hearsay. Mr. Werbicky stated that he objects to the exhibit pages with handwritten notes.

President Plummer stated that Respondent's exhibits would be admitted except for the pages with the handwritten notes.

Opening Statements

Mr. Werbicky gave his opening statement.

Mr. Weeks gave his opening statement.

Mr. Werbicky read the factual allegations and violations into the record.

State's Witness

Daryl McCloskey testified.

Mr. Weeks cross-examined Mr. McCloskey.

The Commission questioned Mr. McCloskey.

The witness was dismissed.

Mr. Werbicky rested his case.

Closing Statements

Mr. Werbicky gave his closing statement.

Mr. Weeks stated his case and gave his closing statement.

Mr. Werbicky gave his rebuttal.

President Plummer stated that he has worked with a paperless system for years. President Plummer stated that he thinks the terminology and the title of Transaction Coordinator is loosely used. President Plummer stated that he believes there is enough evidence to show Mr. Week's documents going in and a failure on the back end of things of things properly handled and then going back out to the client thus an overlap.

Commissioner Gurr stated that Mr. Week's narrative is clear in that this was an issue with administration and control of the file more than a deceptive practice on the part of the licensee.

The Commission questioned Mr. Weeks.

The Commission questioned Mr. Werbicky.

Commissioner Filios moved to dismiss the case. Seconded by Commissioner Roth. Motion passed.

No disciplinary action was ordered by the Commission.

8-B) NRED v Jules Mitchell Lehr, for possible action
Case # 2018-1584

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 continued by the Commission during the middle of the case at Mr. Lehr's plea to get new counsel after his counsel had withdrawn at the last hearing. Ms. Neff stated that she has talked to Mr. Lehr's new counsel and they agree that they would like to start over so that there is a clean record. Ms. Neff stated that starting over would also give Mr. Lehr a chance to be represented by counsel for the whole hearing.

President Plummer stated that the case will start over.

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

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

Ms. Neff stated that counsel for Mr. Lehr has provided exhibits they would like to rely on. Ms. Neff stated that there are several declarations in the exhibits that the State is going to move to strike.

Ms. Neff stated that there is a declaration from the respondent, Jules Mitchell Lehr. Ms. Neff stated that she realizes that hearsay is admissible in an administrative proceeding however there is no reason to have the declaration admitted today because the respondent is here to testify. Ms. Neff stated that NRS 233B.121 requires that unduly repetitive evidence be excluded. Ms. Neff moved to strike the declaration.

Ms. Holbert stated that yes, Mr. Lehr is present and can answer questions, however it would not be an admissibility issue rather than go to the weight of the evidence. Ms. Holbert stated that there is no reason to strike it as being part of the record.

President Plummer stated that Mr. Lehr's declaration will be stricken from the record.

Ms. Neff moved to strike the declaration of Jian Li. Ms. Neff stated that Mr. Li is the complainant in this case and has been subpoenaed to testify. Ms. Neff stated that there is no reason for the declaration when he can provide live testimony. Ms. Neff stated that it was provided by the respondent and she questions its authenticity. Ms. Neff stated that it is E-signed and there is no way to verify if the signature is legitimate.

Ms. Holbert stated that the declaration of Mr. Li and of others were obtained as a back-up plan. Ms. Holbert stated that the declarations are not as great as live testimony. Ms. Holbert stated that it's very difficult to get witnesses to appear in the course of 3 days. Ms. Holbert stated that Mr.

Lehr has been in contact with Mr. Li about his ability to testify and he is not able to testify this afternoon.

Ms. Neff stated that Mr. Li has been subpoenaed to appear today and it's not optionable for him to ignore the Division's subpoena.

President Plummer stated that Mr. Li's declaration will be stricken from the record.

Ms. Neff moved to strike the declaration of Jason Mattson. Ms. Neff stated that Mr. Mattson was a broker that Mr. Lehr hung his license under between April 2014 and May 2014. Ms. Neff stated that it has no relevance to this case as to who Mr. Lehr's broker was in 2014.

Ms. Holbert stated that Mr. Mattson's declaration is being submitted as a character reference. Ms. Holbert stated that Mr. Mattson is currently on vacation and is not under any subpoena to be here that was issued by the Division. Ms. Holbert stated that Mr. Mattson wanted to make a statement on Mr. Lehr's behalf but is not available to do so in person.

Ms. Neff stated in opposition that there is an NRS provision that specifically states that the State should be entitled to cross examination of a character witness.

President Plummer stated that Mr. Mattson's declaration will be stricken from the record.

Ms. Neff moved to strike the declaration of Reggie Datangel. Ms. Neff stated that Mr. Datangel was a landlord in a previous case that was brought against Mr. Lehr. Ms. Neff stated that it has no relevance to this case.

Ms. Holbert stated the Division has made it relevant because it's included as part of the facts in that complaint. Ms. Holbert stated that if the State and the Commission is not going to consider a prior case, that's fine however if they are, then it is relevant and it should be considered.

Ms. Neff stated that the State opposes. Ms. Neff stated that case was settled and Mr. Lehr admitted to the facts in that case so it's not relevant to what the landlord has to say in that case.

President Plummer stated that Mr. Datangel's declaration will be stricken from the record.

Ms. Neff stated that she is okay with admitting the rest of the respondent's exhibits.

President Plummer stated that the rest of the respondent's exhibits will be admitted.

Opening Statements

Ms. Neff gave her opening statement.

Ms. Holbert gave her opening statement.

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

State's Witness

Daryl McCloskey testified.

