

**NEVADA REAL ESTATE COMMISSION
MINUTES**

IN PERSON AND VIRTUAL VIA WEBEX

February 20, 2024

Nevada State Business Center
3300 W. Sahara Avenue
4th Floor – Nevada Room
Las Vegas, Nevada 89102

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

The meeting was called to order at 9:11 AM

1-A) Introduction of Commissioners in Attendance

Lee Gurr, Elko County; Darrell Plummer, Washoe County; Donna A. Ruthe, Clark County; David Tina, Clark County; and Russell Roth, Clark County.

Commission Counsel: Deputy Attorney General Matthew Feeley

1-B) Introduction of Division Staff in Attendance

Sharath Chandra, Administrator; Charvez Foger, Deputy Administrator; Shareece Bates, Administration Section Manager; Kelly Valadez, Commissioner Coordinator; Maria Gallo, Commission Coordinator; Jan Holle, Chief Compliance Audit Investigator; Annalyn Carrillo, Education and Information Officer; Shaun McLean, Compliance Audit Investigator; Senior Deputy Attorney General Phil Su, Deputy Attorney General Christal P. Keegan, Deputy Attorney General Cris Maher, and Deputy Attorney General Samuel Taylor representing the Division.

2) Public Comment

Justyn Vander-Heyden submitted written public comment that was read into the record by Shareece Bates.

3) For Possible Action and Decision: Adoption Hearing for LCB File No. R199-22 on February 20, 2024 @9:00 A.M.

Section 1

Shareece Bates read Section 1 into the record.

No public comment.

Section 2

Shareece Bates read Section 2 into the record.

Annie Montgomery, general counsel for the Nevada Realtors, stated her appreciation for everyone involved in the process. Ms. Montgomery stated that the association’s understanding of the motivation for the regulation was the need for the regulatory updates to allow for distance education. Ms. Montgomery stated that the proposed regulations also have a new registration process for instructors to hopefully decrease the amount of paperwork and time for course approval. Ms. Montgomery stated that the association solicited feedback from its members, educators, and local associations to ensure the membership has adequate opportunities to provide their input and to ensure that new regulations in practice don’t have unintended consequences. Ms. Montgomery stated that many concerns expressed by the membership were resolved due to collaboration with the Division.

Section 3

Shareece Bates read Section 3 into the record.

Neil Schwartz, stated that the regulation should read that sponsors with classes of more than 20 virtual attendees, be required to have a monitor.

Section 4

Shareece Bates read Section 4 into the record.

No public comment.

Section 5

Shareece Bates read Section 5 into the record.

No public comment.

Section 6

Shareece Bates read Section 6 into the record.

Steven Kitnick, representing Steven Kitnick Seminars, stated his opposition to allowing sponsors to market courses prior approval. Mr. Kitnick asked who would monitor the courses that were not approved and who would be responsible for the refund process.

Section 7

Shareece Bates read Section 7 into the record.

No public comment.

Section 8

Shareece Bates read Section 8 into the record.

No public comment.

Section 9

Shareece Bates read Section 9 into the record.

No public comment.

Section 10

Shareece Bates read Section 10 into the record.

No public comment.

Section 11

Shareece Bates read Section 11 into the record.

Neil Schwartz, asked whether instructor workshops would be mandatory. Mr. Schwartz stated that in the past, instructor workshops were not held regularly due to funding and other possible reasons. Mr. Schwartz also stated that some associations require their faculty to attend mandatory workshops. Mr. Shwartz asked whether these workshops would fulfill this workshop requirement.

Keith Kelley, faculty member of Las Vegas Realtors, echoed Mr. Schwartz's comments. Mr. Kelley stated that every 2 years faculty members are required to take an instructor workshop. Mr. Kelley stated as a nationally approved REBAC instructor, they are also required to take classes for instructor development and to receive updated materials. Mr. Kelley stated he would like to see those classes be approved to fulfill the workshop requirement.

Margaret Finel, stated that regulation currently reads that an instructor is required to have experience in each field, but the practice of real estate encompasses each field with each transaction. Ms. Finel stated it is difficult to delineate each field separately.

Steven Kitnick asked the consequence if the Division does not offer the workshops regularly, will the requirement be waived? Mr. Kitnick also stated with respect to his colleagues that are faculty members, his understanding of the regulation is that the workshop is to be held regularly and facilitated by the Division.

Sharath Chandra, Administrator for the Division, pointed out that the language proposed in the section is meant to be inclusive not exclusive. Mr. Chandra stated the Division would work with the Legislative Counsel Bureau (LCB) to come up with the appropriate language. Mr. Chandra stated the intent of the language was to qualify instructors with either 75 hours in a field or 3 years, not exclusive to each section. Regarding the workshops, Mr. Chandra stated that the goal is to have regularly scheduled workshops. Mr. Chandra also stated that the language also allows for an exemption for the Division to offer the workshops virtually and be considered as live instruction. Mr. Chandra stated that the Division may need to consider adding language to allow the Division to review and possibly approve of a state or nationally approved workshop.

President Gurr stated her understanding of the intent of the language was to allow workshops to tune up instructors on the way they instruct, not their content, similar to instructor training conducted by other organizations.

Section 12

Shareece Bates read Section 12 into the record.

No public comment.

Section 13

Shareece Bates read Section 13 into the record.

No public comment.

Section 14

Shareece Bates read Section 14 into the record.

Cain Tapp, posed a question regarding the language, '*course consists of at least 1 hour of instruction*'; Mr. Tapp asked whether online classes can be one hour or if three hours is required.

President Gurr responded stating the language states 'at least' one hour of instruction.

Mr. Chandra also clarified that the section is specific to distance education.

President Gurr restated the requirement relates back to the statutory language in post-licensing courses as being at least one hour.

Section 15

Shareece Bates read Section 15 into the record.

No public comment.

Section 16

Shareece Bates read Section 16 into the record.

No public comment.

Section 17

Shareece Bates read Section 17 into the record.

Erin Schiller stated that language may need to be added to give consideration to accommodate medical issues, and times where a class attendee may need to be absent from the camera.

Section 18

Shareece Bates read Section 18 into the record.

No public comment.

Section 19

Shareece Bates read Section 19 into the record.

No public comment.

Section 20

Shareece Bates read Section 20 into the record.

No public comment.

Section 21

Shareece Bates read Section 21 into the record.

No public comment.

Section 22

Shareece Bates read Section 22 into the record.

No public comment.

Section 23

Shareece Bates read Section 23 into the record.

No public comment.

Section 24

Shareece Bates read Section 24 into the record.

Sharath Chandra stated that the language in this section may address some concerns regarding the frequency of the instructor workshops. Mr. Chandra stated that under this section, the Division would have the ability to conduct the workshops virtually or pre-recorded to increase the frequency.

Suzanne Casupang asked for clarification regarding records being kept by the Division. Ms. Casupang asked whether the Division maintains a list of CE classes by CE number. Ms. Casupang stated it is difficult to keep up with the different requirements for the Division and the association.

President Gurr stated that a renewal period is only 2 years, so a person should be able to communicate with the online course provider to request copies of certificates and/or course

materials. President Gurr suggested that Ms. Casupang contact the Education section of the Division for any questions.

Mr. Chandra reiterated that the language in this particular section is referring to the requirement of the sponsors/organization to maintain the records.

Keith Kelley stated that he encourages his students to check their 'My Account' on the Division's website, to ensure that their courses are being recorded and to verify what courses they have taken. Mr. Kelley stated that some students state that their 'My Account' records are not being updated sufficiently. Mr. Kelley stated there should be more done to ensure that the providers are updating student information timely and accurately.

Eileen Anne Coming stated that licensees should keep accurate records of all courses taken to avoid relying on others. Ms. Coming stated that in a number of classes she attended, an instructor did not allow a student to take a repeat course in a subsequent renewal period, if the class identification number was the same as what is registered with LVR.

Shannon Garcia stated her agreement with Ms. Coming's comments that it is the responsibility of the licensee to maintain their class records.

Section 25

Shareece Bates read Section 25 into the record.

No public comment.

