IDAHO REAL ESTATE COMMISSION
MEETING MINUTES
March 9, 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 Monday, March, 9 at 1:00 p.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 Wynkoop, Commission’s Legal Counsel
David Hensley, CEO, Idaho REALTORS®
See attached list

Introductions:
a. Commissioners
b. Staff
c. Guests

Meeting was called to order at 1:00 p.m. MT by Commission Chair Jill Stone

Approval of Meeting Agenda: Motion was made by Commissioner Mike Gamblin to approve the March 9, 2020 meeting agenda. Motion carried.

Approval of Meeting Minutes: Motion was made by Commissioner Kim Cooper to approve the January 23 and February 21, 2020 Commission meeting minutes. Motion carried.

Staff Reports:
The following reports were presented for members’ review; copies of which are on file at the Commission office:

- January 2020 Financial Report(s)
- License Base Analysis
- Examination Statistics
- Complaint Summary Report
- Enforcement Telephone Activity Log(s) January 2020
- Audit Report(s) January 2020
- Waiver by State Report(s) January 2020
- Education & Licensing Telephone Log(s) January 2020

Idaho REALTORS®: CEO, David Hensley, gave an update number of 10,547 members as of the end of February. David Hensley also announced the IR convention would take place at the Coeur d’Alene Resort in October 2020.

Executive Director’s Report:
- Legislative Update: Director Bird gave update on each piece of legislation. Director Bird reported where each piece had passed both sides of the legislature and was waiting for the Governor’s signature.

- William’s Travel Report: William Robertson reported on his travel to a Laserfiche conference in Long Beach, CA.

- Report on Streaming Meeting: Director Bird reported on streaming meetings and research she made of other states. Discussion ensued.

- Discussion on Travel: Administrative Assistant Jessica Valerio gave a brief summary of travel policy and procedure, and the importance of submission of the travel expense worksheet.

Enforcement

Stipulations:
Staff vs. Alex R. Smith, Case No. 19-0530: 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 Michael J. Johnston 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.

Staff vs. Michael J. “Rip” Roberts, Case No. 19-0217: The party’s Stipulation in this matter was presented for ex parte hearing and tape-recorded. Don Morse was sworn in and presented the Stipulation. No other testimony was presented. Motion was made by Commissioner Michael J. Johnston 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.

Staff vs. Kristen J. “Red” Vozza, Case No. 19-0365: The party’s Stipulation in this matter was presented for ex parte hearing and tape-recorded. Nathan Svevad was sworn in and presented the Stipulation. No other testimony was presented. Motion was made by Commissioner Michael J. Johnston 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.

PC Memos:

Probable Cause Memo #19-0076 and #19-0077: A motion was made by Commissioner Kim Cooper 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 Kim Cooper 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 the Attorney General’s administrative rules. 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.

Cost and Attorney Fees Objection:
Staff vs. Randall Franz: A motion was made by Commissioner Mike Gamblin to direct Commission Counsel to draft a response to the objection of cost and attorney fees. 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.

Regular Session: There being no further purpose for an executive session, a motion was made by Commissioner Mike Gamblin to adjourn the executive session and return to open
meeting. Motion carried.

**Exemption Review #20-005**: Request seeking an exemption from felony disqualification pursuant to Idaho Code 54-2012(1)(c); 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), an amended motion was made by Commissioner Kim Cooper to move final decision until next regular scheduled commission meeting to receive legal counsel to provide analysis. Motion carried.

**Guideline #8 Review**: Director Bird led review of Guideline #8. Discussion ensued. Commissioners decided to review and send edits via email, then approve at next meeting.

There being no further business, Chair Jill Stone adjourned the meeting at 3:55 p.m. MT.

Respectfully submitted,

MiChell Bird
Executive Director

MB:jv

Attachments:  
Financial Report(s) January 2020  
License Base Analysis  
Examination Statistics  
Education & Licensing Telephone Log(s) January 2020  
Complaint Summary Report  
Enforcement Telephone Activity Log(s) January 2020  
Audit Report(s) January 2020  
Waiver by State Report(s) January 2020  
Final Orders

Minutes of the Idaho Real Estate Commission meeting on March 9, 2020 are hereby approved.
Jill Stone, Chair

Mike Gamblin, Vice Chair

Kim Cooper, Member

Michael J. Johnston, Member

Martin Espil, Member
BEFORE THE IDAHO REAL ESTATE COMMISSION

STAFF OF THE IDAHO REAL ESTATE COMMISSION,

                Petitioner,

vs.

