

**NEVADA REAL ESTATE COMMISSION
MINUTES**

VIA IN PERSON AND TEAMS VIRTUAL MEETING

September 27, 2022

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

VIDEO CONFERENCE TO:
Division of Insurance
1818 College Parkway, Suite 103
Carson City, Nevada 89706

The meeting was called to order at 9:05 a.m.

1-A) Introduction of Commissioners in Attendance

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

Commission Counsel: Deputy Attorney General Chricy Harris.

1-B) Introduction of Division Staff in Attendance

Sharath Chandra, Administrator; Charvez Foger, Deputy Administrator; Shareece Bates, Administration Section Manager; Kelly Valadez, Commission Coordinator; Maria Gallo, Commission Coordinator; Jan Holle, Chief Compliance Audit Investigator; Maria Martin, Compliance Audit Investigator; Kimber Bruce, Compliance Audit Investigator; and Deputy Attorney Generals Virginia Tomova, Louis Csoka, Phil Su, and Alma Orozco representing the Division.

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

Corey Carter was present virtually through Teams.
Annalyn Carrillo, Education & Information Officer, was present.

Mr. Carter stated that his sponsor for his continuing education classes had recently added three new classes that were approved, but he was denied teaching those classes due to an administrative fine due to a licensee under his brokerage having improper advertising of their team's name and the licensee's failure to correct all media sites containing that information. Mr. Carter stated that his track record as a CE Instructor for the Division over the last three years has

been good and he is asking the Commission to allow him to teach the additional classes that have been approved.

Ms. Carrillo stated that the Division denied Mr. Carter's instructor application pursuant to NAC 645.426. Ms. Carrillo stated that Mr. Carter had two administrative fines which was the basis for the Division's denial.

Commissioner Filios asked if Mr. Carter had paid the administrative fines.

Ms. Carrillo answered yes.

Commissioner Gurr asked if there were two administrative fines.

Ms. Carrillo stated that there was an administrative fine issued in 2018 and an administrative fine issued in 2019.

Commissioner Gurr asked if the two administrative fines were the result of someone in Mr. Carter's office as opposed to a violation by Mr. Carter.

Ms. Carrillo answered yes.

Commissioner Gurr moved to approve the appeal. Seconded by Commissioner Filios. Motion carried.

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

Parties Present

Debbie Zois was present.

Annalyn Carrillo, Education & Information Officer, was present.

Ms. Zois stated that she received a fine in Utah because she was co-marketing a property in Utah with a Utah licensed agent and when Zillow took the fee it did not list all the information and it appeared like she was the listing agent, but when the Utah Division contacted her, she corrected the MLS. Ms. Zois stated that when she renewed her license with the Division, she answered no to any disciplinary sanctions on her renewal application not realizing that the fine in Utah counted as discipline.

Ms. Carrillo stated that the explanation given by Ms. Zois is why the Division denied her instructor application, and that the administrative sanction in Utah imposed to Ms. Zois had been paid and closed.

Commissioner Tina moved to approve the appeal. Seconded by Commissioner Gurr. Motion carried.

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

Parties Present

Brent Jones was present.

Annalyn Carrillo, Education & Information Officer, was present.

Mr. Jones stated that he has been an appraiser for thirty years and has continuing education discipline within the last years but would like the Commission to approve him to teach appraisal courses.

Ms. Carrillo stated that Mr. Jones was ordered to complete 35 hours of continuing education.

Mr. Jones stated that he had completed an appraisal report on a model home and instead of calling the property a three-year-old home, he indicated that it was new construction which created flaws in the analysis.

Commissioner Filios moved to approve the appeal. Seconded by Commissioner Gurr. Motion carried.

5-A) For Possible Action: Discussion and decision regarding respondent's petition for reconsideration of license revocation.

NRED v Charity Sabrina Hart, for possible action

Case # 2021-285

Parties Present

Charity Sabrina Hart was not present.

Virginia Tomova, Deputy Attorney General was present representing the Division.

