

FILED August 4, 2016 (Date)

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

IREC
Board / Commission
[Signature]
Signature Executive Officer

IN RE:)	
)	CASE NUMBER: 16-039
Bradley J. Zach)	
Broker (B59277000))	COMBINED STATEMENT OF
)	CHARGES, INFORMAL
Hayden Outdoors Iowa, LLC)	SETTLEMENT AGREEMENT,
600 4 th Street #302)	AND CONSENT ORDER IN A
Sioux City, IA 51101)	DISCIPLINARY CASE
)	
RESPONDENT)	

The Iowa Real Estate Commission (Commission) and **Bradley J. Zach** (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) (2016).

1. The Commission issued the Respondent real estate broker license number B59277000 on March 28, 2008. Respondent's license is in full force and effect until December 31, 2017. At all times relevant to this matter, the Respondent was a licensed real estate broker officer, assigned to Hayden Outdoors Iowa, LLC, license number F05765000, located in Sioux City, Iowa. Respondent was assigned as the designated broker of the real estate brokerage firm at all times relevant to this matter.

2. The Commission has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 543B (2016). 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, as the designated broker, is charged with engaging in practices harmful or detrimental to the public by failing to comply with the mandatory errors and omissions insurance requirement for his licensed real estate firm in violation of Iowa Code sections 543B.29(1)(d), 543B.29(1)(j), 543B.34, 543B.47(1), 543B.47(6) (2016) and 193E Iowa Administrative Code sections 18.2(5), 18.14(5)(s), 19.6(5), 19.6(6).

COUNT II

4. Respondent is charged with failing to fully cooperate with a licensee disciplinary investigation and/or engaging in an unethical practice in violation of Iowa Code sections 543B.29(1)(d), 543B.34(1), 543B.34(1)(h), 543B.34(1)(j) by submitting false, misleading and/or incomplete information to the Commission in response to an audit for verification of compliance with the mandatory errors and omissions insurance requirement for the his real estate brokerage firm. See 193E Iowa Administrative Code sections 18.2(7), 18.14(5)(i).

CIRCUMSTANCES

5. Hayden Outdoors Iowa, LLC, license number F05765000, was actively licensed in the state of Iowa for the time period January 1, 2016 to current. 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. In February 2016, Hayden Outdoors Iowa, LLC was sent a random audit by the Commission for compliance with the mandatory errors and omissions insurance requirement.

7. In response to the audit, the Respondent provided the Commission verification of errors and omissions insurance coverage for his real estate brokerage by submitting a copy of the certificate of coverage that was issued by Rice Insurance Services Company, LLC. However, the certificate of coverage did not include the date of enrollment (purchase date), as it was redacted from the submission. The unredacted copy of the certificate of coverage revealed that the Respondent had not procured errors and omissions insurance for Hayden Outdoors Iowa, LLC, for calendar year 2016 until February 22, 2016.

8. Hayden Outdoors Iowa, LLC failed to maintain uninterrupted errors and omission while actively licensed and the Respondent therefore could not provide proof of insurance coverage to the Commission for the time period of January 1, 2016 to February 22, 2016 for the real estate brokerage firm.

SETTLEMENT AGREEMENT

9. 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) (2016).

10. 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.

11. 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.

12. 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.

13. 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) (2016) 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.

14. 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.

15. Upon acceptance by both the Commission and Respondent, this Combined Statement of Charges, 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 (2016).

CONSENT ORDER

IT IS THEREFORE ORDERED:

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

17. CIVIL PENALTY. Respondent shall pay a civil penalty to the Commission in the amount of two thousand, five hundred dollars (\$1,000.00 for Count I, \$1,500.00 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 16-039.

18. EDUCATION. Respondent shall attend the Commission approved twelve (12) hour course "Developing Professionalism and Ethical Practices." These hours shall be in addition to any real estate continuing education required by law for license renewal. The original certificate of attendance must be submitted to the Iowa Real Estate Commission no later than twelve (12) months after acceptance of this Order by the Commission. The certificate of attendance must come under a cover letter addressed to the Commission's Executive Officer, referencing Case Number 16-039.

19. 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 **Bradley J. Zach** on this 7th day of JUNE, 2016.



By: **BRADLEY J. ZACH**, Respondent

State of Nebraska)

County of Douglas)

Signed and sworn to before me on this 7 day of June, 2016, by:




Notary Public, State of Nebraska
Printed Name: Alix J Roberts
My Commission Expires: 8-13-17

FOR THE COMMISSION:

Voluntarily agreed to and accepted by the **IOWA REAL ESTATE COMMISSION** on this 4th day of AUGUST, 2016.


TERRANCE M. DUGGAN, Chair
Iowa Real Estate Commission