

FILED November 4, 2021 (Date)
JAGC
Board / Commission
M. L.
Signature Executive Officer

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

IN RE:)	
)	CASE NUMBERS: 20-162
Denice F. Bray)	
Broker (B67889000))	COMBINED STATEMENT OF
)	CHARGES, INFORMAL
MMS Realty Iowa, LLC)	SETTLEMENT AGREEMENT,
254 N 114 th Street)	AND CONSENT ORDER IN A
Omaha, NE 68154)	DISCIPLINARY CASE
)	
RESPONDENT)	

The Iowa Real Estate Commission (Commission) and **Denice F. Bray** (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) (2021).

1. The Commission issued the Respondent real estate broker license number B67889000 on November 8, 2019. 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 MMS Realty Iowa, LLC, license number F06109000, located in Omaha, Nebraska.

2. The Commission has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 543B (2020). 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 failing to diligently exercise reasonable skill and care in supervising a licensee employed by the Respondent, by failing to properly assign a salesperson to her firm in violation of Iowa Code sections 543B.2, 543B.5(20), 543B.33, 543B.34(1), 543B.62(3)(b) (2020). See 193E Iowa Administrative Code sections 7.1(7), 7.11, 18.2(1), 18.14(5)(s).

CIRCUMSTANCES

4. Respondent was assigned as the designated broker in charge of real estate brokerage firm MMS Realty Iowa, LLC, 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.

5. In November 2019 and throughout July 2020, the Respondent allowed a salesperson to practice real estate for her licensed real estate firm, MMS Realty Iowa, LLC; however, pursuant to Commission licensing records, the salesperson was assigned to UNbrokerage LLC, a licensed real estate firm, license number F06034000, during the time period in question.

6. Subsequently, the aforementioned salesperson submitted a transfer application request on July 23, 2020, requesting that his license be transferred from UNbrokerage LLC to MMS Realty Iowa, LLC. The transfer request was consummated on July 31, 2020 after the (electronic) signatures of both the releasing broker and the Respondent were obtained.

7. Consequently, from November 2019 through July 31, 2020, the Respondent allowed a salesperson to conduct activities in the state of Iowa requiring a real estate license outside of the licensed broker or firm that the salesperson was assigned to.

SETTLEMENT AGREEMENT

8. 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) (2021).

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) (2021) 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 (2021).

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.** 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 20-162.

17. **EDUCATION.** The Respondent shall attend the Commission approved twelve (12) hour course "Real Estate Office Organization, Administration and Human Resources." 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 20-162.

18. **FUTURE COMPLIANCE.** 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:

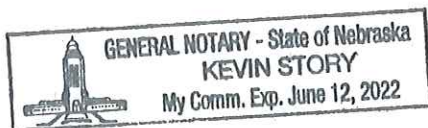
Voluntarily agreed to and accepted by **Denice F. Bray** on this 21 day of October, 2021.



By: **DENICE F. BRAY**, Respondent

State of Nebraska

County of Douglas

Signed and sworn to before me on this 25th day of October, 2021, by:




Notary Public, State of Nebraska
Printed Name: Kevin Story
My Commission Expires: 6/12/2022

FOR THE COMMISSION:

Voluntarily agreed to and accepted by the **IOWA REAL ESTATE COMMISSION** on this 4 day of November, 2021.


DENNIS L. STOLK, Chair
Iowa Real Estate Commission