Ms. Tomova stated that this case is before the Commission because of Ms. Hart's untimely request for reconsideration. Ms. Tomova stated that Ms. Hart's case was initially before the Commission on March 29, 2022, where Ms. Hart requested a continuance that was granted by the Commission and rescheduled for the meetings held on June 7, 2022. Ms. Tomova stated that during the June 7, 2022, Commission hearings, Ms. Hart did not appear, and a default was entered for case number 2021-285, where the Commission entered an order on June 14, 2022, ordering Ms. Hart to pay \$4,148.48 in fines and costs, and revocation of Ms. Hart's license. Ms. Tomova stated that pursuant to NRS 645.440(2), Ms. Hart had 30 days to appeal the Commission's decision and Ms. Hart failed to do so. Ms. Tomova stated that Ms. Hart paid the fines and costs in full on August 12, 2022, but the Division is requesting that the current order of the Commission stays in place and that Ms. Hart's license remains revoked.

Commissioner Gurr asked if there were any discussions between the Attorney General's office and Ms. Hart regarding the current Commission meetings and Ms. Hart's attendance.

Ms. Tomova stated that there had been no discussions between Ms. Hart and the Attorney General's office and that Ms. Hart's request was sent to the Division by email. Ms. Tomova stated that Ms. Hart was aware that her reconsideration was set for the Commission meetings scheduled for September 27-29, 2022.

Commissioner Gurr moved in the matter of NRED v Charity Sabrina Hart case number 2021-285, that the respondent's petition for reconsideration of license revocation be denied. Seconded by Commissioner Filios. Motion carried.

7-F) NRED v Brad Martin, for possible action

Case # 2020-1033

Parties Present

Liz Sorokac, Esq. was present representing Brad Martin.

Brad Martin was not present.

Alma Orozco, Deputy Attorney General was present representing the Division.

Preliminary Matters

Commissioner Filios stated that he would recuse himself from this matter because he has personally worked with Liz Sorokac in the past.

Ms. Orozco stated that a settlement has been reached in this matter. Ms. Orozco read the factual allegations and violations of law into the record.

Settlement

- Respondent agrees to pay a total of \$47,673.00 ("Amount Due") to the Division within ninety (90) calendar days of the Commission's order approving this stipulation. The amount includes an amount equal to \$3,673.00 to cover the Division's investigatory costs and attorney's fees. Notwithstanding the foregoing, respondent may make partial payments towards the Amount Due at any time, so long as the Amount Due is paid in full as of the deadline set forth herein.

Commissioner Tina moved to approve the stipulation for settlement. Seconded by Commissioner Gurr. Motion carried 3-1 with Commissioner Filios abstaining.

6-A) For Possible Action: Discussion and decision regarding respondent's petition for rehearing and reconsideration of disciplinary terms.

NRED vs Allan Rothstein, for possible action

Case # 2020-359

Parties Present

Andrew Wasielewski, Esq. was present representing Allan Rothstein.

Allan Rothstein was present.

Virginia Tomova, Deputy Attorney General, was present representing the Division.

Mr. Wasielewski stated that Mr. Rothstein received an order entered by the Commission after Mr. Rothstein's failure to appear before the Commission during the March 29, 2022, stacked meetings. Mr. Wasielewski stated that he filed a motion for rehearing to allow Mr. Rothstein to present evidence in his defense that will exonerate Mr. Rothstein of all charges.

Commissioner Gurr asked why Mr. Rothstein did not attend the Commission meeting on March 29, 2022.

Mr. Wasielewski stated that Mr. Rothstein was confused because of his age and an inability to understand certain things and Mr. Rothstein did not understand that this was a separate issue from a current federal case matter.

Commissioner Filios asked if Mr. Rothstein's intention was to continue being an active licensee in the state of Nevada, since the statement was made that Mr. Rothstein did not have all his facilities.

Mr. Wasielewski stated that he was not certain if Mr. Rothstein had decided if he would keep his license active if it were reinstated, but that the three parts to the request are for the exoneration of Mr. Rothstein's name, concern of the \$95,000 in fines, and his ability to practice. Mr. Wasielewski stated that Mr. Rothstein has agreed to get a competency check and if he is found to not be competent, Mr. Rothstein will not burden the public with his inability to practice real estate. Mr. Wasielewski stated that Mr. Rothstein would like to address the Commission regarding the significant amount of money owed because of the default situation.

