

**INDIANA REAL ESTATE COMMISSION
Indiana Government Center South
402 West Washington St., Room W064
Indianapolis IN 46204**

MINUTES OF JANUARY 17, 2024

Troy Helman, R.B., Chair, called the meeting to order at 9:00 a.m. and declared a quorum in accordance with IC § 25-34.1-2-3(b), pursuant to public notice posted at the principal office for the Board, online at the board's website and on the state calendar at least forty-eight (48) hours before the time of the meeting.

Members Present: Troy Helman, Chair
John De Souza, Member
Beth Walker, Member
Charlie Shook, Member
Brian Thompson, Member
Pamela Lumley, Member
Donna Spears, Member
John Briscoe, Member
Grace Nossett, Consumer Member
Molly Kitchell, Consumer Member

Member(s) Absent: Tracy Hutton, Vice Chair
Cheryl Stuckwich, Member

Staff Present: Jody Edens, Board Director
Professional Licensing Agency
James Green, Assistant Board Director
Professional Licensing Agency
Bradley Repass, Litigation Specialist
Professional Licensing Agency
James Harry, J.D., Deputy Attorney
General, Office of the Attorney General

The Board voted to adopt the agenda.

Kitchell/Thompson, 10/0/0
Motion carries

The following board members voted aye:
Troy Helman, Charlie Shook, Grace Nossett,
John Briscoe, Beth Walker, John De Souza, Pam Lumley,

Brian Thompson, Donna Spears, Molly Kitchell
The following board members objected: none
The following board members abstained: none

The Board voted to adopt the minutes for December 13, 2023, as written.

De Souza/Kitchell, 10/0/0
Motion carries

The following board members voted aye:
Troy Helman, Charlie Shook, Grace Nossett,
John Briscoe, Beth Walker, John De Souza, Pam Lumley,
Brian Thompson, Donna Spears, Molly Kitchell
The following board members objected: none
The following board members abstained: none

PERSONAL APPEARANCES

The following personal appearance(s) did not appear for their scheduled personal appearance and will be continued until the next meeting:

Carter Forsythe, Initial Application – Positive Response

Brandon Perry, Initial Application – Positive Response

Mr. Perry appeared in person and was not represented by counsel regarding the positive response on his initial application.

Mr. Perry has the following arrests:

- 8/1/2020 – OWI with alcohol concentration equivalent to .15 or more, dismissed.
- 10/3/2020 – OWI endangering a person. Entered into a plea agreement and received twelve (12) months court probation.
- 6/12/2022 – criminal misdemeanor – public intoxication, harassing, annoying, alarming def.... Entered into a deferral agreement for six (6) months' probation and must complete six (6) AA meetings. He indicated he has completed the AA meetings and went to outpatient IOT and has been sober for over four hundred (400 day).

After discussion, the Commission moved to APPROVE Mr. Perry's initial application.

Briscoe/Walker, 10/0/0
Motion carries

The following board members voted aye:
Troy Helman, Charlie Shook, Grace Nossett,

John Briscoe, Beth Walker, John De Souza, Pam Lumley,
Brian Thompson, Donna Spears, Molly Kitchell
The following board members objected: none
The following board members abstained: none

Jeffrey Sklar, Initial Application – Positive Response

Mr. Sklar appeared in person and was not represented by counsel regarding the positive response on his initial application.

Mr. Skylar informed the Commission that he is a property manager in Nevada and he neglected to tun in a reconciliation. He didn't send the security deposits certified so he stipulated to this and paid a fine.

He is licensed in twenty-two (22) states and is currently relocating to Northbrook, Illinois and will probably work some in Indiana which is why he is getting a license.

The Commission informed him that he must hold his license for two (2) years in order to be a Managing Broker. Staff informed him that his application is good for 1 year, therefore he has a year in order to get a Managing Broker for himself.

After discussion, the Commission APPROVED Mr. Skylar's initial application.

Kitchell/Spears, 10/0/0
Motion carries

The following board members voted aye:
Troy Helman, Charlie Shook, Grace Nossett,
John Briscoe, Beth Walker, John De Souza, Pam Lumley,
Brian Thompson, Donna Spears, Molly Kitchell
The following board members objected: none
The following board members abstained: none

Elise Townsend, Initial Application – Positive Response

Ms. Townsend appeared in person and was not represented by counsel regarding the positive response on his initial application.

Ms. Townsend relayed the following to the Commission:

- She was qualifying party for her family's General Contractor's business Residential License for Townsend Construction. She was qualifying party from April 27, 2019 to January 25, 2007. At the advise of her team of attorneys and accountants sometime in January 2007 she withdrew \$180,000 from one of her business checking accounts to pay down debts to a lender so they would have the possible option to borrow from during what they thought was going to be a short stall in the housing market. At that time, they had not only Townsend Construction, the mother company who had built and sold over \$70,000,000 worth of homes during 2005, but had an excavation company, a

landscaping company, and a land holding company. At the same time, unbeknownst to her the General Manager of the excavating company wrote and signed checks equaling approximately \$160,000 to eight (8) vendors. The checks written to the vendors were returned as NSF checks.

