

**New Mexico Real Estate Commission
Regular Meeting
September 25, 2017
Real Estate Commission Offices
5500 San Antonio Drive NE
Albuquerque, New Mexico**

DRAFT MINUTES

Commissioners Present: Gretchen Koether, President
Kurstin Johnson, Vice President
Greg Foltz, Member

Commissioner Absent: Kirk Clifton, Member

Staff Present: Wayne W. Ciddio, Executive Secretary
Lyn Carter, Chief Investigator
Perry Bryant, Investigator
Gillian Hubka, Investigator
Tom Baca, Education Administrator

Others Present: Lori Chavez, Assistant Attorney General and
Commission Counsel

1. 9 a.m.- Call to Order and Welcome-Gretchen Koether, President

Commission President Gretchen Koether called the meeting to order at 9 a.m.

2. Determination of Quorum

With three Commissioners present, Commissioner Koether declared that a quorum was present.

3. Pledge of Allegiance

Commissioner Koether led the Commission and others in attendance in the Pledge of Allegiance.

4. Introductions

Commissioners and Commission staff introduced themselves.

5. Approval of the Agenda of the September 25, 2017 Regular Commission Meeting

Commissioner Kurstin Johnson moved approval of the agenda of the September 25, 2017 regular Commission meeting. Commissioner Greg Foltz seconded the motion and it carried unanimously.

6. Approval of the Minutes of the July 31, 2017 Regular Meeting

Commissioner Johnson moved approval of the minutes of the July 31, 2017 regular Commission meeting. Commissioner Foltz seconded the motion and it carried unanimously.

7. Broker and Public Forum

There were no broker or public comments during this portion of the meeting, but later Louis Edwards asked if the Broker and Public Forum could be reopened. Mr. Edwards asked if it was possible to establish an entity called the Friends of the New Mexico Real Estate Commission to raise funds for projects for which there might not otherwise be funding available. Commission Counsel Lori Chavez said she would take the suggestion under advisement.

8. Distance Education Core Course Streaming Project Update

Richard Gallegos presented a project currently being developed by the Greater Albuquerque Association of Realtors (GAAR) to stream Core Course offerings from the GAAR offices to the offices of the Las Cruces, Santa Fe, and Roswell Associations of Realtors. Tentative dates for the test runs are October 9, November 13, and December 12.

Streaming is a way to make the Core Course available statewide without requiring brokers to drive long distances to fulfill Core Course requirements.

Mr. Gallegos said that with the Commission's approval, GAAR would proceed to develop the streaming plan. Commissioner Johnson moved that

GAAR proceed to develop the streaming plan. Commissioner Foltz seconded the motion and it carried unanimously.

9. Show Cause Hearing, John “Jack” Piserchia, NMREC Case No. 11-06-03-048

Commission Counsel Lori Chavez told the Commission that the 13th Judicial District Court issued an order on August 7, 2017 remanding the above-referenced case back to the Commission for enforcement of its Decision and Order. Mr. Piserchia appealed the Commission Decision and Order in this case but there had been no activity on the appeal.

Mr. Piserchia was ordered to appear before the Commission at today’s meeting to show cause why he had not complied with the Commission’s Decision and Order. Mr. Piserchia emailed the Commission on Friday, September 23 indicating he could not attend the show cause hearing because of a family illness.

10. Report from the Property Management Task Force- Bill Hallett, Chair

Mr. Hallett reported that six to eight people have been attending task force meetings on a regular basis.

11. Appointment of Property Management Task Force Co-Chair and Additional Task Force Members

Mr. Hallett said he did not believe a task force co-chair was necessary. He reported that Kristen Johnson, a Farmington broker who does property management, has expressed interest in serving on the task force. He said he believes appointing her would bring more property management experience and improve the geographic diversity of the task force.

After discussion, Commissioner Johnson moved that the Commission appoint Kristen Johnson to the Property Management Task Force. Commissioner Foltz seconded the motion and it carried unanimously.

12. Commission Action on Education Advisory Committee (EAC) recommendations from the August 16 and September 20, 2017 EAC meetings.

After discussion, Commissioner Johnson moved approval of the recommendations of the August 16 and September 20, 2017 EAC meetings. Commissioner Foltz seconded the motion and it carried unanimously.

13. Presentation and Commission action on 2018 Core Course Curriculum

Core Course Instructor and EAC member Bob Arguelles, who chaired the EAC subcommittee assigned with updating the Core Course, presented the proposed 2018 Core Course Curriculum.

After discussion, Commissioner Johnson moved approval of the 2018 Core Course Curriculum as presented. Commissioner Foltz seconded the motion and it carried unanimously.

14. Commission Action on EAC recommendation that Core Course instructors be authorized to begin offering the 2018 Core Course on November 1, 2017.

EAC Chair David Steele said the basis of the recommendation is to accommodate the anticipated demand for the Core Course that brokers are required to complete annually.

