

The Real Estate

Comments From the Commission Chair



“More Good News”

By Andy Enrico
Commission Chair

The upturn in our real estate market that most of Idaho has been experiencing is a welcome change from the market we've experienced in recent years and is a positive sign for our industry. It's nice to see the smiles on both agents and brokers again!

As you can imagine, this renewed market activity is very apparent at the Commission with an increase in both new licensees as well as “re-activations” of many licenses that were temporarily on “vacation” when the overheated market slowed down.

The Commission, like all of you, learned some valuable lessons on how to work more efficiently during the slower market; these lessons will continue to pay dividends in the future. All four members of the Commission are proud of the staff at the office for their dedication and willingness to “double up” their duties during the slowdown period.

We also want to thank all of you licensees, because of your cooperation we've achieved 100% “on-line” license renewals. Our “on time” E&O insurance renewals were at an all-time high this past year too. This meant a big savings to the operation of the Commission, allowing us to hire an Education Training Specialist that can focus on both Education Curriculum Development and Education Course Certifications.

In my last report to you, I mentioned the Commission had formed an “Education Work Group” made up of members of the industry and the Commission. This work group is chaired by one of IAR's® past presidents, Mark Jones. They suggested legislation be introduced in the upcoming 2014 Legislative Session that would require all licensees to take the Commission's “Core” class annually. They also recommended adding a “post license” education curriculum requirement instead of the current 16 elective hours for “new licensees” in their first license renewal period.

A work group I chair, the “Property Management Work Group,” is made up of members of the real estate and property management industry and the Commission. In our meetings all aspects of property management have been thoroughly discussed. The complexity of the issues involved with the “possibility” of any type of licensing is an undertaking that

members of this work group are taking very seriously and they are being diligent in addressing these issues. To date no legislation is forthcoming for the 2014 Legislative Session.

Lastly, as your Commissioners we'd like to let all of you know of the distinct honor Idaho has received nationally and internationally. The Commission is a member of ARELLO (“Association of Real Estate License Law Officials”), comprised of governmental real estate license law agencies from around the world as well as the United States (they govern over 3 million licensees). They have elected our Executive Director, Jeanne Jackson-Heim as their 2014 President. Quite an accomplishment (most of the presidents have been from much larger states and other countries). This speaks volumes about the respect Jeanne has with the members of this organization.

Not only has Jeanne focused on ways to streamline the Commission's daily operations as well as holding a leadership role in ARELLO for the past 4 years, she has also managed to complete her MBA at Boise State this year.

I'm reminded of Lucille Ball's famous quote: “If you want something done, ask a busy person to do it. The more things you do, the more you can do.” As I complete these past 8 years as a Commissioner, I'd like to take this opportunity to thank all of you for allowing me to serve you. I'm proud of the members of the real estate industry and the contribution they make to their communities. The real estate industry is a vital part of both our state's and nation's economy so let's keep the positive trend going. Have a great rest of the year!

INSIDE THIS ISSUE

Saying Good-Bye and Saying Hello.....	3
Audit Honor Roll	3
Online Lottery Winners	4
So Many Class Choices! (If You Plan)	4
Whose Responsibility Is It?	5
Tips to Avoid Real Estate Errors And Omissions	
Claims	5
Disciplinary Actions	5
Reservation Agreements	6
Trust Account Theft - Is There Any Excuse?	7
Employees Recognized for Valuable Service	11
IREC's Newest Staff Member	11

COMMISSIONERS

Andy Enrico, Chair

Andy Enrico and Company Real Estate, Inc., Boise
Email: andy@andyenrico.com
Work: (208) 336-8880

Kelly Fisher, Vice Chair

The Network Real Estate Group, LLC, Pocatello
Email: kellyfisher53@gmail.com
Work: (208) 237-2000

Kathy Weber, Member

Re/Max Connections, Moscow
Email: kathyw@remax.net
Work: (208) 883-9700

Marvis Brice, Member

Advantage 1 Realty, Burley
Email: brice@qwestoffice.net
Work: (208) 677-4663

EDUCATION COUNCIL

Mike Gamblin, Chair

Idaho Real Estate School, Boise
Email: info@idahorealestateschool.com

Donna Capurso, Vice Chair

Selkirk Mountain Real Estate, LLC, Bonners Ferry
Email: donna@selkirkmountainrealestate.com

Michael James Johnston, Member

The Home Specialists, LLC, Pocatello
Email: mike@mikejohnston.com

Beckie Kukal, Member

NorthPointe Realty, LLC, Jerome
Email: kukal@northpointerealty.com

IDAHO REAL ESTATE COMMISSION STAFF

(208) 334-3285 or toll free in Idaho (866) 447-5411

Administration

- Jeanne Jackson-Heim** - jeanne.jackson-heim@irec.idaho.gov (Executive Director).....ext. 118
- Tammy Anderson** - tammy.anderson@irec.idaho.gov (Administrative Assistant I).....ext. 101
- William Robinson** - william.robinson@irec.idaho.gov (Information Systems Technician)...ext. 107
- Tammy Collier** - tammy.collier@irec.idaho.gov (Management Assistant).....ext. 103

Education & Licensing Department

- MiChell Bird** - michell.bird@irec.idaho.gov (Education & Licensing Director).....ext. 105
- Melissa Ferguson** - melissa.ferguson@irec.idaho.gov (Training Specialist).....ext. 116
- Jesama Rosensweig** - jesama.rosensweig@irec.idaho.gov (Technical Records Specialist II).....ext. 106
- Katie Thiede** - katie.thiede@irec.idaho.gov (Technical Records Specialist I).....ext. 109

Enforcement Department

- Craig Boyack** - craig.boyack@irec.idaho.gov (Chief Investigator).....ext. 114
- Don Morse** - don.morse@irec.idaho.gov (Investigator).....ext. 111
- Megan Owens** - megan.owens@irec.idaho.gov (Investigator)ext. 113
- Gayle Brixey** - gayle.brixey@irec.idaho.gov (Inspector).....ext. 112
- Stephanie McLarin** - stephanie.mclarin@irec.idaho.gov (Administrative Assistant II)ext. 108

Commissioner Attorney

Kim Coster





Saying Good-Bye and Saying Hello

By Jeanne Jackson-Heim
Executive Director

At this writing, we have just learned we will have a new Commissioner from the Southwest District – Mike Gamblin of Boise - and we bid farewell to Commissioner Andy Enrico after 8 years with the Commission. This is bittersweet, because we hate to see Andy go, but we are thrilled to have Mike join us, and we know his qualifications and expertise will be invaluable to the Commission.

