

**IDAHO REAL ESTATE COMMISSION**  
**Wednesday – January 19, 2022 – 8:30 a.m. (MT)**

**Division of Occupational and Professional Licenses**  
**575 East Parkcenter Blvd., Suite 180, Boise, Idaho**

**MINUTES OF THE JANUARY 19, 2022 MEETING**

NOTE: The following report is not intended to be a verbatim transcript of the discussions at the meeting,  
but to record the significant features of those discussions.

Chairman Michael Johnston called the meeting to order at 9:30 a.m. (MT)

**Commission Members Present:**

Michael Johnston, Chairman  
Kim Cooper, Vice-Chairman  
Mike Gamblin  
Jill Stone-Zoom  
Martin Espil-Zoom

**Staff Present:**

Michelle Bird, Executive Officer  
Melissa Ferguson, Edu. & Curr. Prog. Supervisor  
Steve Gorski, Investigative Unit Manager  
Laura Shankel, Licensing & Registration Manager  
Ron Bassett, Board Services Program Manager  
Jesama Rosensweig, Licensing Supervisor  
Renee Bryant, Board Support Supervisor  
Linda Pratzner, Board Support Specialist

**Legal Counsel:**

David Wynkoop

**Review of Attendance Policy for CE Credit**

Commissioner Johnston spoke to the attendance policy for receiving CE credits when attending Commission meetings.

**DOPL Organizational Chart Update**

Executive Officer Michelle Bird provided an update on the organizational chart.

**Approval of the January 19, 2022 Agenda**

**MOTION:** Commissioner Jill Stone made a motion to approve the January 19, 2022 agenda as presented. All in favor, motion carried.

**Approval of the November 30, 2021 Meeting Minutes**

Executive Officer Bird requested her title be changed in the minutes from “Executive Director” to “Executive Officer”.

**MOTION:** Commissioner Mike Gamblin made a motion to approve the November 30, 2021 meeting minutes as amended. All in favor, motion carried.

**Approve Remaining 2022 Board Meetings – October 3, 2022 (Coeur d’Alene) and December 5, 2022**

To complete the Commission’s meeting schedule for the remainder of the 2022 calendar year, the following days were suggested: October 3, and December 5. An additional meeting in September was requested.

**MOTION:** Mike Gamblin made a motion to approve the following 2022 Commission meeting dates; September 7, October 3, and December 5. All in favor, motion carried.

## **Reports**

The following reports were addressed:

- Financial
- Complaint Summary
- Enforcement Telephone Activity Log
- Audits
- License Base Analysis
- License Examination Statistics
- Waiver by State
- Education/Licensing Telephone Log
- New Brokers & Companies

## **Idaho REALTORS®**

Idaho REALTORS® CEO David Hensley invited the Commission and industry to the following upcoming events in Boise hosted by Idaho REALTORS®:

- February 1, 2022--1:00 p.m. – Idaho REALTOR Day, Lincoln Auditorium, Capitol Building. The Governor, legislative and judicial branch are speakers.
- February 1, 2022--5:30 p.m. – Inaugural Reception for 2022 Idaho REALTOR president-elect Patrick Malone, at Beside Bardenay.
- February 2, 2022--8:30 a.m. – Idaho REALTORS® Annual Leadership Summit, Grove Hotel. Registration required.

At the Governor's request, Idaho REALTORS® is working with the Idaho Housing and Finance Association, and industry partners on a plan to spend \$15 million dollars of federal funding for workforce housing over the next several years.

In the past, homeowners would not receive the homeowner exemption if not filed in their respective counties by April 15<sup>th</sup>. Idaho REALTORS® was able to reverse and eliminate the date from that exemption. In addition, Idaho REALTORS® is speaking with legislators about the homeowners exemption from a policy matter that ceases when an occupant leaves the property for short/long term assisted living.

Mr. Hensley updated the Commission on the Idaho REALTORS® membership.

## **Executive Officer Report**

**Civil Penalty Fines for Continuing Education (CE) and Errors & Omissions (E & O) Insurance –**

CE and late E & O insurance is 91% of the fine revenue collected by the Idaho Real Estate Commission. A lengthy discussion ensued regarding a penalty for licensees taking 12 hours of elective courses

instead of required post license courses in their first renewal period. Executive Officer Bird asked the Commission to also discuss the E & O Insurance portion of the penalties.

**MOTION:** Kim Cooper made a motion the late E & O Insurance penalties stay the same. Three yay (Kim Cooper, Martin Espil and Jill Stone) and one nay (Mike Gamblin), motion passed.

Discussion followed after the above motion was made, and prior to a vote.

Commissioner Chairman Johnston requested a motion regarding the late continuing education form.

**MOTION:** Commissioner Kim Cooper made a motion the fines remain as listed in the continuing education form with the exception if the 12 hours addressed under post license have been achieved through incorrect electives the fine for the post license requirement be waived for a period of 30 days to allow those individuals to complete the correct post license hours.

**AMENDED MOTION:** Commissioner Kim Cooper amended his motion that the fines remain as listed in the continuing education form with the following exceptions for first time offenders that have taken: 1) 12 hours of classes; however, achieved through incorrect electives, and 2) Two of the same core classes erroneously taken prior to renewal. Both are allowed 30 days to complete the correct post license hours or/and correct core course without penalty. All in favor, motion carried.

