

**NEVADA REAL ESTATE COMMISSION
MINUTES**

VIA VIRTUAL MEETING

DECEMBER 7, 2020

9:00 AM

1-A) Introduction of Commissioners in Attendance

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

Commission Counsel: Deputy Attorney General Asheesh Bhalla

1-B) Introduction of Division Staff in Attendance

Sharath Chandra, Administrator; Teralyn Lewis, Administration Section Manager; Evelyn Pattee, Commission Coordinator; Jan Holle, Chief Compliance Audit Investigator; Annalyn Carrillo, Education & Information Officer; Kimberly Smith, Education Supervisor; Deputy Attorney Generals Karissa Neff, Peter Keegan and Robert Werbicky representing the Division.

2) Public Comment

Tiffany Banks, general counsel for Nevada Association of Realtors, thanked the Commission, Administrator Chandra and the Real Estate Division for their hard work on the regulation. Ms. Banks stated that she hopes for continued success as questions arise.

Steven Kitnick stated that he is urging the Nevada Real Estate Commission in their advisory capacity whose mission is to protect the public and Nevada's real estate sectors by fairly and effectively regulating real estate professionals through licensure, registration and education to encourage new legislation and regulations that will further protect the public and licensees who are members of the public from unscrupulous, financially irresponsible and incompetent brokers. Mr. Kitnick stated that he does not understand why an applicant's finances are checked when they first apply for a license as a real estate broker and never checked again. Mr. Kitnick stated that an owner/developer's finances must be investigated if the Division has reason to believe that there has been a substantial change in the owner/developer's finances. Mr. Kitnick stated that if that was the case for brokers, it would be routine that an investigation would ensue after the Division receives a credible complaint concerning a broker's financial responsibilities and competency to maintain his or her business. Mr. Kitnick stated that he hopes the necessary steps will be taken to encourage legislation and regulations to further protect the public by identifying and eliminating business practices of certain real estate brokers that harm the public and licensees.

3) For Possible Action and Decision: Adoption Hearing for LCB File No. R060-20.

Section 2

Teralyn Lewis read the section into the record.

No public comment.

Section 3

Teralyn Lewis read the section into the record.

No public comment.

Section 4

Teralyn Lewis read the section into the record.

No public comment.

Section 5

Teralyn Lewis read the section into the record.

No public comment.

Section 6

Teralyn Lewis read the section into the record.

No public comment.

Section 7

Teralyn Lewis read the section into the record.

No public comment.

Section 8

Teralyn Lewis read the section into the record.

No public comment.

Section 9

Teralyn Lewis read the section into the record.

No public comment.

Section 10

Teralyn Lewis read the section into the record.

No public comment.

Section 11

Teralyn Lewis read the section into the record.

No public comment.

Section 12

Teralyn Lewis read the section into the record.

No public comment.

Section 13

Teralyn Lewis read the section into the record.

No public comment.

Section 14

Teralyn Lewis read the section into the record.

No public comment.

Section 15

Teralyn Lewis read the section into the record.

No public comment.

Section 16

Teralyn Lewis read the section into the record.

No public comment.

Section 17

Teralyn Lewis read the section into the record.

No public comment.

Section 18

Teralyn Lewis read the section into the record.

No public comment.

Section 19

Teralyn Lewis read the section into the record.

No public comment.

Section 20

Teralyn Lewis read the section into the record.

No public comment.

Section 21

Teralyn Lewis read the section into the record.

No public comment.

Section 22

Teralyn Lewis read the section into the record.

No public comment.

Section 23

Teralyn Lewis read the section into the record.

No public comment.

Section 24

Teralyn Lewis read the section into the record.

No public comment.

Section 25

Teralyn Lewis read the section into the record.

No public comment.

Section 26

Teralyn Lewis read the section into the record.

No public comment.

Section 27

Teralyn Lewis read the section into the record.

No public comment.

Section 28

Teralyn Lewis read the section into the record.

No public comment.

Section 29

Teralyn Lewis read the section into the record.

No public comment.

Section 30

Teralyn Lewis read the section into the record.

No public comment.

Section 31

Teralyn Lewis read the section into the record.

No public comment.

Section 32

Teralyn Lewis read the section into the record.

No public comment.

Section 33

Teralyn Lewis read the section into the record.

No public comment.

Section 34

Teralyn Lewis read the section into the record.

No public comment.

Section 35

Teralyn Lewis read the section into the record.

No public comment.

Section 36

Teralyn Lewis read the section into the record. Ms. Lewis stated that section 2 would have to be amended to add subsection (x) Risk reduction.

No public comment.

