

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

November 8, 2015 (Date)

J.R.C.
Board / Commission
[Signature]
Signature/Executive Officer

IN RE:)	
)	CASE NUMBER: 15-238
Josh Moulton)	
Broker (B42835000))	COMBINED STATEMENT OF
)	CHARGES, INFORMAL
Classic Real Estate Inc.)	SETTLEMENT AGREEMENT,
1910 SW Plaza Shops Lane)	AND CONSENT ORDER IN A
Ankeny, IA 50023)	DISCIPLINARY CASE
)	
RESPONDENT)	

The Iowa Real Estate Commission (Commission) and **Josh Moulton** (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 broker license number B42835000 on December 30, 2004. Respondent's license is in full force and effect until December 31, 2015. At all times relevant to this matter, the Respondent was a licensed real estate broker officer, assigned to Classic Real Estate Inc., license number F05800000, located in Ankeny, Iowa.

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 in violation of Iowa Code sections 543B.1, 543B.2, 543B.5(6), 543B.29(1)(c), 543B.29(1)(d), 543B.34(1) (2015) by failing to obtain a license for his corporation before its acting as a real estate brokerage in the state of Iowa. See 193E Iowa Administrative Code sections 7.2(1), 18.14(5)(s).

COUNT II

4. Respondent is charged with engaging in practices harmful or detrimental to the public in violation of Iowa Code sections 543B.29(1)(d), 543B.29(1)(k), 543B.34(1), 543B.46 (2015) by disbursing earnest money funds from an Iowa real estate trust account prior to closing and

without the informed written consent of all the parties to a transaction. See 193E Iowa Administrative Code sections 13.1, 13.1(1), 13.1(7), 18.14(5)(f)(2).

CIRCUMSTANCES

5. Respondent was the designated broker for Moulton Real Estate, Inc. for the time period September 25, 2008 to August 25, 2015. 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.

6. Classic Real Estate, Inc. was licensed in Iowa as a real estate brokerage firm by the Commission, license number F0580000, on August 25, 2015. The Respondent was assigned to the new firm as a broker officer and designated broker.

7. On or about August 25, 2015, an offsite examination of the Respondent's Iowa real estate trust account and transaction records was conducted by the Commission auditor.

8. The auditor discovered a purchase agreement executed on May 30, 2015 for a property located in Ankeny, Iowa, where an affiliate of the Respondent's real estate brokerage firm was the listing agent. In reviewing all documents of the transaction file, the earnest money check in the amount of \$1,000.00 was paid to the order of "Classic Real Estate Trust Account." Classic Real Estate, Inc. was not licensed in Iowa as a real estate brokerage firm with the Commission until August 25, 2015.

9. The auditor discovered that on or about April 2, 2015, the Respondent transferred trust funds in the amount of \$43,000 from Moulton Real Estate Sales, Inc. Trust Account to Classic Real Estate, Inc. Trust Account without the informed written consent of all the parties to their respective transactions.

SETTLEMENT AGREEMENT

10. 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).

11. Respondent acknowledges that he 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 his 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. REPRIMAND. Pursuant to 193E Iowa Administrative Code section 18.14(1)(j), the Respondent is reprimanded.

18. CIVIL PENALTY. Respondent shall pay a civil penalty to the Commission in the amount of two thousand dollars (\$1,000.00 for Count I, \$1,000.00 for Count II) no later than six (6) months after acceptance of this Order by the Commission. The civil penalty must come under a cover letter addressed to the Commission's Executive Officer, referencing Case Number 15-238.

19. FUTURE COMPLIANCE. 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 **Josh Moulton** on this 19 day of October, 2015.

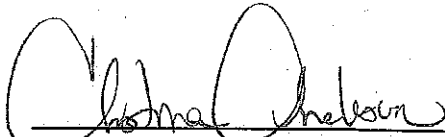

By: **JOSH MOULTON**, Respondent

State of Iowa

County of Paul

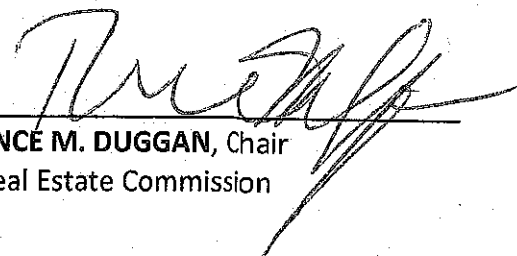
Signed and sworn to before me on this 19th day of October, 2015, by:




Notary Public, State of Iowa
Printed Name: Christina Anderson
My Commission Expires: 5/22/16

FOR THE COMMISSION:

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


TERRANCE M. DUGGAN, Chair
Iowa Real Estate Commission