

FILED May 7, 2020 (Date)
JRE
Board / Commission
[Signature]
Signature, Executive Officer

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

IN RE:)	
)	CASE NUMBER: 19-204
Monnie Sudman)	
Broker (B62865000))	COMBINED STATEMENT OF
)	CHARGES, INFORMAL
Top Shelf Property Management)	SETTLEMENT AGREEMENT,
3408 Woodland Ave., Suite 403)	AND CONSENT ORDER IN A
West Des Moines, IA 50266)	DISCIPLINARY CASE
)	
RESPONDENT)	

The Iowa Real Estate Commission (Commission) and **Monnie Sudman** (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) (2020).

1. The Commission issued the Respondent real estate broker license number B62865000 on May 18, 2016. Respondent’s license is in full force and effect until December 31, 2021. At all times relevant to this matter, the Respondent served both as the designated broker in charge and a licensed real estate broker officer of Top Shelf Property Management, license number F05827000, located in West Des Moines, Iowa.

2. The Commission has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 543B (2019). 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
(Security Deposit Trust Account)

3. 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 (2019) by:

- (a) Failing to properly account for conditionally refundable deposits in the Respondent’s trust account containing security deposits. See 193E Iowa Administrative Code §§ 13.1(6)(c), 15.1(7)(e), 18.14(5)(f).

- (b) Failing to provide a means for a monthly reconciliation of the Respondent's trust account containing security deposits to ensure agreement of the general ledger balance, reconciled bank balance and individual ledger accounts. See 193E Iowa Administrative Code §§ 13.1(6)(a)(3), 15.1(7)(f), 18.14(5)(e), 18.14(5)(f).

COUNT II

(Property Management Trust Account)

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 (2019) by:

- (a) Failing to maintain at all times a record of the Respondent's trust account and improper trust account procedures. See 193E Iowa Administrative Code §§ 13.1(6), 18.14(5)(e), 18.14(5)(f).
- (b) Failing to accurately maintain a general ledger to record in chronological order all receipts and disbursements for the Respondent's trust account. See 193E Iowa Administrative Code §§ 13.1(6)(a), 18.14(5)(e)(1).
- (c) Failing to accurately maintain the running balance of all individual ledger accounts for the Respondent's trust account. See 193E Iowa Administrative Code §§ 13.1(6)(b), 18.14(5)(e)(2).
- (d) Failing to accurately maintain an individual ledger for broker's equity for the Respondent's trust account. See 193E Iowa Administrative Code §§ 13.1(1)(c), 13.1(6), 18.14(5)(e)(2).
- (e) Failing to provide a means for a monthly reconciliation of the Respondent's trust account to ensure agreement of the general ledger balance, reconciled bank balance and individual ledger accounts. See 193E Iowa Administrative Code §§ 13.1(6)(a)(3), 15.1(7)(f), 18.14(5)(e), 18.14(5)(f).

CIRCUMSTANCES

5. Respondent was assigned as the designated broker in charge of real estate brokerage firm Top Shelf Property Management at all times relevant to this matter. As the designated broker in charge of the real estate brokerage firm, the Respondent is responsible for ensuring compliance with all applicable rules and regulations governing the firm's operations in the state of Iowa, including maintenance of all trust accounts used by the firm.

6. Between October 7, 2019 and October 14, 2019, an onsite examination of the Respondent's Iowa real estate trust accounts and transaction records was conducted by the Commission auditor (auditor). The auditor examined both the Respondent's trust account containing security deposits and the trust account relating to property management activity.

(Security Deposit Trust Account)

7. The auditor found that for the Respondent's Iowa real estate trust account containing security deposits, there was not an accurate monthly reconciliation being performed to ensure agreement of the general ledger balance, reconciled bank balance and sum of the individual ledgers.

8. The auditor found that for an unknown period of time, the Respondent had a shortage in the Iowa real estate trust account containing security deposits in the amount of \$9,010.00.

