

**BEFORE THE IOWA REAL ESTATE COMMISSION
1920 S.E. HULSIZER
ANKENY, IOWA**

IN RE:)	
)	CASE NUMBER: A10-044
Debra K. Merrill)	
Broker (B31910))	
)	
Homestead, Inc.)	INFORMAL SETTLEMENT
306 Hwy. 150 South)	AGREEMENT AND CONSENT
West Union, Iowa 52175)	ORDER IN A DISCIPLINARY
)	CASE
Respondent.)	

The Iowa Real Estate Commission (Commission) and **Debra K. Merrill** (Respondent) enter into this 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 broker license number B31910 on August 5, 1994. Respondent's license is current and in full force and effect and expires on December 31, 2011. At all times relevant, Ms. Merrill was the licensed broker officer assigned to Homestead, Inc., a licensed real estate firm in West Union, 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.

SETTLEMENT AGREEMENT

3. On June 24, 2011, the Commission issued a Statement of Charges against the Respondent. A true and accurate copy of said Statement of Charges is attached to this Order as Exhibit I. The Respondent admits each and every allegation in the attached Statement of Charges.

4. 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,

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and is the final agency order in this contested case pursuant to Iowa Code section 17A.10 and 193 Iowa Administrative Code 7.4.

5. 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.

6. 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.

7. 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) (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.

8. 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.

9. Upon acceptance by both the Commission and Respondent, this 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 (2011).

CONSENT ORDER

IT IS THEREFORE ORDERED:

10. **CIVIL PENALTY.** The Respondent shall pay a civil penalty to the Commission in the amount of \$500 no later than 30 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 A10-044.

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11. **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.

WHEREFORE, the terms of this Combined Statement of Charges, Informal Settlement Agreement is agreed to by the Iowa Real Estate Commission and the Respondent.

FOR THE RESPONDENT:

Voluntarily agreed to and accepted by Debra K. Merrill on this 15th day of August, 2011.

[Redacted Signature]
DEBRA K. MERRILL, Respondent

State of Iowa
County of Fayette

Signed and sworn to before me on this 15 day of August, 2011, by

[Redacted Signature]



Notary Public, State of Iowa
Printed Name: Lisa Wescott
My Commission Expires: 07/08/14

FOR THE COMMISSION:

Voluntarily agreed to and accepted by the IOWA REAL ESTATE COMMISSION on this 15 day of August, 2011.

[Redacted Signature]
LAURIE DAWLEY, Chair
Iowa Real Estate Commission

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

IN THE MATTER OF:)	Case No. A10-044
Debra K. Merrill)	
Broker (B03191))	
31910)	
Homestead, Inc.)	
306 Hwy. 150 South)	NOTICE OF HEARING AND
West union, Iowa 52175)	STATEMENT OF CHARGES
Respondent.)	

The Iowa Real Estate Commission ("Commission") issues this Notice of Hearing pursuant to Iowa Code Section 17A.12(2). The Commission has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 543B, and 272C (2009). Licenses issued by the Commission are subject to the laws of the state of Iowa and to the administrative rules of the Commission.

The Commission issued the Respondent real estate broker license number B03191 on August 5, 1994. Respondent's license is in full force and effect until December 31, 2013. At all times relevant to this matter, the Respondent was a licensed real estate broker officer assigned to Homestead, Inc. a licensed firm, license number F03691, located in West Union, Iowa.

- 1. HEARING.** A contested case hearing will be held concerning the below-stated disciplinary charges before the Iowa Real Estate Commission on the 19th day of August, 2011, at 1:00 o'clock PM, at 1920 S.E. Hulsizer Road, Ankeny, Iowa.
- 2. ACKNOWLEDGMENT.** The Commission requests that you file a statement to acknowledge receipt of the notice of hearing within 10 days of the date you are served with this Notice.
- 3. ANSWER.** Within 20 days of the date you are served with this Notice you must file an answer to the charges as provided in 193 Iowa Administrative Code 7.9.
- 4. PREHEARING CONFERENCE.** A prehearing conference will be held by telephone on the 12th day of August, 2011 at 10:30 o'clock AM before an Administrative Law Judge from the Iowa Department of Inspections and Appeals ("ALJ"). You are responsible for notifying the Commission office of the telephone number at which you or your counsel can be reached. Commission rules on prehearing conferences may be found at 193 Iowa Administrative Code 7.21.
- 5. PRESIDING OFFICER.** The full Commission shall serve as presiding officer at hearing, pursuant to Iowa Code section 272C.6(1) and 193 Iowa Administrative Code 7.10(1). The Commission may request that an ALJ make initial rulings on prehearing matters, and be present to assist and advise the Board at hearing, as described in 193 Iowa Administrative Code 7.10(4).

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6. HEARING PROCEDURES. Commission rules on hearing procedures may be found at 193 Iowa Administrative Code chapter 7. You have the right to respond to the charges, produce evidence on your behalf, cross-examine witnesses, and examine any documents introduced at hearing. You may appear personally and be represented by counsel at your own expense. Consult rule 193 Iowa Administrative Code 7.22 if you need to request an alternative time or date. The hearing may be open to the public or closed to the public at the discretion of the Respondent.

7. DEFAULT. If you fail to appear at hearing, the Commission may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code section 17A.12(3) and 193 Iowa Administrative Code 7.27.

8. PROSECUTION. Licensee disciplinary cases are prosecuted by an Assistant Attorney General acting on behalf of the public interest (the State). Copies of all pleadings shall be filed with the Commission, with copies mailed to:

John R. Lundquist
Assistant Attorney General
Iowa Department of Justice
2nd Floor, Hoover State Office Building
Des Moines, Iowa 50319
Phone: 515-281-3658
Fax: 515-281-6771

9. RESPONDENT'S COUNSEL. Copies of all pleadings filed with the Commission shall be also be provided to Respondent's counsel of record:

NONE

10. SETTLEMENT. The procedural rules governing the Board's settlement process are found at 193 Iowa Administrative Code 7.42. If you are interested in pursuing settlement of this matter, please contact Assistant Attorney General John R. Lundquist.

11. COMMUNICATIONS. You may not contact Commission members by phone, letter, facsimile, e-mail, or in person about this Notice of Hearing and Statement of Charges. Commission members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file with the Commission office and serve upon all parties in the case. You should direct any questions to Assistant Attorney General John R. Lundquist at 515-281-3658, or the Commission's Executive Officer at 515-281-7397, or Fax 515-281-7411.

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STATEMENT OF CHARGES

COUNT 1

3. Respondent is charged with engaging in a practice harmful or detrimental to the public by advertising real estate under an unlicensed tradename in violation of Iowa Code chapter 543B.29(1)(c); 543B.34(1); and 193E Iowa Admin. Code chapter 10.1(543B), 10.1(3) and 18.14(5)(s).

CIRCUMSTANCES

4. On or about October 13, 2010, an audit of the Respondent's trust account and records was conducted.
5. The auditor found that the Respondent was actively advertising under "Homestead Inc. Iowa Realty," an unlicensed tradename.

~~This Notice of Hearing and Statement of Charges is filed and issued on the 24th day of~~
June, 2011.


David Batts, Executive Officer
Iowa Real Estate Commission

Copies to:
Assistant Attorney: General John Lundquist
Respondent
Department of Inspections and Appeals, assigned Administrative Law Judge

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