

**INDIANA REAL ESTATE COMMISSION  
WEDNESDAY, DECEMBER 16, 2020  
8:00 a.m.**

**\*TO BE HELD THROUGH WEBEX\***

**TO JOIN, CALL: (240) 454-0887**

**MEETING CODE: 610915440 OR**

<https://IndianaEnhanced.Webex.com/join/PLAWebex>

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

Chairperson, Sahara Williams called the virtual meeting to order at 8:02 a.m. and declared a quorum in accordance with Ind. Code § 25-34.1-2-3(b).

**Commission Members Present: Roll Call**

Paul Boyter  
Charles (Charlie) W. Shook  
Doug Rose  
Sahara Williams, Chairperson  
John De Souza  
Donna Spears  
James Litten, Vice Chair  
Molly Kitchell  
John Briscoe  
Pam Lumley

**Commission Members Absent:**

None

**State Officials Present:**

Amy Hall, Director, Indiana Professional Licensing Agency  
Chris Shea-Russell, Indiana Professional Licensing Agency  
Erin Sutton, Compliance Officer, Indiana Professional Licensing Agency  
James Harry, Commission Advisory Council, Office of the Attorney General

**Court Reporter:**

Heather Orbaugh, Accurate Reporting of Indiana

**II. ADOPTION OF THE AGENDA**

**Donna Spears made a motion and Pam Lumley made a motion to adopt the agenda**

**Roll Call Vote** - The following Commission Members Voted    “Aye”    “Nay”

Paul Boyter	✓
Charles (Charlie) W. Shook	✓
Doug Rose	✓
John Briscoe	✓
John De Souza	✓
Donna Spears	✓
Sahara Williams	✓
Pam Lumley	✓
James Litten	✓
Molly Kitchell	✓

**III. APPROVAL OF THE MINUTES OF THE NOVEMBER 18, 2020 MEETING**

A motion was made by Pam Lumley and was seconded by Jim Litten to approve the minutes for the November 18, 2020 meeting.

Lumley/Litten  
10/0

**Roll Call Vote - The following Commission Members Voted      “Aye”      “Nay”**

Paul Boyter	✓
Charles (Charlie) W. Shook	✓
Doug Rose	✓
John Briscoe	✓
John De Souza	✓
Donna Spears	✓
Sahara Williams	✓
Pam Lumley	✓
James Litten	✓
Molly Kitchell	✓

**IV. ADMINISTRATIVE HEARINGS**

**1. IN THE MATTER OF THE LICENSE OF: BRENT PARKS  
2020IREC0006  
RE: Proposed Settlement Agreement**

**Charlie Shook recused himself from the matter.**

**A motion was made by Jim Litten and seconded by John Briscoe to approve the proposed settlement agreement.**

Jim Litten/John Briscoe  
9/0/1

**Roll Call Vote** - The following Commission Members Voted      “Aye”      “Nay”

Paul Boyter	✓
Charles (Charlie) W. Shook    RECUSED	
Doug Rose	✓
John Briscoe	✓
John De Souza	✓
Donna Spears	✓
Sahara Williams	✓
Pam Lumley	✓
James Litten	✓
Molly Kitchell	✓

**2. IN THE MATTER OF THE LICENSE OF: PATRICIA  
HODGES  
2020IREC0019  
RE: Proposed Settlement Agreement**

**A motion was made by Paul Boyter and seconded by Jim Litten to approve the proposed settlement agreement.**

Paul Boyter/Jim Litten  
10/0

**Roll Call Vote** - The following Commission Members Voted      “Aye”      “Nay”

Paul Boyter	✓
Charles (Charlie) W. Shook	✓
Doug Rose	✓
John Briscoe	✓
John De Souza	✓
Donna Spears	✓
Sahara Williams	✓
Pam Lumley	✓
James Litten	✓
Molly Kitchell	✓

**3. IN THE MATTER OF THE LICENSE OF KARIN  
HAMILTON:  
2020IREC0008  
RE: Proposed Settlement Agreement**

**Doug Rose recused himself.**

**A motion was made by John Briscoe and seconded by John DeSouza to approve the proposed settlement agreement.**

John Briscoe/John DeSouza  
9/0/1

<b>Roll Call Vote</b> - The following Commission Members Voted	<b>“Aye”</b>	<b>“Nay”</b>
Paul Boyter	✓	
Charles (Charlie) W. Shook	✓	
Doug Rose <b>RECUSED</b>		
John Briscoe	✓	
John De Souza	✓	
Donna Spears	✓	
Sahara Williams	✓	
Pam Lumley	✓	
James Litten	✓	
Molly Kitchell	✓	

