IDAHO REAL ESTATE COMMISSION
MEETING MINUTES
October 1, 2019

Pursuant to notice given, the meeting of the Idaho Real Estate Commission (Commission) was held at 2 Sun Valley Road, Sun Valley, Idaho on Tuesday, October 1, at 1:30 p.m.

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

Members Absent:

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

Others Present:
David Wynkoop, Commission’s Legal Counsel  
Raphael Barta, Idaho REALTORS®
See attached list

Introductions:
a. Commissioners  
b. Staff  
c. Guests

Meeting was called to order at 1:30 p.m. MT by Commission Chair Jill Stone.

Approval of Meeting Agenda: Motion was made by Michael J. Johnston to approve the October 1, 2019 meeting agenda as amended. Motion carried.

Approval of Meeting Minutes: Motion was made by Commissioner Kim Cooper to approve the August 28, 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:

- Financial Report(s) August 2019
- License Base Analysis
- Examination Statistics
- Complaint Summary Report
- Enforcement Telephone Activity Log(s) August 2019
- Audit Report(s) August 2019
- Education & Licensing Telephone Log(s) August 2019
- Waiver Report

Idaho REALTORS®:
Raphael Barta spoke on the relationship between REALTORS® and the Idaho Real Estate Commission. Mr. Barta gave IREC kudos on Commission meeting attendance and work. Mr. Barta mentions Idaho’s being number one in membership with REALTORS® at 91.66%

Executive Director’s Report:
Draft Legislative Discussion: Director Bird reported all seven pieces of legislation presented at the August Commission meeting were approved. Director Bird has now combined the seven pieces into two pieces. Director Bird reviewed the first piece, she mentioned it is titled transmitting documents to Brokers.
Director Bird reviewed the second piece of legislation. Director Bird gave a brief overview of each of the 6 components of the legislation. Components include Commissioners calling meetings by quorum, changes in education requirements involving the number of minimum hours, designated brokers physical presence in the office, marking rejected offers, removing the requirement for a written agency office policy, and clean-up of the subdivided lands contested case reference. Discussion ensued.

Commissioner Michael J. Johnston made a motion to move forward with the legislation as drafted. Motion carried.

Administrative Rules Update: Director Bird reported on Administrative Rules review. Director Bird reports IREC had a subject matter expert review and update our administrative rules. Our administrative rules were updated and reduced by approximately 80%. Director Bird informed the audience that the proposed changes in administrative rules will not change the way brokers and licensees do business. Director Bird reiterated the changes that were eliminated redundancies and simplifications.

Director Bird reported on the Governor’s Red Tape Reduction Act that was enacted and worked on for almost two years. Director Bird discussed some of the ideas that are being considered in the Occupational License Joint Legislative Committee.
Discussion of Prioritization of Office Audits:
Chief Investigator reported on IREC’s auditor’s prioritization of office audits.

ARELLO Travel Report: Director Bird reported on the recent trip to Denver, CO for ARELLO’s annual conference. Director Bird reported on the License Portability Task Force. This Task Force is gathering to solve issues with license portability. Director Bird reported the different requirements from the states for reciprocity. The task force is looking into using ARELLO as a central hub for all, license certifications and disciplinary reports.

Earnest Money Draft: Commissioner Michael J. Johnston requested this agenda item because of an idea that was brought up at the latest ARELLO conference. Commissioner Johnston presented his idea of editing the requirements for disbursement of earnest money to read. “Buying broker and selling broker must reach an agreement within 30 days. All parties have to agree.” Discussion ensued.

Education & Licensing Director’s Report:
Core 2020 Topic Discussion: Director Melissa Ferguson asked for ideas and subjects for Commission Core 2020. Discussion ensued.

ARELLO Travel Report:
Director Melissa Ferguson reported on her trip to Denver for the ARELLO annual conference. Director Ferguson mentioned discussion during the conference on criminal background checks. Director Ferguson also reported on opportunities to collaborate with other regulators regarding topics such as IDW speakers, prelicense curricula, and biometrics.

Errors & Omissions – RISC: Group Policy Report: Cindy Rice-Grissom reported on claims history and causes of Idaho claims over the past few years administering the group E&O policy. She gave information on why E&O insurance is necessary, what it covers and provided Idaho specific statistics for 2018.

Enforcement

Stipulations:
Staff vs. Minyu Yao (a.k.a. Eric Yao), Case No. 19-0171: 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. Darrin David Jaszkowiak, Case No. 19-0117: The party’s Stipulation in this
mattar 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. Chase G. Leavitt, Case No. 19-0119: 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. Sherida Emily Zenger, Case No. 19-0118: 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. Timothy H. Waterman, Case No. 19-0133: 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. Laura L. Fitzgerald, Case No. 19-0027: 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. Chad Gerrard Smith, Case No. 19-0149: The party’s Stipulation in this matter was presented for ex parte hearing and tape-recorded. Don Morse was sworn in and presented the Stipulation. No other testimony was 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.
Probable Cause Memo #19-0233 & 19-0234: 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.

