

**NEVADA REAL ESTATE COMMISSION
MINUTES**

VIA VIRTUAL MEETING

MARCH 2, 2021

9:06 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; Susan Clark, Licensing Manager; Deputy Attorney Generals Peter Keegan, Karissa Neff, Robert Werbicky and Matthew Feeley representing the Division.

2) Public Comment

No Public Comment

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

NRED v Robert Goldsmith
Case # 2018-819

Parties Present

Robert Goldsmith was present.

Deputy Attorney General Matthew Feeley was present representing the Division.

Mr. Feeley stated that the Division objects to the petition. Mr. Feeley stated that Mr. Goldsmith requested and was granted a continuance September 2020. Mr. Feeley stated that Mr. Goldsmith did not show up at the December 2020 meeting.

Mr. Goldsmith stated that his case should be heard because the complaints filed against him are completely false. Mr. Goldsmith stated that the petitioner knew that he was representing his brother because it is clearly stated in the complaint. Mr. Goldsmith stated that the complaint states that the petitioner thought the reason why the closing did not take place on December 1 was because Mr. Goldsmith and his brother were in an argument.

Mr. Feeley stated that everything Mr. Goldsmith stated may or may not be the case. Mr. Feeley stated that the underlying issue is that this should have been discussed at the hearing in December and should be discussed only if the rehearing is granted. Mr. Feeley stated that he is not ready to move forward with the case right now. Mr. Feeley stated that this petition for rehearing today is just to determine whether he will be granted a rehearing to hear the matter at a later date.

Commissioner Barrett asked Mr. Goldsmith if he requested a continuance.

Mr. Goldsmith stated that he had asked for a continuance.

Commissioner Barrett asked Mr. Goldsmith if he was properly noticed.

Mr. Goldsmith stated that the first time he was noticed, it was sent to an address that he no longer existed at. Mr. Goldsmith stated that he then informed the Division that he never received the complaint. Mr. Goldsmith stated that this is the reason he requested a continuance.

Commissioner Barrett asked Mr. Goldsmith if he has since provided the Division with an updated address.

Mr. Goldsmith stated that he was told to email his new address to the Division and it would go in his file.

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

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

NRED v Guan Wang

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.

Ms. Neff stated that the Division opposes the respondent's petition for rehearing. Ms. Neff stated that Mr. Wang contends that he did not receive the Notice of Complaint. Ms. Neff stated that the Notice of Complaint was mailed to the same address as the Default Order. Ms. Neff stated that Mr. Wang received the Default Order. Ms. Neff stated that it is disingenuous for Mr. Wang to say he did not receive the notice when the notice was sent to the correct address. Ms. Neff stated that Mr. Wang's counsel did not request a stay of the previous decision in their petition for rehearing.

Ms. Phan stated that Mr. Wang has always been forthcoming in the investigation. Ms. Phan stated that the United States Postal Service tracking receipt shows the notice was never delivered to Mr. Wang.

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

**6-A) For possible action: Discussion and decision regarding license denial appeal:
Jeffrey P. Botsford File No. S-LDA-21-002**

Parties Present

Jeffrey Botsford was present.

Jack Woodcock was present.

Susan Clark, Licensing Manager was present.

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

The Commission went back into open session.

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

**7-A) 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.

President Reiss stated that this case was close to ending at the last hearing and will be continued at this time.

Closing Statements

Ms. Neff gave her closing statement.

Mr. Bisson gave his closing statement.

Commissioner Plummer stated that the Commission should move forward with a fine.

Commissioner Barrett agreed with Commissioner Plummer.

President Reiss stated that it is obvious that the action occurred. President Reiss stated that there needs to be a penalty.

Factual Allegations

Commissioner Barrett moved that the factual allegations and violation were proven. Seconded by Commissioner Plummer. 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 \$1,331.92 to be paid within 90 days of the effective date of the order.

President Reiss stated that he felt there was remorse on behalf of the respondent even though the action occurred.

Commissioner Gurr stated that she felt there was a reasonable error in judgement that was corrected as quickly as possible.

Commissioner Filios stated that as bad a mistake as this was, respondent realized it was a mistake and did everything she could to correct it.

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

7-P) NRED v Nicholas Devitte, for possible action
Case # 2019-823

Parties Present

Nicholas Devitte 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 settlement into the record.