**4. IN THE MATTER OF THE LICENSE OF: MELISSA        8:21 a.m.**  
**MCCLENDON**  
**2018IREC0013**  
**RE: Summary Suspension & Default Hearing**

**Melissa McClendon did not appear nor was she represented by counsel.**

**A motion was made by Charles Shook and seconded by Paul Boyter to find Melissa McClendon in default.**

Charles Shook/Paul Boyter  
10/0

<b>Roll Call Vote</b> - The following Commission Members Voted	<b>“Aye”</b>	<b>“Nay”</b>
Paul Boyter	✓	
Charles (Charlie) W. Shook	✓	
Doug Rose	✓	
John Briscoe	✓	
John De Souza	✓	
Donna Spears	✓	
Sahara Williams	✓	

Pam Lumley	✓
James Litten	✓
Molly Kitchell	✓

**A motion was made by Paul Boyter and seconded by Molly Kitchell to find Melissa McClendon in violation of counts 1 – 5, to revoke her license, and to order Melissa McClendon to pay restitution to the victims in the amount of \$18,500.00, distributed as indicated by the State’s proposed order, and to pay the Health Records Fee in the amount of \$5.00.**

Paul Boyter/Molly Kitchell  
10/0

**Roll Call Vote** - The following Commission Members Voted      “Aye”      “Nay”

Paul Boyter	✓	
Charles (Charlie) W. Shook	✓	
Doug Rose	✓	
John Briscoe	✓	
John De Souza	✓	
Donna Spears	✓	
Sahara Williams	✓	
Pam Lumley	✓	
James Litten	✓	
Molly Kitchell	✓	

**5. IN THE MATTER OF THE LICENSE OF EVERETT  
POWELL  
2018IREC0009 \*Continued\*  
RE: Order to Show Cause**

**VI. PERSONAL APPEARANCES**

**1. Sam Hudson – Positive Response Application**

**Sam Hudson appeared virtually with his attorney John Kolas, before the board to discuss the positive response on his application.**

**A motion was made by Charles Shook and seconded by John Briscoe to issue a license on probation, to run concurrent with his criminal probation subject to the Commission’s confirmation that Mr. Hudson’s application was timely and without error. Mr. Hudson must submit documentation pertaining to the submission of his full and timely application prior to issuance of his license on probationary status.**

Charles Shook/John Briscoe  
10/0

**Roll Call Vote** - The following Commission Members Voted      “Aye”      “Nay”

Paul Boyter	✓
Charles (Charlie) W. Shook	✓
Doug Rose	✓
John Briscoe	✓
John De Souza	✓
Donna Spears	✓
Sahara Williams	✓
Pam Lumley	✓
James Litten	✓
Molly Kitchell	✓

**Commissioner Doug Rose was assigned to review the documentation. Doug Rose will review with Amy Hall once correspondence has been received.**

**2. Brian Raub – Positive Response Application**

**Brian Raub appeared virtually before the board to discuss the positive response on his application.**

**A motion was made by John Briscoe and seconded by Pam Lumley to issue his license on probation to run concurrent with his criminal probation.**

John Briscoe/Pam Lumley  
10/0

**Roll Call Vote** - The following Commission Members Voted      “Aye”      “Nay”

Paul Boyter	✓
Charles (Charlie) W. Shook	✓
Doug Rose	✓
John Briscoe	✓
John De Souza	✓
Donna Spears	✓

Sahara Williams	✓
Pam Lumley	✓
James Litten	✓
Molly Kitchell	✓

**3. Kerenza Hernandez – Positive Response Application**

**Kerenza Hernandez appeared virtually before the board to discuss the positive response on her application.**

**A motion was made by Pam Lumley and seconded by Donna Spears to issue her license on probation to run concurrent with her criminal probation.**

Pam Lumley/Donna Spears  
10/0

**Roll Call Vote - The following Commission Members Voted**      “Aye”      “Nay”

Paul Boyter	✓
Charles (Charlie) W. Shook	✓
Doug Rose	✓
John Briscoe	✓
John De Souza	✓
Donna Spears	✓
Sahara Williams	✓
Pam Lumley	✓
James Litten	✓
Molly Kitchell	✓