I don't often get the chance to say a few words about a departing commissioner, so on behalf of the IREC staff, I want to take this opportunity to publicly thank Commissioner Enrico for his many kindnesses. Andy (a/k/a The Easter Bunny, Santa Claus, etc.) and his wife Linda never failed to remember every staff member with treats at holiday times. He is always courteous and professional, even in the face of adversity, and he appreciates and respects the staff for their abilities and efforts. Andy has encouraged my personal endeavors at every turn, and he generously allowed me to take time from my regular duties to take on a leadership role in ARELLO®. Finally, there are few licensees who know and follow the license law as well as Andy Enrico; he is one of our longtime brokers who can be counted on to always set a good example and provide guidance to newer licensees.

Although Andy will be greatly missed, we are excited to welcome Mike Gamblin as our newest Commissioner. Mike has years of experience in real estate education, and he is no stranger to IREC, having just completed a 4-year term on the Education Council. Mike has provided invaluable assistance in drafting, reviewing, and piloting curriculum for prelicense and core courses over the years. He is a talented instructor who is very knowledgeable about IREC's education programs, and he will be a great addition to the Commission. We look forward to working with Mike in his new role!

Education Council position. Mike's appointment as Commissioner means there now exists a vacancy on the Education Council. If you are interested in education and are from Owyhee, Elmore, Ada, Canyon, Boise, Gem, Payette, Washington, Adams or Valley County, please submit your written letter of interest and resume to MiChell Bird at the IREC office by August 1, 2013. The Council presently meets 5 to 6 times per year in Boise, and meetings generally run between a half day to a full day in length. Feel free to contact MiChell or me if you have any questions about the position.

New and improved Guidelines are here! We encourage you to read and familiarize yourself with the Commission's new Guideline #12 on Internet and Social Media Advertising, available on the IREC website at irec.idaho.gov. Commissioners also approved revisions to several existing Commission Guidelines. While most changes were minor, two of the Guidelines were substantially rewritten - Guideline #6 (Offering Guarantees, formerly Guarantee Sales Plans) and Guideline #18 (Dealer in Options). The Commission Guidelines are printed in the back of your license law booklet; visit the IREC website for the most current versions of Guidelines #6 and #18.

License Law Booklets have been printed and mailed. We are also working on a downloadable e-reader version. Check the IREC website in the next couple of weeks for information on obtaining the license law "e-booklet".

Finally, a hearty thank you to the Selkirk Association of REALTORS® for hosting our June commission meeting in Sandpoint. We enjoyed chatting with the 37 licensees who attended and earned 4 hours of free CE credit. Check the IREC website for future meeting dates and a location in your area!

Audit Honor Roll

December 2012 - April 2013

Wm Kim Stimpson, DB7641
Buyers & Sellers Realty, Inc.
DBA: Assist 2 Sell
Buyers & Sellers Realty

Andy Enrico, DB2282
Andy Enrico and Company
Real Estate, Inc.

Therese Ann Goodman, DB24407
Town & Country Investment, Inc.
DBA: Re/Max Town & Country

Maurice S. Clifton, DB1494
Blossom Heights Realty

David Jeffrey "Jeff" Dildine, DB24643, Realty One Centre of Boise, Inc.

Koelean Lytle, DB4953
Greater Valley Properties, Inc.
DBA: Century 21

Robert E. Veeh, DB8201
Canyonside Irwin Realty, Inc.

Henri W. LeMoyné, DB4724
LeMoyné Realty

John C. Lindbloom, DB14527
Lindbloom Realty, LLC
DBA: Lindbloom Realty

Kem Leroy Marshall, DB5067
Team Realty, Inc.
DBA: Team Realty

Kellen Blaine "Kelly" Fisher, DB2453, The Network Real Estate Group, LLC

Ann Jean Beutler, DB28443
John Beutler & Associates, Inc.
DBA: Century 21
Beutler & Associates

Online Lottery Winners!

December - July 2013

The following licensees are the final lottery winners! This program is discontinued effective July 1, 2013.

December 2012 - Michael J. Parkins, DB6093, Four Seasons Real Estate, Sandpoint

January 2013 - Wade I. Davison, BR27537, an inactive broker

February 2013 - Kristen Beckstead, SP16964, Scott Beckstead Real Estate Company, Preston

March 2013 - Michael Allen Ward, SP39886, Coldwell Banker Schneidmiller Realty, Coeur d'Alene

April 2013 - Darrell Lin Gowan, SP38110, an inactive salesperson

May 2013 - Robert Reece, BR14840, an inactive broker

Rhenda Marie Evans, SP39669 Coldwell Banker Tomlinson Group, Boise

WARNING!



Group E&O insurance policy offered to Idaho Licensees through Rice Insurance Services CO., LLC expires SOON!

Your policy MUST be renewed no later than 11:59 p.m. MDT, September 30.



So Many Class Choices! (If You Plan)

By Mike Gamblin
Council Chair

To many licensees, mandatory CE credits are a pain in the neck. Some think we should not have to take any courses once we are licensed. However, most think the idea of required education is a good idea. In order to stay up with an industry subject to as many changes as real estate, but finding meaningful education presents one of the most frustrating aspects of continuing education. I agree and have a suggestion that may help: plan ahead.

It's hard to argue there are limited continuing education options in Idaho. First of all, there are currently 296 CE elective courses available any time online. Chances are there are several that would interest you. Just logon and pick the ones you would like to take. For illustration, let's just look at live classroom courses offered and the benefits of planning ahead.

Say you were one of the 264 active Idaho licensees who needed to renew by the end of last month, May 2013. If you waited to the last week of May to start looking for classes to take there were 18 classes held statewide and the topics were naturally limited. If you started looking at the beginning of May you had 59 class choices statewide, and the topics expanded greatly from *Conservation Easements - Protecting Land from Development* or *Are You a Secret Agent? A Study in Agency to Negotiations and Closing*. If you started looking when the state informed you your license renewal was 90 days away, there were 174 live classes held statewide. They covered a wide variety of topics, from *Top Ten Deadly Sins of Writing a Contract* and *Let's Make a Deal-Negotiating Skills* to *Cash Flow Analysis for Commercial Real Estate* and *Title Explained: The Benefits of Understanding Title Insurance*.

