

**NEVADA REAL ESTATE COMMISSION
MINUTES**

VIA VIRTUAL AND IN PERSON MEETING

March 29, 2022

Nevada State Business Center
3300 W. Sahara Avenue, Tahoe Room
Las Vegas, Nevada 89102

VIDEO CONFERENCE TO:

Division of Insurance
1818 College Parkway, Suite 103
Carson City, Nevada 89706

The meeting was called to order at 9:05 AM

1-A) Introduction of Commissioners in Attendance

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

Commission Counsel: Deputy Attorney General Asheesh Bhalla

1-B) Introduction of Division Staff in Attendance

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

1-C) Swearing in of newly appointed Commissioner

David Tina was sworn in.

2) Public Comment

No Public Comment

4-A) For possible action: Discussion and decision regarding the instructor denial appeal pursuant to NAC 645.426

Parties Present

Robin I. Smith was present.

Annalyn Carrillo, Education & Information Officer was present.

Ms. Carrillo stated that the Division denied Ms. Smith's instructor application per NAC 645.426 which provides that the Division shall not without the approval of the Commission approve a person as an instructor who has been disciplined by the Commission or the Division within the

last five years. Ms. Carrillo stated that Ms. Smith in December was imposed with two administrative fines which is the basis for the Division's denial. Ms. Carrillo stated that Ms. Smith is here before the Commission for approval.

Commissioner Tina stated that he will recuse himself from discussions and voting regarding this matter.

Ms. Smith stated that because one part of the complaint against her was actual, she paid the fines and left it as is. Ms. Smith stated that for the record, during the incident she had a listing, a client and the property was sold to a real estate agent that was representing himself. Ms. Smith stated that the agent requested to go to the vacant property to view the inspection. Ms. Smith stated that she gave the agent the key to go back in the house. Ms. Smith stated that it was brought to her attention that the agent cut the locks when the homeowner asked her if she was there. Ms. Smith stated that she told the homeowner she was there which was incorrect. Ms. Smith stated that is why she paid the fines. Ms. Smith stated that one of the things she has done throughout her real estate career of 33 years is educate others on how to become a better realtor. Ms. Smith stated that she is requesting to continue educating.

The Commission questioned Ms. Smith.

Commissioner Filios moved to grant the appeal with a probationary period of one year after which, the Division staff can then make a final determination. Seconded by Commissioner Gurr for discussion.

Commissioner Gurr stated that she can't support the motion. Commissioner Gurr stated that the Commission should either grant the appeal or not grant the appeal. Commissioner Gurr stated that it should not be up to the education section to monitor every course that Ms. Smith teaches for the next twelve months to determine whether Ms. Smith is telling the truth.

Motion failed 2-2 with Commissioner Tina abstaining.

Commissioner Gurr stated that she understands that if you are being attacked by a client, sometimes it's easier to fib and move on. Commissioner Gurr stated that on the other hand, you can't lie to your client. Commissioner Gurr stated that the respondent set herself up for the complaint.

Commissioner Gurr move to deny the appeal. Motion died for lack of a second.

Commissioner Filios stated that he likes to give people second chances. Commissioner Filios stated that this happened two years ago in a span of twenty to thirty years of Ms. Smith practicing real estate.

Commissioner Filios moved to grant the appeal and give Ms. Smith the ability to teach in Nevada. Seconded by President Plummer. Motion passed 3-1 with Commissioner Gurr opposed and Commissioner Tina abstaining.

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

NRED v Julie M. Rowell

Case # 2021-424

Parties Present

Julie Rowell was present.

Deputy Attorney General Virginia Tomova was present representing the Division.

Ms. Tomova stated that the Commission issued an order revoking all licenses and permits issued by the Division. Ms. Tomova stated that the respondent was also ordered to pay the investigation costs to the Division in the amount of \$1,795.12 payable to the Division within 180 days of the effective date of the order. Ms. Tomova stated that the respondent has submitted a request to pay the amount within 48 months with a minimum payment of \$38.00 due on the first day of each month beginning July 1, 2022. Ms. Tomova stated that the Division doesn't have any objections to the respondent getting extra time to meet her obligation.

