

FILED June 11, 2020 (Date)
INCL
Board / Commission
M. L.
Signature, Executive Officer

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

IN RE:)	
)	CASE NUMBER: 17-179
Jim R. Willmsen)	
Salesperson (S38883000))	COMBINED STATEMENT OF
)	CHARGES, INFORMAL
Real Estate Concepts, LC)	SETTLEMENT AGREEMENT,
6600 University Avenue)	AND CONSENT ORDER IN A
Des Moines, IA 50324)	DISCIPLINARY CASE
)	
RESPONDENT)	

The Iowa Real Estate Commission (Commission) and **Jim R. Willmsen** (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) (2020).

1. The Commission issued the Respondent real estate salesperson license number S38883000 on July 6, 1998. Respondent's license is current and in full force and effect through December 31, 2021. At all times relevant to this matter, the Respondent was a licensed real estate salesperson assigned to Real Estate Concepts, LC, a licensed real estate firm, license number F04363000, located in 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

COUNT I

3. Respondent is charged with engaging in a practice harmful or detrimental to the public, being unworthy to act as a real estate broker in such manner as to safeguard the interests of the public, and/or failing to provide brokerage services to all parties honestly and in good faith in violation of Iowa Code sections 543B.29(1)(d), 543B.34(1)(h), 543B.56(1)(a), 543B.56(1)(c) (2016) by failing to disclose all material adverse facts known to a party to a real estate transaction. See 193E Iowa Administrative Code sections 12.3(2), 14.1, 14.1(5), 18.2(1), 18.14(5)(s).

CIRCUMSTANCES

4. On or about April 20, 2016 the Respondent listed a residential property located in Cedar Rapids, Iowa, for sale with his affiliated real estate brokerage firm. The Respondent himself was the seller of the subject property. At the time, the Respondent had owned the subject property continuously since June 2015 as an investment property.

5. On or about April 20, 2016, the Respondent completed and signed a Seller Disclosure of Property Condition form for the subject property. This seller disclosure form, specifically question #13(D), did not reference the fact that the propane tank servicing the property was rented or leased.

6. On or about May 20, 2016, a written offer was presented to the Respondent by a real estate licensee representing a potential buyer of the subject property. Subsequently, the Respondent accepted a counter offer on June 4, 2016. The aforementioned Seller Disclosure of Property Condition form was signed and dated by the buyer on May 20, 2016.

7. On or about July 15, 2016, the real estate sale for the subject property closed and the transaction was completed.

8. As the seller, listing agent, and principal to the transaction, the Respondent had a duty to disclose to the buyers that the propane tank servicing the subject property was rented or leased. The Respondent did not through the Seller Disclosure of Property Condition form, or otherwise, inform the buyer or the buyer's agent of these adverse material facts.

SETTLEMENT AGREEMENT

9. 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) (2020).

10. 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.

11. 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.

12. 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.

13. 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) (2020) 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.

14. 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.

15. 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 (2020).

CONSENT ORDER

IT IS THEREFORE ORDERED:

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

17. **CIVIL PENALTY**. The Respondent shall pay a civil penalty to the Commission in the amount of seven hundred fifty dollars (\$750.00) 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 17-179.

18. **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:

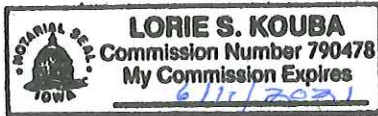
Voluntarily agreed to and accepted by **Jim R. Willmsen** on this 5 day of 5 -, 2020.

Jim R. Willmsen
By: **JIM R. WILLMSEN**, Respondent

State of Iowa)

County of Linn)

Signed and sworn to before me on this 5 day of May, 2020, by:



Lorie S. Kouba
Notary Public, State of Iowa
Printed Name: Lorie S. Kouba
My Commission Expires: 6/11/2021

FOR THE COMMISSION:

Voluntarily agreed to and accepted by the **IOWA REAL ESTATE COMMISSION** on this 11th day of June, 2020.

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