

**IDAHO REAL ESTATE COMMISSION
MEETING MINUTES
July 16, 2009**

Pursuant to notice given, the meeting of the Idaho Real Estate Commission (Commission) was held at The Idaho Real Estate Commission, on Thursday, July 16, 2009 at 8:30 a.m.

Commission Members Present:

Kelly Fisher, Chair, Pocatello
Pam Trees, Vice Chair, Lewiston
Andy Enrico, Former Chair, 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
Kelly England, Office Specialist II
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, Andy Enrico.

Introductions:

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

Approval of Meeting Minutes: Motion was made by Pam Trees to approve the June 18, 2009 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:

- **June 2009 Financial Statements**
- **Salesperson Broker Licenses issued, June 2009**

- **FY09-FY10 License Base Analysis**
- **Examination Statistics**
- **Complaint Summary Report**
- **Enforcement Telephone Activity Log**
- **June 2009 Education Funds Awards**
- **Online Transactions Report**

Online Lottery Drawing: Jerry Manes, (SP28581), Windermere Coeur d'Alene Realty Inc., Coeur d'Alene, won the lottery drawing for July 2009.

Idaho Association of REALTORS®: Jill Randall reported that IAR® is gearing up for their business conference this September 16-19, 2009, in Coeur d'Alene, with speakers like Chandra Hall, Doug Devitre and comedian Greg Hahn. Jill also reported they received a one-time grant from NAR that provides REALTORS® an opportunity to attend Short Sale & Foreclosure Training at reduced cost for the ABR designation.

Reorganization:

- a. Election of a Chairperson for the Idaho Real Estate Commission for the time period of July 2009-2010 or until a new Chairperson has been elected: A motion was made by Pam Trees to elect Kelly Fisher as the Chairperson for the Commission for the time period of July 2009, through July 2010, or until a new Chairperson has been elected: Motion carried.
- b. Election of a Vice Chairperson for the Idaho Real Estate Commission for the time period of July 2009, through July 2010, or until a new Vice Chairperson has been elected. A motion was made by Marvis Brice to elect Pam Trees as the Commission Vice Chairperson, for the period of time from July 2009, through July 2010, or until a new Vice Chairperson has been elected: Motion carried.
- c. Appointment of Commission Member to serve on the Idaho Real Estate Education Council for the time period of July 2009, through July 2010, or until a new Commission member has been appointed: A motion was made by Kelly Fisher to appoint Marvis Brice as the Commission representative to serve on the Education Council, for the time period of July 2009, through July 2010, or until a new Commission member has been appointed. Motion carried.
- d. Past Chair Andy Enrico passed the gavel to the newly elected Chairperson Kelly Fisher.

Commission's Counsel Report:

- **“Dealers in Options” Opinion:** Kim Coster presented a written opinion on application of the law regarding dealers in options, Craig agreed the approach taken would be instructive to staff, licensees and the general public. Members instructed Kim to develop the opinion into a Guideline, with an expansion of the definition of “option contract” and elimination of the advice that multiple acts must occur before finding a violation, and bring it back to Commissioners next month.

Executive Director's Report:

- **Legislative Ideas:** Jeanne Jackson-Heim presented list of potential legislative ideas to Commissioners. Deadline for submission of ideas to the Governor's office is August 3, 2009. Commissioners approved the list of proposed legislative ideas, and to provide them to IAR for consideration.

Education Council and Director's Report:

- **New Education Director:** Jeanne Jackson-Heim reported that IREC has hired MiChell Bird as the new Education Director. Jeanne stated that the new Business Conduct and Office Operation course (BCOO) and Brokerage Management courses have been implemented and made available to the providers.

Enforcement:

- **Guideline for Determining CE Fine Amounts:** Craig Boyack presented a revised CE fine matrix. Discussion followed. A motion was made by Andy Enrico to approve the revised matrix with one change from Two Hundred-Fifty Dollars (\$250.00) to One Hundred Fifty Dollars (\$150.00). Motion carried. Fine matrix as approved is attached hereto and made part of these minutes.

Case of Staff vs. Michael D. Highbarger (Determination of Costs and Attorney's fees): This matter came before the Idaho Real Estate Commission for determination of the amount of costs and attorney fees to be paid by Michael D. Highbarger pursuant to the Final Order issued June 18, 2009. Having reviewed the Staff's Memorandum of Costs and Attorney's Fees, and there being no objection filed, a motion was made by Andy Enrico to order that Mr. Highbarger pay staff's costs and attorney fees in the amount of Two Hundred Fifty Dollars (250.00) by August 26, 2009. Kelly Fisher recused himself on the basis that he was not present and had not reviewed record of prior mitigation hearing.

Motion carried. A copy of the "Order on Costs and Attorney's Fees" is attached hereto and made a part of these minutes.

Executive Session: In accordance with Open Meetings Law, a motion was made by Andy Enrico to adjourn to executive session as provided by section 67-2345(1)(d), Idaho Code, to consider records presented in connection with requests for special considerations and to waive certain licensing requirements, which records are exempt from disclosure under Section 9-340C(9) of the Public Records Act. Roll was called; Pam Trees, Marvis Brice, Andy Enrico and Kelly Fisher voted in favor. Motion carried. Members reviewed records.

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

Special Consideration #09-024: Exemption Review 54-2054(1)(f). Following discussion and review of the documents submitted, motion was made by Andy Enrico to approve the felony exemption. Motion carried.

Special Consideration #09-025: Special Consideration to waive/modify broker experience 54-2012(2)(a). Following discussion and review of the documents submitted, motion was made by Pam Trees to approve the waiver request. Motion carried.

Education Petition ED09-046 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 Marvis Brice to deny request. Motion carried.

There being no further business, motion was made by Kelly Fisher to adjourn the meeting at 11:15 a.m. Motion carried.

Respectfully Submitted,



Jeanne Jackson-Heim
Executive Director

JJH: tla

- Attachments: Licenses Issued June 2009
FY09-FY10 Analysis of Active & Inactive License Base
Online License Reports
Complaint Summary Report
June 2009 Financial Reports
Online Transactions Reports
Final Orders

Minutes of the Idaho Real Estate Commission meeting in Boise, Idaho, on July 16, 2009, are hereby approved.



Kelly Fisher, Chair



Andy Enrico, Member



Pam Trees, Vice Chair



Marvis Brice, Member