Ms. Rowell made a statement.

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

9-J) NRED v Mary T. Hotchkiss, for possible action

Case # 2019-829

Parties Present

Mary Hotchkiss was present.

Robert Massi was present representing Ms. Hotchkiss.

Deputy Attorney General Matthew Feeley was present representing the Division.

Preliminary Matters

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

Settlement

- Respondent agrees to pay the Division \$500.00 as an administrative fine and \$1,960.78 in administrative costs within 60 days of the Commission's order approving the settlement.

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

9-F) NRED v Shawn Christopher, for possible action

Case # 2019-1339

Parties Present

Shawn Christopher was present.

Deputy Attorney General Matthew Feeley was present representing the Division.

Preliminary Matters

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

Settlement

- Respondent agrees to surrender all licenses back to the Division.
- Respondent agrees to not apply or reapply for any licenses issued by the Division for a period of ten years.
- Respondent agrees to pay the Division \$1,146.16 in administrative costs as follows:
 - Respondent shall make monthly payments in the amount of \$100.00 starting one month after the entry of order approving stipulation until the amount is fully paid.

Commissioner Gurr stated that she is outraged by the conduct in the complaint if it's true.

Commissioner Roth stated that the amount due to the Division is too low.

President Plummer stated that the theory in his mind is that a settlement is reached in order to pay less than the fines that could be imposed if the case is heard.

Commissioner Filios stated that he tends to go along with the decisions of the Division staff in their negotiations.

Commissioner Filios moved to accept the stipulation as presented. Seconded by Commissioner Gurr. Motion Passed.

9-C) NRED v Jeff Chain, for possible action

Case # 2019-804

Parties Present

Jeff Chain was not present.

Chris Connell was present representing Mr. Chain.

Deputy Attorney General Virginia Tomova was present representing the Division.

Preliminary Matters

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

Settlement

- Respondent agrees to pay the Division \$2,000.00 as an administrative fine and \$1,679.88 in administrative costs within 60 days of the Commission's order approving the settlement.

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

9-B) NRED v James E. Beasley, for possible action
Case # 2020-1122

Parties Present

James Beasley was present.

Chief Deputy Attorney General Michelle Briggs was present representing the Division.

Preliminary Matters

Mr. Beasley requested a continuance in order to obtain counsel.

Ms. Briggs stated that this case was filed in November, 2021. Ms. Briggs stated that Mr. Beasley requested a continuance and it was granted December 2, 2021. Ms. Briggs stated that Mr. Beasley was told that he would get 30 days notice prior to the March 2022 meeting. Ms. Briggs stated that the respondent received notice in February of this meeting and requested a 2nd continuance. Ms. Briggs stated that the Division opposes a further continuance because it appears that the request is just to delay resolution of this case. Ms. Briggs stated that there are no facts to dispute. Ms. Briggs stated that the respondent's failure to secure counsel has not been shown and it has not been shown that respondent even tried to get counsel. Ms. Briggs requested the Commission deny respondent's request for a continuance and move forward with the hearing.

President Plummer denied the request for a continuance.

Opening Statements

Ms. Briggs gave her opening statement.

Mr. Beasley gave his opening statement.

Ms. Briggs asked that the notice of documents be admitted as State's Exhibits.

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

State's Witness

David Winterton testified.

The Commission questioned Mr. Winterton.

The witness was dismissed.

State's Witness

Maria Martin testified.

The witness was dismissed.

Mr. Beasley stated his case.

The Commission questioned Mr. Beasley.

Closing Statements

Ms. Briggs gave her closing statement.

Mr. Beasley gave his closing statement.

Factual Allegations

Commissioner Tina moved that the factual allegations have been proven. Seconded by Commissioner Filios. Motion passed.

Violations of Law

Commissioner Gurr moved that the violations of law have been proven. Seconded by Commissioner Filios. Motion passed.

