

Respondent to be in **DEFAULT**. The Commission then held further proceedings in Respondent's absence and issued the following Findings of Fact, Conclusions of Law and Order:

FINDINGS OF FACT

1. Respondent's last known mailing address is 8470 Allison Pointe Drive, Suite 100, Indianapolis, Indiana 46250.

2. Respondent does not currently, nor has he ever, held a license to practice as a real estate professional in the State of Indiana.

3. Respondent acted in the capacity of a real estate licensee when Respondent provided the following services to consumers without the appropriate real estate license:

- a. Operated a business under the name of Turnkey Property Services and Professional Property Management and Maintenance;
- b. Advertised professional property management services at his website www.propertykeep.com;
- c. Entered into a Property Management Contract with a consumer to manage real property located at 12644 Spurrington Way, Indianapolis, Indiana 46236, and 13240 All American Road, Fishers, Indiana 46037;
- d. Contracted to "supervise the collection of rents and other monies" for the two (2) properties mentioned above in Subsection c. on behalf of the consumer who owned the properties; and
- e. Collected rent monies for the properties mentioned above in Subsection c.

CONCLUSIONS OF LAW

1. Pursuant to Ind. Code § 25-1-7-14, the Commission has the authority to issue an order for Respondent to cease and desist the unlicensed practice of real estate if the Commission finds that the Respondent has engaged in such activity.

2. Respondent's conduct as described above constitutes a violation of Ind. Code § 25-34.1-3-2, which prohibits any person from acting in the capacity of a real estate licensee without first obtaining the necessary real estate license.

3. Respondent's conduct as described above constitutes a violation of Ind. Code § 25-34.1-3-2, which prohibits any person from managing and renting real estate property and offering to manage and rent real estate property for others without a real estate license.

ORDER

1. Respondent shall immediately cease and desist from any further activity that can be considered the practice of real estate pursuant to Ind. Code § 25-34.1-3-2.

2. Respondent shall be punished for contempt of court in either circuit or superior court should Respondent violate the terms of this order to cease and desist the unlicensed practice of real estate.

SO ORDERED this 8th day of August, 2011.

INDIANA REAL ESTATE COMMISSION

By: 
Frances L. Kelly
Executive Director
 Indiana Professional Licensing Agency

Copies To:

Mr. Jay Thomas
8470 Allison Pointe Drive, Suite 100
Indianapolis, Indiana 46250

CERTIFIED MAIL NO.: 91 7190 0005 2720 0009 5845
RETURN RECEIPT REQUESTED

Kelsie E. Moore
Deputy Attorney General
Office of the Attorney General
302 W. Washington St., 5th Floor
Indianapolis, Indiana 46204

BEFORE THE INDIANA
REAL ESTATE COMMISSION
CAUSE NO.: IREC 11-23

IN THE MATTER OF THE)
UNLICENSED PRACTICE OF:)
JAY THOMAS,)
RESPONDENT)



NOTICE OF PROPOSED DEFAULT

An administrative hearing was scheduled for June 1, 2011, at 9:00 a.m., local time, before the Indiana Real Estate Commission (“Commission”) in Room W064 of the Indiana Government Center South, 402 West Washington Street, Indianapolis, Indiana 46204, to determine whether sanctions should be imposed upon Respondent pursuant to Ind. Code § 25-1-11, Ind. Code § 25-1-7-14, and Ind. Code § 4-21.5.

Petitioner, the State of Indiana, was represented by Kelsie E. Moore, Deputy Attorney General. Respondent was not present and was not represented by counsel.

The Commission, after taking official notice of its file in this matter and pursuant to Ind. Code § 4-21.5-3-24, by a vote of ten in favor, none against and none abstaining, issues a Notice of Proposed Default Order against Respondent on the following grounds:

1. Respondent’s last known mailing address is 8470 Allison Pointe Drive, Suite 100, Indianapolis, Indiana 46250.
2. On May 12, 2011, the Indiana Professional Licensing Agency sent Respondent notice of the date and time of the final hearing set for June 1, 2011.
3. Pursuant to Ind. Code § 4-21.5-3-20, Respondent was provided adequate notice of the final hearing date and failed to appear for the scheduled hearing on June 1, 2011.

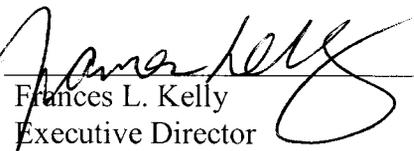
ORDER

For Respondent's failure to appear for her scheduled hearing date, the Commission issues this Notice of Proposed Default.