Section 26

Shareece Bates read Section 26 into the record.

No public comment.

Section 27

Shareece Bates read Section 27 into the record.

Sharath Chandra stated the reason for the language is that the Division anticipates a soft landing of when the process will begin with the new process of registering instructors. Mr. Chandra stated there were minor adjustments to the dates were made to align with other sections of the proposed regulation but ultimately the Division has the discretion to begin the process. Mr. Chandra stated the Division will provide plenty of notice to everyone at the onset.

Section 28

Shareece Bates read Section 28 into the record.

No public comment.

Section 29

Shareece Bates read Section 29 into the record.

No public comment.

President Gurr asked the next steps in the process. Mr. Chandra stated the Division will submit the proposed changes back to LCB for a final review. After the LCB review, the draft goes before the Interim Finance Committee for final approval. Mr. Chandra stated the goal of this regulation was to move those live-instruction practices that are being worked under administrative rule enacted since the pandemic, into regulation.

Steven Kitnick asked to give one final comment on Section 6. Mr. Kitnick stated that the marketing of a course prior to approval, does not protect the licensee. Mr. Kitnick stated the importance of a thorough review by the Education section.

The public workshop portion of the hearing was closed at 11:32am.

Commissioner Discussion and Deliberation

Commissioner Ruthe asked the proper process for discussing the regulation.

President Gurr stated to maintain a clear record, the Commission should review each section at a time.

Sharath Chandra stated that the best process would be for the Commission to review each section one by one and then take a vote or group them and take a vote as they wish.

Section 2

No comment

Section 3-8

Commissioner Ruthe stated her agreement with comments made by Mr. Schwartz, that a monitor be required for classes of more than 20 students.

Commissioner Plummer stated that he also believes that in order for the instruction to be effective, a monitor must be required for more than 20 students to avoid distraction.

Commissioner Tina expressed his agreement with the requirement of a monitor.

Commissioner Roth agreed with the requirement.

President Gurr stated she believes a monitor should be required for all virtual classes regardless of the size.

Commissioner Plummer agreed with the suggestion by President Gurr, that a monitor be required for all virtual classes.

Mr. Chandra suggested that the Commission can provide new language to be drafted regarding the requirement or pursuant to *section 22, subsection 6*, the Division could, as part of its manual, prescribe the specific recommendations. Due to the newness of the language, it may allow for more flexibility and time to evaluate the process.

President Gurr stated her concern is that the language referenced in section 22, subsection 6, states the Division may publish a manual. Commissioner Gurr stated should the creation of the manual take longer than the onset of the process, there may be an issue with lack of recommendation.

Commissioner Ruthe stated having an option would be beneficial cost wise and leaves the decision of having a monitor to the discretion of the instructor; for instance, if a class has only 4 students, a monitor may not be required by the instructor.

Mr. Chandra stated that the Division could work with LCB to come up with language that allows some discretion.

Matthew Feeley, commission counsel, agreed with the assessment of Mr. Chandra that the language be added in a different section or left to be added in the Division's manual.

Commissioner Plummer stated the language should be clear whether this recommendation also includes hybrid classes.

Mr. Chandra stated the word 'may' was added regarding the publishing of the manual to allow the Division time to complete the document. Mr. Chandra stated that once the regulations have passed, the Division will look at references throughout the state and find the appropriate language to ensure that the recommendations are fair to all throughout the state.

Commissioner Plummer made a motion that the Division work with LCB to establish, in the appropriate section, language that requires a monitor with 5 or more individuals in a virtual platform. Seconded by Commissioner Roth.

Commissioner Tina stated he is not an instructor and would therefore yield to those with experience regarding the capacity of an instructor.

Commissioner Ruthe stated that 5 students seemed a bit low and suggested a larger number be considered that would also take into consideration costs and time required.

Motion passed 3:2 with Commissioner Ruthe and Commissioner Tina opposed.

Commissioner Tina moved to approve Sections 1-8. Seconded by Commissioner Roth.

Commissioner Ruthe asked for further discussion regarding Section 6.

Commissioner Roth questioned why a sponsor would advertise prior to course approval.

Commissioner Plummer offered an example of a sponsor hiring a nationally approved instructor, the course may not be submitted to the Division for review or approval. Commissioner Plummer stated the issue is that of the sponsor to disclose its refund policy.

President Gurr stated she would prefer that a sponsor not accept payment until after approval of the course. President Gurr suggested that section 6 (1)(b) be moved under subsection 2.

Mr. Chandra stated that the provision could be read to mean that payment should not be accepted prior to approval; this provision allows for marketing of a course.

Commissioner Plummer stated that oftentimes participants are willing to pay for a class to lock in reduced pricing. Commissioner Plummer stated the sponsors want to know that the funds are available to pay for their expenses.

Mr. Chandra responded that the language in section 6, came from feedback received from the first workshop. Mr. Chandra stated the Division is not planning to monitor every posting, however complaints received will be evaluated.

Motion passed 5:0.

Section 9-10

Commissioner Plummer moved to approve Sections 9-10. Seconded by Commissioner Ruthe.

Motion passed 5:0.

Section 11

President Gurr asked if subsection 4(a) 1-4 have to be met in order for someone to be eligible and what the intent is of the language.

Mr. Chandra stated that a person may be registered as an instructor if they meet any of the four requirements. Mr. Chandra stated the intent was to make the language inclusive, but staff would work with LCB to come up with different language.

Mr. Feeley stated that the addition of the word 'or' after each number may be sufficient to imply that any one provision may be met. Mr. Feeley also stated that one 'or' at the end may also be sufficient as read.

Commissioner Plummer stated that he reads the language as intended and does not see the need for a change.

Commissioners Ruthe, Roth and Tina agreed with Commissioner Plummer's statement.

Commissioner Tina moved to approve Section 11 as written. Seconded by Commissioner Ruthe.

Motion passed 5:0.

Section 12

Commissioner Tina moved to approve Section 12. Seconded by Commissioner Roth.

Motion passed 5:0.

Section 13

Commissioner Ruthe moved to approve Section 13. Seconded by Commissioner Plummer.

Motion passed 5:0.

Section 14

Commissioner Ruthe moved to approve Section 14. Seconded by Commissioner Tina.

President Gurr asked whether courses referenced in subsection 1 (c) are provided virtually. President Gurr stated that if a recorded course attending virtually or pen and paper, a test is appropriate. President Gurr stated that live instruction should not be included in the testing requirement.

Mr. Chandra answered that some classes can be provided virtually and/or live. Mr. Chandra stated that the intent is that virtual instruction is considered as real time.

Motion passed 5:0.

Section 15

Commissioner Plummer moved to approve Section 15. Seconded by Commissioner Tina.

Motion passed 5:0.

Section 16

Commissioner Tina moved to approve Section 16. Seconded by Commissioner Ruthe.

Motion passed 5:0.

Section 17

President Gurr questioned whether an attendee was required to have their full body visible on screen or just their face.

Mr. Chandra stated that the language states, '*an instructor may allow a student*', this allows an instructor the discretion to make decisions during their class. Mr. Chandra stated that the intent was not to try to anticipate every possibility in regulation but to ultimately lay a framework for instructors. Mr. Chandra stated that individuals with concerns or complaints can always contact the Division.

Commissioner Tina moved to approve Section 17. Seconded by Commissioner Roth.

Motion passed 5:0.

Section 18

Commissioner Ruthe moved to approve Section 18. Seconded by Commissioner Plummer.

Motion passed 5:0.

Sections 19-20

Commissioner Plummer stated that there may be a typo on the citation of the regulation, and it should read as NAC 645.442.

Commissioner Ruthe moved to approve Section 19 with the noted corrected. Seconded by Commissioner Tina.

Motion passed 5:0.

Mr. Chandra advised the Commission that the regulation was cited correctly as NAC 645.4442.

Commissioner Ruthe moved to withdraw her motion to approve Section 19. Seconded by Commissioner Tina.

Motion passed 5:0.

Commissioner Tina moved to approve Sections 19-20. Seconded by Commissioner Roth.

Motion passed 5:0.

