

**Indiana Real Estate Commission**

**August 25, 2010**

**MINUTES**

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**I. CALL TO ORDER & ESTABLISHMENT OF QUORUM**

Commissioner McClintock called the meeting to order at 9:15 a.m. in Conference Center Room 22 of the Indiana Government Center-South, 402 West Washington Street, Indianapolis, Indiana 46204 and declared a quorum, in accordance with Ind. Code § 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:**

None

**State Officials Present:**

Jeanette Roberts, Commission Director, Indiana Professional Licensing Agency  
Pat Price, Assistant Director, Indiana Professional Licensing Agency  
Eric Felde, Commission Litigation Specialist, Indiana Professional Licensing Agency  
Jim Schmidt, Commission Advisory Counsel, Office of the Attorney General

**Transcriptionist:**

Joyce Shenall, Rutledge Independent Reporters

**II. APPROVAL OF MINUTES**

A motion was made and seconded to approve the minutes of the June 2, 2010 meeting of the Indiana Real Estate Commission.

McClain/Daniel  
11/0/0 Motion carried.

**III. ADVISORY COUNSEL'S REPORT**

Jim Schmidt gave his report to the Commission.

**IV. BOARD DIRECTOR REPORT/INTRODUCTION**

Jeanette Roberts introduced herself to the Commission as the new Director.

**V. INDIANA ATTORNEY GENERAL'S OFFICE REPORT**

Gabriel Owens provided a report to the Commission regarding the complaint filings received by her office. She has indicated that one section of the report is still not reflecting the proper numbers. The Commission asked her to be sure to have a corrected number by the next meeting for their review.

**VI. PERSONAL APPEARANCE**

1. Scott H. McCampbell
2. Angela Pittman
3. Karen Peek-Hall
4. Michael Dilk
5. John Seeber
6. Cheryl Gay
7. Heather Robison
8. Andrea Brown
9. Emma Shepherd
10. Shannon Pomfred
11. Sarah Shaw

A motion was made and seconded to approve all renewal application for licensees listed above.

Daniel/Cox  
11/0/0 Motion carried.

**12. Jerry Starks**

This renewal application will be tabled until the Commission hears the case.

**VII. EXTENSION OF SUMMARY SUSPENSION**

**A. State of Indiana v. Jerry Starks**

IREC 10-09

Re: Disciplinary Hearing/Extension of Summary Suspension

Mr. Jerry Starks appeared for the hearing. Jason Gross, Deputy Attorney General appeared on behalf of the state. Commissioner Reed recused himself.

A motion was made and seconded to place the license back on probation with the same terms however Mr. Starks must also comply with his new criminal probation.

Lunsford/Litten  
8/1/1 Motion carried. (McClintock voted against/Reed recused)

A motion was made and seconded to lift the emergency suspension on his license effective today.

Litten/Lunsford  
9/0/1 Motion carried. (Reed recused)

**VIII. DELIBERATIONS AND POSSIBLE ISSUANCES OF FINAL ORDER**

**A. In the matter of the license of Gary Ruble (was listed on agenda as Jay Rose by mistake)**

IREC 09-48

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.

McClain/Hines  
11/0/0 Motion carried.

**B. In the matter of the license of Gary Herrington**

IREC 10-01

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.

Boyter/Cox  
11/0/0 Motion carried.

**C. In the matter of the license of Steven L. Morrow**  
IREC 09-63  
Re: Administrative Law Judge Panel's Order

A motion was made and seconded to affirm the Administrative Law Judge Panel's Order.

McClain/Hines  
11/0/0 Motion carried.

**D. In the matter of the license of Hilton Morris, Jr.**  
IREC 09-47  
Re: Administrative Law Judge Panel's Order

A motion was made and seconded to affirm the Administrative Law Judge Panel's Order.

Hines/Daniel  
11/0/0 Motion carried.

**E. In the matter of the license of Patricia Hogue**  
IREC 10-02  
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.

Shook/Daniel  
11/0/0 Motion carried.

**F. In the matter of the license of Laurence Mallah**  
IREC 09-58  
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.

Hines/Lunsford  
11/0/0 Motion carried.

**G. In the matter of the license of Lindsey L. Crowe, Jr.**  
IREC 09-46  
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.