In accordance with Ind. Code § 4-21.5-3-24, Respondent must file a written motion within ten (10) days (seven days plus an additional three days since service of this order shall be by mail) of service of this order requesting that the Commission not enter a default order in this cause and stating the reasons relied upon for its request. Failure of Respondent to file such a written motion within ten (10) days shall result in the issuance of a default order. If Respondent timely files a motion, the Commission shall consider said motion along with any other relevant facts in determining whether a default order should be entered. Should a default order be entered against Respondent, the Commission may hold further proceedings as it deems appropriate to complete this cause without the participation of Respondent.

SO ORDERED, this 04 day of June, 2011.

INDIANA REAL ESTATE COMMISSION

By: 

Frances L. Kelly
Executive Director
Indiana Professional Licensing Agency

Copies to:

Jay Thomas
8470 Allison Pointe Drive, Suite 100
Indianapolis, IN 46250
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Jay Thomas
12240 Misty Way
Indianapolis, IN 46236
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Kelsie E. Moore
Deputy Attorney General
Office of the Attorney General
Indiana Government Center South, 5th Floor
302 West Washington Street
Indianapolis, IN 46204

BEFORE THE INDIANA
REAL ESTATE COMMISSION
CAUSE NO.: IREC 11-23

IN THE MATTER OF:

JAY THOMAS,
RESPONDENT

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ORDER TO SHOW CAUSE

Comes now the Indiana Real Estate Commission (“Commission”) pursuant to Ind. Code § 4-21.5 and Ind. Code § 25-1-7-14 issues the following Order to Show Cause:

The Commission hereby notifies Jay Thomas (“Respondent”), 8470 Allison Pointe Drive, Suite 100, Indianapolis, Indiana 46250, to appear before the Commission on **June 1, 2011** at **9:00 a.m.**, Local Time, in Room W064 of Indiana Government Center South, 402 West Washington Street, Indianapolis, Indiana 46204 to show cause why Respondent should not cease and desist his alleged practice of real estate without the required license.

1. This order is being provided to counsel for Petitioner, State of Indiana, Kelsie E. Moore, Deputy Attorney General, Office of the Attorney General, Indiana Government Center South, 302 West Washington Street, 5th Floor, Indianapolis, Indiana 46204, telephone number (317) 234-7108.
2. The official cause number of this action is: IREC 11-23.
3. This action is an Order to Show Cause issued by the Commission based on the allegations raised in the Motion for Order to Cease and Desist.
4. Any party may be advised and represented by counsel at the party's own expense. The Commission is empowered to hold this hearing pursuant to the authority of Ind. Code § 25-1-11, Ind. Code § 25-1-7-14 and Ind. Code § 4-21.5 *et seq.* The Commission will be presiding as administrative law judge in this matter.

5. The hearing will address the issues contained in the Motion for Order to Cease and Desist filed April 4, 2011 which is attached hereto and incorporated by reference as Exhibit A.

6. Eric Felde, Compliance Director, may be contacted to obtain information concerning hearing schedules and procedures by mail in care of the Indiana Professional Licensing Agency, 402 West Washington Street, Room W072, Indianapolis, Indiana 46204, by e-mail at efelde@pla.in.gov, by facsimile at (317) 233-4326, or by telephone at (317) 234-3015.

7. A party who fails to attend or participate in a pre-hearing conference, hearing, or other later stage of this proceeding may be held in default or have the proceeding dismissed under Ind. Code § 4-21.5-3-24.

ORDERED this 12 day of May, 2011.

INDIANA REAL ESTATE COMMISSION

By: 

Frances L. Kelly
Executive Director
Indiana Professional Licensing Agency

Copies to:

Jay Thomas
8470 Allison Pointe Drive, Suite 100
Indianapolis, Indiana 46250
Sent via Certified Mail No.: 91 7190 0005 2720 0008 2401
RETURN RECEIPT REQUESTED

Kelsie E. Moore
Deputy Attorney General
Office of the Attorney General
Indiana Government Center South
302 West Washington Street, 5th Floor
Indianapolis, Indiana 46204

IN THE MATTER OF THE
UNLICENSED PRACTICE OF:

JAY THOMAS,

Respondent.