**4. Cynthia Reyes – Positive Response Application –**

**Cynthia Reyes appeared virtually before the board to discuss the positive response on her application.**

**A motion was made by Charles Shook and seconded by Pam Lumley to issue her license on probation to run concurrent with her criminal probation.**

Charles Shook/Pam Lumley  
10/0

**Roll Call Vote - The following Commission Members Voted**      “Aye”      “Nay”

Paul Boyter	✓
Charles (Charlie) W. Shook	✓
Doug Rose	✓

John Briscoe	✓
John De Souza	✓
Donna Spears	✓
Sahara Williams	✓
Pam Lumley	✓
James Litten	✓
Molly Kitchell	✓

**VII. ALJ DELIBERATIONS**

**1. IN THE MATTER OF THE LICENSE OF: JAMES TALHELM  
2020IREC0012  
RE: ALJ Recommendation**

**A motion was made by Jim Litten and seconded by Donna Spears to affirm the recommendation of the ALJ panel.**

Jim Litten/Donna Spears  
10/0

**Roll Call Vote - The following Commission Members Voted**      “Aye”      “Nay”

Paul Boyter	✓
Charles (Charlie) W. Shook	✓
Doug Rose	✓
John Briscoe	✓
John De Souza	✓
Donna Spears	✓
Sahara Williams	✓
Pam Lumley	✓
James Litten	✓
Molly Kitchell	✓

**VIII. CE WAIVERS**

**1. John Pasyanos- Renewal CE Waiver Request**

**John Pasyanos did not appear before the board.**

**A motion was made by John Briscoe and seconded by Molly Kitchell to deny the request of a CE Waiver of John Pasyanos.**

Paul Boyter/Molly Kitchell



**Roll Call Vote - The following Commission Members Voted**      “Aye”      “Nay”

Paul Boyter	✓
Charles (Charlie) W. Shook	✓
Doug Rose	✓
John Briscoe	✓
John De Souza	✓
Donna Spears	✓
Sahara Williams	✓
Pam Lumley	✓
James Litten	✓
Molly Kitchell	✓

**IX.      OLD / NEW BUSINESS**

**1. Alon Schwartz- PSI**

**Alon Schwartz appeared before the board virtually. He discussed the test centers and the remote proctoring which launched on December 2, 2020. Alon shared a power point presentation with the Commission. He stated that more and more people are taking the exam remotely with the longevity of the remote set up. The call center is open seven days a week.**

**Paul Boyter shared some of the personal experiences of candidates related to the PSI exam including scheduling and traveling issues. Candidates expressed that there were problems logging in on multiple attempts. Alon Schwartz responded to Paul Boyter by touching on the complexity of remote testing and stating that the candidate population is gaining accessibility but losing some control over the exam. Schwartz said that there could be a myriad of challenges taking the exam remotely. Schwartz also shared that the first time pass rate was roughly 57% in 2019.**

**John DeSouza requested to know the pass rate of remote versus in-person testing at a center. Mr. Schwartz stated historically that the pass rates are relatively balanced between the two testing methods.**

**Schwartz stated that it is highly suggested that the exam candidates do a system accountability check prior to pursuing the exam remotely. There are at least three documented cases of issues with signing up at the Mishawaka exam sight, these incidences occurred in November according to John DeSouza.**

Commissioners expressed that the long wait times on the customer support line have been less than ideal and that there is a lot of frustration with the customer service aspect of PSI. Alon Schwartz did state that most calls received on their customer service lines are monitored and timed. The average customer service related call is less than three minutes according to Schwartz. PSI will look into the customer service complaints.

**2. Temporary Administrative Law Judge Panel**

Sahara Williams shared that several changes needed to be made due to the backlog of cases with the Commission. The backlog is coming from the parties with last minute continuances or settlement agreements. It creates a huge backlog. To address the issue of the backlogged cases, Williams made three requests of the Commission.

First, she requested that the ALJ Panel start holding its hearings on a separate day from the main IREC commission meetings and that those ALJ hearings run the full day. This will likely start in February. It is a bigger time commitment from the staff and commissioners that serve on the ALJ panel.