Sections 21-23

Commissioner Ruthe moved to approve Sections 21-23. Seconded by Commissioner Tina.

Motion passed 5:0.

Section 24

Commissioner Plummer moved to approve Section 24. Seconded by Commissioner Roth.

Motion passed 5:0.

Sections 25-29

Commissioner Plummer moved to approve Sections 25-29. Seconded by Commissioner Ruthe.

Motion passed 5:0.

Minutes prepared by: _____

Shareece Bates
Administration Section Manager

7-B) NRED v Marshall Carrasco, for possible action
Case No. 2023-533

Parties Present

Marshall Carrasco was present.

Thierry V. Barkley, Esq. was present representing Mr. Carrasco.

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

Preliminary Matters

Ms. Keegan stated that the complainant in this matter, Margaret Duarte, is present and would like to give a statement after the Commission considers the settlement.

Ms. Keegan stated that a settlement had been reached in this matter and gave a summary of the complaint. Ms. Keegan stated that the presentation of the signed stipulated agreement is subject to Mr. Carrasco providing proof of making the complainant whole, which has not yet occurred. Ms. Keegan stated that Mr. Carrasco's attorney stated that the funds will clear by Friday, February 23, 2024. Ms. Keegan stated that the stipulation is being presented for the Commission's approval, but she would request that the Commission not sign the order until the funds are received by Ms. Duarte.

Ms. Keegan read the summary of the alleged violations of law and proposed settlement into the record.

Settlement

- Presentation of this Stipulation for Settlement Agreement to the Commission is subject to the Respondent demonstrating proof that he has made the Complainant whole on the \$19,169.64.
- Respondent agrees to pay the Division a total amount of \$5,585.28 ("Amount Due"), consisting of the Division's pre-hearing costs and fees in the amount of \$560.00, and the Attorney's pre-hearing costs and fees in the amount of \$5,025.28 in full within 30 days of entry of Order.

President Gurr asked Mr. Carrasco if he has read and understands the terms of the stipulation for settlement.

Mr. Carrasco answered yes.

Mr. Barkley stated that he spoke with the complainant and that she has provided her wire transfer information. Mr. Barkley stated that the payment was made by Mr. Carrasco's errors and omission insurance carrier and the full limits were tendered by that insurance carrier to resolve this dispute. Mr. Barkley stated that the check did not reach his office until he was able place the check with their trust department in Oakland this past Friday and there will be a 7-day hold in accordance with their internal offices. Mr. Barkley stated that as soon as the check clears the 7-day hold, the wire transfer will be processed to the claimant. Mr. Barkley stated for the remainder of the checks, one in the amount of \$4754.92 would be issued by Marshall Realty, the balance would come from the trust check.

Ms. Keegan stated that Attorney Barkley represented that the funds will be satisfied or sent to the complainant by Friday, February 23, 2024.

Mr. Barkley stated yes, he was able to confirm this morning that the check has reached the trust department, and he does expect the funds to go through on Friday or by the following Monday.

Margaret Duarte stated that real estate agents have a fiduciary duty to their clients, obligating them to act in their client's best interest. Ms. Duarte stated that regrettably, Mr. Carrasco failed to fulfill this obligation. Ms. Duarte stated that when she engages a professional, it is with the expectation that their expertise will ensure the task is executed competently. Ms. Duarte stated that in January 2021 she enlisted Mr. Carrasco's services for the sale of her home in Sparks, Nevada, placing her trust in him to oversee a smooth transaction. Ms. Duarte stated that Mr. Carrasco neglected his responsibilities as a real estate broker resulting in the breach of that trust causing her a great amount of stress, not to mention the great amount of money that was lost. Ms. Duarte stated that if Mr. Carrasco had executed his duties diligently, she would not find herself in this situation today.

Commissioner Tina moved in the matter of NRED vs Marshall Carrasco case number 2023-533 that this Commission accept the stipulation so entered. Seconded by Commissioner Ruthe.

Commissioner Tina stated that he amends his motion to include the stipulation be accepted subject to the funds being deposited to all parties. Seconded by Commissioner Ruthe.

Motion carried.

5-A) For Possible Action: Discussion and Decision Regarding Respondent's Petition for Reconsideration of Discipline and, Alternatively Petition for Rehearing.

NRED v Marshall Carrasco
Case Nos. 2021-1122 and 2022-120

Parties Present

Marshall Carrasco was present.

Hal Taylor, Esq., was present representing Mr. Carrasco.

Robert Merlo, Esq. was present representing Mr. Carrasco.

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

Preliminary Matters

Mr. Taylor stated that he represents Mr. Carrasco, but for the purposes of this hearing, Mr. Merlo is also present and there has been a motion filed to associate him as counsel for the Commission's consideration.

Ms. Keegan stated that the motion to associate counsel was received on Thursday, February 15, 2024, and she would like to clarify when Mr. Merlo was retained by Mr. Carrasco, if Mr. Merlo filed any supplement in support of Mr. Carrasco's motion, and if Mr. Merlo is aware of NAC 645.820(4) which states oral arguments in support of the petition are not permitted.

Mr. Merlo stated that he was retained by Mr. Carrasco approximately one month to 6 weeks ago and he is only aware of the motion itself being filed with the Division, and that he is aware of NRS 645.820(4).

Ms. Keegan stated that the State has no objection to the motion to associate counsel.

Mr. Taylor stated that he submits the motion for consideration by the Commission.

President Gurr stated that the motion is granted.

Ms. Keegan stated that the State recently became aware that Mr. Carrasco committed ex parte communications with a sitting Commissioner, and she would like to address this potential prejudice to the State's case. Ms. Keegan stated that on Friday, January 19, 2024, Mr. Carrasco sent an email to the Commissioner, Vice President, Darrell Plummer, where he made one-sided pleas to Commissioner Plummer to "see things differently", "once I get to present my case either at the hearing or in District Court". Ms. Keegan stated that she filed this email with the Division on January 19, 2024, so it is part of the record. Ms. Keegan stated that she can read the entire email into the record if the Commission wishes, otherwise the State will defer to Vice President Plummer to confirm that he has not responded to Mr. Carrasco, nor initiated or invited such ex parte communications and if Commissioner Plummer confirms as much, the State is not requesting for Commissioner Plummer to recuse himself from participating unless he believes he should. Ms. Keegan stated that she would like to survey the other sitting Commissioner to confirm whether they had been contacted by Mr. Carrasco prior to today's hearing.

Commissioner Plummer stated that he received an email from Mr. Carrasco on Friday, January 19, 2024, at 8:22 a.m., that he immediately forwarded to Jan Holle, Chief Compliance Investigator, and Christal Keegan, Deputy Attorney General, stating that he was not going to respond and that he was uncertain if any other Commissioners received the same email.

Commissioners Roth, Tina, Ruthe and Gurr stated that they had not received any emails or communication with Mr. Carrasco.

Commissioner Plummer stated that he will not be recusing himself. Commissioner Plummer asked if this is the same appeal heard during the last Commission meeting because the wording of this appeal is a little different, but it seems to be the same request.