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MOTION FOR ORDER TO CEASE AND DESIST

The State of Indiana, by Kelsie E. Moore, Deputy Attorney General, pursuant to Ind. Code § 25-1-7-14 files this motion requesting the Indiana Real Estate Commission (“Commission”) to order Jay Thomas (“Respondent”) to Cease and Desist his practice of real estate without the required license. In support of this motion, the Office of the Attorney General (“Petitioner”) alleges and states as follows:

1. Petitioner is empowered to bring complaints before the Commission in the name of the State of Indiana pursuant to Ind. Code § 25-1-7-2.
2. The Commission is charged with the responsibility of regulating the practice of real estate in the State of Indiana pursuant to Ind. Code § 25-34.1-2-5.
3. Respondent’s mailing address is 8470 Allison Pointe Drive, Suite 100, Indianapolis, Indiana 46250.
4. Respondent does not currently hold, nor has he ever held, a professional license issued under Ind. Code art. 25-34, Real Estate Brokers and Salespersons.
5. Pursuant to Ind. Code § 25-34.1-3-2, “no person shall, for consideration, sell, buy, trade, exchange, option, lease, rent, manage, list, or appraise real estate or negotiate or offer to

perform any of those acts in Indiana or with respect to real estate situated in Indiana, without a license.”

6. Respondent has engaged and continues to engage in activities for which a license is required under Ind. Code § 25-34.1-3-2. These activities include, but are not limited to, managing and renting real estate property and offering to manage and rent real estate property without a real estate license.

7. Respondent operates a business under the business name of Turnkey Property Services and Professional Property Management and Maintenance (“Turnkey”).

8. Respondent advertises professional property management services at www.propertykeep.com. (A true and correct copy of Respondent’s advertisement is attached hereto and incorporated herein as State’s Exhibit 1.)

9. Respondent’s advertised services include, but are not limited to, complete property management and maintenance, property management only, property maintenance only, investor pre-purchase inspection and rehab costs estimates, and investor property search service. (A true and correct copy of Respondent’s advertisement is attached hereto and incorporated herein as State’s Exhibit 2.)

10. On or about June 29, 2007, Respondent entered into a Property Management Contract with Perry Morin (“Morin”) to manage Morin’s investment properties located at 12644 Spurrington Way, Indianapolis, Indiana 46236 (“Spurrington”) and 13240 All American Road, Fishers, Indiana 46037 (“American”). (A true and correct copy of Respondent’s Property Management Agreement for Spurrington is attached hereto and incorporated herein as State’s Exhibit 3.)

11. Respondent's Property Management Agreement ("Agreement") with Morin states that Respondent "shall supervise the collection of rents and other monies due the owner" and that Respondent "shall do everything reasonably necessary for the proper management of the property."

12. After signing the contract with Morin, Respondent listed Spurrington on Turnkey's website with a rental amount of One Thousand Three Hundred Ninety Five Dollars (\$1,395.00) per month. (A true and correct copy of Respondent's advertisement is attached hereto and incorporated herein as State's Exhibit 4.)

13. By engaging in activities for which a license is required under Ind. Code § 25-34.1-3-2, Respondent is subject to a show cause hearing and the issuance of a cease and desist order pursuant to Ind. Code § 25-1-7-14, which states that the Commission may issue an order requiring the Respondent to show cause why he or she should not be ordered to cease and desist from activities for which a license, certification, or registration is required.

WHEREFORE, Petitioner respectfully requests an order against Respondent that:

1. Directs Respondent to immediately cease and desist any activity that is considered the practice of real estate pursuant to Ind. Code § 25-34.1-3-2 without the appropriate license; and
2. Provide any other relief that the Commission deems just and proper.

Respectfully submitted,

Gregory F. Zoeller,
Attorney General of Indiana
Attorney No. 1958-98

By: Kelsie E. Moore
Kelsie E. Moore
Deputy Attorney General
Attorney No.: 26505-49

Office of the Attorney General
Indiana Government Center South
302 West Washington Street, 5th Floor
Indianapolis, Indiana 46204
Telephone: (317) 234-7108
Facsimile: (317) 233-4393
kelsie.moore@atg.in.gov

CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of April, 2011, a true and correct copy of this Complaint was served upon the below-listed party via First Class U.S. Mail, postage prepaid.

Mr. Jay Thomas
8470 Allison Pointe Drive, Suite 100
Indianapolis, Indiana 46250



Kelsie E. Moore
Attorney No.: 26505-49
Deputy Attorney General