

**FILED** February 5, 2015 (Date)

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

I REC  
Board / Commission  
Signature, Executive Officer

IN THE MATTER OF:

Suzanne H. Fountain  
Broker (B00821000)

Broker, Sole Proprietor  
2061 Scales Bend Road, NE P.O. Box 256  
North Liberty, IA 52317,

Respondent.

)  
) CASE NUMBER: 14-079

)  
) COMBINED STATEMENT OF  
) CHARGES, INFORMAL  
) SETTLEMENT AGREEMENT,  
) AND CONSENT ORDER IN A  
) DISCIPLINARY CASE  
)  
)

The Iowa Real Estate Commission (Commission) and Suzanne H. Fountain (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 Iowa Real Estate Commission issued the Respondent real estate broker license number B00821000 on June 14, 1977. The Respondent's real estate broker license is current and in full force and effect through December 31, 2017. The Respondent's real estate broker license was on active status at all times relevant to this matter.

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.

3. On October 13, 2014, the Commission issued a Notice of Hearing and Statement of Charges against the Respondent. In lieu of hearing, the parties now desire to resolve this matter informally through the entry of a negotiated settlement. To facilitate such a settlement, the Commission agrees to withdraw the October 13, 2014 Notice of Hearing and Statement of Charges previously issued in this docket and substitute in its place this Order.

**STATEMENT OF CHARGES**

COUNT I

4. The Respondent is charged with failing to comply with the mandatory errors and omissions insurance requirement for her Iowa real estate broker license in violation of Iowa Code sections 543B.47(1), 543B.47(6) (2013); and 193E Iowa Administrative Code sections 18.2(5), 18.14(5)(s), 19.6(5), 19.6(6).

### CIRCUMSTANCES

5. In April of 2014, the Respondent was sent a random audit by the Commission for compliance with the mandatory errors and omissions insurance requirement.

6. The Respondent failed to maintain uninterrupted errors and omission while she was actively licensed and could therefore not provide proof of insurance coverage to the Commission for the time period of January 1, 2014 to April 23, 2014.

7. In April 2011 the Respondent and the Commission entered into an Informal Settlement Agreement for her failure to comply with the mandatory errors and omissions insurance requirement in 2010. See IREC Case No. 10-511.

### SETTLEMENT AGREEMENT

8. The Respondent admits the violation alleged in the above-stated Statement of Charges.

9. The Respondent acknowledges that she has a right to 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 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. The 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 the 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)(d), 543B.34(2) and 272C.3(2)(a) 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 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.

#### **CONSENT ORDER**

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

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

16. **CIVIL PENALTY.** The Respondent shall pay a civil penalty to the Commission in the amount of two thousand dollars (\$2,000.00) no later than sixty (60) 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 14-079.

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. Should the Respondent commit any future violation of law governing the practice of real estate in the state of Iowa, the Commission may revoke and/or deny the renewal of the Respondent's real estate broker license following notice of the alleged violation and opportunity for hearing before the Commission.

**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.

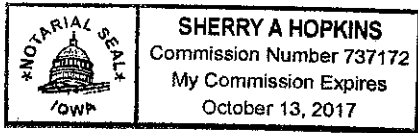
**FOR THE RESPONDENT:**

Voluntarily agreed to and accepted by **Suzanne H. Fountain** on this 16<sup>th</sup> day of January, 2015.

Suzanne H. Fountain  
By: **SUZANNE H. FOUNTAIN**, Respondent

State of Iowa  
County of Van Buren

Signed and sworn to before me on this 16<sup>th</sup> day of January, 2015, by



Sherry A. Hopkins  
Notary Public, State of Iowa  
Printed Name: SHERRY A. HOPKINS  
My Commission Expires: 10-13-2017

**FOR THE COMMISSION:**

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

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