

**IDAHO REAL ESTATE COMMISSION
MEETING MINUTES
May 20, 2010**

Pursuant to notice given, the meeting of the Idaho Real Estate Commission (Commission) was held at 633 North 4th Street, Boise, Thursday, May 20, 2010 at 8:30 a.m.

Commission Members Present:

Kelly Fisher, Chair, Pocatello
Pam Trees, Vice Chair, Lewiston
Andy Enrico, Member, Boise
Marvis Brice, Member, Burley

Comprising a quorum of the Commission

Members Absent:

Staff Present:

Jeanne Jackson-Heim, Executive Director
Craig Boyack, Chief Investigator
Tammy Anderson, Administrative Assistant
Neal Bernklau, Licensing Supervisor
MiChell Bird, Education Director

Others Present:

Kim Coster, Commission Legal Counsel
See attached list

Meeting was called to order at 8:33 a.m. by Commission Chair, Kelly Fisher.

Introductions:

- a. Commissioners
- b. Staff, Commission and Counsel

Approval of Meeting Minutes: Motion was made by Andy Enrico to approve the April 15, 2010 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:

- **April 2010 Financial Statements**
- **Salesperson/Broker Licenses issued, April 2010**

- **FY09-FY10 License Base Analysis**
- **Examination Statistics**
- **Civil Penalty Fine Money Report FY10**
- **Complaint Summary Report**
- **Audit Report**
- **Enforcement Telephone Activity Log**
- **Online Transactions Report**

Online Lottery Drawing: Katie M. Guerricabeitia, (SP22002), Windermere Real Estate/Capital Group Inc., Boise, won the lottery drawing for May 2010.

Idaho Association of REALTORS®: Julie Delorenzo presented an update on legislation and stated that IAR's current membership is 6,803. Jill Randall stated that the ABR class is set for next week and IAR is working on revising forms.

Executive Director's Report:

- **Update on Online Services and Late License Renewal Form REE-052:** Jeanne Jackson-Heim stated all IREC's forms have been updated and posted on the Commissions' website. The Late License Renewal process through the online services is being revised and will go live in the next few days.

Education Council and Director's Report:

- **Proposed Revisions to the Education and Certification Policy:** MiChell Bird presented Education and Certification Policy revisions to Commissioners. MiChell stated that Council has voted to approve these changes. Discussion followed. A motion was made by Andy Enrico to approve proposed revisions to Education and Certification Policy as presented. Motion carried.
- **Review Draft for Fiscal Year 2011 Civil Penalty Fine Money Invitation to Bid (Free CORE Offerings):** Invitation to bid for free CORE was discussed. A motion was made by Pam Trees to approve bid requirements as presented, except that Southwest District is to be bid as a single district for CORE course and successful bidder will be required to provide a website. Motion carried.
- **Review Draft for Fiscal Year 2011 Civil Penalty Fine Money Invitation to Bid (subsidized broker offering):** Invitation to bid for subsidized broker offering was presented. Discussion followed. A motion was made by Andy Enrico to approve bid requirements as presented. Motion carried.
- **Proposal for Fiscal Year 2011 Civil Penalty Fine Money:** Proposed budget was presented. Discussion followed. A motion was made by Marvis Brice to approve proposed FY 2011 civil penalty fine budget as presented. Motion carried.

Enforcement:

Advertising Charitable Contributions: Commissioners reviewed a staff memo pertaining to licensee payment and advertising of charitable contributions as a percentage of sales commissions. Discussion followed. Commissioners requested Jeanne post this question on the ARELLO listserv to see how other states handle this issue. Discussion will be continued at the June meeting.

Stipulations:

Case of Staff vs. Michael Hon (Ex-Parte). The matter was presented for ex parte hearing and was tape-recorded. Craig Boyack was sworn and presented the Stipulation. No other testimony was taken. Motion was made by Andy Enrico to approve the Stipulation which had been agreed to by Michael Hon and that a "Final Order" be entered disciplining Mr. Hon for having violated Idaho Code Section 54-2053(4), providing advertising to the public or to prospective customers or clients which is misleading in nature; and Idaho Code Section 54-2060(2), engaging in a continued course of misrepresentation for advertising an unlicensed "brand name" in multiple advertising venues, while licensed with two different brokerages after being advised by Commission Staff to correct the same, as follows:

1. That the Commission's Final Order shall constitute a formal reprimand of Michael Hon for the actions set forth in the Stipulation/Complaint.
2. That Michael Hon is required to pay a civil fine of Two Thousand Dollars (\$2,000.00); however, One Thousand Five Hundred Dollars (\$1,500.00) of the fine shall be withheld provided Mr. Hon:
 - a. Pays Five Hundred Dollars (\$500.00) of the civil fine on or before November 22, 2010;
 - b. Complies with the terms of the Commission's Final Order and violates no other license law;
 - c. Completes the course described below in the time allotted; and
 - d. Pays in full all fines and attorney's fees when due.
3. That Michael Hon is required to successfully complete a live Real Estate Law class on or before November 22, 2010. This class shall be completed on or before 5:00 p.m. MT of the deadline day, and Mr. Hon is responsible for mailing/emailing/faxing a copy of the completion certificate to Commission Staff. The course completion certificate(s) must be received at the Commission office no later than 5:00 p.m. MT on the deadline day. Should Mr. Hon fail to provide Commission Staff with a completion certificate on or before the dead-

line, Mr. Hon's real estate license shall be suspended pursuant to the terms of the Commission's Final Order.

4. That Michael Hon is required to pay costs and attorney's fees in the amount of Three Hundred Dollars (\$300.00) by June 26, 2010, and in any event, all monies paid by Mr. Hon will be applied towards the costs/fees award first, before application to the fine.
5. That in any event Michael Hon fails to make any one payment as required by the Final Order on its due date, then all sums remaining unpaid shall at once become due and payable, and no further notice shall be provided. Any failure to exercise said option shall not constitute a waiver of the right to exercise the same option at some other time.

Pam Trees opposed motion; Kelly Fisher, Andy Enrico and Marvis Brice voted for motion. Motion carried. A copy of the "Final Order" is attached hereto and made a part of these minutes.

Case of Staff vs. Cory Jakobson (Ex-Parte). The matter was presented for ex parte hearing and was tape-recorded. Craig Boyack was sworn and presented the Stipulation. No other testimony was taken. Motion was made by Marvis Brice to approve the Stipulation which had been agreed to by Cory Jakobson and that a "Final Order" be entered disciplining Mr. Jakobson for having violated Idaho Code Section 54-2002, practicing real estate in Idaho without a license by promoting and marketing Idaho properties for sale on the Internet through Diversified Mortgage Group, as defined by Idaho Code Section 54-2004(33)(c)(d), as follows:

1. That Cory Jakobson is required to pay a civil fine of One Thousand Five Hundred Dollars (\$1,500.00) by July 26, 2010.
2. That Cory Jakobson is required to pay costs and attorney's fees in the amount of Three Hundred Dollars (\$300.00) by June 26, 2010, and in any event, all monies paid by Mr. Jakobson will be applied towards the costs/fees award first, before application to the fine.

Motion carried. A copy of the "Final Order" is attached hereto and made a part of these minutes.

Case of Staff vs. James N. Townsend (Ex-Parte). The matter was presented for ex parte hearing and was tape-recorded. Craig Boyack was sworn and presented the Stipulation. No other testimony was taken. Motion was made by Andy Enrico to approve the Stipulation which had been agreed to by James N. Townsend and

that a "Final Order" be entered disciplining Mr. Townsend for having violated Idaho Code Section 54-2061(1)(a), conviction of two felonies, and Idaho Code Section 54-2061(3), failure to report the conviction within 20 days, as follows:

1. That the Commission's Final Order shall constitute a formal reprimand of James N. Townsend for the actions set forth in the Stipulation/Complaint.
2. That James N. Townsend's real estate license is hereby revoked.
3. That James N. Townsend is required to pay costs and attorney's fees in the amount of Three Hundred Dollars (\$300.00) by June 26, 2010, and in any event, all monies paid by Mr. Townsend will be applied towards the costs/fees award first, before application to the fine.

Motion carried. A copy of the "Final Order" is attached hereto and made a part of these minutes.