Division's Recommendation for Discipline

Jan Holle presented this:

- \$25,000.00 administrative fine plus the cost of the hearing and investigation in the amount of \$2,540.62 to be paid no later than 6 months of the effective date of the order.
- Revocation of all licenses and permits.

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

9-H) NRED v Kathy A. Perrault, for possible action

Case # 2021-689

Parties Present

Kathy Perrault was not present.

Deputy Attorney General Matthew Feeley was present representing the Division.

Preliminary Matters

Mr. Feeley requested that the matter be tabled.

President Plummer stated that the matter will be tabled.

9-A) NRED v Robert Goldsmith, for possible action

Case # 2018-819

Parties Present

Robert Goldsmith was present.

Deputy Attorney General Matthew Feeley was present representing the Division.

Commissioner Tina stated that he will recuse himself from discussions and voting regarding this matter.

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

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

Opening Statements

No Opening Statements

State's Witness

Jan Holle testified.

The witness was dismissed.

Mr. Goldsmith stated his case.

Mr. Feeley questioned Mr. Goldsmith.

The Commission questioned Mr. Goldsmith.

Closing Statements

Mr. Feeley gave his closing statement.

Mr. Goldsmith gave his closing statement.

Factual Allegations and Violations of Law

Commissioner Gurr moved that the factual allegations and violations of law have been proven. Seconded by Commissioner Filios. Motion passed 4-0 with Commissioner Tina abstaining.

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 \$2,054.08 to be paid within 90 days of the effective date of the order.
- Revocation of all licenses and permits.

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

9-D) NRED v Susan Thompson-Johnson, for possible action

Case # 2019-1041

Parties Present

Susan Thompson-Johnson was not present.

Deputy Attorney General Virginia Tomova was present representing the Division.

Ms. Tomova stated that the Division would like to proceed with a default.

Ms. Tomova stated that the Division would submit that there was proper service upon Ms. Susan Thompson-Johnson.

State's Witness

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

Ms. Tomova asked that the complaint, notice of hearing and all discovery documents attached to this file be admitted for the Commission's review and consideration.

President Plummer stated that the documents would be admitted.

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

Tammy Rogers made a statement.

Commissioner Filios 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 Tina. Motion passed.

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:

- \$60,000.00 administrative fine plus the cost of the hearing and investigation in the amount of \$1,634.88 to be paid within 180 days of the effective date of the order.
- Revocation of all licenses and permits.

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

Commissioner Gurr moved to amend the motion for the revocation of all licenses and permits for a period of ten (10) years. Seconded by Commissioner Filios. Motion passed.

9-G) NRED v Allan Rothstein, for possible action

Case # 2020-359

Parties Present

Allan Rothstein was not present.

Deputy Attorney General Virginia Tomova was present representing the Division.

Ms. Tomova stated that the Division would like to proceed with a default.

Ms. Tomova stated that the Division would submit that there was proper service upon Mr. Rothstein.

State's Witness

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

Ms. Tomova asked that the complaint, notice of hearing and all discovery documents attached to this file be admitted for the Commission's review and consideration.

President Plummer stated that the documents would be admitted.

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

The Commission questioned Ms. Tomova.

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

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

Division's Recommendation for Discipline

Jan Holle presented this:

- \$90,000.00 administrative fine plus the cost of the hearing and investigation in the amount of \$4,039.76 to be paid within 90 days of the effective date of the order.
- Revocation of all licenses and permits.

Commissioner Gurr moved to accept the recommendation of the Division adding that all licenses and permits be revoked for a period of ten (10) years. Seconded by Commissioner Filios. Motion passed.

9-H) NRED v Kathy A. Perrault, for possible action
Case # 2021-689

Parties Present

Kathy Perrault was not present.

Deputy Attorney General Matthew Feeley was present representing the Division.

Mr. Feeley stated that the Division would like to proceed with a default.

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

State's Witness

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

Mr. Feeley asked that the complaint, notice of hearing, certificate of mailing and all discovery documents attached to this file be admitted.

President Plummer stated that the documents would be admitted.