Section 37

Teralyn Lewis read the section into the record.

No public comment.

Section 38

Teralyn Lewis read the section into the record.

No public comment.

Section 39

Teralyn Lewis read the section into the record.

No public comment.

Section 40

Teralyn Lewis read the section into the record.

No public comment.

Section 41

Teralyn Lewis read the section into the record.

No public comment.

Section 42

Teralyn Lewis read the section into the record.

No public comment.

Section 43

Teralyn Lewis read the section into the record.

No public comment.

Section 44

Teralyn Lewis read the section into the record.

No public comment.

Section 45

Teralyn Lewis read the section into the record.

No public comment.

Section 46

Teralyn Lewis read the section into the record.

No public comment.

Section 47

Teralyn Lewis read the section into the record.

No public comment.

Section 48

Teralyn Lewis read the section into the record.

No public comment.

Section 49

Teralyn Lewis read the section into the record.

No public comment.

Section 50

Teralyn Lewis read the section into the record.

No public comment.

Section 51

Teralyn Lewis read the section into the record.

No public comment.

Section 52

Teralyn Lewis read the section into the record.

No public comment.

Section 53

Teralyn Lewis read the section into the record.

No public comment.

Commissioner Barrett asked a question regarding section 21. Commissioner Barrett asked what the recourse is if an instructor receives a negative evaluation.

Sharath Chandra stated that if there is a specific complaint, a detailed analysis would be triggered.

Commissioner Barrett asked a question regarding section 22. Commissioner Barrett asked if the Division has any problem with instructors updating their material.

Mr. Chandra stated that the Division relies on instructors as subject matter experts to update material.

Commissioner Barrett asked a question regarding section 43. Commissioner Barrett asked whose license number should be on team group advertising.

Mr. Chandra stated that it should be at least one member of the team with their name and license number on advertising.

Commissioner Plummer stated that regarding section 2, an individual 65 years of age or older with 30 years or more of experience is not always a direct correlation to competence.

Mr. Chandra stated that the intent was that age and experience would ensure that one has enough experience whereby extra requirements would not be added.

Commissioner Filios asked a question regarding section 42 subsection 4. Commissioner Filios asked if the Division is requiring a license number on every social media post.

Mr. Chandra stated that the Division will use its best discretion.

Commissioner Gurr moved to adopt the changes set forth in LCB File No. R060-20. Seconded by Commissioner Barrett.

Motion passed.

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

NRED v Frederick Britton

Case # 2017-2125

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

NRED v Frederick Britton

Case # 2018-161

Parties Present

Frederick Britton was not present.

Deputy Attorney General Karissa Neff was present representing the Division.

Ms. Neff stated that both cases, 2017-2125 and 2018-161 were originally heard in March 2020 and resulted in default orders. Ms. Neff stated that Mr. Britton filed a petition for a rehearing. Ms. Neff stated that the Division opposed it on the basis that it was untimely. Ms. Neff stated that Mr. Britton submitted another request for a rehearing and requested a continuance for another meeting. Ms. Neff stated that at the last meeting this same matter was called and Mr. Britton did not appear at the meeting. Ms. Neff stated that the Commission denied his request for re-hearing at the last meeting. Ms. Neff requested the Commission deny the request for rehearing in both cases based on the Commission's prior decision and the opposition that the Division has filed.

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

7-F) NRED v Erik Peterson, for possible action

Case # 2018-208

Parties Present

Erik Peterson was not present.

Deputy Attorney General Karissa Neff was present representing the Division.

Ms. Neff stated that a settlement agreement was reached with Mr. Peterson and approved at a prior meeting. Ms. Neff stated that no action needs to be taken and this matter has been fully resolved.

Deputy Attorney General Asheesh Bhalla stated that there was administrative miscommunication regarding placing this item on the agenda. Mr. Bhalla confirmed that no action needs to be taken and this is fully resolved.

7-T) NRED v Thomas J. Love, for possible action

Case # 2019-723

Parties Present

Thomas Love was present.

Michael Stoberski was present representing Mr. Love.

Deputy Attorney General Karissa Neff was present representing the Division.

President Reiss stated that he has retained Mr. Stoberski previously in other matters not related to this matter. President Reiss stated that it is not a conflict. President Reiss stated that he will continue to reside over this matter.

Mr. Love stated that he has no objection to President Reiss residing over this matter.

Preliminary Matters

Ms. Neff stated that a settlement had been reached. Ms. Neff stated that a settlement in this case was proposed at a previous Commission meeting and was rejected. Ms. Neff read the factual allegations and revised settlement into the record.

