IDAHO REAL ESTATE COMMISSION
MEETING MINUTES
January 23, 2020

Pursuant to notice given, the meeting of the Idaho Real Estate Commission (Commission) was held at 575 E. Parkcenter Blvd., Suite 180, Boise, Idaho on Thursday, January 23 at 8:30 a.m.

Commission Members Present: Members Absent:
Jill Stone, Chair, Twin Falls
Mike Gamblin, Vice-Chair, Boise
Kim Cooper, Member, Coeur d’Alene
Michael James Johnston, Member, Idaho Falls
Martin Espil, Public Member, Boise
Comprising a quorum of the Commission

Staff Present:
Michell Bird, Executive Director
Melissa Ferguson, Education & Licensing Director
Craig Boyack, Chief Investigator
Jessica Valerio, Administrative Assistant 2

Others Present:
David Hensley, CEO, Idaho REALTORS®
See attached list

Introductions:
a. Commissioners
b. Staff
c. Guests

Meeting was called to order at 8:30 a.m. MT by Commission Chair Jill Stone.

Approval of Meeting Agenda: Motion was made by Michael J. Johnston to approve the January 23, 2020 meeting agenda with edit to add streaming of Commission meeting. Motion carried.

Approval of Meeting Minutes: Motion was made by Kim Cooper to approve the December 19, 2019 Commission meeting minutes as corrected. Motion carried.

Staff Reports:
The following reports were presented for members’ review; copies of which are on file at
the Commission office:
- December 2020 Financial Report
- License Examination Statistic Report
- Complaint Summary Report
- Enforcement Telephone Activity Log December 2020
- Audit Report December 2020
- Waiver by State Report
- December 2020 Education & Licensing Telephone Log

Idaho REALTORS®: David Hensley reported their total membership number in January came in at 10,511. David Hensley also reported IR has launched a new website.

Executive Director’s Report:
Legislative Update: Director Bird reported she attended an IR Legislative Committee meeting phone call, giving the Director an opportunity to clarify and answer questions from the Idaho REALTORS®. Director Bird presented the Commissioners with drafts of each piece of proposal legislation.
Commissioner Kim Cooper stated he is in full support of language on proposed legislation amending 54-2038. All Commissioners are in support of removing the redundant verbiage in 54-2038(1)(c). Representative Syme will sponsor the legislation.

ARELLO Update:
Commissioner Michael J. Johnston made a motion to approve and support Director Bird if she runs for president-elect of ARELLO. Motion carried.

Guideline #8 Review: Director Bird led discussion on Guideline #8 – Coming Soon Listing. Michael J. Johnston to send draft of suggested edits to other Commissioners and Director Bird.
IREC staff to send a draft of Guideline #8 to Commissioners for revisions and requests response by January 31st.
A motion was made by Commissioner Mike Gamblin to table this action item until next Commission meeting. Motion carried.

Discussion on Legislative Idea on Handling of Earnest Money: Commissioner Michael J. Johnston presented and led discussion on a legislative idea on handling of earnest money. Discussion ensued.

Education & Licensing Director’s Report:
Education and Licensing Policies: Director Ferguson presented draft changes to policies. Discussion ensued.
A motion was made by Commissioner Gamblin to approve changes to policies presented. Motion carried.
Discussion on Streaming of Commission Meeting: Commissioner Michael J. Johnston led discussion on streaming of Commission meeting. Discussion ensued. Commissioner Kim Cooper directed Commissioners and staff to do more research and bring back information to a later meeting.

Enforcement

Stipulations:
Staff vs. Devin Roy Skinner, Case No. 18-0187: The party’s Stipulation in this matter was presented for ex parte hearing and tape-recorded. Craig Boyack was sworn in and presented the Stipulation. No other testimony was presented. Motion was made by Commissioner Kim Cooper to approve the Stipulation and to enter a “Final Order” in accordance with the terms of the Stipulation. Motion carried. A copy of the Final Order is attached hereto and made a part of these minutes.

Notice of Default:
Staff vs. James Ronald Hall and Any Credit Boise LLC,: The party’s final order in this matter was presented. Motion was made by Commissioner Michael J. Johnston to enter a “Final Order”. Motion carried. A copy of the Final Order is attached hereto and made a part of these minutes.

