

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

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

<b>IN RE:</b>	)	
	)	<b>CASE NUMBER: 18-193</b>
<b>Diana L. Symonds</b>	)	
<b>Broker (B41607000)</b>	)	<b>COMBINED STATEMENT OF</b>
	)	<b>CHARGES, INFORMAL</b>
<b>Julie McQuaid, Sole-proprietor Broker</b>	)	<b>SETTLEMENT AGREEMENT,</b>
<b>415 1st Ave S, PO Box 902</b>	)	<b>AND CONSENT ORDER IN A</b>
<b>Clear Lake, IA 50428</b>	)	<b>DISCIPLINARY CASE</b>
	)	
<b>RESPONDENT</b>	)	

The Iowa Real Estate Commission (Commission) and **Diana L. Symonds** (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 B41607000 on January 2, 2004. Respondent’s license is current and in full force and effect through December 31, 2021. At all times relevant to this matter, the Respondent was a licensed real estate salesperson assigned to Julie McQuaid, a licensed sole-proprietor broker, license number B41607000, located in Clear Lake, Iowa.

2. The Commission has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 543B (2018). 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 sections 543B.29(1)(d), 543B.34(1)(h), 543B.56(1)(a), 543B.56(1)(b) (2018) by allowing occupancy of a property to the buyers without a funded closing and without the express written consent of the sellers. See 193E Iowa Administrative Code §§ 12.4(1)(c)(7), 18.14(5)(s).

## CIRCUMSTANCES

4. The Respondent, acting as the buyer's agent for the subject property located in Clear Lake, Iowa, represented the buyers in an executed purchase agreement dated July 19, 2018. The closing for the transaction was scheduled to take place on August 24, 2018, subsequently getting moved back to August 27, 2018.

5. After the final walkthrough, but before the rescheduled closing date, the Respondent allowed the buyers to move into the property on August 24, 2018 without an executed Interim Occupancy Agreement.

6. Later on in the day on August 24, 2018, the sellers discovered the buyers had moved into the subject property without an executed Interim Occupancy Agreement. An Interim Occupancy Agreement was executed on August 27, 2018 and the closing for the subject property took place later that same day.

7. The Respondent failed to diligently exercise reasonable skill and care in providing brokerage services to all parties to a transaction by providing the keys of the subject property to the buyers without an executed Interim Occupancy Agreement; consequently allowing the buyers access to the subject property without the express written consent of the sellers before the time of closing.

## SETTLEMENT AGREEMENT

8. 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) (2020).

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) (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.

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 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 (2020).

### **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 a civil penalty to the Commission in the amount of five hundred dollars (\$500.00) 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 18-193.

17. **EDUCATION.** The Respondent shall attend the Commission approved six (6) hour course "Contract Law and Contract Writing." 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 18-193.

18. 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 **Diana L. Symonds** on this 7<sup>th</sup> day of April, 2020.

*Diana L. Symonds*  
By: **DIANA L. SYMONDS**, Respondent

State of Iowa )

County of Cerro Gordo

Signed and sworn to before me on this 7<sup>th</sup> day of April, 2020, by:



*Julie McQuaid*  
Notary Public, State of Iowa  
Printed Name: Julie McQuaid  
My Commission Expires: Sept. 11, 2020

**FOR THE COMMISSION:**

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

*T. M. Duggan*  
**TERRANCE M. DUGGAN**, Chair  
Iowa Real Estate Commission