

FILED November 1, 2018 (Date)

INEC

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: 17-112
Scott A. Underberg)	
Broker (B44846000))	COMBINED STATEMENT OF
)	CHARGES, INFORMAL
Connections Real Estate Group, PLLC)	SETTLEMENT AGREEMENT,
1302 Central Avenue, Suite 200)	AND CONSENT ORDER IN A
Fort Dodge, IA 50501)	DISCIPLINARY CASE
)	
RESPONDENT)	

The Iowa Real Estate Commission (Commission) and **Scott A. Underberg** (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) (2018).

1. The Commission issued the Respondent real estate broker license number B44846000 on October 17, 2014. Respondent's license is in full force and effect until December 31, 2019. 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 Connections Real Estate Group, PLLC, license number F05753000, located in Fort Dodge, Iowa.

2. The Commission has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 543B (2018). 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 knowingly aiding or abetting the unlicensed practice of real estate in Iowa in violation of Iowa Code sections 543B.1, 543B.3, 543B.29(1), 543B.34 (2017). See 193E Iowa Administrative Code sections 7.13, 18.2(6), 18.14(5)(s), 21.2(7).

CIRCUMSTANCES

4. Respondent was assigned as the designated broker in charge of real estate brokerage firm Connections Real Estate Group, PLLC 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 supervising the acts or activities of unlicensed personal assistants.

5. On April 25, 2017, an onsite examination of Connections Real Estate Group, PLLC's Iowa real estate trust account and transaction records was conducted by the Commission auditor (auditor).

6. The auditor's investigation revealed that an unlicensed support personnel employed and/or supervised by the Respondent performed activities on behalf of the Respondent's brokerage that constituted the practice of a real estate broker as set in Iowa Code section 543B.3 for which an Iowa real estate license was required, including showing properties independently and collecting rents for multiple residential properties in Fort Dodge, Iowa and its surrounding area.

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) (2018).

8. 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.

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) (2018) 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 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 (2018).

CONSENT ORDER

IT IS THEREFORE ORDERED:

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

15. CIVIL PENALTY. Respondent shall pay a civil penalty to the Commission in the amount of five hundred dollars (\$500) 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 17-112.

16. 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 **Scott A. Underberg** on this 26th day of October, 2018.


By: **SCOTT A. UNDERBERG**, Respondent

IREC Case No. 17-112
Scott A. Underberg

State of Iowa

County of Webster

Signed and sworn to before me on this 26th day of October, 2018, by:



Dwight Guthrie
Notary Public, State of Iowa
Printed Name: DWIGHT GUTHRIE
My Commission Expires: 5-7-2019

FOR THE COMMISSION:

Voluntarily agreed to and accepted by the **IOWA REAL ESTATE COMMISSION** on this 1st day of November, 2018.

Dennis L. Stolk
~~TERRANCE M. DUGGAN~~, Chair
Iowa Real Estate Commission
Dennis L. Stolk, Vice Chair