

FILED November 5, 2020 (Date)
JREL
Board / Commission
[Signature]
Signature, Executive Officer

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

IN RE:)	
)	CASE NUMBERS: 17-258, 17-284
P.J. Morgan)	
Broker (B37018000))	COMBINED STATEMENT OF
INACTIVE)	CHARGES, INFORMAL
)	SETTLEMENT AGREEMENT,
11124 Pierce Plz)	AND CONSENT ORDER IN A
Omaha, NE 68144)	DISCIPLINARY CASE
)	
RESPONDENT)	

The Iowa Real Estate Commission (Commission) and **P.J. Morgan** (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 broker license number B37018000 on May 10, 1996. Respondent's license is in full force and effect until December 31, 2022. 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 P.J. Morgan Investment Company, license number F03762000, located in Omaha, Nebraska. The Respondent's license was placed on inactive status on December 10, 2019.

2. The Commission has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 543B (2017). 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. 17-258)

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 failing to deposit earnest payments received by the broker in an Iowa real estate trust account. See 193E Iowa Administrative Code sections 13.1, 13.1(1), 18.14(5)(f)(10).

CIRCUMSTANCES

4. Respondent was assigned as the designated broker in charge of real estate brokerage firm P.J. Morgan Investment Company 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 November 30, 2017, an onsite examination of the Respondent's Iowa real trust account and transaction records was conducted by the Commission auditor (auditor).

6. In a random sampling of transaction files, the auditor discovered one (1) real estate transaction from 2017 for a property located in Carter Lake, Iowa, in which the executed purchase agreement provided that the earnest money was to be held in trust by the listing broker, P.J. Morgan Investment Company.

7. The auditor discovered that the Respondent deposited an earnest money check for an Iowa real estate transaction in the amount of \$500.00 into the Respondent's Nebraska trust account on August 4, 2017.

8. The auditor found that on the same day, the Respondent wrote a check for \$500.00 to Clear Title & Abstract, LLC. The real estate closing took place on September 15, 2017 in Carter Lake, Iowa.

9. By depositing the earnest money funds into the Respondent's Nebraska real estate trust account, the Respondent failed to properly effectuate the terms of an executed purchase agreement and failed to deposit trust funds in an Iowa real estate trust account.

COUNT II (CASE NO. 17-284)

10. Respondent is charged with knowingly aiding or abetting an unlicensed person, by allowing 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

11. 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 the firm. As the designated broker in charge, the Respondent was responsible for ensuring that P.J. Morgan complied with all applicable statutes and regulations relating to its operations as a real estate brokerage firm, including supervising the acts or activities of unlicensed personnel.

12. On November 30, 2017, an onsite examination of the Respondent's Iowa real trust account and transaction records was conducted by the Commission auditor (auditor).

13. The Commission's investigation revealed that five unlicensed support personnel for the Respondent was engaged in acts contained in the definition of a real estate broker for rental properties in Council Bluffs, Iowa and the surrounding area by performing real estate property management duties for a fee.

14. Consequently, the Respondent knowingly aided or abetted the unlicensed practice of real estate in Iowa.

SETTLEMENT AGREEMENT

15. 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).

16. 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.

17. 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.

18. 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.

19. 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.

20. 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.

21. 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 (2020).

CONSENT ORDER

IT IS THEREFORE ORDERED:

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

23. **CIVIL PENALTY**. Respondent shall pay a civil penalty to the Commission in the amount of three thousand dollars (\$500.00 for Case No. 17-258, \$2,500.00 for Case No. 17-284) as a condition precedent to:

- (a) The Respondent's reactivation of his inactive Iowa real estate broker license.
- (b) The Respondent's reinstatement of his Iowa real estate broker license in the event of its expiration.

The Commission shall not reactivate or reinstate the Respondent's Iowa real estate broker license before and until it has received payment in full of the required civil penalty from the Respondent. Payment of the civil penalty shall not excuse the Respondent from demonstrating compliance with all other applicable statutory and regulatory requirements or otherwise qualifying for reactivation or reinstatement of his Iowa real estate broker license. The civil penalty must come under a cover letter addressed to the Commission's Executive Officer, referencing Case Numbers 17-258, 17-284.

24. **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 **P.J. Morgan** on this 12 day of Oct., 2020.



By: **P.J. MORGAN**, Respondent

State of Nebraska)

County of Douglas)

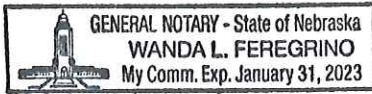
Signed and sworn to before me on this 12 day of October, 2020, by:



Notary Public, State of Nebraska

Printed Name: Wanda L Feregrino

My Commission Expires: Jan 31, 2023



FOR THE COMMISSION:

Voluntarily agreed to and accepted by the **IOWA REAL ESTATE COMMISSION** on this 5th day of November, 2020.



TERRANCE M. DUGGAN, Chair

Iowa Real Estate Commission