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, March, 14 at 8:30 a.m.

Commission Members Present: 
Kathy Weber, Chair, Moscow 
Jill Stone, Vice Chair, Twin Falls 
Michael James Johnston, Member, Idaho Falls 
Mike Gamblin, Member, Boise 
Martin Espil, Public Member, Boise

Members Absent:

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, 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 Kathy Weber.

Approval of March 14, 2019 Commission Meeting Agenda: Commissioner Michael J. Johnston made a motion to add discussion of License Law and Rules booklet and approve agenda.

Approval of Meeting Minutes: Motion was made by Commissioner Mike Gamblin to approve the January 24, 2019 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 and February 2019 Financial Report(s)
- License Base Analysis
- Examination Statistics
- Complaint Summary Report
- Enforcement Telephone Activity Log(s) January and February 2019
- Audit Report(s) January and February 2019
- January and February 2019 Education & Licensing Telephone Log

2019 License Law and Rules Booklet: Michael J. Johnston led discussion on new items or pages to potentially add to our License Law and Rules Booklet.

Idaho REALTORS®: David Hensley introduced himself to the Commission and gave a report.

Executive Director’s Report:
Office 365 on Surface: William Robinson reported to Commission on adding Office 365 to Commissioners’ Surfaces. Discussion ensued. Commissioner Michael J. Johnston directed Director Bird to proceed with purchasing Office 365 for their Surfaces.

Review of Guidelines #6, 10, 17, and 18: Director Bird presented proposed changes to the guideline. Discussion ensued regarding additional revisions.

Commissioner Jill Stone made a motion to approve all the guidelines presented with changes. Motion carried.

Review of Handling of Felony Exemptions: Director Bird presented a draft stipulation for felony conviction violations to Commissioners. Discussion ensued.

Commissioner Mike Gamblin made a motion to approve the draft stipulation to be used at staff’s discretion. Motion carried.

Staff Travel Report: Will Robinson presented a report on his travel to the Lasherfiche Conference.

Education & Licensing Director’s Report:
Student Teaching Policy: Director Ferguson presented a draft policy to Commissioners. Discussion ensued.
Commissioner Mike Gamblin made motion to approve the draft student teaching policy as presented. Vote was taken. Motion carried.

**Core/IDW Update:** Director Ferguson presented a list of topics and speakers for the Core 2019 pilot and Instructor Development Workshop. Discussion ensued.

**Enforcement**

**Stipulations:**

**Staff vs. Paul Francis Sleeth, Case No. 17-0232:** 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 taken. 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. William “Billy” Charles Sleeth, Case No. 17-0233:** 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 taken. 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. Virgina Levering “Levie” Smith, Case No. 18-0117:** 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 taken. 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. George Sanford Iliff, Case No. 18-0196:** 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 taken. 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. Colliers International WA, LLC, Case No. 18-0197:** 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 taken. 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.
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. Kidder Mathews, Case No. 18-0215: 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 taken. Motion was made by Commissioner Mike Gamblin 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. Norris & Stevens, Inc., Case No. 18-0216: 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 taken. Motion was made by Commissioner Mike Gamblin 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. George R. Kirk, Case No. 18-0219: 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 taken. Motion was made by Commissioner Mike Gamblin 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. Raymond Duchek, Case No. 18-0220: 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 taken. Motion was made by Commissioner Mike Gamblin 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. Stephen Vincent Brescia, Case No. 18-0222: 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 taken. Motion was made by Commissioner Martin Espil 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. Devin Roy Skinner, Case No. 18-0236: 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 taken. 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
Staff vs. April Joy Callahan, Case No. 18-0320: 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 taken. Motion was made by Commissioner Jill Stone 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. Craig Mathew Spinks, Case No. 18-0188: 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 taken. Motion was made by Commissioner Mike Gamblin 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.

Probable Cause Memo #19-0024: A motion was made by Commissioner Michael J. Johnson 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 Michael J. Johnson 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.

Probable Cause Memo #18-0187: A motion was made by Commissioner Martin Espil 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 Martin Espil 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.

Probable Cause Memo #18-0635: A motion was made by Commissioner Michael J.
Johnston 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 Michael J. Johnston 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.

Probable Cause Memo #18-0393 & 18-0394: A motion was made by Commissioner Jill Stone 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 Jill Stone 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. Voted in favor. Motion carried. Roll was called, Michael J. Johnston, Mike Gamblin, Jill Stone, Kathy Weber, and Martin Espil.

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.

Special Consideration #19-008: Request seeking an exemption from felony disqualification pursuant to Idaho Code 54-2012; following discussion and review of the documents submitted, motion was made by Commissioner Michael J. Johnston to deny the Special Consideration request. Motion carried.

There being no further business, Chair Kathy Weber adjourned the meeting at 2:28 p.m.
MT.

Respectfully submitted,

MiChell Bird
Executive Director

MB:

Attachments: Financial Report(s) January and February 2019
License Base Analysis
Examination Statistics
Education & Licensing Telephone Log(s) January and February 2019
Complaint Summary Report
Enforcement Telephone Activity Log(s) January and February 2019
Audit Report(s) January and February 2019
Final Orders

Minutes of the Idaho Real Estate Commission meeting on March 14, 2019 are hereby approved.

Kathy Weber, Chair
Mike Gamblin, Member

Jill Stone, Vice Chair
Michael J. Johnston, Member

Martin Espil, Member
BEFORE THE IDAHO REAL ESTATE COMMISSION

STAFF OF THE IDAHO REAL ESTATE COMMISSION,

Petitioner,

vs.

PAUL FRANCIS SLEETH,

Respondent.