None of those choices sound interesting to you? Plan ahead even more. If you started planning 6 months ahead of your renewal date there were 307 live classes held statewide. You could have taken *Landlord-Tenant Law* or *Residential Real Estate Investing* or *Listing and Marketing Commercial Real Estate* or *Mortgage Insurance-The Facts Your Clients Need to Know!* or *Real Estate Marketing Through Social Engagement* or *Successful Open Houses* or...you get the picture. By the way, if you starting planning the entire two years of your license period, there were 1,208 CE elective classes held in Idaho!

So instead of moaning about the limited classes available to take to renew your license, next time start sooner and make a plan. You'll be surprised at the incredible variety of CE elective courses available in Idaho.

Licensee Statistics

as of June 10, 2013

Active Licensees.....6723

Inactive Licensees.....2464

Total Licensees.....9187



Whose Responsibility Is It?

By MiChell Bird
Education & Licensing Director

Requirements to maintain a real estate license are YOUR individual responsibility. These requirements include renewing your license on time and maintaining E&O insurance for an active license. My parents emphasized personal responsibility from an early age. Blaming my brother for something I did may have worked temporarily but when mom found out...trouble. Likewise, trying to hold another accountable for your personal responsibility of a Real Estate License often does not end well.

Sometimes we hear from assistants or spouses that they are trying to renew for a licensee. It is extremely important that

all licensees renew their own licenses. The renewal includes questions about CE, E&O, and judgments a licensee must certify are correct when renewing the license. This obligation cannot be delegated to others.

Group E&O renewal is around the corner; be conscientious of the date. The deadline for renewal of the Rice E&O insurance is **September 30 at 11:59:59 p.m. MDT**. The policy period ends at 12:01 a.m. on October 1, and **all renewals must be received by Rice and the premiums paid by the end of the day on September 30** to avoid a civil penalty fine.

Licensees fined for failure to maintain their E&O Insurance often tell us they didn't purchase insurance because they *intended* to inactivate their license. If you inactivate your license after September 30th, it's too late! You will still incur a penalty for failure to maintain E&O insurance with an active license. To inactivate your license, contact your designated broker to remove you from the company. Make the request in writing (email) and follow up by logging in to IREC's online services at irec.idaho.gov to check the status of your license. Under the license history tab, the top line under license status will say "inactive".

If you have any questions about licensee responsibilities, please refer to your License Law book, ask your broker, or call us here at the Commission.

TIPS TO AVOID REAL ESTATE ERRORS AND OMISSIONS CLAIMS

By Rice Insurance Services
Company, LLC

While even the most diligent licensee may be the victim of a frivolous claim, diligent business practices help decrease risk. Even if these procedures do not prevent a claim, they may greatly enhance the chance of a successful defense.

1. Resolve problems far before the closing date. Don't wait until the last minute to address problem issues. When people are rushed to resolve matters, they are more likely to make mistakes or overlook items.

2. Don't try to be an expert at everything. Involve key professionals, such as attorneys, home inspectors, termite inspectors, appraisers, lenders, and surveyors when needed. Provide a list of several names or a copy of the yellow page listings but do not recommend a specific individual or firm! Keep a copy of the list you provide.

3. It is generally a good idea to require agency disclosure on every transaction. Be familiar with your state's laws regarding when a written agency disclo-

sure is required, at what stage it must be completed, and who must be provided with signed copies. Typically, agency relationships should be disclosed as soon as possible, but in any event, prior to providing specific assistance to the client. For example, buyers should be advised if the agent showing them the house is the seller's agent.

4. Document conversations, recommendations, and activities in a log. It is also often helpful to document conversations by sending a brief follow up email. Keep organized, detailed records of all real estate transactions. This is often required by state law, will assist you in recalling details, and will be helpful to an attorney if a defense is needed in the future.

5. Brokers should have regular meetings with their firms' licensees and remain informed as to their activities. Establish consistent guidelines and make sure everyone in the firm understands and complies with them.

6. Listing agents should have the seller complete any required property disclosure form. This form should never be filled out by the real estate licensee. Additionally, if any issues arise while the property is listed, advise the seller to update the disclosure form accordingly.

7. Recommend that buyers obtain a home warranty and retain written evidence of the recommendation.

8. Recommend that buyers obtain a home inspection. If they decline, have them sign a form confirming this decision.

9. Many states and associations have standard contract forms. It is wise to address items that are outside of standard form language with the client's legal counsel, or else the real estate licensee risks the unauthorized practice of law.

10. When information is obtained from a third party, it is often a good idea to disclose the source when making representations, because sometimes information from what appears to be a valid source turns out to be inaccurate. For example, if you believe a property is on city sewer based on a prior listing or a statement by the city utility office, disclose the source of your representation.

Prepared by Rice Insurance Services Company, LLC, April 3, 2013. CNA is a service mark and trade name registered with the US Patent and Trademark Office. The program referenced herein is underwritten by Continental Casualty Company, a CNA insurance company. This information is for illustrative purposes only and is not a contract. Nothing herein should be construed as legal advice or

TIPS continued on page 6

Disciplinary Actions

November 1, 2012 - April 30, 2013

Bishop, William Scott, associate broker in Boise. Bishop refused to return the complainant's property, a website domain, after they ceased doing business. Stipulated to violation of Idaho Code 54-2087(1) - failure to perform the terms of the Seller's Representation Agreement regarding good faith, honesty, and fair dealing; 54-2060(5) - failing or refusing to produce documents in his possession for inspection by the Commission; and 54-2053(3) - failure to include the brokerage name in advertising. Received a Formal Reprimand; ordered to pay a \$1,500 civil fine and \$300 costs and attorney's fees; required to transfer the website domain to the complainant; and must successfully complete a live Risky Business class.

Chapman-Richards & Associates, unlicensed firm. David Croft obtained a listing for an Idaho property while actively licensed in Idaho. He moved his Utah license to Chapman-Richards & Associates, and took his Idaho listing there, where he actively promoted it. Stipulated to violation of Idaho Code 54-2002 - unlicensed practice of real estate. Ordered to pay a \$1,000 civil fine and \$300 costs and attorney's fees.