Ms. Keegan stated that Commissioner Plummer is correct, and the Commission denied Mr. Carrasco's petition for rehearing by its order filed November 15, 2023, and the Commission's default orders became final. Ms. Keegan stated that this matter should be done, and the reconsideration request is just word play and untimely. Ms. Keegan stated that the Division has no record of receiving any money even though the Commission affirmed its default orders which stated the total amount was due by January 2, 2024. Ms. Keegan stated that the total amount due still reflects \$103,366.77 and in an act of fairness, the Division has not and does not intend to commence collection activity or revoke Mr. Carrasco's broker's license until the final outcome of his appeal before the District Court. Ms. Keegan stated that the Commission does not have jurisdiction over this matter anymore because this case is currently on appeal before the District

Court, and it has not been ordered to be remanded back to the Commission. Ms. Keegan stated that Mr. Carrasco filed his opening brief with the District Court on January 26, 2024, the State filed its motion to dismiss and answering brief both on February 14, 2024, and she asks the Commission to respect the District Court's jurisdiction and dismiss Mr. Carrasco's re-request. Mr. Merlo stated that he disagrees with the State's contention that this is the same request from November. Mr. Merlo stated that the petition for rehearing filed in November did seek reconsideration of discipline, however, the current motion before the Commission makes it clear that they are seeking a reconsideration of discipline and, in the alternative a petition for rehearing, as opposed to a full rehearing. Mr. Merlo stated that the transcript of the November hearing reflects that one of the Commissioners noted that if the request was in front of the Commission as a reconsideration of disciplinary terms that they would consider that. Mr. Merlo stated that the November transcript reflects that because the petition was listed on the agenda as a rehearing rather than a reconsideration of disciplinary terms, it is clearly an important distinction and not mere word play. Mr. Merlo stated that even though the petition for rehearing presented on November 7, 2024, did seek reconsideration of discipline on pages 1 and 3, it was not treated as such. Mr. Merlo stated that pursuant to NAC 645.820 you can seek a rehearing or reconsideration when there is a ruling or decision of the Commission that is against the licensee and their position is that the November 15, 2023, order denying the petition for rehearing was an order against the licensee, as well as errors made when it came to consideration of that previous motion. Mr. Merlo stated that this current motion is to make clear that Mr. Carrasco is seeking reconsideration of the disciplinary terms, and in the alternative a rehearing and it was timely filed. Mr. Merlo stated that during the November 2023 hearing, it was made clear to everyone in attendance that the distinction between reconsideration of disciplinary terms and rehearing was critical.

Ms. Keegan stated that during the November 7, 2023, hearing, this Commission affirmed the August 31, 2023, default orders, and that became the final decision. Ms. Keegan stated that Mr. Carrasco's initial attorney, Hal Taylor, requested a petition for rehearing which was denied and now comes again with a reconsideration which is not only time barred but another attempt to argue his case in front of two places. Ms. Keegan stated that the State filed its motion to dismiss on December 1, 2023, and rely on those arguments set forth there.

President Gurr asked when the petition for judicial review was filed.

Mr. Merlo stated that the petition for judicial review was filed in September, within 30 days of the August 31, 2023, orders.

President Gurr stated why are we here if this case is in the judicial review process.

Mr. Merlo stated that in respect to the motion to dismiss referenced by Deputy Attorney General Christal Keegan, there is no authority cited that says while a separate petition for judicial review is pending that the Commission loses jurisdiction, and pursuant to the November 15, 2023, orders and NAC 645.820, if you file a petition for reconsideration of any order against a licensee in a timely fashion it is a separate and distinct concept from the judicial review process. Mr. Merlo stated that bearing in mind the Commissioner's remarks of what the Commission would entertain during the November hearing, this subsequent motion is to make clear that the primary

relief sought is reconsideration of discipline and, in the alternative a rehearing, which is meritorious and timely file.

President Gurr stated that if she remembers correctly, at this point, Mr. Carrasco's license has not been revoked and there are no collection efforts taking place, so she fails to see how Mr. Carrasco is being affected in a negative manner.

Ms. Keegan stated that is correct.

President Gurr stated that with all due respect to Commissioner Plummer, he is one Commissioner, and the Commission is a body who votes, so while one Commissioner's opinion is always important, it does not necessarily reflect all the Commissioners' opinions. President Gurr stated that it is encouraged for the Commission to have discussion to make sure all sides are being addressed and understand the different views, but that does not always mean that the Commission agrees. President Gurr stated that she does not want to hear a lot more oral argument because these cases have been heard, but she would entertain brief statements from all three attorneys.

Mr. Merlo stated that in respect to the statement regarding failing to see how Mr. Carrasco has been harmed, in light of the orders revoking Mr. Carrasco's license, he has shut down his business to not run afoul with those orders, so whether the orders have been enforced is irrelevant. Mr. Merlo stated that in the instant analysis, if the discipline is reconsidered by the Commission, it can short circuit the long and drawn-out judicial review process that would use a lot of the State's and Division's resources, if the facts and reality set forth on the record today and through the written submission were taken into consideration. Mr. Merlo stated that the punishment levied upon Mr. Carrasco is not commensurate with the alleged violations.

President Gurr asked if Mr. Merlo was stating with confidence or implying that if the Commission heard the reconsideration, and Mr. Carrasco received a favorable result, that Mr. Carrasco would withdraw his petition for judicial review.

Mr. Merlo stated that he could speak for Mr. Carrasco that if the Commission were inclined to reconsider the disciplinary terms and defer to himself, the Deputy Attorney General and the State to discuss potential agreed upon terms, presuming that an agreement was reached, the agreement would include to forego the judicial review process as a means to resolve the disputes relating to these two cases.

Mr. Taylor stated that he believes there is a way here today to open a door for resolution and the motion filed seeks to do that and he hopes that the Commission will grant the motion with regards to the reconsideration.

Ms. Keegan stated that she will give her respect and full deference to the Commission as it makes its decision, because the State has made it clear that this matter should be dismissed.

Commissioner Roth stated that he cannot remember how the Commission came up with a \$10,000.00 fine for the agent and \$100,000.00 fine for the broker, so it does seem reasonable to reconsider the fine.

Commissioner Tina asked Mr. Carrasco why he sent the email to Commissioner Plummer. Mr. Carrasco stated that during the November hearing, Commissioner Plummer asked why Mr. Carrasco did not accept the settlement and when asking the Commission if he could answer, he was denied. Mr. Carrasco stated that the settlement extended was \$1,000.00 on case one and \$10,000.00 on case two, plus twelve hours of continuing education combined, and the only reason he did not accept that offer was because the State wanted him to acknowledge and admit that he knowingly allowed an unlicensed agent to conduct business, which is false. Mr. Carrasco stated that he did not know and would not risk his entire career or put his company in jeopardy, so on that basis he would not accept the settlement terms. Mr. Carrasco stated that since he did not get a chance to answer Commissioner Plummer's question during the August meeting, he sent the email to Commissioner Plummer stating the same information just stated to answer the question that was posed at the November hearing.

Commissioner Plummer stated that in reading the minutes from the November meeting he will stand by everything he said during that meeting but will state that he also said that he did not think that the respondent was taking the matter seriously. Commissioner Plummer stated that the Commission granted a continuance in this matter in May of 2023 for the respondent to seek counsel and be prepared after which Mr. Carrasco did not show up, so a default was entered, then an appeal for a reconsideration came that was denied. Commissioner Plummer stated that regardless of Mr. Carrasco sending the email to answer the question posed during the November meeting, the email was suggestive that he had questioned Mr. Carrasco outside of the public hearing setting which made the email inappropriate and unprofessional. Commissioner Plummer stated that Mr. Carrasco's email, which is now a public record, stated that the proposed settlement was for \$25,000.00 but today Mr. Carrasco stated that it was \$12,000.00 which is conflicting information.

Commissioner Plummer asked Ms. Keegan if this appeal was filed within the required timeframe to have it placed on this agenda.

Ms. Keegan stated that the request for reconsideration was filed on November 28, 2023.

Commissioner Plummer stated that he does not think that Mr. Carrasco knowingly allowed this to happen, but this is about taking responsibility for having it happen. Commissioner Plummer stated that it is compelling in the numerous communications how Mr. Carrasco is demanding to the Division to show him what they do to remind him to do his job, and Mr. Carrasco fought that fight instead of taking responsibility for a licensee's conduct as their broker. Commissioner Plummer stated that the agent under Mr. Carrasco settled because he knew what he did, so the agent paid his fine and pocketed the difference which was the result of thousands of dollars paid in commissions by the consumer on seven transactions without a licensed person representing them. Commissioner Plummer stated that he would feel indifferent as a buyer or seller having commissions out of his pocket going to someone whose license had expired, whether the agent or broker knew or did not know, because they were both responsible to know, and then keep

fighting this fight of not showing up and then appeal after appeal. Commissioner Plummer stated that he has seen Mr. Carrasco four times professionally in twenty-five years and there is no reason he should recuse himself.

Commissioner Ruthe stated that as a broker it is her responsibility to make sure an agent is always licensed when writing a contract and she has no understanding of Mr. Carrasco not taking responsibility for that.