On March 14, 2019, the Commission considered the parties' Stipulation wherein Respondent admitted to the following violation of the Real Estate License Law and Rules, Idaho Code:

a. § 54-2002, as defined by § 54-2004(2) and (39)(a), (c) & (d) – No person shall engage in the business or act in the capacity of real estate broker or real estate salesperson in this state without an active Idaho real estate license therefor. (Respondent held himself out as being able to broker real estate in Idaho and brokered real estate in Idaho without a license.)

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. Fines and Fees
a. Respondent shall pay a **Three Thousand Five Hundred Dollar ($3,500.00)** civil fine by April 16, 2019.

b. Respondent shall pay **costs and attorney’s fees in the amount of Four Hundred Fifty Dollars ($450.00)** by April 16, 2019, 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.

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 & HALE.**

2. Respondent and Staff of the Idaho Real Estate Commission further agree that the Commission has authorized Staff, without further notice or action otherwise required by Idaho Code or IDAPA rules, to immediately take action authorized by the Stipulation, including but not limited to, suspending Respondent’s license, or
imposing the balance of any withheld discipline or civil penalty fine, in the event of failure to timely comply with any term or condition of this Order entered pursuant to the Stipulation. Notice of such action sent to the most current address provided by Respondent to Staff shall be deemed sufficient. Any license suspended under this paragraph may be reinstated by Staff upon proof of compliance with the stipulation term or condition as ordered by the Commission.

3. 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.

4. 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 14th day of March 2019.

FOR THE COMMISSIONERS:

[Signature]
Kathleen Weber, Chair
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of March 2019, I caused to be served, by the methods indicated, a true and correct copy of the Final Order, upon:

Paul Sleeth
NAI Black
107 S Howard Ste 600
Spokane, WA 99201

Michael McClure
Brian Webb Legal
971 Winding Creek Dr
Eagle, ID 83616
(Attorney for Respondent)

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

X U.S. Mail
Email: eric@naylorhales.com
Facsimile Transmission

X U.S. Mail
Email:
Facsimile Transmission

X U.S. Mail
Email:
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.

WILLIAM “BILLY” CHARLES SLEETH,

Respondent.

On March 14, 2019, the Commission considered the parties’ Stipulation wherein Respondent admitted to the following violation of the Real Estate License Law and Rules, Idaho Code:

a. § 54-2002, as defined by § 54-2004(2) and (39)(a), (c) & (d) – No person shall engage in the business or act in the capacity of real estate broker or real estate salesperson in this state without an active Idaho real estate license therefor. (Respondent held himself out as being able to broker real estate in Idaho and brokered real estate in Idaho without a license.)

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. Fines and Fees
a. Respondent shall pay a **Three Thousand Five Hundred Dollar** ($3,500.00) civil fine by April 16, 2019.

b. Respondent shall pay **costs and attorney’s fees in the amount of Four Hundred Fifty Dollars** ($450.00) by April 16, 2019, 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.

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.**

2. Respondent and Staff of the Idaho Real Estate Commission further agree that the Commission has authorized Staff, without further notice or action otherwise required by Idaho Code or IDAPA rules, to immediately take action authorized by the Stipulation, including but not limited to, suspending Respondent’s license, or
imposing the balance of any withheld discipline or civil penalty fine, in the event of failure to timely comply with any term or condition of this Order entered pursuant to the Stipulation. Notice of such action sent to the most current address provided by Respondent to Staff shall be deemed sufficient. Any license suspended under this paragraph may be reinstated by Staff upon proof of compliance with the stipulation term or condition as ordered by the Commission.

3. 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.

4. 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 14th day of March 2019.

FOR THE COMMISSIONERS:

Kathleen Weber, Chair
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of March 2019, I caused to be served, by the methods indicated, a true and correct copy of the Final Order, upon:

William Sleeth
NAI Black
107 S Howard Ste 600
Spokane, WA 99201

Michael McClure
Brian Webb Legal
971 Winding Creek Dr
Eagle, ID 83616
(Attorney for Respondent)

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

X U.S. Mail

X Email:

X 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.

VIRGINIA LEVERING "LEVIE" SMITH,

Respondent.

On March 14, 2019, the Commission considered the parties' Stipulation wherein Respondent admitted to the following violations 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. (Respondent's advertising failed to include her brokerage's name and identified her as being licensed at a previous brokerage where she was no longer licensed.)

b. § 54-2060(2) – Engaging in a continued or flagrant course of misrepresentation, whether done personally or through agents or salespersons. (Respondent advertised the Property for several years without a valid listing agreement.)

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. This Final Order shall constitute a **Formal Reprimand** of the Respondent for the actions set forth in the Stipulation/Complaint.

2. **Fines and Fees**

   a. Respondent shall pay a **Five Hundred Dollar ($500.00) civil fine** by April 16, 2019.

   b. Respondent shall pay costs and attorney’s fees in the amount of One Thousand Seven Hundred Dollars ($1,700.00) by April 16, 2019, 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.

   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
3. Respondent and Staff of the Idaho Real Estate Commission further agree that the Commission has authorized Staff, without further notice or action otherwise required by Idaho Code or IDAPA rules, to immediately take action authorized by the Stipulation, including but not limited to, suspending Respondent’s license, or imposing the balance of any withheld discipline or civil penalty fine, in the event of failure to timely comply with any term or condition of this Order entered pursuant to the Stipulation. Notice of such action sent to the most current address provided by Respondent to Staff shall be deemed sufficient. Any license suspended under this paragraph may be reinstated by Staff upon proof of compliance with the stipulation term or condition as ordered by the Commission.

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 14th day of March 2019.

FOR THE COMMISSIONERS:

Kathleen Weber, Chair
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of March 2019, I caused to be served, by the methods indicated, a true and correct copy of the Final Order, upon:

Virginia L. “Levie” Smith
PO Box 21
Ketchum, ID 83440

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

_____ U.S. Mail
_____ Email:
_____ Facsimile Transmission

_____ 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.

VIRGINIA LEVERING "LEVIE" SMITH,

Respondent.

