

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

Department of Commerce
Professional Licensing Bureau
FILED 2-2-23 (Date)
IREC
Board / Commission
[Signature]
Signature, Executive Officer

IN RE:)
) CASE NUMBER: 21-179
Carl C. Esker)
Broker (B04187000)) COMBINED STATEMENT OF
) CHARGES, INFORMAL
Hedges Referral Co.) SETTLEMENT AGREEMENT,
5408 Blairs Forest Way NE) AND CONSENT ORDER IN A
Cedar Rapids, IA 52402) DISCIPLINARY CASE
)
RESPONDENT)

The Iowa Real Estate Commission (Commission) and **Carl C. Esker** (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 B04187000 on November 28, 1969. Respondent's license is current and in full force and effect through December 31, 2025. 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 Hedges Associates, Inc., license number F00597000, located in Cedar Rapids, 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 failing to diligently exercise reasonable skill and care in supervising a licensee employed by the Respondent, by allowing the affiliated licensee to practice real estate in the state of Iowa with an inactive license in violation of Iowa Code sections 543B.1, 543B.3, 543B.29(1), 543B.62(3)(b) (2021). See 193E Iowa Administrative Code sections 7.11, 18.2(6), 18.14(5)(m).

CIRCUMSTANCES

4. Respondent was assigned as the designated broker in charge of real estate brokerage Hedges Associates, Inc. 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, including providing supervision of any salesperson or broker associate employed by or otherwise associated with the Respondent.

5. On or about June 18, 2021, the Commission received an electronic request to reactivate an inactive license for a real estate broker associate previously assigned to the Respondent's real estate brokerage firm.

6. Between the time period of January 6, 2021 and June 18, 2021, while his Iowa real estate broker license was on inactive status, the aforementioned real estate licensee conducted activities on behalf of the Respondent's brokerage that required an active real estate license in the state of Iowa.

7. Consequently, the Respondent failed to provide adequate supervision over the associated real estate licensee by allowing him to continue the practice of real estate in the state of Iowa with an inactive licensee.

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) (2022).

9. 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.

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) (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.

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 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:


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

16. **CIVIL PENALTY.** The Respondent shall pay a civil penalty to the Commission in the amount of five hundred dollars (\$500.00) no later than thirty (30) days 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 21-179.

17. **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 Carl C. Esker on this 11 day of Jan, ~~2022~~ 2023

By: **CARL C. ESKER**, Respondent

State of Iowa)

County of Linn)

Signed and sworn to before me on this 11 day of Jan, 202~~2~~³, by:



Notary Public, State of Iowa
Printed Name: Nancy Hrubes
My Commission Expires: 9/17/24

FOR THE COMMISSION:

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


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