

FILED

December 4, 2014

(Date)

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

JRC
Board / Commission

[Signature]
Signature, Executive Officer

IN RE:)	
)	CASE NUMBER: 14-196
Todd J. Case)	
Broker (B28689000))	COMBINED STATEMENT OF
)	CHARGES, INFORMAL
Westwinds Real Estate Services, Inc.)	SETTLEMENT AGREEMENT,
519 Kirkwood Avenue)	AND CONSENT ORDER IN A
Iowa City, IA 52240)	DISCIPLINARY CASE
)	
Respondent.)	

The Iowa Real Estate Commission (Commission) and **Todd J. Case** (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) (2013).

1. The Commission issued the Respondent real estate broker license number B28689000 on January 23, 1995. Respondent's license is current and in full force and effect through December 31, 2015. At all times relevant to this matter, the Respondent was a licensed real estate broker officer, assigned to Westwinds Real Estate Services, Inc., license number F04446000, located in Iowa City, Iowa.

2. The Commission has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 543B (2013). 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. Respondent is charged with engaging in practices harmful or detrimental to the public in violation of Iowa Code sections 543B.29(1)(k), 543B.34, 543B.46 (2013) by:

- (a) Failing to maintain at all times a record of the Respondent's trust account. See 193E Iowa Administrative Code §§ 13.1(6), 18.14(5)(e).

- (b) Failing to maintain the general ledger, individual ledgers, and monthly bank reconciliation to reflect accurate current balances. See 193E Iowa Administrative Code §§ 13.1(6)(a), 13.1(6)(a)(3), 13.1(6)(b), 18.14(5)(e).
- (c) Failing after three years to forward unclaimed trust funds to the Treasurer, State of Iowa. See 193E Iowa Administrative Code § 13.1(14).

CIRCUMSTANCES

- 4. On or about October 23, 2014, an examination of the Respondent's Iowa real estate trust account and transaction records was conducted by the Commission auditor.
- 5. The auditor found that the Respondent is failing to properly maintain the general ledger for the real estate trust account.
- 6. The auditor found that the Respondent was not providing a means for a monthly reconciliation on a written worksheet to ensure agreement of the general ledger balance, reconciled bank balance, and sum of the individual ledgers.
- 7. The auditor was not able to reconcile the Respondent's Trust Account due to the Respondent's failure to maintain the general ledger, maintain individual ledgers, and properly reconcile real estate trust account bank statements.
- 8. The auditor found one outstanding check in the amount of \$80.00 from 2006 that was still pending in the Respondent's trust account.
- 9. The auditor was informed that the Respondent immediately hired an Iowa licensed Certified Public Accountant (CPA) to help rectify the trust account deficiencies discovered by the auditor.

SETTLEMENT AGREEMENT

- 10. Respondent admits to 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).
- 11. 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.

12. 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.

13. 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.

14. Failure to comply with the terms of this Order shall be prima facie evidence of a violation of Iowa Code sections 543B.29(1)(d), 543B.34(1) 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.

15. 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.

16. 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:

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

18. CIVIL PENALTY. Respondent shall pay a civil penalty to the Commission in the amount of two thousand, five hundred dollars (\$2,500.00) 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 and refer to Case 14-196.

19. REVIEW. The Respondent shall be subject to an audit, conducted by the Commission auditor within twelve (12) months after the acceptance of the Order by the Commission.

20. FUTURE COMPLIANCE. The Respondent also 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:

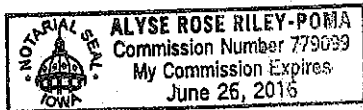
Voluntarily agreed to and accepted by Todd J. Case on this 28th day of November, 2014.

Todd J. Case
By: TODD J. CASE, Respondent

State of Iowa

County of Johnson

Signed and sworn to before me on this 28th day of November, 2014, by:



Alyse Rose Riley-Poma
Notary Public, State of Iowa
Printed Name: Alyse Rose Riley-Poma
My Commission Expires: June 25, 2016

FOR THE COMMISSION:

Voluntarily agreed to and accepted by the IOWA REAL ESTATE COMMISSION on this 4th day of DECEMBER, 2014.

Terrance M. Duggan
TERRANCE M. DUGGAN, Chair
Iowa Real Estate Commission