Ms. Tomova stated that Mr. Rothstein knew what the allegations were against him and failed to appear before the Commission on March 29, 2022. Ms. Tomova stated that prior to the filing of the complaint, Mr. Rothstein had several communications with the Division where he admitted that he did commit some of the violations including the execution of a direct consent for sexual intercourse contract which is currently the subject of federal litigation, that he was meeting clients at Burger King, and that he provided a false brokerage address to the Division. Ms. Tomova stated that after Mr. Rothstein failed to appear at the March 29, 2022, hearing and the default judgement was filed on April 12, 2022, pursuant to NAC 645.820, Mr. Rothstein had 10 days to file an appeal and submit a petition for rehearing, but the petition was filed on June 10, 2022. Ms. Tomova stated that Mr. Rothstein also failed to file a petition for judicial review pursuant to NRS 233B.130(2)(d) which clearly states that an appeal must be filed within 30 days after the final entry of a judgement by the Commission. Ms. Tomova stated that the petition for rehearing and reconsideration is procedurally improper and timely barred. Ms. Tomova stated that based on Mr. Wasilewski's presentations, Mr. Rothstein does not have the mental acuity to hold the privilege of a real estate license.

Commissioner Gurr stated that under the circumstance she is inclined to give Mr. Rothstein another chance to bring his information before the Commission and hear the evidence to make sure the Commission made the right decision.

Commissioner Filios stated that he disagreed because hearing the testimony of Mr. Wasilewski, he does not see Mr. Rothstein practicing real estate because of health issues and instead of rehearing the case, that the Commission reconsider the fines imposed.

Commissioner Gurr moved in the matter of Allan Rothstein case number 2020-359 that the petition for rehearing and reconsideration of the disciplinary terms be granted. Seconded by Commissioner Roth. Motion carried 4:1 with Commissioner Filios opposed.

7-D) NRED v Robert B. Adams, for possible action
Case # 2020-87

Parties Present

Alma Orozco, Deputy Attorney General, was present representing the Division.
Robert Adams was not present.

Ms. Orozco stated that a complaint in this matter was filed on August 19, 2022, which gave Mr. Adams until September 19, 2022, to file an answer to the complaint and the respondent has failed to file an answer and there has been no communication with the Division or the Attorney General's office. Ms. Orozco stated that the Division would like to proceed with a default pursuant to NAC 645.680.

Ms. Orozco stated that the Division would submit that there was proper service upon Mr. Adams.

State's Witness

Shareece Bates, Administration Section Manager, testified regarding service of the complaint.

Ms. Orozco asked for the green card and certificate of service be admitted into evidence.

President Plummer stated that the proof of mailings would be admitted.

Commissioner Gurr moved that the proof of mailings be admitted. Seconded by Commissioner Tina. Motion carried.

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

The Commission questioned Ms. Orozco.

Commissioner Gurr moved in the matter of NRED v. Robert Adams case number 2020-87 that the Commission finds the respondent in default. Seconded by Commissioner Filios. Motion carried.

Division's Recommendation for Discipline

Jan Holle presented this:

- \$1,500 administrative fine plus the costs of the investigation and hearing in the amount of \$5,967.60, to be paid within thirty (30) days of the effective date of the order
- Revocation of all real estate licenses

Commissioner Gurr moved in the matter of NRED v. Robert Adams case number 2020-87 that the respondent pay a fine in the amount of \$1,500, plus the Division's fees and costs in the amount of \$5,967.60 for a total amount of \$7,467.60 due and payable within thirty (30) days of the effective date of the order and that all of respondent's real estate licenses, permits and certifications be revoked. Seconded by Commissioner Filios. Motion carried.

7-B) NRED v Paul M. Wynn, for possible action
Case # 2019-1122

Parties Present

Paul Wynn was present.

Raymond Crosby was present.

Delmar Ducasses, translator, was present.

Louis Csoka, Senior Deputy Attorney General, was present representing the Division.

Preliminary Matters

Mr. Csoka stated that one of the state's witnesses which is the complainant in this matter will have a translator provided by the Division.

