

FILED

November 5, 2015 (Date)

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

IREC
Board / Commission
Signature Executive Officer

IN RE:)	
)	CASE NUMBER: 12-286
Cherray Kenner)	
Salesperson (S40257000))	
EXPIRED)	COMBINED STATEMENT OF
)	CHARGES, INFORMAL
9417 Enfield)	SETTLEMENT AGREEMENT,
Johnston, IA 50131)	AND CONSENT ORDER IN A
)	DISCIPLINARY CASE
RESPONDENT)	

The Iowa Real Estate Commission (Commission) and Cherray Kenner (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 salesperson license number S58681000 on January 31, 2000. Respondent's license was current and in full force and effect through December 31, 2014. At all times relevant to this matter, the Respondent was a licensed real estate broker associate assigned to Iowa Realty Co Inc., a licensed real estate firm, license number F00710000, located in West Des Moines, Iowa. The Respondent's license was placed on inactive status on January 3, 2014 and subsequently expired on December 31, 2014.

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. Respondent is charged with engaging in practices harmful or detrimental to the public and failing to diligently exercise reasonable skill and care in providing brokerage services to all parties to a transaction in violation of Iowa Code sections 543B.29(1)(d), 543B.34(1), 543B.56(1)(b) (2011) and 193E Iowa Administrative Code sections 7.8, 18.14(5)(s) by failing to provide written disclosure to all parties to a transaction of the Respondent's immediate family relationship to a principal of a real estate transaction.

CIRCUMSTANCES

4. From the time period of January 31, 2000 through January 3, 2014 the Respondent was a licensed real estate salesperson assigned to Iowa Realty Co Inc., a licensed real estate firm, license number F00710000, located in West Des Moines, Iowa.

5. On or about June 3, 2009, the Respondent entered into a listing agreement on behalf of her affiliated broker for a new construction property located in Urbandale, Iowa. The Respondent's husband was the president of the company that was the builder of the subject property. On or about September 3, 2009, another licensee affiliated with Iowa Realty Co Inc. became a co-listing agent for the subject property.

6. On or about April 22, 2010, a purchase agreement was executed for the subject property. The real estate transaction for the subject property subsequently closed on June 28, 2010.

7. The Respondent failed to provide written disclosure to the buyers of the subject property of her immediate family relationship to the seller of the subject property.

SETTLEMENT AGREEMENT

8. 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).

9. Respondent acknowledges that she 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 her 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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:

15. **REPRIMAND.** Pursuant to 193E Iowa Administrative Code section 18.14(1)(j), the Respondent is reprimanded.

16. **CIVIL PENALTY.** The Respondent shall pay to the Commission a civil penalty in the amount of two hundred fifty dollars (\$250.00) as a condition precedent to:

(a) The Respondent's reactivation of her inactive Iowa real estate salesperson license.

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

The Commission shall not reactivate or reinstate the Respondent's Iowa real estate salesperson 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 her Iowa real estate salesperson license.

17. FUTURE COMPLIANCE. The Respondent also 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 Cherray Kenner on this 6 day of October, 2015.

Cherray J. Kenner
By: **CHERRAY KENNER**, Respondent

State of Iowa

County of Polk

Signed and sworn to before me on this 6th day of October, 2015, by:



Michelle McCool
Notary Public, State of Iowa
Printed Name: Michelle McCool
My Commission Expires: 5/29/17

FOR THE COMMISSION:

Voluntarily agreed to and accepted by the **IOWA REAL ESTATE COMMISSION** on this 5th day of NOVEMBER, 2015.

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