AMENDED FINAL ORDER

On March 14, 2019, the Commission considered the parties’ Stipulation wherein Respondent admitted to the following violations 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. (Respondent’s advertising failed to include her brokerage’s name and identified her as being licensed at a previous brokerage where she was no longer licensed.)

b. § 54-2060(2) – Engaging in a continued or flagrant course of misrepresentation, whether done personally or through agents or salespersons. (Respondent advertised the Property for several years without a valid listing agreement.)

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. This Final Order shall constitute a **Formal Reprimand** of the Respondent for the actions set forth in the Stipulation/Complaint.

2. **Fines and Fees**
   
a. Respondent shall pay a **Five Hundred Dollar ($500.00) civil fine** by April 22, 2019.

   b. Respondent shall pay **costs and attorney’s fees in the amount of Four Hundred Dollars Fifty ($450.00) by April 22, 2019**, 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.

   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**
3. Respondent and Staff of the Idaho Real Estate Commission further agree that the Commission has authorized Staff, without further notice or action otherwise required by Idaho Code or IDAPA rules, to immediately take action authorized by the Stipulation, including but not limited to, suspending Respondent’s license, or imposing the balance of any withheld discipline or civil penalty fine, in the event of failure to timely comply with any term or condition of this Order entered pursuant to the Stipulation. Notice of such action sent to the most current address provided by Respondent to Staff shall be deemed sufficient. Any license suspended under this paragraph may be reinstated by Staff upon proof of compliance with the stipulation term or condition as ordered by the Commission.

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 19th day of March 2019.

FOR THE COMMISSIONERS:

Kathleen Weber, Chair
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of March 2019, I caused to be served, by the methods indicated, a true and correct copy of the Amended Final Order, upon:

Virginia L. "Levie" Smith
PO Box 5821
Ketchum, ID 83440

[Methods of Service]

X U.S. Mail

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

[Methods of Service]

X U.S. Mail
X Email
eric@naylorhales.com

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

STAFF OF THE IDAHO REAL ESTATE COMMISSION,

Petitioner,

vs.

GEORGE SANFORD ILIFF,

Respondent.

FINAL ORDER

On March 14, 2019, the Commission considered the parties’ Stipulation wherein Respondent admitted to the following violations of the Real Estate License Law and Rules, Idaho Code:

   a. § 54-2038(1)(a) – A designated broker is required to supervise and control, in the manner required by law and rule, all office locations, and the activities of all licensees and unlicensed persons associated with that brokerage company or for whom that designated broker is responsible. (Respondent failed to supervise his licensees who cooperated with unlicensed persons and an unlicensed brokerage.)

   b. § 54-2050(1)(a) - Seller representation agreements. Each seller representation agreement, whether exclusive or nonexclusive, must contain the following provisions: Conspicuous and definite beginning and expiration dates. (A Seller Representation Agreement signed by Respondent did not include a definite beginning date.)
c. § 54-2050(c) – Seller representation agreements. Each seller representation agreement, whether exclusive or nonexclusive, must contain the following provisions: Prices and terms. (A Seller Representation Agreement signed by Respondent did not include a definite asking price.)

d. § 54-2051(4)(c) – The broker or sales associate shall make certain that all offers to purchase real property or any interest therein are in writing and contain all of the following specific terms, provisions and statements: The name of the responsible broker in the transaction, as defined in section 54-2048, Idaho Code. (A Purchase and Sale Agreement for property listed by Respondent did not identify a responsible broker.)

e. § 54-2051(4)(d) – The broker or sales associate shall make certain that all offers to purchase real property or any interest therein are in writing and contain all of the following specific terms, provisions and statements: The “representation confirmation” statement required in section 54-2085(4), Idaho Code, and, only if applicable to the transaction, the “consent to limited dual representation” as required in section 54-2088, Idaho Code. (A Purchase and Sale Agreement for property listed by Respondent did not include a representation confirmation.)

f. § 54-2085(1) – A licensee shall give to a prospective buyer or seller at the first substantial business contact the agency disclosure brochure adopted or approved by the Idaho real estate commission. (Respondent failed to provide the agency disclosure brochure to clients/customers of the brokerage until after closing.)

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. This Final Order shall constitute a **Formal Reprimand** of the Respondent for the actions set forth in the Stipulation/Complaint.

2. **Fines and Fees**
   
   a. Respondent shall pay a **One Thousand Five Hundred Dollar** ($1,500.00) civil fine by April 16, 2019.
   
   b. Respondent shall pay **costs and attorney’s fees in the amount of Four Hundred Fifty Dollars** ($450.00) by April 16, 2019, 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.
   
   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.**
3. **Continuing Education**

   a. Respondent shall successfully complete the following Idaho real estate educational course by September 16, 2019:
      
      - Risky Business 1
      - Risky Business 2

   b. The above course shall be completed on or before 5:00 p.m. MST/MDT of the deadline day. In addition, within 48 hours of completing said courses, Respondent shall be responsible for mailing/emailing/faxing (208-334-2050) a copy of the completion certificate to the Idaho Real Estate Commission, Attention: Chief Investigator. Should Respondent fail to provide Commission Staff with a completion certificate on or before the deadline, Respondent’s real estate license shall be suspended pursuant to the terms of this Final Order.

   c. Respondent is on notice that pursuant to Idaho Code 54-2023(5), "No licensee shall obtain continuing education credit for education ordered by the Commission as part of a disciplinary action." Respondent shall not submit such Commission-ordered educational course for continuing education credit.