Commissioner Ruthe moved in the matters of NRED v Marshall Carrasco case numbers 2021-1120 and 2022-120 that this petition is denied. Seconded by Commissioner Tina.

Mr. Merlo stated he would like clarity on what the Commission's motion is addressing. Mr. Merlo stated that the motion for reconsideration of discipline and in the alternative a petition for rehearing, is not seeking to eliminate the board orders that imposed the discipline, but the primary request is to reconsider the discipline, which if granted, would allow for a negotiated resolution that would include Mr. Carrasco taking responsibility for what transpired. Mr. Merlo stated that the petition for reconsideration of discipline is making the argument that the discipline levied, which was the entire revocation of license and over \$100,000.00 in fines was excessive, whereas the alternative requested relief was a petition for rehearing.

President Gurr stated that since it is a combined petition, there will need to be two different motions. President Gurr asked Commissioner Ruthe if her motion was for the petition for reconsideration of discipline.

Commissioner Ruthe stated that her motion was for both the petition for reconsideration of discipline, as well as the alternative petition for rehearing.

Commissioner Ruthe withdrew her motion and Commissioner Tina agreed to withdraw his second.

Commissioner Plummer stated that he does not want to rehear this matter, but he is open to a discussion of the disciplinary terms, so they are less onerous. Commissioner Plummer asked Ms. Keegan if a motion was presented and passed regarding the reconsideration of disciplinary terms, could the Commission then discuss or would they have to wait three months to have that discussion.

Ms. Keegan stated that NRS 233B.130(4) states a reconsideration or rehearing should be filed within 15 days after the date of service of the final decision. Ms. Keegan stated that the default orders were filed on August 31, 2023, the Commission affirmed those default orders on November 15, 2023, therefore making those orders the final decision, so this reconsideration request filed on November 28, 2023, is untimely. Ms. Keegan stated that other discussions that took place in the past are considered confidential settlement negotiations, and those fine amounts discussed are no longer on the table and is not sure why Mr. Carrasco would be referencing those amounts.

Commissioner Plummer asked if Mr. Carrasco is within the legal timeframe and Division requirements to file this reconsideration request and have it on the agenda.

Ms. Keegan stated that the inclusion of this request on the agenda and subsequent agendas deviates from the law's exclusion of untimely requests. Ms. Keegan stated that the State has filed its motion to dismiss and presented arguments that support this request is untimely and she stated she will defer to the Commission.

Mr. Taylor stated that the question that should be considered is if the discipline imposed is appropriate for someone that failed to properly supervise a salesperson. Mr. Taylor stated that if the Commission would like to have a discussion to consider discipline that would be appropriate, Mr. Carrasco would not object.

Commissioner Plummer moved that the Commission agree to grant the petition for reconsideration of the disciplinary terms. Seconded by Commissioner Roth. Motion carried 3-2 with Commissioners Ruthe and Tina opposed.

Commissioner Plummer moved in the matters of case numbers 2021-1122 and 2022-120 that the disciplinary terms established in the default orders in August 2023, stay the same with the only change being that there would not be the revocation of all licenses. Seconded by Commissioner Tina. Motion carried 4-1 with Commissioner Roth opposed.

6-A) For Possible Action: Discussion and Decision Regarding Respondent Iyad W. Haddad's Petition for Reconsideration Pursuant to NRS 233B.130(4).

NRED v Iyad Haddad

Case No. 2022-133

Parties Present

Iyad W. Haddad was present.

Janeen Isaacson, Esq. was present representing Mr. Haddad.

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

Preliminary Matters

Ms. Isaacson stated that one of the arguments raised by the Deputy Attorney General is that the petition for reconsideration should have been brought pursuant to NRS 645.820 which covers procedures for rehearing, but this petition is for reconsideration is brought under 233B.130(4), and it was timely filed. Ms. Isaacson stated that a petition for judicial review was also filed on January 19, 2024, to meet statutory deadlines, because there was not a mechanism to hear this motion prior to this session.

Mr. Su stated that this petition is trying to argue that the Commission should reconsider rehearing this matter. Mr. Su stated that procedurally under NRS 233B there are certain timeframes to file a petition for reconsideration and a petition for judicial review, and if the Commission decides to uphold its underlying ruling and deny this petition, the petition will continue the normal course for judicial review at the District Court level.

Ms. Isaacson stated that this petition was brought exclusively under NRS 233B.130(4) because she is the new counsel on the case and after reading the transcripts, the findings of fact, conclusions of law, and exhibits, she determined that this case was appropriate for judicial review. Ms. Isaacson stated that NRS 233B.130(4) allows one opportunity for the parties to come back together to see if the parties can come to an agreement prior to continuing with the judicial review process.

Mr. Su stated that the way he reads NRS 233B.130(4) is that if the petition for reconsideration or rehearing is granted, the Commission will be rehearing the substance of the case again and then the order from the subsequent hearing becomes the final order for the purpose of judicial review.

President Gurr asked what the timeline was for the filings.

Ms. Isaacson stated that the order was filed on December 21, 2023, and Mr. Haddad's original petition for reconsideration was filed timely on January 5, 2024. Ms. Isaacson stated that subsequently Mr. Haddad's amended petition was filed on February 16, 2024, not changing the argument, but citing specifically to the transcript that was not available when the original petition was filed.

President Gurr stated that the petition can be heard on its merits and if all the Commissioners had the amended petition that was filed on February 16, 2024.

Commissioners Ruthe, Plummer, Tina, and Roth answered yes.

President Gurr asked why the late amended petition was filed.

Ms. Isaacson stated that the amendment was solely to supplement the arguments with the cited transcripts, the arguments did not change.

Mr. Su stated that the Division does object to the amended petition because it was untimely filed, but the amended petition does appear to be substantially the same.

Commissioner Plummer asked if the petition for reconsideration is granted, will it present new evidence or will it be the same hearing over again resulting in the same conclusion.

Ms. Isaacson stated that if the petition is granted in the manner that it is pled, this case would be dismissed. Ms. Isaacson stated that if the Commission felt that a new hearing was appropriate after the new argument, that would be the Commission's purview, but based on the transcript and exhibits as is, we are asking that these findings be set aside.

Mr. Su stated that if this case is brought back before the Commission, Ms. Isaacson would present new evidence or argument because the petition for rehearing is citing new arguments that were not brought up in the underlying matter. Mr. Su stated that the assembly bill and the applicability statute NRS 645.0445 are both mentioned for the first time in the petition, but apply to people who are not licensees, whereas Mr. Haddad is a licensee. Mr. Su stated that the actual factual findings by this Commission will stand up to District Court review.

President Gurr stated that the concluding paragraph in the petition for reconsideration states that Mr. Haddad is requesting that the Commission reconsider their decision and dismiss the case. President Gurr stated that the pleading does not state that it is a petition for rehearing but in the last paragraph it seems like it is implicit.

Commissioner Ruthe stated that when this case was heard by the Commission there was a lot of discussion and time spent on their decision, and it was not taken lightly. Commissioner Ruthe stated that she does not know why the time and money would be wasted to rehear the case if there is no new evidence that the Commission has not seen or heard.

Ms. Isaacson stated that everything in her original brief is citing to the original transcript, and in reading the transcripts and exhibits, some of the evidence was misinterpreted. Ms. Isaacson stated that after reading the findings of fact, conclusions of law, and order, she looked at every case she could find that referenced the same analysis, statute, and where this application was used in another matter, and it has not been. Ms. Isaacson stated that Mr. Haddad was treated differently and was not acting in the capacity as a broker in this transaction, while the person that was the broker in this transaction was found to have done nothing wrong. Ms. Isaacson stated there does not need to be a rehearing but rather this matter should be dismissed in its entirety, because the decision in this case exceeded the statutory approvals and was based on erroneous facts.

President Gurr stated that every case that comes before the Commission is based on its own merits because the circumstances in any two cases are not identical.

Commissioner Ruthe moved in the matter of NRED v Iyad Haddad case# 2022-133 that the petition for reconsideration is denied. Seconded by Commissioner Plummer. Motion carried.

