

FILED August 4, 2022 (Date)
IREC
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: 21-259
Cedric B. Gilworth)	
Broker (B65335000))	COMBINED STATEMENT OF
)	CHARGES, INFORMAL
Doug Gilworth Real Estate LLC)	SETTLEMENT AGREEMENT,
1355, 2010 Main St)	AND CONSENT ORDER IN A
Unionville, MO 63565)	DISCIPLINARY CASE
)	
RESPONDENT)	

The Iowa Real Estate Commission (Commission) and **Cedric B. Gilworth** (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 broker license number B65335000 on March 20, 2017. Respondent’s license is in full force and effect until December 31, 2022. 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 Doug Gilworth Real Estate, LLC, license number F05920000, located in Unionville, Missouri.

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 engaging in practices harmful or detrimental to the public, failing to provide brokerage services to all parties honestly and in good faith, and failing to diligently exercise reasonable skill and care in providing brokerage services to all parties to a transaction in violation of Iowa Code sections 543B.29(1)(d), 543B.34(1)(d), 543B.56(1)(a), 543B.56(1)(b), 543B.58 (2020) 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. See 193E Iowa Administrative Code sections 12.2(9), 12.5(1)(a), 18.14(5)(s)

COUNT II

4. Respondent is charged with engaging in a practice harmful or detrimental to the public and/or failing to diligently exercise reasonable skill and care in providing brokerage services to all parties to a transaction by failing to obtain a completed property disclosure statement signed and dated by each seller and failing to deliver the property disclosure statement to the buyers in a transfer of property in violation of Iowa Code sections 543B.29(1)(d), 543B.56(1)(b), 558A.5(2) (2020). See 193E Iowa Administrative Code sections 14.1(2), 14.1(2)(b), 14.1(6), 14.1(7), 18.14(5)(s).

CIRCUMSTANCES

5. Respondent was assigned as the designated broker of the real estate brokerage firm at all times relevant to this matter. As a broker officer of the real estate brokerage firm and designated broker, the Respondent is responsible for ensuring compliance with all applicable rules and regulations governing its operations in the state of Iowa.

6. On August 17, 2021, an offsite examination of the Respondent's Iowa real estate trust account and transaction records was conducted by the Commission auditor (auditor).

7. In a random sampling of transaction files, the auditor discovered one (1) real estate transaction for a property located in Iowa, in which the Respondent represented both the sellers and the buyer; the aforementioned transaction file did not include a dual agency agreement nor a Property Seller Disclosure Statement form.

8. The Respondent was the listing broker for the aforementioned residential property located in Centerville, Iowa. A listing agreement between the sellers of the subject property and the Respondent was executed on September 28, 2017.

9. As the listing agent, the Respondent failed to obtain a Property Seller Disclosure Statement from the sellers of the subject property and also failed to obtain documentation establishing delivery of the aforementioned disclosure and maintain the written documentation in the transaction file.

10. On or about April 13, 2020, on behalf of the buyer, the Respondent wrote an offer to purchase real estate for the subject property. The offer was subsequently accepted by the sellers on April 16, 2020. The Respondent also represented the sellers in the executed purchase agreement.

11. On or about August 4, 2020, the real estate sale for the subject property closed and the transaction was completed.

12. Consequently, without an executed disclosed dual agency consent agreement, the

Respondent engaged in activities as a dual agent in this respective real estate transaction without the written consent of both the buyer and the seller.

13. As the listing agent, the Respondent failed to obtain a Property Seller Disclosure Statement from the sellers of the subject property and also failed to obtain documentation establishing delivery of the aforementioned disclosure and maintain the written documentation in the transaction file. Furthermore, the Respondent also had a duty to provide both the sellers and the buyers with fully executed copies of the disclosure and maintain a copy of the written acknowledgment in the transaction file.

SETTLEMENT AGREEMENT

14. 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) (2022).

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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 (2022).

CONSENT ORDER

IT IS THEREFORE ORDERED:

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

22. CIVIL PENALTY. Respondent shall pay a civil penalty to the Commission in the amount of one thousand dollars (\$1,000.00) 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 21-259.

23. EDUCATION. Respondent shall attend the Commission approved six (6) hour course "Contract Law and Contract Writing" and the Commission approved six (6) hour course "Real Estate Law and Agency Law." These hours shall be in addition to any real estate continuing education required by law for license renewal. The original certificates 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 certificates of attendance must come under a cover letter addressed to the Commission's Executive Officer, referencing Case Number 21-259.

24. 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 **Cedric B. Gilworth** on this 2nd day of June, 2022.


By: **CEDRIC B. GILWORTH**, Respondent

IREC Case No. 21-259
Cedric B. Gilworth

State of Missouri)

County of Putnam)

Signed and sworn to before me on this 2nd day of June, 2022, by:

CHELSEA PICKERING
Notary Public - Notary Seal
STATE OF MISSOURI
Putnam County
My Commission Expires: July 15, 2022
Commission #14628913

Chelsea Pickering
Notary Public, State of Missouri
Printed Name: Chelsea Pickering
My Commission Expires: 7-15-22

FOR THE COMMISSION:

Voluntarily agreed to and accepted by the **IOWA REAL ESTATE COMMISSION** on this
4 day of Aug, 2022.

James M. H. Clingman
JAMES M.H. CLINGMAN, Chair
Iowa Real Estate Commission