4. Respondent and Staff of the Idaho Real Estate Commission further agree that the Commission has authorized Staff, without further notice or action otherwise required by Idaho Code or IDAPA rules, to immediately take action authorized by the Stipulation, including but not limited to, suspending Respondent’s license, or imposing the balance of any withheld discipline or civil penalty fine, in the event of failure to timely comply with any term or condition of this Order entered pursuant to the Stipulation. Notice of such action sent to the most current address provided by Respondent to Staff shall be deemed sufficient. Any license suspended under this paragraph may be reinstated by Staff upon proof of compliance with the stipulation term or condition as ordered by the Commission.
5. 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.

6. 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 14th day of March 2019.

FOR THE COMMISSIONERS:

[Signature]
Kathleen Weber, Chair
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of March 2019, I caused to be served, by the methods indicated, a true and correct copy of the Final Order, upon:

George S. Iliff
PO Box 7248
Boise, ID 83707

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

X 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.

COLLIERS INTERNATIONAL WA LLC,

Respondent.

On March 14, 2019, the Commission considered the parties’ Stipulation wherein Respondent admitted to the following violation of the Real Estate License Law and Rules, Idaho Code:

a. § 54-2002, as defined by § 54-2004(2) and (39)(a), (c) & (d) – No person shall engage in the business or act in the capacity of real estate broker or real estate salesperson in this state without an active Idaho real estate license therefor. (Respondent, on several occasions, received commissions while practicing real estate in Idaho without a license.)

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. **Cease and Desist.**
Respondent shall cease and desist engaging in any of the conduct or violations set forth in the Stipulation or any other conduct violating the Idaho Real Estate License Laws and Rules.

2. **Fines and Fees**

   a. Respondent shall pay a **Three Thousand Five Hundred Dollar ($3,500.00)** civil fine by April 16, 2019.

   b. Respondent shall pay **costs and attorney’s fees in the amount of Four Hundred Fifty Dollars ($450.00)** by April 16, 2019, 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.

   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 & HALE.**
3. 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.

4. 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 14th day of March 2019.

FOR THE COMMISSIONERS:

[Signature]
Kathleen Weber, Chair
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of March 2019, I caused to be served, by the methods indicated, a true and correct copy of the Final Order, upon:

William E Condon
Colliers International WA LLC
601 Union St. Ste 5300
Seattle, WA 98101

 Matthew Hawkins
Colliers International
1140 Bay St. Ste 4000
Toronto, ON M5S 2B4
(Attorney for Respondent)

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

X U.S. Mail
Email:
Facsimile Transmission

X U.S. Mail
Email:
Facsimile Transmission

X 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.

KIDDER MATHEWS,

Respondent.

On March 14, 2019, the Commission considered the parties’ Stipulation wherein Respondent admitted to the following violation of the Real Estate License Law and Rules, Idaho Code:

a. § 54-2002, as defined by § 54-2004(39)(a), (c) & (d) and § 54-2004(2) – 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.

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. **Cease and Desist.**
Respondent shall cease and desist from further unlicensed practice in the state of Idaho and in engaging in any of the conduct or violations set forth in the Stipulation or any other conduct violating the Idaho Real Estate License Laws and Rules.

2. Fines and Fees

a. Respondent shall pay a **One Thousand Five Hundred Dollar ($1,500.00)** civil fine by April 16, 2019.

b. Respondent shall pay **costs and attorney's fees in the amount of Four Hundred Fifty Dollars ($450.00)** by April 16, 2019, 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.

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.**
3. 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.

4. 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 14th day of March 2019.

FOR THE COMMISSIONERS:

Kathleen Weber, Chair
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of March 2019, I caused to be served, by the methods indicated, a true and correct copy of the Final Order, upon:

Brian Hatcher
Kidder Mathews
101 SW Main Ste 1200
Portland, OR 97080

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

_____ U.S. Mail
_____ Email:
_____ Facsimile Transmission

X U.S. Mail
X Email

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

STAFF OF THE IDAHO REAL ESTATE COMMISSION,

Petitioner,

vs.

NORRIS & STEVENS, INC.,

Respondent.

On March 14, 2019, the Commission considered the parties’ Stipulation wherein Respondent admitted to the following violation of the Real Estate License Law and Rules, Idaho Code:

   a. § 54-2002, as defined by § 54-2004(39)(a), (c) & (d) and § 54-2004(2) – 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.

   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. **Cease and Desist.**

FINAL ORDER – Norris & Stevens, Inc.
Respondent shall cease and desist from further unlicensed practice in the state of Idaho and in engaging in any of the conduct or violations set forth in the Stipulation or any other conduct violating the Idaho Real Estate License Laws and Rules.

2. Fines and Fees

a. Respondent shall pay a One Thousand Five Hundred Dollar ($1,500.00) civil fine by April 16, 2019.

b. Respondent shall pay costs and attorney’s fees in the amount of Four Hundred Fifty Dollars ($450.00) by April 16, 2019, 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.

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.
3. 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.

4. 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 14th day of March 2019.

FOR THE COMMISSIONERS:

Kathleen Weber, Chair
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of March 2019, I caused to be served, by the methods indicated, a true and correct copy of the Final Order, upon:

David Keys  
Norris & Stevens Inc  
900 SW 5th Ave -17 Floor  
Portland, OR 97204

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

____ U.S. Mail  
____ Email:  
____ Facsimile Transmission

____ 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. 

GEORGE R. KIRK, 

Respondent. 

On March 14, 2019, the Commission considered the parties' Stipulation wherein Respondent admitted to the following violations of the Real Estate License Law and Rules, Idaho Code:

a. § 54-2038(1)(a) – A designated broker is required to supervise and control, in the manner required by law and rule, all office locations, and the activities of all licensees and unlicensed persons associated with that brokerage company or for whom that designated broker is responsible. (Respondent failed to supervise and control Duchek in the BiMart, Jerome property, and Boise property transactions.)

b. § 54-2038(1)(b) – A designated broker is required to review and approve all real estate agreements including, but not limited to, those related to listing, selling or purchasing property and brokerage representation agreements. (Respondent failed to review the purchase and sale agreement prepared by Duchek for the Boise property. The purchase and sale agreement included representation by Norris & Stevens and commission paid to this unlicensed brokerage would be 2.5%.)
c. § 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 its intended to influence. (Respondent allowed Norris & Stevens to be mentioned as a contact for the retail center in advertising.)

d. § 54-2060(12) – Gross negligence or reckless conduct in a regulated real estate transaction. (Respondent hired an Idaho licensee to represent him in his attempted purchase of the Boise property, but hired him under the brokerage of Norris & Stevens, instead of his own Idaho licensed brokerage.)

