

**NEVADA REAL ESTATE COMMISSION
MINUTES**

IN PERSON AND VIRTUAL VIA WEBEX

February 21, 2023

Nevada State Business Center
3300 W. Sahara Avenue
4th Floor – 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 9:00 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 Chricy Harris.

1-B) Introduction of Division Staff in Attendance

Sharath Chandra, Administrator; Charvez Foger, Deputy Administrator; Shareece Bates, Administration Section Manager; Maria Gallo, Commission Coordinator; Jan Holle, Chief Compliance Audit Investigator, and staff; Annalyn Carrillo, Education and Information Officer; Deputy Attorney Generals Phil Su, Christal Keegan, Matthew Feeley, and Louis Csoka representing the Division.

2) Public Comment

Geoffrey Lavell stated that he is seeing more parties to a transaction and would like to see more signature lines on the Duties Owed form.

4-A) For Possible Action: Discussion and Decision Regarding the Instructor Denial Appeal Pursuant to NAC 645.426

Parties Present

Aaron Taylor was present.

Annalyn Carrillo, Education and Information Officer, was present for the Division.

Ms. Carrillo stated that the Division denied the instructor application for Mr. Taylor based on past discipline. Ms. Carrillo stated that the Division had issued administrative fines to Mr. Taylor for ad violations in 2014 and 2021 and an administrative fine to deal fairly in 2021, which have all been paid and closed.

Mr. Taylor stated that regarding the ad violations, he does a lot of advertising in Las Vegas, and if something is misrepresented it is corrected immediately. Mr. Taylor stated that the administrative fine for dealing fairly dealt with a challenging transaction with a difficult client that was abusive to his staff, the title company and everyone else involved with the transaction. Mr. Taylor stated that when the Division imposed the fine, he contemplated appealing, but made the decision to pay the fine and move forward.

The Commission questioned Mr. Taylor.

The Commission questioned Ms. Carrillo.

Commissioner Gurr stated that she would be recusing herself because she is affiliated with Key Realty School which is the sponsor for Mr. Taylor's instructor application.

Commissioner Plummer moved to grant the appeal and approve Mr. Taylor as an instructor. Seconded by Commissioner Tina. Motion carried with one abstention from Commissioner Gurr.

4-B) For Possible Action: Discussion and Decision Regarding the Instructor Denial Appeal Pursuant to NAC 645.426

Parties Present

Michael Federwitz was not present.

Annalyn Carrillo, Education and Information Officer, was present for the Division.

Commissioner Gurr stated that Mr. Federwitz is the owner of Key Realty School LLC and that she is affiliated with that company and will be recusing herself.

Commissioner Gurr stated that Mr. Federwitz requested that she speak on his behalf because he was unable to attend today.

Ms. Carrillo stated that the Division denied the instructor application for Mr. Federwitz based on case# 2020-852 where an administrative fine of \$1000 was issued by the Division for an office violation. Ms. Carrillo stated that the fine had been paid and the case was closed.

Commissioner Gurr stated that there was a broken window in the real estate school where the sign was posted, and Mr. Federwitz did not have it repaired and re-lettered in a timely manner. Commissioner Gurr stated that she did not witness the broken window, but that this was the statement Mr. Federwitz asked her to give on his behalf.

Commissioner Tina moved to grant the appeal and approve Mr. Federwitz as an instructor. Seconded by Commissioner Roth. Motion carried with one abstention from Commissioner Gurr.

4-C) For Possible Action: Discussion and Decision Regarding the Instructor Denial Appeal Pursuant to NAC 645.426

Parties Present

Kathryn Bovard was present.

Annalyn Carrillo, Education and Information Officer, was present representing the Division.

Ms. Carrillo stated that the Division denied the instructor application for Ms. Bovard based on an administrative fine issued by the Division in 2014 for late submission of her education and an administrative fine issued by the Division in 2021 for failure to submit Form-546A.

Ms. Bovard stated that two years ago she did fail to submit an Affidavit in Lieu of Form-546A but submitted the form as soon as she became aware and paid the fine.

Commissioner Gurr stated that she would be recusing herself because she is affiliated with the same education sponsor as Ms. Bovard.

The Commission questioned Ms. Bovard.

Commissioner Plummer moved to grant the appeal and approve Ms. Bovard as an instructor. Seconded by Commissioner Tina. Motion carried with one abstention from Commissioner Gurr.

5-A) For Possible Action: Discussion and Decision Regarding Respondent's Petition for Reconsideration of Disciplinary Terms NRED v Paul M. Wynn Case No. 2019-1122

Parties Present

Paul Wynn was present.

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

Mr. Wynn stated that regarding case# 2019-1122 he is requesting leniency and reconsideration of the fines and fees assessed by the Commission because he has not been before the Commission for a complaint before and he did not have the experience in defending his case during his hearing. Mr. Wynn stated that in his thirty-plus years of being a licensee, he has never been disciplined or found guilty of an ethical violation in any of the 1000 plus transactions that he has been a part of until this case. Mr. Wynn stated that he wanted to state for the record that the hearing process was fair with each side being able to present their arguments and that he was found innocent of all charges except for failing to provide a broker file to the Real Estate Division in a timely manner. Mr. Wynn stated that it was ruled by the Commission that he was not acting as a real estate licensee during the transaction but at the end of the hearing he was fined \$5000 for failing to produce the broker file in question, as well as \$10,441.41 investigative and hearing costs. Mr. Wynn stated that he could not turn in a file that does not exist and the Commission agreed there was no agency, therefore, producing a file was an impossible task. Mr. Wynn stated that he is asking that the Commission reconsider all fines and disciplinary action against him and that all the disciplinary measures be dropped.

Mr. Csoka stated that the appropriate standard to grant a motion for reconsideration is that there must be new facts, new laws, or other change in circumstances and none of those apply to the findings of violations that were established and litigated during Mr. Wynn's hearing. Mr. Csoka stated that it was demonstrated during Mr. Wynn's hearing that the fine and costs amounts were fair, reasonable, and necessary. Mr. Csoka stated that the only issue before the Commission today that is relative to the correspondence received from Mr. Wynn, is the due date for his fine and costs and his request for a payment plan to which the Division has no objection.

Commissioner Gurr moved in the matter of Paul M. Wynn's petition for reconsideration of disciplinary terms be denied. Seconded by Commissioner Tina. Motion carried 4:1 with Commissioner Roth opposed.

Mr. Wynn asked the Commission if he could request a payment plan.

President Filios stated that Mr. Wynn did not request a payment plan during his statement but rather requested that all fines and disciplinary action be dropped. President Filios stated that since this petition hearing was closed, Mr. Wynn would need to submit a new request to be placed on the agenda for the next scheduled Commission meetings where he could petition the Commission for a payment plan.

6-A) NRED v Joseph Anderson, for possible action

Case # 2021-383

Parties Present

Joseph Anderson was present.

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

Preliminary Matters

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

Settlement

- Respondent agrees to pay the Division a fine in the amount of \$1,500 and the Division's fees and costs in the amount of \$1,688.60 for a total payment of \$3,188.60. Respondent shall make 12 monthly payments to the Division with 11 payments of \$265.72 per month and the 12th and last monthly payment of \$265.68, starting one month after the entry of Order Approving this Stipulation. Respondent shall be permitted to pay off the amount sooner if he so chooses.
- Respondent may reapply with the Division to obtain a real estate license.
- Respondent agrees to take nine (9) hours of live-instruction ethics classes. These classes must be completed within nine (9) months of the date of the entry of Order Approving this Stipulation. These classes are not to be counted towards the education needed for licensure.