Settlement

- Respondent agrees to pay the Division \$11,000.00 as an administrative fine and \$1,000.00 in administrative costs as follows:
 - Respondent shall pay to the Division \$3,000.00 within 30 days of the Commission's order approving the stipulation. Respondent shall make monthly payments due the 1st of each month in the amount of \$1,000.00 starting May 1, 2021 until the total amount is paid in full.
- 9 hours of continuing education in broker management and 6 hours of continuing education in ethics to be completed within 4 months of the Commission's order approving the stipulation and such continuing education shall not accrue toward license renewal requirements.

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

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

7-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 stated that settlements had been reached in both cases. Ms. Neff read the factual allegations, violations and settlements into the record.

Case # 2018-1584 Settlement

- Respondent agrees to pay the Division \$3,500.00 as an administrative fine and \$1,592.04 in administrative costs as follows:
 - Respondent shall make monthly payments due the 1st of each month in the amount of \$142.00 starting April 1, 2021 until the total amount is paid in full.
- 3 hours of continuing education in ethics, 3 hours of continuing education in contracts and 3 hours of continuing education in agency 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.

Case # 2019-521 Settlement

- Respondent agrees to pay the Division \$3,500.00 as an administrative fine and \$1,466.83 in administrative costs as follows:
 - Respondent shall make monthly payments due the 1st of each month in the amount of \$138.00 starting April 1, 2021 until the total amount is paid in full.
- 3 hours of continuing education in ethics, 3 hours of continuing education in contracts and 3 hours of continuing education in agency 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.

The Commission questioned Ms. Neff.

Commissioner Barrett moved to reject the stipulations as presented and hearings be set.

Seconded by Commissioner Gurr. Motion passed.

7-O) NRED v Shaun McDonald, for possible action
Case # 2019-825

Parties Present

Shaun McDonald was not present.

Deputy Attorney General Karissa Neff was present representing the Division.

Ms. Neff moved for a default.

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

President Reiss stated that all exhibits would be admitted.

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

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 Gurr moved that the factual allegations and violations were proven. Seconded by Commissioner Plummer. 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 \$1,021.80 to be paid within 90 days of the effective date of the order.
- Revocation of license.

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

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

Parties Present

George Anderson was not present.

Steve Dixson was present representing Mr. Anderson.

Deputy Attorney General Karissa Neff was present representing the Division.

Preliminary Matters

Mr. Dixson stated that he was recently retained by Mr. Anderson. Mr. Dixson stated that he received the notices and complaint late last night. Mr. Dixson stated that Mr. Anderson is currently undergoing surgery. Mr. Dixson requested a continuance.

Ms. Neff stated that this case has been continued one time by Mr. Anderson. Ms. Neff stated that a default was entered for not providing an answer. Ms. Neff requested the case proceed as a default.

President Reiss granted the request for a continuance to the next hearing.

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

Case # 2019-51

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. Keegan requested that the matter be tabled.

President Reiss stated that the matter will be tabled.

7-N) NRED v Jessica Lynn Razzari, for possible action

Case # 2019-876 & Case # 2019-1075

Parties Present

Jessica Lynn Razzari was not present.

Deputy Attorney General Peter Keegan was present representing the Division.

Mr. Keegan moved for the entry of default against Ms. Razzari for failure to appear. Mr. Keegan stated that Ms. Razzari has not provided an answer.

President Reiss stated that this case will proceed as a default.

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.

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. Keegan asked that State's exhibits be admitted.

President Reiss stated that all exhibits would be admitted.

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

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

Division's Recommendation for Discipline in Case # 2019-876

Jan Holle presented this:

- \$30,000.00 administrative fine plus the cost of the hearing and investigation in the amount of \$902.12 to be paid within 90 days of the effective date of the order.
- Revocation of real estate license and property manager permit.

Division's Recommendation for Discipline in Case # 2019-1075

Jan Holle presented this:

- \$10,000.00 administrative fine plus the cost of the hearing and investigation in the amount of \$902.12 to be paid within 90 days of the effective date of the order.
- Revocation of real estate license and property manager permit.

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

Commissioner Gurr moved to amend the revocation language to "Revocation of all licenses and permits held by the respondent." Seconded by Commissioner Filios. Motion passed.

