

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

FILED

August 6, 2015

(Date)

SAC
Board / Commission
M. M. G.
Signature, Executive Officer

IN RE:)	
)	CASE NUMBER: 14-170
Shelby Dupree)	
Broker (B60085000))	INFORMAL SETTLEMENT
INACTIVE)	AGREEMENT AND CONSENT
)	ORDER IN A DISCIPLINARY CASE
3025 SW Sharmin Ln.)	
Ankeny, IA 50023)	
)	
Respondent.)	

The Iowa Real Estate Commission (Commission) and **Shelby Dupree** (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) (2015).

1. The Commission issued the Respondent real estate broker license number B60085000 on March 1, 2013. Respondent's license is current and in full force and effect through December 31, 2015. At all times relevant to this matter, the Respondent was a licensed real estate broker officer assigned to ABC Realty, LLC, a licensed real estate firm, license number F05636000, located in Waukee, Iowa. The Respondent's license was placed on inactive status on April 16, 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.

SETTLEMENT AGREEMENT

3. On May 27, 2015, 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 1. The Respondent admits each and every allegation in the above-stated Statement of Charges. This case shall constitute one violation for purposes of Iowa Code section 543B.29(4) (2015).

4. The Respondent acknowledges that he 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 his right to a hearing and all attendant rights, including the right to seek judicial review. This Order constitutes the final agency order in this contested case pursuant to Iowa Code section 17A.10 and 193 Iowa Administrative Code 7.

5. The 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. 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. 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.

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(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.

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 Agreement 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:

10. **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 Respondent's reactivation of his inactive Iowa real estate broker license.

(b) The Respondent's reinstatement of his Iowa real estate broker license in the event of its expiration.

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Informal Settlement Agreement and Consent Order
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The Commission shall not reactivate or reinstate the Respondent's real estate broker license before and until it has received payment in full of the required civil penalty from the Respondent. Payment of the civil penalty shall not excuse the Respondent from demonstrating compliance with all other applicable statutory and regulatory requirements or otherwise qualifying for reactivation or reinstatement of his real estate broker license.

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 Informal Settlement Agreement and Consent Order is agreed to by the Iowa Real Estate Commission and the Respondent.

FOR THE RESPONDENT:

Voluntarily agreed to and accepted by Shelby Dupree on this 5 day of August, 2015.


By: SHELBY DUPREE, Respondent

State of _____)

County of _____)

Signed and sworn to before me on this _____ day of _____, 2015, by:

Notary Public, State of Iowa
Printed Name: _____
My Commission Expires: _____

FOR THE COMMISSION:

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


TERRANCE M. DUGGAN, Chair
Iowa Real Estate Commission

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

FILED

Aug 17, 2015 (Date)

JREL
Board / Commission
[Signature]
Signature, Executive Officer

IN THE MATTER OF:)
)
Shelby Dupree)
Broker (B60085000))
INACTIVE)
)
3025 Sharmin Ln.)
Ankeny, IA 50023)
)
RESPONDENT)

CASE NUMBER: 14-170
NOTICE OF HEARING AND
STATEMENT OF CHARGES

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 (2015). 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 B60085000 on March 1, 2013. Respondent's license is current and in full force and effect through December 31, 2015. At all times relevant to this matter, the Respondent was a licensed real estate broker officer assigned to ABC Realty, LLC, a licensed real estate firm, license number F05636000, located in Waukee, Iowa. The Respondent's license was placed on inactive status on April 16, 2015.

1. **HEARING.** A contested case hearing will be held concerning the below-stated disciplinary charges before the Iowa Real Estate Commission on the 6th day of August, 2015, at 9:30 o'clock AM, at 200 East Grand, Suite 350, Des Moines, 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 30th day of July, 2015 at 9:30 o'clock AM before an Administrative Law Judge from the Iowa Department of Inspections and Appeals ("ALI"). 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).

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: 515-281-4209
John.Lundquist@iowa.gov

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

NONE

10. **SETTLEMENT.** The procedural rules governing the Commission'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 515-725-9026, or Fax 515-725-9032.

STATEMENT OF CHARGES

COUNT I

12. The Respondent is charged with engaging in practices harmful or detrimental to the public in violation of Iowa Code §§ 543B.29(1)(c), 543B.34(1), 543B.57 and 193E Iowa Administrative Code §§ 11.1, 11.3, 12.2(6), 18.14(5)(s) by receiving compensation from a seller without a written brokerage agreement specifying the compensation terms and conditions.

COUNT II

13. The Respondent is charged with engaging in practices harmful or detrimental to the public in violation of Iowa Code §§ 543B.29(1)(c), 543B.34(1), and 193E Iowa Administrative Code §§ 13.5, 18.2(2), 18.14(5)(e)(3) by failing to retain for a period of at least five years true copies of all records, documents, and all correspondence relating to all real estate transactions that the Respondent handled as a designated broker.

COUNT III

14. The Respondent is charged with failing to fully cooperate with a licensee disciplinary investigation and/or failing to timely provide information requested by the Commission relative to a complaint investigation in violation of Iowa Code § 543B.34(1)(j) and 193E Iowa Administrative Code §§ 13.5, 18.2(7), 18.14(5)(i).

CIRCUMSTANCES

15. From the time period of August 9, 2013 through October 9, 2014 the Respondent was the designated broker for ABC Realty, LLC. As a broker officer of the real estate brokerage firm and designated broker, the Respondent is responsible for ensuring compliance with all applicable rules and regulations governing its operations in the state of Iowa.

16. On or about October 9, 2014, the Commission received correspondence from the Respondent, providing written notification that he was closing ABC Realty, LLC. In said correspondence, the Respondent indicated that he is the custodian of all records and they will be retained at 3025 SW Sharmin Ln, Ankeny, Iowa.


17. On or about September 8, 2014 the Commission received a written complaint filed against the Respondent, surrounding the circumstances of the sale and closing of a property located in Urbandale, Iowa that was listed with the Respondent's real estate brokerage firm. A purchase agreement for the subject property was executed on June 2, 2014 and the property closed on August 5, 2014. The HUD-1 dated August 5, 2014 indicated that Eflatfee Realty (ABC Realty, LLC) was paid compensation at the time of the closing.

18. In course of its investigation, the Commission asked the Respondent for documents related to the subject property, specifically the listing brokerage agreement.

19. In his response to the Commission's inquiries, the Respondent replied via electronic mail to Commission staff stating, "They will not give me the records, since all the listings stays with his broker when I left." (sic)

20. As of the date of this filing, the Respondent has not provided the listing brokerage agreement for the subject property in response to the Commission's written requests for information.

This Notice of Hearing and Statement of Charges is filed and issued on the 27th day of May, 2015.



Jeffrey M. Evans, Executive Officer
Iowa Real Estate Commission

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