7-G) NRED v Michael Sloane, for possible action

Case No. 2021-1217

Parties Present

Michael Sloane was present.

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

Preliminary Matters

Mr. Su stated that a settlement had been reached in this matter, but not yet signed. Mr. Su read the factual allegations, alleged violations of law, and proposed settlement into the record.

Settlement

- Respondent agrees to pay the Division a total amount of Eight Thousand Seven Hundred Fourteen Dollars and 16/100 cents (\$8,714.16) (“Amount Due”), consisting of a \$3,000.00 administrative fine imposed by the Division, the Division’s pre-hearing costs and fees in the amount of \$1,160.00, and pre-hearing attorney’s fees in the amount of \$4,554.16.

The Amount Due shall be payable to the Division in eighteen (18) equal monthly installments of Four Hundred Eighty-Four Dollars and 12/100 cents (\$484.12), with first installment payment to be made within forty-five (45) days of the date the order

approving this settlement is signed. Lump sum pre-payments may be made to the Division at any time with no penalty.

No grace period is permitted. If any scheduled payment is not actually received by the Division on or before its due date, the non-payment shall be construed as an event of default by Respondent.

- Respondent agrees to voluntarily surrender his license S.0177565 to the Division within thirty (30) days from the date of the order approving this settlement.
- Respondent further agrees that he will not re-apply for a salesperson, broker, or broker-salesperson license with the Division for a period of sixty (60) months from the date of the order approving this settlement.
- If Respondent does reapply for a license after the voluntary suspension has elapsed and after he has met all fee and application requirements required for reissuance of a license, RESPONDENT further agrees to appear before the Commission for final approval of the reissuance.

Mr. Sloane made a statement.

President Gurr asked Mr. Sloane if he has read, understands, and agrees to the stipulated settlement agreement.

Mr. Sloane answered yes.

Commissioner Tina moved in the matter of NRED v Michael Sloane case number 2021-1217 that the Commission accept the settlement as presented. Seconded by Commissioner Plummer. Motion carried.

7-C) NRED v Charles White, for possible action
Case No. 2023-496

Parties Present

Charles White was present.

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

Preliminary Matters

Mr. White stated that he signed and accepts the settlement agreement.

Ms. Keegan stated that a settlement had been reached in this matter. Ms. Keegan summarized the complaint and read the proposed settlement terms into the record.

Settlement

- Respondent agrees to pay the Division a total amount of \$1,198.16 (“Amount Due”), consisting of a \$250.00 administrative fine imposed by the Division, the Division’s pre-hearing costs and fees in the amount of \$320.00, and the Attorney’s pre-hearing costs and fees in the amount of \$628.16.

The Amount Due shall be payable to the Division as follows:

Respondent shall pay \$100 a month, with monthly payments to start thirty (30) days after approval of this Stipulation by the Commission, as follows:

11 Payments at \$100/month.

With \$98.16 to be paid on the 12th and final payment for a total payment of \$1,198.16, as being the total Amount Due hereunder. At any time, Respondent may elect to make pre-payments on the Amount Due with no penalties so long as the monthly amount due in the annual period is satisfied in full as specified above.

Commissioner Ruthe moved in the matter of NRED v Charles White case number 2023-496 that the Commission accept the stipulation as presented. Seconded by Commissioner Plummer. Motion carried.

4-C) Discussion Regarding the Compliance Section's Current Caseload Report, Including a Summary of Recent Topics of Complaints Filed.

Jan Holle, Chief Compliance Audit Investigator, presented this report. Mr. Holle provided the Commission with a written report.

4-D) Discussion Regarding the Administrative Sanction Report.

Jan Holle, Chief Compliance Audit Investigator, presented this report. Mr. Holle provided the Commission with a written report.

4-A) Discussion Regarding the Administrator's Report.

Sharath Chandra stated that he appreciates the Commission's help getting through the regulation process which was a priority for the Division. Mr. Chandra stated that there are still a few vacancies with staffing within the Division, but those positions are slowly getting filled. Mr. Chandra stated that the Division has chosen the vendor for the new licensing software program and has commissioned the contract, which will proceed to the interim finance committee for approval. Mr. Chandra stated that there are current negotiations to contract an independent IT professional to be a liaison between the Division and the software developer that will potentially come in about a month before the vendor to do some groundwork on the front end and become familiar with the system while documenting the whole process to assist in improving the software as it is being developed. Mr. Chandra stated that there is a new Director for Business and Industry, Dr. Kristopher Sanchez, who was previously the deputy director of the Governor's Office of Economic Development.

4-B) Discussion Regarding the Disciplinary Report.

Shareece Bates, Administration Section Manager, presented this report. Ms. Bates provided the Commission with a written report.

4-E) Discussion Regarding the Continuing Education Supervisor's Report.

Annalyn Carrillo, Education and Information Officer, presented this report. Ms. Carrillo provided the Commission with a written report.

4-F) Discussion and Decision to Approve Minutes of the November 7-9, 2023, Meeting.

Commissioner Plummer moved to approve the minutes of the November 7-9, 2023, meeting. Seconded by Commissioner Tina. Motion carried.

4-G) Discussion and Decision on Date, Time, Place, and Agenda Items for Upcoming Meetings.

➤ May 14-16, 2024

8) Public Comment

No Public Comment.

9) For Possible Action: Adjournment

Meeting recessed at 4:23 p.m. on February 20, 2024.

Minutes prepared by: _____
Kelly Valadez
Commission Coordinator

TO BE APPROVED BY COMMISSION

**NEVADA REAL ESTATE COMMISSION
MINUTES**

IN PERSON AND VIRTUAL VIA WEBEX

February 21, 2024

Nevada State Business Center
3300 W. Sahara Avenue
4th Floor – Nevada Room
Las Vegas, Nevada 89102

VIDEO CONFERENCE TO:

Office of the Labor Commissioner
Labor Commission – Conference Room
1818 E. College Parkway
Carson City, Nevada 89706

The meeting was called to order at 9:08 AM

1-A) Introduction of Commissioners in Attendance

Lee Gurr, Elko County; Darrell Plummer, Washoe County; Donna A. Ruthe, Clark County; David Tina, Clark County; and Russell Roth, Clark County.

Commission Counsel: Deputy Attorney General Ziwei Zheng

1-B) Introduction of Division Staff in Attendance

Sharath Chandra, Administrator; Charvez Foger, Deputy Administrator; Shareece Bates, Administration Section Manager; Kelly Valadez, Commissioner Coordinator; Maria Gallo, Commission Coordinator; Jan Holle, Chief Compliance Audit Investigator; Annalyn Carrillo, Education and Information Officer; Shaun McLean, Compliance Audit Investigator; Senior Deputy Attorney General Phil Su, Deputy Attorney General Christal P. Keegan, Deputy Attorney General Cris Maher, Deputy Attorney General Samuel Taylor representing the Division, and Shannon Chao, Student Intern with the Attorney General's Office.

2) Public Comment

No Public Comment.

4-H) Discussion Regarding Transaction and Disclosure Forms Being Available in Spanish, Including but not Limited to the Seller's Real Property Disclosure Form No. 547.

Sandra Velazquez stated that there is a need for the transaction forms to be translated into Spanish to better serve the Spanish speaking only community. Ms. Velazquez stated that this is especially important with the *Seller's Real Property Disclosure Form (SRPD)* because the agent is not allowed to translate or help clients to fill out that form since it is a liability issue. Ms. Velazquez stated that she has spoken with many of her colleagues, and they agree that the *SRPD* form should be translated into Spanish since they are not allowed to help clients complete that specific form. Ms. Velazquez stated that in speaking with licensees in the state of Texas, they

translate their forms into Spanish and the Spanish speaking clients can use the Spanish translated form for guidance to complete the English version of the form, so when the *SRPD* form is sent to a non-Spanish speaking agent and client, it is completed in English.

President Gurr stated that she would see it as a problem to translate forms into Spanish but no other languages. President Gurr stated that there is a need to have this discussion because a third of the population within the state of Nevada is Hispanic, most of whom speak Spanish or a form thereof. President Gurr asked if it was possible to have a guide in Spanish of how to complete the *SPRD* form.