Commissioner Gurr moved in the matter of the Nevada Real Estate Division v Joseph Anderson Case# 2021-383 that the stipulation for settlement of disciplinary action be approved. Seconded by Commissioner Tina. Motion carried.

6-B) NRED v Jeff Bracco, for possible action

Case # 2021-93

Parties Present

Jeff Bracco was not present.

Jennifer Gaynor, Esq. was present representing Mr. Bracco.

Phil Su, Senior Deputy Attorney General, was present representing the Division.

Preliminary Matters

Mr. Su stated that a settlement had been reached. Mr. Su read the factual allegation, alleged violations, and settlement into the record.

Settlement

- Respondent shall pay the Division a total amount of \$39,340.54 (“Amount Due”), consisting of a \$35,000.00 fine imposed by the Division and the Division’s pre-hearing costs and attorney’s fees in the amount of \$4,340.54.
- The Amount Due shall be payable to the Division within 90 days of the order approving this settlement.

Commissioner Tina moved in the matter of the Nevada Real Estate Division v Jeff Bracco Case# 2021-93 that the stipulation for settlement of disciplinary action be approved. Seconded by Commissioner Plummer.

Commissioner Plummer questioned how someone who is not licensed in Nevada makes \$88,000 on a transaction and we settle and only get paid back \$39,000.

Mr. Su stated that Mr. Bracco had already paid taxes on the \$88,000 and that is how the amount of \$39,000 was derived.

Commissioner Plummer stated that it does not settle well with him to allow someone to come into the state and do something wrong and then they only pay a portion of what was earned for the wrongdoing.

Motion carried.

6-C) NRED v Philbert Wilson, for possible action

Case # 2022-314

Parties Present

Philbert Wilson was present.

Christal Keegan, Deputy Attorney General, was present representing the Division.

Preliminary Matters

Ms. Keegan stated that a settlement had been reached. Ms. Keegan read the factual allegations, alleged violations, and settlement into the record.

Settlement

- Respondent agrees to pay the Division a total amount of \$3,211.00 (“Amount Due”), consisting of a \$1000.00 fine imposed by the Division and the Division’s pre-hearing costs and attorneys’ fees in the amount of \$2,211.00.

- Respondent agrees to pay 24 monthly installments of \$133.80 beginning March 1, 2023 until the final payment is made February 1, 2025.
- Respondent agrees to complete six (6) hours of live, continuing education in Broker Management, which shall not count towards respondent's education needed for his license renewal. Continuing education shall be computed within six (6) months of the date of the approved stipulation.

Commissioner Gurr stated that this is not the first case that has been heard today regarding a broker failing to provide a file and yet the fine for this case is only \$1000.

Commissioner Tina stated that it is likely determined by the actions of each broker.

President Filios stated that he agrees that it is determined by the broker's cooperation with the Division.

Commissioner Plummer stated that settling is the smart thing to do because if it went to a full hearing the Commission might not be as generous. Commissioner Plummer stated that it is frustrating, and he does not understand why someone would not cooperate with the Division and not respond to their duties.

Mr. Wilson gave a statement.

Commissioner Tina moved in the matter of the Nevada Real Estate Division v Philbert Wilson Case# 2022-314 that the stipulation for settlement of disciplinary action be approved. Seconded by Commissioner Roth.

Commissioner Gurr stated that she will be against the motion and thinks this case should go to a full hearing. Commissioner Gurr stated that this stipulation does not reflect the seriousness of a broker failing to supervise and provide files.

Motion carried 4:1 with Commissioner Gurr opposed.

6-D) NRED v Ali Shahrokhi, for possible action
Case # 2021-622

Parties Present

Ali Shahrokhi was not present.

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

Preliminary Matters

Mr. Feeley stated that Mr. Shahrokhi had another hearing this morning, but he thought at a minimum Mr. Shahrokhi was going to attend by telephone. Mr. Feeley stated that a settlement had been reached. Mr. Feeley read the factual allegations, alleged violations, and settlement into the record.

Settlement

- Respondent agrees to pay the Division a total amount of \$5,095.40 (“Amount Due”), consisting of a \$2,500.00 fine imposed by the Division and the Division’s pre-hearing costs and attorneys’ fees in the amount of \$2,595.40.
- Respondent agrees to make 17 monthly installments of \$283.08, with the 18th and final payment of \$283.04 or sooner with no penalty.

President Filios asked if the respondent was current on his child support payments.

Mr. Feeley stated that the respondent would need to answer that question. Mr. Feeley stated that the charges in the complaint are regarding the notification of whether the respondent was responsible for paying child support.

Commissioner Plummer asked if a motion could be made on the settlement without the respondent being present.

Mr. Feeley stated that the respondent had signed the settlement agreement so the Commission could move to approve.

Commissioner Plummer moved in the matter of the Nevada Real Estate Division v Ali Shahrokhi case# 2021-622 that the stipulation for settlement of disciplinary actions be approved. Seconded by Commissioner Roth. Motion carried.

6-L) NRED v Patrick Savarin, for possible action **Case # 2021-341**

Parties Present

Patrick Savarin was not present.

Phil Su, Senior Deputy Attorney General, was present representing the Division.

Preliminary Matters

Mr. Su stated that Mr. Savarin has a daytime job that prevents him from being present.

Mr. Su stated that a settlement had been reached. Mr. Su read the factual allegation, alleged violations, and settlement into the record.

Settlement

- Respondent shall pay the Division a total amount of \$5,000.00 (“Amount Due”), consisting of a \$2,450.00 administrative fine imposed by the Division, plus the Division’s pre-hearing costs (\$1,160.00) and pre-hearing attorneys’ fees (\$1,390.00) totaling \$2,550.00.
- Respondent shall pay the Division the total Amount Due in 36 monthly installments of \$138.89, beginning thirty (30) days from the effective date of this order.
- Respondent shall voluntarily surrender his salesperson license and shall agree to not re-apply for such license until he has made complete payment of the Amount Due.

Commissioner Plummer asked how many total violations there were.

Mr. Su stated that there were 4 violations.

Commissioner Plummer asked how much could have been fined for the violations.

Mr. Su stated that the maximum fine amount for the violations could have been up to \$40,000.

Commissioner Plummer asked how the \$2,500 fine was derived.

Mr. Su stated that the lower fine amount was negotiated was because the respondent agreed to surrender his license.

Commission Counsel, Chricy Harris stated that Commissioner Gurr had to step out of the meeting and would not be participating in the vote.

Commissioner Roth moved in the matter of the Nevada Real Estate Division v Patrick Savarin case# 2021-341 that the stipulation for settlement of disciplinary actions be approved. Seconded by Commissioner Roth. Motion carried 4:0 with Commissioner Gurr not participating.

6-Q) NRED v Chelsea Scheppmann, for possible action
Case # 2021-580

Parties Present

Chelsea Scheppmann was present.

