

Minutes
Indiana Real Estate Commission
March 10, 2010 at 8:30 a.m.
Indiana Government Center-South, W064
402 West Washington Street
Indianapolis, Indiana 46204

I. CALL TO ORDER & ESTABLISHMENT OF QUORUM

Commissioner Shook called the meeting to order at 10:00 a.m. in Room W064 of the Indiana Government Center-South, 402 West Washington Street, Indianapolis, Indiana 46204 and declared a quorum, in accordance with IC § 25-34.1-2-3(b).

Commission Members Present:

Charles (Charlie) W. Shook
H. James Litten
Susan Daniel
Mark Bock
Sue Cox
Paul Boyter
Timothy M. Reed
Michael Lunsford
Carolyn McClintock
Norman E. McClain
DJ Hines
Jarod Brown

Commission Members Absent

State Officials Present:

Nicholas W. Rhoad, Commission Director, Indiana Professional Licensing Agency
Pat Price, Assistant Director, Indiana Professional Licensing Agency
Stephanie Sims, Commission Litigation Specialist, Indiana Professional Licensing Agency
Jim Schmidt, Commission Advisory Counsel, Office of the Attorney General

II. ADVISORY COUNSEL'S REPORT

Mr. Schmidt provided an update regarding the Real Estate Recovery Fund.

III. INDIANA ATTORNEY GENERAL'S OFFICE REPORT

The Attorney General's office did not provide a report.

IV. WITHDRAWAL OF PROBATION HEARING (Begins at 10:00 a.m.)

A. State of Indiana v. Randall Booknis

IREC 03-29

Re: Withdrawal of probation

Mr. Booknis did not appear for his withdraw of probation hearing. No action was taken.

B. State of Indiana v. Aaron Clark

IREC 06-18

Re: Withdrawal of probation

A motion was made and seconded to grant the withdraw of Probation for Mr. Clark pending receipt of CE certificates.

Lunsford / McClintock

Motion Carried

9-0-0

C. State of Indiana v. Anthony Staton

IREC 08-43

Re: Withdrawal of probation

Mr. Staton did not appear. No action was taken.

D. State of Indiana v. Larry Scites

IREC 08-50

Re: Withdrawal of probation

A motion was made and seconded to approve Mr. Scites' petition for withdraw from probation.

Motion Carried

90-0

E. State of Indiana v. John Kelly

IREC 08-58

Re: Withdrawal of probation

A motion was made and seconded to approve Mr. Kelly's petition for withdraw from probation.

Motion Carried

8-0-1

F. State of Indiana v. Richard Bird (see VIII)

IREC 08-16

Re: Withdrawal of probation

A motion was made and seconded to approve Mr. Bird's petition for withdraw from probation.

Motion Carried

9-0-0

G. State of Indiana v. Brian Smallwood

IREC 09-45

Re: Withdrawal of probation

A motion was made and seconded to approve Mr. Smallwood's petition for withdraw from probation.

Motion Carried

9-0-0

V. REINSTATEMENT FROM SUSPENSION HEARING

A. State of Indiana v. James Clayborn

IREC 09-37

Re: Reinstatement from Suspension

A motion was made and seconded

VI. HEARINGS FOR ORAL ARGUMENT

A. State of Indiana v. Candice M. McKinney

IREC 08-05

Re: Brief

Re: Oral Argument

Re: Administrative Law Judge Order

Commissioners Cox and McClian, were absent from the meeting during this agenda item.

Commissioner McClintock was presiding over this item on the agenda.

A motion was made by the respondent to continue. The Commission denied the Motion to continue. Commissioner Boyter and Commissioner Shook abstained.

A motion was made and seconded to reject the ALJ panel Order and set the matter for hearing before Commissioner Reed and Commissioner Hines

Motion Failed

2-3-2 with Commissioner Boyter and Shook abstaining

A motion was made and seconded to affirm the ALJ panel order and dismiss the case against the respondent. Motion failed 2-3-2

A motion was made and seconded to affirm the ALJ panel order and dismiss the case against the respondent. Motion failed 2-3-2 with Commissioner Boyter and Shook abstaining.

A second attempt was made, and a motion was made and seconded to affirm the ALJ panel order and dismiss the case against the respondent. Motion carried 4-1- with Commissioner Boyter and Shook abstaining.

B. State of Indiana v. Michelle Bailey Austin

IREC 09-23

Re: Brief

Re: Oral Argument

Re: Administrative Law Judge Order

VII. DELIBERATIONS AND POSSIBLE ISSUANCES OF FINAL ORDER

A. State of Indiana v. Michael Morgan

IREC 09-20

Re: Proposed Findings of Fact, Conclusions of Law, and Order

A motion was made and seconded to approve the Proposed Findings of Fact, Conclusions of Law, and Order.

Motion Carried

9-0-0

B. State of Indiana v. Linda Stoner

IREC 09-55

Re: Proposed Findings of Fact, Conclusions of Law, and Order

A motion was made and seconded to approve the Proposed Findings of Fact, Conclusions of Law, and Order.

Motion Carried

9-0-0

C. State of Indiana v. Robert Rueth

IREC 09-73

Re: Proposed Findings of Fact, Conclusions of Law, and Order

A motion was made and seconded to approve the Proposed Findings of Fact, Conclusions of Law, and Order.

