

**IDAHO REAL ESTATE COMMISSION
MEETING MINUTES
June 17, 2010**

Pursuant to notice given, the meeting of the Idaho Real Estate Commission (Commission) was held at 633 North 4th Street, Boise, Thursday, June 17, 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 8:30 a.m. by Commission Chair, Kelly Fisher.

Introductions:

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

Approval of Meeting Minutes: Motion was made by Marvis Brice to approve the May 20, 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:

- **May 2010 Financial Statements**
- **Salesperson/Broker Licenses issued, May 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: Robert Eugene Canfield. (DB20901), Cougar/Northwest Real Estate, Hayden, won the lottery drawing for June 2010.

Idaho Association of REALTORS®: Julie Delorenzo reported registration for IAR's annual conference will be open next week. Forms committee has completed new forms and they will be available on IAR's website July 1, 2010. IAR has 6,798 members.

Executive Director's Report:

- **Review Proposed New Advertising Guideline:** Was discussed. A question has come up whether MLS print-outs are considered advertising. The Commissioners were unanimous that all MLS print-outs flyers, etc. are advertising and must include the broker's licensed business name.
- **Review Possible Revisions to Fee Splitting Guideline (re Charitable Contributions):** Was discussed. Motion was made by Marvis Brice to adopt both Advertising Guideline, with technical corrections and Fee Splitting Guideline as presented. Motion carried.
- **Review Draft Broker Price Opinion Guideline:** Draft was presented and Commissioners approved draft BPO Guideline for presentation to Bureau of Occupational Licensing (BOL). Discussion followed.
- **Proposed Management and Travel Budget for FY 2011:** Was discussed. A motion was made by Andy Enrico to approve proposed FY2011 Management and Travel Budget as presented. Motion carried.

Education Council and Director's Report:

- **Appointment of North District Education Council Member:** The Education Department received one application for Council Member. Donna Capurso's application and letter was reviewed. Discussion followed. Andy Enrico moved to appoint Donna Capurso for the North District Education Council Member. Motion carried.
- **Instructor Development Workshop (IDW) Evaluation:** IDW evaluations were discussed.

Enforcement/Stipulations:

Case of Staff vs. Charles R. Frazer (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 Charles R. Frazer and that a "Final Order" be entered disciplining Mr. Frazer for having violated Idaho Code Section 54-2038(1)(a), failure to supervise Myers' and Byron-Leffler's activities with Paradigm Solutions, LLC, in the use of the option contract business mode, as follows:

1. That Charles R. Frazer is hereby issued a Formal Reprimand for his actions.
2. That Charles R. Frazer is required to pay a civil fine of Two Thousand Dollars (\$2,000.00) as follows:
 - a. The first payment of Five hundred Dollars (\$500.00) is due by August 23, 2010;
 - b. Thereafter, the remaining balance shall be paid in monthly payments of Five Hundred Dollars (\$500.00) each until paid in full; such payments are due on or before the same date of the month the first payment was due.
 - c. All monies paid by Charles R. Frazer will be applied towards the costs and attorney's fees first, before application to the fine.
3. That Charles R. Frazer is required to successfully complete a live Idaho Real Estate Law course by December 23, 2010. This class shall be completed on or before 5:00 p.m. MST/MDT of the deadline day and Mr. Frazer 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. Frazer fail to provide Commission Staff with a completion certificate on or before the deadline, Mr. Frazer's real estate license shall be suspended pursuant to the terms of the Commission's Final Order.
4. That Charles R. Frazer is required to pay the costs and attorney's fees of Three Hundred Dollars (\$300.00) by July 23, 2010, and in any event, all monies paid by Mr. Frazer will be applied towards the costs and attorney's fees first, before application to the fine.
5. In the event Charles R. Frazer fails to make any one payment as required by the Commission's 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.