There being no further business, Chair Jill Stone adjourned the meeting at 5:14 p.m. MT.

Respectfully submitted,

MiChell Bird
Executive Director

Attachments:  
Financial Report(s) August 2019  
License Base Analysis  
Examination Statistics  
Education & Licensing Telephone Log(s) August 2019  
Complaint Summary Report  
Enforcement Telephone Activity Log(s) August 2019  
Audit Report(s) August 2019  
Waiver Report  
Final Orders
Minutes of the Idaho Real Estate Commission meeting on October 1, 2019 are hereby approved.

Jill Stone, Chair

Mike Gamblin, Vice Chair

Kim Cooper, Member

Michael J. Johnston, Member

Martin Espil, Member
BEFORE THE IDAHO REAL ESTATE COMMISSION

STAFF OF THE IDAHO REAL ESTATE COMMISSION,

Petitioner,

vs.

MINYU YAO, a/k/a ERIC YAO,

Respondent.

On October 1, 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. § 54-2018(9) – Change in personal information. An individual licensee, whether active or inactive, shall provide written notice to the commission, in the form and manner approved by the commission, of any change of his personal name, address of personal residence or personal telephone number. Notice shall be provided within ten (10) business days of the change.

b. § 54-2061(1)(a) – ADDITIONAL GROUNDS FOR DISCIPLINARY ACTION – COURT ACTIONS – LICENSEE TO REPORT TO COMMISSION. 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.

c. § 54-2061(3) – A licensee who is convicted, declared legally incompetent, or who has a judgment entered against him in a civil action as described in subsection (1) of this section, shall, within twenty (20) days of such conviction, declaration or judgment, forward to the commission a copy of the legal document evidencing the same.

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**

   Respondent’s real estate license is hereby revoked, including any potential renewal rights.

3. **Fines and Fees**

   a. Respondent shall pay costs and attorney’s fees in the amount of Four Hundred Fifty Dollars ($450.00) by November 4, 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 IDAHO REAL ESTATE COMMISSION. DO NOT MAKE PAYMENT TO NAYLOR & HALES.

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. 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 1st day of October 2019.

FOR THE COMMISSIONERS:

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

I HEREBY CERTIFY that on this 3rd day of October 2019, I caused to be served, by the methods indicated, a true and correct copy of the Final Order upon:

Minyu Yao
2883 S Ladera Place
Boise, ID 83705

_____ U.S. Mail
_____ Email:
tag@yaofamily.in
_____ Facsimile Transmission

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

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

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

STAFF OF THE IDAHO REAL ESTATE COMMISSION,

Petitioner,

vs.

DARRIN DAVID JASZKOWIAK,

Respondent.

On October 1, 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(4) - A designated broker shall not allow any person who is not properly licensed to represent that broker as a sales associate or otherwise, in any real estate business activities requiring a real estate license. “Properly licensed” means a license or change in license that has been made effective by the commission.

b. § 54-2053(1) – Only licensees who are actively licensed in Idaho may be named by an Idaho broker in any type of advertising of Idaho real property, may advertise Idaho property in Idaho or may have a sign placed on Idaho property.

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 November 4, 2019.

   b. Respondent shall pay **costs and attorney’s fees in the amount of Four Hundred Fifty Dollars ($450.00)** by November 4, 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 May 4, 2020:

   - **Introduction to Brokerage Management**

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 1st day of October 2019.

FOR THE COMMISSIONERS:

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

I HEREBY CERTIFY that on this 3rd day of October 2019, I caused to be served, by the methods indicated, a true and correct copy of the Final Order upon:

Darrin D. Jaszkowiak  
1574 S Lakemoor Way  
Eagle, ID 83616

X U.S. Mail

Email: 

Facsimile Transmission

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.

CHASE G. LEAVITT,

Respondent.

On October 1, 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(2) and (39)(a), (c) and (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.

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 November 4, 2019.**

b. Respondent shall pay **costs and attorney’s fees in the amount of Four Hundred Fifty Dollars ($450.00) by November 4, 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. 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 1st day of October 2019.

FOR THE COMMISSIONERS:

L. Jill Stone, Chair
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of October 2019, I caused to be served, by the methods indicated, a true and correct copy of the Final Order upon:

Chase G. Leavitt
1347 W Sage Vista Dr
Lehi, UT 84043

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

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

STAFF OF THE IDAHO REAL ESTATE COMMISSION,

Petitioner,

vs.

SHERIDA EMILY ZENGER,

Respondent.

