

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

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

IN RE:)	
)	CASE NUMBER: 21-141
Brenda K. Binder)	
Salesperson (S63268000))	COMBINED STATEMENT OF
)	CHARGES, INFORMAL
Summit Realty, LLC)	SETTLEMENT AGREEMENT,
208 S 2 nd Street)	AND CONSENT ORDER IN A
Knoxville, IA 50138)	DISCIPLINARY CASE
)	
RESPONDENT)	

The Iowa Real Estate Commission (Commission) and **Brenda K. Binder** (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 salesperson license number S63268000 on November 17, 2014. Respondent's license is current and in full force and effect through December 31, 2022. At all times relevant to this matter, the Respondent was a licensed real estate salesperson assigned to Summit Realty, LLC, a licensed real estate firm, license number F05767000, located in Knoxville, Iowa.

2. The Commission has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 543B (2021). 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. The Respondent is charged with having been convicted of a criminal offense involving forgery, embezzlement, obtaining money under false pretenses, theft, arson, extortion, conspiracy to defraud, or other similar offense, any offense involving moral turpitude, or other offense involving a criminal breach of fiduciary duty in a court of competent jurisdiction in this state, or in any other state, territory, or district of the United States in violation of Iowa Code section 543B.29(1)(f) (2021). *See also* Iowa Code §§ 272C.15; 543B.15(3) and 193E Iowa Administrative Code §§ 18.2(1) & 18.2(4).

CIRCUMSTANCES

4. A real estate licensee who has been convicted of a crime may be sanctioned by the Commission 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). Iowa Code section 543B.15(3)(c) defines “convicted” or “conviction” to mean “a conviction for an indictable offense and includes a court’s acceptance of a guilty plea, deferred judgment from the time of entry of the deferred judgment until the time the defendant is discharged by the court without entry of judgment, or other finding of guilt by a court of competent jurisdiction in this state, or in any other state, territory, or district of the United States, or in any foreign jurisdiction.”

5. On May 14, 2021, in Warren County case number FECR032544, the Respondent pled guilty to the serious misdemeanor charge of Reckless Use of Fire or Explosives in violation of Iowa Code sections 708.7(1)(a)(1), 712.5, and to the aggravated misdemeanor charge of Child Endangerment – Substantial Risk in violation of Iowa Code sections 726.6(1)(a), 726.6(3), 726.6(7). See 05/14/2021 Petition to Plead Guilty, *State v. Binder*, Warren Co. No. FECR032544. After accepting her guilty plea, the court granted the Respondent a deferred judgment on May 17, 2021. See 05/17/2021 Record Entry, *State v. Binder*, Warren Co. No. FECR032544. As a condition of her deferred judgment, the court ordered the Respondent to serve two years of probation. See *Id.* As of the date of this filing, the Respondent’s deferred judgment has not been discharged by the court and she remains under probation supervision.

6. The criminal convictions entered against the Respondent in Warren County case number FECR032544 create an unreasonable risk to public safety as both offenses involved or otherwise implicated conduct that directly relates to the duties and responsibilities of a real estate salesperson. See Iowa Code § 272C.15(1) (2021).

SETTLEMENT AGREEMENT

7. 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).

8. 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.

9. 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.

10. 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.

11. 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.

12. 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.

13. 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:

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

15. **PROBATION.** The Respondent's real estate salesperson license shall be placed on probation for a period of three (3) years commencing upon the Commission's acceptance of this Order. The Respondent's probation shall be subject to the following terms:

A. The Respondent shall maintain full compliance with all terms and conditions of her court-ordered probation in the matter of *State of Iowa v. Brenda Kay Binder*, Warren County No. FECR032544. Respondent shall promptly provide all necessary documentation to verify such compliance upon request of the Commission.

- B. The Respondent shall notify the Commission within ten (10) days of the entry of any order either discharging or revoking the deferred judgment entered against her in the matter of *State of Iowa v. Brenda Kay Binder*, Warren County No. FECR032544.
- C. The Respondent has represented to the Commission that she is currently participating in an ongoing mental health treatment program. The Commission shall have the right to request that the Respondent provide the Commission with independent verification that she is maintaining full compliance with any treatment program established by her psychologist or other treatment provider. Such verification shall include a summary of the treatment program, the Respondent's compliance with the treatment program, and a statement that the Respondent may safely practice while in compliance with her treatment program. The Respondent shall notify the Commission within ten (10) days of any change in treatment providers.
- D. The Respondent shall submit to the Commission within ten (10) days of the Commission's approval of this Order an executed release in a form sufficient to permit the Commission to receive information directly from Respondent's psychologist or other treatment provider, including mental health records.
- E. Upon the recommendation of the Respondent's psychologist, or upon termination of the Respondent's psychologist without immediate continuation of supervised treatment by an approved successor, the Commission may order the Respondent to be evaluated pursuant to Iowa Code § 272C.9.
- F. In addition to the reporting requirements detailed in Iowa Code § 543B.29(f)(1), the Respondent shall notify the Commission of any conviction for a criminal offense within ten (10) days of the court entering judgment. Should the Respondent 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 Respondent's real estate salesperson license following notice of the alleged violation and opportunity for hearing before the Commission.

Should the Respondent 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 Respondent's real estate salesperson license following notice of the alleged violation and opportunity for hearing before the Commission.

16. 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:

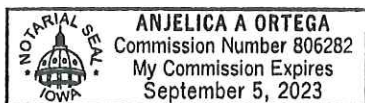
Voluntarily agreed to and accepted by **Brenda K. Binder** on this 14 day of October, 2021.

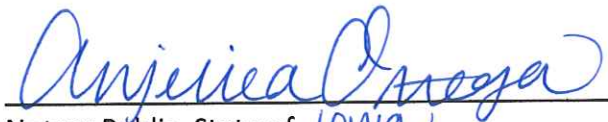

By: **BRENDA K. BINDER**, Respondent

State of Iowa)

County of Polk)

Signed and sworn to before me on this 14th day of October, 2021, by:




Notary Public, State of Iowa
Printed Name: Anjelica Ortega
My Commission Expires: September 5, 2023

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