

INDIANA REAL ESTATE COMMISSION

WEDNESDAY, JANUARY 13, 2021

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>

I. CALL TO ORDER & ESTABLISHMENT OF QUORUM

Chairperson, Sahara Williams called the virtual meeting to order at 8:03 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

Sahara Williams made a motion and was seconded by Molly Kitchell to the motion to adopt the amended agenda. The proposed settlement agreements were moved to ALJ recommendations since a hearing notices are not sent for the proposed settlement agreements. Moving forward the commission chair requests that the proposed settlement agreements be

moved to final orders of the of the agenda. Charile Shook was in agreement. A Petition for Reinstatement should be moved of the personal appearance portion of the agenda, per Sahara Williams. Sahara Williams proceeded to state that the Attinger case could be continued due to a huge amount of confusion within communication. Sahara Williams noted there was much confusion over the last few days, with concerns of the respondent(Attinger) receiving notice in the correct and timely manner. Mr. Attinger appeared virtually and was present for a default hearing which was continued and be held at a future ALJ. Reisntatements, dismissals and three proposed settlement orders need to be moved to moved out of the Administrative Hearings to other parts of the agendas moving forward.

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 DECEMBER 16, 2020 MEETING

A motion was made by John Briscoe and was seconded by Pam Lunley to approve the minutes for the December 16, 2020 meeting.

Briscoe/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	✓

IV. ADMINISTRATIVE HEARINGS

**1. Everett Powell – Cause No: 2018 IREC 0009 8:32
Order to Show Cause**

Doug Rose recused himself from the matter.

Everett Powell appeared electronically before the board for the Order to Show Cause. The recommendation of the office of the attorney general was revocation.

Paul Briscoe made a motion to extend the suspension for one year, with the one year beginning September 26, 2020 and ending on September 26, 2021. Pam Lumley seconded the motion. He may petition the commission to reinstate his license after September 26, 2021.

(Sahara Williams stated she would not support this motion)

Paul Boyter/Pam Lumley
8/1

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	Nay X
Pam Lumley	✓
James Litten	✓
Molly Kitchell	✓

2. Robert Attinger and Robert Attinger Real Estate LLC – Cause No: 2020 IREC 0010

Default Hearing

Robert Attinger appeared before the commission via electronic means. He did submit a written response in lieu of the proposed default order. The hearings have been continued due to lack of information being provided to the Office of the Attorney General.

Motion made by Molly Kitchell and seconded by Donna Spears to continue.

Kitchell and 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	✓	

VI. PERSONAL APPEARANCES

1. Kevin Price – Positive Response Application

Kevin Price appeared virtually before the board to discuss the positive response on his application.

A motion was made by John Briscoe and seconded by Jime Litten to issue a license.

John Briscoe/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	✓	

2. Christina Owen – Positive Response Application

Christina Owen appeared virtually before the board to discuss the positive response on her application.

A motion was made by Charlie Shook and seconded by Pam Lumley to issue her license on active status.

Charlie 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	✓

3. Jeffrey Allen – Positive Response Application

Jeffrey Allen appeared virtually before the board to discuss the positive response on his application.

A motion was made by Charlie Shook and seconded by Pam Lumley to issue Jeffrey Allen and active license..

Charlie 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	✓

4. Trent Dodson – Positive Response Application

Trent Dodson appeared virtually before the board to discuss the positive response on his application.

A motion was made by Pam Lumley and seconded by Charles Shook to issue Mr. Dodson and active license.

Pam Lumley/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	✓

5. Eloise Blackmon – Previous License Revocation

Eloise Blackmon appeared virtually before the board to discuss her previous revocation and the steps needed to petition to become licensed again. She was told she would need to start fresh and retake the exams and complete all licensing requirements. She then would have to make an appearance before the board pertaining to her application for a new license.

6. David Rump – Previous License Revocation

David Rump appeared virtually before the board to discuss his previous revocation and the steps needed to petition to become licensed again. He discussed his situation and was asked about paying restitution to the person who was affected by him. He would like to pay restitution but is not sure how to proceed. He can get guidance from the Office of the Attorney General to pay restitution. He was told he would need to start fresh and retake the exams and complete all licensing requirements. He would then would have to make an appearance before the board pertaining to his application for a new license.

VII. ALJ DELIBERATIONS AND RECOMMENDATIONS AND FINAL ORDERS

1. IN THE MATTER OF THE LICENSE OF: Christopher Cathey – Cause No:2020 IREC 0013

RE: ALJ Recommendation

A motion was made by Jim Litten and seconded by Molly Kitchell to affirm the recommendation of the ALJ panel.