7-M) NRED v Norma Jeanne Drayton, for possible action
Case # 2019-204

Parties Present

Norma Jeanne Drayton was present.

Bill Baker was present representing Ms. Drayton.

Deputy Attorney General Peter Keegan was present representing the Division.

Preliminary Matters

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

President Reiss stated that all exhibits would be admitted.

Opening Statements

Mr. Keegan gave his opening statement.

Mr. Baker gave his opening statement.

State's Witness

Norma Jeanne Drayton testified.

Mr. Baker cross-examined Ms. Drayton.

Mr. Keegan re-examined Ms. Drayton.

Mr. Baker re-cross-examined Ms. Drayton.

The Commission questioned Ms. Drayton.

The witness was dismissed.

President Reiss stated that this matter will continue tomorrow morning.

8) Public Comment

Steven Kitnick stated that he attended the Real Estate Division's Instructor Development Workshop last Friday. Mr. Kitnick stated that the workshop was a fantastic offering and a great use of the education research recovery fund money. Mr. Kitnick stated that Michelle Casolari did a great job.

9) For Possible Action: Adjournment

Meeting recessed at 4:38 p.m. on March 2, 2021.

VIA VIRTUAL MEETING

MARCH 3, 2021

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 Matthew Feeley representing the Division.

2) Public Comment

No public comment.

7-M) NRED v Norma Jeanne Drayton, for possible action

Case # 2019-204

Parties Present

Norma Jeanne Drayton was present.

Bill Baker was present representing Ms. Drayton.

Deputy Attorney General Peter Keegan was present representing the Division.

Mr. Keegan rested his case.

Closing Statements

Mr. Keegan gave his closing statement.

Mr. Baker gave his closing statement.

Commissioner Plummer stated that in questioning yesterday, Ms. Drayton in her own words confirmed all the factual allegations. Commissioner Plummer stated that he is concerned with Ms. Drayton's understanding of her duties with a Nevada real estate license. Commissioner Plummer stated that the licensed person is responsible to disclose in writing in the form of an addendum. Commissioner Plummer stated that he would have never written the offer for Mr. Reichlin without a disclosure along with a consent to act. Commissioner Plummer stated that all of Ms. Drayton's years of knowledge and continuing education went right into a mess regardless of whether Ms. Drayton wrote the first contract or not.

Commissioner Barrett stated that sometimes people do not realize that the cost of the hearing and attorney's fees far exceed the amount of the administrative fine, in this case being \$2,000.00. Commissioner Barrett stated that it confuses him that someone who has a note and could have

foreclosed on the property, did not foreclose yet paid a substantial amount of money to own the property again. Commissioner Barrett stated that it was not disclosed to the Smiths.

Commissioner Gurr stated that she is not exactly on the same page as the Commissioners who have spoken. Commissioner Gurr stated that regarding the initial contract for the sale of the property, what they had was almost like a lease option or rent to own transaction where the Smiths paid separately for the mobile home in payments to the seller. Commissioner Gurr stated that the Smiths may have assumed that the note was being serviced by Evergreen.

Commissioner Gurr stated that it is obvious that the Smiths paid the mobile home off instead of putting big chunks of principal towards the Evergreen note. Commissioner Gurr stated that the Smiths ended up with the title to the mobile home and continued to make payments to Evergreen. Commissioner Gurr stated that she does not think Ms. Drayton was part of the transaction between Ms. Drayton's daughter and the Smiths. Commissioner Gurr stated that Ms. Drayton as a matter of courtesy and facilitation took some of the payments from the Smiths on the mobile home portion of the loan. Commissioner Gurr stated that Ms. Drayton was not involved in the contract. Commissioner Gurr stated that in the subsequent contract, Ms. Trend relied on Mr. Baker to take appropriate action when she claimed that the Smiths were in default on the land loan. Commissioner Gurr stated that the title may have been transferred but nothing was ever recorded to reflect that the Smiths were part of this land and home package.

Commissioner Gurr stated that the reason some people do not pay the administrative fine and move on is that they feel they are not guilty and are not going to admit that they are guilty by paying the fine if they feel they did nothing wrong. Commissioner Gurr stated that Ms. Drayton obviously does not think she did anything wrong.