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

Preliminary Matters

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

Settlement

- Respondent agrees to pay the Division a total amount of \$10,185.40 (“Amount Due”), consisting of a \$7,500.00 fine imposed by the Division and the Division’s pre-hearing costs and attorneys’ fees in the amount of \$2,685.40.
- Respondent shall pay the Amount Due within thirty (30) days of the approved order.
- Respondent agrees to take nine (9) hours of continuing education classes in Property Management. The classes must be completed within sixty (60) days of the approved order.

Ms. Scheppmann gave a statement.

Commissioner Gurr stated that for clarification of a typo in the stipulation on page 4, line 11, it states Residential Listing Agreements, and it should read Residential Lease Agreements.

Commissioner Roth moved in the matter of the Nevada Real Estate Division v Chelsea Scheppmann case# 2021-580 that the stipulation for settlement of disciplinary actions be approved. Seconded by Commissioner Gurr. Motion carried.

6-R) NRED v Ajay Gerald Dayal, for possible action
Case # 2021-422

6-S) NRED v Ajay Gerald Dayal, for possible action
Case # 2021-1115

6-T) NRED v Ajay Gerald Dayal, for possible action
Case # 2022-49

Parties Present

Ajay Gerald Dayal was present.

Christal Keegan, Deputy Attorney General, was present representing the Division.

Preliminary Matters

Ms. Keegan stated that she wanted to bring to the attention of the Commission that regarding case# 2021-1115 there was an added complainant to this case, Renee Viray, with whom Commissioner Tina is or was her broker.

Ms. Keegan stated that there was a global settlement reached in all three matters. Ms. Keegan read the factual allegation, alleged violations, and settlement for all three cases.

Global Settlement

- Respondent agrees to pay the Division a total amount of \$28,485.00 (“Amount Due”), consisting of a \$21,500 fine (\$10,000 each for Case No. 2021-422 and 2022-49, and \$1,500 for Case No. 2021-1115) imposed by the Division, the Division’s pre-hearing costs and fees in the amount of \$2,910.00 (\$980 for Case No. 2021-422, \$860 for Case No. 2021-1115, \$1,070 for Case No. 2022-49), and the Attorney’s pre-hearing costs and fees in the amount of \$4,075.00 (\$1,304 for Case No. 2021-422, \$1,630 for Case No. 2021-1115, \$1,141 for Case No. 2022-49).
- The Amount Due shall be payable to the Division in monthly payments of \$593.44 for a period of 48 months beginning on March 1, 2023 and ending on February 1, 2027. Respondent further agrees to voluntarily surrender all real estate licenses and permits and shall not reapply until the Amount Due is paid in full and final satisfaction.
- Respondent also agrees to ensure its website is compliant with real estate advertising laws within 30 days of the date of the order approving this Stipulation.

Commissioner Roth moved in the matters of the Nevada Real Estate Division v Ajay Gerald Dayal case numbers 2021-422, 2021-1115, and 2022-49 that the stipulation for settlement of disciplinary actions be approved. Seconded by Commissioner Plummer. Motion carried with one abstention from Commissioner Tina due to his association with the complainant.

6-U) NRED v Kenneth Davidson, for possible action
Case # 2021-1116

Parties Present

Kenneth Davidson was present.

Christal Keegan, Deputy Attorney General, was present representing the Division.

Preliminary Matters

Ms. Keegan stated that there was a settlement reached. Ms. Keegan read the factual allegations, alleged violations, and settlement into the record.

Settlement

- Respondent agrees to pay the Division a total amount of \$3,460.00 (“Amount Due”), consisting of a \$1,000 fine imposed by the Division, the Division’s pre-hearing costs and fees in the amount of \$830.00, and the Attorney’s pre-hearing costs and fees in the amount of \$1,630.
- RESPONDENT agrees to pay \$1,000 upfront, and the remainder of the Amount Due shall be payable to the Division in monthly payments of \$150.00 beginning on April 1, 2023 and ending on September 1, 2024.

Ms. Keegan stated that she wanted to bring to the attention of the Commission that regarding case# 2021-1116, the added complainant was Renee Viray with whom Commissioner Tina is or was her broker.

Ms. Keegan stated that the respondent did sign the document with prejudice, but the respondent has agreed to the settlement terms and as such, the Division does not see any issue with it.

Mr. Davidson gave a statement.

Commissioner Gurr moved in the matter of the Real Estate Division v Kenneth Davidson case# 2021-1116 that the stipulation for settlement of disciplinary action be approved. Seconded by Commissioner Roth. Motion carried with one abstention from Commissioner Tina due to his association with the complainant.

6-X) NRED v Bobby Fleming, for possible action

Case # 2021-771

Parties Present

Bobby Fleming was not present.

Christal Keegan, Deputy Attorney General, was present representing the Division.

Preliminary Matters

Ms. Keegan stated that the respondent is aware that his attendance is required and requested at today’s hearing. Ms. Keegan stated that she emailed the respondent a copy of the complaint and notice of hearing on January 27, 2023 after speaking with him on the telephone the same day about the complaint and hearing. Ms. Keegan stated on February 17, 2023, respondent accepted the terms of the settlement offered, and the respondent has been reminded repeatedly on numerous occasions that even if a settlement is reached, he needs to appear at the hearing. Ms. Keegan stated that she emailed the respondent on February 19, 2023 reminding him again that his attendance is required at the hearing and sent the hearing agenda with the date, time, and location.

Ms. Keegan stated that at this time the respondent has not signed the stipulation for settlement and the respondent has not provided an answer to the complaint and the Division would like to proceed with a default pursuant to NAC 645.810(13).

Ms. Keegan stated that the Division would submit that there was proper service upon Bobby Fleming.

State's Witness

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

Ms. Keegan asked that the certificate of mailing for the complaint and the notice of documents be admitted.

President Filios stated that the documents were admitted.

Commissioner Plummer moved that the Commission pursuant to NAC 645.860 find that the Real Estate Division has proven service of notice to respondent for case# 2021-771. Seconded by Commissioner Gurr. Motion carried.

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

Commissioner Plummer moved for case# 2021-771 that the factual allegations have been proven. Seconded by Commissioner Gurr. Motion carried.

Commissioner Gurr moved for case# 2021-771 that the violations of law have been proven. Seconded by Commissioner Tina. Motion carried.

Division's Recommendation for Discipline

Jan Holle, Chief Compliance/Audit Investigator presented this:

- \$60,000 fine plus the investigative and hearing costs of \$3,441.07 payable within 60 days of the order
- Revocation of all licenses and permits

Commissioner Gurr moved in the matter of the Nevada Real Estate Division v Bobby Fleming case# 2021-771 that the respondent be fined \$60,000, plus the administrative costs in the amount of \$3,441.07, all to be paid within 60 days of the effective date of the order, and that all of respondent's licenses, permits, and certifications be revoked. Seconded by Commissioner Tina. Motion carried.

3-F) For Possible Action: Discussion and Decision to Approve Minutes of the December 13-14, 2022 meeting.

Commissioner Gurr moved to approve the minutes of the December 13-14, 2022 meeting. Seconded by Commissioner Plummer. Motion carried.

3-G) For Possible Action: Discussion and Decision on Date, Time, Place, and Agenda Items for Upcoming Meetings.

- May 2-4, 2023

3-A) Discussion Regarding the Administrator’s Report.