9. The Respondent rectified the deficiency by depositing \$1,650 and \$7,360 in his Iowa real estate trust account containing security deposits on October 7, 2019 and October 9, 2019.

(Property Management Trust Account)

10. The auditor found that the Respondent is failing to properly maintain accurate accounting of the general ledger balance for the Respondent's Iowa real estate trust account relating to property management activity.

11. The auditor found that the Respondent was not accurately maintaining an updated individual ledger for the broker's equity balance held in the Iowa real estate trust account relating to property management activity.

12. The auditor found that for the Respondent's Iowa real estate trust account relating to property management activity, there was not an accurate monthly reconciliation being performed to ensure agreement of the general ledger balance, reconciled bank balance and sum of the individual ledgers.

13. For the bank statement dated September 30, 2019, the auditor was not able to perform an accurate reconciliation due to the Respondent's failure to maintain the general ledger, failure to maintain the individual ledgers, and failure to perform accurate monthly reconciliations for the Iowa real estate trust account relating to property management activity.

SETTLEMENT AGREEMENT

14. 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) (2020).

15. 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.

16. 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.

17. 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.

18. 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) (2020) 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.

19. 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.

20. 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 (2020).

CONSENT ORDER

IT IS THEREFORE ORDERED:

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

22. CIVIL PENALTY. Respondent shall pay a civil penalty to the Commission in the amount of five thousand dollars (\$5,000.00) on or before November 30, 2020. The civil penalty must come under a cover letter addressed to the Commission's Executive Officer, referencing Case Number 19-204.

23. EDUCATION. The Respondent shall attend the Commission approved six (6) hour course "Trust Accounts." These hours shall be in addition to any real estate continuing education required by law for license renewal. The original certificate of attendance shall be submitted to the Iowa Real Estate Commission on or before November 30, 2020. The certificate of attendance must come under a cover letter addressed to the Commission's Executive Officer, referencing Case Number 19-204.

24. CPA AUDIT. The Respondent shall hire an Iowa licensed Certified Public Accountant (CPA) at the Respondent's expense to audit and to establish trust account records following Generally Accepted Accounting Principles for both the trust account containing security deposits and the trust account relating to property management activity. The CPA's audit report demonstrating Respondent's current compliance with applicable standards, Iowa law and Commission trust account rules shall be submitted to the Iowa Real Estate Commission on or before November 30, 2020. The audit report must come under a cover letter addressed to the Commission's Executive Officer, referencing Case Number 19-204.

25. SUSPENSION. The Respondent's real estate broker license shall be suspended indefinitely commencing on November 30, 2020, pending submission of the civil penalty, proof of completion of the education, and compliant CPA Audit report required by Paragraphs 24 – 26 of this informal settlement agreement entered between the Respondent and the Commission. Upon the Respondent's submission of the civil penalty, education, and compliant CPA audit report to the Commission's Executive Officer, the Respondent's real estate broker license shall be reinstated upon order of the Commission's Executive Officer. Should the Respondent submit the full amount of the civil penalty, a course completion certificate for the 6-hour course "Trust Accounts", and a compliant CPA audit report to the Commission's Executive Officer at the Commission's offices prior to 1:00 PM on November 30, 2020, the suspension provided for in this paragraph shall not be imposed.

26. 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 **Monnie Sudman** on this 10th day of April, 2020.

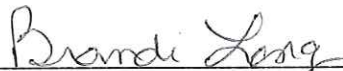

By: **MONNIE SUDMAN**, Respondent

State of Iowa

County of Polk


Signed and sworn to before me on this 10th day of April, 2020, by:




Notary Public, State of Iowa
Printed Name: Brandi Long
My Commission Expires: 3/26/2022

FOR THE COMMISSION:

Voluntarily agreed to and accepted by the **IOWA REAL ESTATE COMMISSION** on this 7th day of May, 2020.


TERRANCE M. DUGGAN, Chair
Iowa Real Estate Commission