President Reiss stated that this is clearly not a lease option. President Reiss stated that this is a contract of sale that did not have to be recorded. President Reiss stated that whether Ms. Drayton was a party to it, Ms. Drayton knew about the existence of the initial sale and put together a purchase agreement knowing about the existing sale. President Reiss stated that the factual allegations were all admitted to and easily proven.

Commissioner Plummer moved that the factual allegations and violations were proven. Seconded by Commissioner Barrett. Motion passed 3-2 with Commissioners Gurr and Filios opposed.

Asheesh Bhalla, Commission Counsel, stated that the motion was based on NRS 645.860. Mr. Bhalla stated that for clarification, the motion should be remade that the factual allegations and violations were proven based on the arguments as presented at this hearing and not based on a default of a failure to appear.

Commissioner Gurr moved to withdraw the previous motion. Seconded by Commissioner Barrett. Motion passed.

Commissioner Filios moved that the factual allegations and violations were proven. Seconded by Commissioner Barrett. Motion passed 4-1 with Commissioner Gurr opposed.

Division's Recommendation for Discipline

Jan Holle presented this:

- \$7,5000.00 administrative fine plus the cost of the hearing and investigation in the amount of \$3,712.10 to be paid within 6 months of the effective date of the order.
- 6 hours of continuing education in agency, 6 hours of continuing education in contracts and 6 hours of continuing education in ethics 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.
- License suspension for 1 year.

Commissioner Filios moved that a fine of \$2,000.00 be imposed plus costs of \$3,712.10 to be paid within 6 months of the effective date of the order along with 6 hours continuing education in agency, 6 hours continuing education in contracts and 6 hours continuing education in ethics to be completed within 1 year. Such continuing education shall not accrue toward license renewal requirements. Seconded by Commissioner Gurr. Motion passed 3-2 with Commissioners Barrett and Plummer opposed.

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

Preliminary Matters

Mr. Keegan asked that State's exhibits be admitted.

Mr. Whipple stated that he stipulates to the exhibits.

President Reiss stated that the exhibits would be admitted.

Opening Statements

Mr. Keegan gave his opening statement.

Mr. Whipple gave his opening statement.

State's Witness

Linda Hartman testified.

The Commission questioned Ms. Hartman.

The witness was dismissed.

State's Witness

Ann Angell testified.

Mr. Whipple cross-examined Ms. Angell.

The Commission questioned Ms. Angell.

Mr. Whipple re-cross-examined Ms. Angell.

The witness was dismissed.

Mr. Keegan rested his case.

Respondent's Witness

Don Mash testified.

Mr. Keegan cross-examined Mr. Mash.

Mr. Whipple re-examined Mr. Mash.

The Commission questioned Mr. Mash.

The witness was dismissed.

Respondent's Witness

John Stempeck testified.

Mr. Keegan cross-examined Mr. Stempeck.

Mr. Whipple re-examined Mr. Stempeck.

The Commission questioned Mr. Stempeck.

The witness was dismissed.

Closing Statements

Mr. Keegan gave his closing statement.

Mr. Whipple gave his closing statement.

Commissioner Plummer stated that if he were Minoo's broker, he would not be happy with an agent from another firm possibly interfering in providing instructions to a cancellation.

Commissioner Plummer stated that escrow companies should not create amended escrow instructions without an addendum that supports it. Commissioner Plummer stated that licensed agents should know that you must check the MLS before including the commission percentage in an offer. Commissioner Plummer stated that you must leave the commission percentage blank until you confirm what the MLS states. Commissioner Plummer stated that he does not know of any agent other than the listing agent or the listing office to have access to the expiration date of the listing. Commissioner Plummer stated that it is very clear that the MLS printouts came from the listing office. Commissioner Plummer stated that buyer's agents do not have access to MLS printouts that shows expiration dates.

Commissioner Barrett stated that even though the buyer received their earnest deposit back, the transaction was a bonified agreement signed by both buyers. Commissioner Barrett stated that one party can say they want to rescind however both parties must agree to it. Commissioner Barrett stated that it bothers him that the cancellation of escrow came from a third party that was not a principal to the sale. Commissioner Barrett stated that once Ms. Hartman was made aware that there was a listing on the property and the agent was out of town, there was no communication between Ms. Hartman and the broker of the listing agent's company. Commissioner Barrett stated that the listing agent should have had her broker watching her transaction while she was out of the country.

