IDAHO REAL ESTATE COMMISSION
MEETING MINUTES
July 11, 2019

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, July, 11 at 8:30 a.m.

Commission Members Present:                 Members Absent:
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
Comprising a quorum of the Commission

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

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 8:31 a.m. MT by Commission Chair Kathy Weber.

Approval of Meeting Agenda: Motion was made by Michael J. Johnston to approve the July 11, 2019 adjusted meeting agenda. Motion carried.

Approval of Meeting Minutes: Motion was made by Michael J. Johnston to approve the May 6, and June 7, 2019 Commission meeting minutes. Motion carried.

Election of Chair & Vice Chair: Michael J. Johnston nominated Jill Stone as Chair and Mike Gamblin as Vice Chair for the time period of July 2019 to June 2020. Motion carried.
Appointment of Commissioner to Education Council: Michael J. Johnston nominated Mike Gamblin as Commissioner representative to Education Council for the time period of July 2019 to June 2020. Motion carried.

Recognition of Commissioner’s Service: Kathy Weber recognized for her 8 years of service as a Commissioner for Idaho Real Estate Commission.

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

- April and May 2019 Financial Report(s)
- License Base Analysis
- Examination Statistics
- Complaint Summary Report
- Enforcement Telephone Activity Log(s) April, May, and June 2019
- Audit Report(s) April, May, and June 2019
- Education & Licensing Telephone Log(s) April, May, and June 2019

Idaho REALTORS®: David Hensley reported Idaho REALTORS® have 9,788 primary member and 588 secondary members, a total of 10,376. David reported the 2019 REALTOR® Form set has been rolled out. Form Simplicity and Instant are the providers of the forms. David reported the Idaho REALTORS® have made a recommendation to the Governor’s office for the North Idaho Commissioner position at IREC.

Executive Director’s Report:
Administrative Rules Review: Director Bird and David Raphael led discussion on administrative rules review. Motion was made by Commissioner Mike Gamblin direct staff to continue with drafting suggested recommendations.

Motion was made by Commissioner Mike Gamblin to authorize staff to allocate up to $2000 for David Raphael to attend rules review meeting.

Discussion of Late License Renewals Policy: Director Bird led discussion on policy. Motion was made by Commissioner Mike Gamblin to keep the current $10/$20 per day fee and to adopt a late license renewal fee cap of $500 for salesperson and $1,000 for broker license. Motion carried.

Review Agency Disclosure Brochure: Director Bird led discussion on updates to the 2019 Agency Disclosure Brochure. Staff was directed to move forward with edits.
Review Legislative Ideas: Director Bird gave the Commissioners an overview of legislative ideas. Motion was made by Martin Espil to accept all legislation idea changes as presented. Motion accepted.

Advertising Guideline Update: Director Bird will be making revisions to guideline #13 and present a draft revision at the next meeting. Motion was made by Mike Gamblin to move this item to the next meeting. Motion carried.

Education & Licensing Director’s Report: Appointment of Education Council Member: Motion was made by Michael J. Johnston to reappoint Patrick Malone to the Education Council as the Southeastern member. Motion carried.

Report on REEA 2019: Director Ferguson reported on the 2019 REEA conference in Austin, TX.

Enforcement

Stipulations:

Staff vs. Mandy Deanne Roberts, Case No. 18-0183: 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. Shelley S. Eichmann, Case No. 18-0092: 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. Jason Steven Tupper, Case No. 18-0252: 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. Monica Brown, Case No. 18-0276: 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. Commissioner Michael J. Johnston recused himself. Motion carried. A copy of the Final Order is attached hereto and made a part of these minutes.

Staff vs. Joseph Mathieu Buchanan, Case No. 18-0326: 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. Shelley Dawn Riggs, Case No. 18-0635: 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. Martha G. Martin-Bermudez, Case No. 18-0275: 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.

