

**New Mexico Real Estate Commission
Regular Meeting
Greater Albuquerque Association of Realtors
1635 University Boulevard NE
Albuquerque, New Mexico
March 18, 2019**

MINUTES

Commissioners Present: Gretchen Koether, President
Bill Davis, Vice President
Greg Foltz, Secretary
Kurstin Johnson, Member
Lindsay Rollins, Member

Staff Present: Wayne W. Ciddio, Executive Secretary
Lyn Carter, Chief Investigator
Perry Bryant, Investigator
Germelyn Vivar, Administrative Secretary

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

1. 9:00 a.m.-Call to Order and Welcome- Gretchen Koether, President

Commission President Gretchen Koether called the meeting to order at 9:00 a.m. and welcomed those in attendance.

2. Determination of Quorum

With all five Commissioners present, Commissioner Koether determined that a quorum was present.

3. Pledge of Allegiance

Commissioner Koether led the Commission and all those present in the Pledge of Allegiance.

4. Introductions

Commissioners, Commission staff, and Assistant Attorney General and Commission Counsel Lori Chavez introduced themselves.

5. Approval of the Agenda of the March 18, 2019 Regular Commission Meeting

Commissioner Greg Foltz moved approval of the agenda of the March 18, 2019 Regular Meeting. Commissioner Bill Davis seconded the motion and it carried unanimously.

6. Approval of the Minutes of the February 11, 2019 Special Commission Meeting

Commissioner Foltz moved approval of the minutes of the February 11, 2019 Special Commission meeting. Commissioner Lindsay Rollins seconded the motion and it carried on a 4-0 vote with Commissioner Kurstin Johnson abstaining because she was not present excused from the meeting,

7. Approval of the Minutes of the January 14, 2019 Regular Commission Meeting

Commissioner Johnson moved approval of the minutes of the January 14, 2019 Regular Commission meeting. Commissioner Foltz seconded the motion and it carried unanimously.

8. Broker and Public Forum

No brokers or members of the public addressed the Commission during this portion of the meeting.

9. Report on Real Estate Commission Legislation and Other Legislation of Interest in the 2019 Legislative Session

Commission Executive Secretary Wayne Ciddio reported legislative action on the following bills of interest to the Commission:

House Bill 98- The bill will restrict fingerprinting of licensees to initial licensure and not allow for fingerprinting at the time of renewal, as is presently required by Commission rule.

Senate Bill 120- The bill will add an auctioneer under contract with a real estate brokerage to auction real estate to the list of exemptions from licensure in the Real Estate License Law.

House Bill 433- The bill will create a five-member Home Inspector Licensing Board to promulgate rules establishing licensure for home inspectors.

Senate Bill 238- The Commission-initiated bill to require residential property managers to be bonded in the minimum amount of \$100,000 passed the Senate and was on the House floor for final action when it was killed by a procedural move by State Representative Alonzo Baldonado.

10. Education Advisory Committee (EAC) Reports and Minutes

EAC member Jacque Moise presented the EAC reports and minutes on behalf of the committee.

After discussion, Commissioner Davis moved approval of the reports and minutes of the EAC meetings of February 13, 2019 and March 13, 2019. Commissioner Foltz seconded the motion and it carried unanimously.

11.Chief Investigator’s Report- Lyn Carter

Mr. Carter reported that the Commission received 6 new complaints in January, 5 new complaints in February and 4 new complaints so far in March for a total of 15 new complaints year-to-date in 2019.

Mr. Carter discussed the laws governing licensure of applicants who are convicted felons.

Although the Real Estate License Law provides that the Commission may deny licensure or suspend the license of a broker who has been convicted of a felony, that power is counterbalanced by the Criminal Offender Employment Act.

That Act provides that three years after a convicted felon has completed their sentence and probation without a re-offense, the person is considered rehabilitated and the burden of proof lies with the Commission to prove in a formal disciplinary hearing that the individual has not been rehabilitated and is therefore not eligible for an initial license or license renewal.

Mr. Carter reported the following schedule of upcoming disciplinary hearings:

- Alonzo Baldonado
Monday, April 1, 2019, at 10:00 a.m.
Coldwell Banker Legacy
1775 Main St. NE
Los Lunas, NM 87031
Hearing Officer, Commissioner Greg Foltz
- Lacey Royce Fox
Thursday, April 4, 2019, at 11:00 a.m.
Coldwell Banker Prime Real Estate
600 N. Main St.
Clovis, NM 88101
Hearing Officer, Commissioner Gretchen Koether

- Alicia Feil and Mary Kay Gutierrez
Monday, April 8, 2019, at 9:00 a.m.
Commission Office
5500 San Antonio Dr. NE
Albuquerque, NM 87109
Hearing Officer, Bill Davis
- George Smith 11
Monday, April 15, 2019, at 9:00 a.m.
Greater Albuquerque Association of Realtors
1635 University Boulevard NE
Albuquerque, NM 87102

12.Executive Session

Commissioner Davis moved that Pursuant to Section 10-15-1 H (1) (3) and (7) of the Open Meetings Act, the Commission go into Executive Session to consider reports of investigation, settlement agreements, default orders, and other matters related to the issuance, suspension, or revocation of licenses listed under Agenda Item 12, Executive Session. Commissioner Foltz seconded the motion.

Mr. Ciddio called the roll. Commissioners Koether, Davis, Foltz, Johnson, and Rollins voted in favor of the motion. No Commissioners voted against the motion.

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

13.Action on Items Discussed in Executive Session

a. Reports of investigation

NMREC Case No. 17-06-14-052; NMREC Case No. 17-07-07-060; NMREC Case 17-08-06-068.