Mr. Csoka asked that the Notice of Documents be admitted into evidence.

Mr. Wynn stated that he had no objection to admitting the documents.

Opening Statements

Mr. Csoka gave his opening statement.

Mr. Wynn had no opening statement.

State's Witness

Daniel Leon testified via a translator.

Mr. Wynn had no questions for Mr. Leon.

The Commission questioned Mr. Leon.

The witness was dismissed.

State's Witness

Maria Martin testified.

Mr. Wynn had no questions for Ms. Martin.

The Commission questioned Ms. Martin.

Mr. Wynn had no questions for Ms. Martin.

Mr. Csoka questioned Ms. Martin as a rebuttal witness.

The witness was dismissed.

Mr. Wynn stated his case.

Mr. Csoka cross-examined Mr. Wynn.

The Commission questioned Mr. Wynn.

Closing Statements

Mr. Csoka gave his closing statement.

Mr. Wynn gave his closing statement.

Factual Allegations

Mr. Csoka read the factual allegations into the record.

Commissioner Gurr moved in the matter of NRED v. Paul Wynn case number 2019-1122 that the factual allegations in paragraphs 1 through 10 have been proven. Seconded by Commissioner Filios. Motion carried.

Commissioner Gurr moved that the factual allegation in paragraph 11 has not been proven. Seconded by Commissioner Filios. Motion carried.

Commissioner Filios moved that the factual allegation in paragraph 12 has been proven. Seconded by Commissioner Tina. Motion carried.

Commissioner Filios moved that the factual allegations in paragraphs 13 through 15 have been proven. Seconded by Commissioner Gurr. Motion carried.

Commissioner Gurr moved that the factual allegation in paragraph 16 has been proven. Seconded by Commissioner Tina. Motion carried.

Commissioner Gurr moved that the factual allegation in paragraph 17 including sub a and b has been proven. Seconded by Commissioner Tina. Motion carried.

Commissioner Gurr stated that the factual allegations in paragraphs 18, 19, and 20 have to do with someone that is not present.

Commissioner Gurr moved that the factual allegations in paragraphs 18 through 20 have not been proven. Seconded by Commissioner Tina. Motion carried.

Commissioner Gurr moved that the factual allegation in paragraph 21 has been proven. Seconded by Commissioner Tina. Motion carried.

Commissioner Gurr moved that the factual allegations in paragraphs 22 and 23 have not been proven. Seconded by Commissioner Tina. Motion carried.

Commissioner Filios moved that the factual allegations in paragraphs 24 through 26 have been proven. Seconded by Commissioner Gurr. Motion carried.

Commissioner Tina moved that the factual allegations in paragraphs 27 and 28 have been proven. Seconded by Commissioner Gurr. Motion carried.

Commissioner Gurr moved that the factual allegation in paragraph 29 has been proven. Seconded by Commissioner Filios. Motion carried.

Commissioner Tina moved that the factual allegations in paragraphs 30 through 33 have been proven.

Commissioner Gurr stated that factual allegation 30 should not be included because Gongora was not an employee of the respondent but an independent contractor and therefore the respondent did not create the circumstances that led the complainant to believe he was purchasing both the mobile home and the land with marketable title.

Commissioner Tina amended his motion and moved that the factual allegations in paragraph 31 through 33 have been proven. Seconded by Commissioner Gurr. Motion carried.

Commissioner Gurr moved that the factual allegation in paragraph 30 has not been proven. Seconded by Commissioner Filios. Motion carried.

Violations of Law

Commissioner Gurr stated that regarding the violations of law that the respondent did not, in effect, as a real estate broker, but in any transaction that involves real estate, licensees have a requirement to let everyone know that licensees have a greater knowledge, skill, and responsibility.

Commissioner Filios stated that if you are a member of an LLC and a Nevada licensee, it needs to be disclosed to everyone that is part of the transaction.

Commissioner Tina stated that he agrees with Commissioners Gurr and Tina, and that it cannot be assumed that commissions were paid because there was no proof provided.

Commissioner Filios moved that the violations of law in paragraphs 34 and 35 were not proven. Seconded by Commissioner Roth. Motion carried.