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

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

Mr. Feeley stated that the respondent was a licensed salesperson by the Division until around 2014 at which time the respondent was arrested for, charged and found guilty of kidnapping per

the documents provided. Mr. Feeley stated that the respondent served her time. Mr. Feeley stated that shortly after the respondent was released, the respondent applied with the Division to reinstate her real estate license. Mr. Feeley stated that there was an administrative oversight and the Division granted the respondent a license. Mr. Feeley stated that the Commission has the authority to make any decisions as to the respondent's current license status going forward.

The Commission questioned Mr. Feeley.

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

Commissioner Gurr moved that all licenses and permits held by the respondent be revoked. Seconded by Commissioner Tina. Motion passed.

8-A) For possible action: Discussion and decision concerning Real Estate Advisory Review Committee application

Roberta Doyen-Thomas, License No.: BS.0145044.MGR.

Commissioner Tina moved to approve the application. Seconded by Commissioner Filios. Motion passed.

3-A,H) Discussion regarding Administrator's report.

Sharath Chandra presented this report. Mr. Chandra stated that the Division has narrowed down the field of vendors for the Division's technology solution. Mr. Chandra stated that the Division is planning into the next legislative session. Mr. Chandra stated that the Division will move forward in becoming self funded. Mr. Chandra stated that the Division is planning to develop a few regulations. Mr. Chandra stated that the Commission will vote on whether to allow the Division the ability to start drafting regulation changes to NAC 645. Mr. Chandra stated that the changes will go before the Commission, there will be a 30 day public comment period, a draft will be prepared with commission recommendations then a re-draft will be prepared for final approval. Mr. Chandra stated that the Division is looking to incorporate continuing education live and online classes and redefining live education language. Mr. Chandra stated that there has been discussion about having a separate path for real estate instructors and licensees. Mr. Chandra stated that the Division approves courses then every time a course is approved, instructors must be approved for every course. Mr. Chandra stated that the Division wants to move that narrative so that instructors get approved to teach a course and when a course is submitted by a sponsor, any approved instructor can teach the course. Mr. Chandra stated that administratively, there might be some language cleanup such as taking some of the processing requirements out of the Commission's area for Division approval.

Commissioner Gurr moved to authorize the Division to make decisions regarding changes to NAC 645 including but not limited to Education General Provisions, Continuing Education, Post Licensing Education if required and Administration. Seconded by Commissioner Filios. Motion passed.

3-B) Discussion regarding the Disciplinary Report.

Shareece Bates presented this report. Ms. Bates provided the Commission with a written report.

3-C) Discussion regarding the Compliance Section’s current caseload report, including a Summary of recent topics of complaints filed.

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

3-D) Discussion regarding the Administrative Sanction Report.

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

Tiffany Banks, general counsel for Nevada Realtors stated that Nevada Realtors has formed a property management committee. Ms. Banks stated that Commissioner Filios has been asked to speak to the committee regarding bonding. Ms. Banks stated that the meeting will be scheduled in the next month. Ms. Banks stated that if bonding is something the committee wants to move forward to the legislative committee, it will be moved forward at that time.

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

Antonio Brown and Annalyn Carrillo presented this report. Mr. Brown stated that in December 2021, 7 course audits were scheduled and completed resulting in 4 post audit material changes. Mr. Brown stated that in January 2022, 7 course audits were scheduled and 6 were completed resulting in 3 post audit material changes. Mr. Brown stated that in February 2022, 7 course audits were scheduled and 6 were completed resulting in 2 post audit material changes. Mr. Brown stated that the cumulative total is a 47 percent course correction rate. Mr. Brown stated that 8 course audits are scheduled in March 2022. Mr. Brown stated that there are 19 active ARC members. Mr. Brown reported on new continuing education courses and roster uploads for continuing education.

- December 2021, there were 9 new course applications and 61 renewal applications.
- January 2022, there were 20 new course applications and 65 renewal applications.
- February 2022, there were 21 new course applications and 61 renewal applications.
- December 2021, there were 1,303 roster uploads with 246 errors.
- January 2022, there were 1,654 roster uploads with 288 errors.
- February 2022, there were 1,624 roster uploads with 209 errors.