Settlement

- Respondent agrees to pay the Division \$5,000.00 as an administrative fine and \$1,934.88 in administrative costs within 60 days of the Commission's order approving the stipulation.
- 6 hours of continuing education in agency and 3 hours of continuing education in ethics to be completed within 1 year of the Commission's order approving the stipulation and such continuing education shall not accrue toward license renewal requirements.

The Commission questioned Mr. Stoberski.

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

Commissioner Barrett stated that he is disturbed by the respondent's actions. Commissioner Barrett stated that this is a blatant disregard of the statute and business practice. Commissioner Barrett stated that the case should be heard.

Motion passed 4-1 with Commissioner Barrett opposed.

7-H) NRED v James Levy, for possible action

Case # 2018-1056

Parties Present

James Levy was present.

Kyle Ewing was present representing Mr. Levy.

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 the stipulation into the record.

- Respondent agrees to pay Pablo Pascual Varills Montero \$10,000.00 in restitution payable within one year beginning on January 1, 2021 in four equal installments of \$2,500.00 due on January 1, 2021, May 1, 2021, September 1, 2021 and January 1, 2022.
 - Respondent shall provide proof to the Division that each installment toward the amount due was paid in full to Montero within 30 days of making the installment payment. A copy of the check or other form of payment and record of mailing to Montero shall satisfy this requirement provided that payment clears.
- Respondent agrees to pay the Division \$2,000.00 as an administrative fine and \$987.44 in administrative costs within 6 months of the Commission's order approving the stipulation.

The Commission questioned Mr. Levy.

Mr. Ewing made a statement.

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

7-Y) NRED v Guan Wang, for possible action

Case # 2018-954

Parties Present

Guan Wang was not present.

Deputy Attorney General Karissa Neff was present representing the Division.

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

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 Plummer. Motion passed.

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

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

President Reiss stated that all exhibits would be admitted.

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:

- \$15,000.00 administrative fine plus the cost of the hearing and investigation in the amount of \$897.44 to be paid within 60 days of the effective date of the order.

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

7-X) NRED v Veronica Topete, for possible action

Case # 2018-1039

Parties Present

Veronica Topete was present.

Deputy Attorney General Karissa Neff was present representing the Division.

Preliminary Matters

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

Settlement

- Respondent agrees to pay the Division \$5,000.00 as an administrative fine and \$758.08 in administrative costs within 1 year of the Commission's order approving the stipulation.
- 12 hours of live online continuing education in any area to be completed within 3 months of the Commission's order approving the stipulation and such continuing education shall not accrue toward license renewal requirements.

Ms. Topete made a statement.

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

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

Case # 2018-1584

Parties Present

Jules Mitchell Lehr was present.

Deputy Attorney General Karissa Neff was present representing the Division.

Preliminary Matters

Mr. Lehr stated that his attorney withdrew from the case the day before the hearing. Mr. Lehr requested a continuance to seek other representation.

President Reiss denied the request for a continuance. President Reiss stated the hearing will move forward.

Opening Statements

Ms. Neff gave her opening statement.

Mr. Lehr gave his opening statement.

State's Witness

Daryl McCloskey, Compliance Audit Investigator, testified.

The witness was dismissed.

President Reiss stated that this matter will reconvene at the next Real Estate Commission meeting.

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

Case # 2019-521

President Reiss stated that this matter will be continued to the next Real Estate Commission meeting.

7-W) NRED v Ernest T. Hernandez, for possible action

Case # 2018-1475

Parties Present

Ernest Hernandez was not present.

Deputy Attorney General Karissa Neff was present representing the Division.

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

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 Plummer. Motion passed.

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

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

Division's Recommendation for Discipline

Jan Holle presented this:

- \$250.00 administrative fine plus the cost of the hearing and investigation in the amount of \$528.72 to be paid within 30 days of the effective date of the order.

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

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

NRED v Arlandus Rene White

Case# 2018-1305

Parties Present

Arlandus White was not present.

President Reiss stated that this matter has been resolved.

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

NRED v Edward D. Lord

Case# 2018-1305

Parties Present

Edward Lord was not present.

President Reiss stated that this matter has been resolved.

4-B) Discussion regarding the Disciplinary Report.

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

4-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.

4-D) Discussion regarding the Administrative Sanction Report.

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

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

Kimberly Smith presented this report. Ms. Smith reported on roster uploads for continuing education:

- September 2020, there were 939 roster uploads.
- October 2020, there were 1,026 roster uploads.
- November 2020, there were 954 roster uploads.

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

Kimberly Smith stated that there were no audits to submit.

4-F) Discussion regarding the Education Work Group meeting conducted November 4, 2020.