Commissioner Filios moved that the violation of law in paragraph 36 was proven. Seconded by Commissioner Tina.

Commissioner Gurr stated that she is opposed to the motion because the respondent did not know that the mobile home did not have a clean title and he was merely selling an assigned interest in the transaction.

Commissioner Plummer stated that he supports Commissioner Gurr's comment.

Commissioner Tina stated that he would support not knowing that the first contract said as is or where is, but those additional terms were omitted from the second contract which assumes that you have a marketable title.

Commissioner Filios stated that they are getting paid a lot for assigning something and it is your duty to make certain that you are assigning something that is equitable.

Motion failed 2:3 with Commissioner Gurr, Commissioner Roth, and President Plummer opposed.

Commissioner Gurr moved that the violation of law in paragraph 36 was not proven. Seconded by Commissioner Roth. Motion carried 3:2 with Commissioner Filios and Commissioner Tina opposed.

Commissioner Gurr moved that the violation of law in paragraph 37 was proven. Seconded by Commissioner Filios. Motion carried.

Division's Recommendation for Discipline

Jan Holle presented this:

- \$5,000 fine plus the Division's costs of the investigation and hearing in the amount of \$10,441.41 payable within six (6) months of the effective date of the order.
- 3 hours of continuing education in agency, 3 hours of continuing education in contracts, and 3 hours of continuing education in ethics, with all continuing education being completed within six (6) months of the effective date of the order.

Commissioner Filios moved in the matter of NRED v. Paul Wynn case number 2019-1122 that the respondent pay a fine in the amount of \$5,000.00, plus the Division's investigation and hearing costs in the amount of \$10,441.41 both payable within ninety (90) days of the effective date of the order, respondent must also complete 9 hours of continuing education with 3 hours in contracts, 3 hours in agency, and 3 hours in ethics within six (6) months of the effective date of the order, and none of the ordered continuing education counting will count towards license renewal and they must be live classes. Seconded by Commissioner Gurr. Motion carried 4:1 with Commissioner Roth opposed.

7-C) NRED v Ronald M. Powell, for possible action

Case # 2020-401

Parties Present

Steven Mack, Esq. was present representing Ronald Powell.

Louis Csoka, Senior Deputy Attorney General, was present representing the Division.

Mr. Csoka stated that a continuance is being requested because they are trying to resolve the matter and more time is needed by both sides to work out the issues involved.

Mr. Mack stated that the amended complaint was filed August 17, 2022, but not mailed until August 29, 2022, which gives Mr. Powell until October 2, 2022, to respond to the complaint. Mr. Mack stated that the matter could be resolved, but if not, a formal answer needs to be filed.

Commissioner Plummer stated that the request for a continuance is approved.

7-A) NRED v Kathy Perrault, for possible action

Case # 2021-689

Parties Present

Kathy Perrault was present.

Matthew Feeley, Deputy Attorney General, was present representing the Division.

Preliminary Matters

Mr. Feeley asked that the State's Exhibits be admitted.

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

Opening Statements

Mr. Feeley gave his opening statement.

State's Witness

Susan Clark, Licensing Manager, testified.

Ms. Perrault questioned Ms. Clark.

The witness was dismissed.

Ms. Feeley questioned Ms. Perrault.

Ms. Perrault stated her case.

The Commission questioned Ms. Perrault.

Closing Statements

Mr. Feeley gave his closing statement.

Ms. Perrault gave her closing statement.

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

Factual Allegations

Commissioner Tina moved that in case 2021-689 the factual allegations in paragraphs 1 through 9 have been proven. Seconded by Commissioner Roth.

Commissioner Gurr stated that the respondent did not have the intent to deceive by making the disclosures, and the Division mistakenly granted her license. Commissioner Gurr stated that NRS 645.633 states additional grounds for disciplinary action, which she assumes is to suspend or revoke the license.

President Plummer stated that the factual allegations have not been disputed and the violation of law can be addressed after moving through the factual allegations.

Commissioner Gurr stated that her concern is whether this will be a mark on the respondent's record when none of this was her fault.