Probable Cause Memo #19-0596: A motion was made by Commissioner Mike Gamblin finding the facts set forth in the memorandum of probable cause provided to them by the Executive Director, pursuant to Idaho Code 54-2058(1), are sufficient to proceed with formal action on the violations presented. Commission staff is authorized to file an administrative complaint. Commissioner Mike Gamblin further moved that upon the initiation of any formal proceedings the Executive Director shall appoint a Hearing Officer to preside in the case, as provided by law. The Hearing Officer shall have the standard authority set forth in chapter 2 of the Commission’s administrative rules, IDAPA 33.01.02.452. Further, for any hearing held, with or without a hearing officer, the Notice of Hearing shall be issued in accordance with the Commission’s “Standard Form for Notice of Hearing and Scheduling Order”, a copy of which shall be provided to any hearing officer upon appointment. Motion carried.

Executive Session: In accordance with provisions of Idaho Core (74-206(1)(b), a motion was made by Commissioner Michael J. Johnston to adjourn to executive session. Roll was called, Michael J. Johnston, Mike Gamblin, Jill Stone, Kim Cooper, and Martin Espil voted in favor. Motion carried. No action was taken.
Regular Session: There being no further purpose for an executive session, a motion was made by Commissioner Michael J. Johnston to adjourn the executive session and return to open meeting. Motion carried.

Exemption Review #20-001: Request seeking an exemption from felony disqualification pursuant to Idaho Code 54-2012(1)(g); following discussion, review of the documents submitted, and having reviewed and considered the six factors set forth in Idaho Code Section 54-2012(1)(e)(ii), motion was made by Commissioner Kim Cooper to approve request for exemption. Motion carried.

Exemption Review #20-002: Request seeking an exemption from felony disqualification pursuant to Idaho Code 54-2012(1)(g); following discussion, review of the documents submitted, and having reviewed and considered the six factors set forth in Idaho Code Section 54-2012(1)(e)(ii), motion was made by Commissioner Kim Cooper to approve request for exemption. Motion carried.

There being no further business, Chair Jill Stone adjourned the meeting at 12:29 p.m. MT.

Respectfully submitted,

MiChell Bird
Executive Director

Attachments: December 2019 Financial Report
Complaint Summary Report
Enforcement Telephone Activity Log December 2019
Audit Report December 2019
Examination Statistics
Waiver by State Report
Education & Licensing Telephone Log December 2019
Final Orders

Minutes of the Idaho Real Estate Commission meeting on January 23, 2020 are hereby approved.
Jill Stone, Chair

Kim Cooper, Member

Michael J. Johnston, Member

Mike Gamblin, Vice Chair

Martin Espil, Member
BEFORE THE IDAHO REAL ESTATE COMMISSION

STAFF OF THE IDAHO REAL ESTATE COMMISSION,

Petitioner,

vs.

DEVIN ROY SKINNER,

Respondent.

FINAL ORDER

On January 23, 2020, the Commission considered the parties’ Stipulation wherein Respondent admitted to the following violation of the Real Estate License Law and Rules, Idaho Code:

1. Idaho Code Section 54-2048(3)(c); RESPONSIBLE BROKER FOR THE TRANSACTION DUTIES AND RECORDKEEPING. The "responsible broker", as referred to in this section, shall be responsible to the commission for the transaction, transaction records, the funds and closing in accordance with the requirements of this chapter. The broker who lists and sells any real property shall be deemed the responsible broker in the transaction. In the case of a cooperative sale, the broker who holds entrusted funds in a real estate trust account while the transaction is pending, or who delivers or transfers the funds to the closing agency or any authorized party other than the cooperating broker in the transaction, shall be deemed the broker responsible for the transaction. The responsible broker shall: (3) Create and maintain, for the retention period required in section 54-2049, Idaho Code, a transaction file containing
the following documents, as applicable. For all pending, closed or fallen transactions, the original or a true and correct copy of: (c) All offers accepted, countered or rejected, which must each be retained in the manner required in section 54-2049, Idaho Code.

A. Skinner, as the responsible broker, failed to retain any transaction documents for the failed Garfield property transaction between Rigby and Sears.

2. Idaho Code Section 54-2049(1) and (3); RECORD RETENTION SCHEDULES. All records required in this chapter to be kept and maintained by a real estate broker, including trust account and financial records, transaction files and other records are to be kept in the broker's files according to this section. The following records must be kept by a broker for three (3) calendar years after the year in which the event occurred, the transaction closed, all funds were disbursed, or the agreement and any written extension expired: (1) The original or true copy of all accepted, countered or rejected offers; and (3) Transaction files and the contents required in section 54-2048(3), Idaho Code.

