

FILED October 30, 2017 (Date)
JNec
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: 17-195**
Anita M. Olson-Kiene)
5572 Pierce Street) **CONSENT AGREEMENT AND ORDER**
Saint Charles, IA 50240)
)
APPLICANT)

The Iowa Real Estate Commission (Commission) and **Anita M. Olson-Kiene** (Applicant) enter into this Consent Agreement and Order (Agreement) pursuant to Iowa Code Sections 17A.10, 272C.3(4) and 543B.19 (2017).

1. The parties acknowledge the following:

- A. On or about August 8, 2017, the Applicant submitted an Application for Individual License (Application) to the Commission for a new Iowa real estate salesperson license. On the Application, the Applicant answered question 9c by stating that a professional licensing authority in Iowa or another jurisdiction had taken disciplinary action against her.
- B. In explanation of her response to question 9c, the Applicant disclosed on the Application that the Iowa Supreme Court had issued an order on September 23, 2016, publically reprimanding her conduct as a licensed attorney in the state of Iowa. A true and accurate copy of said order is attached as EXHIBIT A. In seeking the reprimand, the Iowa Supreme Court Attorney Disciplinary Board concluded that the Applicant had engaged in dishonesty, fraud, deceit, or misrepresentation while acting as a "real estate transaction coordinator" on behalf of a licensed Iowa real estate firm.
- C. An applicant for a real estate salesperson's license who has had a professional license of any kind revoked or suspended or who has had any other form of discipline imposed, in this or any other jurisdiction, may be denied a license by the Commission on the ground of the revocation, suspension, or other discipline. See Iowa Code § 543B.15(4).
- D. The Commission, when considering the denial of a license, shall consider the nature of the offense that led to previous license discipline; any documented aggravating or extenuating circumstances; the time lapsed since the

revocation or conduct; the rehabilitation, treatment, or restitution performed by an applicant; and any other factors the Commission deems relevant. See Iowa Code § 543B.15(6).

2. Upon review of the factors delineated in Iowa Code section 543b.15(6) , the Commission concludes that the Applicant's professional licensing history as detailed above in subparagraph 1-B does not disqualify her for an Iowa real estate salesperson license. However, because the Applicant's misconduct that led to the public reprimand of her law license directly related to and impacted the conduct of the real estate profession in the state of Iowa, the Commission finds that the imposition of conditions upon any license issued to the Applicant is an appropriate precaution to safeguard the safety and wellbeing of the public.

3. In recognition of the fact that the Applicant has had a professional license reprimanded as detailed above in subparagraph 1-B, the Applicant voluntarily agrees that as a condition for receiving a new Iowa real estate salesperson license, the Applicant shall serve a probationary period throughout the duration her first license term.

4. By entering into this Agreement, the Applicant acknowledges and voluntarily waives her right to adjudicate the merits of her pending Application for a new real estate salesperson license through the commencement of a contested case proceeding before the Commission, and all rights attendant to a contested case proceeding including the right to seek judicial review of the Commission's actions.

5. This Agreement shall be made a part of the record of the Applicant and may be considered by the Commission in determining the nature and severity of any disciplinary action to be imposed on the Respondent for any future violations of the laws and rules governing the practice of real estate.

6. The Applicant voluntarily submits this Agreement to the Commission for its consideration. This Agreement is not binding on the Iowa Real Estate Commission until it has been formally approved. If the Commission fails to approve this Agreement, it shall be of no force or effect on either party.

7. This Agreement shall be public record.

IT IS THEREFORE ORDERED THAT:

8. Upon the Commission's approval of this Agreement, the Applicant shall be issued an Iowa real estate salesperson license subject to a probationary period. During the probationary period, the following terms shall apply:

- A. The Applicant shall fully and promptly comply with all pertinent Orders of the Commission and the statutes and Commission rules regulating the practice of real estate in the state of Iowa.
- B. Any violation of law governing the practice of real estate in the state of Iowa committed by the Applicant during the pendency of the probationary period shall be grounds for the immediate revocation and/or denial of the renewal of the Applicant's real estate salesperson license following notice of the alleged violation and opportunity for hearing before the Commission.
- C. The Applicant shall not be eligible to receive an Iowa real estate broker license during the pendency of the probationary period. The Applicant may, however, count all time she is actively licensed as an Iowa real estate salesperson during the probationary period toward fulfilling the twenty-four months experience requirement imposed by Iowa Code § 543B.15(7) upon real estate broker applicants. Any Iowa real estate broker application submitted by the Applicant will be reviewed by the Commission on the merits at that time.