Croft, David M., unlicensed individual. Obtained a listing for an Idaho property while actively licensed in Idaho. His Idaho license terminated in July 2011. He moved his Utah license to Chapman-Richards & Associates, and took his Idaho listing there, where he actively promoted it. Stipulated to violation of Idaho Code 54-2002 - unlicensed practice of real estate. Ordered to pay a \$1,000 civil fine and \$300 costs and attorney's fees.

Fred, Derek C., salesperson in Clarkston, WA. Stipulated to violation of Idaho Code 54-2023(1)(a) - failure to obtain his CE in a timely manner, and 54-2060(7) - misstatement in the application for renewal of a real estate license. Received a Formal Reprimand; ordered to pay a \$500 civil fine and \$862 costs and attorney's fees.

Freitag, Vivian, unlicensed individual. She and her partner, Roger Nelson, used a business entity called Home Assist Corporation to flip short sale properties for a profit. They placed the homes into land trusts they controlled, then submitted offers to purchase. They sought

Disciplinary Actions continued on page 7



Reservation Agreements

By Craig Boyack
Chief Investigator

Reservation agreements, sometimes incorrectly called options, often come up in the real estate business. This article is to provide information about what they are and – more importantly – what they aren't.

An option gives a potential buyer the right (but not the obligation) to purchase a property for a specific price, for a finite period of time. In this regard, it is enforceable against the seller, should the buyer elect to exercise the option. An option is not a reservation. (Note: Commission Guideline 18 provides more in-depth information about "Dealers in Options.")

A reservation is not an enforceable contract for several different reasons. The main one is it contemplates the sale of a parcel that has not been approved by a governing body.

Developers like to take reservations as insurance that their projects will generate sales. This is a false assumption, because the reservations are not enforceable against the potential buyers. The developer cannot actually sell something that doesn't exist; therefore, the buyer is not involved in a legally binding contract.

Many times, developers will take a stack of reservations to a lender to get approved for a construction loan. Right or wrong, lenders will consider the interest level in the project as part of their lending criteria.

A reservation agreement is similar to putting down money for a puppy that isn't born yet. There may not be enough pups for everyone. The pups may have a defect that causes a

potential owner to change her mind. (There are no black Dalmatians.)

One of the better ways to explain the concept is with an example. The developer could be putting together a condominium project, or a commercial development. In this example, our developer is putting together a residential subdivision.

Our developer acquired a large piece of property, drew up a plat, and submitted it to the county. The plat indicates 30 lots will fit within the project. He obtained 30 reservations and approached his lender for a construction loan.

The county decided the streets were too narrow, and there would be a problem getting a fire engine through the development. They kicked the project back, and now there is only enough room to develop 28 parcels.

The reservation holders for lots 29 and 30 cannot sue the developer for specific performance. The lots never existed in the first place. Any monies they placed must be returned to them.

In a similar fashion, all the property lines changed. (The streets are wider now.) The reservation holders are entitled to their money back if they don't like the new lots.

There is no "equitable title" in a reservation agreement. Because of this, reservation holders cannot list or advertise the properties for resale.

Licenses should make sure any consumers they help with a reservation understand exactly what it means. More importantly, let them know what a reservation doesn't mean.

TIPS (continued from page 6)

advice regarding any applicable standard of care. Rather, this information is intended to provide a general overview of certain products, services, and situations encountered in the course of our business. This information does not amend any E&O policy in any way. Only the policy can provide actual terms, coverages, amounts, conditions, and exclusions. The E&O program described

herein is only available in certain states, and the information contained herein may not apply to your geographic area. In the event of a claim, the nature and extent of coverage is determined based on the claim's facts, circumstances, and allegations and application of the relevant policy's terms, conditions, and exclusions. © 2013. www.risceo.com



Trust Account Theft- Is There Any Excuse?

By Megan Owens
Investigator

Entrusted funds: Are they yours to borrow? The Commission understands times have been hard. Real estate sales have been slow and, in some cases, nonexistent. Still, brokers have payroll to make, office leases and mortgages to pay, and some brokers and their families have suffered terrible health problems. Does the broker have the right to “borrow” money from his trust account? What about the trusted bookkeeper, office manager or business partner who steals from the trust account and doctors the books to hide it from the broker? Is the broker simply a victim of embezzlement? With those two questions and scenarios in mind, under the licensee law, is there any circumstance under which a broker can use or overlook a trusted staff member’s theft of a client’s entrusted funds?

The answer is NO. Idaho Code 54-2041 specifically prohibits a broker from using a client’s entrusted funds for anything other than a regulated real estate transaction. In most transactions, the broker may not make any disbursements of entrusted funds prior to closing without a written, signed authorization by both the client and the other party to the transaction or by order of the court, unless the purchase and sale agreement or other written authorization signed by the parties provides otherwise. The broker is required under law to properly care for any money entrusted to his or her care. The broker is fully responsible and accountable for all entrusted moneys and property until a full accounting has been given to

the parties involved. (See also Idaho Code 54-2046 and 54-2047.)

Although the broker is personally responsible to account for entrusted funds, many brokers delegate the duty of accounting to a bookkeeper, unlicensed office staff, business partner or another real estate agent. Brokers are cautioned they are responsible under Idaho law to supervise and control the activities of all licensees and unlicensed persons associated with their brokerage. This is especially true when it comes to accounting for entrusted monies.

There are several steps and procedures a broker should take if they have delegated the accounting of entrusted funds to someone else. Do not place complete trust in any employee or business partner to account for entrusted funds. Monitor your trust account. Pay attention to details. Review the deposits and canceled checks. When possible, the person who takes custody of the monies to be deposited in the trust account should not be the same person who accounts for and reconciles those trust account monies. Finally, the broker should set clear boundaries, delegate responsibility and be actively involved in reviewing trust account bank statements. The authority a broker exerts can go a long way to discourage trust account theft.

Remember, there is never any excuse for a broker to use or “borrow” entrusted funds. There is also no excuse for a broker not to know what is going on with his trust account at all times.

buyers for the properties before obtaining equitable title via the lien holder approval. Stipulated to violation of Idaho Code 54-2002 - unlicensed practice as defined by 54-2004(33), (c), & (d) and 54-2058(1). Ordered to pay a \$4,000 civil fine and \$300 costs and attorney’s fees.