Commissioner Barrett and Forrest Barbee made this presentation.

Sharath Chandra stated that things are going to continue to evolve around an online format to discuss the live requirements. Mr. Chandra stated that the Division's vision is to create a model where the word "live" is redefined. Mr. Chandra stated that the requirements will remain the same. Mr. Chandra stated that this is one of the tasks of the work group. Mr. Chandra stated that the work group discussed having an instructor approval process outside of the course itself. Mr. Chandra stated that the work group did not discuss Commission credits.

4-A) Discussion regarding Administrator's report.

Sharath Chandra presented this report. Mr. Chandra stated that the Division has experienced a twenty percent budget cut and another twenty percent budget cut is being projected. Mr. Chandra stated that the Division is operating without a Deputy Administrator and hiring freezes have been placed on four vacant positions. Mr. Chandra stated that the Division's goal is to get through the Covid-19 cycle and maintain as many services as possible until there is a more sustainable funding model for the Division. Mr. Chandra stated that the Division is still closed to the public. Mr. Chandra stated that Licensing has a process in place and is doing online renewals and mail in transactions.

4-G) For possible action: Discussion and decision to approve minutes of the September 1-2, 2020 meeting.

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

8) Public Comment

No public comment

9) For Possible Action: Adjournment

Meeting recessed at 2:26 p.m. on December 7, 2020.

VIA VIRTUAL MEETING

DECEMBER 8, 2020

9:00 AM

1-A) Introduction of Commissioners in Attendance

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

Commission Counsel: Deputy Attorney General Asheesh Bhalla

1-B) Introduction of Division Staff in Attendance

Sharath Chandra, Administrator; Teralyn Lewis, Administration Section Manager; Evelyn Pattee, Commission Coordinator; Kimberly Smith, Education Supervisor; Jan Holle, Chief Compliance Audit Investigator; Deputy Attorney Generals Karissa Neff, Peter Keegan and Robert Werbicky representing the Division.

2) Public Comment

No public comment.

7-M) NRED v Mary Kathleen Krol, for possible action

Case # 2018-909

Parties Present

Mary Kathleen Krol was present.

Deputy Attorney General Karissa Neff was present representing the Division.

Preliminary Matters

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

Settlement

- Respondent agrees to pay the Division \$12,000.00 as an administrative fine plus \$1,051.80 in administrative costs. The amount due shall be payable to the Division in 12 quarterly payments of \$1,087.65 beginning February 1, 2021 and ending on October 1, 2024.
- 3 hours of continuing education in ethics, 3 hours of continuing education in agency and 3 hours of continuing education in contracts to be completed within 6 months of the Commission's order approving the stipulation and such continuing education shall not accrue toward license renewal requirements.
- Respondent agrees to not apply for a property management permit from the Division for a period of 10 years from the date of the order approving the stipulation.

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

7-A) NRED v Blake Williams, for possible action

Case # 2018-48

Parties Present

Blake Williams was present.

Jeremy B. Clarke was present representing Mr. Williams.

Deputy Attorney General Peter Keegan was present representing the Division.

Preliminary Matters

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

Settlement

- Respondent agrees to pay the Division \$3,500.00 as an administrative fine plus \$4,241.82 in administrative costs for a total of \$7,741.82.
- Respondent shall pay to the Division \$1,500.00 within 30 days after the date of the Commission's order approving the stipulation. The remaining balance of \$6,241.82 to be paid in 12 monthly installments beginning February 1, 2021.
- 3 hours of continuing education in contracts, 6 hours of continuing education in agency and 6 hours of continuing education in ethics to be completed within 1 year of the Commission's order approving the stipulation and such continuing education shall not accrue toward license renewal requirements.
- Respondent agrees to pay the Dorman's \$1,628.75 in restitution within 30 days of the Commission's order approving the stipulation.

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

7-D) NRED v Charles M. Hollister, for possible action

Case # 2019-320

Parties Present

Charles Hollister was present.

David Sanders was present representing Mr. Hollister.

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 the stipulation into the record.

Settlement

- Respondent agrees to pay the Division \$10,000.00 as an administrative fine plus \$3,375.66 in administrative costs for a total of \$13,375.66 within 25 months of the Commission's order approving the stipulation.
- Respondent shall pay to the Division \$2,000.00 within 30 days of the Commission's order approving the stipulation. The remaining balance of \$11,375.66 to be paid in 24 monthly installments beginning February 1, 2021.

- 3 hours of continuing education in ethics, 3 hours of continuing education in agency and 3 hours of continuing education in law to be completed by February 28, 2021 and such continuing education shall not accrue toward license renewal requirements.