Probable Cause Memo #19-0171, #19-0117, 19-0118, and 19-0119, #19-0193, 19-0192, 19-0191, 19-0190, #18-0589, #17-0189 & 17-0190: A motion was made by Mike Gamblin finding the facts set forth in the memorandum of probable cause provided to them by the Executive Director, pursuant to Idaho Code 54-2058(1), are sufficient to proceed with formal action on the violations presented. Commission staff is authorized to file an administrative complaint. Mike Gamblin further moved that upon the initiation of any formal proceedings the Executive Director shall appoint a Hearing Officer to preside in the case, as provided by law. The Hearing Officer shall have the standard authority set forth in chapter 2 of the Commission’s administrative rules, IDAPA 33.01.02.452. Further, for any hearing held, with or without a hearing officer, the Notice of Hearing shall be issued in accordance with the Commission’s “Standard Form for Notice of Hearing and Scheduling Order”, a copy of which shall be provided to any hearing officer upon appointment. Motion carried.
Executive Session: In accordance with provisions of Idaho Code 74-206(1)(b), a motion was made by Commissioner Martin Espil to adjourn to executive session. Roll was called, Michael J. Johnston, Mike Gamblin, Jill Stone, Kathy Weber, and Martin Espil voted in favor. Motion carried.

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

Exemption Review #19-017: Request seeking an exemption from felony disqualification pursuant to Idaho Code 54-2012(1)(g); following discussion and review of the documents submitted, motion was made by Commissioner Michael J. Johnston to deny the request for exemption. Motion failed. Commissioner Martin Espil made a motion to approve the request for exemption. Motion carried.

There being no further business, Chair Jill Stone adjourned the meeting at 2:30 p.m. MT.

Respectfully submitted,

Michell Bird
Executive Director

MB:jv

Attachments:
Financial Report(s) April, May 2019
License Base Analysis
Examination Statistics
Education & Licensing Telephone Log(s) April, May, June 2019
Complaint Summary Report
Enforcement Telephone Activity Log(s) April, May, June 2019
Audit Report(s) April, May, June 2019
Final Orders

Minutes of the Idaho Real Estate Commission meeting on July 11, 2019 are hereby approved.
BEFORE THE IDAHO REAL ESTATE COMMISSION

STAFF OF THE IDAHO REAL ESTATE COMMISSION,

Petitioner,

vs.

MANDY DEANNE ROBERTS,

Respondent.

On July 11, 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 failed to update photographs of the Rotherham property despite drastic changes to the landscaping.)

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 **October 14, 2019**.

   b. Respondent shall pay **costs and attorney’s fees in the amount of Four Hundred Fifty Dollars ($450.00)** by **August 14, 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 courses by January 14, 2020:
   - **Risky Business 1**
   - **Risky Business 2**

b. The above courses 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 certificates 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 courses 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 11th day of July 2019.

FOR THE COMMISSIONERS:

[Signature]

L. Jill Stone, Chair
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of July 2019, I caused to be served, by the methods indicated, a true and correct copy of the Final Order upon:

Mandy D. Roberts
1363 S Willow Wood Way
Eagle, ID 83616

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.

JASON STEVEN TUPPER,

Respondent.

On July 11, 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(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. (Respondent attempted to mark the corners of the property even though he has never been a licensed surveyor.)

b. § 54-2086(1)(b) – If a buyer, prospective buyer, or seller is not represented by a brokerage in a regulated real estate transaction, that buyer or seller remains a customer, and as such, the brokerage and its licensees are nonagents and owe the following legal duties and obligations: To perform these acts with honesty, good faith, reasonable skill and care; (Respondent failed to act with reasonable skill and care when he marked the corners of the property.)
c. § 54-2087(2) – Duties to a Client. To exercise reasonable skill and care. (Respondent did not exercise reasonable skill and care in locating and marking the corners of the property. His actions resulted in a lawsuit against his client.)

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 October 14, 2019.

   b. Respondent shall pay costs and attorney’s fees in the amount of Four Hundred Fifty Dollars ($450.00) by August 14, 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 January 14, 2020:

- Minimizing Risk with Effective Practices

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 course, 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 11th day of July 2019.

