

FILED May 12, 2021 (Date)
JREL
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: 21-113**
Richard J. Whitmore)
7375 N 82nd Ave) **CONSENT AGREEMENT**
Omaha, NE 68122)
)
APPLICANT)

The Iowa Real Estate Commission (Commission) and **Richard J. Whitmore** (Applicant) enter into this Consent Agreement (Agreement) pursuant to Iowa Code Sections 17A.10, 272C.3(4) and 543B.19 (2021).

1. The parties acknowledge the following:

- (A) On or about April 6, 2021, the Applicant submitted an Application for Individual License (Application) electronically to the Commission for a new Iowa real estate salesperson license. On the Application, the Applicant acknowledged through question 2.7 that he did have a criminal conviction (or equivalent) for a serious misdemeanor, aggravated misdemeanor, or felony offense.
- (B) The criminal history checks conducted by the Iowa Division of Criminal Investigations and the Federal Bureau of Investigation pursuant to Iowa Code 543B.15(9) (2021) and a search of Iowa Courts Online established that the Applicant accurately disclosed his criminal history as requested by question 2.7 on the Application.
- (C) An applicant who has been convicted of a crime may be denied a real estate salesperson license if an unreasonable risk to public safety exists because the offense directly relates to the duties and responsibilities of the profession. See Iowa Code § 272C.15(1) (2021).
- (D) In determining whether an applicant’s criminal conviction for an offense relating to the practice of the real estate profession should disqualify that applicant for licensure, the Commission shall consider: the nature and seriousness of the criminal offenses; the time elapsed since conviction; any documented aggravating or extenuating circumstances; the age of the applicant at the time the offense was committed; the rehabilitation,

treatment, or restitution performed by the applicant; and, relevant evidence of rehabilitation and present fitness of the applicant. See Iowa Code § 272C.15(4) (2021).

- (E) Upon a balancing of the factors delineated in Iowa Code section Iowa Code § 272C.15(4) (2021), particularly the time elapsed since the Applicant's criminal conduct and his demonstrated evidence of rehabilitation and present fitness, the Commission concludes that the Applicant's criminal history does not disqualify him from obtaining an Iowa real estate salesperson license. However, because of the nature of the Applicant's misconduct that led to his criminal convictions, the Commission finds that the imposition of conditions upon any license issued to the Applicant is an appropriate precaution to safeguard the safety and wellbeing of the public.

2. PROBATION. Provided that the Applicant can demonstrate he meets all other licensing requirements, including payment of the applicable licensing fee, the Applicant shall be issued an Iowa real estate salesperson license subject to probation for the entirety of his first license term, through December 31, 2023. Should the Applicant commit any felony or misdemeanor criminal offense or commit any violation of law governing the practice of real estate in the state of Iowa during the pendency of the probationary period, the Commission shall have the right to revoke and/or deny the renewal of the Applicant's real estate salesperson license following notice of the alleged violation and opportunity for hearing before the Commission.

3. NOTIFICATION. In addition to the reporting requirements detailed in Iowa Code section 543B.29(f)(1), the Applicant shall notify the Commission of any conviction for a criminal offense within ten (10) days of the Court entering judgment. Should the Applicant fail to timely report the entry of any criminal conviction, the Commission shall have the right to revoke and/or deny the renewal of the Applicant's real estate salesperson license following notice of the alleged violation and opportunity for hearing before the Commission.

4. By entering into this Agreement, the Applicant acknowledges and voluntarily waives his right to adjudicate the merits of his pending Application for a new real estate salesperson license through the commencement of a contested case proceeding before the Commission, and all rights attendant to a contested case proceeding including the right to seek judicial review of the Commission's actions.

5. This Agreement shall be made a part of the record of the Applicant and may be considered by the Commission in determining the nature and severity of any disciplinary action

to be imposed on the Respondent for any future violations of the laws and rules governing the practice of real estate.

6. The Applicant voluntarily submits this Agreement to the Commission for its consideration. This Agreement is not binding on the Iowa Real Estate Commission until it has been formally approved. If the Commission fails to approve this Agreement, it shall be of no force or effect on either party.

7. This Agreement shall be public record. The Applicant further agrees to 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 Consent Agreement are agreed to and accepted by the Iowa Real Estate Commission and the Applicant.



RICHARD J. WHITMORE
Applicant

05/12/2021
Date



DENNIS L. STOLK, Chair
Iowa Real Estate Commission

May 12, 2021
Date