Motion carried.

Violations of Law

Commissioner Filios moved that the violation of law in paragraph 10 has been proven. Seconded by Commissioner Tina. Motion carried 3:2 with Commissioner Gurr and Commissioner Roth opposed.

Division's Recommendation for Discipline

Jan Holle stated that the Division does not have any recommendation for discipline in this case.

Commissioner Filios moved in the matter of NRED v. Kathy Perrault case number 2021-689 that there is no discipline imposed and that the respondent's license remains active. Seconded by Commissioner Gurr. Motion carried.

7-E) NRED v Joseph Anderson, for possible action

Case # 2021-383

Parties Present

Joseph Anderson was not present.

Matthew Feeley, Deputy Attorney General, was present representing the Division.

Mr. Feeley stated that he has had no communication with Mr. Anderson and would like to move forward with a default.

State's Witness

Shareece Bates, Administration Section Manager, testified regarding service of the complaint.

Mr. Feeley asked for the green card and certificate of service, as well as the State's exhibits that were noticed be admitted into evidence.

President Plummer stated that the proof of mailings and exhibits would be admitted.

Commissioner Filios moved that pursuant to NAC 645.860 that the Division provided sufficient notice to Joseph Anderson case number 2021-383. Seconded by Commissioner Tina. Motion carried.

Factual Allegations and Violations of Law

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

Commissioner Gurr moved in the matter of NRED v. Joseph Anderson case number 2021-383 that the Commission grants the request for a default judgement. Seconded by Commissioner Filios. Motion

Division's Recommendation for Discipline

Jan Holle presented this:

- \$10,000 fine plus the cost of the investigation and hearing in the amount of \$1,688.60 payable within thirty (30) days of the effective date of the order.
- Revocation of all licenses.

Commissioner Filios moved in the matter of NRED v. Joseph Anderson case number 2021-383 that the factual allegation and violation of law have been proven and that the respondent pay a fine in the amount of \$10,000 plus the costs of the investigation and hearing in the amount of \$1,688.60, and that all the respondent's licenses and permits be revoked, and the licensee cannot reapply for seven (7) years. Seconded by Commissioner Tina. Motion carried.

3-A) Discussion regarding Administrator's report.

Sharath Chandra presented this report. Mr. Chandra stated that he appreciates that most of the Commissioners attended the ARELLO conference and welcomes the Commissioners to share any feedback with the Division. Mr. Chandra stated that a contract has been signed with a licensing vendor and Division staff will be working to get the new program up and running. Mr. Chandra stated that the plan for the next budget cycle is to have a licensing presence in the North to service licensees. Mr. Chandra stated that this year, as part of the Division's budget proposal is to become self-funded model where licensees' fees drive the Division's revenue which will also help balance our budget. Mr. Chandra stated that statewide there is a staffing shortage of a 30% vacancy rate, but the Division's philosophy is to hire and promote from within. Mr. Chandra stated that the Deputy Administrator Charvez Foger has been doing a tremendous job working with Human Resources to work through the recruiting requirements. Mr. Chandra stated that this meeting was the first meeting where continuing education credits were offered. Mr. Chandra stated that a workshop with draft regulation changes to NAC 645 would be happening within the coming months.

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.

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

Annalyn Carrillo presented this report. Ms. Carrillo provided the Commission with a written report and summarized.

3-G) For possible action: Discussion and decision to approve minutes of the June 7, 2022, meeting.

Commissioner Tina moved to approve the minutes as presented from June 7, 2022. Seconded by Commissioner Gurr. Motion carried.

8) Public Comment

No public comment.

9) For Possible Action: Adjournment

Meeting adjourned at 3:57 p.m. on September 27, 2022.

**NEVADA REAL ESTATE COMMISSION
MINUTES**

VIA IN PERSON AND TEAMS VIRTUAL MEETING

September 28, 2022

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

VIDEO CONFERENCE TO:
Division of Insurance
1818 College Parkway, Suite 103
Carson City, Nevada 89706

The meeting was called to order at 9:05 AM

1-A) Introduction of Commissioners in Attendance

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

Commission Counsel: Deputy Attorney General Harry Ward.