Sharath Chandra stated that it needs to be acknowledged that some kind of translation service needs to be available for different forms. Mr. Chandra stated that the Department of Business and Industry is required to have a language access plan pursuant to NRS 232.0081 and there is a process in development and the State has approximately 15 language translation vendors for a variety of services that agencies can utilize. Mr. Chandra stated that during the last legislative session, there was a bill wanting agencies to translate their forms into twelve different languages, which prompted the Real Estate Division to conduct a review of the Division's 241 forms consisting of 789 pages. Mr. Chandra stated that the best way to approach this would be during the software update when an option can be added with the licensing process allowing applications or forms to automatically be changed into a Spanish version, which has been discussed with the software vendor and they have indicated that they have the capability to develop this feature. Mr. Chandra stated that feedback from the Commission and receiving public comment will be helpful in identifying the essential forms that require translation.

Commissioner Tina stated that the issue may be bigger than what is being stated because there are English speakers who have difficulty with the form. Commissioner Tina stated the *SRPD* form is so litigious for an agent to assist or say anything, so the translation process should start with that form into multiple languages first and foremost because that is the form that gets brokers and agents sued, whereas an agent can help in filling out all other forms.

Commissioner Plummer stated that as a broker he is often faced with the potential exposure of a failure to disclose. Commissioner Plummer stated that he reviews Mr. Holle's sanction report for trends and notices the numbers sanctioned for failure to disclose. Commissioner Plummer stated that both parties signing the property disclosure form might not be Spanish speaking, so it is necessary to have the form with both the English and Spanish translations on the same form and not separate documents to not create the risk of the separation of the document. Commissioner Plummer stated that it is a big issue to have an accusation from any party that they were not properly informed of material facts.

Commissioner Ruthe stated that this is important information to have moving forward with a possible work group. Commissioner Ruthe stated there are three top forms that she would like to see translated to better serve the public.

Mr. Chandra stated that there are some inherent challenges with the *Seller's Real Property Disclosure Form* that Commissioner Plummer identified because of NRS 113 being attached and translation of the legal wording. Mr. Chandra stated that these issues need to be discussed and a

work group as Commissioner Ruthe suggested might be a good way to tackle this issue. Mr. Chandra stated that there are State resources to utilize but they do come with a cost, so it might be best to identify the most important forms, start with those, and go from there.

President Gurr stated that she has a copy of an email explaining that the Texas Association of Realtors provides Spanish translation for informational purposes only, and that a Spanish translation can be provided to explain the contract terms, but it should ensure that the client understands they must sign the English version of the form, and there is even a disclaimer in English and Spanish provided at the bottom of the Spanish translated guide that states the English version of the form will be the final version. President Gurr stated that it is worthy to note that it is not the Texas Real Estate Commission that provides the Spanish translation guide but the Texas Association of Realtors, so a good place to begin might be by lobbying the Nevada Association of Realtors to provide information as necessary in different languages depending on demographics of a particular area.

Mr. Chandra stated that providing a guide could explain what can and cannot be done, as well as including resources if needed to get the translation, and to provide overall general guidance. Mr. Chandra stated that if the Association of Realtors took the initiative to begin this process with help from the Division, it would be a quicker process to get something out there, and then the Division could work on the long- term actual form issues.

Benjamin Cortez stated that the *SRPD* form being translated into Spanish is important for the liability concerns and for clients to fully understand the form allowing them to disclose to the best of their ability, making sure everyone is covered with the information that is filled out on the form.

7-A) NRED v Angela Powers-Armstrong, for possible action
Case No. 2023-493

Parties Present

Angela Powers-Armstrong was present.

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

Preliminary Matters

Ms. Keegan stated that a settlement had been reached in this matter. Ms. Keegan summarized the complaint and read the proposed settlement terms into the record.

Settlement

- Respondent agrees to pay the Division a total amount of \$1,198.16 (“Amount Due”), consisting of a \$250.00 administrative fine imposed by the Division, the Division’s pre-hearing costs and fees in the amount of \$320.00, and the Attorney’s pre-hearing costs and fees in the amount of \$628.16.
- The Amount Due shall be payable to the Division in full within thirty (30) days after approval of this Stipulation by the Commission.

President Gurr asked Ms. Powers-Armstrong if she has read and understands the terms of the stipulation for settlement.

Ms. Powers-Armstrong answered yes and that she had signed the settlement. Ms. Powers-Armstrong stated that she takes full responsibility for this matter and as an update, she received confirmation yesterday from the Division's Compliance Section that they will accept her 2024 submission of the 546A Form as her 2023 submission and once this stipulation for settlement is accepted by the Commission, she has agreed to resubmit her 2024 form, then she will be current until time for her to submit on May 31, 2025.

Commissioner Roth moved in the matter of NRED v Angela Powers-Armstrong case number 2023-493 that the Commission accept the stipulation as presented. Seconded by Commissioner Tina. Motion carried.

7-D) NRED v Shahzad Zaman, for possible action
Case No. 2021-1052

Parties Present

Shahzad Zaman was not present.

Samuel Taylor, Deputy Attorney General, was present representing the Division.

Preliminary Matters

Mr. Taylor stated that Mr. Zaman stated that he would be unable to attend today due to work.

Mr. Taylor stated that a settlement had been reached in this matter. Mr. Taylor read the factual allegations, alleged violations of law, and proposed settlement into the record.

Settlement

- Respondent agrees to pay the Division a total amount of \$9,234.94 ("Amount Due"), consisting of a \$2,000.00 administrative fine imposed by the Division, the Division's pre-hearing costs and fees in the amount of \$600.00, and pre-hearing attorney's fees in the amount of \$6,634.94.
The Amount Due shall be payable to the Division in twenty-four (24) equal monthly payments of \$384.79, with the first payment due thirty (30) days after the effective date of the order approving this settlement.
No grace period is permitted. If any scheduled payment is not actually received by the Division on or before its due date, it shall be construed as an event of default.
- Respondent agrees to voluntarily surrender his Real Estate Salesperson License and Property Management permit to the Division within forty-five (45) days from the date of the order approving this settlement if he has not already done so.
- Respondent further agrees that he will not re-apply for a Property Management permit, Real Estate Salesperson, Broker, or Broker-Salesperson license with the Division for a period of sixty (60) months from the date of the order approving this settlement.
- If Respondent does reapply for a license and/or permit after the suspension has elapsed and after he has met all fee and education requirements required for reinstatement of the permit, Respondent further agrees to appear before the Commission for final approval of reinstatement.
- Respondent agrees to refrain from engaging in property management activities within the State of Nevada without the proper license and permit.

Mr. Taylor stated that Mr. Zaman has signed the stipulation for settlement.

Commissioner Tina moved in the matter of NRED v Shahzad Zaman case number 2021-1052 that the Commission accept the settlement as presented. Seconded by Commissioner Roth. Motion carried.

7-E) NRED v Eileen Prudhont, for possible action

Case No. 2023-216

Parties Present

Eileen Prudhont was present.

Cris Maher, Deputy Attorney General, was present representing the Division.

Preliminary Matters

Ms. Maher stated that a settlement has been reached and signed in this matter. Ms. Maher summarized the complaint and read the proposed settlement into the record.

Settlement

- Respondent agrees to pay the Division a total amount of \$1,846.47 (“Amount Due”), consisting of a \$250.00 administrative fine imposed by the Division, the Division’s pre-hearing costs and fees in the amount of \$560.00, and pre-hearing attorney’s fees in the amount of \$1,036.47.

The Amount Due shall be payable to the Division in twelve (12) equal monthly installments of One Hundred Fifty-Three Dollars and 87/100 cents (\$153.87), with first installment payment to be made within thirty (30) days of the date the order approving this settlement is signed. Lump sum pre-payments may be made to the Division at any time with no penalty.

No grace period is permitted. If the payment is not actually received by the Division on or before its due date, it shall be construed as an event of default by Respondent.

President Gurr asked Ms. Prudhont if she has read, understands, and agrees to the stipulation for settlement.

Ms. Prudhont answered yes.

