

**BEFORE THE IOWA REAL ESTATE COMMISSION
1920 S.E. HULSIZER
ANKENY, IOWA**

IN RE:)	
)	CASE NUMBER: 11-232
Kenneth J. Bisarek)	
Broker (B41423))	
)	COMBINED STATEMENT OF
Re/Max Ridge-N-River Realty, LLC)	CHARGES, INFORMAL
934B. South Marquette Rd.)	SETTLEMENT AGREEMENT,
Prairie du Chien, Wisconsin 53821)	AND CONSENT ORDER IN A
)	DISCIPLINARY CASE
)	
Respondent.)	

The Iowa Real Estate Commission (Commission) and **Kenneth J. Bisarek** (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) (2011).

1. The Commission issued the Respondent real estate broker officer license number B41423 on April 20, 2001. Respondent's license is current and in full force and effect through December 31, 2012. At all times relevant to this matter, the Respondent was a licensed real estate broker officer, assigned to Re/Max Ridge-N-River Realty, LLC; a licensed real estate firm, license number F04424 located in Prairie du Chien, Wisconsin.

2. The Commission has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 543B (2011). 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 that is harmful or detrimental to the public by failing to comply with the mandatory errors and omissions insurance requirement in violation of Iowa Code sections 543B.29(1), 543B.47(1), 543B.47(6) (2011) and 193E Iowa Administrative Code sections 18.2(5), 8.14(5)(s), 19.6(5) & (6).

COUNT II

4. The Respondent is charged with failing to diligently exercise reasonable care and skill in the supervision of a licensee in his employment in that he did not assure said licensees were compliant with mandatory errors and omissions insurance requirements. See Iowa Code sections 543B.29(1), 543B.47(1), 543B.47(6) (2011) and 193E Iowa Administrative Code sections 7.11, 18.2(5), 8.14(5)(s), 19.6(5) & (6).

CIRCUMSTANCES

5. In June of 2011, the Respondent was sent an audit for verification of his mandatory errors and omissions insurance coverage.

6. The Respondent failed to obtain errors and omission insurance for the 2011 policy period and could therefore not provide proof of insurance coverage to the Commission.

7. The Respondent also failed to provide adequate supervision to assure that a licensee in his employment obtained their insurance coverage for the 2011 policy period.

SETTLEMENT AGREEMENT

8. Respondent admits each and every allegation in the above-stated Statement of Charges.

9. Respondent acknowledges that he 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 his 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.

10. 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.

11. 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.

12. Failure to comply with the terms of this Order shall be prima facie evidence of a violation of Iowa Code sections 543B.29(1), 543B.34(2) and 272C.3(2)(a) (2011) 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.

13. 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

11-232

Kenneth J. Bisarek

2

purpose in further proceedings in this matter.

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

14. 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 (2011).

CONSENT ORDER

IT IS THEREFORE ORDERED:

15. CIVIL PENALTY. The Respondent shall pay a civil penalty to the Commission in the amount of \$1,000 no later than 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 and refer to case 11-232.

16. 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 **Kenneth J. Bisarek** on this 147th day of OCTOBER, 2011.


By: **Kenneth J. Bisarek**, Respondent

11-232

Kenneth J. Bisarek

2

State of Iowa)

County of Clayton)

Signed and sworn to before me on this 14th day of October, 2011, by



Notary Public, State of Iowa

Printed Name: Catherine Wright

My Commission Expires: 4.19.2014

for b.p.

FOR THE COMMISSION:

Voluntarily agreed to and accepted by the **IOWA REAL ESTATE COMMISSION** on this 17 day of NOVEMBER, 2011,



Laurie Dawley, Chair
Iowa Real Estate Commission