Shook/Litten  
11/0/0 Motion carried.

**H. In the matter of the license of Donte Adams**  
IREC 09-70  
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.

McClain/Boyter  
11/0/0 Motion carried.

**I. In the matter of the license of Rebecca A. Ring**

IREC 09-71

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.

McClain/Bock  
11/0/0 Motion carried.

**J. In the matter of the license of Candice M. McKinney**

IREC 08-05

Re: Administrative Law Judge Panel's Order

A motion was made and seconded to require the State and Ms. McKinney to file a brief by September 24, 2010.

Reed/Bock  
10/0/1 Motion carried. (McClain abstained)

**K. State of Indiana v. Debra Parker-Hawkins**

IREC 09-67

Re: Motion for Voluntary Dismissal

A motion was made and seconded to grant the motion for voluntary dismissal.

Boyer/McClain  
11/0/0 Motion carried.

**L. In the matter of the license of Jeffrey Brumfield**

IREC 08-64

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.

McClain/Daniel  
11/0/0 Motion carried.

**M. In the matter of the license of Eric Mundy**

IREC 09-57

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.

Reed/McClain  
11/0/0 Motion carried.

**N. In the matter of the license of Andrew Tarbutton**

IREC 09-59

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.

McClain/Cox  
11/0/0 Motion carried.

**O. In the matter of the license of Aaron Adams**

IREC 10-03

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.

Boyter/McClain  
11/0/0 Motion carried.

**P. In the matter of the license of Timothy Robinson**

IREC 10-04

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.

Hines/McClain  
11/0/0 Motion carried.

**IX. ORDER TO SHOW CAUSE HEARING**

**A. State of Indiana v. Yvonne Humphries**

IREC 09-01

This matter will be rescheduled for the October meeting.

**X. ADMINISTRATIVE HEARINGS (McClain left the meeting)**

**A. State of Indiana v. John R. Kaag**

IREC 09-44

Re: Hearing for Withdrawal of Probation

A motion was made and seconded to issue a Notice of Proposed Dismissal.

Litten/Boyter 10/0/0

**B. State of Indiana v. Barbara Lynn Buffington**

IREC 07-56

Re: Hearing for Withdrawal of Probation

Barbara Buffington appeared before the Commission to request the termination of probation from her license. Heather Kennedy, Deputy Attorney General is present to represent the state.

A motion was made and seconded to grant the request to terminate the probation on the license.

Shook/Reed  
10/0/0 Motion carried.

**C. State of Indiana v. Andrew T. Barr**

IREC 09-07

Re: Hearing for Withdrawal of Probation

This matter will be rescheduled for the October meeting.

**D. In the matter of the license of Joseph Gradison**

IREC 10-10A

Re: Appeal of Notice of Non-compliance

Mr. Gradison appeared to explain that it was not his intention to be in noncompliance. He also explained that he obtained his CE within the reporting period and because the questions on the application did not include one regarding meeting CE requirements, it was confusing and one should not be expected to know that they have to complete the CE before renewing himself.

A motion was made and seconded to reduce the civil penalty to \$0. The Commission also asked staff to have the renewal form revised to prevent such confusion in the future.

Reed/Lunsford  
9/0/1 Motion carried. (Litten recused)

**E. In the matter of the license of William Leppert**

IREC 10-11A

Re: Appeal of Notice of Non-compliance

Mr. Leppert appeared and explained that he felt that the \$5000 civil penalty was too excessive and that he did not intentionally fail to comply with the audit. He was under the assumption that the CE that he took for his insurance license would also count for his Real Estate license.

A motion was made and seconded to require Mr. Leppert to complete the missing CE and pay a reduced civil penalty of \$500.

Shook/Litten  
10/0/0 Motion carried.

**F. In the matter of the license of Charles Fox**

IREC 10-12A

Re: Appeal of Notice of Non-compliance

Mr. Fox appeared and explained that he felt that the \$1000 civil penalty was too excessive and that he did not intentionally fail to comply with the audit. He had thought that he had completed the CE when he renewed, however when he received the request for proof he found that he did not have any. He immediately made up the missing CE.