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. This Final Order shall constitute a **Formal Reprimand** of the Respondent for the actions set forth in the Stipulation/Complaint.

2. **Fines and Fees**

   a. Respondent shall pay a **One Thousand Five Hundred Dollar** ($1,500.00) civil fine by April 16, 2019.

   b. Respondent shall pay **costs and attorney’s fees in the amount of Four Hundred Fifty Dollars** ($450.00) by April 16, 2019, 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.

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.

3. **Continuing Education**

   a. Respondent shall successfully complete the following Idaho real estate educational course by September 16, 2019:

   - *Business Conduct and Office Operations*

   b. The above course shall be completed on or before 5:00 p.m. MST/MDT of the deadline day. In addition, within 48 hours of completing said courses, Respondent shall be responsible for mailing/emailing/faxing (208-334-2050) a copy of the completion certificate to the Idaho Real Estate Commission, Attention: Chief Investigator. Should Respondent fail to provide Commission Staff with a completion certificate on or before the deadline, Respondent’s real estate license shall be suspended pursuant to the terms of this Final Order.
c. Respondent is on notice that pursuant to Idaho Code 54-2023(5), "No licensee shall obtain continuing education credit for education ordered by the Commission as part of a disciplinary action." Respondent shall not submit such Commission-ordered educational course for continuing education credit.

4. Respondent and Staff of the Idaho Real Estate Commission further agree that the Commission has authorized Staff, without further notice or action otherwise required by Idaho Code or IDAPA rules, to immediately take action authorized by the Stipulation, including but not limited to, suspending Respondent's license, or imposing the balance of any withheld discipline or civil penalty fine, in the event of failure to timely comply with any term or condition of this Order entered pursuant to the Stipulation. Notice of such action sent to the most current address provided by Respondent to Staff shall be deemed sufficient. Any license suspended under this paragraph may be reinstated by Staff upon proof of compliance with the stipulation term or condition as ordered by the Commission.

5. 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.

6. 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 14th day of March 2019.

FOR THE COMMISSIONERS:

Kathleen Weber, Chair

FINAL ORDER – G. KIRK
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of March 2019, I caused to be served, by the methods indicated, a true and correct copy of the Final Order, upon:

George R. Kirk
The Kirk Group
PO Box 4380
Ketchum, ID 83340

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

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

X 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.

RAYMOND DUCHEK,

Respondent.

On March 14, 2019, the Commission considered the parties' Stipulation wherein Respondent admitted to the following violations 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. (Respondent advertised the Jerome property through both his Oregon brokerage and his Idaho brokerage.)

b. § 54-2060(3) – Failure to account for or remit any property real or personal, or moneys coming into the person’s possession, which belong to another. (Respondent failed to notify his Idaho broker, Kirk, that he was representing a potential BiMart
buyer, and instead conducted the Idaho transaction outside his Idaho brokerage and failed to deliver the transaction documents to Kirk.)

c. § 54-2060(12) – Gross negligence or reckless conduct in a regulated real estate transaction. (Respondent represented a potential BiMart buyer, failed to notify Kirk about the transaction, and conducted the proposed transaction through a brokerage that was not licensed in Idaho.) (Respondent represented Kirk in his attempted purchase of the Boise property. Although the listing agreement for the Boise property was with Respondent’s Idaho brokerage, the commissions were scheduled to be paid directly to Respondent’s Oregon brokerage.)

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. This Final Order shall constitute a Formal Reprimand of the Respondent for the actions set forth in the Stipulation/Complaint.

2. **Fines and Fees**

   a. Respondent shall pay a One Thousand Five Hundred Dollar ($1,500.00) civil fine by April 16, 2019.

   b. Respondent shall pay costs and attorney’s fees in the amount of Four Hundred Fifty Dollars ($450.00) by April 16, 2019, 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.

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.

3. Respondent and Staff of the Idaho Real Estate Commission further agree that the Commission has authorized Staff, without further notice or action otherwise required by Idaho Code or IDAPA rules, to immediately take action authorized by the Stipulation, including but not limited to, suspending Respondent’s license, or imposing the balance of any withheld discipline or civil penalty fine, in the event of failure to timely comply with any term or condition of this Order entered pursuant to the Stipulation. Notice of such action sent to the most current address provided by Respondent to Staff shall be deemed sufficient. Any license suspended under this paragraph may be reinstated by Staff upon proof of compliance with the stipulation term or condition as ordered by the Commission.
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 14th day of March 2019.

FOR THE COMMISSIONERS:

Kathleen Weber, Chair
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of March 2019, I caused to be served, by the methods indicated, a true and correct copy of the Final Order, upon:

Raymond Duchek
Norris & Stevens Inc
The Kirk Group
900 SW 5th Ave -17 Floor
Portland, OR 97204

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

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

X 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.

STEPHEN VINCENT BRESCLA,

Respondent.

On March 14, 2019, the Commission considered the parties’ Stipulation wherein Respondent admitted to the following violation of the Real Estate License Law and Rules, Idaho Code:

a. § 54-2002, as defined by § 54-2004(2) and (39)(a), (c) & (d) – No person shall engage in the business or act in the capacity of real estate broker or real estate salesperson in this state without an active Idaho real estate license therefor. (Respondent held himself out as being able to practice real estate in Idaho despite not holding an Idaho real estate license.)