3-G) For possible action: Discussion and decision to approve minutes of the December 14-16, 2021 meeting.

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

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

Sharath Chandra stated that the original discussion included merging two separate forms into one form to address two functions. Mr. Chandra stated that it’s a matter of figuring out a better process. Mr. Chandra stated that the form will become automated where both parties will be able to login at the same time and make their certification or approval into the system. President

Plummer stated that a branch must have a broker manager so in theory they could have no licensees under them because it just serves the physical location for the Division. President Plummer stated that he would then move all his licenses to one location to avoid transferring them with a termination form. Mr. Chandra stated that there is a larger issue being discussed that has nothing to do with the form. Mr. Chandra stated that there are statutory, revenue and regulation issues associated with the change.

4-A) For possible action: Discussion and decision regarding the course denial appeal pursuant to NAC 645.455 Julie Davies File No. CDA-645-22-001

Parties Present

Julie Davies was not present.

Antonio Brown, Education Supervisor was present.

Mr. Brown stated that Ms. Davies submitted a course application for 9 credit hours of property management. Mr. Brown stated that despite several requests made by the education section, Ms. Davies did not complete the application. Mr. Brown stated that after initially stating that there was no power point presentation, Ms. Davies later admitted that there was one. Mr. Brown stated that Ms. Davies did not submit the totality of the exam questions which is asked of all providers to complete a comprehensive review. Mr. Brown read NAC 645.455 into the record. Mr. Brown stated that the Division cannot effectively review or audit a course without the application being complete.

Commissioner Roth moved to deny the appeal. Seconded by Commissioner Gurr. Motion passed.

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

NRED v Yeranuhi Arakelyan

Case# 2018-326

Parties Present

Yeranuhi Arakelyan was not present.

Deputy Attorney General Virginia Tomova was present representing the Division.

Ms. Tomova stated that respondent's counsel has communicated with the Division that he will not be available until Wednesday after 1:30 pm due to court hearings. Ms. Tomova stated that she could make a phone call to respondent's counsel to put him on notice that the Commission's intention is to go forward with this case today or the Commission can decide to proceed based solely at the Commission's discretion. Ms. Tomova stated that the issue is the respondent's motion for rehearing of the prior decision and the findings of fact, conclusions of law, and order with an effective date of February 9, 2022. Ms. Tomova stated that the respondent claims that she never received a notice of the complaint and hearing.

Commissioner Filios stated that he will recuse himself from discussions and voting regarding this matter.

Ms. Tomova stated that the Division's position is that respondent should not be entitled to a rehearing. Ms. Tomova stated that in a written affidavit under the penalty of perjury in another pending case filed by the Division, the respondent stated that the address where the correspondence was mailed is her correct business address which is the same address the documents were mailed in this case. Ms. Tomova stated that the certificate of service states respondent was sent the complaint and notice of hearing to the last known business address that the Division has on file on November 12, 2021. Ms. Tomova stated that on a printout from the United States Postal Service, an attempt was made to deliver the documents on November 13, 2021. Ms. Tomova stated that the USPS printout states that delivery was attempted and there was no access to the delivery location. Ms. Tomova stated that delivery was attempted again on November 15, 2021 and the USPS printout states that notice was left and there was no authorized recipient available. Ms. Tomova stated that respondent did not go to the post office to claim the package and the package was returned to the Division on December 9, 2021. Ms. Tomova stated that respondent did not claim her mail for 3 ½ weeks to an address that she provided to the Division as her initial and original business address. Ms. Tomova stated that on this basis, the Division objects and opposes the respondent's motion for rehearing.

Commissioner Roth moved to deny the petition for rehearing. Seconded by Commissioner Tina. Motion passed 4-0 with Commissioner Filios abstaining.

10) Public Comment

No public comment.

11) For Possible Action: Adjournment

Meeting adjourned at 3:48 p.m. on March 29, 2022.