Mr. Hollister made a statement.

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

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

NRED v Katherine Hunter

Case # 2017-2158

Parties Present

Katherine Hunter was not present.

Deputy Attorney Robert Werbicky was present representing the Division.

Mr. Werbicky stated that since the respondent is not present, he requests the petition be denied.

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

7-K) NRED v Kathryn L. Miner, for possible action

Case # 2019-641

Parties Present

Kathryn Miner was present.

Curtis Cannon was present representing Ms. Miner.

Deputy Attorney General Peter Keegan was present representing the Division.

Preliminary Matters

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

Settlement

- Respondent agrees to pay the Division \$2,500.00 as an administrative fine plus \$1,236.16 in administrative costs within 180 days of the Commission's order approving the stipulation.

Commissioner Barrett moved to reject the stipulation as presented and a hearing be set. Seconded by Commissioner Plummer. Motion failed 1-4 with Commissioner Gurr, Commissioner Filios, Commissioner Plummer and President Reiss opposed.

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

7-L) NRED v Linda S. Hartman, for possible action

Case # 2019-640

Parties Present

Linda Hartman was present.

Curtis Cannon was present representing Ms. Hartman.

Deputy Attorney General Peter Keegan was present representing the Division.

Preliminary Matters

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

Settlement

- Respondent agrees to pay the Division \$5,000.00 as an administrative fine plus \$2,417.32 in administrative costs within 180 days of the Commission's order approving the stipulation.
- 6 hours of continuing education in ethics, 6 hours of continuing education in agency and 6 hours of continuing education in contracts within 180 days of the Commission's order approving the stipulation and such continuing education shall not accrue toward license renewal requirements.

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

President Reiss stated that the matter will be scheduled for a hearing at another Commission meeting.

7-P) NRED v Reda Maria Guden, for possible action

Case # 2016-2130

Parties Present

Reda Maria Guden was present.

Benjamin Childs was present representing Ms. Guden.

Deputy Attorney General Peter Keegan was present representing the Division.

Preliminary Matters

Mr. Childs stated that he was retained two days ago. Mr. Childs requested a continuance. Mr. Childs stated that he received from Ms. Guden's previous attorney a provision by Mr. Morgan regarding a complaint in 2016 that he has not had time to investigate. Mr. Childs stated that he filed a brief.

President Reiss denied the request for a continuance. President Reiss stated the hearing will move forward.

Mr. Keegan stated that Mr. Morgan's testimony will relate to the factual allegations contained in the original 2016 complaint. Mr. Keegan stated that this is a remanded matter from a district court proceeding where this case was appealed from a Commission hearing that took place in August 2019. Mr. Keegan stated that the case was remanded for the purpose of considering the

violations that were found against Ms. Guden and to have further deliberation on the impositions of fines and costs that were imposed. Mr. Keegan confirmed that Mr. Childs has the exhibits that the Division stipulated to previous counsel.

Mr. Childs stated that one of the State's exhibits is an arbitration complaint with a judgement that has been satisfied. Mr. Childs provided the satisfaction of judgement and requested it be entered as an exhibit.

Mr. Keegan stated that he has no objection to the exhibit being entered.

President Reiss stated that the documents would be admitted.

Opening Statements

Mr. Keegan gave his opening statement.

Mr. Childs gave his opening statement.

State's Witness

Tony Morgan testified.

Mr. Childs cross-examined Mr. Morgan.

Mr. Keegan re-examined Mr. Morgan.

Mr. Childs re-cross examined Mr. Morgan.

The Commission questioned Mr. Morgan.

The witness was dismissed.

State's Witness

Barton Scott testified.

Mr. Childs cross-examined Mr. Scott.

The Commission questioned Mr. Scott.

The witness was dismissed.

State's Witness

Davit Hakobyan testified.

Mr. Childs cross-examined Mr. Hakobyan.

The Commission questioned Mr. Hakobyan

The witness was dismissed.

State's Witness

Reda Guden testified.

Mr. Childs cross-examined Ms. Guden.

8) Public Comment

No public comment

9) For Possible Action: Adjournment

Meeting recessed at 4:28 p.m. on December 8, 2020.

UNAPPROVED BY COMMISSION

VIA VIRTUAL MEETING

DECEMBER 9, 2020

9:00 AM

1-A) Introduction of Commissioners in Attendance

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

Commission Counsel: Deputy Attorney General Asheesh Bhalla

1-B) Introduction of Division Staff in Attendance

Sharath Chandra, Administrator; Teralyn Lewis, Administration Section Manager; Evelyn Pattee, Commission Coordinator; Kimberly Smith, Education Supervisor; Annalyn Carrillo, Education & Information Officer; Jan Holle, Chief Compliance Audit Investigator; Deputy Attorney Generals Karissa Neff, Peter Keegan and Robert Werbicky representing the Division.