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. This Final Order shall constitute a **Formal Reprimand** of the Respondent for the actions set forth in the Stipulation/Complaint.

2. **Fines and Fees**

   a. Respondent shall pay a **One Thousand Dollar ($1,000.00) civil fine by April 16, 2019.**

   b. Respondent shall pay **costs and attorney’s fees in the amount of Four Hundred Fifty Dollars ($450.00) by April 16, 2019,** 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.

   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.**
3. **Cease and Desist.**

Respondent shall cease and desist engaging in any of the conduct or violations set forth in the Stipulation or any other conduct violating the Idaho Real Estate License Laws and Rules.

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 14th day of March 2019.

FOR THE COMMISSIONERS:

\[
\underline{\text{Kathleen Weber, Chair}}
\]

Kathleen Weber, Chair
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of March 2019, I caused to be served, by the methods indicated, a true and correct copy of the Final Order, upon:

Stephen V. Brescia  
5220 N Lakemont Lane  
Boise, ID 83714

X U.S. Mail

---

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

X Email

eric@naylorhales.com

---

X Facsimile Transmission

---

X U.S. Mail

---

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

STAFF OF THE IDAHO REAL ESTATE COMMISSION,
   Petitioner,
vs.
DEVIN ROY SKINNER,
   Respondent.

FINAL ORDER

On March 14, 2019, the Commission considered the parties’ Stipulation wherein Respondent admitted to the following violations of the Real Estate License Law and Rules, Idaho Code:

a. § 54-2060(11) – Conduct constituting dishonest or dishonorable dealings. (Respondent filed two (2) illegal consensual common law liens – one against a former client and one against a former customer, in an attempt to collect commissions.)

b. § 54-2085(5) – The failure of a licensee to timely give a buyer or seller the agency disclosure brochure or the failure of a licensee to properly and timely obtain any written agreement or confirmation required by this chapter shall be a violation of the Idaho real estate license law and may subject the licensee to disciplinary action according to the provisions of sections 54-2058 through 54-2078, Idaho Code. (Respondent failed to properly fill out the representation confirmation section of the Purchase and Sale Agreement for the Wright – Ulibery transaction.)
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. This Final Order shall constitute a **Formal Reprimand** of the Respondent for the actions set forth in the Stipulation/Complaint.

2. **Fines and Fees**

   a. Respondent shall pay a **Two Thousand Dollar ($2,000.00) civil fine by April 16, 2019.**

   b. Respondent shall pay **costs and attorney’s fees in the amount of Seven Hundred Twenty-five Dollars ($725.00) by April 16, 2019**, 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.

   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.

3. Respondent and Staff of the Idaho Real Estate Commission further agree that the Commission has authorized Staff, without further notice or action otherwise required by Idaho Code or IDAPA rules, to immediately take action authorized by the Stipulation, including but not limited to, suspending Respondent’s license, or imposing the balance of any withheld discipline or civil penalty fine, in the event of failure to timely comply with any term or condition of this Order entered pursuant to the Stipulation. Notice of such action sent to the most current address provided by Respondent to Staff shall be deemed sufficient. Any license suspended under this paragraph may be reinstated by Staff upon proof of compliance with the stipulation term or condition as ordered by the Commission.

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 14th day of March 2019.

FOR THE COMMISSIONERS:

[Signature]
Kathleen Weber, Chair

FINAL ORDER – D. SKINNER  Page 3 of 3
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of March 2019, I caused to be served, by the methods indicated, a true and correct copy of the Final Order, upon:

Devin Skinner  
ES DS, LLC  
196 S 4th  
Montpelier, ID 83254

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

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

_____ 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.

APRIL JOY CALLAHAN,

Respondent.

FINAL ORDER

On March 14, 2019, the Commission considered the parties’ Stipulation wherein Respondent admitted to the following violation of the Real Estate License Law and Rules, Idaho Code:

a. § 54-2060(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. (Respondent was convicted of a felony offense for driving under the influence of alcohol three (3) times within ten (10) years.)

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. This Final Order shall constitute a **Formal Reprimand** of the Respondent for the actions set forth in the Stipulation/Complaint.

2. **Fines and Fees**

   a. Respondent shall pay **costs and attorney’s fees in the amount of Four Hundred Fifty Dollars ($450.00)** by April 16, 2019, 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.**
3. **License Suspension.**

Respondent’s real estate license shall be suspended for one (1) year. However, the suspension period shall be withheld provided Respondent:

a. Complies with all terms of her criminal probation (including all terms of its release). The ability to impose the suspension will expire once she has successfully completed all terms of her probation.

b. Self-reports any probation violation to the Commission within twenty (20) days.

c. Complies with the terms of this Final Order and violates no other license law.

d. Pays in full all attorney’s fees when due.

e. In the event Respondent fails to comply with any portion of the discipline set forth in the Stipulation, Respondent’s real estate license shall be suspended for twelve (12) months; such suspension shall begin on the date of the noncompliance and extend for twelve (12) months from that date.

4. Respondent and Staff of the Idaho Real Estate Commission further agree that the Commission has authorized Staff, without further notice or action otherwise required by Idaho Code or IDAPA rules, to immediately take action authorized by the Stipulation, including but not limited to, suspending Respondent’s license, or imposing the balance of any withheld discipline or civil penalty fine, in the event of failure to timely comply with any term or condition of this Order entered pursuant to the Stipulation. Notice of such action sent to the most current address provided by Respondent to Staff shall be deemed sufficient. Any license suspended under this
paragraph may be reinstated by Staff upon proof of compliance with the stipulation term or condition as ordered by the Commission.

5. 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.

6. 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 14th day of March 2019.