A. Skinner, as the responsible broker, failed to retain any transaction documents for the failed Garfield property transaction between Rigby and Sears.

3. Idaho Code Section 53-2060(4); failure to keep adequate records of all property transactions in which the person acts in the capacity of real estate broker or salesperson.

A. Skinner, as the responsible broker, failed to retain any transaction documents for the failed Garfield property transaction between Rigby and Sears.

4. Idaho Code Section 54-2060(11); any other conduct whether of the same or a different character than hereinabove specified which constitutes dishonest or dishonorable dealings.
A. Skinner falsely told Crane on March 17, 2018, that the Garfield property was under contract. Skinner sent false information to Crane so the Thorntons would accept Rigby’s offer.

5. Idaho Code Section 54-2086(1)(b); if a buyer, prospective buyer, or seller is not represented by a brokerage in a regulated real estate transaction, that buyer or seller remains a customer, and as such, the brokerage and its licensees are nonagents and owe the following legal duties and obligations: To perform these acts with honesty, good faith, reasonable skill and care.

A. Skinner told Crane and the Thorntons that the Garfield property was under contract on March 17, 2018, when, in fact, it was not under contract.

6. Idaho Code Section 54-2087(2); if a buyer or seller enters into a written contract for representation in a regulated real estate transaction, that buyer or seller becomes a client to whom the brokerage and its licensees owe the following agency duties and obligations: To exercise reasonable skill and care.

A. Skinner did not exercise reasonable skill and care for Rigby in the way he conducted the failed Garfield property transactions because he told Crane that the Garfield property was under contract when, in fact, it was not.

Having considered the Stipulation, the Commission approves the same and enters the following order of discipline in accordance therewith.

IT IS HEREBY ORDERED, as follows:

1. **Formal Reprimand**

   B. The Commission’s Order shall constitute a formal reprimand of Skinner for the action set forth in the Final Order.
2. **License Suspension**

A. Skinner’s real estate license shall be suspended for a period of one (1) year from the service date of the Commission’s Order. However, all but one hundred twenty (120) days of the one (1)-year suspension period shall be withheld provided Skinner:

   a. Complies with the terms of the Commission’s Order and violates no other license law.

   b. Timely pays in full all fines and attorney fees.

B. In the event Skinner fails to comply with any portion of the discipline set forth herein, the entire one (1)-year suspension period shall be imposed; such suspension shall begin on the date of noncompliance and extend for one year from that date.

3. **Fines and Fees**

   A. Respondent shall pay a **Two Thousand Five Hundred Dollar ($2,500.00) civil fine by May 24, 2020.**

   B. Respondent shall pay the **costs and attorney fees in the amount of Four Thousand Nine Hundred Fifty Dollars ($4,950.00) by April 23, 2020,** and that in any event, all monies paid by Respondent will be applied towards the costs/fees award first before application to the fine.

   C. In the event Staff agrees to accept installment payments of any fine or fees under the Stipulation, should Respondent fail to make any one payment as required by its due date, then all sums remaining unpaid shall at once become due and payable, and no further notice shall be provided. Any agreement or act by Staff to accept a late payment shall not constitute a waiver of Staff’s right, upon any
subsequent failure by Respondent to make a payment on time, to invoke this provision to require immediate and full payment.

D. All fines and attorney’s fees are due and payable pursuant to the terms of this Order. Payments must be made directly to the Idaho Real Estate Commission by cash, check, money order or credit card, and may be hand delivered or mailed to the Idaho Real Estate Commission 575 E. Parkcenter Blvd., Ste. 180, Boise, Idaho 83706. **All payments must be received at the Commission office on or before 5:00 p.m. MST/MDT on the dates set forth above. MAKE ALL PAYMENTS TO THE IDAHO REAL ESTATE COMMISSION. DO NOT MAKE PAYMENT TO NAYLOR & HALEs.**

4. The Commission shall be entitled to seek an injunction or order from the district court to enforce the provisions of this Final Order without further administrative hearing in the event the Respondent fails to comply with this Final Order entered pursuant to the Stipulation.

5. The Executive Director of the Idaho Real Estate Commission shall cause a true and correct copy of this Final Order to be served on the Respondent by mailing a copy to the Respondent’s last known address on file at the Commission office.