After discussion, Commissioner Johnson moved that the Commission authorize Core Course instructors to begin offering the 2018 Core Course on November 1, 2017. Commissioner Foltz seconded the motion and it carried unanimously.

15. Update on On-Line License Renewals- Roxanne Romo, Licensing Manager

Roxanne Romo reported that all systems are in place to begin on-line broker's license renewals effective with November and December expiration dates. Brokers will receive by email a registration code that will allow them to begin the on-line renewal process. Renewals are the only licensing transaction that can be done on-line. All other transactions, including initial license applications, transfers, and license upgrades will still be done by paper.

16. Review of Real Estate Commission Fiscal Year 2018 Operating Budget

Commission Executive Secretary Wayne Ciddio distributed a copy of the Commission's Fiscal Year 2018 Operating Budget which is \$939,700, which is fully supported by licensing fees, fines, and penalties. The budget funds nine full-time employees.

After discussion, Commissioner Johnson moved that the Commission ask the Regulation and Licensing Department (RLD) to request that the state legislature authorize two additional staff positions and request that temporary staff help be made available in the interim. Commissioner Foltz seconded the motion and it carried unanimously.

17. Action on Rice Insurance Services request to extend for an additional year the current Errors and Omissions (E&O) insurance contract with the Real Estate Commission

Mr. Ciddio said the Commission has received a letter from Rice Insurance Services CEO Cindy Rice-Grissom indicating the intent of Rice Insurance to extend for an additional year at the same premium and coverage terms its contract with the Commission to provide E&O insurance to New Mexico real estate brokers. The contract provides that the contract can be renewed annually up to a maximum of four years.

After discussion, Commissioner Johnson moved that the contract with Rice Insurance be extended for the 2018 policy year. Commissioner Foltz seconded the motion and it carried unanimously.

18. Chief Investigator's Report

Chief Investigator Lyn Carter reported that the Commission received nine new complaints in July, 19 in August, and eight in September, for a total of 89 new complaints year-to-date. He reported that there were no disciplinary hearings currently scheduled.

19. Executive Session

Commissioner Johnson moved that pursuant to Section 10-15-1 H (1) and (3) of the Open Meetings Act, the Commission go into Executive Session to discuss those items listed under Agenda Item 19, Executive Session, and

NMREC Case No. 11-06-03-048, John “Jack” Piserchia. Commissioner Foltz seconded the motion. Mr. Ciddio called the roll. Commissioners Koether, Johnson, and Foltz voted in favor the motion. No Commissioners voted against the motion.

At the conclusion of the Executive Session, Commissioner Koether declared that the Commission was back in Open Session and attested that the only matters discussed in Executive Session were those matters specified in the motion to go into Executive Session.

20. Action on Items Discussed in Executive Session

a. Reports of Investigation

NMREC Case No. 16-06-22-044; NMREC Case No. 16-06-28-047;
NMREC Case No. 17-02-02-010; NMREC Case No. 17-02-07-015;
NMREC Case No. 17-03-02-017

Commissioner Johnson moved that the above-referenced cases be dismissed. Commissioner Foltz seconded the motion and it carried unanimously.

NMREC Case No. 16-07-21-051; NMREC Case No. 17-01-07-007.

Commissioner Johnson moved that the above-referenced cases be dismissed with advisory letters to the Respondent brokers.

NMREC Case No. 16-08-04-056

Commissioner Johnson moved that the Commission offer the respondent an opportunity to surrender their license voluntarily in lieu of the issuance of a Notice of Contemplated Action (NCA) with the understanding that if the respondent does not accept the offer within 30 days the matter will be referred to the Attorney General’s Office for the issuance of an NCA. The offer should advise the respondent that if the Commission finds against him after hearing the respondent will be responsible for administrative hearing costs. Commissioner Foltz seconded the motion and it carried unanimously.

NMREC Case No. 17-03-05-020

Commissioner Johnson moved that the respondent in the above referenced case be offered a letter of reprimand, a \$1,000 fine, and completion for no continuing education credit of a 4-hour Ethics course in lieu of the issuance of an NCA with the understanding that if the offer is not accepted within 30 days the matter will be referred to the Attorney General's Office for the issuance of an NCA. Commissioner Foltz seconded the motion and it carried unanimously.

NMREC Case No. 16-05-17-035

Commissioner Johnson moved that Commission refer the above-referenced case to the Attorney General's Office for the issuance of an NCA to the respondent. Commissioner Foltz seconded the motion and it carried unanimously.

NMREC Case No. 17-09-08-089

Commissioner Johnson moved that Commission refer the above-referenced case to the Attorney General's Office for the issuance of an NCA to the respondent. Commissioner Foltz seconded the motion and it carried unanimously.

