

**BEFORE THE IOWA REAL ESTATE COMMISSION
1920 SE HULSIZER
ANKENY, IOWA**

IN THE MATTER OF:)	Case No. 11-200
)	
Mary Chmelicek)	
Salesperson (S37699))	
)	
Iowa Realty)	COMBINED STATEMENT OF
3501 Westown Parkway)	CHARGES AND CONSENT ORDER
West Des Moines, IA. 50266)	IN DISCIPLINARY CASE
)	
Respondent.)	

The Iowa Real Estate Commission (Commission) and **Mary Chmelicek** (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 salesperson license number (S37699) on February 24, 1997. Respondent's license is current and in full force and effect through December 31, 2011. At all times relevant to this matter, the Respondent was a licensed real estate salesperson, assigned to Iowa Realty, a licensed real estate firm, license number (F00710) located in West Des Moines, Iowa.

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. Respondent is charged with engaging in unethical conduct and fraud in procuring a license in violation of Iowa Code sections 543B.29(1), 543B.34(11) (2011); and 193E Iowa Admin Code sections 18.2(1), 18.14(5)(s).

Circumstances

4. On June 28, 2011, the Respondent was scheduled to complete the Iowa real estate broker pre-license examination. The examination was "closed book" and the use of study guides or other written aides was prohibited.

5. During the course of the examination, the Respondent was noted by an examination proctor to have writing on her arm. Upon inspection of the Respondent's arm, the proctor observed that the writing detailed requirements from the Commission's administrative rules that are applicable to the practice of real estate in the state of Iowa.

Settlement Agreement

6. Respondent admits to the allegations in the above-stated Statement of Charges.

7. 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 attended rights, including the right to seek judicial review. The 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 Admin Code 7.4.

8. 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 may have to participate in the discussion of this Order among the Commission, the Commission staff and the State's attorney.

9. 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.

10. Failure to comply with the terms of this Order shall be *prime facie* evidence of a violation of Iowa Code sections 543B.29(3), 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.

11. 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.

12. Upon acceptance by both the Commission and the Respondent, this Combined Statement of Charges, Informal Settlement and Consent Order shall be made a public record available for inspection and copying in its entirety in accordance of Iowa Code chapter 22 (2011).

Consent Order

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

14. BROKER INELIGIBILITY. The Respondent, for a period of two years from the date of acceptance of this Agreement by the Commission, shall not be permitted to submit an application for a real estate broker license.

15. SUSPENSION. The Respondent's real estate salesperson license shall be suspended for a period of sixty (60) consecutive days. The effective date of the license suspension shall be the date this Order is accepted by the Commission. The Respondent shall return real estate salesperson license number S37699 to the Commission immediately upon notification that this Order has been accepted by the Commission.

16. EDUCATION. The Respondent shall attend the Commission approved twelve (12) hour course "Developing Professionalism and Ethical Practices" 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 11-200.

17. FUTURE COMPLIANCE. Respondent agrees that at all future times she shall 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 Mary Chmelicek on this 18 day of August, 2011.

[Redacted Signature]

By: **MARY CHMELICEK**, Respondent

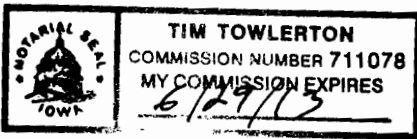
State of Iowa)

County of Cinn)

Signed and sworn to before me on this 18 day of August, 2011, by:

[Redacted Signature]

Notary Public, State of Iowa



Printed Name: Tim Towleron

My Commission Expires: 6/29/13

FOR THE COMMISSION:

Voluntarily agreed to and accepted by the **IOWA REAL ESTATE COMMISSION** on this 22 day of Sept, 2011.

[Redacted Signature]

By: **LAURIE DAWLEY**, Chair
Iowa Real Estate Commission