This took place during a housing recession, and they were unable to recover due to sixty-nine (69) finished houses that were under contract with buyers who were unable to close escrow, their lenders would/could not close. Townsend Companies went into reorganization BK Chapter 11 shortly thereafter, and she was able to put together a comprehensive work out plan that would have resulted in a complete payout to vendors at \$.68 on the dollar, which was voted down by the Creditor's committee. The Market kept getting worse and she had no choice but to then change to a chapter 7. Her intent was never to purposely remove monies from the account to do harm to the vendors, at the time she didn't even know that the general manager had written the checks and she is extremely sorry for the financial harm this caused. On December 9, 2010 she plead guilty to a class 3 Felony, because in the back of her mind she should/could have done more but did not have the financial means to do so. She built all the companies from scratch and worked so hard to keep the highest quality of standard options, true craftsmanship, and honest dealings with all the vendors, buyers and community at the center of the companies.

She plead guilty to class 3 felony theft and was sentenced to three and one-half (3 1/2) years of imprisonment in the Arizona Department of Corrections. She served fifteen and one-half (15 1/2) months in the AZ Department of Corrections.

She has satisfied all court requirements and won her appeal on the case to get out of prison. AZ doesn't have expungement per say, but have "crimes to be set aside, which she filed for and was approved.

Her AZ license is active with managing broker status.

After discussion, the Commission moved to APPROVE Ms. Townsend's initial application.

Walker/Lumley, 10/0/0
Motion carries

The following board members voted aye:
Troy Helman, Charlie Shook, Grace Nossett,
John Briscoe, Beth Walker, John De Souza, Pam Lumley,
Brian Thompson, Donna Spears, Molly Kitchell
The following board members objected: none
The following board members abstained: none

ADMINISTRATIVE HEARINGS

The following administrative hearing(s) were continued:

- **Dustin Southwood, License No. RB19000217, Cause No. 2023 IREC 0046, Petition to Withdraw Probation**
- **Michael Henderson, Unlicensed, Cause No. 2023 IREC 0025, Motion to Cease**

- **and Desist**
• **Anna Long, Unlicensed, Cause No. 2023 IREC 0026, Motion to Cease and Desist.**

Anthony Fesi, Jr., License No. RB14039211, Cause No. 2023 IREC 0044

Respondent appeared and was not represented by counsel regarding a Petition to Withdraw Probation scheduled before the Commission. The State of Indiana was not represented, and the court reporter sworn in for this matter was Margie Addington, with Accurate Reporting Services.

Mr. Fesi's license was placed on indefinite probation on November 3, 2023, by the Commission from a positive response on his license renewal.

Respondents Exhibit:

1 – copy of court document

After having considered the evidence presented, and taking official, judicial notice of the pleadings, evidence, and orders in this matter the Board moved to WITHDRAW the Order of Probation from the Respondent's license.

Briscoe/Walker, 10/0/0
Motion carries

The following board members voted aye:
Troy Helman, Charlie Shook, Grace Nossett,
John Briscoe, Beth Walker, John De Souza, Pam Lumley,
Brian Thompson, Donna Spears, Molly Kitchell
The following board members objected: none
The following board members abstained: none

Tatyana Crismore, License No. RB14033455, Cause No. 2023 IREC 0024

Respondent did not appear and was not represented by counsel regarding an Administrative Hearing scheduled before the Commission. The State of Indiana was represented by Alex James, Deputy Attorney General, and the court reporter sworn in for this matter was Margie Addington, with Accurate Reporting Services.

Mr. James informed the Board that he and the Respondent had a settlement conference without a Commission member, which was just filed.

The settlement agreement included a LETTER OF REPRIMAND.

After reviewing the settlement agreement, and taking official, judicial notice of the pleadings, evidence, and orders in this matter the Board moved to APPROVE the SETTLEMENT AGREEMENT.

Briscoe/Spears, 10/0/0
Motion carries

The following board members voted aye:
Troy Helman, Charlie Shook, Grace Nossett,
John Briscoe, Beth Walker, John De Souza, Pam Lumley,
Brian Thompson, Donna Spears, Molly Kitchell
The following board members objected: none
The following board members abstained: none

Stephen Schwering, License No. RB14024654, Cause No. 2023 IREC 0011

Respondent appeared and was not represented by counsel regarding an Administrative Hearing scheduled before the Commission. The State of Indiana was represented by Kelsey McNight, Deputy Attorney General, and the court reporter sworn in for this matter was Margie Addington, with Accurate Reporting Services.

