

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

FILED

August 6, 2015 (Date)

REC
Board / Commission
Signature Executive Officer

IN RE:)	
)	CASE NUMBER: 15-119
Independent Brokers Realty LLC)	
Firm (F05621000))	COMBINED STATEMENT OF
CANCELLED)	CHARGES, INFORMAL
)	SETTLEMENT AGREEMENT,
7915 Stone Creek Drive, Suite 120)	AND CONSENT ORDER IN A
Chanhassen, MN 55317)	DISCIPLINARY CASE
)	
RESPONDENT)	

The Iowa Real Estate Commission (Commission) and Independent Brokers Realty LLC (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 Commission issued the Respondent real estate firm license number F05621000 on May 23, 2013. Respondent's firm license was current and in full force and effect through December 31, 2015. At all times relevant to this matter, Kevin M. Sharkey, broker license number B62110000, was the designated broker of the Respondent real estate brokerage firm, located in Chanhassen, Minnesota. The Respondent's firm license was cancelled on April 21, 2015.

2. The Commission has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 543B (2015). 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. The Respondent is charged with failing to comply with the mandatory errors and omissions insurance requirement for the licensed real estate firm in violation of Iowa Code sections 543B.29(1)(j), 543B.47(1), 543B.47(6) (2015) and 193E Iowa Administrative Code sections 18.2(5), 18.14(5)(s), 19.6(5), 19.6(6).

CIRCUMSTANCES

4. The Respondent was actively licensed in the state of Iowa for the time period January 1, 2015 to April 21, 2015.

5. In April of 2015, the Respondent was sent a random audit by the Commission for compliance with the mandatory errors and omissions insurance requirement.
6. In response to the audit, the Respondent provided proof of insurance coverage to the Commission for the time period of January 1, 2015 to February 25, 2015.
7. On or about April 20, 2015 the Commission received written correspondence from the designated broker of the Respondent real estate brokerage firm, notifying the Commission of the cancellation of the Respondent firm license.
8. The Respondent failed to maintain uninterrupted errors and omission while actively licensed and could therefore not provide proof of insurance coverage to the Commission for the time period of February 25, 2015 to April 21, 2015.
9. As the broker officer and designated broker of the Respondent, Kevin M. Sharkey is responsible for ensuring the Respondent's compliance with all applicable rules and regulations governing its operations in the state of Iowa.

SETTLEMENT AGREEMENT

10. Without admission of wrongdoing or guilt, the Respondent does not contest the violations alleged in the above-stated Statement of Charges.
11. Respondent acknowledges that it 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 its right to notice and 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.
12. 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.
13. 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.
14. 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(1) and 272C.3(2)(a) (2015) 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.

15. 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.

16. 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 (2015).

CONSENT ORDER

IT IS THEREFORE ORDERED:

17. CIVIL PENALTY. The Respondent shall pay to the Commission a civil penalty in the amount of one thousand dollars (\$1,000.00) as a condition precedent to:

(a) The reactivation of Iowa broker license number B62110000 for Kevin M. Sharkey.

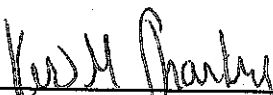
(b) The Respondent's reinstatement of Iowa broker license number B62110000 for Kevin M. Sharkey in the event of its expiration.

18. 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, 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 Independent Brokers Realty LLC on this 12th day of May, 2015.


By: **KEVIN M. SHARKEY**, Designated Broker

IREC Case No. 15-119
Independent Brokers Realty LLC

State of MN

County of Cass

Signed and sworn to before me on this 10th day of May, 2015, by:
Kevin M. Sharkey



Christina M. Johnson
Notary Public, State of Iowa MN
Printed Name: Christina M. Johnson
My Commission Expires: 01/31/20

FOR THE COMMISSION:

Voluntarily agreed to and accepted by the IOWA REAL ESTATE COMMISSION on this
6th day of August, 2015.

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