9. The probationary period imposed by this order shall end upon the expiration of the Applicant's initial salesperson license on December 31, 2019.

WHEREFORE, the terms of this Consent Agreement and Order are agreed to and accepted by the Iowa Real Estate Commission and the Applicant.



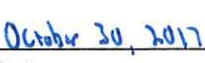
ANITA M. OLSON-KIENE
Applicant

 FOR IREC

TERRANCE M. DUGGAN, Chair
Iowa Real Estate Commission



Date



Date

IN THE SUPREME COURT OF IOWA

**THE IOWA SUPREME COURT
ATTORNEY DISCIPLINARY BOARD,**)
Complainant,)

vs.)

ANITA OLSON,)
Respondent.)

ORDER OF PUBLIC REPRIMAND

No. 16-0930

Pursuant to Court Rule 35.12 (formerly 35.3) the reprimand of attorney Anita Olson, St. Charles, Iowa, by the Iowa Supreme Court Attorney Disciplinary Board has been filed with the clerk of this court together with proof of service thereof and a statement that no exception has been filed within the time prescribed.

It is therefore ORDERED by the court, en banc, that the reprimand of Anita Olson be included in the records of this court as a public document.

Copies to:

Members of the Court
Chief Judge
District Court Administrator
Clerk of Court
Iowa State Bar Association

Tara Mary Vanbrederode
Attorney Disciplinary Board
LOCAL

Paul H. Wieck, II
Office of Professional Regulation
LOCAL

Anita Olson (Restricted Certified Mail)
5572 Pierce Street
St. Charles, IA 50240

Anita Olson
5572 Pierce Street
St. Charles, IA 50240

EXHIBIT A

CLERK OF SUPREME COURT
SEP 26, 2016
ELECTRONICALLY FILED



IOWA APPELLATE COURTS

State of Iowa Courts

Case Number
16-0930

Case Title
Board v. Anita M. Olson

So Ordered

A handwritten signature in black ink that reads "Mark S. Cady". The signature is written in a cursive style.

Mark S. Cady, Chief Justice

Electronically signed on 2016-09-23 14:37:13

GRIEVANCE COMMISSION
OF THE SUPREME COURT OF IOWA



Judicial Branch Building
1111 East Court Avenue
Des Moines, Iowa 50319
(515) 725-8029
Fax (515) 725-8032
www.iowacourts.gov

June 1, 2016

Ms. Donna Humpal
Clerk of the Iowa Supreme Court
Iowa Judicial Branch Building
1111 East Court Avenue
Des Moines, IA 50319

Re: Our File No. 2014-99
Respondent: Anita Olson

Dear Ms. Humpal:

Enclosed please find a copy of the public reprimand which was served on Anita Olson on August 12, 2015, as shown by the attached receipt. Also enclosed is a copy of Ms. Olson's withdrawal of exception to the Board's public reprimand.

Sincerely,

A handwritten signature in blue ink, reading "Trinity M. Braun-Arana".

Trinity M. Braun-Arana
Clerk of the Grievance Commission
of the Supreme Court of Iowa

TMB/scw
Enclosures

CLERK OF SUPREME COURT

JUN 01, 2016

ELECTRONICALLY FILED

GRIEVANCE COMMISSION
OF THE SUPREME COURT OF IOWA



Judicial Branch Building
1111 East Court Avenue
Des Moines, Iowa 50319
(515) 725-8029
Fax (515) 725-8032
www.iowacourts.gov

August 7, 2015

PERSONAL AND CONFIDENTIAL

Anita Olson
Attorney at Law
5572 Pierce Street
St. Charles, IA 50240


Re: Our File No.: 2014-99
Respondent: Anita Olson

Dear Ms. Olson:

Pursuant to Supreme Court Rule 35.3, enclosed find a letter from the Iowa Supreme Court Attorney Disciplinary Board reprimanding you.

You are hereby notified that you have 30 days from receipt of this letter to file exception with the Clerk of the Grievance Commission, Iowa Judicial Branch Building, 1111 East Court Avenue, Des Moines, Iowa, 50319, and if such exception is not filed within said period, the reprimand will be forwarded to the Clerk of the Supreme Court and spread upon the records of the Court as a public reprimand.

