

FILED February 3, 2022 (Date)
JRE
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: 21-312
Rory S. Prazak)	
Salesperson (S62993000))	COMBINED STATEMENT OF
)	CHARGES, INFORMAL
Carlson Elwood, Inc.)	SETTLEMENT AGREEMENT,
2401 S. Federal Ave.)	AND CONSENT ORDER IN A
Mason City, IA 50401)	DISCIPLINARY CASE
)	
RESPONDENT)	

The Iowa Real Estate Commission (Commission) and **Rory S. Prazak** (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) (2022).

1. The Commission issued the Respondent real estate salesperson license number S62993000 on July 8, 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 Carlson Elwood, Inc., a licensed real estate firm, license number F05254000, located in Mason City, 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).

COUNT II

4. Respondent is charged with failing to timely notify the Commission of his conviction of a criminal offense included in Iowa Code section 543B.15(3)(a), in violation of Iowa Code section 543B.29(1)(f)(1) (2021).

COUNT III

5. Respondent is charged with failing to comply with the terms of a settlement agreement and consent order in violation of Iowa Code sections 543B.34(1)(j), 272C.3(2)(a) (2021). See 193E Iowa Administrative Code sections 18.2(1), 18.2(3), 18.14(5)(s).

CIRCUMSTANCES

6. The Respondent voluntarily entered into a Consent Agreement with the Commission on December 26, 2019, in settlement of complaint case number 19-238. A true and accurate copy of the above-referenced Consent Agreement is attached as Exhibit A.

7. The Consent Agreement entered in IREC Case No. 19-238 imposed probationary terms against the Respondent's real estate salesperson license through December 31, 2022. Among the applicable terms were that the Respondent's real estate salesperson license would be subject to revocation or nonrenewal if during the probationary period he were to commit a felony or misdemeanor criminal offense or fail to notify the Commission of his conviction for any such criminal offense within ten days of judgment entry. See Exhibit A at ¶¶ 3, 4.

8. On May 12, 2021, the Respondent plead guilty in the Iowa District Court for Worthy County to having committed on November 15, 2020, the aggravated misdemeanor offense of Interference with Official Acts Results Resulting in Serious Injury in violation of Iowa Code section 719.1(1). See Amended Written Plea of Guilty, *State of Iowa v. Rory Steven Prazak*, Worth County No. AGCR011907. The Court accepted the Respondent's guilty plea on May 14, 2021, and imposed judgment with the following sentencing conditions: an \$855 fine plus court costs, two years of incarceration with all but seven days suspended, and two years of probation. See Judgment and Sentence, *State of Iowa v. Rory Steven Prazak*, Worth County No. AGCR011907.

9. The criminal conduct that resulted in the conviction entered against the Respondent in Worth County case number AGCR011907 violated the terms of his license probation in IREC Case No. 19-238 and constitutes grounds for the revocation or other disciplinary sanction of his real estate salesperson license. See Exhibit A at ¶ 3.

10. The Respondent did not report the conviction entered against him in Worth County case number AGCR011907 to the Commission within ten days of entry as required by Iowa Code § 543B.29(1)(f)(1) and/or paragraph 4 of the Consent Agreement entered in IREC Case No. 19-238. The Respondent's failure to timely notify the Commission of a qualifying criminal

conviction constitutes grounds for the revocation or other disciplinary sanction of his real estate license. See Iowa Code § 543B.29(1)(f)(1); Exhibit A at ¶¶ 3, 4.

SETTLEMENT AGREEMENT

11. 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) (2022).

12. Respondent acknowledges that he 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 his 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) (2022) 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 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 (2022).

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 salesperson 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 subject to the probationary terms detailed below.

20. **PROBATION.** The Respondent's real estate salesperson license shall be placed on probation commencing upon the Commission's acceptance of this Order and ending on December 31, 2025. The Respondent's probation shall be subject to the following terms:

- A. The Respondent shall maintain full compliance with all terms and conditions of his court-ordered probation in the matter of *State of Iowa v. Rory Steven Prazak*, Worth County No. AGCR011907. 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 term of probation entered against him in the matter of *State of Iowa v. Rory Steven Prazak*, Worth County No. AGCR011907.
- C. The Commission shall have the right to request that the Respondent provide the Commission with independent verification that he is maintaining full compliance with any treatment program established by his psychologist or other treatment provider. Such verification shall include a statement of the Respondent's compliance with the treatment program, and a statement that the Respondent may safely practice real estate while in compliance with his treatment program. The Respondent shall notify the Commission with ten (10) days of any change in treatment providers.

- D. Upon a finding of cause, the Commission may order the Respondent to be evaluated pursuant to Iowa Code § 272C.9.
- E. 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.
- 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.

21. 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:

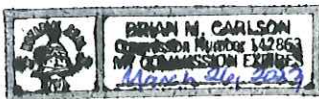
Voluntarily agreed to and accepted by **Rory S. Prazak** on this 28th day of JANUARY, 2022.

Rory Prazak
By: **RORY S. PRAZAK**, Respondent

State of Iowa)

County of Cemetary

Signed and sworn to before me on this 28th day of January, 2022, by:



Brian M Carlson
Notary Public, State of Iowa
Printed Name: BRIAN M CARLSON
My Commission Expires: March 26, 2023

FOR THE COMMISSION:

Voluntarily agreed to and accepted by the **IOWA REAL ESTATE COMMISSION** on this
30th day of February, 2022.