Motion Carried

9-0-0

D. State of Indiana v. Richard Bird

IREC 08-16

Re: Administrative Law Judge Order

A motion was made and seconded to approve the Administrative Law Judge Order

Motion Carried

9-0-0

VIII. CONSIDERATION OF THE MOTION TO DISMISS

A. State of Indiana v. Javier Chavez

IREC 09-54

Re: Motion for Voluntary Dismissal by Petitioner

A motion as made and seconded to approve the Voluntary Dismissal by Petitioner

Motion Carried

9-0-0

IX. VACATING THE ORDER TO SHOW CAUSE

A. State of Indiana v. Barbara Buffington

IREC 07-56

Re: Vacating order to show cause hearing

A motion was made and seconded to vacate the order for a show cause hearing

Motion Carried

9-0-0

X. CONSIDERATION OF THE HEARING

A. State of Indiana v. Jason McKinney

IREC 08-06

Re: Decision on how to proceed with a hearing

Administrative Law Judge Panel or with the full Commission

A motion was made and seconded to appoint Commissioner Hines, McClintock and Reed as the ALJ panel in this matter when it needs scheduled for hearing.

Motion Carried

9-0-0

XI. Rule Hearings

A. LSA 09-769

Re: A rule to adopt the 2010-2011 USPAP

A motion was made and seconded to approve the 2010-2011 USPAP

Motion Carried

9-0-0

B. LSA 09-677

Re: A rule to adopt fingerprinting requirements for appraiser applicants

A motion as made and seconded to approve LSA 09-677

Motion Carried

9-0-0

XII. OLD/NEW BUSINESS

A. Pearson VUE

1. Audit #1
2. Audit #2
3. Exam development

Mr. Rhoad informed the Commission of the site audits he did of Pearson testing facilities. The Commission was also informed of the exam development meeting and that the new exam should be in the field beginning in July.

B. Continuing Education Audit

Mr. Rhoad informed the Board of the CE audit process for brokers.

C. Emergency rule readopt ion of 2010-2011 USPAP

A motion was made and seconded to readopt the emergency rules for the 2010-2011 USPAP.

D. New Seller's Disclosure Form

The Commission continued to review the Seller's Disclosure form for updates.

E. Licensure and Education Committee Taskforce Update

Mr. Lunsford provided the Commission an update regarding the taskforce.

F. Legislative Update

Mr. Rhoad provided a legislative update

G. ILTA request for consideration as an automatically approved Continuing Education provider

A motion was made and seconded to approve ILTA as an automatically approved Continuing Education Provider.

Motion Carried

9-0-0

H. License count update

Mr. Rhoad provided the Commission with an update regarding the current license count numbers.

XIII. Application Review Committees

A. Positive Responses

1. Jason L. Lawrence A
2. Isaac E. Miller A
3. Jose Antonio Reyes A
4. Dustin R. Kelly Personal Appearance DENIED 3-4-1
5. Shannon M. Thomas PROBATION 7-0-2
6. Sherry L. Caldwell A
7. Jonathan E. Lyszak A
8. James W. Grimes A
9. Jerry Starks, Jr. Personal Appearance PROBATION 9-0-0
10. Patience Lynn Murphy A
11. Jeffrey Waltke A
12. Jason A. Nelson A
13. Bruce E. Asper A
14. Jacque E. Beck A
15. Shannon R. Pomfred A
16. Jessica M. Fulkerson A
17. Shila Jo Rupley A

- 18. Jonathan S. Addler A
- 19. Michael J. Bredthauer A
- 20. Dave L. Eavey A
- 21. Kenneth Jones A
- 22. Linda Lucas A
- 23. Brandon Czoer A
- 24. William M. Benson A
- 25. Nakeeva Y. Durden A
- 26. Ryan D. Mervar A
- 27. John C. Bentlage D
- 28. Amber Russell A
- 29. Carol Greer A
- 30. Darrell Cummings 2nd review A
- 31. Jeffrey B. Ratajczak A
- 32. Patty Collins A
- 33. Turner Corn A

B. Application for Acceptance of College Course Credits

- 1. Andrew B. Lahr Deny
- 2. William Weaver Approve
- 3. Rachel Wender Approve
- 4. Matthew Nolley Approve
- 5. Dirk A. Rivers Approve
- 6. Tyler Gerber Approve, needs corrected application
- 7. Robin C. Clay Approve
- 8. Peter John McEvoy Approve

C. Application for Waiver of One Year Experience

- 1. Todd David Whitlock Approve

D. Application for Continuing Education Instructors

- 1. Jaymi Sullivan approve
- 2. Thea M. Druley approve
- 3. Druanne Bocek approve
- 4. Jacqueline Jeanine Mitchell approve
- 5. Mark Ozman approve
- 6. Keryl Whetstone

E. Application for Approval of School Site A

- 1. Real Estate Career Network
14300 Clay Terrace Blvd., Suite 200
Carmel, IN 46032

F. Continuing Education Providers

- 1. **Provider NAIFA broker course approve**
Course: USPAP 2010-2011 7.0 elective hours
Course: FHA Current Appraisal Requirements 7.0 elective hours
- 2. **Provider Hoosier Chapter of the Appraisal Institute**
Course: Spotlight on USPAP: Common Errors and Issues 2.0 E hours
- 3. **Education Resource both approve**

Course: CE1000 USPAP 2010-2011 7.0 E hours

Course: CE1037 Using Residential Appraisal Report Forms 7.0 E hours

4. Provider Real Estate Career Network approve

Course: Rats, Bats, Cats & Mold: Purchasing REO's 2.0 E hours

5. RECP

Course: Marketing: Getting the Most for the Consumer 2.0 E hours

XIV. Adjournment

A motion was made and seconded to adjourn the meeting.

Motion Carried

9-0-0