

FILED April 6, 2017 (Date)
JREL
Board / Commission
M. E.
Signature, Executive Officer

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

IN RE:)	
)	CASE NUMBER: 16-261
Harris D. Honsey)	
Broker (B01240000))	COMBINED STATEMENT OF
)	CHARGES, INFORMAL
Viking Realty)	SETTLEMENT AGREEMENT,
24582 Lakeside Drive)	AND CONSENT ORDER IN A
Lake Mills, IA 50450)	DISCIPLINARY CASE
)	
RESPONDENT)	

The Iowa Real Estate Commission (Commission) and **Harris D. Honsey** (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 B01240000 on August 19, 1980. 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 sole-proprietor broker operating as Viking Realty, a licensed real estate trade name, license number T01713000, located in Lake Mills, Iowa. Respondent was assigned as the designated broker of the real estate broker sole-proprietorship 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 is charged with engaging in practices harmful or detrimental to the public and/or failing to diligently exercise reasonable skill and care in providing brokerage services to all parties in violation of Iowa Code §§ 543B.29(1), 543B.34, 543B.56(1)(a), 543B.56(1)(b) (2016) by refusing to permit a customer's agent or representative to be present at any step in a real estate transaction including, but not limited to, viewing a property, seeking information about a property, or negotiating directly or indirectly with an agent about a property listed by such agent. See 193E Iowa Administrative Code §§ 7.15(5), 12.3(1) 18.14(5)(s).

CIRCUMSTANCES

4. As designated broker of the real estate broker sole-proprietorship, the Respondent is responsible for ensuring compliance with all applicable rules and regulations governing its operations in the state of Iowa.

5. In July 2016 Viking Realty had active listing agreements with the sellers of two residential properties located in Lake Mills, Iowa. Subsequently, in early August 2016, both a potential buyer and the licensee representing the potential buyer of the subject properties contacted the Respondent and requested that they were allowed access to view the properties.

6. The Respondent informed both the buyer and the agent of the potential buyer that he refused to show the subject property or any of his listings to said agent or her associates.

7. The licensee requested that the Respondent provide a copy of the seller's written instructions that excluded her or her real estate brokerage's affiliates from being present to view the subject property; however the Respondent failed to comply with the request.

COUNT II

8. Respondent is charged with engaging in a practice harmful or detrimental to the public and/or failing to diligently exercise reasonable skill and care in providing real estate brokerage services to a client in violation of Iowa Code sections 543B.29(1)(d), 543B.34(1), 543B.56(1)(b) (2016) by having a client enter into a potential dual agency agreement when it was known that there was not a current listing with the Respondent's real estate broker sole-proprietorship. See 193E Iowa Administrative Code sections 11.1, 12.4, 12.5(1)(a), 12.5(4), 18.14(5)(s).

COUNT III

9. Respondent is charged with engaging in practices harmful or detrimental to the public and/or failing to diligently exercise reasonable skill and care in providing brokerage services to all parties in violation of Iowa Code §§ 543B.29(1), 543B.34(1), 543B.56(1)(a), 543B.56(1)(b) (2016) by presenting an offer to purchase directly to a seller when it was known that the seller has a written unexpired listing. See 193E Iowa Administrative Code sections 7.15(4), 11.1(2), 18.14(5)(s).

CIRCUMSTANCES

10. The Respondent previously had a listing agreement with the owners of a residential property in Lake Mills, Iowa from the time period of August 1, 2015 through November 1, 2015. Subsequently, the sellers entered into an exclusive listing agreement with a different licensed real estate brokerage from the time period of February 25, 2016 through October 31, 2016.

11. Acting as a single agent representing a potential buyer of the subject property, the Respondent presented his clients a "Dual Agency Potential/Consent Agreement" form, which was signed and dated August 1, 2015 by the sellers of the subject property. The potential buyers executed the agreement, dating it March 1, 2016. At the time of the agreement, the Respondent did not have a current listing for the subject property; therefore negating the possibility that dual agency could take place with the informed consent of all parties to the transaction.

12. On or about March 2, 2016 while representing the potential buyers of the subject property, the Respondent presented an offer to purchase directly to a seller when it was known that the seller has a written unexpired listing.

SETTLEMENT AGREEMENT

13. Respondent admits to 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).

14. 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.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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:

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

21. **CIVIL PENALTY.** The Respondent shall pay a civil penalty to the Commission in the amount of two thousand dollars (\$2,000.00) no later than twelve (12) 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 16-261.

22. **EDUCATION.** Respondent shall attend the following Commission approved courses: the twelve (12) hour "Listing Practices" course and twelve (12) hour "Developing Professionalism and Ethical Practices" course. These hours shall be in addition to any real estate continuing education required by law for license renewal. The original certificates of attendance shall be submitted to the Iowa Real Estate Commission no later than twelve (12) months after acceptance of this Order by the Commission and must come under a cover letter addressed to the Commission's Executive Officer, referencing Case Number 16-261.

23. **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:

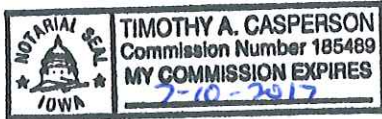
Voluntarily agreed to and accepted by **Harris D. Honsey** on this 31st day of March, 2017.

Harris D. Honsey
By: **HARRIS D. HONSEY**, Respondent

State of Iowa)

County of Winnebago)

Signed and sworn to before me on this 21st day of March, 2017, by:



Timothy A. Casperson
Notary Public, State of Iowa
Printed Name: Timothy A. Casperson
My Commission Expires: 7-10-2017

FOR THE COMMISSION:

Voluntarily agreed to and accepted by the **IOWA REAL ESTATE COMMISSION** on this 6th day of APRIL, 2017.

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