NMREC Case No. 16-11-02-078

Commissioner Johnson moved that Commission refer the above-referenced case to the Attorney General's Office for the issuance of an NCA to the respondent. Commissioner Foltz seconded the motion and it carried unanimously. The Commission also recommended that the complainant be referred to the State Insurance Department for further relief.

NMREC Case No. 17-02-05-013

Commissioner Johnson moved that Commission refer the above-referenced case to the Attorney General's Office for the issuance of an

NCA to the respondent. Commissioner Foltz seconded the motion and it carried unanimously.

NMREC Case No. 17-03-06-021

Commissioner Johnson moved that the respondent in the above referenced case be offered a letter of reprimand, a \$3,000 fine, and completion for no continuing education credit of the 4-hour Anatomy of a Purchase Contract course in lieu of the issuance of an NCA with the understanding that if the offer is not accepted within 30 days the matter will be referred to the Attorney General's Office for the issuance of an NCA. Commissioner Foltz seconded the motion and it carried unanimously.

NMREC Case No. 17-05-02-033

Commissioner Johnson moved that Commission refer the above-referenced case to the Attorney General's Office for the issuance of an NCA to the respondent. Commissioner Foltz seconded the motion and it carried unanimously.

NMREC Case No. 17-01-05-005

Commissioner Johnson moved that the respondent in the above referenced case be offered a letter of reprimand, a \$1,000 fine, and completion for no continuing education credit of the 30-hour Broker Basics course in lieu of the issuance of an NCA with the understanding that if the offer is not accepted within 30 days the matter will be referred to the Attorney General's Office for the issuance of an NCA. Commissioner Foltz seconded the motion and it carried unanimously.

NMREC Case No. 17-08-13-075 and NMREC Case No. 17-08-15-077

Commissioner Johnson moved that Commission combine the above-referenced cases and refer them to the Attorney General's Office for the issuance of an NCA to the respondent. Commissioner Foltz seconded the motion and it carried unanimously.

b. Hearing Officer Reports

i. NMREC Case No. 16-10-03-072, Martha Lyn Eden

After discussion, Commissioner Johnson moved approval of the Hearing Officer Report in the above-referenced case. Commissioner Foltz seconded the motion and it carried unanimously.

Commissioner Johnson moved that Ms. Eden be required to submit to the Commission every six months until her next license renewal an affidavit of restitution detailing the restitution that she has made to the individuals who suffered financial losses when her currency trading company filed for bankruptcy, and that she be assessed administrative hearing costs for the disciplinary hearing that was conducted in this matter. Commissioner Foltz seconded the motion and it carried unanimously.

ii. NMREC Case No. 15-06-04-055, David Vazquez

After discussion, Commissioner Johnson moved approval of the Hearing Officer Report in the above-referenced matter. Commissioner Foltz seconded the motion and it carried unanimously.

Commissioner Foltz moved that Mr. Vazquez's broker's license be suspended for two years, that he be fined \$7,000, be assessed administrative hearing costs and be issued a letter of reprimand. Commissioner Johnson seconded the motion and it carried unanimously.

iii. NMREC Case No. 14-09-23-099, Phillip Stoes and Brian Crawford

After discussion, Commissioner Johnson moved approval of the Hearing Officer Report in the above-referenced case. Commissioner Foltz seconded the motion and it carried unanimously.

Commissioner Johnson moved that the Mr. Stoes and Mr. Crawford each be fined \$500, be assessed administrative hearing costs, and be required to complete for no continuing education credit a 4-hour course in Completing RANM Forms. Commissioner Foltz seconded the motion and it carried unanimously.

c. Reconsideration of pre-NCA Offer

After discussion, Commissioner Johnson moved that the Commission offer the respondent in the above-referenced case a \$5,000 fine plus a Cease and Desist for engaging in unlicensed brokerage activity in New Mexico. Commissioner Foltz seconded the motion and it carried unanimously.

The Commission has previously offered a \$20,000 fine.

d. Default Orders

NMREC Case No. 14-01-15-015, Donovan Lopez
NMREC Case No. 15-07-06-074, James Kyle Berry
NMREC Case No. 16-06-03-037, Robert O. Moore

After discussion, Commissioner Johnson moved that the broker's licenses of the above-listed brokers be revoked by default for their failure to request hearings within the deadlines prescribed by the Uniform Licensing Act (ULA) after receiving NCA's. Commissioner Foltz seconded the motion and it carried unanimously.

e. NMREC Case No. 11-06-03-048, John "Jack" Piserchia

Commissioner Foltz moved that the Commission revoke Mr. Piserchia's broker's license for his failure to appear at the show cause hearing scheduled for Monday, September 25, 2017. Commissioner Johnson seconded the motion and it carried unanimously.

21. Adjourn

There being no further business, Commissioner Johnson moved that the meeting adjourn. Commissioner Foltz seconded the motion and it carried unanimously. The meeting adjourned at 3:36 p.m.

Gretchen Koether, President
New Mexico Real Estate Commission