

FILED June 11, 2020 (Date)
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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: 18-215
Pamela J. Rogers)
Broker (B32001000)) COMBINED STATEMENT OF
) CHARGES, INFORMAL
Lande Real Estate) SETTLEMENT AGREEMENT,
118 W. 1st Street) AND CONSENT ORDER IN A
Sumner, IA 50674) DISCIPLINARY CASE
)
RESPONDENT)

The Iowa Real Estate Commission (Commission) and **Pamela J. Rogers** (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 B32001000 on July 22, 1997. Respondent's license is current and in full force and effect through December 31, 2020. At all times relevant to this matter, the Respondent was a licensed real estate sole-proprietor broker operating as Lande Real Estate, a licensed real estate trade name, license number T05516000, located in Sumner, 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 a practice harmful or detrimental to the public by failing within a reasonable time to account for or to remit any moneys coming into her possession which belong to others in violation of Iowa Code sections 543B.29(1)(d), 543B.29(1)(k), 543B.34(1)(g), 543B.34(1)(h) and/or 543B.56(1)(d) (2018). See 193E Iowa Administrative Code sections 13.1(7), 13.2, 18.14(5)(f).

COUNT II

4. Respondent is charged with engaging in a practice harmful or detrimental to the public by failing to deposit trust funds – i.e. closing proceeds – received by the broker in furtherance of the sale, rental, purchase, or exchange of real property in an Iowa real estate trust account in violation of Iowa Code sections 543B.29(1)(d), 543B.29(1)(k), 543B.34(1), 543B.46 and/or 543B.56(1)(b) (2018). See 193E Iowa Administrative Code sections 12.5(1)(b), 13.1, 13.1(1), 13.1(5), 13.2(3), 18.14(5)(f)(10).

COUNT III

5. Respondent is charged with Respondent is charged with engaging in a practice harmful or detrimental to the public by failing to obtain the written consent of both the buyer and the seller before acting as a dual agent in a real estate transaction in violation of Iowa Code sections 543B.29(1)(d), 543B.34(1)(d), 543B.56(1)(a), 543B.56(1)(b), and/or 543B.58(1) (2018). See 193E Iowa Administrative Code sections 12.2(9), 12.5(1)(a), 18.14(5)(s).

CIRCUMSTANCES

6. As designated broker of a real estate broker sole-proprietorship, the Respondent is responsible for ensuring compliance with all applicable rules and regulations governing the sole-proprietorship's operations in the state of Iowa, including real estate transaction closings where the Respondent is the listing brokerage.

7. On or about July 18, 2018, the Respondent entered into a listing agreement with the sellers for a residential property located in Westgate, Iowa.

8. On July 19, 2018, the sellers accepted an offer to purchase the subject property from the buyers who were also represented by the Respondent. The Respondent did not obtain written consent of both the buyer and the seller to act as a dual agent in this transaction. The purchase agreement provided that closing for the transaction was scheduled to take place on August 15, 2018.

9. The closing for the subject property actually took place on August 3, 2018, with the buyers' funds made payable to "Lande Real Estate" in the amount of \$22,713.05. The Respondent deposited the buyers' check into her real estate business operating account as she did not at the time maintain a real estate trust account. This check cleared the buyers' financial institution on August 7, 2018.

10. The Respondent did not disburse a check for the mortgage payout in the amount of \$9,322.87 and a check to the seller of the subject property for the sales proceeds in the amount of \$10,943.38 until August 27, 2018. Both of the aforementioned checks were written out of

the Respondent's real estate business operating account and were returned as not sufficient funds on August 31, 2018. The Respondent subsequently provided two cashier checks totaling \$20,266.25 as remedy for the checks she issued on her real estate business operating account that were returned for not sufficient funds.

SETTLEMENT AGREEMENT

11. 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).

12. 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.

13. 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.

14. 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.

15. 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.

16. 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.

17. 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:

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

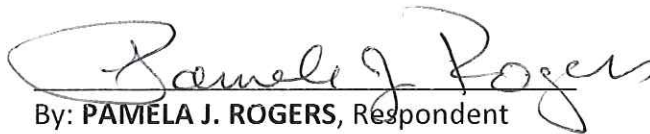
19. SUSPENSION. Respondent's real estate broker license shall be suspended for a period of six (6) months. The six (6) month license suspension shall commence upon the date this Order is accepted by the Commission. Upon completion of the suspension period, Respondent's salesperson license shall be reinstated upon order of the Commission's Executive Officer.

20. 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 **Pamela J. Rogers** on this 11 day of May, 2020.



By: **PAMELA J. ROGERS**, Respondent

State of Iowa

County of Bremen

Signed and sworn to before me on this 11 day of May, 2020, by:

ALICE P. GEHRKE
Notarial Seal - Iowa
Commission # 780706
My Commission Expires 10/7-2022


Notary Public, State of Iowa
Printed Name: Alice Gehrke
My Commission Expires: 10/7-2022

Voluntarily agreed to and accepted by the **IOWA REAL ESTATE COMMISSION** on this
11th day of June, 2020.

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