Case of Staff vs. Kelly D. Kitchens (Ex-Parte). The matter was presented for ex parte hearing and was tape-recorded. Craig Boyack was sworn and presented the Stipulation. No other testimony was taken. Motion was made by Pam Trees to approve the Stipulation which had been agreed to by Kelly D. Kitchens and that a "Final Order" be entered disciplining Mr. Kitchens for having violated Idaho Code Section 54-2054(7), receiving compensation from more than one party in the transaction without first making full disclosure in writing to all parties involved in the transaction; and Idaho Code Section 54-2060(12), reckless conduct in a regulated real estate transaction by allowing the buyers to complete a side deal for a licensee's personal property outside the short sale transaction when he knew some items were fixtures in the home and might be construed to be real property, as follows:

1. That the Commission's Final Order shall constitute a formal reprimand of Kelly D. Kitchens for the actions set forth in the Stipulation/Complaint.
2. That Kelly D. Kitchens is required to pay a civil fine of One Thousand Five Hundred Dollars (\$1,500.00) as follows:
 - a. The first payment of Five Hundred Dollars (\$500.00) is due by June 26, 2010.
 - b. The second payment of Five Hundred Dollars (\$500.00) is due by July 26, 2010.
 - c. The third payment of Five Hundred Dollars (\$500.00) is due by September 26, 2010.

3. That Kelly D. Kitchens is required to successfully complete a live Real Estate Law course by November 26, 2010. This class shall be completed on or before 5:00 p.m. MST/MDT of the deadline day and Mr. Kitchens is responsible for mailing/emailing/faxing a copy of the completion certificate(s) to Commission Staff. The course completion certificate(s) must be received at the Commission office no later than 5:00 p.m. MST/MDT on the deadline day. Should Mr. Kitchens fail to provide Commission Staff with a completion certificate on or before the deadline, Mr. Kitchens' real estate license shall be suspended pursuant to the terms of the Commission's Final Order.
4. That Kelly D. Kitchens is required to pay costs and attorney's fees in the amount of Three Hundred Dollars (\$300.00) by June 26, 2010, and in any event, all monies paid by Mr. Kitchens will be applied towards the costs/fees award first, before application to the fine.

Motion carried. A copy of the "Final Order" is attached hereto and made a part of these minutes.

Case of Staff vs. Christopher E. Burdett (Ex-Parte). The matter was presented for ex parte hearing and was tape-recorded. Don Morse was sworn and presented the Stipulation. No other testimony was taken. Motion was made by Marvis Brice to approve the Stipulation which had been agreed to by Christopher E. Burdett and that a "Final Order" be entered disciplining Mr. Burdett for having violated Idaho Code Section 54-2002, practicing real estate in Idaho without a license by promoting and marketing Idaho property for sale on the internet, as defined by Idaho Code Section 54-2004(33)(a)(c) and (d), as follows:

1. That Christopher E. Burdett is required to pay a civil fine of Three Thousand Five Hundred Dollars (\$3,500.00) by June 26, 2010.
2. That Christopher E. Burdett is required to pay costs and attorney's fees in the amount of Three Hundred Dollars (\$300.00) by June 26, 2010, and in any event, all monies paid by Mr. Burdett will be applied towards the costs/fees award first, before application to the fine.

Motion carried. A copy of the "Final Order" is attached hereto and made a part of these minutes.

Case of Staff vs. Colliers International/PKF Capital (Ex-Parte). The matter was presented for ex parte hearing and was tape-recorded. Don Morse was sworn and presented the Stipulation. No other testimony was taken. Motion was made by Marvis Brice to approve the Stipulation which had been agreed to by Colliers In-

ternational/PKF Capital and that a "Final Order" be entered disciplining Colliers International for having violated Idaho Code Section 54-2002, practicing real estate in Idaho without a license by promoting Idaho property and marketing Idaho property for sale on the Internet, as defined by Idaho Code Section 54-2004(a)(c) and (d), as follows:

1. That Colliers International/PFK Capital is required to pay a civil fine of Three Thousand Five Hundred Dollars (\$3,500.00) by July 26, 2010.

Motion carried. A copy of the "Final Order" is attached hereto and made a part of these minutes.

Case of Staff vs. George Iliff (Ex-Parte). The matter was presented for ex parte hearing and was tape-recorded. Don Morse was sworn and presented the Stipulation. No other testimony was taken. Motion was made by Marvis Brice to approve the Stipulation which had been agreed to by George Iliff and that a "Final Order" be entered disciplining Mr. Iliff for having violated Idaho Code Section 54-2038(1)(a), failure to supervise Wali's activities, as follows:

1. That the Commission's Final Order shall constitute a formal reprimand of George Iliff for the actions set forth in the Stipulation/Complaint.
2. That George Iliff is required to pay a civil fine of Five Hundred Dollars (\$500.00) by June 26, 2010.
3. That George Iliff is required to successfully complete a live Business Conduct and Office Operations class by November 26, 2010. This class shall be completed on or before 5:00 p.m. MST/MDT of the deadline day and Mr. Iliff is responsible for mailing/emailing/faxing a copy of the completion certificate to Commission Staff. The course certificate must be received at the Commission office no later than 5:00 p.m. MST/MDT on the deadline day. Should Mr Iliff fail to provide Commission Staff with a completion certificate on or before the deadline, Mr. Iliff's real estate license shall be suspended pursuant to the terms of the Commission's Final Order.
4. That George Iliff is required to pay costs and attorney's fees in the amount of Three Hundred Dollars (\$300.00) by June 26, 2010 and in any event, all monies paid by Mr. Iliff will be applied towards the costs/fees award first, before application to the fine.