For your information, we are enclosing a copy of Supreme Court Rule 35.

for  Div. OPR
Trinity M. Braun-Arana
Clerk of the Grievance Commission
of the Supreme Court of Iowa

TMB/scw
Enclosures
cert: 91 7199 9991 7034 5443 0552

Iowa Supreme Court
Attorney Disciplinary Board

Phone: 515-725-8017
Fax: 515-725-8013

Iowa Judicial Branch Building
1111 East Court Avenue
Des Moines, IA 50319-5003

CHARLES L. HARRINGTON
ADMINISTRATOR, ATTORNEY
DISCIPLINARY BOARD
ASSISTANT DIRECTOR, OPR

August 7, 2015

Anita Olson
Attorney at Law
5572 Pierce Street
St. Charles, IA 50240

Re: Our File No.: 2014-99
Respondent: Anita Olson

Dear Ms. Olson:

The above complaint filed against you came on for consideration by the Board at a recent hearing meeting. The complaint concerns alleged deceit and dishonesty with respect to the sale of complainant's residence.

You maintain a law office in St. Charles, Iowa. You informed the Board that Associated Realty contracts with you "to provide transaction coordination and listing support." You said you acted as a transaction coordinator, not as an attorney, in the sale of complainant's home.

The Board concluded that your conduct relating to this complaint occurred within the practice of law. In *Comm. on Prof'l Ethics & Conduct v. Mahoney*, 402 N.W.2d 434, 436 (Iowa 1987), the court held that although certain law-related activities such as income tax return preparation and labor negotiation can be performed by non-lawyers, when engaged in by a lawyer they fall within the definition of the practice of law. The Board concluded the same would apply to facilitating real estate transactions.

Moreover, lawyers do not shed their professional duties, particularly the duty of honesty, when conducting business transactions. See, e. g., *Iowa Supreme Ct. Bd. of Prof'l Ethics & Conduct v. Jones*, 606 N.W.2d 5, 8 (Iowa 2000). Thus, even if your actions as a "real estate transaction coordinator" are not deemed to be the practice of law, you would still be subject to professional discipline for any dishonesty or misrepresentation in which you might engage while facilitating a real estate transaction.

The Board found that in or about January 2014, complainant and her husband bought a flat-fee service package to sell their home through Owners.com, which offered "for sale by owner" services. Owners.com required complainant to have an agent to list the home on realtor.com and the local Master Listing Service (MLS). The receipt for complainant's flat fee payment stated:

The licensed agent who will enter your property on the MLS will contact you shortly by e-mail. ...

Offering a Commission to a Buyer's Agent

By listing on the MLS you are hoping to attract agents who represent qualified buyers. Therefore, **your licensed listing agent will recommend that you offer a commission of 2% - 3% to buyer's agents.** You will be given a form to state the amount of commission you want to offer buyer's agents.

(Emphasis added)

On January 28, 2014, you e-mailed complainant: "We are the company contracted by owners.com to list your house on realtor.com and the [MLS]. Please use the attachment to fill out the listing packet." The attachment included Associated Realty's Uniform Listing Contract (ULC), which provided, in part:

1. ... The listing Broker is to receive a flat listing fee of \$ 0.00. This fee is earned, due and payable in full upon the execution of this agreement by the Seller and upon payment to Broker. This fee is irrevocably non-refundable... Seller may have paid this listing fee in advance.

2. Seller agrees to pay the Listing Broker a 2.0 % (3.5% if left blank) commission of the SALE PRICE at time of settlement for dissemination to selling broker. The Cooperating Broker's commission, if any, may be reduced by for [*sic*] listing administrative allowance/MLS marketing fee payable to Associated Realty. (Payable out of Cooperating Broker's Commission. No commission if sold by owner.)

Upon reviewing the ULC, complainant had concerns with the commission language in paragraph 2, as Owners.com had said the listing agent was paid through the Owners.com flat fee. Complainant asked you about the commission language. You replied, "... [T]he commission you put down [in paragraph 2 of the contract] is for us to give to the [buyer's] agent."

In a subsequent email, you reiterated that Associated Realty was paid through the Owners.com flat fee. With that assurance, complainant wrote "2%" in paragraph 2 of the Uniform Listing Contract. However, she also added the following to the remarks section of the contract: "All fees and commissions have already been paid to Associated Realty through owners.com."