FOR THE COMMISSIONERS:

Kathleen Weber, Chair
GUIDELINES FOR “SUSPENDED” LICENSEES

Idaho’s license laws impose certain duties and consequences upon the salesperson or broker whose license is “suspended” as part of a disciplinary action taken pursuant to the Commission’s “Disciplinary Powers” or “suspended” under the statute’s “Automatic Suspension” provisions. This Guideline is intended to outline those duties and consequences. (This Guideline is not intended to address a situation in which the license has “expired” after the license period has elapsed and the license is not renewed.)

1. A person whose license is suspended is in the same position as an unlicensed person. Such person may not engage in any real estate activity that requires a real estate license, e.g., he or she may not list, sell, buy, or negotiate, or offer to list, sell or buy or negotiate the purchase, sale, option or exchange of real estate.

2. The person whose license is suspended may receive compensation during the suspended period only for acts performed during the period in which the person was properly licensed. For example, if the person negotiated a sale during the licensed period, the person may receive payment for performance of those acts even though the sale closes during the suspended period.

3. If the suspended person is a designated broker, any transaction that is closed during the period of suspension must be finalized by either another broker, an attorney, a title company, or a financial institution.

4. All advertising naming the suspended licensee, including but not limited to signs on office buildings and on “for sale” properties, must be removed. All evidence of the person’s licensure must be removed from public view.

5. If the suspended person is the designated broker, and if no other broker is designated to act for the brokerage company, the office must be closed during the period of suspension, and the licenses of all associated licensees will be made inactive by the Commission. Telephone service should be canceled, or the telephone must be answered by indicating to all callers that the office is closed due to the suspension of the broker’s real estate license.

6. If the suspended person is the designated broker for a licensed business entity, the law grants the entity ten (10) business days to designate a new broker. If no new broker is designated within the statutory period, the license of the entity is terminated, and the licenses of all associated licensees are inactivated by the Commission.
The pertinent sections of the Idaho Real Estate License Law and Rules are the following:

1. 54-2002. Licensure Required.
2. 54-2004. Definitions
   “Real Estate Broker” and “Real Estate Salesperson”
3. 54-2039. Broker and Branch Office Manager Absences and Changes.
4. 54-2054. Compensation, Commissions and Fees - Prohibited Conduct.
5. 54-2059. Disciplinary Powers.
7. 54-2061. Additional Grounds - Court Actions.
8. 54-2062. Additional Grounds - Other Administrative Actions.
9. 54-2074. Automatic Suspension.

IDAHO REAL ESTATE LICENSE LAW

54-2002. LICENSURE REQUIRED. No person shall engage in the business or act in the capacity of real estate broker or real estate salesperson in this state without an active Idaho real estate license therefore. Unless exempted from this chapter, any single act described within the definitions of “real estate broker” or “real estate salesperson” shall be sufficient to constitute “engaging in the business” within the meaning of this chapter. Any person who engages in the business or acts in the capacity of real estate broker or salesperson in this state, with or without an Idaho real estate license, has thereby submitted to the jurisdiction of the state of Idaho and to the administrative jurisdiction of the Idaho Real Estate Commission, and shall be subject to all penalties and remedies available under Idaho law for any violation of this chapter.

54-2004. DEFINITIONS. As used in this chapter:

“Real estate broker” means and includes:
(a) Any person other than a real estate salesperson, who, directly or indirectly, while acting for another, for compensation or a promise or an expectation thereof, engages in any of the following: sells, lists, buys, or negotiates, or offers 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.
(b) Any actively licensed broker while, directly or indirectly, acting on the broker’s own behalf;
(c) Any person who represents to the public that the person is engaged in any of the
Guideline #7
above activities;
  (d) Any person who directly or indirectly engages in, directs, or takes any part in the
procuring of prospects, or in the negotiating or closing of any transaction which does or is calculated
to result in any of the acts above set forth.
  (e) A dealer in options as defined in this section.

"Real estate salesperson" or "salesperson" means any person who has qualified and is
licensed as a real estate salesperson in Idaho under this chapter, and is licensed under, associated
with, and represents a designated broker in the performance of act described in this section.

54-2039. Broker and Branch Office Manager Absences and Changes.
Each real estate brokerage company must have a legally qualified individual acting as
designated broker at all times. Each branch office licensed under section 54-2016, Idaho Code, shall
have, at all times, a legally qualified individual acting as branch office manager.

Change of broker in business entity. A license issued to a legal business entity, as defined in
this chapter, is effective only as long as the individual designated broker's license is in active status
and in effect. If the individual so designated has a license refused, revoked, suspended or otherwise
made inactive by the Commission, or if the individual designated broker voluntarily surrenders
the individual license or ceases to be connected with the entity in the manner required in this chapter, the
business entity shall have ten (10) business days in which to designate another qualified individual as
designated broker before the entity's license is terminated, and the licenses of all associated licensees
are made inactive.

Court action for fee collection. No person engaged in the business or acting in the capacity of
real estate broker or salesperson in Idaho shall bring or maintain any action in the courts for the
collection of a fee, commission or other compensation for the performance of any acts requiring a
real estate license as provided in section 54-2002, Idaho Code, without alleging and proving that
such person was an actively licensed broker or salesperson in Idaho at the time the alleged cause of
action arose.

Fee-splitting with unlicensed persons prohibited. Unless otherwise allowed by statute or rule,
a real estate broker, associate broker or salesperson licensed in the state of Idaho shall not pay any
part or share of a commission, fee or compensation received in the licensee's capacity as such in a
regulated real estate transaction to any person who is not actively licensed as a real estate broker in
Idaho or in another state or jurisdiction. The Idaho broker making the payment to another licensed
person is responsible for verifying the active licensed status of the receiving broker. This section
shall not prohibit payment of a part or share of a commission, fee or compensation by the broker to
legal business entity, all of whose shareholders, members or other persons having a similar
ownership interest are active real estate licensees. An Idaho licensee may pay any part or share of a
commission, fee or compensation received, directly to the buyer or seller in the real estate
Guideline #7

transaction. However, no commission, fee or compensation may be split with any party to the transaction in a manner which would directly or indirectly create a double contract, as defined in this chapter or which would otherwise mislead any broker, lender, title company or government agency involved in the transaction regarding the source of funds used to complete the real estate transaction or regarding the financial resources or obligations of the buyer.