. Second, Williams said that the IREC will start requesting a two week advance notice for any continuance requests from either party for scheduling purposes. This will hopefully reduce the backlog of cases by allowing IREC staff to move other hearings into the slots vacated by the continued hearings. Leif Johnson did speak up to request that the Commission set up automatic motions to set settlement conferences. Johnson stated that the Commission's prior counsel, Jim Schmidt, rejected this process in the past. Johnson indicated that he would work with current IREC counsel, James Harry, to see if that process is feasible going forward. Mr. Johnson stated there was a delay in the hearing notices being sent out in the past. Sahara Williams expressed that the Commission should create ways for cases to be moved along more efficiently. James Harry will work on language to be drafted and approved by PLA, to eliminate roadblocks without effecting due process. Harry expressed that each continuance is a case by case analysis.

Finally, Williams expressed the need for a second temporary ALJ Panel. A second temporary ALJ panel will hold hearings for a full day in February and possibly in March to try and eliminate the backlog that has occurred. Donna Spears has been asked to serve on the temporary panel

**with John Briscoe and Pam Lumley.**

**A motion was made by Paul Boyter and seconded by Charles Shook to affirm the recommendation adding a temporary ALJ panel consisting of Donna Spears, John Briscoe and Pam Lumley.**

Paul Boyter/Charles Shook  
10/0

**Roll Call Vote - The following Commission Members Voted**      “Aye”      “Nay”

Paul Boyter	✓
Charles (Charlie) W. Shook	✓
Doug Rose	✓
John Briscoe	✓
John De Souza	✓
Donna Spears	✓
Sahara Williams	✓
Pam Lumley	✓
James Litten	✓
Molly Kitchell	✓

**3. Report From The Office Of The Attorney General**

**Leif Johnson provided a report from the Office of Attorney General. There are currently 126 open litigation files and 390 open consumer complaints. There has been a 42% increase in the number of complaints received this year.**

**A motion was made by Donna Spears and seconded by Molly Kitchell to approve the report from the OAG.**

Donna Spears/Molly Kitchell  
10/0

**Roll Call Vote - The following Commission Members Voted**      “Aye”      “Nay”

Paul Boyter	✓
Charles (Charlie) W. Shook	✓
Doug Rose	✓
John Briscoe	✓
John De Souza	✓
Donna Spears	✓
Sahara Williams	✓
Pam Lumley	✓
James Litten	✓

Molly Kitchell

✓

**4. Real Estate Education Advisory Council Report**

**A motion was made by Paul Boyter and seconded by Donna Spears to approve the recommendation from The Real Estate Education Advisory Council.**

Paul Boyter/Donna Spears  
10/0

**Roll Call Vote - The following Commission Members Voted**      “Aye”      “Nay”

Paul Boyter	✓	
Charles (Charlie) W. Shook	✓	
Doug Rose	✓	
John Briscoe	✓	
John De Souza	✓	
Donna Spears	✓	
Sahara Williams	✓	
Pam Lumley	✓	
James Litten	✓	
Molly Kitchell	✓	

**X. SUBCOMMITTEE REPORTS**

**1. Kentucky Reciprocity Agreement**

**Pam Lumley & John Briscoe**

**Kentucky had a new restructure with their commission and they are very eager to create a good relationship. There are a few things that need to be researched and a deeper dive taken. Anne Johnson did speak up about the three substantial items that were discussed. Anne Johnson stated the following items:**

**This time last year, Kentucky eliminated all agreements. There was a staff overhaul in Kentucky so this started a new agreement being requested. There was contact with Deanna Alexander about a new agreement. The 40 hour law requirement could be struck as well as the sales associate license needed to be eliminated. Kentucky’s sales associate license is equivalent to the broker license here. These folks are required to take the managing broker hours in order to be a managing broker.**

**2. Property Management Licensing – Jim Litten**

**Jim Litten stated the following inquired about brokerage business relationship with property managers and the umbrella business of both under one umbrella.**

**James Harry will review the legalities of this and get with other deputy attorneys general to get their perspective as well, since it is such a grey area.**

**A subcommittee was requested and formed pertaining to property management licensing. Molly Kitchell, Doug Rose, and Jim Litten and were selected to be on the property management licensing committee. They will work with James Harry on this.**

**XI. ADJOURNMENT 12:13 p.m.**