

FILED August 3, 2017 (Date)
JRE
Board / Commission
Signature Executive Officer

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

IN RE:)
Phyllis J. Kline)
Broker (B31315000))
KLC Property Management Solutions, L.C.)
815 Office Park Road, Suite 9)
West Des Moines, IA 50266)
RESPONDENT)

) CASE NUMBERS: 16-203, 16-283
) COMBINED STATEMENT OF
) CHARGES, INFORMAL
) SETTLEMENT AGREEMENT,
) AND CONSENT ORDER IN A
) DISCIPLINARY CASE

The Iowa Real Estate Commission (Commission) and **Phyllis J. Kline** (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) (2017).

1. The Commission issued the Respondent real estate broker license number B31315000 on July 31, 2007. Respondent's license is in full force and effect until December 31, 2018. 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 KLC Property Management Solutions, L.C., license number F05206000, located in West Des Moines, Iowa.

2. The Commission has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 543B (2016). 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 (CASE NO. 16-203)

3. Respondent is charged with engaging in practices harmful or detrimental to the public in violation of Iowa Code sections 543B.29(1)(d), 543B.29(1)(k), 543B.34(1), 543B.46 (2016) by:

- (a) Failing to maintain at all times a record of the Respondent's trust account and improper trust account procedures. See 193E Iowa Administrative Code §§ 13.1(6), 18.14(5)(e), 18.14(5)(f).
- (b) Failing to accurately maintain a general ledger to record in chronological order all receipts and disbursements for the Respondent's trust account. See 193E Iowa Administrative Code §§ 13.1(6)(a), 18.14(5)(e)(1).

- (c) Failing to accurately maintain the running balance of all individual ledger accounts for the Respondent's trust account. See 193E Iowa Administrative Code §§ 13.1(6)(b), 18.14(5)(e)(2).
- (d) Failing to provide a means for a monthly reconciliation of the Respondent's trust account to ensure agreement of the general ledger balance, reconciled bank balance and individual ledger accounts. See 193E Iowa Administrative Code §§ 13.1(6)(a)(3), 18.14(5)(e), 18.14(5)(f).

CIRCUMSTANCES

4. Respondent was assigned as the designated broker in charge of real estate brokerage firm KLC Property Management Solutions, L.C. 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 maintenance of the trust account used by the firm.

5. On June 20, 2016, an onsite examination of the Respondent's Iowa real estate trust account and transaction records was conducted by the Commission auditor (auditor).

6. The auditor found that the Respondent was failing to properly maintain accurate accounting of the general ledger balance for the Respondent's Iowa real estate trust account.

7. The auditor found that for the Respondent's Iowa real estate trust account, there was a failure to properly maintain accurate accounting for its individual ledger accounts.

8. The auditor found that for the Respondent's Iowa real estate trust account, there was not an accurate monthly reconciliation being performed to ensure agreement of the general ledger balance, reconciled bank balance and sum of the individual ledgers. The last monthly reconciliation that was performed was for the bank statement dated May 30, 2015.

9. The auditor found that between the time period of approximately March 3, 2015 and April 10, 2015, the Respondent had a shortage in the Iowa real estate trust account in the amount of \$35,182.64.

10. The auditor found that the Respondent rectified the aforementioned deficiency by depositing \$35,182.46 in her Iowa real estate trust account on April 10, 2015. Said deposit was the action of Respondent moving funds from the Client Account to the Trust Account.

11. For the bank statement dated May 31, 2016, the auditor was not able to perform an accurate reconciliation due to the Respondent's failure to maintain the general ledger, failure

to maintain the individual ledgers, and failure to perform accurate monthly reconciliations for the Iowa real estate trust account.

12. In response to the deficiencies identified by the auditor, the Respondent diligently worked to implement new accounting software programs to aid in KLC's efforts to triple reconcile the trust account. Subsequently, the Respondent provided the trust account reconciliation for the bank statement dated June 30, 2016. The reconciliation reflected a General Ledger Balance of \$163,262.71, a Reconciled Bank Balance of \$163,262.71, and the sum of the Individual Ledgers was \$163,262.71; indicating that there are no variances in the Respondent's Iowa real estate trust account.

STATEMENT OF CHARGES (CASE NO. 16-283)

13. 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.29(1), 543B.62(3)(b) (2016). See 193E Iowa Administrative Code sections 7.11, 18.2(6), 18.14(5)(m).

CIRCUMSTANCES

14. On or about October 5, 2016, the Commission received a 'Change of Status from Inactive to Active' form for a real estate salesperson already employed by the Respondent's real estate brokerage firm.

15. Between the time period of July 1, 2016 and October 5, 2016, while her Iowa real estate salesperson license was on inactive status, the aforementioned licensee conducted leasing-related activities requiring an active real estate license in the state of Iowa.

16. 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 and ensuring that all such associated brokers and salespersons maintain proper Iowa licensure when acting on the Respondent's behalf.

SETTLEMENT AGREEMENT

17. As an effort to resolve this Complaint without the need for further investigation and/or a formal IREC hearing on the matters alleged in the Complaint, and not as an admission of wrongdoing, liability, or other culpability for the allegations in the above-stated Statement of Charges, Respondent does not contest the allegations in the above-stated Statement of

Charges. The allegations charged and admitted to in this Settlement Agreement shall constitute one violation for purposes of Iowa Code section 543B.29(4) (2017).

18. 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.

19. 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.

20. 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.

21. 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) (2017) 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.

22. 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.

23. 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 (2017).

CONSENT ORDER

IT IS THEREFORE ORDERED:

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

25. CIVIL PENALTY. Respondent shall pay a civil penalty to the Commission in the amount of two thousand five hundred dollars (\$2000 for Case No. 16-203, \$500 for Case No. 16-283) 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 Numbers 16-203, 16-283.

26. EDUCATION. The Respondent shall attend the Commission approved eight (8) hour course "Trust Accounts" (for Case No. 16-203). 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 Numbers 16-203, 16-283.

27. 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 **Phyllis J. Kline** on this 8th day of June, 2017.

Phyllis J. Kline
By: **PHYLLIS J. KLINE**, Respondent

State of Iowa)

County of Polk)

Signed and sworn to before me on this 8th day of June, 2017, by:



Sherrri M. Wisecup
Notary Public, State of Iowa
Printed Name: Sherrri M. Wisecup
My Commission Expires: January 27, 2018

FOR THE COMMISSION:

Voluntarily agreed to and accepted by the **IOWA REAL ESTATE COMMISSION** on this 3rd day of AUGUST, 2017.

Terrance M. Duggan
TERRANCE M. DUGGAN, Chair
Iowa Real Estate Commission