54-2059. Disciplinary Powers -- Revocation, Suspension or Other Disciplinary Action.
The Commission may temporarily suspend or permanently revoke licenses issued under the provisions of this chapter, issue a formal reprimand and impose a civil penalty in an amount not to exceed five thousand dollars ($5,000), and assess costs and attorney's fees for the cost of any investigation and administrative or other proceedings against any licensee who is found to have violated any section of the Idaho Code, the Commission's administrative rules or any order of the Commission. The executive director may issue informal letters of reprimand to licensees without civil penalty or cost assessment.

54-2060. Grounds for Disciplinary Action.
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:

1) Making fraudulent misrepresentations;
2) Engaging in a continued or flagrant course of misrepresentation or making of false promises, whether done personally or through agents or salespersons;
3) Failure to account for or remit any property, real or personal, or moneys coming into the person's possession which belong to another;
4) Failure to keep adequate records of all property transactions in which the person acts in the capacity of real estate broker or salesperson;
5) 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;
6) Acting as a real estate broker or salesperson under an assumed name;
7) Employment of fraud, deception, misrepresentation, misstatement or any unlawful means in applying for or securing a license to act as a real estate broker or salesperson in the state of Idaho;
8) Using, proposing to use, or agreeing to use a "double contract" as prohibited in section 54-2054, Idaho Code;
9) Seeking or receiving a "kickback" or rebate prohibited in section 54-2054, Idaho Code;
10) Violation of any provision of sections 54-2001 through 54-2097, Idaho Code, or any administrative rule made or promulgated by the Commission or any final order of the Commission;
11) Any other conduct whether of the same or a different character than hereinabove specified which constitutes dishonest or dishonorable dealings;
Guideline #7
(12) Gross negligence or reckless conduct in a regulated real estate transaction. Conduct is grossly negligent or reckless if, when taken as a whole, it is conduct which substantially fails to meet the generally accepted standard of care in the practice of real estate in Idaho.

54-2061. Additional Grounds for Disciplinary Action -- Court Actions. 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:
(a) 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;
(b) Has been declared to lack capacity or to be incompetent or under an infirmity, for the duration of such declaration only;
(c) Has a judgment entered against the licensee in a civil action upon grounds of fraud, misrepresentation, deceit or gross negligence with reference to a real estate-related transaction. The court's record of conviction, order determining legal competency, or the order entering judgment in a civil case, or certified copies thereof, shall be prima facie evidence of a conviction, or the court's action.

54-2062. Additional Grounds for Disciplinary Action -- Other Administrative Actions. The Commission may also take any disciplinary action, including, but not limited to, suspension or revocation of a license where the licensee:
(a) Has an order or determination of debarment, suspension, or any limitation on participation in government loan programs issued against the licensee for misconduct; or
(b) Has a real estate or other professional, suspended or revoked for a disciplinary violation involving fraud, misrepresentation, or dishonest or dishonorable dealings. A certified copy of the order of the administrative agency in the other jurisdiction shall be prima facie evidence of the suspension or revocation.

54-2074. Automatic Suspension of Broker's, Associate Broker's or Salesperson's License on Payment by Commission -- Condition For License Reinstatement. If, pursuant to court order, the Commission pays from the recovery any amount in settlement of a claim or towards satisfaction of a judgment against a licensed broker, associate broker or salesperson, the license of such broker, associate broker or salesperson shall be automatically suspended without further order of the Commission upon the effective date of any order by the court as set forth herein authorizing payment.
Guideline #7

from the recovery fund. No such broker, associate broker or salesperson shall be granted reinstatement until he has repaid in full, the amount so paid from the recovery fund plus interest at the legal rate of interest allowable by law for judgments.
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of March 2019, I caused to be served, by the methods indicated, a true and correct copy of the Final Order, and Guideline 7, upon:

April J. Callahan
7480 N Bogart Lane
Boise, ID 83714

____ 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.

CRAIG MATHEW SPINKS,

Respondent.

On March 14, 2019, the Commission considered the parties’ Stipulation wherein Respondent admitted to the following violation of the Real Estate License Law and Rules, Idaho Code:

a. § 54-2002, as defined by § 54-2004(2) and (39)(a), (c) & (d) – 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. (Respondent listed, advertised, and accepted offers on the BiMart without having an Idaho license.) (Respondent listed, advertised, and accepted offers on the Tire Rama without having an Idaho license.)

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. Cease and Desist

Respondent shall cease and desist from further unlicensed practice in the state of Idaho and in engaging in any of the conduct or violations set forth in the Stipulation or any other conduct violating the Idaho Real Estate License Law and Rules.

2. Fines and Fees

a. Respondent shall pay a One Thousand Five Hundred Dollar ($1,500.00) civil fine by April 16, 2019.

   b. Respondent shall pay costs and attorney’s fees in the amount of Four Hundred Fifty Dollars ($450.00) by April 16, 2019, 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.

   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
3. 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.

4. 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 14th day of March 2019.

FOR THE COMMISSIONERS:

[Signature]
Kathleen Weber, Chair
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 15th day of March 2019, I caused to be served, by the methods indicated, a true and correct copy of the Final Order, upon:

Craig M. Spinks
Kidder Mathews
101 SW Main Ste 1200
Portland, OR 97080

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

X U.S. Mail
X Email
X Facsimile Transmission

MiChell M. Bird, Executive Director
Idaho Real Estate Commission