Gunstream, Jarrell W., inactive broker. Convicted of a felony for embezzling sums of \$117,000 and \$279,238 from his property management clients. He failed to report the conviction to the Commission within 20 days. Gunstream was held in jail for 137 days while awaiting sentencing. During this time he failed to name someone else to supervise his brokerage, and failed to appoint a new designated broker after 60 days. Stipulated to violation of Idaho Code 54-2061(1)(a) - conviction of a felony; 54-2061(3) - failure to report a felony conviction to the Commission within 20 days; 54-2039(1) - being absent from his brokerage more than 20 days without naming a qualified overseer; and 54-2039(2) - being absent from his brokerage more than 60 days without naming a new designated broker. Received a Formal Reprimand; his license is revoked; required to pay \$300 costs and attorney’s fees.

Helgerson, Michelle M., salesperson in Garden City. Convicted of felony DUI. She reported the conviction to the Commission within the required twenty days. Stipulated to violation of Idaho Code 54-2061(1)(a) - conviction of a felony. Received a Formal Reprimand; her license is suspended until she completes her criminal probation, approximately October 5, 2016. The suspension is withheld providing she complies with all terms of probation, and the Commission’s Final Order. Required to pay \$300 costs and attorney’s fees.

Hunter, Debra P. “Debbie”, associate broker in Jackson, WY. Failed to disclose an adverse material fact regarding substandard roofs in a development she represented. She was married to the builder at the time of this transaction. She stipulated to violation of Idaho Code 54-2086(1)(d) - failure to disclose adverse material facts. Received a Formal Reprimand; ordered to pay a \$3,000 civil fine; required to pay \$300 costs and attorney’s fees; and must successfully complete a live Risky Business course within one year.

Johnson, Kathleen U., salesperson in Garden City, UT. David Croft obtained a listing for an Idaho property while actively licensed in Idaho. He moved his Utah license to Chapman-Richards & Associates, and took his Idaho listing there, where he actively promoted it. Croft contacted Johnson and verbally told

Disciplinary Actions continued on page 8



**New Address or Phone?
You must notify the
Idaho Real Estate Commission
within 10 business days.
(Idaho Code Section 54-2018(9))**



To change your contact information, go to irec.idaho.gov and log in to IREC’s online services. Once logged in you can update your address, phone or e-mail. Remember to click the “Save Changes” button to save your updated information.

her she had a co-listing on the property. Johnson promoted the property for sale with no representation agreement. Stipulated to violation of Idaho Code 54-2053 - misleading advertising; and 54-2050 - failure to obtain a written brokerage agreement. Received a Formal Reprimand; ordered to pay a \$1,000 civil fine; required to pay \$300 costs and attorney's fees; and must successfully complete a live BCOO class within 180 days.

Long, Milford Randall "Randy", unlicensed individual. Long allowed his Idaho license to terminate on 09/30/11. He engaged in unlicensed practice under his Spokane brokerage. Stipulated to violation of Idaho Code 54-2002 as defined by 54-2004(35)(a)(c) (d), and 54-2004(2) - unlicensed real estate practice. Ordered to pay a \$2,500 civil fine and \$300 costs and attorney's fees.

McFadden, Robert A., unlicensed individual. McFadden engaged in unlicensed practice in his marketing of the Teton Springs development in Idaho. Formal Hearing held November 15, 2012. Findings of Fact, Conclusions of Law & Recommended Order issued by the Hearing Officer 12/21/12. Petition for Reconsideration filed by Respondent 1/07/13. Order Denying Petition for Reconsideration issued by Hearing Officer 1/22/13. Final Order issued 2/25/13 found McFadden to be in violation of Idaho Code 54-2002 - unlicensed practice of real estate. Ordered to pay a \$3,000 civil fine plus costs and attorney's fees TBD. Payments to commence May 31, 2013. Order on Costs & Attorney's Fees issued 4/21/13 - Ordered to pay \$11,535.50 in payments of \$500 each, beginning 5/31/13, and continuing by the last day of each month thereafter until paid in full.

Nelson, Roger, unlicensed individual. Nelson, operating as Home Assist Corporation & Integrity Wealth Partners, approached distressed homeowners and convinced them to transfer their properties into land trusts that he controlled. One of his entities then entered into a Purchase & Sale Agreement to facilitate the negotiation of a short sale with the lien holder. Prior to closing on the purchase, or gaining equitable title, Nelson offered the properties for sale in anticipation of a fee. Stipulated to violation of Idaho Code 54-2002 as defined by 54-2004(33)(a)(c) & (d) and 54-2058(1) - unlicensed practice of real estate. Ordered to pay a \$5,000 civil fine (payable in monthly installments of \$500) and \$300 costs and attorney's fees.

Nishitani, Traci Ione, inactive salesperson. Stipulated to violation of Idaho Code 54-2061(1)(a) - felony DUI conviction, and 54-2061(3) - failure to report the conviction to the Commission within 20 days. Received a Formal Reprimand; required to pay \$300 costs and attorney's fees; and her real estate license is revoked.

Norris, Gary, expired salesperson. Norris was unlicensed at the time of this activity. He followed a home flipping scheme as promoted by Nouveau Riche whereby he made an offer on a home that was subject to a short sale. Prior to obtaining equitable title, he immediately offered the home for a higher price, in anticipation of a fee. There is no evidence that Norris was ever successful, and he participated in this investigation completely. Ex parte Motion for Cease and Desist Order from engaging in the unlicensed practice of real estate requested on 2/06/13, and granted 2/21/13. Order to Cease & Desist issued 2/21/13.

NRS Homebuyers, LLC, unlicensed entity. NRS was a limited liability company under the control of respondents Rhead & Norris. They followed a home flipping scheme as promoted by Nouveau Riche whereby they made an offer on a home that was subject to a short sale. Prior to obtaining equitable title, they immediately offered the home for a higher price, in anticipation of a fee. There is no evidence that NRS was ever successful, and they participated in this investigation completely. Ex parte Motion for Cease and Desist Order from engaging in the unlicensed practice of real estate requested on 2/06/13, and granted 2/21/13. Order to Cease & Desist issued 2/21/13.

