

FILED February 5, 2015 (Date)

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

IREC  
Board / Commission  
Signature Executive Officer

IN RE:	)	
	)	CASE NUMBER: 14-176
Jennifer Moen	)	
Broker (B37784000)	)	COMBINED STATEMENT OF
	)	CHARGES, INFORMAL
Creative Consulting Real Estate, LLC	)	SETTLEMENT AGREEMENT,
210 2 <sup>nd</sup> Street SE #222	)	AND CONSENT ORDER IN A
Cedar Rapids, IA 52401	)	DISCIPLINARY CASE
	)	
RESPONDENT	)	

The Iowa Real Estate Commission (Commission) and **Jennifer Moen** (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) (2015).

1. The Commission issued the Respondent real estate broker license number B37784000 on June 4, 2006. 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 Creative Consulting Real Estate, LLC, license number F05548000, located in Cedar Rapids, Iowa.

2. The Commission has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 543B (2015). 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 failing to comply with the terms of a settlement agreement and consent order in violation of Iowa Code section 272C.3(2)(a) (2013) and Iowa Administrative Code sections 18.2(1), 18.2(3), 18.14(5)(s).

### CIRCUMSTANCES

4. On or about January 16, 2014, a random audit was conducted on the Respondent's real estate trust account. As the result of this random audit, a complaint case was initiated by the Commission against the Respondent. See IREC Case No. 14-016.

5. This complaint case (IREC Case No. 14-016) was resolved through an Informal Settlement Agreement that was accepted by the Commission on April 3, 2014. A true and accurate copy of the above-referenced Informal Settlement Agreement is attached as Exhibit A.

6. Pursuant to paragraph 17 of the Informal Settlement Agreement, the Respondent agreed to pay a civil penalty to the Commission in the amount of two thousand, five hundred dollars (\$2,500.00) within one hundred eighty (180) days of the Commission's acceptance of the settlement agreement. To date, the Respondent has yet to submit to the Commission the \$2,500 as required by paragraph 17 of the Informal Settlement Agreement and Consent Order.

7. Pursuant to paragraph 18 of the Informal Settlement Agreement, the Respondent agreed to attend the Commission approved eight (8) hour course "Trust Accounts" within twelve (12) months of the Commission's acceptance of the settlement agreement. To date, the Respondent has yet to submit a course completion certificate for the 8 hour course "Trust Accounts" required by paragraph 18 of the Informal Settlement Agreement and Consent Order.

8. Pursuant to paragraph 19 of the Informal Settlement Agreement, the Respondent agreed to hire a CPA to complete an audit of her trust account and submit a report to the Commission on or before June 30, 2014. To date, the Respondent has yet to submit to the Commission the CPA audit report required by paragraph 19 of the Informal Settlement Agreement and Consent Order.

### SETTLEMENT AGREEMENT

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

10. 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.

11. 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.

12. 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.

13. 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) (2015) 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.

14. 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.

15. 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 (2015).

#### **CONSENT ORDER**

#### **IT IS THEREFORE ORDERED:**

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

17. **SUSPENSION.** The Respondent's real estate broker license shall be suspended indefinitely commencing on July 1, 2015, pending submission of the civil penalty, proof of completion of the education and compliant CPA Audit report required by paragraphs 17 – 19 of the informal settlement agreement entered between the Respondent and the Commission in Docket Number 14-016. Upon the Respondent's submission of the civil penalty, education and compliant CPA audit report to the Commission's Executive Officer, the Respondent's real estate broker license shall be reinstated upon order of the Commission's Executive Officer. Should the Respondent submit the full amount of the civil penalty, a course completion certificate for the 8 hour course "Trust Accounts", and a compliant CPA audit report to the Commission's Executive

Officer at the Commission's offices prior to 1:00 PM on June 30, 2014, the suspension provided for in this paragraph shall not be imposed.

18. 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.

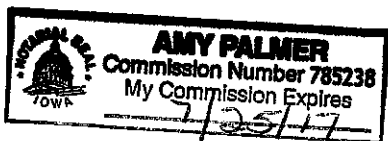
**FOR THE RESPONDENT:**

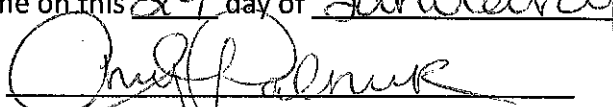
Voluntarily agreed to and accepted by Jennifer Moen on this 29 day of January, 2015.