Issued this 23rd day of January 2020.

FOR THE COMMISSIONERS:

[Signature]
L. Jill Stone, Commissioner
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of January, I caused to be served, by the methods indicated, a true and correct copy of the Final Order upon:

Devin Roy Skinner
810 Webster Street
Montpelier, ID 83254

X U.S. Mail

_____ Email:

_____ Facsimile Transmission

Eric F. Nelson
Naylor & Hales, PC
950 W. Bannock St. Ste 610
Boise, ID 83702

_____ U.S. Mail

X Email:
eric@naylorhales.com

_____ Facsimile Transmission

MiChell M. Bird
MiChell M. Bird, Executive Director
Idaho Real Estate Commission
BEFORE THE IDAHO REAL ESTATE COMMISSION

STAFF OF THE IDAHO REAL ESTATE COMMISSION,

             Petitioner,

vs.

JAMES RONALD HALL and
ANY CREDIT BOISE LLC,

             Respondents.

FINAL ORDER

1. A Complaint in the above-entitled matter was filed with the Commission October 8, 2019. On October 14, 2019, the Complaint was duly served upon Respondent.

2. No Answer or other responsive pleadings or motions have been filed within the time prescribed by law, and after being served with a Notice of Proposed Default Order, the Respondents have failed to timely file a Petition preventing entry of the proposed default Final Order.

3. Based upon this record, and as provided by Idaho Code Section 67-5242(4), Staff of the Idaho Real Estate Commission is entitled to entry of this default order, which Complaint seeks the disciplinary action outlined herein, based upon the verified allegations set forth below:

FINAL ORDER – JAMES R. HALL & ANY CREDIT BOISE, LLC
Respondent Hall violated the following sections of Idaho Code:

a. § 54-2002, as defined by 54-2004(39)(a), (c), (d), (e) and 54-2004(2), and 54-2004(20) – For unlicensed practice by engaging in selling, listing, buying or negotiating, or offering to sell, list, buy or negotiate the purchase, sale, option or exchange of real estate or any interest therein or business opportunity or interest therein for others, without an Idaho license, and acting as a “Dealer in options”, defined as any person firm, partnership, association or corporation who shall directly or indirectly take, obtain or use options to purchase, exchange, lease option or lease purchase real property or any interest therein for another or others whether or not the options shall be in his or its name and whether or not title to the property shall pass through the name of the person, firm, partnership, association or corporation in connection with the purchase, sale, exchange, lease option or lease purchase of the real property, or interest therein.

Respondent Any Credit Boise, LLC violated the following section of Idaho Code:

a. § 54-2002, as defined by §54-2004(39)(a), (c), (d) and § 54-2004(2) and 54-2004(20)– Unlicensed practice by engaging in selling, listing, buying or negotiating, or offering to sell, list, buy or negotiate the purchase, sale, option or exchange of real estate or any interest therein or business opportunity or interest therein for others, without an Idaho license and acting as a “Dealer in option”, defined as any person, firm partnership, association or corporation who shall
directly or indirectly take, obtain or use options to purchase, exchange, lease option or lease purchase real property or any interest therein for another or others whether or not the options shall be in his or its name and whether or not title to the property shall pass through the name of the person, firm, partnership, association or corporation in connection with the purchase, sale, exchange, lease option or lease purchase of the real property, or interest therein

NOW, THEREFORE, IT IS HEREBY ORDERED, as follows:

1. Respondents are hereby ordered to cease and desist from engaging in the unlicensed practice of real estate in Idaho;

2. Respondent Hall is ordered to pay a Five Thousand Dollar ($5,000.00) total civil fine within thirty (30) days from the date of issuance of this Final Order.

3. Respondent Any Credit Boise, LLC is ordered to pay a Five Thousand Dollar ($5,000.00) total civil fine within thirty (30) days from the date of issuance of this Final Order.

4. Respondent Hall is ordered to pay reasonable costs and attorney fees incurred by Staff in the investigation and enforcement of this action, which amount is Seven Hundred Dollars ($700.00) as of the date the Complaint was filed, and which amount is deemed reasonable in the case of default; such fees shall be due and payable within thirty (30) days from the date of issuance of this Final Order, and that in any event, all monies paid by Respondent be applied towards the costs/fees award first, before application to the fine.