Panike, Craig A., designated broker in Weiser. Panike converted entrusted funds to his own use, and took early sales commissions without buyer and seller approval. Stipulated to violation of Idaho Code 54-2041(3) - commingling funds from his general account with those of his trust account; 54-2041(5) - failure to be responsible and accountable for entrusted funds; 54-2044(4)(d)(f)(g) and (i) - failure to include required elements on ledger cards; 54-2044(7)(a) and (c) - failure to maintain a duplicate deposit record and failure to include the name of the person placing the money and the transaction number; 54-2044(8) - failure to retain cancelled trust account checks; 54-2046(1) - failure to obtain written permission of the parties prior to disbursing entrusted funds; 54-2046(2) - making trust account disbursements in advance of closing without the required authorization; 54-2046(4) - disbursing early

sales commissions; 54-2060(3) - failure to account for entrusted funds; and 54-2087(5) - failure to account for entrusted funds on behalf of a client. Received a Formal Reprimand. His license is revoked; and required to pay \$300 costs and attorney's fees.

Powell, Richard L. "Rick", designated broker in St. Maries. Administrative Complaint filed 6/15/12 and served on 6/20/12, for violation of Idaho Code 54-2061(1)(a) - conviction of multiple misdemeanors that demonstrate a lack of trustworthiness to engage in the real estate business; and 54-2061(3) - failure to report misdemeanor convictions to the Commission within 20 days. No Answer to Complaint received within allowable time. Notice of Proposed Default Order served 8/16/12; Response received 8/23/12; Order Vacating Default issued 8/27/12. Formal Hearing held January 17, 2013. Final Order found him to be in violation of two of four counts of Idaho Code 54-2061(1) (a) - conviction of misdemeanors which demonstrate his lack of trustworthiness to engage in the real estate business, and two of four counts of 54-2061(3) - failure to report his convictions to the Commission within 20 days. Final Order issued 2/25/13 ordered that his license be suspended until October 10, 2017, but the entire suspension is withheld provided he complies with the terms of his criminal probation, complies with the terms of the Final Order including any reimbursement of costs and attorney's fees TBD, and he must self-report any revocation of his criminal probation within 5 calendar days. Order on Costs & Attorney's Fees issued 4/21/13 - Ordered to pay \$4,500 in payments of \$500 each, beginning 5/31/13, and continuing by the last day of each month thereafter until paid in full.

Price, Richard A., associate broker in Boise. Price sold a property at short sale. The seller didn't want to put any money into it, so he arranged for his buyer to make a repair discovered at the inspection. Price failed to care for the property during the repair and gave the key to his buyer. The buyer moved appliances into the garage and did work beyond the agreed repair. The seller contacted the listing agent and made them stop. Price then sent a roofer to the property who started removing the roof. The seller lived in the house next door and called the police. Stipulated to violation of Idaho Code 54-2060(3) - failure to account for property; 54-2060(12) - reckless conduct; 54-2086(1)(b) - failure to perform duties to a customer with honesty, good

faith, reasonable skill and care; and 54-2086(1)(c) - failure to account for property on behalf of a customer. Received a Formal Reprimand; ordered to pay a \$2,000 civil fine; required to pay \$300 costs and attorney's fees; and must successfully complete a live Risky Business class within one year.

Rhead, Ronald, terminated salesperson. At the time of this activity, Rhead was unlicensed. Rhead entered into an Option to Purchase agreement in Idaho Falls. He then attempted to flip the property for a profit. The property was sold for a higher amount, and Rhead collected on several repair invoices. Ex parte Motion for Cease and Desist Order from engaging in the unlicensed practice of real estate by acting as a dealer in options requested on 2/06/13, and granted 2/21/13. Order to Cease & Desist issued 2/21/13.

Satterly, Jill Kathleen, salesperson in Coeur d'Alene. Satterly bought a home from her client. When the home failed to appraise, the seller refused to lower the price to the appraised amount. They were only willing to come half way. Satterly convinced them to loan her the balance on an unsecured promissory note. She did not disclose this debt or the fact that it was from the seller to her underwriter. Stipulated to violation of Idaho Code 54-2054(5) - knowingly using a double contract in connection with a regulated real estate transaction, and 54-2060(11) - dishonest and dishonorable dealings. Received a Formal Reprimand; ordered to pay a \$3,000 civil fine; required to pay \$300 costs and attorney's fees; and must successfully complete a live Real Estate Finance class within one year.

Webb, Paul T., designated broker in Garden City, Utah. David Croft verbally colisted property with Kathleen U. Johnson. She never had a written listing agreement, but advertised the property for years. Webb stipulated to violation of Idaho Code 54-2038(1)(a) - failure to supervise Johnson; and 54-2038(1)(b) - failure to review and approve all real estate agreements. Given a Formal Reprimand; ordered to pay a \$500 civil fine; must pay \$300 costs and attorney's fees; and required to successfully complete a live BCOO class within 180 days.

LCEs - Civil penalty for violation of Idaho Code 54-2018(5) - submitting a license renewal application without having

obtained the CE required by Idaho Code 54-2023; and/or 54-2060(7) - misstatement in the application for renewal of a real estate license. (First time violation unless indicated otherwise by multiple asterisks.)

Aylward-Ganz, Ellen Marie, associate broker in McCall - \$750
Bahrenfuss, Stacy Michelle, designated broker in Boise - \$150
Baker, Tara K., salesperson in Idaho Falls - \$500
Boesiger, Max A., salesperson in Boise - \$150
Callahan, Heather, salesperson in Coeur d'Alene - \$150
Chiesa, Jeanette, salesperson in Eagle - \$1,000
Fernandez, Richard C., salesperson in Seattle, WA - \$750
Fitzsimmons, Thomas F., salesperson in Boise - \$150
Gaddis, Christopher C., designated broker in Logan, UT - \$300**
Graham, Shannon M., salesperson in Bellevue, WA - \$150
Green, Richard D. "Rick", designated broker in Coeur d'Alene - \$1,000
Hartley, Cheryl Ann, inactive salesperson - \$750
Herzog, Tim J., salesperson in Post Falls - \$750
Hettinger, John L., salesperson in Boise - \$150
Hills, Lori Sue, salesperson in Eagle - \$500
Jenkins, Katherine L. "Katy", salesperson in Coeur d'Alene - \$500
Jones, Deanna C., associate broker in Soda Springs - \$750
Jones, James Wesley, salesperson in Coeur d'Alene - \$500
Judy, Katherine A., associate broker in Fruitland - \$150
Marks, Kelley C., associate broker in Boise - \$150
Maughan, William B. "Brent", designated broker in Soda Springs - \$500
Mehalechko, Charles D. "Chuck", - associate broker in Spokane, WA - \$750
Mendez, Rufina, salesperson in Eagle - \$500
Peyron, Gae L., salesperson in Boise - \$300**
Sayer-Gifford, Lori Ann, salesperson in Idaho Falls - \$500
Smith, Scott Dustin, salesperson in Coeur d'Alene - \$1,000
Wallinga, Christine M. "Crissy", salesperson in Meridian - \$1,000
Ward, Christina M., associate broker in Boise - \$150

Ziegler, Rebecca M. "Becky", salesperson in Meridian - \$150

LEOs - Civil fine for violation of Idaho Code section 54-2013 - failure of a licensee to maintain Errors and Omissions insurance or failure of a licensee to submit or cause to be submitted a certificate of coverage as required. (First time violation unless indicated otherwise by multiple asterisks.)

