Indiana Real Estate Commission

October 6, 2010

MINUTES

I. CALL TO ORDER & ESTABLISHMENT OF QUORUM

Commissioner McClintock called the meeting to order at 9:05 a.m. in Conference Room W064 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
Susan Daniel
Mark Bock
Sue Cox
Paul Boyter
Timothy M. Reed
Carolyn McClintock
Norman E. McClain
DJ Hines
Jarod Brown

Commission Members Absent:
H. James Litten
Michael Lunsford

State Officials Present:
Jeanette Roberts, Commission 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:
Sherri Rutledge, Rutledge Independent Reporters
Deanne Hudson, Rutledge Independent Reporters

II. APPROVAL OF MINUTES

A motion was made and seconded to approve the minutes as amended.

Cox/Boyter
9/0/0 Motion carried.

III. ADVISORY COUNSEL'S REPORT

Jim Schmidt gave a short report.

IV. INDIANA ATTORNEY GENERAL'S OFFICE REPORT

Gabrielle Owens gave her report and announced that she is now over all sections of the Consumer Protection Division in the AG's office.

V. ADMINISTRATIVE HEARINGS

A. State of Indiana v. Linda Watson

IREC 08-10
Re: Hearing for Withdrawal of Probation

Linda Watson appeared before the Commission to request the termination of probation from her license. John Kolas is appearing for the Respondent. 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.

Boyter/Bock
8/0/1 (Cox recused) Motion carried.

B. State of Indiana v. Timothy Robinson
IREC 10-04
Re: Request for Reinstatement from Suspension

Timothy Robinson appeared before the Commission to request the reinstatement of his suspended license. Joseph Basile, Deputy Attorney General is present to represent the state.

A motion was made and seconded to grant the request to reinstate the license.

McClain/Boyter
10/0/0 Motion carried.

C. State of Indiana v. Joseph Chandler
IREC 06-07
Re: Hearing for Withdrawal of Probation

Joseph Chandler 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.

McClain/Reed
10/0/0 Motion carried.

D. State of Indiana v. Andrew T. Barr
IREC 09-07
Re: Hearing for Withdrawal of Probation

Andrew Barr 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.

Shook/Bock
9/0/1 (McClain recused) Motion carried.

E. State of Indiana v. Yvonne Humphries
IREC 09-01
Re: Order to Show Cause

Yvonne Humphries appeared before the Commission to explain why she is violation of the Commission's order requiring payment of restitution to Ms. Brenda Vance in the amount of $3000. Joseph Basile, Deputy Attorney General is present to represent the state. Ms. Brenda Vance is present as a witness.

A motion was made and seconded to require Ms. Humphries to pay the $3000 by October 8, 2010 at 4:30 p.m. Eastern Standard Time or her license will be immediately suspended. She can request reinstatement once the monies have been paid.

Reed/Boyter
10/0/0 Motion carried.

F. State of Indiana v. Tetyana Crismore
IREC 09-02
Re: Hearing for Withdrawal of Probation

Ms. Crismore is not present.

A motion was made and seconded to issue a notice of proposed dismissal.

Bock/Boyter
9/0/0(Brown out of room) Motion carried.

G. State of Indiana v. Milton Booth
IREC 08-32
Re: Hearing for Withdrawal of Probation

Milton Booth appeared before the Commission to request the termination of probation from his license. Joseph Basile, 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.

McClain/Cox
9/0/1 (Reed recused) Motion carried.

VI. NOTICE OF PROPOSED DISMISSAL

A. In the matter of the license of John R. Kaag
IREC 09-44

Mr. Kaag is present and asks the Commission to not dismiss his request and to hear the matter.

A motion was made and seconded to not dismiss the matter.

Shook/Bock
10/0/0 Motion carried.

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

Boyter/Reed
10/0/0 Motion carried.

B. In the matter of the license of Dale Perdue
IREC 10-14

A motion was made and seconded to dismiss the matter.

Boyter/Hines
10/0/0 Motion carried.

VII. APPEAL OF NOTICE OF NONCOMPLIANCE

A. In the matter of the license of Kimberli Davis
IREC 10-15

Kimberli Davis is present and explains the circumstances surrounding her non-compliance.

