

BEFORE THE REAL ESTATE COMMISSION  
OF THE STATE OF IOWA

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IN THE MATTER OF:	)	CASE NO. 11-107
	)	DIA NOS. 11REC004
Jennifer D. Robertson	)	
Broker (B58321)	)	
	)	FINDINGS OF FACT,
The Realty Dot	)	CONCLUSIONS OF LAW,
1208 Avondale, P.O. Box 698	)	DECISION AND ORDER
West Palm Beach, Florida 33409	)	
	)	
Respondent	)	

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On June 24, 2011, the Iowa Real Estate Commission (Commission) found probable cause to file a Statement of Charges against Jennifer Robertson (Respondent). The Statement of Charges alleged that Respondent failed to comply with an order of the Commission imposing discipline, in violation of Iowa Code sections 272C.3(e), 543B.29, 543B.34(1) and (11), and 193E IAC 18.2(3) and 18.14(5)(s).

A telephone prehearing conference was held on August 12, 2011. The hearing was held on August 19, 2011 at 2:45 p.m. Respondent Jennifer Robertson appeared by telephone and was self-represented. Assistant Attorney General John Lundquist represented the state of Iowa. The following Commission members presided at the hearing: Laurie L. Dawley, Chairperson and public member; Dick Robert, Broker; Gail Flagel, Broker; Judy Stevens, Broker; Susan J. Sanders, Salesperson; and Michael Telford, public member. Administrative Law Judge Margaret LaMarche assisted in conducting the hearing. A certified court reporter recorded the proceedings. The hearing was closed to the public at the election of the Respondent, 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; testimony of Jeff Evans and Jennifer Robertson; and State Exhibits 1-5 (see Exhibit Index for description).

## FINDINGS OF FACT

1. The Commission issued Respondent broker officer license number B58321 on February 26, 2007. Respondent's license is in full force and effect until December 31, 2012. (Exhibit 2)

2. In January 2009, Respondent was sent a letter notifying her that she had been selected for random audit of her errors and omissions insurance coverage. However, Respondent was unable to comply with the audit because she had not obtained errors and omissions insurance for 2009. In March 2009, Respondent was sent a letter notifying her that her real estate firm had been selected for random audit of its errors and omissions insurance for 2009. Respondent failed to obtain errors and omissions insurance for her firm and was unable to comply with the audit. On October 23, 2009, the Commission issued a Notice of Hearing and Statement of Charges alleging that Respondent failed to maintain uninterrupted errors and omissions insurance coverage for herself and her firm in 2009. (Testimony of Jeff Evans; Exhibits 1, 3-6, 3-7)

3. On January 4, 2010, Respondent agreed to and signed an Informal Settlement Agreement and Consent Order In A Disciplinary Case. The Board approved the Informal Settlement Agreement and Consent Order on January 21, 2010. Respondent did not contest the allegations in the Statement of Charges and agreed to:

- A reprimand; and
- Payment of a \$2000 civil penalty no later than 180 calendar days after acceptance of the Order by the Commission.

(Testimony of Jeff Evans; State Exhibit 3-2, 3-3)

4. On January 25, 2010, the Commission sent Respondent a copy of the approved Informal Settlement and Consent Order and reminded her that she had to comply with the dates in the Order. (Exhibit 3-1) The Commission's Executive Officer later wrote to Respondent and reminded her that the \$2000 civil penalty was due on July 21, 2010 but had not been paid. Respondent was asked to reply within fourteen calendar days. (Testimony of Jeff Evans; State Exhibits 3-1, 4-1)

5. As of August 19, 2011, Respondent still had not paid the \$2000 civil penalty that was due no later than July 21, 2010. Respondent testified that she did not pay the civil penalty because she did not have the money to pay it. She further testified that she did not ask for an extension because it was her understanding that the Commission was unwilling to extend the due date beyond the 180 days provided in the Order. Respondent testified that she is no longer actively practicing in Iowa and would be willing to voluntarily place her Iowa license on inactive status until she is able to pay the \$2000 civil penalty. (Testimony of Jeff Evans; Jennifer Robertson)

### CONCLUSIONS OF LAW

Iowa Code section 543B.29(3)(2011) provides, in relevant part:

**543B.29 Revocation or suspension.**

A license to practice the profession of real estate broker and salesperson may be revoked or suspended when the licensee is guilty of the following acts or offenses:

...

3. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of a profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

Iowa Code section 543B.34(1) and (11) (2011) provide, in relevant part:

**543B.34 Investigations by commission.**

The real estate commission may ...suspend or revoke a license issued under this chapter at any time if the licensee has by false or fraudulent representation obtained a license, or if the licensee...is found guilty of any of the following:

1. Making any substantial misrepresentation.

...

11. Any other conduct, whether of the same or different character from that specified in this section, which demonstrates bad faith, or improper, fraudulent, or dishonest dealings which would have disqualified the licensee from securing a license under this chapter.

Iowa Code section 272C.3(2)(a) and (e) (2011) provides, in relevant part:

2. Each licensing board may impose one or more of the following as licensee discipline:

*a.* Revoke a license, or suspend a license either until further order of the board or for a specified period, ...upon failure of the licensee to comply with a decision of the board imposing licensee discipline.

...

*e.* Impose civil penalties by rule, if the rule specifies which offenses or acts are subject to civil penalties

193E IAC 18.2(3) specifically authorizes the Commission to initiate disciplinary action for failure to comply with an order of the Commission imposing discipline. 193E IAC 18.14(5)(s) authorizes the Commission to impose civil penalties for violations of any of the provisions in 193E IAC chapters 1-20 inclusive.

The preponderance of the evidence established that Respondent violated Iowa Code section 543B.29(3), 543B.34(11), 272C.3(2)(e), and 193E IAC 18.2(3) and 18.14(5)(s) when she failed to pay the \$2000 civil penalty within 180 days, as provided in the Informal Settlement Agreement and Consent Order in a Disciplinary Case approved on January 21, 2010. To date, Respondent still has not paid the \$2000 civil penalty.

#### ORDER

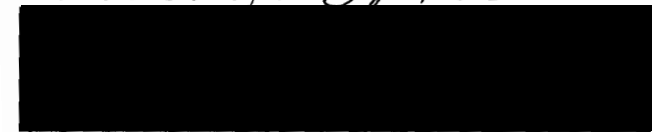
IT IS THEREFORE ORDERED that for failure to comply with the terms of the June 21, 2010 Settlement Agreement and Consent Order, Respondent shall pay an additional civil penalty of \$500. IT IS FURTHER ORDERED, pursuant to Iowa Code section 272C.6 and 193 IAC 7.41, that Respondent shall pay \$75 within thirty (30) days of receipt of this decision for fees associated with conducting the disciplinary hearing. Both the \$500 civil penalty and the \$75 hearing fee shall be paid within thirty (30) days of the date of this Decision and Order.

IT IS FURTHER ORDERED that if, within thirty (30) days of the date of this Decision and Order, Respondent pays the \$575 assessed in this Order **and** voluntarily places her Iowa broker license (B58321) on inactive status, then the Commission will defer payment of the \$2000 civil penalty until Respondent files a request to reinstate her inactive Iowa broker license.

HOWEVER IT IS FURTHER ORDERED that if Respondent chooses not to place her Iowa broker license on inactive status and does not pay the \$575 assessed in this Order

within thirty (30) days, then the Board will issue a further Order revoking Respondent's broker license (B58321). If Respondent's license is revoked, she will remain liable for the outstanding \$2500 in civil penalties and the \$75 hearing fee.

Dated this 22 day of Sept, 2011.



Laurie L. Dawley, Chairperson  
Iowa Real Estate Commission

cc: Jennifer D. Robertson  
John Lundquist, Assistant Attorney General

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.