1-B) Introduction of Division Staff in Attendance

Sharath Chandra, Administrator; Charvez Foger, Deputy Administrator; Shareece Bates, Administration Section Manager; Kelly Valadez, Commission Coordinator; Maria Gallo, Commission Coordinator; Annalyn Carrillo, Education and Information Officer; and Kimber Bruce, Compliance Audit Investigator.

2) Public Comment

Annalyn Carrillo, Education and Information Officer, stated that she wanted to share with the Commission that Antonio Brown, Continuing Education Program Specialist has accepted a promotion with the Ombudsman's office as their CIC Education and Information Officer. Ms. Carrillo stated that she truly appreciated Mr. Brown's work in developing the Education section's audit program and his invaluable commitment to real estate education and wish him the very best in his new role.

Geoffrey Lavell, broker with the Brokerage Real Estate Firm, stated that he would propose a review of the issuance of property management licenses. Mr. Lavell stated that per the *Open House*, the biggest issues that the Real Estate Division investigates deal with the number of people able to participate with the different aspects of property management. Mr. Lavell stated that he is a permitted property manager and does property management full time and he has situations where he is asked to help resolve issues that have occurred because of non-property managers or people trying to wing it. Mr. Lavell stated that he would propose that there be a

study or some interest into removing leasing activity from licensing and create a stand-alone property management license that is different from the permit that would only allow the license holder to perform property management related activities including the reviled courtesy listings that often get agents and owners into trouble. Mr. Lavell stated a Broker, or a Broker-Sales person could hold a property management license but a Salesperson that did not carry a property management license could not do courtesy listings or any other initiation of leasing activity. Mr. Lavell stated that this would require some modifications to the current statute, but it would help to eliminate a lot of the accidental property management that exist, help to elevate the profession, and the efforts to improve the industry.

3-F) For Possible action: Discussion, Nomination and Election of Officers for FY 23 Pursuant to NRS 645.110.

Commissioner Gurr stated that something to consider would be aligning the officers' positions of the Commission with the appointment terms.

President Plummer stated that the NRS 645.110 says the ensuing year referencing the next calendar year.

Mr. Chandra stated that there are a couple of other statutes supporting and overarching this issue that speaks to the overall composition of the Commission. Mr. Chandra stated that one of the goals of the Division is to line up the language regarding appointments and terms so all the statutes line up creating less confusion. Mr. Chandra stated that he has reached out to the Attorney General's office to see if they have a legislative bill for this session that the Division could attach this language to but lining up the terms to the terms to the calendar year is a separate matter that would deal with the Governor's office.

Commissioner Gurr stated that electing officers should match the terms of the various Commissions, so Commission terms are lined up January to December it is not an issue but where the terms are November to October it creates a gap.

President Plummer stated that for transitional purposes it would be cleaner and better understood for an officer to finish out their year because if a commissioner is terming out in October it is hard to plan for that December meeting.

Mr. Chandra stated that there are many scenarios to consider, but the cleanest way would be to line up all the statutes, so the terms and appointments all line up. Mr. Chandra stated that traditionally with the Real Estate Commission as the Commissioners cycle through, everyone is given the opportunity to serve in the different officer positions.

Commissioner Gurr nominated Commissioner Filios as President, Commissioner Tina as Vice President, and Commissioner Plummer as Secretary. Seconded by Commissioner Filios. Motion carried.

3-H) Discussion regarding topics discussed during ARELLO Annual Conference.

President Plummer stated that he attended ARELLO along with Commissioners Gurr and Filios and several staff members from the Division. President Plummer stated that attending the annual

conference was worth the time invested and the topics for the Commissioner sessions were interesting. President Plummer stated that one of the topics brought up was wholesaling and how other states are handling it.

Commissioner Filios stated that he learned that Oklahoma only has 5,000 agents, but their legislature meets every year which allows them to do many things that Nevada is limited in because our legislature only meets every other year. Commissioner Filios stated that Oklahoma is definitely doing something about the wholesaling, and they are concerned about the Homeowner Benefit Agreement.