President Reiss stated that you cannot unilaterally cancel a contract. President Reiss stated that there was interference with the contract. President Reiss stated that the violations speak for themselves.

Factual Allegations

Commissioner Gurr moved that factual allegations 1 through 6 have been proven. Seconded by Commissioner Barrett. Motion passed.

Commissioner Gurr moved that factual allegation 7 has not been proven. Seconded by Commissioner Barrett. Motion passed 4-1 with President Reiss opposed.

Commissioner Gurr moved that factual allegation 8 has been proven. Seconded by Commissioner Barrett. Motion passed.

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

Commissioner Gurr moved that factual allegations 10 through 12 have been proven. Seconded by Commissioner Barrett. Motion passed.

Commissioner Gurr moved that factual allegation 13 has not been proven. Seconded by Commissioner Plummer. Motion passed 4-1 with Commissioner Barrett opposed.

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

Commissioner Barrett moved that factual allegations 16 and 17 have not been proven. Seconded by Commissioner Filios. Motion passed.

Commissioner Gurr moved that factual allegations 18 through 21 have been proven. Seconded by Commissioner Barrett. Motion passed.

Commissioner Filios moved that factual allegation 22 has not been proven. Seconded by Commissioner Gurr. Motion passed.

Commissioner Barrett moved that factual allegation 23 has been proven. Seconded by Commissioner Gurr. Motion passed.

Commissioner Barrett moved that factual allegation 24 has been proven. Seconded by Commissioner Gurr. Motion passed.

Commissioner Barrett moved that factual allegations 25 through 27 have been proven. Seconded by Commissioner Gurr. Motion passed.

Commissioner Gurr moved that factual allegations 28 through 30 have not been proven. Seconded by Commissioner Filios. Motion failed 2-3 with Commissioners Barrett, Plummer and President Reiss opposed.

Commissioner Barrett moved that factual allegation 28 has been proven. Seconded by Commissioner Plummer. Motion failed 1-4 with Commissioners Gurr, Plummer, Filios and President Reiss opposed.

Commissioner Gurr moved that factual allegation 28 has not been proven. Seconded by Commissioner Filios. Motion passed 4-1 with Commissioner Barrett opposed.

Commissioner Barrett moved that factual allegation 29 has been proven. Seconded by Commissioner Gurr. Motion passed 3-2 with Commissioners Plummer and Filios opposed.

Commissioner Barrett moved that factual allegation 30 has been proven. Seconded by Commissioner Plummer. Motion passed.

Commissioner Gurr moved that factual allegation 31 has been proven. Seconded by Commissioner Barrett. Motion passed.

Commissioner Gurr moved that factual allegations 32 and 33 have been proven. Seconded by Commissioner Barrett. Motion passed.

Commissioner Gurr moved that factual allegation 34 has not been proven. Seconded by Commissioner Barrett. Motion passed.

Violations of Law

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

Commissioner Gurr moved that violation 2 has been proven. Seconded by Commissioner Barrett. Motion passed.

Commissioner Gurr moved that violation 3 has not been proven. Seconded by Commissioner Plummer. Motion passed.

Commissioner Barrett moved that violation 4 has been proven. Seconded by Commissioner Plummer. Motion passed 3-2 with Commissioners Gurr and Filios opposed.

Commissioner Gurr moved that violations 5 and 6 have not been proven. Seconded by Commissioner Barrett. Motion passed.

Commissioner Gurr moved that violation 7 has not been proven. Seconded by Commissioner Plummer. Motion passed 3-2 with Commissioner Barrett and President Reiss opposed.

Division's Recommendation for Discipline

Jan Holle presented this:

- \$12,000.00 administrative fine plus the cost of the hearing and investigation in the amount of \$3,285.71 to be paid within 6 months of the effective date of the order.
- 6 hours of continuing education in agency, 6 hours of continuing education in contracts and 6 hours of continuing education in ethics 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.

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

8) Public Comment

No Public Comment.

9) For Possible Action: Adjournment

Meeting recessed at 4:32 p.m. on March 3, 2021.

VIA VIRTUAL MEETING

MARCH 4, 2021

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 Peter Keegan, Karissa Neff, Robert Werbicky and Matthew Feeley representing the Division.