Ms. Holbert cross-examined Mr. McCloskey.

The Commission questioned Mr. McCloskey.

The witness was dismissed.

State's Witness

Derrell Love Testified.

Ms. Holbert cross-examined Mr. Love.

The Commission questioned Mr. Love.

The witness was dismissed.

State's Witness

Jules Mitchell Lehr

Ms. Holbert cross-examined Mr. Lehr.

Ms. Neff re-examined Mr. Lehr.

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

The Commission questioned Mr. Lehr.

The witness was dismissed.

Respondent's Witness

Anna McDonough testified.

Ms. Neff cross-examined Ms. McDonough.

Ms. Holbert re-examined Ms. McDonough.

The witness was dismissed.

Respondent's Witness

Jason Mattson testified.

Ms. Neff cross-examined Mr. Mattson.

Ms. Holbert re-examined Mr. Mattson.

The witness was dismissed.

Respondent's Witness

Richard Naft testified.

The Commission questioned Mr. Naft.

The witness was dismissed.

Closing Statements

Ms. Neff gave her closing statement.

Ms. Holbert gave her closing statement.

Commissioner Barrett stated that all three brokers stated that the respondent is a good guy but he doesn't do paperwork well. Commissioner Barrett stated that Mr. Li actually filed a complaint with the Division and filing a complaint is not something someone does haphazardly.

Commissioner Barrett stated that it seems with the number of times respondent has been in front of the Commission, the respondent is either very unlucky or something's going on.

Commissioner Barrett stated that if the Real Estate Division sanctioned and fined him, he would make sure he didn't do favors for anybody anymore to avoid any more complaints.

Commissioner Barrett stated that people go their whole career and never come before the Commission. Commissioner Barrett stated that this young man has been before the Commission three times.

Commissioner Gurr stated that in her opinion, having done property management for 20 years, Mr. Lehr did not practice property management. Commissioner Gurr stated that she thinks there is a problem with records management.

President Plummer stated that he has a property management division and he is the designated property management broker. President Plummer stated that his agents without a property management permit would not even touch what Mr. Lehr did just because of the exposure that might ultimately bring them here before the Commission.

Factual Allegations

Commissioner Gurr moved that factual allegations 1 through 3, 6 and 7 have been proven. Seconded by Commissioner Filios. Motion passed.

Commissioner Gurr moved that factual allegations 4 and 5 have not been proven. Seconded by Commissioner Filios. Motion passed 4-1 with Commissioner Barrett opposed.

Violations of Law

Commissioner Gurr moved that violation 8 has not been proven. Seconded by Commissioner Filios. Motion passed 4-1 with Commissioner Barrett opposed.

Commissioner Barrett stated that he's reading the Division's Bulletin 12, regarding property management, differently than the rest of the Commission.

President Plummer stated that Bulletin 12 should be looked at closer and maybe the language should be changed.

Commissioner Barrett stated that he has said that for the last 5 years. Commissioner Barrett stated that Bulletin 12 takes agents down a rabbit hole which they shouldn't be going down. Commissioner Barrett stated that it will require the Real Estate Division rewrite it because with the way the industry is going, the issue is going to get worse, not better.

Commissioner Filios stated that the intent of Bulletin 12 is to let agents know that you don't need a property management permit to write a lease. Commissioner Filios stated that Mr. Lehr didn't write a lease and that's where he made his biggest mistake. Commissioner Filios stated that if Mr. Lehr would have written a lease and gave it to his broker, he would have been fine.

Motion passed 4-1 with Commissioner Barrett opposed.

Commissioner Gurr moved that violation 9 has not been proven. Seconded by Commissioner Filios. Motion passed 4-1 with Commissioner Barrett opposed.

Commissioner Barrett moved that violation 10 has been proven. Seconded by Commissioner Filios. Motion passed.

Division's Recommendation for Discipline

Jan Holle presented this:

- \$5,000.00 administrative fine plus the cost of the hearing and investigation in the amount of \$2,645.66 to be paid within 90 days of the effective date of the order.
- 6 hours of continuing education in contracts and 6 hours of continuing education in agency to be completed within 90 days of the effective date of the order and such continuing education shall not accrue toward license renewal requirements.

Commissioner Gurr stated that Mr. Lehr needs some continuing education hours in property management.

Commissioner Gurr moved that a fine of \$5,000.00 be imposed plus costs of \$2,645.66 to be paid within 90 days of the effective date of the order along with 6 hours of continuing education in property management and such education shall not accrue toward license renewal requirements. Seconded by Commissioner Barrett. Motion passed.

Commissioner Gurr moved to amend the motion that the education must be completed within 60 days of the effective date of the order. Seconded by Commissioner Barrett. Amended motion passed.

8-C) 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 moved to exclude the declarations that were provided for the same reasons explained in the last case heard.

President Plummer stated that the declarations will be stricken from the record.

Ms. Neff stated that she is okay with admitting the rest of the Respondent's exhibits along with the real estate bulletin that was admitted in the last case heard.

President Plummer stated that the rest of Respondent's exhibits and the real estate bulletin would be admitted.

Ms. Neff asked that the 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. Holbert gave her opening statement.

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

State's Witness

Daryl McCloskey testified.

President Plummer stated that this case will be continued to the next scheduled Real Estate Commission meeting.

9) Public Comment

Edward Labate stated that he is impressed with the thoroughness of the commission meeting.

10) For Possible Action: Adjournment

Meeting adjourned at 4:55 p.m. on June 17, 2021.

Prepared by: Evelyn Pattee