Guideline 12 & 13 Revisions – In the packet are revisions to Guidelines 12 *Internet and Social Media Advertising* and 13 *Advertising*, which will be part of core this year.

- Guideline 12 – After extensive review, and proposed changes, the Commissioners requested staff combine Guidelines 12 and 13 into one document and all social media formats, i.e., Chat, Email, Blogs, etc., be generic with verbiage to say, “All forms of advertising and communication ...”. In addition, review and/or replace “should” with “shall” or “will” throughout the document.
- Guideline 13 – Page 33, in first paragraph change, “A team name is not sufficient”, to “A team name by itself does not comply with the law.”, and change “gambling” to “assuming” in the second to last bullet point.

Revisions will be provided to the commissioners for input prior to the March meeting.

Earnest Money Transactions – Occasionally, earnest money is being held for a longer period of time than normal. There was discussion the holder of the earnest money would be the one to make the decision about the money. The Idaho REALTORS® had proposed giving the earnest money back to the responsible broker and add a new paragraph to that affect into the forms. With the language already in the forms, and not all brokers have trust accounts, the decision was to leave the forms as currently written.

IDW Core Update – A handout was provided on the 2022 Core topics and presenters for the March 8 and 9, 2022 Instructor Development Workshop (IDW), Meridian, Idaho. Topics are: Legislative Update (pending Sine Die), Guideline Review (12 *Internet & Social Media Advertising* and 13 *Advertising*), Case Law Update, Hot Topics (Risk Reduction & Overview of Idaho Water Rights), and Core Exam.

Special Consideration Policy – One minor change to the policy is requests and documentation must now be received no later “three” rather than “two” weeks prior to the regularly scheduled meeting.

**MOTION:** Commissioner Mike Gamblin made a motion to approve the proposed changes to the Procedure for Accepting and Processing Requests for Special Consideration policy as presented. All in favor, motion carried.

### **Stipulations**

IREC vs. John L. Giordani, Deerfield Partners, Inc., & Arthur Griffith, Case #20-0060 & #20-0062 – The party’s Stipulations in this matter were presented for ex parte hearing and tape-recorded. Investigator Craig Boyack was sworn in and presented the Stipulations. No other testimony was presented.

**MOTION:** Commissioner Mike Gamblin made a motion to accept the Stipulations as presented by staff and enter into a Final Order in accordance with the terms of the Stipulations. All in favor, motion carried.

IREC vs. Philip J. Wickstrom & The Net Lease Group, Case #21-0057 & #21-0060 – The party’s Stipulation in this matter were presented for ex parte hearing and tape-recorded. Investigator Nathan Svevad was sworn in and presented the Stipulation. No other testimony was presented.

**MOTION:** Commissioner Mike Gamblin made a motion to accept the Stipulation as presented by staff and enter into a Final Order in accordance with the terms of the Stipulation. All in favor, motion carried.

IREC vs. Laura L. Fitzgerald, Case #21-0272 – The party’s Stipulation in this matter was presented for ex parte hearing and tape-recorded. Investigator Nathan Svevad was sworn in and presented the Stipulation. No other testimony was presented.

**MOTION:** Commissioner Mike Gamblin made a motion to deny the Stipulation as presented by staff. All in favor, motion carried.

IREC vs. David Curtis Anderson, Case #21-0140 – The party’s Stipulation in this matter was presented for ex parte hearing and tape-recorded. Investigator Don Morse was sworn in and presented the Stipulation. No other testimony was presented.

**MOTION:** Commissioner Mike Gamblin made a motion to accept the Stipulation as presented by staff and enter into a Final Order in accordance with the terms of the Stipulation. All in favor, motion carried.

### **Report on Investigative Files**

PC Memo #20-0228 and #20-0229 – Investigative Unit Manager Steve Gorski presented PC Memos #20-0228 (Licensee A) and #20-0229 (Licensee B), which is for electronic forgery. The agency is seeking permission to move forward on the case.

PC Memo #20-0402 – Investigative Unit Manager Steve Gorski presented PC Memo #20-0402, which is for electronic forgery. The agency is seeking permission to move forward on the case.

PC Memo #21-0357 – Investigative Unit Manager Steve Gorski presented PC Memo #21-0357, which is for clipping and damaging house plants without permission. The agency is seeking permission to move forward on the case.

PC Memo #21-0430 and #21-0527 – Investigative Unit Manager Steve Gorski presented PC Memos #21-0430 and #21-0527, which is for designated broker to fail to supervise licensee and licensee engaged in dishonest and dishonorable dealings on behalf of his buyer/seller. The agency is seeking permission to move forward on the case.

**MOTION:** Commissioner Mike Gamblin made a motion that finding the facts set forth in probable cause memos #20-0228, #20-0229, #20-0402, #21-0357, #21-0430 and #21-0527, provided by the Executive Director, and pursuant to Idaho Code 54-2058(1), are sufficient to proceed to formal action on the violations presented. Commission staff is authorized to file an administrative complaint, and upon the initiation of any formal proceedings the Executive Officer 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. All in favor, motion carried.

#### **Executive Session**

There was nothing to address in Executive Session.

#### **Adjournment**

With no further comments or questions, Commission Chairman Michael J. Johnston entertained a motion for adjournment.

**MOTION:** Commissioner Kim Cooper made a motion to adjourn the meeting. All in favor, motion carried.

The meeting adjourned at 11:48 a.m. MT.

03/07/2022rb