Motion carried. A copy of the "Final Order" is attached hereto and made a part of these minutes.

Case of Staff vs. David Wali (Ex-Parte). The matter was presented for ex parte hearing and was tape-recorded. Don Morse was sworn and presented the Stipulation. No other testimony was taken. Motion was made by Marvis Brice to approve the Stipulation which had been agreed to by David Wali and that a "Final Order" be entered disciplining Mr. Wali for having violated Idaho Code Section 54-2053(4), providing information in advertising which is misleading in nature by allowing an unlicensed person to include his name and brokerage name in advertisements of Idaho property; and Idaho Code Section 54-2060(12), reckless conduct in a regulated real estate transaction by co-listing an Idaho property with an unlicensed person, as follows:

1. That the Commission's Final Order shall constitute a formal reprimand of David Wali for the actions set forth in the Stipulation/Complaint.
2. That David Wali is required to pay a civil fine of Three Thousand Five Hundred Dollars (\$3,500.00) by August 26, 2010.
3. That David Wali is required to successfully complete a live Real Estate Law class by November 26, 2010. This class shall be completed on or before 5:00 p.m. MST/MDT of the deadline day and Mr. Wali is responsible for mailing/emailing/faxing a copy of certificate to Commission Staff. The course completion certificate must be received at the Commission office no later than 5:00 p.m. MST/MDT on the deadline day. Should Mr. Wali fail to provide Commission Staff with a completion certificate on or before the deadline, Mr. Wali's real estate license shall be suspended pursuant to the terms of the Commission's Final Order.
4. That Mr. Wali is required to pay costs and attorney's fees in the amount of Three Hundred Dollars (\$300.00) by June 26, 2010, and in any event, all monies paid by Mr. Wali will be applied towards the costs/fees award first, before application to the fine.

Motion carried. A copy of the "Final Order" is attached hereto and made a part of these minutes.

Case of Staff vs. Michael B. Jones (Ex-Parte). The matter was presented for ex parte hearing and was tape-recorded. Kimberly Kelley was sworn and presented the Stipulation. No other testimony was taken. Motion was made by Pam Trees to approve the Stipulation which had been agreed to by Michael B. Jones and that a "Final Order" be entered disciplining Mr. Jones for having violated Idaho Code Section 54-2038(1)(a), failure to supervise Palovich and allowing Palovich's reckless conduct in the transaction; and Idaho Code Section 54-2048(1), failure to en-

sure the correctness of the closing statements, by not including the unsecured Promissory Note payable to seller, as follows:

1. That the Commission's Final Order shall constitute a formal reprimand of Michael B. Jones for the actions set forth in the Stipulation/Complaint.
2. That Michael B. Jones is required to pay a civil fine of One Thousand Dollars (\$1,000.00) by July 26, 2010.
3. That Michael B. Jones is required to successfully complete a live Broker Management class by November 26, 2010. This class shall be completed on or before 5:00 p.m. MST/MDT of the deadline day, and Mr. Jones is responsible for mailing/emailing/faxing a copy of the completion certificate to Commission Staff. The course completion certificate(s) must be received at the Commission office no later than 5:00 p.m. MST/MDT on the deadline day. Should Michael B. Jones fail to provide Commission Staff with a completion certificate on or before the deadline, Mr. Jones's real estate license shall be suspended pursuant to the terms of the Commission's Final Order.
4. That Michael B. Jones is required to pay the costs and attorney's fees in the amount of Three Hundred Dollars (\$300.00) by June 26, 2010, and in any event, all monies paid by Mr. Jones will be applied towards the costs/fees award first, before application to the fine.

Motion carried. A copy of the "Final Order" is attached hereto and made a part of these minutes.