A motion was made and seconded to reduce the civil penalty to \$500.

Reed/Boyster  
9/1/0 Motion carried. (Hines voted against)

**G. In the matter of the license of Dale Perdue**

IREC 10-14

Re: Appeal of Notice of Non-compliance

A motion was made and seconded to issue a Notice of Proposed Dismissal.

Litten/Hines  
10/0/0 Motion carried.

**H. In the matter of the license of C. Allen Watkins**

IREC 09-29

Re: Hearing for Withdrawal of Probation

C. Allen Watkins appeared before the Commission to request the termination of probation from his license. Heather Kennedy, Deputy Attorney General is present to represent the state.

A motion was made and seconded to grant the request to terminate the probation on the license.

Litten/Hines  
9/0/1 Motion carried. (Bock recused)

**XI. RULE READOPTION**

**A. LSA Document #10-411, Readoption of Rules**

**OVERVIEW: Rules to be readopted without changes are as follows:**

**876 IAC 2-18-1 Fee schedule**

A motion was made and seconded to readopt the rule without changes.

McClain/Cox  
11/0/0 Motion carried.

**XII. OLD/NEW BUSINESS**

**A. Licensure and Education Committee Taskforce Update**

Commissioner Lunsford gave an update on the progress of the Licensure and Education Committee Taskforce.

**B. Appraisal management company update**

The Director gave an update on the Appraisal Management Companies.

**C. J. Thomas Strittmatter – Respondent’s Submission Pursuant to Final Order of June 2008**

The Commission reviewed the information submitted by Mr. Strittmatter.

**D. Lamar Ferguson, IREC 92-49, Re: Probation status**

The Commission decided to not pursue an Order to Show Cause in this matter. They would like staff to review probationary files and if the case is really old and the license is expired, let it be until and if the licensee would like to renew or be removed from probation.

**E. Regulatory Reform Bill**

The Commission reviewed this information.

**F. Positive Response Committee discussion**

A motion was made and seconded to allow staff to look at all files first and approve if they can. Staff will email the Committee Chair and if not approved by the chair, it will come to the Commission for full review.

Litten/McClain  
11/0/0 Motion carried.

A motion was made and seconded to allow staff to review and issue renewal licenses with positive response and if not comfortable with approval will send to Chair of Committee and the committee can then hear a personal appearance if needed. If not approved at committee personal appearance then the matter will go before full Commission for review.

Shook/Litten  
11/0/0 Motion carried.

**G. Brian Gale Waters**

A motion was made and seconded to issue an Order To Show Cause and have the ALJ hear the matter.

Bock/Cox  
11/0/0 Motion carried.

**H. Education Committee**

A motion was made and seconded to appoint Commissioner Hines to the Education Committee.

Litten/Daniel  
10/0/0 Motion carried.

### **XIII. APPLICATION REVIEW COMMITTEES**

#### **A. Positive Responses**

The Commission approved the following applications:

1. Matthew Drew Root
2. Benjamin T. Roembke
3. Jesse Garza
4. Ross Graham
5. Jennifer Brown
6. Charles B. Ellis
7. Garrett T. Licklitter
8. James M. Heath
9. Anjel Hutchinson
10. Kyle D. Samuels
11. David U. Post
12. Christina Vitaioli
13. Alexander Egan
14. Brent W. Wright
15. Paul J. Miles
16. Mark Mills
17. Becky Gish
18. Michael A. Potoczek
19. Anthony Tribolet
20. James A. Cackley
21. Anthony M. Robinson
22. Stephen T. McCallum
23. Brian C. Campbell
24. Bryce Worley
25. Phillip Rigsby
26. Ross Justin Graham

The Commission issued the following licenses on probation:

27. Jared Washington
28. John Bentlage
29. Laura M. Tyndall
30. Nicholas Galvin

The Commission denied the following application:

31. Andrew D. Paarlberg

#### **B. Application for Acceptance of College Course Credits**

1. William A. Talley III

The Commission denied Mr. Talley's application for acceptance of College Course Credits.

### **XXI. ADJOURNMENT**

There being no further business, and having completed its duties, the meeting of the Indiana Real Estate Commission adjourned at 2:29 p.m.

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Carolyn McClintock, Chair