

BEFORE THE REAL ESTATE COMMISSION  
OF THE STATE OF IOWA

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IN THE MATTER OF:	)	CASE NO. 10-406
	)	DIA NO. 11REC002
Rachelle Hansen	)	
Broker (B39248)	)	
	)	FINDINGS OF FACT,
Camelot Realty	)	CONCLUSIONS OF LAW,
P.O. Box 1485	)	DECISION AND ORDER
Ames, Iowa 50014	)	
	)	
RESPONDENT	)	

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On February 21, 2011, the Iowa Real Estate Commission (Commission) found probable cause to file a Notice of Hearing and Statement of Charges against Rachelle Hansen (Respondent). The Statement of Charges alleged that Respondent failed to comply with the mandatory errors and omissions insurance requirement, in violation of Iowa Code sections 543B.29(1)(c), 543B.47(1), 543B.47(6)(2009) and 193E IAC 18.2(5), 18.14(5)(s), and 19.6(5)&(6).

The hearing was held on March 24, 2011 at 9:30 a.m. Assistant Attorney General John Lundquist represented the state of Iowa. Respondent Rachelle Hansen appeared and was self-represented. The following Commission members presided at the hearing: Laurie L. Dawley, Chairperson and public member; Judy Stevens, Broker-Associate; Dick Robert, Broker; Lori Diehl and Patricia Daniels, Salespersons. Administrative Law Judge Margaret LaMarche assisted the Commission in conducting the hearing. A certified court reporter recorded the proceedings. The hearing was open to the public at Respondent's election, pursuant to Iowa Code section 272C.6(1)(2011). After hearing the testimony and examining the exhibits, the Commission convened in closed executive session, pursuant to Iowa Code section 21.5(1)(f)(2011), to deliberate its decision. The Commission instructed the administrative law judge to draft Findings of Fact, Conclusions of Law, Decision and Order, in conformance with their deliberations.

## THE RECORD

The record includes the state's Prehearing Conference Report, the testimony of Jeff Evans and Rachelle Hansen, and State Exhibits 1-7 (See Exhibit Index for description).

## FINDINGS OF FACT

1. On August 3, 2001, the Commission issued Iowa real estate broker license B39248 to Respondent. Respondent's broker license has been in effect continuously since that time. Respondent's broker license is currently in full force and effect until December 31, 2012. (State Exhibit 2; Testimony of Jeff Evans)
2. Prior to January 1, 2010, Respondent consistently maintained the mandatory errors and omissions insurance coverage required by statute and Commission rule. (Testimony of Jeff Evans; Respondent; State Exhibit 2)
3. In August 2010, Respondent was selected for a random audit to verify her compliance with the required errors and omissions insurance coverage for the year 2010. On August 20, 2010, the Commission sent Respondent a notice of her selection for audit and asked her to provide verification of her insurance coverage within twenty calendar days. (Testimony of Jeff Evans; State Exhibit 4)
4. Respondent replied to the Commission's letter on September 10, 2010 and provided verification of her errors and omissions insurance coverage for the time period from August 1, 2010 to January 1, 2011. Respondent obtained the insurance on August 30, 2010 after receiving the Commission's audit notice. Respondent admits that she did not have errors and omissions insurance coverage for the time period from January 1, 2010 through July 31, 2010. (Testimony of Jeff Evans; Respondent; State Exhibits 5, 6).
5. Respondent testified that prior to 2010 she had always purchased her errors and omissions insurance by filling out the application, writing a check for the premium, and then mailing it to the insurance company. However in December 2009, she attempted to purchase her errors and omissions insurance for 2010 online. Respondent thought she completed the application correctly and thought she had paid the premium with her debit/credit card. Respondent thought it was unusual that she never received any confirmation from the insurance company, either electronically or through the mail. However, Respondent had recently separated from her husband, and she assumed that the confirmation was sent to her old address. Respondent never followed up with the

insurance company to confirm that she had purchased the insurance. Respondent never checked her debit/credit card statements to verify that she paid the insurance premium. When she received the Commission's audit letter, Respondent contacted the insurance company and discovered that they had no record of her attempt to purchase the errors and omissions insurance online in December 2009. The insurance company would only permit Respondent to purchase insurance retroactive to August 1, 2010. (Testimony of Rachelle Hansen)