2) Public Comment

No public comment.

4-H) For possible action: Discussion and decision on date, time, place & agenda items for upcoming meetings, including setting meeting dates for 2021.

The Commission agreed to the following dates for 2021 Commission meetings.

- March 2-4, 2021
- June 15-17, 2021
- September 14-16, 2021
- December 14-16, 2021

7-P) NRED v Reda Maria Guden, for possible action
Case # 2016-2130

Parties Present

Reda Maria Guden was present.

Benjamin Childs was present representing Ms. Guden.

Deputy Attorney General Peter Keegan was present representing the Division.

The Commission questioned Ms. Guden.

The witness was dismissed.

Mr. Keegan rested his case.

Respondent's Witness

Charlene Triplett testified.

Mr. Keegan cross-examined Ms. Triplett.

Mr. Childs re-examined Ms. Triplett.

The Commission questioned Ms. Triplett.

The witness was dismissed.

Respondent's Witness

Renee Riley testified.

Mr. Keegan cross-examined Ms. Riley.

Mr. Childs re-examined Ms. Riley.

The Commission questioned Ms. Riley.

The witness was dismissed.

Respondent's Witness

Reda Guden testified.

Mr. Keegan cross-examined Ms. Guden.

Mr. Childs re-examined Mr. Guden.

The witness was dismissed.

Closing Statements

Mr. Keegan gave his closing statement.

Mr. Childs gave his closing statement.

Commissioner Barrett stated that people have been hurt whether they have come forward or not. Commissioner Barrett stated that the Wells Fargo account is not a trust account. Commissioner Barrett stated that the Wells Fargo account is an operating account and funds were moved to the respondent's personal business account without explanation.

Commissioner Filios stated that after four years, the respondent still is not prepared. Commissioner Filios stated that the respondent should have had a file prepared that included all the pertinent information surrounding her case to answer questions being asked.

Commissioner Plummer stated that he concurs with Commissioners Barrett and Filios. Commissioner Plummer stated that the Commission has listened for hours to nothing that changed the violations in the complaint to be true.

President Reiss stated that everything he has heard over the last day has made his opinion of this case far worse than when he heard this case the first time. President Reiss stated that when someone takes someone's money, does not pay them, comingles funds, doesn't pay their agents

and there are 42 violations; President Reiss considers this to be extreme. President Reiss stated that there is a mound of proof from the State proving and re-proving the allegations and violations. President Reiss stated that he is in favor of imposing the maximum amount in fines which were imposed the first time this case was heard. President Reiss stated that when people handle people's money like this and put their own interests ahead of the interests of others, they should not have a real estate license because they are going to get into situations where they will continue to put their interests ahead of their clients whether their hands are on the money or not.

Commissioner Gurr stated that this is not the first case where the allegations have to do with the labeling of a trust account as opposed to other bank account titles. Commissioner Gurr stated that when she was running a property management division, many banks would only establish a trust account if there was a court provided document that establishes a trust. Commissioner Gurr stated that in the absence of the court documentation, the best that can be done is to label the account. Commissioner Gurr stated that her definition of a trust account is the intent and the usage of the account. Commissioner Gurr stated that she objects to allegations of fraud, deceit or poor intent just because the bank doesn't recognize the account as a trust account if there is not a court provided document. Commissioner Gurr stated that when the violations are looked at, testimony may have indicated that some of the numbers of occasions may no longer be correct and would like to be able to modify the violations.

Factual Allegations

Commissioner Gurr moved that factual allegation 1 has been proven. Seconded by Commissioner Barrett. Motion passed.

Commissioner Gurr moved that factual allegations 2 through 4 have been proven. Seconded by Commissioner Barrett. Motion passed.

Commissioner Filios moved that factual allegations 5 and 8 have been proven. Seconded by Commissioner Barrett. Motion passed 4-1 with Commissioner Gurr opposed.

Commissioner Plummer moved that factual allegations 6, 7 and 9 have been proven. Seconded by Commissioner Filios. Motion passed.

Commissioner Filios moved that factual allegation 10 has been proven. Seconded by Commissioner Barrett. Motion passed 4-1 with Commissioner Gurr opposed.

Commissioner Gurr moved that factual allegations 11, 13 and 16 have been proven. Seconded by Commissioner Barrett. Motion passed.