5. Respondent Any Credit Boise, LLC is ordered to pay reasonable costs and attorney fees incurred by Staff in the investigation and enforcement of this
action, which amount is Seven Hundred Dollars ($700.00) as of the date the 
Complaint was filed, and which amount is deemed reasonable in the case of 
default; such fees shall be due and payable within thirty (30) days from the date of 
issuance of this Final Order, and that in any event, all monies paid by Respondent 
be applied towards the costs/fees award first, before application to the fine.

6. Respondent Hall is jointly and severally liable for any fines, costs, and 
attorney fees that Any Credit Boise, LLC is ordered to pay in this matter.

7. In the event Staff agrees to accept installment payments of any fine or 
fees under this order, should Respondents fail to make any one payment as 
required by its due date, then all sums remaining unpaid shall at once become due 
and payable, and no further notice shall be provided. Any agreement or act by 
Staff to accept a late payment shall not constitute a waiver of Staff’s right, upon 
any subsequent failure by Respondents to make a payment on time, to invoke this 
provision to require immediate and full payment.

8. All fines and attorney’s fees are due and payable pursuant to the terms 
of this Order. Payments must be made directly to the Idaho Real Estate 
Commission by cash, check, money order or credit card, and may be hand 
delivered or mailed to the Idaho Real Estate Commission 575 E. Parkcenter Blvd., 
Ste. 180, Boise, Idaho 83706. All payments must be received at the 
Commission office on or before 5:00 p.m. MST/MDT on the dates set forth 
above. MAKE ALL PAYMENTS TO THE IDAHO REAL ESTATE 
COMMISSION. DO NOT MAKE PAYMENT TO NAYLOR & HALES OR TO DAVID E. WYNKOOP OR SHERER & WYNKOOP, LLP.

9. This is a Final Order of the Agency. Any aggrieved party may file a 
Motion for Reconsideration of this Final Order within fourteen (14) days of the 
date of service of this Final Order. The Commission will dispose of the Petition

FINAL ORDER – JAMES R. HALL & ANY CREDIT BOISE, LLC   Page 4 of 6
[Motion] for Reconsideration within twenty-one (21) days of its receipt, or else the Petition will be deemed denied by the operation of law. See section 67-5246(4), Idaho Code.

10. Judicial Review – Place of filing. Pursuant to section 67-5272, Idaho Code, any party aggrieved by this Final Order or Orders previously issued in this case may seek judicial review of this Final Order and all previously issued Orders in this case to district court by filing a Petition for Review in the district court of the county in which:

A. a hearing was held;
B. the final agency action was taken;
C. the party seeking review of the Order resides or operates its principal place of business in Idaho.


A. within twenty-eight (28) days of the date of service of this Final Order; or, if a Petition for reconsideration is filed,

B. within twenty-eight (28) days of the date of the Commission’s decision on that Petition, or of the Commission’s failure within twenty-one (21) days to issue a decision on the petition, whichever is later.

A Cross-Petition for Judicial Review may be filed within fourteen (14) days after a party is served with a copy of the notice of the Petition for Judicial Review.

The filing of a Petition for Review in the District Court does not itself stay the effectiveness or enforcement of the Order being appealed. See Idaho Code 57-5274.
12. The Executive Director of the Idaho Real Estate Commission shall cause a true and correct copy of this Final Order to be served on the Respondents by mailing a copy to the Respondents’ last known address on file at the Commission office.

ISSUED this 23rd day of January 2020.

FOR THE COMMISSIONERS:

[Signature]
L. Jill Stone, Chair
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 24th day of January, I caused to be served, by the methods indicated, a true and correct copy of the Final Order upon:

James Hall
Any Credit Boise LLC
3090 S. Lindsay Ave.
Boise, ID 83705

- X U.S. Mail
- Email:
- Facsimile Transmission

James Hall
Any Credit Boise LLC
104 E. Fairview Ave. #258
Meridian, ID 83705

- X U.S. Mail
- Email:
- Facsimile Transmission

James Hall
2669 Morris Place
Wilder, ID 83676

- X U.S. Mail
- Email:
- Facsimile Transmission

Eric F. Nelson
Naylor & Hales, PC
950 W. Bannock St. Ste 610
Boise, ID 83702

- Email:
- eric@naylorhales.com
- Facsimile Transmission

[Signature]
MiChell M. Bird, Executive Director
Idaho Real Estate Commission