Case of Staff vs. James M. Palovich (Ex-Parte). The matter was presented for ex parte hearing and was tape-recorded. Kimberly Kelley was sworn and presented the Stipulation. No other testimony was taken. Motion was made by Pam Trees to approve the Stipulation which had been agreed to by James M. Palovich and that the "Final Order" be issued disciplining Mr. Palovich for having violated Idaho Code Section 54-2045(4), failure to turn the first purchase and sale contract and earnest money into the broker for six days; Idaho Code Section 54-2051(4)(a), failure to include all terms of the agreement in the purchase and sale contract, including the unsecured Promissory Note payable to seller; Idaho Code Section 54-2051(4)(c), failure to name the responsible broker for the transaction on the purchase and sale agreement; and Idaho Code Section 54-2060(12), reckless conduct in a regulated real estate transaction for failure to include all terms of the sale in the purchase contract, as follows:

1. That the Commission's Final Order shall constitute a formal reprimand of James M. Palovich for the actions set forth in the Stipulation/Complaint.
2. That James M. Palovich is required to pay a civil fine of Two Thousand Five Hundred Dollars (\$2,500.00) by August 26, 2010.
3. That James M. Palovich is required to successfully complete a live Real Estate Law class by November 26, 2010. This class shall be completed on or before 5:00 p.m. MST/MDT of the deadline day and Mr. Palovich is responsible for mailing/emailing/faxing a copy of completion certificate to Commission Staff. The course completion certificate must be received at the Commission office no later than 5:00 p.m. MST/MDT on the deadline day. Should Mr. Palovich fail to provide Commission Staff with a completion certificate on or before the deadline, Mr. Palovich's real estate license shall be suspended pursuant to the terms of the Commission's Final Order.
4. That James M. Palovich is required to pay the costs and attorney's fees in the amount of Three Hundred Dollars (\$300.00) by June 26, 2010 and in any event, all monies paid by Mr. Palovich will be applied towards the costs/fees award first, before application to the fine.

Motion carried. A copy of the "Final Order" is attached hereto and made a part of these minutes.

Executive Session: In accordance with the provisions of the Open Meeting Law section 67-2345(1)(d) and (f), Idaho Code and the disclosure exemption provided under the Public Record Act, section 9-340C(9), Idaho Code, a motion was made by Andy Enrico to adjourn to executive session to review the applications submitted for special consideration to waive certain licensing requirements and education requirements and probable cause memoranda submitted by the Executive Director pursuant to Idaho Code Section 54-2058(1). Roll was called; Pam Trees, Marvis Brice, Andy Enrico and Kelly Fisher voted in favor. Motion carried. Members reviewed applications for exemption, waivers and probable cause memoranda.

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

Special Consideration #10-011: Special Consideration to waive 5 year waiting requirement for misdemeanor involving theft, dishonest, or dishonorable dealings 54-2012(1)(e). Following discussion and review of the documents submitted, motion was made by Pam Trees to deny request. Motion carried.

Special Consideration #10-012: Special Consideration to waive/modify broker experience 54-2012(2)(a). Following discussion and review of the documents submitted, motion was made by Andy Enrico to deny request. Motion carried.

Probable Cause Memo 10-00500, 10-00501: A motion was made by Andy Enrico finding the facts set forth in the memorandum of probable cause provided to them by the Executive Director, pursuant to Section 54-2058(1), are sufficient to proceed with formal action on the violations presented. Commission staff is authorized to file an administrative complaint. Andy Enrico 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, Rule 452, IDAPA. Motion carried.

There being no further business, motion was made by Kelly Fisher to adjourn the meeting at 12:18 p.m. Motion carried.

Respectfully Submitted,

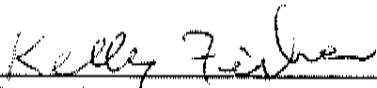


Jeanne Jackson-Heim
Executive Director

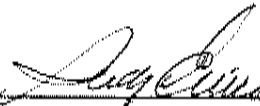
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Attachments: Licenses Issued April 2010
FY09-FY10 Analysis of Active & Inactive License Base
Online License Reports
Complaint Summary Reports
April 2010 Financial Reports
Online Transactions Reports
Final Orders

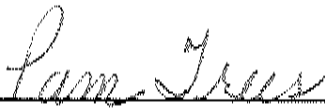
Minutes of the Idaho Real Estate Commission meeting in Boise, Idaho, on May 20, 2010, are hereby approved.



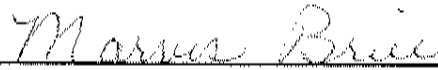
Kelly Fisher, Chair



Andy Enrico, Member



Pam Trees, Vice Chair



Marvis Brice, Member