2) Public Comment

Steven Kitnick stated that the education department and the Division does not get the recognition that it deserves.

4-A) For possible action: Discussion and decision regarding respondent's request for his real estate broker license pursuant to the Commission's order filed November 16, 2018

NRED v Gavin Ernstone

Case # 2017-1239

Parties Present

Mr. Ernstone was present.

Jan Holle, Chief Compliance Audit Investigator was present.

Mr. Ernstone stated that his broker's license was reduced to a broker salesperson's license two years ago. Mr. Ernstone stated that he was instructed by the Commission to pay his fines and complete his continuing education. Mr. Ernstone stated that he was told by the Commission that he could reapply for a broker's license in two years which is what he has done. Mr. Ernstone stated that in the meantime he has been a model real estate agent by making sure everything he does is completely by the book and ethical. Mr. Ernstone stated that he owns the company, Simply Vegas and even though he has not been brokering at Simply Vegas, he has been in continuing talks with the brokers in making sure their agents are held to a higher standard. Mr. Ernstone stated that he would love the opportunity to be a broker again.

Commissioner Plummer asked if the commission fines and everything that was imposed by the Commission has been taken care of.

Mr. Ernstone confirmed that the fines have been paid and the continuing education has been completed.

Commissioner Barrett stated that this case was very interesting because of several issues, one being that the case was filed by a developer in reference to The Ridges development involving vacant land and an effort to avoid paying taxes. Commissioner Barrett stated that he does not speak in favor of granting a broker license. Commissioner Barrett stated that he made the motion at the hearing to downgrade Mr. Ernstone's license instead of revoking it. Commissioner Barrett stated that he hated to see someone lose their business.

Mr. Ernstone stated that the Commission set forth the two year timeframe for him to reapply for his license.

Commissioner Gurr asked Jan Holle if Mr. Ernstone had any additional complaints against him. Mr. Holle stated that there was a complaint in 2007 but no violations were found and there was no discipline imposed.

President Reiss stated that he remembers the feeling of the Commission at the time of the hearing. President Reiss stated that it was a serious matter. President Reiss stated that he believes in second chances and opportunities however he is very torn.

Commissioner Plummer stated that if the Commission didn't want to grant the broker's license after two years then the Commission should have made it three or four years instead of two years before Mr. Ernstone could re-apply for a broker's license. Commissioner Plummer stated that he honors Mr. Ernstone for coming and saying that he has done everything he was supposed to do.

President Reiss stated that the point was for Mr. Ernstone to come back before the Commission so that the Commission could re-analyze everything that happened then and between then and now and take everything into account.

Commissioner Gurr stated that she is surprised by Commissioner Barrett's position. Commissioner Gurr stated that Mr. Ernstone has come back before the Commission after two years and it sounds like Mr. Ernstone has been a model citizen. Commissioner Gurr stated that Mr. Ernstone has paid his fines, done his education and kept his nose clean. Commissioner Gurr stated that she stands with Commissioner Plummer. Commissioner Gurr stated that she would be in favor of granting the upgrade of Mr. Ernstone's license from broker salesperson to broker.

Commissioner Filios stated that in reading Mr. Ernstone's petition letter, he doesn't see any remorse.

Mr. Ernstone stated that he expressed his remorse at the time and here again today. Commissioner Barrett moved to deny the request for a broker license. No Second. Motion failed.

Commissioner Filios stated that he is on the fence and would like more discussion.

Commissioner Barrett stated that on the surface, this case appeared to be basic until testimony was heard. Commissioner Barrett stated that in one of the testimonies, there was approximately

\$690,000.00 that was credited towards floorplans and other things regarding the purchase of the property. Commissioner Barrett stated that this piece of land had a penalty from the Summerlin Corporation that if you did not build on it, you were required to pay half of the profit. Commissioner Barrett stated that the purchase agreement was structured in such a way that it avoided not only the transfer taxes but also avoided the Summerlin Corporation penalty that was being imposed at the time. Commissioner Barrett stated that Mr. Ernstone is a good person. Commissioner Barrett stated that he thinks Mr. Ernstone just got caught up in trying to be creative in the middle of a market where people were trying to be creative but were not following the statutes and the law.