Dennis L. Stolk
DENNIS L. STOLK, Chair
Iowa Real Estate Commission

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

FILED

December 26, 2019

(Date)

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Board / Commission

[Signature]
Signature, Executive Officer

IN RE:)	
)	CASE NUMBER: 19-238
Rory S. Prazak)	
Salesperson (S62993000))	CONSENT AGREEMENT
)	
Carlson Elwood, Inc.)	
2401 S. Federal Ave.)	
Mason City, IA 50401)	
)	
RENEWAL APPLICANT)	

The Iowa Real Estate Commission (Commission) and **Rory S. Prazak** (Applicant) enter into this Consent Agreement (Agreement) pursuant to Iowa Code Sections 17A.10, 272C.3(4) and 543B.19 (2019).

1. The parties acknowledge the following:

- (A) On or about December 9, 2019, the Applicant submitted an application (Application) electronically to the Commission for renewal of his Iowa real estate salesperson license. On the Application, the Applicant answered question 2.1 by stating that since the date of his last renewal, he did have a criminal conviction for a felony or misdemeanor offense. In explanation, the Applicant disclosed that he had been convicted on or about December 12, 2016 of operating while under the influence (OWI) in violation of Iowa Code section 321J.2(2)(a), a serious misdemeanor. No other criminal convictions were disclosed or otherwise identified by the Applicant to the Commission through his Application.
- (B) A search of Iowa Courts Online established, however, that the Applicant failed to accurately and/or completely disclose his criminal history as requested by question 2.1 on the renewal application. In addition to OWI, the Applicant was also convicted on or about December 12, 2016 of assault on persons in certain professions in violation of 708.3A(4), a serious misdemeanor. See *State of Iowa v. Rory Steven Prazak*, Cerro Gordo County No. OWOM006974.
- (C) Truthful and complete disclosure of one's criminal history is essential to the Commission's determination of whether an applicant meets all requirements for renewing an Iowa real estate salesperson license. See Iowa Code § 543B.29(1)(f). A person who makes a false statement of material fact on a renewal application for an Iowa real estate salesperson license may be denied

a license by the Commission solely on the grounds of the false statement. See Iowa Code § 543B.15(5).

- (D) The Applicant does not contest that he failed to accurately disclose his criminal history as requested by question 2.1 on the renewal application. The Applicant's failure to accurately and completely disclose his criminal history constitutes a false statement of material fact upon which the Commission may deny his license renewal application.
- (E) Furthermore, having been found guilty of committing an assault in violation of Iowa Code § 708.3A(4), the Applicant stands convicted of an indictable offense that constitutes an offense involving moral turpitude as his conduct was, among other things, contrary to justice, honesty, and good morals. See Iowa Code §§ 543B.15(3)(a), 543B.29(1)(f); 193E Iowa Administrative Code § 2.1 (defining "moral turpitude").
- (F) A licensed real estate broker or salesperson is required by statute to notify the Commission of the licensee's conviction of any offense included in Iowa Code § 543B.15(3)(a), including any offense involving moral turpitude, within ten days of the conviction. See Iowa Code § 543B.29(f)(1). A licensee's failure to timely notify the Commission of a qualifying conviction is grounds for the revocation and/or denial of the renewal of that licensee's real estate license. See *Id.*
- (G) The Applicant does not contest that he failed to report his Iowa Code section 708.3A(4) assault conviction to the Commission within ten days of entry in Cerro Gordo County No. OWOM006974 as required by Iowa Code § 543B.29(1)(f)(1). The Applicant's failure to timely report this criminal conviction to the Commission constitutes independent grounds upon which the Commission may deny his license renewal application.
- (H) Upon a balancing of the factors delineated in Iowa Code § 543B.29(1)(f)(2), the Commission concludes that the Applicant's criminal history does not disqualify him from retaining his 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 renewal license issued to the Applicant is an appropriate precaution to safeguard the safety and wellbeing of the public.

2. CIVIL PENALTY. In recognition of the material false statements submitted to the Commission and his failure to timely report his criminal offenses as detailed above, the Applicant voluntarily agrees that as a condition for renewing his Iowa real estate salesperson license, the Applicant shall pay to the Commission a civil monetary penalty in the amount of five hundred dollars (\$500.00) within thirty (30) days of the Commission's approval of this Agreement. Failure to timely submit the agreed upon civil penalty shall result in the denial of the Applicant's license renewal application. Furthermore, the Applicant shall submit an amended real estate salesperson license renewal application to the Commission that correctly states his criminal history.

3. PROBATION. The Applicant further voluntarily agrees that he shall be granted the renewal of his salesperson license subject to probation for the time period of the next license term, through December 31, 2022. 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.

4. 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.

5. 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 that is in full force and effect through December 31, 2022, subject to the above probationary term upon his submission of a corrected license renewal application and the Commission's timely receipt of the civil monetary penalty as required by paragraph 2 of this Agreement. Should the Applicant otherwise fail to demonstrate his eligibility to hold a real estate salesperson license, the civil monetary penalty remitted by the Applicant to the Commission shall be returned.

6. By entering into this Agreement, the Applicant acknowledges and voluntarily waives his right to adjudicate the merits of his pending renewal application for a 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.

7. 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 Applicant for any future violations of the laws and rules governing the practice of real estate.

8. 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.

9. 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.



RORY S. PRAZAK
Applicant

06 DEC 19

Date



JEFFREY M. EVANS, Authorized Designee
Iowa Real Estate Commission

December 26, 2019

Date