Commissioner Johnson moved that the above-referenced cases be closed with advisory letters. Commissioner Foltz seconded the motion and it carried unanimously.

NMREC Case No. 17-08-04-066; NMREC Case No. 17-08-10-072; NMREC Case No. 17-08-11-073; NMREC Case No. 17-08-14-076; NMREC Case No. 17-09-04-084; NMREC Case No. 18-06-02-052; NMREC Case No. 18-06-15-065.

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

NMREC Case No. 17-06-15-053

Commissioner Johnson moved that the Commission issue a Notice of Contemplated Action (NCA) in the above-referenced case and that the NCA be combined with the NCA to be issued in NMREC Case No. 17-06-10-048. Commissioner Foltz seconded the motion and it carried unanimously.

NMREC Case No. 17-07-04-057

Commissioner Johnson moved that the Respondent in the above-referenced case be offered a letter of reprimand, a \$500 fine, and continuing education for no credit as deemed appropriate by the Commission upon acceptance of the offer in lieu of the issuance of an NCA with the understanding that if the offer is not accepted within 30 days the case 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. 18-05-01-039

Commissioner Johnson moved that the Commission issue an NCA to the Respondent in the above-referenced case and file a complaint against the Complainant. Commissioner Davis seconded the motion and it carried unanimously.

NMREC Case No. 18-05-02-040

Commissioner Johnson moved that the Commission issue NCA's to both Respondents in the above-referenced case and file a complaint against the Complainant. Commissioner Davis seconded the motion and it carried unanimously.

NMREC Case No. 18-05-08-046

Commissioner Johnson moved that the Associate Broker Respondent and the Qualifying Broker Respondent in the above-referenced case each be offered letters of reprimand, \$1,000 fines, and completion for no credit of a continuing education class in measuring square footage in lieu of the issuance of an NCA with the understanding that if the offer is not accepted within 30 days the case 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. 18-06-06-056

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 credit of a continuing education course deemed appropriate by the Commission upon acceptance of the offer with the understanding that if the offer is not accepted within 30 days the case will be referred to the Attorney

General's Office for the issuance of an NCA. Commissioner Johnson further moved that the Commission file a complaint against the Complainant. Commissioner Foltz seconded the motion and it carried unanimously.

NMREC Case No. 18-06-10-060

Commissioner Johnson moved that the Commission offer the Qualifying Broker Respondent in the above-referenced case a letter of reprimand, a \$250 fine, and continuing education for no credit as deemed appropriate by the Commission upon acceptance of the offer with the understanding that if the offer is not accepted within 30 days the case will be referred to the Attorney General's Office for the issuance of an NCA. Commissioner Johnson further moved that the unlicensed employee involved in the subject transaction be offered a letter of reprimand and a \$250 fine. Commissioner Rollins seconded the motion and it carried unanimously.

NMREC Case No. 18-06-12-062

Commissioner Johnson moved that the Commission offer the Respondent in the above-referenced case a letter of reprimand, a \$500 fine, and voluntary surrender of their license with the understanding that if the offer is not accepted within 30 days the case will be referred to the Attorney General's Office for the issuance of an NCA. Commissioner Davis seconded the motion and it carried unanimously.

b. Settlement Agreements

NMREC Case No. 17-02-01-009, Michelle Sundt

Commissioner Johnson moved that the Commission approve the settlement agreement in the above-referenced case with an amendment clarifying that the continuing to be required is the 30-

hour Broker Basics course. Commissioner Foltz seconded the motion and it carried unanimously.

c. Default Orders

NMREC Case Nos. 17-01-03-003, 17-08-12-074, 17-08-13-075, 17-08-15-077, 17-09-01-082, 17-09-02-083 and 17-10-03-096, Linda Ord

Commissioner Johnson moved that Linda Ord's broker's license be revoked by default for her failure to respond to NCA's issued in the above-referenced cases. Commissioner Rollins seconded the motion and it carried unanimously.

d. Hearing Officer Reports

NMREC Case No. 15-10-06-098, Michelle Carter

Commissioner Foltz moved that the Hearing Officer Report in the above-referenced case be approved. Commissioner Davis seconded the motion and it carried unanimously.

Commissioner Johnson moved that Michelle Carter's license be revoked, that she be fined \$5,000 plus administrative hearing costs, and that she receive a letter of reprimand. Commissioner Davis seconded the motion and it carried unanimously.

NMREC Case No. 16-08-03-055, Christopher Anderson

Commissioner Foltz moved that the Hearing Officer Report in the above-referenced case be approved. Commissioner Davis seconded the motion and it carried on a 4-0 vote, with Commissioners Koether, Davis, Foltz, and Rollins voting in favor of the motion and Commissioner Johnson abstaining.

Commissioner Foltz moved that Christopher Anderson be fined \$750 plus administrative hearing costs, that he receive a letter of

reprimand focused on understanding and performing broker duties, and complete for no continuing education credit a four (4) hour course deemed appropriate by the Commission. Commissioner Davis seconded the motion and it carried on a 4-0 vote with Commissioners Koether, Davis, Foltz, and Rollins voting in favor of the motion and Commissioner Johnson abstaining.

e. NMREC Case No. 16-11-02-078, Motion to dismiss on procedural grounds

The Commission took no action on the above-referenced motion.

14. Adjourn

There being no further business, Commissioner Davis moved that the meeting adjourn. Commissioner Foltz seconded the motion and it carried unanimously.

The meeting adjourned at 1:55 p.m.

Gretchen Koether, President
New Mexico Real Estate Commission