FOR THE COMMISSIONERS:

L. Jill Stone, Chair
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of July 2019, I caused to be served, by the methods indicated, a true and correct copy of the Final Order upon:

Jason S. Tupper
2253 W Cedar Grove St
Meridian, ID 83646

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.

SHELLEY S. EICHMANN,

Respondent.

FINAL ORDER

On July 11, 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. § 54-2086(1)(d) – If a buyer, prospective buyer, or seller is not represented by a brokerage in a regulated real estate transaction, that buyer or seller remains a customer, and as such, the brokerage and its licensees are nonagents and owe the following legal duties and obligations: To disclose to the buyer/customer all adverse material facts actually known or which reasonably should have been known by the licensee. (Respondent failed to disclose two (2) prior instances of toilet flooding at the property to Ruberg.)

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:

FINAL ORDER – S. EICHMANN
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 August 14, 2019.

   b. Respondent shall pay costs and attorney’s fees in the amount of Four Hundred Fifty Dollars ($450.00) by August 14, 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 courses by January 14, 2020:
      
      - Risky Business 1
      - Risky Business 2

   b. The above courses 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 certificates 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 courses 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 11th day of July 2019.

FOR THE COMMISSIONERS:

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

I HEREBY CERTIFY that on this 12th day of July 2019, I caused to be served, by the methods indicated, a true and correct copy of the Final Order upon:

Shelley S. Eichmann
2875 Mountain View Dr
Boise, ID 83704

John Jameson
Capitol Law Group, LLC
PO Box 2598
Boise, ID 83701

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

X U.S. Mail

X U.S. Mail

X Email:

Email:

Facsimile Transmission

Facsimile Transmission

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.

SHELLEY DAWN RIGGS,

Respondent.

On July 11, 2019, the Commission considered the parties' Stipulation wherein Respondent admitted to the following violations of the Real Estate License Law, Idaho Code:

a. § 54-2062(1)(b) – The Commission may also take any disciplinary action, including, but not limited to, suspension or revocation of a license where the licensee: Has a real estate or other professional license 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. (Respondent's Resident Producer License was revoked by the Idaho Department of Insurance.)

b. § 54-2062(2) – A licensee against whom a final administrative action has been taken as described in subsection (1) of this section, shall, within twenty (20) days of such action, forward to the Commission a copy of the legal document evidencing the same. (Respondent failed to notify the Commission of her license revocation within the 20 days as required by Idaho License Law.)
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. **License Revocation**

   a. Respondent’s real estate license is hereby revoked.

3. **Fines and Fees:**

   a. Respondent shall pay **costs and attorney’s fees in the amount of Four Hundred Fifty Dollars ($450.00)** by August 12, 2019.

   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**
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, 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.

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 11th day of July 2019.

FOR THE COMMISSIONERS:

[Signature]

L. Jill Stone, Chair
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of July 2019, I caused to be served, by the methods indicated, a true and correct copy of the Final Order upon:

Shelley D. Riggs  
5718 W Double Anchor Dr.  
Glenns Ferry, ID 83623  

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

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

_____ U.S. Mail  
_____ Email  
_____ Facsimile Transmission  

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.

JOSEPH MATHIEU BUCHANAN,

Respondent.

On July 11, 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.

b. § 54-2054(4) – It shall be unlawful for any person, licensed or unlicensed, to interfere with the contractual relationship between a broker and a client.

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 **Three Thousand Five Hundred Dollar ($3,500.00)** civil fine by August 12, 2019.

   b. Respondent shall pay costs and attorney’s fees in the amount of **Four Hundred Fifty Dollars ($450.00)** by August 12, 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 is prohibited from seeking any form of special consideration in potentially obtaining a broker’s license. Any attempt to seek special consideration will be a violation of this Final Order.

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 11th day of July 2019.