Sharath Chandra presented this report. Mr. Chandra stated that the Division is approximately a month behind schedule regarding the new software technology for the Division due to some staffing issues with the vendor, but the goal is to bring up the licensing functionality first and then work on the other components. Mr. Chandra stated that during the last legislative session, the Division was fortunate to receive a technology fee and a one-shot appropriations funding to jumpstart the technology, but there is a two year window deadline to use the money in the fiscal year in which it was budgeted and the Division will be requesting to extend that deadline through the legislative process because we do not want to pay the vendor until the work is completed and the Division does not want to lose the funding. Mr. Chandra stated that the Division is working on a second draft of regulation changes, however, there is an executive order in place pausing all regulation changes, but there is an exemption that will be requested of which the Division meets all the requirements. Mr. Chandra stated that the Division will be following the legislative session and give an update to the Commission on any bills during the next meeting.

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.

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

**6-V) NRED v Eris Atar-Krupski, for possible action
Case # 2021-405**

Parties Present

Eris Atar-Krupski was present.

Gregory Hartline was present.

Christal Keegan, Deputy Attorney General, was present representing the Division.

Opening Statements

Ms. Keegan gave her opening statement.

Ms. Atar-Krupski gave her opening statement.

State’s Witness

Shannon Goddard testified.

Ms. Atar-Krupski cross-examined Ms. Goddard.

Ms. Keegan re-examined Ms. Goddard.

Ms. Atar-Krupski re-cross-examined Ms. Goddard.

The witness was dismissed.

Ms. Keegan asked that the State's exhibits be admitted.

President Filios stated that the State's exhibits are admitted.

State's Witness

Eris Atar-Krupski testified.

The Commission questioned Ms. Atar-Krupski.

Ms. Atar-Krupski stated her case.

Ms. Atar-Krupski asked that her exhibits A-G be admitted into evidence.

Ms. Keegan stated that the Division objects to respondent's exhibit E because of a lack of foundation.

President Filios stated that the Respondent's exhibits will be admitted except for exhibit E which is denied.

Respondent's Witness

Gregory Hartline testified.

Ms. Keegan cross-examined Mr. Hartline.

The Commission questioned Mr. Hartline.

Ms. Keegan re-cross-examined Mr. Hartline.

Ms. Atar-Krupski re-examined Mr. Hartline.

The witness was dismissed.

Rebuttal Witness

Ms. Keegan asked rebuttal questions of Ms. Atar-Krupski.

Closing Statements

Ms. Keegan gave her closing statement.

Ms. Atar-Krupski gave her closing statement.

Commissioner Gurr stated that she sees the two issues being whether the respondent was acting as a real estate agent before she was licensed and if she misrepresented the client.

Commissioner Plummer stated that he is glad that the broker was here to testify that he was the one who showed the property and not the respondent because it comes down to what activities the respondent performed before or after February 3, 2021.

Commissioner Roth stated that he does not think that there was anything done wrong.

Commissioner Tina stated that it was clearly explained that the active listing showing commissions at 2.5% was withdrawn and then came back out at 2%, so the 2% is the money that is owed, not the 2.5%. Commissioner Tina stated that no agent should go back to the client and tell them the difference in commissions asking for that additional money and on that note sees only guilt. Commissioner Tina stated that the commission paid is at the time you write the offer not at the time that the property was shown.

Commissioner Plummer stated that he does not think that the respondent is in front of the Commission because of the half percent she asked from the buyer.

Commissioner Gurr stated that if Dr. Chau and his son agreed that they would pay the additional half percent themselves, there is nothing wrong with that from a buyer's brokerage commission negotiation.

Commissioner Plummer stated that he is asking himself did the buyer sign a commission instruction to close agreeing to 2.5%.

President Filios stated that the broker stated that there was a closing statement signed and that the buyer did not understand that he was paying the extra half percent out of his own pocket.

Commissioner Plummer asked if it was a violation for a buyer to want to compensate their buyer broker more than what is being offered and if it is done through escrow, doesn't the buyer have the right to compensate more if it is disclosed to all parties.

Commissioner Tina stated that the buyer does have that right if they are not asked to do it.

Commissioner Plummer stated that the wording of the violations in the complaint states demanded an extra .5%.

Factual Allegations

Commissioner Plummer moved that factual allegation 1 has been proven. Seconded by Commissioner Gurr. Motion carried.

Commissioner Plummer moved that factual allegation 2 has been proven. Seconded by Commissioner Tina. Motion carried.

Commissioner Plummer moved that factual allegation 3 has been proven. Seconded by Commissioner Tina. Motion carried.

Commissioner Plummer moved that factual allegation 4 has been proven. Seconded by Commissioner Tina. Motion carried.

Commissioner Plummer moved those factual allegations 5-7 have been proven. Seconded by Commissioner Tina. Motion carried.

Commissioner Plummer moved that factual allegation number 8 has been proven. Seconded by Commissioner Tina. Motion carried.

Commissioner Gurr moved that factual allegation 9 has been proven. Seconded by Commissioner Tina. Motion carried.

Commissioner Plummer moved those factual allegations 10-12 have been proven. Seconded by Commissioner Tina. Motion carried.

Commissioner Plummer moved those factual allegations 13-14 have been proven. Seconded by Commissioner Tina. Motion carried.

Commissioner Plummer moved those factual allegations 15-17 have been proven. Seconded by Commissioner Tina. Motion carried.

Commissioner Tina moved those factual allegations 18-20 have been proven.

Commissioner Plummer stated that for allegation 19 the respondent did not represent herself as an attorney during this process even though esquire was on her signature, he did not see any exhibits where she was giving legal advice.

Commissioner Tina stated that the violation does not say that she was giving legal advice but rather represented herself as an attorney.

Commissioner Roth stated that there was some dispute regarding the attorney of record.

Commissioner Plummer stated that because it says esquire, he will support that it does represent her as an attorney.

Seconded by Commissioner Plummer. Motion carried.

Commissioner Tina moved that factual allegation 21 has been proven. Seconded by Commissioner Plummer. Motion carried.

Commissioner Plummer moved that factual allegation 22 has been proven. Seconded by Commissioner Roth. Motion carried.

Commissioner Plummer moved that factual allegation 23 has been proven. Seconded by Commissioner Tina. Motion carried.

Violations of Law

Commissioner Plummer stated that violation 24 suggests that the .5% compensation occurred prior to the respondent having a license but the broker testified that the additional .5% compensation occurred after her license was issued.

Commissioner Roth stated that he agreed with Commissioner Plummer.

Commissioner Tina stated that as a licensee or non-licensee, it is not ethical to say they changed the commission and ask for the difference.

Commissioner Gurr stated that there is nothing wrong with a licensee negotiating another .5% with her client and in this instance the violation would be determined if the respondent had an active license at the time.

Commissioner Tina stated that the violation reads provided listings of housing available in Las Vegas, Nevada available on MLS only available to licensees and the respondent is not a member of MLS.

Commissioner Gurr stated that the respondent's knowledge of the 2% instead of 2.5% came from information provided to the respondent by her broker.

Commissioner Plummer moved that violation of law 24 has not been proven. Seconded by Commissioner Roth. Motion carried 4:1 with Commissioner Tina opposed.

Commissioner Plummer stated that regarding violation 25, there was no evidence presented where the respondent demanded anything.