Adams, Wendy D., associate broker in Boise - \$300**
Anderson, Hal T., designated broker in Farmington, UT - \$300**
Anthony, Jay N., salesperson in Lava Hot Springs - \$150
Armstrong, Paige W., salesperson in Pocatello - \$150
Ashby, Jill Anne, salesperson in Meridian - \$300**
Assist 2 Sell Discovery Real Estate of Idaho, corporation in Lewiston - \$150
Assist 2 Sell Southeast Idaho Realty, limited liability company in Chubbuck - \$300**
Ballard, John Alan, inactive broker - \$150
Bistline, Stefanie D., salesperson in Caldwell - \$150
Boise Commercial Properties, LLC, limited liability company in Meridian - \$150
Boswell, Bradley J., salesperson in Spokane, WA - \$300**
Bowen, Kurt S., designated broker in Boise - \$300**
Brown, Jan Marie, salesperson in Mountain Home - \$300**
Budell, Stacey M., designated broker in Nampa - \$150
Burget, John Christopher "Chris", salesperson in Ketchum - \$150
Cargill Real Estate, limited liability company in Lewiston - \$300**
Coffield, Caycee Nicole, salesperson in Boise - \$150
Cole, Darron L., inactive salesperson - \$150
Connolly, Charles F., inactive salesperson - \$150
Cooper Norman Business Brokers & Advisors, LLC, limited liability company in Twin Falls - \$150
Deal, Kathy Ann, salesperson in Caldwell - \$150
Deveraux Investment Real Estate, LLC, limited liability company in Boise - \$150
Deveraux, Elisa V., designated broker in Boise - \$150

Dohrn, Karim Lyn "Lyn", designated broker in Meridian - \$300**
Dunbarr, Karen E., salesperson in Coeur d'Alene - \$150
Durtschi, Jacob, salesperson in Idaho Falls - \$150
Gardner, Sherry Lynn, salesperson in Nampa - \$150
Garvin, Robert J., designated broker in Chubbuck - \$150
Geston, Marijke H., salesperson in Boise - \$150
Gleason, Sandy Kay, salesperson in Jerome - \$150
Groves, Richard C., associate broker in Boise - \$150
Hanover, Mervin C., salesperson in Nampa - \$150
Hanson, Nell W., salesperson in Driggs - \$150
Harbst, Joshua, salesperson in Meridian - \$300**
Harvey, (Haase) Terri Ann, - salesperson in Meridian - \$300**
Hetland, Lanae, salesperson in Boise - \$300**
Highland Realty, LLC, limited liability company in Grangeville - \$150
Hogan, Heidi K., salesperson in Hailey - \$300**
Hogan, Robert W., salesperson in Ketchum - \$150
House, Sherri Lynne., salesperson in Nampa - \$150
Idaho Real Property Associates, LLC, terminated firm - \$150 (from 2010)
IPG Commercial Real Estate, limited liability company in Salt Lake City, UT - \$150
Irwin, John P., salesperson in Boise - \$150
Johnson, Kristofer Wade "Kris", salesperson in Nampa - \$300**
Juker, Jason Travis, salesperson in Boise - \$150
Kerfoot, Amy Renae, salesperson in Boise - \$300**
Kerfoot, Ryan Wayne, salesperson in Boise - \$150
Kildew, Kim R., salesperson in Boise - \$300**
Kirk, Christopher P., salesperson in Boise - \$150
Klahr, Keith Brad, designated broker in Boise - \$300**
Klahr, Keith Charles, salesperson in Boise - \$150
Kohtz, Delbert Gene, salesperson in Shoshone - \$150
Kukich, Martin G., designated broker in Victor, MT - \$150
Langer, Debbie "Debi", salesperson in Meridian - \$150

Lish, Todd C., designated broker in Tremonton, UT - \$100 (From 2010)
Loomis, Brian A., salesperson in Moscow - \$300**
Lozano, Edgardo A. "Edam", salesperson in Meridian - \$150
Marecle, Taylor Raymond, salesperson in Twin Falls - \$150
Mendoza, Alvaro, inactive salesperson - \$150
Mendoza, III, Anthony R., salesperson in Eagle - \$150
Miller, Laurie A., salesperson in Boise - \$150
Northwest Real Estate, Inc. dba Canfield Realty, terminated corporation - \$300**
Nourse, George W., salesperson in Boise - \$150
O'Brien, Peter K., associate broker in Boise - \$150
Osborne, Lori Ann, salesperson in Post Falls - \$150
Page, Renee J., inactive broker - \$150 (from 2010)
Pedersen, Troy L., salesperson in Nampa - \$150
Poe, Russell B. "Russ", associate broker in Boise - \$300**
Prigge, Heidi N., salesperson in Boise - \$600***
Purkiss, Joshua W., salesperson in Eagle - \$150
Quinn, Catharine E., salesperson in McCall - \$300**
Rewers, Betsy A., salesperson in Coeur d'Alene - \$150
Reyes III, Rafael, salesperson in Coeur d'Alene - \$150
Rinker, Kathryn L., salesperson in McCall - \$150
Romriell, Jackie L., salesperson in Pocatello - \$150
Samson, Michael H., salesperson in Horseshoe Bend - \$150
Satchwell, Tony K., salesperson in Pocatello - \$150
Smith, William Lee, salesperson in Boise - \$150
Sterling Real Estate Services, LLC, limited liability company in Boise - \$300**
Stewart, Deborah, salesperson in Boise - \$150
Tverdy, Crystal E., salesperson in Buhl - \$150
Tyler, Christine A., salesperson in Fruitland - \$150
Usabel-Grohs, Patricia R., inactive salesperson - \$150
Van Horn, Sharon J., salesperson in Coeur d'Alene - \$300**
Warrick, David A., salesperson in Boise - \$150

Welbourn, Valerie, associate broker in Coeur d'Alene - \$150
Wilhelm, Joseph, designated broker in Idaho Falls - \$150

LLRs - Violation of Idaho Code 54-2002, 54-2018 and 54-2060(10) - continuing to practice as a licensee after license expired or was inactivated. Designated brokers - \$20 per day. All others - \$10 per day.