Jim Litten/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	✓	

1. Anthony O’Neil – Cause No: 2020 IREC 0044

Proposed Settlement Agreement

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

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	✓	

2. Jacqueline Roelke – Cause No: 2020 IREC 0037

Proposed Settlement Agreement

A motion was made by Paul Boyter and seconded by John Briscoe to approve the proposed settlement.

Paul Boyter/John Briscoe
9/1

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	nay	X
Pam Lumley		✓
James Litten		✓
Molly Kitchell		✓

3. M.R. Shallenberger Realty & Keith Shallenberger – Cause No: 2019 IREC 0007

Proposed Settlement Agreement

A motion was made by John Briscoe and seconded by Paul Boyter to approve the proposed settlement.

John Briscoe/Paul Boyter
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. Caleb Crandall – Cause No: 2019 IREC 0037

Proposed Settlement Agreement

A motion was made by Paul Boyter and seconded by John DeSouza to approve the proposed settlement.

Paul Boyter/John Desouza

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. Dymacore Inc & Mark Jones – Cause No: 2020 IREC 0038

Motion to Dismiss

A motion was made by Paul Boyter and seconded by Jim Litten to approve the motion to dismiss.

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	✓

6. Derek Gutting – Cause No: 2019 IREC 0025

Motion to Dismiss

A motion was made by Jim Litten and seconded by John Briscoe to approve the dismissal.

Jim Litten/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	✓

VIII. CE WAIVERS

NONE

IX. OLD / NEW BUSINESS

1. Temporary Administrative Law Judge Panel

Meeting dates have been scheduled.

2. Report From The Office Of The Attorney General

Kiely Keesler provided a report from the Office of Attorney General. There are currently 95 open litigation files and 364 open consumer complaints under investigation. The open litigation files are over 13 months old, but that number should decrease with the ALJ panels.

3. Real Estate Education Advisory Council Report

Two applications were tabled at their meeting, with a request of more information on both. There have been a couple of schools reaching out for Zoom Online Classes and Live Online Classes. Once the Executive Order ends allowing Live Online Classes, how should the education classes proceed once the Order expires. James Harry stated there is no indication that this will happen soon, but for the Commission to be prepared and discuss this moving forward.

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

The agreement is under review by James Harry and IPLA, with focus on the language. Conversations with IPLA legal’s department and James Harry are ongoing. John Briscoe doesn’t feel this should be a complicated agreement and wants to expedite reciprocal agreement with Kentucky. Pam Lumley also stated that there seems to be confusion between previous decisions and current decisions that are being made. Doug Rose wanted to know the impediments of executing this reciprocal agreement. There is a question of authority pertaining to the previous agreements. James Harry stated that the Commission should be in uniformity with IPLA. The Commission feels this is impeding commerce between states. Anne Johnson requested that minutes be reviewed to see how the reciprocal agreement with Illinois came to fruition. Sahara Williams mentioned there should be notes pertaining to that sub committee and who helped implement the agreement with Illinois. It was also suggested that Deanna Alexander be contacted to see who may have been involved with that subcommittee. Nick Rhoad could be reached to help out with this reciprocity agreement as well.

The subcommittee will circle back around and determine how to proceed.

2. Property Management Licensing – Jim Litten

Molly Kitchell, Doug Rose, and Jim Litten

It was determined that there are a lot of agent who have their license with a brokerage company and then open a side company for property management. There appears to be much confusion as to what is correct. Clarification is needed regarding property management. James Harry stated that the Commission speaks through it's orders, determinations and rules. If there needs to be further clarification that a request of an Opinion of the Proper Legal Determination from the advisory division of the Office of the Attorney General could be done. They wish to engage the Indiana Association of Realtors involved for clarification and delivery of this to licensees. The committee is trying to provide the correct information as to what the law states. The awareness needs to be made to all licensees to educate licensees to the laws.

3. PSI

Pam Lumley mentioned more issues with PSI. There have been multiple long wait times with customer service as well as some instances of people being kicked out of the online exam. The online proctoring has provided a positive, noticeable addition. The Commission suggests to keep the pressure on PSI. Sahara Williams stated she will copy Deborah Frye on emails to Alon Schwartz on any exam issues that are occurring with PSI.

XI. ADJOURNMENT 2:05 p.m.