ALEX R. SMITH,

                Respondent.

                FINAL ORDER

On March 9, 2020, the Commission considered the parties’ Stipulation wherein Respondent admitted to the following violation of the Real Estate License Law and Rules, Idaho Code:

A. § 54-2061(1)(a): The Commission may also take disciplinary action against a licensee including, but not limited to suspension or revocation of a license, where in a court of competent jurisdiction, the licensee: Has been convicted of a felony or has been convicted of a misdemeanor involving fraud, misrepresentation, or dishonest or dishonorable dealing or which otherwise demonstrates the licensee’s lack of trustworthiness to engage in the real estate business.

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**
A. The Commission’s Order shall constitute a formal reprimand of Smith for the actions set forth in the Stipulation.

2. **Withheld License Suspension**

   A. Smith’s real estate license shall be suspended for a period of thirty-six (36) months. However, the entirety of the suspension will be withheld so long as Smith complies with the following provisions:

   a) Smith shall not commit any additional crimes or violate any additional provisions of the Idaho Real Estate License Law. This withheld revocation will expire one (1) day after his release from all terms associated with his criminal conviction. This includes, but is not limited to, any probation and/or indeterminate incarceration.

   b) Smith shall be required to self-report to the Commission any parole or probation violations within twenty (20) days. Failure to do so will be considered a violation of the Final Order.

   c) Smith fully-complies with the terms of his criminal probation (including all terms of its release).

   d) Smith fully-complies with the terms of the Commission’s Order including, but not limited to, timely paying all costs and attorney fees.

3. **Fines and Fees**

   A. Respondent shall pay **costs and attorney’s fees in the amount of Four Hundred Fifty Dollars ($450.00) by April 9, 2020**, and that in any event, all monies paid by Respondent be applied towards the costs/fees award first, before application to the fine.
B. 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.

C. 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 9th day of March 2020.

FOR THE COMMISSIONERS:

\[Signature\]
Jill Stone, Commissioner
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of March, I caused to be served, by the methods indicated, a true and correct copy of the Final Order upon:

Alex R. Smith  
10649 NE 13th Ave 151  
Portland, Oregon 97211

— U.S. Mail

Email:

Facsimile Transmission

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

— U.S. Mail

— Email: eric@naylorhales.com

— Facsimile Transmission

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

STAFF OF THE IDAHO REAL ESTATE COMMISSION,

Petitioner,

vs.

MICHAEL J. "RIP" ROBERTS,

Respondent.

FINAL ORDER

On March 9, 2020, the Commission considered the parties' Stipulation wherein Respondent admitted to the following violation of the Real Estate License Law and Rules, Idaho Code:

A. § 54-2061(1)(a): The Commission may also take disciplinary action against a licensee including, but not limited to suspension or revocation of a license, where in a court of competent jurisdiction, the licensee: Has been convicted of a felony or has been convicted of a misdemeanor involving fraud, misrepresentation, or dishonest or dishonorable dealing or which otherwise demonstrates the licensee's lack of trustworthiness to engage in the real estate business.

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**
A. The Commission’s Order shall constitute a formal reprimand of Roberts for the actions set forth in the Stipulation.

2. **Withheld License Revocation**

   A. Roberts real estate license shall be revoked. However, the license revocation will be withheld so long as Roberts complies with the following provision:

   a) Roberts shall not commit any additional crimes or violate any additional provisions of the Idaho Real Estate License Law. This withheld revocation will expire one (1) day after his release from all terms associated with his criminal conviction. This includes, but is not limited to, any probation and/or indeterminate incarceration.

   b) Roberts shall be required to self-report to the Commission any parole or probation violations within twenty (20) days. Failure to do so will be considered a violation of the Final Order.

   c) Roberts fully-complies with the terms of his criminal probation (including all terms of its release).

   d) Roberts fully-complies with the terms of the Commission’s Order including, but not limited to, timely paying all costs and attorney fees.