Respondent requested time to obtain counsel for this matter. Ms. McNight indicated that she does not object to a continuance in this matter.

After discussion, and taking official, judicial notice of the pleadings, evidence, and orders in this matter the Commission moved to APPROVE the CONTINUANCE for the Respondent to obtain counsel. The Commission reset this matter for the March 2024 meeting letting the Respondent know that it will not be continued again.

Kitchell/Lumley, 10/0/0
Motion carries

The following board members voted aye:
Troy Helman, Charlie Shook, Grace Nossett,
John Briscoe, Beth Walker, John De Souza, Pam Lumley,
Brian Thompson, Donna Spears, Molly Kitchell
The following board members objected: none
The following board members abstained: none

Jacqueline Barnett, License No. RB14047767, Cause No. 2023 IREC 0022

Respondent appeared and was represented by counsel, Andrea Zelikovic regarding an Administrative Hearing scheduled before the Commission. The State of Indiana was represented by Alex James, Deputy Attorney General, and the court reporter sworn in for this matter was Margie Addington, with Accurate Reporting Services.

Let the record reflect that Pam Lumley recused herself from this matter and left the room.

Natalie Christy, Investigator with the AG's Office was sworn in as a witness.

Ms. Christy informed the Commission that she did the investigation on this matter as part

of her duties with the AG's office. Respondent was convicted of one (1) count of forgery, a level 6 Felony.

Ms. Zelikovic explained that this is the third (3rd) time the Respondent has appeared before the Commission for this same issue. She had a personal appearance on May 18, 2022, and one on August 9, 2023 and today is the third appearance.

She also informed the Commission that the Respondent has been a Broker since 2014 and this incident happened five (5) years ago.

Respondent paid restitution right after it happened. It has destroyed her relationship with her Niece. She sincerely apologized to the Commission.

MYBOR issued a letter of reprimand, required her to do a 30hour post license course within twelve (12) months and issued a ten thousand (\$10,000) Fine. MYBOR suspended her for thirty (30) days.

She is a Managing Broker for herself, she is not listed under anyone else.

States Exhibits:

A – Complaint

B – 2nd Complaint

C – Court Documents – with probably cause affidavit taken out

Respondents Exhibits:

1 = Letter from Attorney

2 – Court Documents

3 – Court Documents

The Commission reviewed all four (4) counts individually that were filed against Jacqueline Barnett and found the following:

Count 1: After discussion, the Commission found the Respondent was in violation of Count 1.

Kitchell/Stuckwich, 10/0/0
Motion carries

Count 2: After discussion, the Commission found the Respondent was in violation of Count 2. Shook/Thompson, no vote, motion and second were both withdrawn.

Count 2: After discussion, the Commission found the Respondent was **not** in violation of Count 2.

De Souza/Shook, 10/0/0
Motion carries

Count 2: After discussion, the Commission found the Respondent was in violation of Count 3.

Kitchell/Thompson, 10/0/0
Motion carries

Count 4: After discussion, the Commission found the Respondent was in violation of Count 4.

Kitchell/Thompson, 10/0/0
Motion carries

After having considered the evidence presented, testimony of the witness, and taking official, judicial notice of the pleadings, evidence, and orders in this matter the Commission moved to issue NO SANCTIONS but required the \$5.00 public access fee and costs of the proceedings.

Shook/De Souza, 10/0/0
Motion carries

The following board members voted aye:
Troy Helman, Charlie Shook, Grace Nossett,
John Briscoe, Beth Walker, John De Souza, Pam Lumley,
Brian Thompson, Donna Spears, Molly Kitchell
The following board members objected: none
The following board members abstained: none

Stephen Middleton, License No. RB14032325, Cause No. 2023 IREC 0058

Respondent appeared in person and was not represented by counsel regarding an APPEAL OF DENIAL OF RENEWAL scheduled before the Commission. The State of Indiana was not represented in this matter, and the court reporter sworn in for this matter was Margie Addington, with Accurate Reporting Services.

Mr. Middleton submitted documentation showing that his court probation ended on May 12, 2023. He was not able to make his previous personal appearance due to a major dental procedure that was the same day.

Respondents Exhibits:

- 1 – CE document & Fairbanks report
- 2 – Court Document

After having considered the evidence presented, and taking official, judicial notice of the pleadings, evidence, and orders in this matter the Commission moved to RENEW the Respondent's license.

Briscoe/Kitchell, 10/0/0

Motion carries

The following board members voted aye:
Troy Helman, Charlie Shook, Grace Nossett,
John Briscoe, Beth Walker, John De Souza, Pam Lumley,
Brian Thompson, Donna Spears, Molly Kitchell
The following board members objected: none
The following board members abstained: none

REAL ESTATE EDUCATION ADVISORY COUNCIL REPORT

CONTINUING EDUCATION

The REEAC met on January 16, 2024, and issued the following recommendations to the Commission:

The education council met at 3:30 p.m. and reviewed the following applications.