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

Case of Staff vs. Deborah Byron-Leffler (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 Deborah Byron-Leffler and that a "Final Order" be entered disciplining Ms. Byron-Leffler for having violated Idaho Code Section 54-2060(11), dishonest and dishonorable dealings for having homeowners sign blank real estate documents in violation of Idaho Code Section 48-603(12) (Consumer Protection Act), and Idaho Code Section 9-508 (real estate contracts to be in writing), as follows:

1. Deborah Byron-Leffler is hereby issued a Formal Reprimand for her actions.
2. That Deborah Byron-Leffler is required to pay a civil fine of Five Hundred Dollars (\$500.00) by July 23, 2010.
3. That Deborah Byron-Leffler is required to successfully complete a live Idaho Risky Business course or live Idaho Risk Management course by December 23, 2010. This class shall be completed on or before 5:00 p.m. MST/MDT of the deadline day and Ms. Byron-Leffler 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 Ms. Byron-Leffler fail to provide Commission Staff with a completion certificate on or before the deadline, Ms. Byron-Leffler's real estate license shall be suspended pursuant to the terms of the Commission's Final Order
4. That Deborah Byron-Leffler is required to pay the costs and attorney's fees of Three Hundred Dollars (\$300.00) by July 23, 2010, and in any event, all monies paid by Ms. Byron-Leffler will be applied towards the costs and attorney's fees 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. Daniel L. Myers and Paradigm Solutions, LLC (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 Daniel L. Myers and Paradigm Solutions, LLC and that a "Final Order" be entered disciplining Mr. Myers for having violated Idaho Code Section 54-2053(4), providing advertising to other licensees, the public, and to prospective customers and clients which is misleading in nature; Idaho Code Section 54-2060(2), engaging in a continued course of misrepresentation by taking option contracts on more than 70 properties and then listing those properties for sale under Paradigm Solutions, LLC, when Paradigm did not have any equitable rights in those properties; and Idaho Code Section 54-2060(11), dishonest and dishonorable dealings for having homeowners sign blank real estate documents in violation of Idaho Code Section 48-603(12) (Consumer Protection Act), and Idaho Code Section 9-508 (real estate contracts to be in writing); Paradigm Solutions, LLC for having violated Idaho Code Section 54-2002, representing to the public that Paradigm Solutions, LLC, was engaged in a real estate brokerage practice and/or procuring of prospects as defined by Idaho Code Section 54-2004(33)(e), for conducting a business model of a dealer in option as defined in Idaho Code Section 54-2004, as follows:

1. Daniel L. Myers is hereby issued a Formal Reprimand for his actions.
2. That Daniel L. Myers is required to pay a civil fine of Three Thousand Dollars (\$3,000.00), and Paradigm Solutions LLC is required to pay a civil fine of Three Thousand Dollars (\$3,000.00) (for a total of Six Thousand Dollars (\$6,000.00) due from Mr. Myers/Paradigm Solutions, LLC) as follows:
 - a. The first payment of One Thousand Dollars (\$1,000.00) is due by August 23, 2010.
 - b. Thereafter, the remaining balance shall be paid in monthly payments of One Thousand Dollars (\$1,000.00) each until paid in full; such payments are due on or before the same date of the month the first payment was due.
 - c. For any payment made by Mr. Myers, one-half of said payment shall be credited towards Mr. Myers fine, with the other one-half credited towards Paradigm Solutions' fine.
 - d. All monies paid by Mr. Myers will be applied towards the costs and attorney's fees first, before application to the fine
3. That Daniel L. Myers is required to successfully complete a live Idaho Real Estate Law class by December 23, 2010. This class shall be completed on or

before 5:00 p.m. MST/MDT of the deadline day and Mr. Myers 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. Myers fail to provide Commission Staff with a completion certificate on or before the deadline, Mr. Myers' real estate license shall be suspended pursuant to the terms of the Commission's Final Order.

4. That Daniel L. Myers is required to pay the costs and attorney's fees in the amount of Three Hundred Dollars (\$300.00) by July 23, 2010, and in any event, all monies paid by Mr. Myers be applied towards the costs and attorney's fees first, before application to the fine.
5. In the event Daniel L. Myers or Paradigm Solutions, LLC fail to make any one payment as required by the Commission's 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.