President Plummer stated that the Homeowner Benefit Agreement is a 40-year listing, and the brokerage firm is in approximately 40 states and the incentive for the seller is that they are given anywhere from \$800 - \$5,000 upfront and then the brokerage firm puts a lien on the property for the listing.

Commissioner Filios stated that there are two firms in Nevada using the Homeowner Benefit Agreement and it will be interesting to see what happens in Oklahoma, Mississippi, Arkansas, and Georgia because their states will be drafting regulation to limit or make it harder for them to do what they are doing.

Commissioner Gurr stated that a Commissioner from Saskatchewan said their law states that no listing contract can exceed 362 days.

President Plummer stated that another predatory practice is the Buyer Broker Agreement that has someone, unbeknownst to them, signing up for a 10-year agreement and there is no statutory restriction that states not to exceed a certain timeframe.

Mr. Chandra stated that this is the type of feedback that the Division needs for proposed legislation, and it would be nice to have it in statute and then use that language to build on the regulations.

President Plummer stated that Nevada has handle teams well, but there are expansion teams being built and structured over state jurisdictions.

Commissioner Gurr stated that she has heard the phrase of a brokerage within a broker because the teams have grown to such sizes that they do not want to open their own company and like operating under the umbrella of an existing brokerage and now they are spilling over state lines.

President Plummer stated it is easy to see where a licensee from another state on an expansion team could start providing licensed services to someone in Nevada and questions how that is going to be regulated.

3-I) Discussion regarding topics regarding revision of Bulletin #012.

President Plummer stated that he asked for this to go on the agenda because it was referenced by an attorney during a hearing that they use this bulletin as a guideline and ironically the public comment given this morning would alter this.

Mr. Chandra stated that a big concern for the Commission has always been property management. Mr. Chandra stated that previously a committee was formed to address creating a general best practice guide together for reference that could be taught and for the Division to develop a course, increasing the education requirements for property management, and recommendations for possible changes to the statute and this is where the Division supports the concept that property management should have some type of bond. Mr. Chandra stated that real estate agents contribute to the ERFF fund and if an agent commits fraudulent activity and goes to court, a judgement can be issued against this fund. Mr. Chandra stated that 95% of the claims against the ERFF fund are for property management. Mr. Chandra stated that it is important not to deplete the ERFF fund because it also supports education. Mr. Chandra stated that by requiring bonding for property managers, the claims would be reduced.

Commissioner Gurr stated that back in 2006, a lot of cases before the Commission were the mom-and-pop property management companies and not the big firms that are well staffed and trained and the idea of having a bonding requirement would keep the smaller companies out of obtaining a property management certificate.

Mr. Chandra stated that another piece that came out of the committee was to increase the fees to apply for property management as another way to say you need to be serious about getting into this field. Mr. Chandra stated that another recommendation was to consider a separate license for property management. Mr. Chandra stated that by completing all the education required for a real estate license, a property management permit can be attached to it, and the Division proposed, if you have a real estate license you can attach a property management permit, but if you are not a real estate agent you cannot get a property management permit, but there could be a separate property management license. Mr. Chandra stated that most of the property managers that the Division deals with are already licensed so action can be taken against them if needed, but the majority of people doing property management are unlicensed.

President Plummer stated that currently the bulletin reads well, but the challenge is the licensee that goes further than it says they can do.

Mr. Chandra stated that it is difficult to change a bulletin because you end up with different versions and some people are referencing old versions instead of the current version, so it would be best to supplement it with information. Mr. Chandra stated that there has been discussion of bringing the bulletins back into circulation by including them with the newsletters.

8) Public Comment

Gina Session stated that she is happy to be back with the Real Estate Commission in a new role. Ms. Session stated that she has been enjoying the meetings and even though she has been gone 6 ½ years that it is remarkable how many of the issues are still the same that come before the Commission. Ms. Session stated that she enjoyed meeting President Plummer at the realtors' conference in Incline Village and looks forward to working with the Commission again.

Charvez Foger, Deputy Administrator, thanked President Plummer for his service as President on the Commission.

9) For Possible Action: Adjournment

Meeting adjourned at 9:15 a.m. on September 28, 2022.

Prepared by: Kelly Valadez