Commissioner Roth moved in the matter of NRED v Eileen Prudhont case number 2023-216 that the Commission accept the stipulation as presented. Seconded by Commissioner Ruthe. Motion carried.

7-F) NRED v John Prudhont, for possible action

Case No. 2023-217

Parties Present

John Prudhont was present.

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

Preliminary Matters

Mr. Su stated that a settlement has been reached in this matter. Mr. Su summarized the complaint and read the proposed settlement into the record.

Settlement

- Respondent agrees to pay the Division a total amount of \$1,846.47 (“Amount Due”), consisting of a \$250.00 administrative fine imposed by the Division, the Division’s pre-hearing costs and fees in the amount of \$560.00, and pre-hearing attorney’s fees in the amount of \$1,036.47.

The Amount Due shall be payable to the Division in twelve (12) equal monthly installments of One Hundred Fifty-Three Dollars and 87/100 cents (\$153.87), with first installment payment to be made within thirty (30) days of the date the order approving this settlement is signed. Lump sum pre-payments may be made to the Division at any time with no penalty.

No grace period is permitted. If the payment is not actually received by the Division on or before its due date, it shall be construed as an event of default by Respondent.

President Gurr asked Mr. Prudhont if he has read, understands, and agrees to the stipulation for settlement.

Mr. Prudhont answered yes.

Commissioner Roth moved in the matter of NRED v John Prudhont case number 2023-217 that the Commission accept the stipulation as presented. Seconded by Commissioner Tina. Motion carried.

7-I) NRED v Milena Goodwin, for possible action
Case No. 2023-522

Parties Present

Milena Goodwin was present.

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

Preliminary Matters

Mr. Su stated that a settlement has been reached in this matter. Mr. Su read the summary of alleged violations and proposed settlement into the record.

Settlement

- Respondent agrees to pay the Division a total amount of \$1,606.47 (“Amount Due”), consisting of a \$250.00 administrative fine imposed by the Division, the Division’s pre-hearing costs and fees in the amount of \$320.00, and pre-hearing attorney’s fees in the amount of \$1,036.47.

The Amount Due shall be payable to the Division in full within thirty (30) days of the date of the order approving this settlement.

No grace period is permitted. If the payment is not actually received by the Division on or before its due date, it shall be construed as an event of default by Respondent.

President Gurr asked Ms. Goodwin if she has read, understands, and agrees to the stipulation for settlement.

Ms. Goodwin answered yes.

Commissioner Roth moved in the matter of NRED v Milena Goodwin case number 2023-522 that the Commission accept the stipulation as presented. Seconded by Commissioner Ruthe. Motion carried.

7-J) NRED v James J. Manarino, for possible action
Case No. 2023-505

Parties Present

James Manarino was present.

Shannon Chao, Student Intern with the Attorney General's Office, with Level 2 Certification under the Nevada Supreme Court Rules, was present representing the Division.

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

Preliminary Matters

Ms. Chao stated that a settlement had been reached in this matter. Ms. Chao read the summary of alleged violations and the proposed settlement into the record.

Settlement

- Respondent agrees to pay the Division a total amount of One Thousand Six-Hundred Six Dollars and 47/100 cents (\$1,606.47) ("Amount Due"), consisting of a \$250.00 administrative fine imposed by the Division, the Division's pre-hearing costs and fees in the amount of \$320.00, and pre-hearing attorney's fees in the amount of \$1,036.47. The Amount Due shall be payable to the Division in four (4) equal monthly installments of Four Hundred One Dollars and 62/100 cents (\$401.62), with first installment payment to be made within thirty (30) days of the date the order approving this settlement is signed. Lump sum pre-payments may be made to the Division at any time with no penalty. No grace period is permitted. If any scheduled payment is not actually received by the Division on or before its due date, the non-payment shall be construed as an event of default by Respondent.

President Gurr asked Mr. Manarino if he has read and understands the stipulation for settlement that he has signed.

Mr. Manarino answered yes.

Commissioner Roth moved in the matter of NRED v James Manarino case number 2023-505 that the Commission accept the stipulation as presented. Seconded by Commissioner Ruthe. Motion carried.

7-H) NRED v Marine Thuet, for possible action
Case No. 2023-81

Parties Present

Marine Thuet was present.

Vincent Sinard, broker for the respondent, was present.

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

Opening Statements

Mr. Su gave an opening statement.

Ms. Thuet gave an opening statement.

State's Witness

Rebecca Bruce testified.

Mr. Su moved to admit the State's exhibits bates stamped NRED 0001-0878 into the record.

Ms. Thuet had no objection.

President Gurr stated so admitted.

Ms. Thuet had no questions for the witness.

The Commission asked questions of the witness.

The witness was dismissed.

Ms. Thuet stated her case.

Ms. Thuet asked that her exhibits 1 and 1b be admitted into the record.

Mr. Su stated that he had no objection.

President Gurr stated so admitted.

Mr. Su questioned Ms. Thuet.

The Commission asked questions of Ms. Thuet.

Closing Statements

Mr. Su gave a closing statement.

Ms. Thuet gave a closing statement.

Commissioner Plummer stated that he sees the process of challenging the homeowner's association as a process to defend the tenant, and that process ultimately led to the fine that was assessed to the tenant, but the process could have resulted in less fines to the tenant and that is what was being challenged. Commissioner Plummer stated that the respondent seems to have

taken action to remedy the issue when she received notification, so he does not believe she received the initial mailings. Commissioner Plummer stated that the tenant who filed the complaint is the one that violated the lease causing the problem and once the respondent received notification, she tried to manage the issue to the best of her ability adhering to the requirements to the landlord, which is her client.

Commissioner Roth stated that the respondent did what she could do in this situation. President Gurr stated that the respondent, as well as the tenant in her affidavit, stated that they did not receive anything from the association. President Gurr stated that the imposition of the fine and the electronic notification that if the fine was not paid would be taken out of the rent proceeds, which caused the tenant to be in default on her rent payment and caused the late fees to be assessed, made the tenant aware that she owed the money and she was given the opportunity to make payments but did not.

Factual Allegations

Commissioner Plummer moved that those factual allegations 1-6 have been proven. Seconded by Commissioner Ruthe. Motion carried.

Commissioner Plummer moved that those factual allegations 7-10 have been proven. Seconded by Commissioner Ruthe. Motion carried.

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

Commissioner Plummer moved that those factual allegations 16-17 have been proven. Seconded by Commissioner Tina. Motion carried.

Commissioner Plummer moved that factual allegation 18 has not been proven. Seconded by Commissioner Roth. Motion carried.

Commissioner Plummer moved that those factual allegations 19-20 have not been proven. Seconded by Commissioner Ruthe. Motion carried.

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

Commissioner Plummer moved that those factual allegations 22-26 have been proven. Seconded by Commissioner Tina. Motion carried.

Violations of Law

President Gurr read the violation of law in paragraph 27 into the record.

Commissioner Plummer stated that he cannot support that this was a violation because those factual allegations 18-20 were not proven, and factual allegation 21 was proven.

Commissioner Plummer moved that violation of law 27 has not been proven. Seconded by Commissioner Roth. Motion carried.

President Gurr read the violation of law in paragraph 28 into the record.

Commissioner Plummer stated that the evidence shows Ms. Thuet made every attempt to represent the process to remedy for the homeowner's association the violation and through that process represented the landlord which was her client.

Commissioner Ruthe stated that Ms. Thuet was acting as a dual agent also representing the tenant.

Commissioner Plummer moved that violation of law 28 has not been proven. Seconded by Commissioner Tina.

President Gurr stated that she has concerns because Ms. Thuet was representing the tenant and the owner of the property, and there was not enough testimony or exhibits to show that she took the necessary steps required of her fiduciary responsibility.

Commissioner Ruthe stated that she agreed with President Gurr.

Motion carried 3:2 with President Gurr and Commissioner Ruthe opposed.

8) Public Comment

No public comment.

9) For Possible Action: Adjournment

Meeting adjourned at 12:58 p.m. on February 21, 2024.

Minutes prepared by: _____
Kelly Valadez
Commission Coordinator