### CONCLUSIONS OF LAW

The legislature has directed the Commission to adopt rules requiring all real estate licensees, except those who hold inactive licenses, to carry errors and omissions insurance coverage for all activities contemplated by Iowa Code chapter 543B. The Commission's rules must require licensees to submit evidence of compliance with the insurance requirement within twenty calendar days of the Commission's request, which may be made on a test basis, a random basis, or upon reasonable cause to question a licensee's compliance.<sup>1</sup> Failure of a licensee to carry the errors and omissions insurance required by Iowa Code section 543B.47, or to timely submit proof of coverage upon Commission request, shall be grounds for the denial of an application to renew a license or for the suspension or revocation of a license.<sup>2</sup>

By rule, the Commission is authorized to initiate disciplinary action against an active licensee for failure to maintain adequate insurance coverage or for failure to submit proof of insurance within twenty days of the Commission's request.<sup>3</sup>

The preponderance of the evidence established that Respondent failed to maintain the mandatory errors and omissions insurance from January 1, 2010 through July 31, 2010, even though her broker license remained active during this time. Respondent's failure to maintain errors and omissions insurance is a violation of Iowa Code sections 543B.47(1), 543B.47(6) and 193E IAC 18.2(5) and 19.6(6). The errors and omissions insurance requirement is for the protection of the public. Absent extraordinary mitigating circumstances, the Commission has imposed a \$1000 civil penalty for a licensee's failure to maintain the required errors and omissions insurance.

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<sup>1</sup> Iowa Code section 543B.47(1)(2009).

<sup>2</sup> Iowa Code section 543B.47(6)(2009).

<sup>3</sup> 193E IAC 18.2(5), 19.6(6).

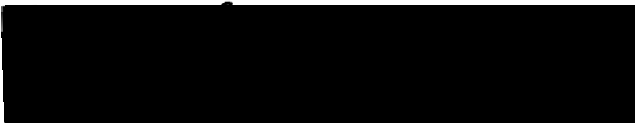
Respondent has not shown any extraordinary circumstance that merits a deviation from the Commission's established precedent. It was Respondent's responsibility to ensure that her online application for the errors and omissions insurance was properly completed. When Respondent did not receive confirmation of her insurance purchase, she should have contacted the insurance company for confirmation and should have reviewed her debit/credit card statement to confirm that she had paid the premium.

DECISION AND ORDER

IT IS THEREFORE ORDERED that Respondent Rachelle Hansen shall pay a civil penalty of \$1,000 for her failure to maintain errors and omissions insurance from January 1, 2010 through July 31, 2010, in violation of Iowa Code sections 543B.29(1)(c), 543B.47(1), 543B.47(6)(2009) and 193E IAC 18.2(5), 18.14(5)(s), and 19.6(5) & (6). Respondent shall pay the \$1000 civil penalty within thirty (30) days of receipt of this Decision and Order.

IT IS FURTHER ORDERED, pursuant to Iowa Code section 272C.6 and 193 IAC 7.41, that Respondent shall pay \$75.00 for fees associated with conducting the disciplinary hearing, within thirty (30) days of receipt of this decision.

Dated this 26 day of May, 2011.

  
Laurie L. Dawley, Chair  
Iowa Real Estate Commission

cc: Rachelle Hansen [CERTIFIED]  
John Lundquist, Assistant Attorney General (LOCAL)

Judicial review of the commission's action may be sought in accordance with the Iowa administrative procedure act, from and after the date of the commission's order. If a party does not file a timely application for rehearing, a judicial review petition must be filed with the district court within 30 days after the issuance of the commission's final decision. 193 IAC 7.37.