Commissioner Plummer moved that factual allegations 12, 14 and 15 have been proven. Seconded by Commissioner Barrett. Motion passed.

Commissioner Plummer moved that factual allegation 17 has been proven. Seconded by Commissioner Barrett.

Commissioner Gurr moved to amend factual allegation 17 to read “During 2016, Respondent transferred a total of \$23,400.00 from Account 5072 into her personal account.” Seconded by Commissioner Barrett. Amended motion passed. Motion passed.

Commissioner Gurr moved that factual allegation 19 has been proven. Seconded by Commissioner Barrett. Motion passed.

Commissioner Filios moved that factual allegation 18 has been proven. Seconded by Commissioner Barrett. Motion passed.

Commissioner Barrett moved that factual allegation 20 has been proven. Seconded by Commissioner Plummer. Motion passed.

Commissioner Barrett moved that factual allegations 21 and 22 have been proven. Seconded by Commissioner Gurr for discussion. Commissioner Barrett moved to amend the motion to add that factual allegations 23, 24 and 25 have been proven. Amended motion passed. Motion passed.

Commissioner Gurr moved that factual allegations 26 through 28 have been proven. Seconded by Commissioner Barrett. Motion passed.

Commissioner Barrett moved that factual allegation 29 has been proven. Seconded by Commissioner Filios. Motion passed.

Violations of Law

Commissioner Gurr moved that violation 30 has been proven. Seconded by Commissioner Barrett. Motion passed.

Commissioner Filios moved that violations 31 and 32 have been proven. Seconded by Commissioner Plummer. Motion passed 4-1 with Commissioner Gurr opposed.

Commissioner Plummer moved that violations 33 and 34 have been proven. Seconded by Commissioner Barrett. Motion passed.

Commissioner Plummer moved that violation 35 has been proven. Seconded by Commissioner Barrett. Motion passed.

Commissioner Gurr moved that violation 36 has not been proven. Seconded by Commissioner Filios. Motion failed 2-3 with Commissioner Barrett, Commissioner Plummer and President Reiss opposed.

Commissioner Barrett moved that violation 36 has been proven. Seconded by Commissioner Plummer. Motion passed 3-2 with Commissioners Gurr and Filios opposed.

Commissioner Gurr moved that violation 37 has been proven striking the words “on twenty occasions.” Seconded by Commissioner Plummer. Motion passed.

Commissioner Plummer moved that violation 38 has been proven. Seconded by Commissioner Barrett. Motion passed.

Commissioner Gurr moved that violation 39 has been proved striking the words “on three occasions.” Seconded by Commissioner Filios. Motion passed.

Commissioner Gurr moved that violations 40 and 41 have been proven. Seconded by Commissioner Barrett. Motion passed.

Commissioner Barrett moved that violation 42 has been proven. Seconded by Commissioner Plummer. Motion passed.

Discipline

Commissioner Barrett moved that regarding violations 31 and 32, a fine of \$2,500.00 be imposed for each violation. Seconded by Commissioner Plummer. Motion passed 3-2 with Commissioners Gurr and Filios opposed.

President Reiss stated that the Commission concurs to imposing a fine of \$10,000.00 for violation 30.

Commissioner Gurr moved to impose a fine of \$2,500.00 for violation 33. Seconded by Commissioner Filios. Motion passed 3-2 with Commissioner Barrett and President Reiss opposed.

Commissioner Barrett moved to impose a fine of \$10,000.00 for violation 34. Seconded by Commissioner Plummer. Motion passed.

Commissioner Filios moved to impose a fine of \$10,000.00 for violation 35. Seconded by Commissioner Barrett. Motion passed.

Commissioner Plummer moved to impose a fine of \$10,000.00 for violation 36. Seconded by Commissioner Barrett. Motion passed 3-2 with Commissioners Gurr and Filios opposed.

Commissioner Barrett moved to impose a fine of \$10,000.00 for violation 37. Seconded by Commissioner Plummer. Motion passed.

Commissioner Plummer moved to impose a fine of \$10,000.00 for violation 38. Seconded by Commissioner Barrett. Motion passed.

Commissioner Barrett moved to impose a fine of \$2,500.00 for violation 39. Seconded by Commissioner Filios. Motion failed 2-3 with Commissioner Barrett, Commissioner Plummer and President Reiss opposed.

Commissioner Plummer moved to impose a fine of \$10,000.00 for violation 39. Seconded by Commissioner Barrett. Motion passed 3-2 with Commissioners Gurr and Filios opposed.

Commissioner Filios moved to impose a fine of \$10,000.00 for violation 40. Seconded by Commissioner Barrett. Motion passed 4-1 with Commissioner Gurr opposed.