Commissioner Plummer moved that violation of law 25 has not been proven. Seconded by Commissioner Roth. Motion carried 4:1 with Commissioner Tina opposed.

Commissioner Plummer moved that violation of law 26 has not been proven. Seconded by Commissioner Roth. Motion carried 4:1 with Commissioner Tina opposed.

7) Public Comment

No public comment.

8) For Possible Action: Adjournment

Meeting recessed at 4:46 p.m. on February 21, 2023.

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VIDEO CONFERENCE TO:

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1818 College Parkway, Suite 103
Carson City, Nevada 89706

The meeting was called to order at 9:01 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 Chricy Harris.

2) Public Comment

Anthony Keep stated that he has been a real estate broker in Nevada for sixteen years, holds four other licensing credentials, and is a six-time Nevada CE instructor. Mr. Keep stated that he was in attendance during yesterday's hearing with some other complainants, as well as parties in current and past litigation, who were ready to testify regarding the respondent Ajay Dayal, but their testimony was not called upon because the Division came to a settlement agreement. Mr. Keep stated that according to public records, since Mr. Dayal acquired his real estate license in 2012, he has been sued for real estate related activities in various Nevada courts of law not less than twelve times; six in Nevada's Eighth Judicial District Court, four in the Las Vegas Justice Court, one in Federal District Court, and one in Small Claims Court. Mr. Keeps stated that these lawsuits are for various real estate related issues ranging from fraud, deceit, theft, funds conversion, and even sexual assault behind locked doors of his real estate offices. Mr. Keep stated that three of Mr. Dayal's lawsuits as a defendant are currently active.

Mr. Keep stated that the issue he wanted to bring to the Division and the Commission's attention are the results of some of the unsatisfied judgements and settlements that Mr. Dayal has in some past actions. Mr. Keep stated that in the sexual assault cases against Mr. Dayal, there was a settlement reached however Mr. Dayal never paid the settlement. Mr. Keep stated that the plaintiff's attorneys filed for and were awarded sanctions, but still no payment has been received by the attorneys or victims over the last five years. Mr. Keep stated that a man and his family were in attendance yesterday, who were involved in a case where Mr. Dayal converted \$100,000

worth of sports paraphernalia owned by the family and Mr. Dayal used those funds to decorate his real estate office, where a lawsuit ensued and a judgement was rendered, but Mr. Dayal has evaded every measure to collect on that judgement or return the items for several years. Mr. Keep stated that speaking not only as a real estate broker but also a longstanding citizen of Nevada and a member of the public, it is his hope that the Division has adequate enforcement of Mr. Dayal's settlement terms, and that Mr. Dayal may be considered for permanent revocation of his Nevada real estate license to protect the public from any further mayhem and malfeasance.

1-B) Introduction of Division Staff in Attendance

Sharath Chandra, Administrator; Charvez Foger, Deputy Administrator; Shareece Bates, Administration Section Manager; Maria Gallo, Commission Coordinator; Jan Holle, Chief Compliance Audit Investigator; Kimber Bruce, Compliance Audit Investigator; Annalyn Carrillo, Education and Information Officer; Shannon Romero, CE Program Specialist; Deputy Attorney Generals Phil Su, Christal Keegan, Matthew Feeley, and Louis Csoka representing the Division.

6-E) NRED v Sherry Lynn Matzdorff, for possible action

Case # 2020-86

Parties Present

Sherry Lynn Matzdorff was present.

Charles Gianelloni, Esq. was present representing Ms. Matzdorff.

Phil Su, Senior Deputy Attorney General, was present representing the Division.

Opening Statements

Mr. Su gave his opening statement.

Mr. Gianelloni gave his opening statement.

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

President Filios stated that the State's exhibits are admitted.

State's Witness

Rebecca Bruce testified.

Mr. Gianelloni cross-examined Ms. Bruce.

Mr. Su re-examined Ms. Bruce.

Mr. Gianelloni re-cross-examined.

The witness was dismissed.

Respondent's Witness

Sherry Lynn Matzdorff testified.

Mr. Gianelloni moved to admit respondent's exhibits 169-408.

President Filios stated that the respondent's exhibits are admitted.

Mr. Su cross-examined Ms. Matzdorff.

Mr. Gianelloni re-examined Ms. Matzdorff.

The Commission questioned Ms. Matzdorff.

The witness was dismissed.

Respondent's Witness

Lynn Murrow was called as a witness.

Preliminary Matters

Mr. Su objected to Ms. Murrow as a witness because her testimony would not provide any relevance or evidence for the Commission to consider regarding any of the charges or discipline.

Mr. Gianelloni stated that there was significant time spent talking about these checks and funds that flowed through this system and Ms. Murrow is prepared to explain her expertise in this area and that everything that happened with Magic Homes is what she knows. Mr. Gianelloni stated that it is an area that is confusing, and we want to make sure that everyone knows that this voucher system makes it extremely difficult to get money before you do the work.

Mr. Su stated that the Commissioners are the experts with NRS 645, and we are not here to retry an Arizona case.

President Filios sustained the objection to Mr. Murrow as a witness.

Respondent's Witness

Erik Hakans testified.

The witness was dismissed.

Closing Statements

Mr. Su gave his closing statement.

Mr. Gianelloni gave his closing statement.

President Filios stated that as a contractor and a member of the contractor's board, he has seen several construction companies go under when a divorce occurs, and banks do voucher control to keep track of who gets what money. President Filios stated that after hearing the case, he believes it was proven that the respondent did not abscond with money.

Commissioner Plummer stated that he believes everything that was said today, and he is only looking at the violation of law and what the respondent did or did not do.

Commissioner Roth stated that violations 32 and 33 are yes or no, whereas 34 there is a little more latitude and he is not inclined to a big penalty.

Factual Allegations

Commissioner Plummer moved those factual allegations 1-3 have been proven. Seconded by Commissioner Tina. Motion carried.

Commissioner Plummer moved those factual allegations 4-10 have been proven. Seconded by Commissioner Gurr. Motion carried.

Commissioner Plummer moved those factual allegations 11-15 have been proven. Seconded by Commissioner Roth. Motion carried.

Commissioner Plummer moved those factual allegations 16-19 have been proven. Seconded by Commissioner Tina. Motion carried.

Commissioner Plummer moved those factual allegations 20-25 have been proven. Seconded by Commissioner Tina.

Commissioner Gurr stated that she has concerns regarding the wording for allegation 22 and sees it as miscommunication rather than intent to deceive.

Motion carried.

Commissioner Plummer moved those factual allegations 26-29 have been proven. Seconded by Commissioner Tina.

Commissioner Gurr stated that she has concerns regarding the language of some of these allegations that make it appear that there was deliberate misinformation being transmitted and she disagrees.

Commissioner Plummer stated that the words used in the allegations are misinformed and was miscommunicating, but it does not say intentionally.

Motion carried 3:2 with Commissioners Gurr and Filios opposed.

Commissioner Plummer moved that factual allegation 30 has not been proven. Seconded by Commissioner Roth. Motion carried.

Commissioner Plummer moved that factual allegation 31 has been proven. Seconded by Commissioner Gurr. Motion carried.

Violations of Law

Commissioner Plummer moved that violation of law 32 has been proven. Seconded by Commissioner Tina.