Commissioner Gurr moved to grant the request for a broker license. Seconded by Commissioner Plummer. Motion passed 4-1 with Commissioner Barrett opposed.

7-D) NRED v Ivan Baric, for possible action
Case # 2018-340

Parties Present

Ivan Baric was present.

Deputy Attorney General Robert Werbicky was present representing the Division.

Preliminary Matters

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

Settlement

- Respondent agrees to pay the Division \$1,000.00 as an administrative fine and \$1,420.52 in administrative costs as follows:
 - Respondent shall make monthly payments due the 1st of each month in the amount of \$201.71 starting April 1, 2021 for 12 months.
- 3 hours of continuing education in ethics and 3 hours of continuing education in agency to be completed by May 31, 2021 and such continuing education shall not accrue toward license renewal requirements.

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

7-E) NRED v Perry Lowe, for possible action
Case # 2018-1513

Parties Present

Perry Lowe was not present.

Deputy Attorney General Robert Werbicky was present representing the Division.

Preliminary Matters

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

Settlement

- Respondent agrees to pay the Division \$2,500.00 as an administrative fine and \$1,407.40 in administrative costs as follows:
 - Respondent shall make monthly payments due the 1st of each month in the amount of \$976.85 starting April 1, 2021 for 4 months.

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

7-G) NRED v Reda Maria Guden, for possible action
Case # 2019-51

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. Keegan asked that State's exhibits be admitted.

Mr. Childs stated that he objects to the admission of State's exhibits because he did not receive them.

Mr. Keegan stated that he would email the exhibits to Mr. Childs.

Mr. Childs stated that the exhibits were received.

President Reiss stated that the exhibits would be admitted.

Opening Statements

Mr. Keegan gave his opening statement.
Mr. Childs gave his opening statement.

State's Witness

Reda Maria Guden testified.

Mr. Childs cross-examined Ms. Guden.

The Commission questioned Ms. Guden.

The witness was dismissed.

State's Witness

Daryl McCloskey testified.

Mr. Childs cross-examined Mr. McCloskey.

The Commission questioned Mr. McCloskey.

The witness was dismissed.

Respondent's Witness

Reda Maria Guden testified.

The Commission questioned Ms. Guden.

The witness was dismissed.

Closing Statements

Mr. Keegan gave his closing statement.

Mr. Childs gave his closing statement.

Commissioner Plummer stated that the buyer was not random. Commissioner Plummer stated that someone with a vendetta would have had to have access to the respondent's forms and email address then randomly find someone she is associated with to be the buyer. Commissioner Plummer stated that the buyer should have been contacted but he does not think it was the State's requirement to do so. Commissioner Plummer stated that Ms. Guden could have easily called the buyer to testify.

Commissioner Barrett moved that the factual allegations and violation of law have been proven. Seconded by Commissioner Plummer.

Commissioner Gurr stated that she is speaking in opposition to the motion. Commissioner Gurr stated that this is not a court of law. Commissioner Gurr stated that this is an administrative hearing and there are softer rules. Commissioner Gurr stated that she would have thoroughly supported the case brought by the Division if the Division or the Attorney General's office had tried to track down the buyer to find out exactly what happened in the transaction. Commissioner Gurr stated that Mr. Keegan's statement is accurate in that the Division has put in lots of hours and resources on this respondent. Commissioner Gurr stated that she suspects that the Division just got tired of it and did not want to go further in its investigation.

Commissioner Barrett stated that he disagrees with Commissioner Gurr. Commissioner Barrett stated that there was a preponderance of evidence. Commissioner Barrett stated that a real estate agent took the time to read the Open House newsletter and learned that a certain individual was not qualified to write an offer that was received on her listing. Commissioner Barrett stated that there was no malicious intent by the agent that filed the complaint. Commissioner Barrett stated that he was frustrated with the "it's not me" defense. Commissioner Barrett stated that once in a while, one needs to stand up and admit they did it.

President Reiss stated that he believes Ms. Guden is a liar. President Reiss stated that the entire response and testimony given was nothing but a lie. President Reiss stated that the documents and everything he sees make it very clear.

Motion passed 4-1 with Commissioner Gurr opposed.

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 \$3,059.90 to be paid within 90 days of the effective date of the order.
- Revocation of all real estate licenses and permits.