The buyer's agent, Jen Stoelk of ReMax, sent an offer to purchase and asked Ben Bryant of Associated Realty whether the seller would consider raising the commission percentage. Bryant wrote you on 11 February 2014: "Jen wants me to talk to the owners about the 1.5%¹ and see if they would be willing to pay 3%. Call me please so you and I can discuss this."

¹ Associated Realty listed the buyer's agent commission on the MLS as 1.5%, despite complainant's entry of 2% on the Associated Realty ULC.

You then wrote to complainant:

Here is the purchase agreement I mentioned over the phone. It is contingent on you paying 3 – 3.5%. **I think I can get the agent to accept 3%.** 1% more than what she is currently getting. They are also asking for closing costs of 2500 to be paid. Like I mentioned earlier agents have to split their commission with the broker so every bit of commission helps.

(Emphasis added.)

Complainant replied to you: “We will accept their offer of \$232,500 with 3% commission to realtor but without paying the \$2500 closing costs.”

Stoelk heard from Ben Bryant of Associated Realty: “I have talked with Taylor and Kyle. They will raise the commission to **2.5%**.” (Emphasis added.)

On 12 February 2014, complainant signed a purchase agreement prepared by Stoelk. The HUD statement, prepared by Denise Doyel at Templeton Savings Bank (and in conjunction with Iowa Bankers Mortgage Corporation), included a 2.5% commission figure, as provided by ReMax and complainant. Doyel later received an “Invoice for Associated Realty” from you showing 0.5% commission (\$1162.50) due to Associated Realty. Your April 8, 2014 email to Doyel stated:

Please find enclosed our invoice for the above property. We were the listing agent for [complainant]. We currently hold the earnest money [\$1,000] but since our commission is more than the earnest, would you just want to send us a check for the difference.

On 9 April, you emailed Doyel again: “Go ahead. And cut a check for the whole 3% commission. [Complainant] agreed to pay 3% total commission and we will split it ourselves.”

On 14 April, 12:15 PM, you emailed Jen Stoelk: “Also is your company going to cut us a check for the .5%. I see that they [bank] issued one check at least that is what it says on the HUD. Thanks.” Stoelk replied that the check was in the mail.

You assured complainant at least twice that both Associated Realty and the buyer’s agent were paid from the flat fee. Complainant agreed to pay 3% upon your representation of what the buyer’s agent would purportedly require, and accepted the offer. Complainant was thereafter in contact with the buyer’s agent (Jen Stoelk). Complainant double-checked with Stoelk what commission was owed. Stoelk answered, “We only agreed on 2.5%.”

Upon closing, complainant learned to her surprise that Associated Realty received a commission of 0.5%. Both the Owners.com site and you had assured her that the listing agent took no commission. Complainant reasonably concluded that your purpose in advising her to offer 3% was so that you could take a 0.5% commission “under the table.”

The Board concluded that you knowingly misrepresented the terms of Associated Realty's Universal Listing Contract to complainant and that you misrepresented what the buyer's agent would agree to take as a commission.

It was the determination of the Board that you be and hereby are publicly reprimanded for conduct contrary to Iowa R. Prof'l Conduct 32:8.4(c) (it is professional misconduct for lawyer to engage in dishonesty, fraud, deceit, or misrepresentation).

FOR THE IOWA SUPREME COURT
ATTORNEY DISCIPLINARY BOARD

Jaime Suderick
for the Board

CLH/scw

Date: May 23, 2016

Shari Craven:

The following is in response to your May 23, 2016 request for delivery information on your Certified Mail™ item number 9171999991703454430552. The delivery record shows that this item was delivered on August 12, 2015 at 11:40 am in SAINT CHARLES, IA 50240. The scanned image of the recipient information is provided below.

Signature of Recipient :



Address of Recipient :



Thank you for selecting the Postal Service for your mailing needs.

If you require additional assistance, please contact your local Post Office or postal representative.

Sincerely,
United States Postal Service

ANITA M OLSON, JD
5572 PIERCE ST.
ST CHARLES IOWA 50240
515/975/8969
Atty4unme@aol.com

To: Amanda Robinson, Ethics Council
Re: : 2014-99

Ms. Robinson:

This letter is to inform you that I am withdrawing my exception in the above referenced case. I am going to accept the public reprimand.

Respectfully submitted,

Anita M. Olson
Attorney at Law