FINAL ORDER

On October 1, 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.

b. § 54-2050(1)(c) – Seller representation agreements. Each seller representation agreement, whether exclusive or nonexclusive, must contain the following provisions: Price and terms.

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 November 4, 2019.

   b. Respondent shall pay **costs and attorney’s fees in the amount of Four Hundred Fifty Dollars ($450.00)** by November 4, 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 1st day of October 2019.

FOR THE COMMISSIONERS:

L. Jim Stone, Chair
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of October 2019, I caused to be served, by the methods indicated, a true and correct copy of the Final Order upon:

Sherida E. Zenger
10179 N 6650 W
Highland, UT 84003

_____ 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

[Signature]
BEFORE THE IDAHO REAL ESTATE COMMISSION

STAFF OF THE IDAHO REAL ESTATE COMMISSION,

Petitioner,

vs.

TIMOTHY H. WATERMAN,

Respondent.

On October 1, 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. § 54-2061(1)(a) – The commission may also take disciplinary action against a licensee including, but not limited to, suspension or revocation of a license, where, in a court of competent jurisdiction, the licensee has been convicted of a felony.

b. § 54-2061(3) – A licensee who is convicted, declared legally incompetent, or who has a judgment entered against him in a civil action as described in subsection (1) of this section, shall, within twenty (20) days of such conviction, declaration or judgment, forward to the commission a copy of the legal document evidencing the same.

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 November 4, 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 IDAHO REAL ESTATE COMMISSION. DO NOT MAKE PAYMENT TO NAYLOR & HALE**

3. **License Revocation**

   Respondent’s real estate license is hereby revoked.
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 1st day of October 2019.

FOR THE COMMISSIONERS:

L. Jill Stone, Chair
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 3rd day of October 2019, I caused to be served, by the methods indicated, a true and correct copy of the Final Order upon:

Timothy H. Waterman, Inmate #130750
Idaho State Corr. Institution Unit 13
PO Box 14
Boise, ID 83707

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

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

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

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

STAFF OF THE IDAHO REAL
ESTATE COMMISSION,

vs.

LAURA L. FITZGERALD,

Respondent.

On October 1, 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)(a) and (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:

   (a) To perform ministerial acts to assist the buyer or seller in the sale or purchase of real estate; and

   (b) To perform these acts with honesty, good faith, reasonable skill and care.

B. § 54-2087(2) and (4) – If a buyer or seller enters into a written contract for representation in a regulated real estate transaction, that buyer or seller becomes a client to whom the brokerage and its licensees owe the following agency duties and obligations:

   (2) To exercise reasonable skill and care.
To promote the best interests of the client in good faith, honesty and fair dealing including, but not limited to: (a) seeking a buyer to purchase the seller's property at a price, and under terms and conditions acceptable to the seller, and assisting in the negotiation therefor.

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 is intended to influence.

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 November 4, 2019.

   b. Respondent shall pay costs and attorney’s fees in the amount of Four Hundred Fifty Dollars ($450.00) by November 4, 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 May 4, 2020:

- **Post License Pricing, Marketing, and Advertising;** and
- **Agency Law**

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 1st day of October 2019.

FOR THE COMMISSIONERS:

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

I HEREBY CERTIFY that on this 3rd day of October 2019, I caused to be served, by the methods indicated, a true and correct copy of the Final Order upon:

Laura L. Fitzgerald
1126 Eastland Dr N, Ste 100
Twin Falls, ID 83301

X U.S. Mail
Email: 
Facsimile Transmission

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.

CHAD GERRARD SMITH,

Respondent.

FINAL ORDER

On October 1, 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.

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. **Withheld License Revocation**

   Respondent’s real estate license is hereby revoked. However, the license revocation is withheld so long as Respondent complies with the following provisions:

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

   b. Respondent shall be required to self-report to the Commission any parole or probation violations within ten (10) days. Failure to do so will be considered a violation of the Final Order.

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

   d. Respondent fully complies with the terms of this Final Order including, but not limited to, timely paying all costs and attorney fees.

3. **Fines and Fees**

   a. Respondent shall pay **costs and attorney’s fees in the amount of Four Hundred Fifty Dollars ($450.00)** by November 4, 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 IDAHO REAL ESTATE COMMISSION. DO NOT MAKE PAYMENT TO NAYLOR & HALES.**

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 1st day of October 2019.

FOR THE COMMISSIONERS:

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

I HEREBY CERTIFY that on this 3rd day of October 2019, I caused to be served, by the methods indicated, a true and correct copy of the Final Order upon:

Chad Gerrard Smith, Inmate #131653
Correctional Alternative Placement Program Unit 3
15505 S. Pleasant Valley Road
Kuna, ID 83634

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

Barr Smith
(POA for Chad Smith)

_____ U.S. Mail
X Email:
Bsmith3@idahopower.com
_____ 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

[Signature]