Barker, Richard Alan, salesperson in Boise - \$30
Fresh, Kristen Elsie, salesperson in Idaho Falls - \$320
Hall, Kevin Matthew, salesperson in Meridian - \$10
Hollingsworth, Robert R., inactive broker - \$10
Moody, James B., designated broker in Grangeville - \$1,140
Noud, Cortie, salesperson in Eagle - \$350
Requa, Debra Darlene Nelson, associate broker in Twin Falls - \$80
Tutt, Katie L., salesperson in Meridian - \$10

CITs - Citation stipulation and civil penalty fine for various Idaho Code violations found during an office inspection. All are designated brokers.

Ballantyne, Thomas C., SOS Realty Group in Meridian - \$25
Bass, Robert R., John L Scott BOI in Boise - \$100
Blanco, Yuri, RE/MAX Executives in Eagle - \$25
Boren, Dawneeta, Stubbs Realty in Kuna - \$75
Browning, John W. Jr., First Service Group Real Estate in Boise - \$25
Conner, Reata, Keller Williams Realty Boise, in Boise - \$150
Ellis, Steven W., 208-SELL-NOW in Eagle - \$50
Koller, Marie L., Magellan Capital Realty, LLC in Boise - \$50
McFarland, Donald, Re/Max West in Boise - \$75
Merrigan, John P., River Bridge Realty in Burley - \$25
Middleton, William C., Sage Properties in Boise - \$25
Urwin, Bethany, New Castle Real Estate Group in Meridian - \$25

Idaho Real Estate Commission Employees Recognized for Valuable Service



Craig Boyack
Chief Investigator



Stephanie McLarin
Administrative Assistant II

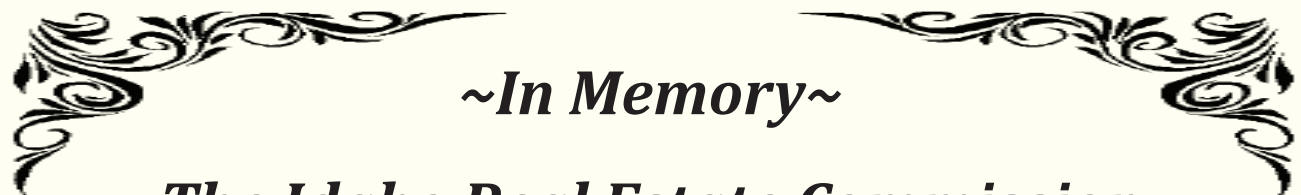
Earlier this year, Chair Andy Enrico presented two staff with awards. In January, Craig Boyack received his ARELLO Certified Senior Real Estate Investigator designation, and in February, Stephanie McLarin was presented a certificate for 15 years of valuable state service. Congratulations to you both, and keep up the great work!



Melissa Ferguson
Training Specialist

Idaho Real Estate Commission Welcomes Newest Staff Member

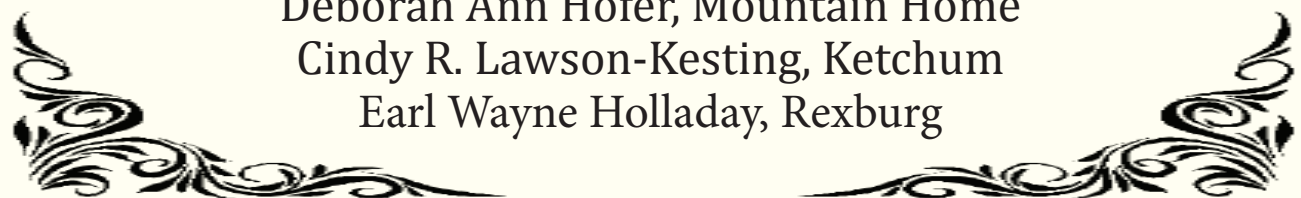
Melissa Ferguson brings over 10 years of background in education and training. Her professional experience includes a stint as a Medicare Ombudsman and Training Supervisor for a medical billing company in Colorado. Although Idaho born and raised, Melissa just recently returned with her husband of 5 years and her chocolate lab, Hershey. Melissa's interests include playing several instruments, shopping, scrapbooking, and reading everything she can get her hands on.



~In Memory~

***The Idaho Real Estate Commission
extends its deepest sympathies to the
families of:***

Alan Wayne Wilson, Mountain Home
Deborah Ann Hofer, Mountain Home
Cindy R. Lawson-Kesting, Ketchum
Earl Wayne Holladay, Rexburg





IDAHO

REAL ESTATE COMMISSION

Published by:
Idaho Real Estate Commission
575 E. Parkcenter Blvd., Suite 180
Boise, ID 83706

Prsrt Std
US Postage
PAID
Boise ID
Permit #679

The Real Estatement

Vol. 34, No. 2 - July 2013

The Real Estatement is an official publication published semiannually by the Idaho Real Estate Commission. Articles by outside experts express the author's particular viewpoints. These opinions are not necessarily shared by the Commission, nor should they be mistaken for official policy. The articles are included because we feel they will be of interest to the readers. Submissions are solicited. However, articles should not exceed 500 words and may be edited as space and content demand. Reprint permission is granted provided credit is given to the Commission and the author. Any article separately copyrighted by its author(s) also requires permission from the other(s). Costs associated with this publication are available from the Idaho Real Estate Commission in accordance with section 60-202, I.C. 07-13/11,000/429. Please advise the Commission office of any individuals with disabilities needing accommodation.

Idaho Real Estate Commission
575 E. Parkcenter Blvd., Suite 180
Boise, Idaho 83706
(208) 334-3285
(866) 447-5411 toll free in Idaho
(208) 334-2050 fax
(800) 377-3529 TRS
irec.idaho.gov

Governor
C.L. "Butch" Otter