Commissioner Gurr stated that she has a problem with semantics regarding violation of law 32. Commissioner Gurr stated that NRS 645.633(1)(d)(2) gives the Commission the ability to take action against a person who has entered a plea, but it does not say that a person cannot enter that plea, and she does not see this as a violation.

Commissioner Plummer stated that the respondent did enter a plea which is NRS 645.633(1)(d)(2) to any crime involving fraud, deceit, misrepresentation, or moral turpitude.

Motion failed 2:3 with Commissioners Gurr, Roth, and Filios opposed.

Commissioner Gurr moved that violation of law 32 has not been proven. Seconded by Commissioner Roth. Motion carried 4:1 with Commissioner Tina opposed.

Commissioner Gurr moved those violations of law 33-34 have been proven. Seconded by Commissioner Tina.

Commissioner Roth stated that he does not have the same vote for both violations so would have to vote against.

Commissioner Gurr stated that she will withdraw her motion so the two violations can be voted on separately. Commissioner Tina agreed to withdraw his second of the motion.

Commissioner Gurr moved that violation of law 33 has been proven. Seconded by Commissioner Tina. Motion carried.

Commissioner Roth moved that violation of law 34 has not been proven. Seconded by Commissioner Gurr.

Commissioner Roth stated that he was persuaded by the respondent's attorney's argument that gross negligence was not involved in this case.

Commissioner Gurr stated that there were delays and she has reservations about whether those were deliberate, or whether it was confusion. Commissioner Gurr stated that the course of the communication showed that the respondent was very responsive.

Commissioner Plummer asked if the violation said gross negligence and incompetence instead of or, would there be a different interpretation.

Commissioner Gurr answered yes.

Motion failed 2:3 with Commissioners Gurr, Plummer, and Tina opposed.

Commissioner Plummer moved that violation of law 34 has been proven. Seconded by Commissioner Tina. Motion carried 3:2 with Commissioners Gurr and Roth opposed.

Division's Recommendation for Discipline

Jan Holle, Chief Compliance Audit Investigator presented this:

- \$10,000 fine plus the costs of the investigation and hearing in the amount of \$4,758.18 payable within six months from the effective date of the order.
- Modification to Ms. Matzdorff's license, whether that be revocation, or the current suspension remains in place due to NRS 645.330.

President Filios stated that he would remind the Commission that per the previous order holding the respondent's final commissions until this case was heard should be released to the respondent regardless of what the order is today.

Commissioner Plummer stated that he was hoping that the Commission could find a way to allow the respondent to keep her license and take care of clients, since it is her sole income. Commissioner Plummer stated that he is not inclined to go from the current suspension status of the respondent's license to revocation and would like some clarification of NRS 645.330.

Mr. Holle stated that NRS 645.330(2)(b)(1) and (2) states the Division shall not issue a license to such a person until at least three years after the person pays any fine or restitution ordered by the court or the expiration of the period of the person's parole, probation, or sentence, whichever is later. Mr. Holle stated that it is regarding the order of restitution and probation that was issued by the Arizona court.

Commissioner Plummer moved in case# 2020-86 Nevada Real Estate Division v Sherry Lynn Matzdorff that the respondent be fined \$10,000 plus the costs of \$4,758.18 for the investigation and hearing, all to be paid within six months of the effective date of the order, the respondent's licenses be revoked, and that any pending commissions currently being held by her broker be released. Seconded by Commissioner Roth.

Commissioner Gurr stated that she would recommend the fine be reduced to \$5,000.

Commissioner Roth agreed.

Motion failed 2:3 with Commissioners Gurr, Roth and Filios opposed.

Commissioner Gurr moved in the matter of NRED v Sherry Lynn Matzdorff case number 2020-86 that the respondent be fined \$5,000 plus administrative costs in the amount of \$4,758.18 all to be paid within six months of the effective date of the order, any commissions that the respondent earned and being held by her broker be released to her, and that her license be revoked pursuant to statute. Seconded by Commissioner Roth. Motion carried.

6-J) NRED v George L. Anderson, III, for possible action
Case # 2021-32

6-K) NRED v George L. Anderson, III, for possible action
Case # 2021-1228

Parties Present

George Anderson was present.

Lisa Rasmussen, Esq. was present representing Mr. Anderson.

Phil Su, Senior Deputy Attorney General, was present representing the Division.

Preliminary Matters

Ms. Rasmussen stated that she is trying to resolve this with the Division, but there has been some confusion because she came into the case late replacing Mr. Anderson's previous counsel and believes the case can be resolved without a contested hearing. Ms. Rasmussen requested that the case be continued until the next meeting to give time for a resolution.

Commissioner Plummer stated that there was a continuance granted at the December 13, 2022 meeting.

Ms. Rasmussen stated that she did request a continuance by letter in December until today's hearing.

Commissioner Plummer stated that with the continuance granted in December, it would be the Commission's intent that the attorney for the respondent be prepared for a hearing here today in February.

Ms. Rasmussen stated that she is prepared for the hearing but that she thinks there is a path to resolution.

Mr. Su stated that there was an answer to this case filed yesterday and it would probably behoove the Commission to review the answer before the matter is adjudicated.

Commissioner Gurr stated that the complaint deals with allegations of the comingling of funds, and she has concerns about continuing the case.

Ms. Rasmussen stated that this matter is complicated but there is a concurrent matter with the other broker for the same agency that was resolved in December, which were Kenneth Calder case numbers 2021-1227 and 2021-1230. Ms. Rasmussen stated that Mr. Anderson's previous lawyer told him that he should have separate representation and that is how she got involved. Ms. Rasmussen stated that she just learned yesterday that the previous attorney did not file an answer and that is why she filed the answer yesterday. Ms. Rasmussen stated that looking at the resolution with Kenneth Calder, it is not far apart from the resolution she offered last night and that is why she thought the matter could be resolved.

Mr. Su stated that if Mr. Anderson is willing to accept an order from the Commission that he is subject to a temporary suspension of his license pending these cases being heard before the Commission then the Division would talk about a continuance.

Ms. Rasmussen stated that Mr. Anderson would agree to that.

Commissioner Gurr moved in the matters of NRED v George L. Anderson, III case numbers 2021-32 and 2021-1228 that pursuant to the stipulation of the parties, the respondents license be temporarily suspended pending the next scheduled meeting of the Commission. Seconded by Commissioner Roth. Motion carried.

6-P) NRED v Thelma Franco-Young, for possible action

Case # 2018-377

Parties Present

Thelma Franco-Young was not present.

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

Preliminary Matters

Mr. Csoka stated that standard documents in this case that include the Complaint and Notice of Hearing, Notice of Documents, and Notice of Complaint and Obligation to Respond were served upon the respondent on January 13, 2023 and there has been no answer filed. Mr. Csoka stated that a Notice of Default was served upon the respondent and based on these facts, the Division would like to proceed as a default.

State's witness

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

Mr. Csoka asked that the State's exhibits be admitted as State's exhibit 1.

President Filios stated that the State's exhibits are 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 Plummer. Motion carried.

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

Commissioner Gurr moved in the matter of Nevada Real Estate Division v Thelma Franco-Young case# 2018-377 that the factual allegations and violations have been proven. Seconded by Commissioner Tina. Motion carried.