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

3-H) For possible action: Discussion and decision to approve minutes of the November 17-19, 2020 meeting.

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

3-I) For possible action: Discussion and decision to approve minutes of the December 7-9, 2020 meeting.

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

3-A) Discussion regarding Administrator's report.

Sharath Chandra presented this report. Mr. Chandra thanked the Commission for the work that they do. Mr. Chandra stated that the Real Estate Commission is the benchmark for almost all commissions in the State. Mr. Chandra thanked the Commission for working through the regulations. Mr. Chandra stated that the regulation increasing pre-licensing hours, continuing education hours and other various items was passed and adopted. Mr. Chandra thanked the Commission for their feedback regarding the FAQ's that were sent for their review. Mr. Chandra stated that items that may come up include the extra 9 hours that have to be developed. Mr. Chandra stated that the Division has developed a parallel track and the details can be provided later. Mr. Chandra stated that if there is a continuing education class that is classified as general education but happens to qualify for risk reduction, the Division will work around that to allow a licensee to resubmit as a renewal and approve it under the new category. Mr. Chandra stated that the Education Work Group will have one more meeting for recommendations as to what the Risk Reduction category entails. Mr. Chandra stated that the work group has some great input regarding having an approval process for educators that separates them from the actual course. Mr. Chandra stated that the work group also has some great recommendations as to what is considered live education. Mr. Chandra stated that all this will eventually make it into a regulation that will come before the Commission. Mr. Chandra stated that regarding taking the real estate license test online, the education department built into the testing vendor an option for an online format. Mr. Chandra stated that there is a lot of procedural things that need to be done. Mr. Chandra stated that Florida is currently the only state that has implemented this. Mr.

Chandra stated that there will be a test pilot project at the State testing level. Mr. Chandra stated that we are in legislative session and Teralyn Lewis is tracking 126 bills. Mr. Chandra stated that there are a couple of bill draft requests that are looking to address self-funding and technology. Mr. Chandra stated that he was able to get an item in front of the budget committees requesting a technology packet regardless of what happens in legislature. Mr. Chandra stated that each section will be responsible for changes to forms and identifying the forms that will be affected.

Commissioner Gurr stated that she received calls from people that have been taking online education. Commissioner Gurr stated that an instructor has been telling licensees that if a licensee owns income producing property, they cannot manage them unless they have a property management permit. Commissioner Gurr stated that this is incorrect information.

Commissioner Plummer suggested that forms and procedures be an agenda item for conversation down the road regarding how licensees operate in Nevada about the physical office versus where their license resides. Commissioner Plummer stated that the required termination form is used for what he calls an interoffice transfer of an agent. Commissioner Plummer stated that he does not mind the fee associated, however an agent must be terminated by their brokerage firm to move from one branch to another. Commissioner Plummer stated that it is a wrong form or wrong form name for a transfer. Commissioner Plummer stated that a conversation in the future would help him as a broker with multiple offices.

Commissioner Gurr concurred with Commissioner Plummer.

President Reiss stated that is should be added to the next agenda.

3-F) Discussion regarding the Education Work Group meeting conducted January 26, 2021.

Commissioner Barrett stated that he appreciates the guidance from the Administrator regarding what supports the law so that that the work group knows when changes will become effective. Commissioner Barrett stated that so many people want to know when it really goes into effect. Commissioner Barrett stated that people do not understand that it takes meetings and it takes a village to make changes. Commissioner Barrett thanked Administrator Chandra for getting a village together to have conversation. Commissioner Barrett stated that the information is being taken from the work group and is being worked on.

7-F) 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 asked that State's exhibits be admitted along with two additional documents sent at the onset of this meeting pertaining to a prior hearing.

Mr. Nelson stated that he objects to the admission of State's exhibits because he never received them. Mr. Nelson stated that he objects to the admission of the two additional documents because they were not received five business days prior to this hearing.

President Reiss stated that the exhibits would be admitted.

Opening Statements

Mr. Keegan gave his opening statement.

Mr. Nelson gave his opening statement.

State's Witness

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

State's Witness

Brian Nelson testified.

The Commission questioned Mr. Nelson.

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

8) Public Comment

No public comment

9) For Possible Action: Adjournment

Meeting adjourned at 4:58 p.m. on March 4, 2021.

Prepared by: Evelyn Pattee