A motion was made and seconded to reduce the civil penalty to $0.

Boyter/Shook
10/0/0 Motion carried.

B. In the matter of the license of William M. Fryer
IREC 10-16

This matter is continued.

VIII. PERSONAL APPREARANCE

A. Joy Neuenschwander

Ms. Neuenschwander was convicted of wire fraud in 2004. She will continue on administrative probation for another 3 years.

A motion was made and seconded to issue the license on probation indefinitely. She can request termination of probation once the criminal probation is completed. The order shall contain the usual probationary language.

Reed/McClain
9/0/1 (Boyter recused) Motion carried.

IX. DELIBERATIONS AND POSSIBLE ISSUANCES OF FINAL ORDER

A. In the matter of the license of Jay B. Rose
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.

Hines/ McClain
9/0/1 (Reed recused) Motion carried.

B. In the matter of the license of Pamela Proctor
IREC 10-05
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.

Cox/Hines
9/0/1(Reed recused) Motion carried.

C. In the matter of the license of Candice McKinney
IREC 10-08
Re: Petitioner's Brief in Opposition to Respondent's Objection to the Administrative Law Judge Panel's Order and Request for a Hearing before the Indiana Real Estate Commission

A motion was made and seconded to affirm the ALJ Panel's Order.

Reed/Hines
9/0/1(McClain recused) Motion carried.

D. In the matter of the license of Jason E. McKinney
IREC 08-06
Re: Motion for Voluntary Dismissal

A motion was made and seconded to dismiss the matter.

Shook/Bock
9/0/1(McClain recused) Motion carried.

E. In the matter of the license of Jacob Day
IREC 09-65
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.

Daniel/McClain
9/0/1 (Reed recused) Motion carried.

F. In the matter of the license of Donella Locke
IREC 08-08
Re: Administrative Law Judge's Panel Order

A motion was made and seconded to affirm the ALJ Panel's Order.

Reed/Hines
10/0/0 Motion carried.

X. CONTINUING EDUCATION AUDIT ACTIONS

A. In the matter of the license of Therome Buford
Lic. No. PB20301000
Re: Failure to Comply with the Notice of Non-Compliance

A motion was made and seconded to suspend the license.

Shook/McClain
10/0/0 Motion carried.

XI. COSTS

A. State of Indiana v. Yvonne Humphries
Re: Review and approval of costs

A motion was made and seconded to approve the costs as submitted.

McClain/Cox
10/0/0 Motion carried.

XII. OLD/NEW BUSINESS

A. Licensure and Education Committee Taskforce Update

Charlie Shook gave a taskforce status update.

B. Appraisal management company update

Jeanette Roberts gave an update on the rules hearing scheduled for Appraisal Management Companies.

C. Licensing of Corporations, LLC's, and Partnerships

Tim Reed explained that some staff may be giving incorrect information regarding the licensing of LLC's, Corporations, and Partnerships.

D. Letter from Rep. Scott Pelath, Re: Brian Gale Waters

Jeanette Roberts explains that IPLA has received correspondence from Rep. Scott Pelath in regards to the Brian Gale Waters case but does not explain the particulars of the letter due to the pending case before the Commission.

E. ALJ Panels

A motion was made and seconded to authorize the Director in conjunction with the Chair to make decisions as to whether a hearing goes before an ALJ Panel or the full Commission.

Boyter/McClain
9/0/0 Motion carried.

F. Committee Assignments

Carol McClintock provided the Commission with their committee assignments. A motion was made and seconded to approve the assignments as amended.

Hines/Boyter
9/0/0 Motion carried.

G. Positive Response applications

The Commission would like the staff to know that the same documentation for positive response new applications should be requested for positive response renewal or reinstatement applications. Any criminal issues must show court documents and letter of explanation must be notarized.

H. MOU

Carol McClintock gave an update on this matter.

XIII. ACTIONS ON REVIEWED APPLICATIONS

A. Marla Shockley

A motion was made and seconded to issue license on indefinite probation.

Reed/Cox
7/0/0 Motion carried.

XVI. ADJOURNMENT

There being no further business, and having completed its duties, the meeting of the Indiana Real Estate Commission adjourned at 12:15 p.m.

Carolyn S. McClintock

Carolyn McClintock, Chair