Commissioner Filios moved to impose a fine of \$7,500.00 for violation 41. Seconded by Commissioner Barrett. Motion passed.

Commissioner Filios move to impose a fine of \$10,000.00 for violation 42. Seconded by Commissioner Barrett. Motion passed.

Commissioner Gurr moved that a total fine of \$105,000.00 be imposed plus costs of \$33,409.82 to be paid within 90 days of the effective date of the order. Seconded by Commissioner Barrett. Motion passed.

Commissioner Barrett moved that all licenses and permits be revoked for a period of 10 years. Seconded by Commissioner Plummer. Motion passed.

7-R) NRED v Robert Goldsmith, for possible action

Case # 2018-819

Parties Present

Robert Goldsmith was not present.

Deputy Attorney General Robert Werbicky was present representing the Division.

Mr. Werbicky stated that the Division would submit that there was proper service upon Mr. Goldsmith.

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 Plummer. Motion passed.

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

Commissioner Plummer moved that the factual allegations and violations were proven. Seconded by Commissioner Barrett. Motion passed.

Division's Recommendation for Discipline

Jan Holle presented this:

- \$20,000.00 administrative fine plus the cost of the hearing and investigation in the amount of \$1,729.24 to be paid within 90 days of the effective date of the order.
- License revocation effective immediately.

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

7-N) NRED v Michelle Lenae Harmon, for possible action
Case # 2018-1466

Parties Present

Michelle Lenae Harmon was not present.

Deputy Attorney General Peter Keegan was present representing the Division.

Preliminary Matters

Mr. Keegan stated that a default occurred in Ms. Harmon's first hearing because Ms. Harmon did not appear. Mr. Keegan stated that a \$40,000.00 fine plus \$2,816.00 in costs and revocation of all licenses and permits was imposed. Mr. Keegan stated that subsequent to the hearing on the following Monday, a mailed copy of an answer was received that was filed by Ms. Harmon. Mr. Keegan stated that the answer was filed on August 28, 2020 and was dated August 25, 2020. Mr. Keegan stated that he is bringing this back to the Commission's attention to correct his statements made at the original default hearing that Ms. Harmon had not filed an answer when in fact she had filed an answer. Mr. Keegan stated that the answer reflects that she was not going to attend the hearing. Mr. Keegan requested that the original default be upheld with consideration of the answer that was filed by the respondent.

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

State's Witness

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

Commissioner Gurr stated that based on the contents of Ms. Harmon's answer, she would like to reconsider the amount of the fine.

Commissioner Plummer stated that he would be inclined to a reduced fine amount.

Commissioner Barrett moved to uphold the previous judgement. Seconded by Commissioner Plummer. Motion passed 4-1 with Commissioner Gurr opposed.

7-E) 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. Mack stated that there is an underlying civil action and he is just now receiving extremely relevant documents. Mr. Mack requested a continuance to the next Commission meeting.

Mr. Werbicky stated that there is civil litigation between Ms. Riley, the complainant and Ms. Glickman. Mr. Werbicky stated that Mr. Mack has been requesting information including clarification on further documents. Mr. Werbicky stated that Mr. Mack is trying to obtain a

handwriting expert. Mr. Werbicky stated that the principal issue in this case that remains is whether a signature on a document was forged by Ms. Glickman for her client.

President Reiss granted the continuance.

7-C) NRED v Hillary Brown, for possible action
Case # 2018-1087

Parties Present

Hillary Brown was present.

Mitchell Bisson was present representing Ms. Brown.

Deputy Attorney General Karissa Neff was present representing the Division.

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

President Reiss stated that the documents would be admitted.

Opening Statements

Ms. Neff gave her opening statement.

Mr. Bisson gave his opening statement.

State's Witness

Daryl McCloskey, Compliance Audit Investigator, testified.

Mr. Bisson cross-examined Mr. McCloskey.

Ms. Neff re-examined Mr. McCloskey.

Mr. Bisson re-cross examined Mr. McCloskey.

The Commission questioned Mr. McCloskey.

The witness was dismissed.

State's Witness

Hillary Brown testified.

Mr. Bisson cross-examined Ms. Brown.

The Commission questioned Ms. Brown.

President Reiss stated that this case and the remaining items on the agenda will be held over until the next Commission meeting.

8) Public Comment

Peter Keegan thanked President Reiss, the Commissioners and Division staff.

Benjamin Childs thanked the Commission.

9) For Possible Action: Adjournment

Meeting adjourned at 4:29 p.m. on December 9, 2020.

UNAPPROVED BY COMMISSION