FOR THE COMMISSIONERS:

L. Jill Stone, Chair
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of July 2019, I caused to be served, by the methods indicated, a true and correct copy of the Final Order upon:

Joseph M. Buchanan
800 Lakeside Ave
McCall, ID 83638

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

MiChell M. Bird
BEFORE THE IDAHO REAL ESTATE COMMISSION

STAFF OF THE IDAHO REAL ESTATE COMMISSION, 

Petitioner, 

vs. 

MARTHA G. MARTIN-BERMUDEZ, 

Respondent. 

Case No. 18-0275

ORDER OF DISMISSAL

This matter came before the Idaho Real Estate Commission on a Stipulation to Dismiss filed by the prosecuting attorney for Petitioner, Staff of the Idaho Real Estate Commission, and the attorney for Respondent, Martha G. Martin-Bermudez. The Idaho Real Estate Commission finds good cause to grant the parties’ request as follows:

IT IS ORDERED THAT:

1. The parties’ Stipulation to Dismiss the formal administrative Complaint served upon Martin-Bermudez on or around January 30, 2019, is GRANTED.

2. The above-captioned case is hereby DISMISSED WITH PREJUDICE.

3. Each party shall pay its own costs and attorney fees associated with this matter.

This is a final order.

DATED this 11th day of July, 2019.

FOR THE COMMISSIONERS

[Signature]

L. Jill-Stone, Chair

ORDER OF DISMISSAL - 1.
NOTE: THIS NOTICE IS PROVIDED SOLELY FOR COMPLIANCE WITH IDAHO CODE § 67-5248 AND IDAPA 33.01.02.802, AND IS NOT INTENDED TO REINSTATE ANY RIGHTS PREVIOUSLY WAIVED BY RESPONDENT.

This is a final order of the Agency. Any party may file a motion for reconsideration of this final order within fourteen (14) days of the service date of this order. The Agency will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Idaho Code § 67-5246(4).

Pursuant to Idaho Code §§ 67-5270 and 67-5272, any party aggrieved by this final order or orders previously issued in this case may appeal this final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:

a. A hearing was held,
b. The final agency action was taken, or
c. The party seeking review of the order, resides.

An appeal must be filed within twenty-eight (28) days: (a) of the service date of this final order; (b) of an order denying petition for reconsideration; or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See Idaho Code § 67-5273. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.

ORDER OF DISMISSAL - 2.
**CERTIFICATE OF MAILING**

I hereby certify that on the 12th day of January, 2019, I caused to be served, by the method(s) indicated, a true and correct copy of the foregoing upon:

<table>
<thead>
<tr>
<th>Name</th>
<th>Method</th>
<th>Email/Telephone</th>
</tr>
</thead>
<tbody>
<tr>
<td>Donald F. Carey</td>
<td>U.S. Mail</td>
<td>Email: <a href="mailto:dfc@careyromankiw.com">dfc@careyromankiw.com</a></td>
</tr>
<tr>
<td>Carey Romankiw, PLLC</td>
<td>Hand Delivered</td>
<td>Fax Transmission: 208-525-8813</td>
</tr>
<tr>
<td>477 Shoup Ave., Suite 203</td>
<td>Email: <a href="mailto:dfc@careyromankiw.com">dfc@careyromankiw.com</a></td>
<td></td>
</tr>
<tr>
<td>Idaho Falls, Idaho 83402</td>
<td>Fax Transmission: 208-525-8813</td>
<td></td>
</tr>
<tr>
<td><strong>Attorneys for Respondent</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Eric F. Nelson</td>
<td>U.S. Mail</td>
<td>Email: <a href="mailto:eric@naylorhales.com">eric@naylorhales.com</a></td>
</tr>
<tr>
<td>Naylor &amp; Hales, P.C.</td>
<td>Hand Delivered</td>
<td>Fax Transmission: 208-383-9516</td>
</tr>
<tr>
<td>950 W. Bannock St., Ste. 610</td>
<td>Email: <a href="mailto:eric@naylorhales.com">eric@naylorhales.com</a></td>
<td></td>
</tr>
<tr>
<td>Boise, ID 83702</td>
<td>Fax Transmission: 208-383-9516</td>
<td></td>
</tr>
<tr>
<td><strong>Attorneys for Petitioner</strong></td>
<td></td>
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</tbody>
</table>

