

BEFORE THE IOWA REAL ESTATE COMMISSION FILED
200 EAST GRAND, SUITE 350
DES MOINES, IOWA 50309

October 2, 2014 (Date)

JRS
Board / Commission

[Redacted Signature]
Signature, Executive Officer

IN RE:)	
)	CASE NUMBER: 09-259
Sharon L. Albers)	
Broker (B20236000))	COMBINED STATEMENT OF
)	CHARGES, INFORMAL
Triad Realty)	SETTLEMENT AGREEMENT,
700 Buddy Holly Place)	AND CONSENT ORDER IN A
Clear Lake, IA 50428)	DISCIPLINARY CASE
)	
Respondent.)	

The Iowa Real Estate Commission (Commission) and Sharon L. Albers (Respondent) enter into this Combined Statement of Charges, Informal Settlement Agreement, and Consent Order in a Disciplinary Case (Order) pursuant to Iowa Code Sections 17A.10(1) and 272C.3(4).

1. The Commission issued the Respondent real estate broker license number B20236000 on December 30, 1985. Respondent's license is in full force and effect until December 31, 2014. At all times relevant to this matter, the Respondent was a licensed real estate broker associate, assigned to Dorian D. Goll, a licensed real estate broker sole proprietor, license number B19351000, located in Clear Lake, Iowa.

2. The Commission has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 543B. Licenses issued by the Commission are subject to the laws of the State of Iowa and to the administrative rules of the Commission.

STATEMENT OF CHARGES

COUNT I

3. The Respondent is charged with engaging in a practice harmful or detrimental to the public, failing to provide brokerage services to all parties honestly and in good faith, and/or failing to diligently exercise reasonable skill and care in providing brokerage services to all parties in violation of Iowa Code sections 543B.29(2), 543B.29(3), 543B.34(1), 543B.56(1)(a), 543B.56(1)(b) (2007); and/or 193E Iowa Administrative Code section 18.14(5)(s).

CIRCUMSTANCES

4. The Respondent listed for sale development property located in Clear Lake, Iowa on or about June 5, 2006. This property was subject to restrictive covenants and was under the

jurisdiction of a homeowners association of which the Respondent was a member.

5. The Respondent acted in the capacity of a dual agent for the sale of the property to the Buyers. The Respondent knew that the Buyers intended to use the property to build a detached garage, a use prohibited by applicable restrictive covenants. The Respondent represented in writing to the buyers that she would consent, as a member of the homeowner's association, to the nonconforming use of the property. A purchase agreement for the sale of the property to the Buyers was accepted on or about July 23, 2007. No contingency referencing the construction of a garage was addressed in said purchase agreement, which was prepared by the Respondent.

6. Subsequent to the closing of the transaction, the Buyers were advised by the Cerro Gordo County Planning and Zoning Commission that an amendment to the plat approved in writing by all homeowner association members would be required in order for them to build a garage on the property. Despite her prior assurances to the contrary, the Respondent refused to agree to the amendment that would allow the Buyers to use the property for a detached garage.

SETTLEMENT AGREEMENT

7. Respondent admits each and every allegation in the above-stated Statement of Charges. This case shall constitute one violation for purposes of Iowa Code section 543B.29(4) (2013).

8. Respondent acknowledges that she has a right to receive notice of the above-stated charges and to request a hearing before the Commission on the merits of the charges. By freely and voluntarily entering into this Order, the Respondent waives her right to notice and a hearing and all attendant rights, including the right to seek judicial review. This Order constitutes discipline against the Respondent, and is the final agency order in this contested case pursuant to Iowa Code section 17A.10 and 193 Iowa Administrative Code 7.4.

9. Respondent agrees that the State's attorney and/or Commission staff may present this Order to the Commission and may have *ex parte* communications with the Commission while presenting it. Respondent waives any right of notice of this meeting or any right that the Respondent might have to participate in the discussion of this Order among the Commission, the Commission staff and the State's attorney.

10. This Order shall be part of the permanent record of Respondent and shall be considered by the Commission in determining the nature and severity of any future disciplinary action to be imposed in the event of any future violations of the laws and rules governing the practice of real estate by the Respondent.

11. Failure to comply with the terms of this Order shall be prima facie evidence of a violation of Iowa Code sections 543B.29(3), 543B.34(2) and 272C.3(2)(a) (2013) and shall be grounds for further disciplinary action. However, no action may be taken against the Respondent for violations of this Order without a hearing, or waiver of hearing.

12. This Order is not binding on the Iowa Real Estate Commission until it has been formally approved by a majority of the Commission members.

(a) In the event that this Order is rejected by the Commission it shall be of no force or effect to either party and it shall not be admissible for any purpose in further proceedings in this matter.

(b) If the Commission approves this Order, it shall fully dispose of all issues in this case.

13. Upon acceptance by both the Commission and Respondent, this Combined Statement of Charges, Informal Settlement and Consent Order shall be a public record available for inspection and copying in its entirety in accordance with the requirements of Iowa Code chapter 22 (2013).

CONSENT ORDER

IT IS THEREFORE ORDERED:

14. **REPRIMAND**. Pursuant to 193E Iowa Administrative Code section 18.14(1)(j), the Respondent is reprimanded.

15. **CIVIL PENALTY**. The Respondent shall pay a civil penalty to the Commission in the amount of one thousand dollars (\$1,000.00) no later than one hundred eighty (180) calendar days after acceptance of this Order by the Commission. The civil penalty must come under a cover letter addressed to the Commission's Executive Officer, referencing Case 09-259.

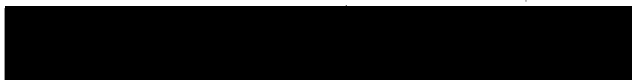
16. **EDUCATION**. The Respondent shall attend the Commission approved twelve (12) hour "Developing Professionalism and Ethical Practices" class. These hours shall be in addition to any real estate continuing education required by law for license renewal. The original certificate of attendance must be submitted to the Iowa Real Estate Commission within twelve (12) months of the signing of this agreement by the Commission and must come under a cover letter addressed to the Commission's Executive Officer, referencing Case 09-259.

17. **FUTURE COMPLIANCE**. The Respondent shall at all future times fully and promptly comply with all pertinent Orders of the Commission and the statutes and Commission rules regulating the practice of real estate.

WHEREFORE, the terms of this Combined Statement of Charges, Informal Settlement Agreement, and Consent Order are agreed to and accepted by the Iowa Real Estate Commission and the Respondent.

FOR THE RESPONDENT:

Voluntarily agreed to and accepted by Sharon L. Albers on this 15th day of September, 2014.

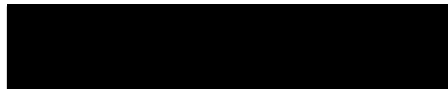


By: SHARON L. ALBERS, Respondent

State of IA

County of Cerro (Cerro)

Signed and sworn to before me on this 15th day of September, 2014, by



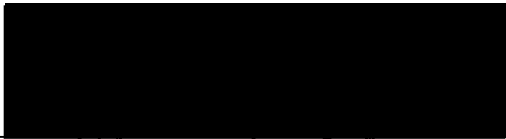
Notary Public, State of Iowa

Printed Name: Barbara Bredlow

My Commission Expires: 6-5-17

FOR THE COMMISSION:

Voluntarily agreed to and accepted by the IOWA REAL ESTATE COMMISSION on this 2nd day of October, 2014.



TERRANCE M. DUGGAN, Chair
Iowa Real Estate Commission