  
By: **JENNIFER MOEN**, Respondent

State of Iowa  
County of Lincoln

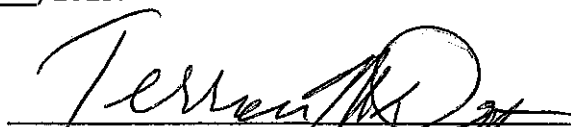
Signed and sworn to before me on this 29 day of January, 2015, by:



  
Notary Public, State of Iowa  
Printed Name: Amy Palmer  
My Commission Expires: 7/25/17

**FOR THE COMMISSION:**

Voluntarily agreed to and accepted by the **IOWA REAL ESTATE COMMISSION** on this 5th day of FEBRUARY, 2015.

  
**TERRANCE M. DUGGAN**, Chair  
Iowa Real Estate Commission

FILED April 3, 2014 (Date)

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

IRGL  
Board / Commission  
[Signature]  
Signature, Executive Officer

IN RE:	)	
	)	CASE NUMBER: 14-016
Jennifer Moen	)	
Broker (B37784000)	)	COMBINED STATEMENT OF
	)	CHARGES, INFORMAL
Creative Consulting Real Estate, LLC	)	SETTLEMENT AGREEMENT,
210 2 <sup>nd</sup> Street SE #222	)	AND CONSENT ORDER IN A
Cedar Rapids, IA 52401	)	DISCIPLINARY CASE
	)	
Respondent.	)	

The Iowa Real Estate Commission (Commission) and Jennifer Moen (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 B37784000 on January 4, 2006. 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 Creative Consulting Real Estate, LLC, license number F05548000, located in Cedar Rapids, 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 543.29(1)(k), 543B.34, and 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).

#### CIRCUMSTANCES

4. On or about January 16, 2014, an audit of the Respondent's Iowa real estate trust account and 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, as the last entry found was dated October 31, 2012.

6. The auditor found that the Respondent is failing to properly maintain individual ledger accounts, identified by the property or the principal.

7. 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.

8. 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 reconcile real estate trust account bank statements.

#### SETTLEMENT AGREEMENT

9. Respondent admits to each and every allegation in the above-stated Statement of Charges. This case shall constitute one (1) violation for purposes of Iowa Code section 543B.29(4) (2013).

10. 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.

11. 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.

12. 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.

13. 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.

14. 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.

15. 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:**

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

17. 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 14-016.

18. EDUCATION. The Respondent shall attend the Commission approved eight (8) hour course "Trust Accounts." 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 and refer to Case 14-016.

19. CPA AUDIT. The Respondent shall hire an Iowa licensed Certified Public Accountant (CPA), at the Respondent's expense to audit and to establish trust account records following Generally Accepted Accounting Principles. When completed, a copy of the trust account records shall be promptly submitted to the Commission. The CPA's audit report demonstrating Respondent's compliance with applicable standards, Iowa law, and Commission trust account rules must be submitted on or before June 30, 2014. The audit must come under a cover letter addressed to the Commission's Executive Officer and refer to Case 14-016.

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 Jennifer Moen on this 4<sup>th</sup> day of March, 2014.

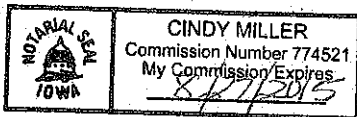
[Signature]  
By: JENNIFER MOEN, Respondent

State of Iowa )

County of Jones )

Signed and sworn to before me on this 4 day of March, 2014, by:

Cindy Miller  
Notary Public, State of Iowa  
Printed Name: Cindy Miller  
My Commission Expires: 8/27/2015





IREC Case No. 14-016  
Jennifer Moen

**FOR THE COMMISSION:**

3<sup>rd</sup> Voluntarily agreed to and accepted by the **IOWA REAL ESTATE COMMISSION** on this  
day of April, 2014.

  
**SUSAN J. SANDERS, Chair**  
Iowa Real Estate Commission