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

Case of Staff vs. Lenore Sweet (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 Lenore Sweet and that a "Final Order" be entered disciplining Ms. Sweet for having violated Idaho Code Section 54-2002, for advertising one listing in the Intermountain MLS on behalf of Gorilla Realty, LLC, when she was not licensed in Idaho, as follows:

1. Lenore Sweet is required to pay a civil fine of Five hundred Dollars (\$500.00) by July 23, 2010.
2. That Lenore Sweet is required to pay the costs and attorney's fees of Hundred Dollars (\$300.00) by July 23, 2010, and in any event, all monies paid by Ms. Sweet be applied towards the costs and attorney's fees 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. Gorilla Realty, LLC (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 Gorilla Realty LLC and that a "Final Order" be entered disciplining Gorilla Realty, LLC for having violated Idaho Code Section 54-2002, for the unlicensed practice of real estate as defined by Idaho Code Section 54-2004(33)(a) and (c), for advertising an Idaho property on the Intermountain MLS as if it were a licensed entity when it was not, as follows:

1. Gorilla Realty, LLC is required to pay a civil fine of Five Hundred Dollars (\$500.00) by July 23, 2010.
2. That Gorilla Realty LLC is required to pay costs and attorney's fees of Three Hundred Dollars (\$300.00) by July 23, 2010, and in any event, all monies paid by Gorilla Realty, LLC will be applied towards the costs and attorney's fees 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. Robert W. Edward (Consideration of Proposed Default Order). Craig Boyack presented Proposed Default Order and provided Commissioners administrative record. A motion was made by Marvis Brice to issue a Notice of Proposed Default Order, a copy of which is attached hereto as part of these minutes. If after seven (7) days, Mr. Edward fails to file a timely petition requesting that proposed Final Order not be entered, and stating the grounds therefore, the Commission will enter the Final Order. Commissioner Andy Enrico is appointed as presiding officer who, upon the expiration of the 7-day period, will either sign the Commissions Final Order or issue an order setting aside the proposed default order. Motion carried.

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 Pam Trees to adjourn to executive session to review the applications submitted for felony exemptions and 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 #10-013: Exemption Review 54-2012(1)(f). Following discussion and review of the documents submitted, motion was made by Andy Enrico to approve request. Motion carried.

Special Consideration #10-014: Exemption Review 54-2012(1)(f). Following discussion and review of the documents submitted, motion was made by Pam Trees to approve request with one year to complete requirements for licensure. Motion carried.

Education Petition ED10-14: Request for CE Credit for Class taken 54-2036(3); Rule 402: Special consideration request to approve course for CE credit that was previously denied by Council, motion was made by Pam Trees to ratify the decision of Education Council to deny the course. Motion carried.

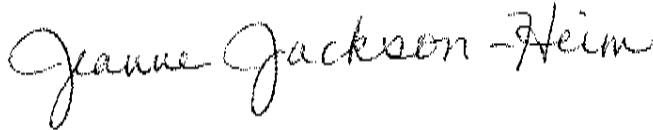
Probable Cause Memo 10-14300, 10-14301: A motion was made by Marvis Brice finding the facts set forth in the memorandum of probable cause provided to them by the Executive Director, pursuant to Section 54-2058(1), are sufficient to proceed with formal action on the violations presented. Commission staff is authorized to file an administrative complaint. Marvis Brice 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.

Matters for Commissioners:

- **Review of Commission Counsel's Contract:** Reviewed contract. Motion was made by Andy Enrico to approve Commission Counsel's Contract as presented. Motion carried.
- **Personnel Matter Pursuant to Idaho Code Section 67-2345, Executive Director's Evaluation:** Reviewed evaluation. Motion was made by Pam Trees to approve a 3% salary increase. Commission Chair Kelly Fisher will submit the request to Division of Financial Management. Motion carried.

There being no further business, motion was made by Andy Enrico to adjourn the meeting at 11:39 a.m. Motion carried.

Respectfully Submitted,

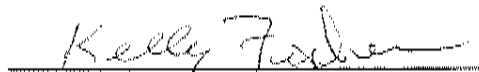


Jeanne Jackson-Heim
Executive Director

JJH: tla

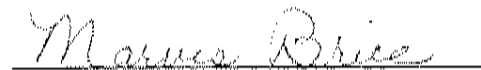
Attachments: Licenses Issued May 2010
FY09-FY10 Analysis of Active & Inactive License Base
Online License Reports
Complaint Summary Reports
May 2010 Financial Reports
Online Transactions Reports
Final Orders

Minutes of the Idaho Real Estate Commission meeting in Boise, Idaho, on June 17, 2010, are hereby approved.



Kelly Fisher, Chair

Andy Enrico, Member

Pam Trees, Vice Chair

Marvis Brice, Member