3. **Fines and Fees**

   A. Respondent shall pay **costs and attorney’s fees in the amount of Four Hundred Fifty Dollars ($450.00) by April 9, 2020**, and that in any event, all monies paid by Respondent be applied towards the costs/fees award first, before application to the fine.
B. 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.

C. 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 9th day of March 2020.

FOR THE COMMISSIONERS:

Jill Stone, Commissioner

FINAL ORDER – MICHAEL ROBERTS
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of March, I caused to be served, by the methods indicated, a true and correct copy of the Final Order upon:

Michael J. Roberts
1023 S. Glen Haven Drive
Boise, ID 83705

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, Executive Director
Idaho Real Estate Commission
BEFORE THE IDAHO REAL ESTATE COMMISSION

STAFF OF THE IDAHO REAL ESTATE COMMISSION,

Petitioner,

vs.

KRISTEN J. "RED" VOZZA,

Respondent.

FINAL ORDER

On March 9, 2020, the Commission considered the parties' Stipulation wherein Respondent admitted to the following violation of the Real Estate License Law and Rules, Idaho Code:

A. § 54-2053(4): No advertising shall provide any information to the public or to prospective customers or clients that is misleading in nature. Information is misleading if, when taken as a whole, there is a distinct probability that such information will deceive the persons whom it is intended to influence.

   a. Vozza failed to include her brokerage name in her advertising and continues to use the name of her previous brokerage.

B. § 54-2054(9): All fees must be paid through broker. No sales associate shall accept any commission, compensation or fee for the performance of any acts requiring a real estate license from any person except the real estate broker with whom the sales associate is licensed.
a. Vozza accepted fees for preparing BPOs directly from an asset company.

C. § 54-2058(3): The commission also has the authority to investigative the action of any Idaho licensee as provided as provided in the section. The licensee or broker shall answer all investigative questions of the commission, and must make available, promptly upon request, any and all records to the commission at the licensee’s own cost and at the location or in the manner requested by the commission.

a. Vozza claimed she did not have access to documents requested by Staff despite having access to the documents through the asset company website.

D. § 54-2060(5): A person found guilty of misconduct while performing or attempting to perform any act requiring an Idaho real estate broker or salesperson’s license, regardless of whether the act was for the person’s own account or in his capacity as broker or salesperson, shall be subject to disciplinary action by the commission. The following acts shall constitute misconduct within the meaning of this section: Failure or refusal, upon lawful demand, to disclose any information within the person’s knowledge, or to produce any documents, books or records in the person’s possession for inspection by the commission or its authorized representative.

a. Vozza claimed not have been paid for the BPO in question when, in fact, she was paid directly by the asset company. She also claimed she had not prepared any other BPOs since 2013, when she had prepared numerous BPOs during that time.
E. § 54-2060(11): A person found guilty of misconduct while performing or attempting to perform any act requiring an Idaho real estate broker or salesperson’s license, regardless of whether the act was for the person’s own account or in his capacity as broker or salesperson, shall be subject to disciplinary action by the commission. The following acts shall constitute misconduct within the meaning of this section: Any other conduct whether of the same or a different character than hereinabove specified which constitutes dishonest or dishonorable dealings.

    a. Vozza prepared numerous BPOs despite being licensed as a salesperson.

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**

   A. The Commission’s Order shall constitute a formal reprimand of Respondent for the actions set forth in the Stipulation.

2. **License Suspension**

   A. Vozza’s real estate license shall be suspended for a period of twelve (12) months from the service date of the Commission’s Final Order.

3. **Fines and Fees**

   A. Respondent shall pay a **Four Thousand Dollar ($4,000.00) civil fine** by April 9, 2020.
B. Respondent shall pay **costs and attorney’s fees in the amount of Four Hundred Fifty Dollars ($450.00) by April 9, 2020**, and that in any event, all monies paid by Respondent 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.

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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 9th day of March 2020.

FOR THE COMMISSIONERS:

[Signature]
Jill Stone, Commissioner
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 13th day of March, I caused to be served, by the methods indicated, a true and correct copy of the Final Order upon:

Kristen J. Vozza
1212 W Dolan Road
Rathdrum, ID 83858

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, Executive Director
Idaho Real Estate Commission