MiChell M. Bird, Executive Director
Idaho Real Estate Commission

ORDER OF DISMISSAL - 3.
BEFORE THE IDAHO REAL ESTATE COMMISSION

STAFF OF THE IDAHO REAL ESTATE COMMISSION,

Petitioner,

vs.

MONICA BROWN,

Respondent.

Final Order

On July 11, 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. § 54-2002, as defined by § 54-2004(39)(c) and § 54-2004(2) – Unlicensed practice by acting in the capacity of a real estate salesperson without a license. (Respondent held herself out as a licensed real estate salesperson prior to obtaining a license when she posted on Facebook that she was working as a “realtor” at Dream Realty Team.)

b. § 54-2060(2) – Engaging in a continued or flagrant course of misrepresentation or making of false promises, whether done personally or through agents or salespersons. (Respondent misrepresented the validity of Addendum #2 to Caballero and Barreto when, in fact, she had electronically signed the Gomezes’ names to the addendum without authorization.)
c. § 54-2060(11) – Any other conduct whether of the same or a different character than above specified which constitutes dishonest or dishonorable dialings.

d. § 54-2060(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.

e. § 54-2086(1)(a) and (b) – Failure to perform ministerial acts to assist the buyer or seller in the sale or purchase of real estate; and failure to perform these acts with honesty, good faith, reasonable skill and care.

f. § 54-2087(4) – Failure to promote the best interest of the client in good faith, honesty and fair dealing. (Respondent failed to act in the Gomezes’ best interests when she electronically signed their names to a contract addendum without authorization.)

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. License Suspension

Respondent’s real estate license shall be suspended for a period of twelve (12) months beginning July 15, 2019. However, six (6) months of the twelve (12) month suspensions period shall be withheld provided Respondent:
a. Complies with the terms of this Order and violates no other license law.

b. Complies with Guideline #7: Guidelines for “Suspended” licenses, which is incorporated into the Stipulation as Exhibit A.

c. Completes the continuing education courses set forth in the Stipulation in the time allotted.

d. Pays in full all fines and attorney fees when due.

e. In the event Respondent fails to comply with any portion of the discipline set forth herein, the entire twelve (12) month suspension period shall be imposed; such suspension shall begin on the date of noncompliance and extend for twelve (12) months from that date.

3. **Fines and Fees**

   a. Respondent shall pay a **Two Thousand Dollar ($2,000.00) civil fine by January 14, 2020.**

   b. Respondent shall pay **costs and attorney’s fees in the amount of Three Thousand Two Hundred Seventy-Five Dollars ($3,275.00) by January 14, 2020,** and that in any event, all monies paid by Respondent be applied towards the costs/fees award first, before application to the fine.

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

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.**

4. **Continuing Education**

   a. Respondent shall successfully complete the following Idaho real estate educational courses by January 14, 2020:

   - **Risky Business 1**
   - **Risky Business 2**

   b. The above courses 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 certificates 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 courses 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 11th day of July 2019.

FOR THE COMMISSIONERS:

[Signature]
L. Jill Stone, 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.
Guideline #7

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

Page 3 of 6
May 9, 2013
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;

Page 4 of 6
May 9, 2013
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.

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.

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 fund 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 12th day of July 2019, I caused to be served, by the methods indicated, a true and correct copy of the Final Order and Guideline 7 upon:

Monica Brown  
4303 Frontier Dr  
Idaho Falls, ID 83406

Donald F Carey  
Carey Romankiw, PLLC  
477 Shoup Ave Ste 203  
Idaho Falls, ID 83402  
(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

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

MiChell M Bird, Executive Director  
Idaho Real Estate Commission