

**FILED** September 6, 2018 (Date)  
J.R.C.  
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 NUMBERS: 17-188, 17-252 |
| David J. Bradley                | ) |                              |
| Broker (B43259000)              | ) | COMBINED STATEMENT OF        |
|                                 | ) | CHARGES, INFORMAL            |
| Iowa Home & Land, Inc.          | ) | SETTLEMENT AGREEMENT,        |
| 3 North 15 <sup>th</sup> Street | ) | AND CONSENT ORDER IN A       |
| Fort Dodge, IA 50501            | ) | DISCIPLINARY CASE            |
|                                 | ) |                              |
| RESPONDENT                      | ) |                              |

The Iowa Real Estate Commission (Commission) and **David J. Bradley** (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 B43259000 on March 3, 2005. 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 Iowa Home & Land, Inc., license number F02872000, 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 (CASE NO. 17-188)

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 (2017) 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 Iowa Home & Land, 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 maintenance of the trust account used by the firm.
5. On July 10, 2017, 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 is 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 is 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.
9. The auditor found that for an unknown period of time, the Respondent had a shortage in the Iowa real estate trust account in the amount of \$2,438.58.
10. The Respondent rectified the deficiency by depositing \$2,438.58 in his Iowa real estate trust account on July 17, 2017.
11. In April 2009, the Respondent and the Commission entered into an Informal Settlement Agreement for his noncompliance with the trust account requirements under section 543B.46. See IREC Case No. A09-014.

#### COUNT II (CASE NO. 17-252)

12. Respondent is charged with failing to comply with all procedures mandated by statute by failing to comply with a written notice from a salesperson then employed by the Respondent's brokerage requesting that the license be returned to the Commission in violation

of Iowa Code section 543B.33 (2017). See 193E Iowa Administrative Code sections 6.1(2), 18.14(5)(c)(2).

### CIRCUMSTANCES

13. Respondent was assigned as the designated broker in charge of real estate brokerage firm Iowa Home & Land, 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.

14. Between the time period of October 31, 2017 and November 15, 2017, a licensee in the employment of the Respondent sent three notifications via electronic mail, requesting that her salesperson license be returned to the Commission.

15. Commission licensing records indicate the aforementioned licensee was assigned to the Respondent brokerage firm until November 28, 2017, at which time her Iowa salesperson license was placed on inactive status by Commission staff after receiving proof that the licensee provided written notification to her affiliated broker and that her request was not fulfilled.

16. The Respondent failed to comply with a written request that an affiliated licensee's real estate license be returned to the Commission to terminate their employment or association to Iowa Home & Land, Inc.

### SETTLEMENT AGREEMENT

17. 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).

18. 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.

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) (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.

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 (2018).

### **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 five thousand, five hundred dollars (\$5000 for Case No. 17-188, \$500 for Case No. 17-252) 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 17-188, 17-252.

26. **EDUCATION.** The Respondent shall attend the Commission approved eight (8) hour course "Trust Accounts." 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 six (6) 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 17-188, 17-252.

27. REVIEW. The Respondent shall be subject to an audit, conducted by the Commission auditor no later than twelve (12) months after acceptance of this Order by the Commission.

28. 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:**

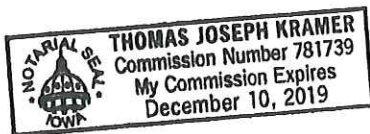
Voluntarily agreed to and accepted by **David J. Bradley** on this 25TH day of JULY, 2018.


  
By: **DAVID J. BRADLEY**, Respondent

State of IOWA )

County of WEBSTER )

Signed and sworn to before me on this 25TH day of JULY, 2018, by:



  
Notary Public, State of Iowa  
Printed Name: Thomas S. Kramer  
My Commission Expires: Dec 10, 2019

**FOR THE COMMISSION:**

Voluntarily agreed to and accepted by the **IOWA REAL ESTATE COMMISSION** on this 6th day of SEPTEMBER, 2018.

  
**TERRANCE M. DUGGAN**, Chair  
Iowa Real Estate Commission