Division's Recommendation for Discipline

Jan Holle, Chief Compliance Audit Investigator presented this:

- \$75,000.00 fine plus the cost of the investigation and hearing in the amount of \$7,592.18 to be paid within 90 days of the effective date of the order.
- Revocation of all licenses and permits.

Commissioner Gurr moved in case# 2018-377 that the respondent be fined \$75,000 plus administrative costs in the amount of \$7592.18 all payable within 90 days of the effective date of

the order, and that all respondent's licenses, permits, and certifications be revoked. Seconded by Commissioner Tina. Motion carried.

6-F) NRED v Kea Rana, for possible action

Case # 2021-264

6-G) NRED v Kea Rana, for possible action

Case # 2022-339

6-H) NRED v Kea Rana, for possible action

Case # 2022-890

Parties Present

Kea Rana was present.

Greg Wilde was present representing Ms. Rana.

Phil Su, Senior Deputy Attorney General was present representing the Division.

Preliminary Matters

Mr. Su stated that he was informed by email that Ms. Rana filed a chapter 13 voluntary petition for bankruptcy.

Mr. Wilde stated that the Commission has the authority to suspend Ms. Rana's license, and she is ready to surrender that license today, but the Commission does not have the authority to create any type of record or issue any fines today because that would interfere with his client's property estate.

Commissioner Roth moved for case numbers 2021-264, 2022-339, and 2022-890 that the respondent's licenses, permits, and certifications be temporarily suspended until the first meeting of the Commission after the bankruptcy is resolved. Seconded by Commissioner Gurr.

Mr. Wilde stated that he does not want to mislead the Commission because a chapter 13 bankruptcy takes 3-5 years, but he believes he could confirm a plan in 6-9 months. Mr. Wilde stated that the stay is not lifted until the discharge which could be 3-5 years. Mr. Wilde stated that he would suggest tabling this issue for a year until the respondent has a confirmed plan.

Motion carried.

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

Case # 2020-401

Parties Present

Ronald Powell was not present.

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

Preliminary Matters

Mr. Csoka stated that the attorney representing Mr. Powell emailed yesterday stating that he would be in hearings and would not be able to attend the meeting. Mr. Csoka stated that the parties are close to reaching a settlement and request that this matter be continued until the next Commission meeting.

President Filios stated that the continuance would be granted until the next Commission meetings scheduled for May 2-4, 2023.

6-N) NRED v Ahmad Sharif-Yazdi, for possible action
Case # 2020-478

Parties Present

Ahmad Sharif-Yazdi was present.

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

Preliminary Matters

Mr. Csoka stated that he and the respondent stipulate to the admission of each other's exhibits.

President Filios stated that the State's exhibits and the respondent's exhibits would be admitted.

Opening Statements

Mr. Csoka gave his opening statement.

Mr. Sharif-Yazdi gave his opening statement.

State's Witness

Maria Martin testified.

Mr. Sharif-Yazdi cross-examined Ms. Martin.

Mr. Csoka re-examined Ms. Martin.

The Commission questioned Ms. Martin.

The witness was dismissed.

Mr. Sharif-Yazdi stated his case.

The Commission questioned Mr. Sharif-Yazdi.

Mr. Csoka cross-examined Mr. Sharif-Yazdi.

Closing Statements

Mr. Csoka gave his closing statement.

Mr. Sharif-Yazdi gave his closing statement.

Factual Allegations

Commissioner Gurr moved those factual allegations 1-10 and factual allegation 15 have been proven. Seconded by Commissioner Roth. Motion carried.

Commissioner Gurr moved that factual allegation 11 has been proven. Seconded by Commissioner Plummer. Motion carried.

Commissioner Gurr moved that factual allegation 12 has not been proven. Seconded by Commissioner Tina.

Commissioner Gurr stated that the lease says that normal wear and tear would not be charged to the tenant.

Commissioner Gurr withdrew her motion.

Commissioner Gurr stated that allegation 12 states in particular, the lease makes clear that “normal wear and tear” under the lease would not be charged to the tenant.

Commissioner Gurr moved that factual allegation 12 has been proven. Seconded by Commissioner Plummer. Motion carried.

Commissioner Plummer moved that factual allegation 13 has not been proven. Seconded by Commissioner Roth. Motion carried.

Commissioner Plummer moved that factual allegation 14 has not been proven. Seconded by Commissioner Gurr. Motion carried.

Violations of Law

Commissioner Gurr moved that violation of law 1 has not been proven. Seconded by Commissioner Roth. Motion carried.

7) Public Comment

No public comment.

8) For Possible Action: Adjournment

Meeting recessed at 4:35 p.m. on February 22, 2023.

**NEVADA REAL ESTATE COMMISSION
MINUTES**

IN PERSON AND VIRTUAL VIA WEBEX

February 23, 2023

Nevada State Business Center
3300 W. Sahara Avenue
4th Floor – 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 9:15 AM

2) Public Comment

No public comment.

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 Chricy Harris.

1-B) Introduction of Division Staff in Attendance

Sharath Chandra, Administrator; Charvez Foger, Deputy Administrator; Shareece Bates, Administration Section Manager; Maria Gallo, Commission Coordinator; Jan Holle, Chief Compliance Audit Investigator; Deputy Attorney Generals Phil Su, Christal Keegan, and Louis Csoka representing the Division.

6-I) NRED v Allan N. Rothstein, for possible action

Case # 2020-359

Parties Present

Allan Rothstein was present.

Phil Su, Senior Deputy Attorney General was present representing the Division.

Preliminary Matters

Mr. Su stated that both parties have reviewed the exhibits. Mr. Su stated that this case was heard as a default on March 29, 2022 because the respondent did not appear, and then the respondent filed a motion for rehearing that was granted which brings us here today to hear this matter. Mr. Su stated that on January 5, 2023, the Division filed a First Amended Complaint that contains the

same facts, but the violations have been separated out, so they are not lumped together, and the respondent filed an answer to this complaint.

Opening Statements

Mr. Su gave his opening statement.

Mr. Rothstein gave his opening statement.

Mr. Su stated that he needed to make a clarifying statement because he has not seen all the respondent's documents. Mr. Su stated that Mr. Rothstein provided documents to the Division last night and did not receive them until now and according to NAC 645.850, documents are to be produced no less than 5 working days prior to a hearing. Mr. Su stated that the documents produced yesterday should be excluded because he has not had time to review.

Mr. Rothstein stated that it has taken him weeks to prepare because there are numerous documents, and he has been having been having problems with his computer and printer, as well as not being able to stay awake for long periods of time due to lack of oxygen in his blood. Mr. Rothstein stated that he apologizes for taking so long to produce the documents which was not a simple task for him and asks that his documents be allowed.

President Filios stated that at this time, the respondent's documents will not be admitted, but when Mr. Rothstein presents his case, it will be decided which documents will be allowed.

State's Witness

Maria Martin testified.

Mr. Rothstein had no questions.

Respondent's Witness

Andrew Wasielewski testified.

Mr. Rothstein stated his case.

Mr. Rothstein asked for respondent's exhibit 6 to be admitted into evidence because it would show that he did have a sign with his business on it.

Mr. Su stated that the Division had no objection.

President Filios stated that respondent's exhibit 6 is admitted.

Mr. Rothstein asked for respondent's exhibit 17 to be admitted into evidence.

Mr. Su stated that the Division had no objection.