In attendance from 3:30 p.m. to 3:58 p.m.: Kathy Harbaugh, Rick Ogden, Jim Bitner, Cheryl Butcher, and Tim Reed

1. Upstate Alliance of Realtors, CE10600435 – Significant Change Form

- a. Fair Housing and Civil Rights Laws – 3 hours Broker
- b. Do You Believe My Agents are having Trouble with their Real Estate Transactions? – 4 hours Managing Broker
- c. What is a 1031 Tax Exchange? – 2 hours Broker

**The Committee recommended to APPROVE a, b, and c.
Reed/Butcher, 5/0/0 motion carries**

2. New DayRealty Training / New Day Realty LLC, CE21800093 – Significant Change Form

- a. REAL Pros License Law – Indiana Agency Relationships & Contracts – 4 hours Managing Broker & Broker
- b. REALTOR Code of Ethics – Cycle 7 – 4 hours Broker

**The Committee recommended to APPROVE a, and b.
Ogden/Bitner, 5/0/0 motion carries**

3. Real Estate Certificate Program (RECP), CE10600303 – Significant Change Form

- a. Appraisal Fundamentals (Asynchronous & Synchronous) – 2 hours Broker

**The Committee recommended to APPROVE a.
Butcher/Ogden, 5/0/0 motion carries**

4. McKissock, CE10600460 / CE10500067 – Significant Change Form – email explanation

- a. Cybersecurity: Protecting the Real Estate Transaction – 3 hours

- b. OC: Cybersecurity: Protecting the Real Estate Transaction - 3 hours
- c. Property Condition Discovery and Disclosure Compliance – 3 hours
- d. OC: Property Condition Discovery and Disclosure Compliance – 3 hours
- e. Workforce Housing: Solutions for Homes and Financing – 4 hours
- f. OC: Workforce Housing: Solutions for Homes and Financing - 4 hours

The Committee recommended to APPROVE a, b, c, d, e, and f.

Butcher/Ogden, 5/0/0 motion carries

5. Lighthouse School Real Estate, CE22200018 – Significant Change Form

- a. Representing Byers Clients – 2 hours Broker
- b. Indiana License Law – 4 hours Managing Broker & Broker
- c. Managing the Real Estate Transaction – 6 hours Managing Broker & Broker

The Committee recommended to TABLE a, b, and c for additional information.

Ogden/Butcher, 5/0/0 motion carries

6. Carpenter Realtors, CE21200006 – Significant Change Form

- a. Buyer Agency – Live/Zoom – 2 hours Broker
- b. Working with Builders – Live/Zoom/Online – 3 hours Broker
- c. Cyber Security – Live/Zoom/Online – 2 hours Broker

The Committee recommended to APPROVE a, b, and c.

Bitner/Ogden, 5/0/0 motion carries

7. Cressy & Everett Real Estate, CE20900914 – Significant Change Form

- a. All About the Money – 2 hours Broker

The Committee recommended to APPROVE a.

Reed/Bitner, 5/0/0 motion carries

8. PDH Academy, SC41700008 – Significant Change Form

- a. Sara Glassmeyer, New Director

The Committee recommended to TABLE for additional information.

Reed/Butcher, 5/0/0 motion carries

The Real Estate Advisory Education Council would like to express our stance on the inclusion of correspondence Continuing Education (CE) in the current real estate commission rules.

In today's dynamic learning landscape, we believe that there are now more accessible and effective alternatives to correspondence CE. The advent of online education platforms and the availability of in-classroom options provide licensees with a diverse range of opportunities to fulfill their CE requirements. These modern methods offer interactive and engaging learning experiences that correspondence courses may lack.

Furthermore, online, and in-classroom CE options allow for real-time interaction, discussions, and practical applications, fostering a more comprehensive understanding of the subject matter. This not only enhances the quality of education but also ensures that licensees stay abreast of industry developments and best practices. Today, correspondence only requires a test with 75% passing rate and often the same test is used year after year.

The elimination of correspondence CE from the real estate commission rules aligns with our commitment to promoting a high standard of professional development within the real estate community. By encouraging licensees to explore more interactive and diverse learning methods, we contribute to a better-prepared and more knowledgeable workforce.

We appreciate you considering our perspective on this matter and look forward to a continued dialogue to enhance the educational landscape for real estate professionals.

DISCUSSION

CE Audit:

Ms. Edens explained that at the last meeting it was agreed that a 5% audit will be completed for the 6/30/23 renewals.

There being no further business, the Board ADJOURNED at 12:45 p. m.

Troy Helman, Chair