Mr. Rothstein asked for respondent's exhibit 3 be admitted into evidence.

Mr. Su stated that the Division was okay with exhibit 3 pages 1-15 but objected to pages 16-19 because those pages deal with moving in not moving out.

President Filios stated that only respondent's exhibit 3 pages 1-15 will be admitted, and pages 16-19 are denied.

Mr. Rothstein asked for respondent's exhibit 10 to be admitted into evidence.

Mr. Su stated that the Division had no objection.

Ms. Harris stated that respondent's exhibit 10 is admitted.

Mr. Rothstein asked for respondent's exhibit 4 to be admitted into evidence.

Mr. Su stated that the Division had no objection.

Ms. Harris stated that respondent's exhibit 4 is admitted.

Mr. Rothstein asked for respondent's exhibit 13 to be admitted into evidence.

Mr. Su stated that the Division had no objection.

Ms. Harris stated that the respondent's exhibit 13 is admitted.

Mr. Rothstein asked for respondent's exhibit 19 to be admitted into evidence.

Mr. Su stated that the Division had no objection.

Ms. Harris stated that respondent's exhibit 19 is admitted.

Mr. Rothstein asked for respondent's exhibit 8 to be admitted into evidence.

Mr. Su stated that the Division had no objection.

Ms. Harris stated that respondent's exhibit 8 is admitted.

Mr. Rothstein asked for respondent's exhibit 18 to be admitted into evidence.

Mr. Su stated that he objects because there is no relevance.

President Filios stated that the objection is sustained.

Mr. Rothstein asked for respondent's exhibit 7 to be admitted into evidence.

Mr. Su stated that the Division had no objection.

Ms. Harris stated that respondent's exhibit 7 is admitted.

Mr. Rothstein asked for respondent's exhibit 2 to be admitted into evidence.

Mr. Su stated that the Division had no objection.

Ms. Harris stated that the respondent's exhibit 2 is admitted.

Mr. Rothstein asked for respondent's exhibit 15 to be admitted into evidence.

Mr. Su stated that the Division objected to respondent's exhibit 15 because it is criminal records of the tenant.

President Filios stated that the objection is sustained.

Mr. Su stated that the Division had no questions.

The Commission questioned Mr. Rothstein.

Closing Statements

Mr. Su gave his closing statement.

Mr. Rothstein gave his closing statement.

President Filios stated that there is a preponderance of evidence that Mr. Rothstein should not be licensed. President Filios stated that Mr. Rothstein's own testimony was that he has trouble remembering and problems with dementia.

Factual Allegations

Commissioner Gurr moved those factual allegations 2-10, 12-41, and 43-51 have been proven. Seconded by Commissioner Tina. Motion carried.

Commissioner Gurr stated that she left out factual allegation 11 because the location was a multi-business facility with a board inside the locked door which was locked by the owner of the property and not the respondent where there was a large window to one side, and no one disputed that the board could not be seen through the window.

Commissioner Gurr stated that she left out factual allegation 42 because she does not recall a discussion of whether the walk through of the property was done by Mr. Rothstein or one of his employees prior to the tenant leaving.

Commissioner Plummer moved those factual allegations 11 and 42 have not been proven. Seconded by Commissioner Gurr. Motion carried.

Violations of Law

Commissioner Plummer moved that violation of law 1 has been proven. Seconded by Commissioner Gurr. Motion carried.

Commissioner Gurr moved those violations of law 2-7 have been proven. Seconded by Commissioner Tina. Motion carried.

Commissioner Gurr moved violation of law 8 has been proven. Seconded by Commissioner Plummer. Motion carried.

Commissioner Gurr moved those violations of law 9-11 have been proven. Seconded by Commissioner Tina. Motion carried.

Commissioner Gurr moved that violation of law 12 has not been proven. Seconded by Commissioner Tina.

Commissioner Gurr stated that it is not uncommon to leave real estate signs on properties with the consent of the person that occupies the property.

Motion carried.

Commissioner Gurr moved that violation of law 13 has been proven. Seconded by Commissioner Tina. Motion carried.

Commissioner Gurr moved that violation of law 14 has not been proven. Seconded by Commissioner Plummer. Motion carried.

Commissioner Gurr stated that statutory language is clear that we are not allowed to business anywhere except the business address that is on the license, but that is not common practice anymore and there have been past discussions of this statute needing to be revised because people do business on the go and even want to have their businesses in their homes.

President Filios stated that this case is a perfect example of why the statute should not be changed because it would create risks by having clients or members of the public going into someone's home.

Commissioner Plummer stated that there could be restrictions within the homeowner's association of operating a business out of your home.

Commissioner Plummer moved that violation of law 15 has been proven. Seconded by Commissioner Gurr.

Commissioner Tina stated that he agrees with all the points that have been made and in the real world, everyone in the room with a real estate license would be guilty of violating this statute.

Commissioner Roth stated that the Commission cannot hold someone to a higher standard than we hold ourselves.

Motion carried 4:1 with Commissioner Gurr opposed.

Commissioner Gurr moved those violations of law 16-21 has been proven. Seconded by Commissioner Tina. Motion carried.

Division's Recommendation for Discipline

Jan Holle, Chief Compliance Audit Investigator presented this:

- \$90,000 fine plus the investigative costs and hearing of \$6,237.04 payable with 6 months
- Revocation of all licenses and permits

Commissioner Tina moved in the matter of the Nevada Real Estate Division v Allan Rothstein case# 2020-359 that the respondent be fined \$90,000 plus the administrative costs of \$6,237.04 all payable with 6 months of the effective date of the order, and that the respondent's licenses, permits, and certifications be revoked. Seconded by Commissioner Gurr. Motion carried.

6-O) NRED v Emigdio Martinez-Pineda, for possible action
Case # 2020-544

Parties Present

Emigdio Martinez was present via Webex.

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

Preliminary Matters

Mr. Csoka stated that providing that the respondent agrees, he would like to admit the Division's exhibits in this case.

Mr. Emigdio stated that he agrees.

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

Opening Statements

Mr. Csoka gave his opening statement.

Mr. Emigdio gave his opening statement.

State's Witness

Maria Martin testified.

Mr. Martinez-Pineda cross-examined Ms. Martin.

The Commission questioned Ms. Martin.

The witness was dismissed.

President Filios stated that this case would be continued until the next Commission meeting scheduled for May 2-4, 2023.

Commissioner Tina moved to continue this case until the May 2-4, 2023 Commission meetings. Seconded by Commissioner Roth. Motion carried.

7) Public Comment

Andrew Wasielewski stated that when you come into this building from the lower parking lot to the upper parking lot there is a pathway going through the vegetation and rocks and he would like to see steps with railing because it appears that a lot of people walk through there.

Mr. Wasielewski stated that President Filios commented on a point of law that was considered for change and if people are allowed to practice at some place other than their business, that those people are required to have a registered commercial address on file with the Secretary of State for the process of service because he has heard several instances in the last 3 days where people are having problems finding a realtor after they stole their property.

Mr. Wasielewski stated that if there is a contested hearing, the complainant should attend the hearing to be able to provide a background that the investigator might not have asked about during the investigation process.

8) For Possible Action: Adjournment

Meeting adjourned at 4:33 p.m. on February 23, 2023.

Prepared by: Kelly Valadez