

FILED February 7, 2019 (Date)  
JRG  
Board / Commission  
Signature, Executive Officer

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

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IN RE: )  
 ) CASE NUMBER: 18-236  
 Patrick Pena )  
 Salesperson (S65045000) ) COMBINED STATEMENT OF  
 ) CHARGES, INFORMAL  
 Re/Max Real Estate Concepts ) SETTLEMENT AGREEMENT,  
 8020 Douglas Ave ) AND CONSENT ORDER IN A  
 Urbandale, IA 50322 ) DISCIPLINARY CASE  
 )  
 RESPONDENT )

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The Iowa Real Estate Commission (Commission) and **Patrick Pena** (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 salesperson license number S65045000 on November 1, 2016. Respondent’s license is current and in full force and effect through December 31, 2018. At all times relevant to this matter, the Respondent was a licensed real estate salesperson assigned to Re/Max Real Estate Concepts, a licensed real estate firm, license number F04363000, located in Urbandale, 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 having been convicted of a criminal offense involving moral turpitude in a court of competent jurisdiction in this state, or in any other state, territory, or district of the United States in violation of Iowa Code section 543B.29(1)(f). See Iowa Code § 543B.15(3) and 193E Iowa Administrative Code §§ 2.1 (definition of “moral turpitude”), 18.2(1), 18.2(4).

### CIRCUMSTANCES

4. On or about November 15, 2017, the Respondent pled guilty in the Iowa District Court for Polk County to the aggravated misdemeanor offense of Domestic Abuse Assault by Impeding Breathing or Circulation in violation of Iowa Code sections 708.2A(2)(d); 708.1(2). See *State of Iowa v. Patrick Pena*, Polk County No. FECR309935. On that same date, the Court accepted the Respondent's guilty plea, deferred judgment against the Respondent, imposed a \$625 fine plus court cost, and ordered the Respondent to serve two years of supervised probation.

5. In pleading guilty to and receiving a deferred judgment for violating Iowa Code section 718.6(1), the Respondent stands convicted of an indictable offense that constitutes an offense involving moral turpitude as his conduct was, among other things, contrary to justice, honesty, and good morals. See Iowa Code §§ 543B. 15(3)(a), 543B.29(1)(f); 193E Iowa Administrative Code § 2.1.

6. The Respondent purportedly through a telephone conversation with Commission staff attempted to report the conviction entered against him in Polk County No. FECR309935 as required by Iowa Code § 543B.29(1)(f)(1).

7. On or about November 27, 2018, the Respondent submitted an application to the Commission for the renewal of his Iowa real estate salesperson license. On his salesperson renewal application, the Applicant answered question 2.1 by stating that since the date of his last renewal, he did have a criminal conviction for a felony or misdemeanor offense.

### SETTLEMENT AGREEMENT

8. Respondent admits to 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).

9. 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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 (2018).

### CONSENT ORDER

#### **IT IS THEREFORE ORDERED:**

15. PROBATION. The Respondent's real estate salesperson license shall be placed on probation commencing upon the Commission's acceptance of this Order and ending on December 31, 2021. The Respondent's probation shall be subject to the following terms:

- A. The Respondent shall maintain full compliance with all terms and conditions of his court-ordered probation in the matter of *State of Iowa v. Patrick Pena*, Polk County No. FECR309935. Respondent shall promptly provide all necessary documentation to verify such compliance upon request of the Commission.
- B. The Respondent shall notify the Commission within ten (10) days of the entry of any order either discharging or revoking the deferred judgment entered against him in the matter of *State of Iowa v. Patrick Pena*, Polk County No. FECR309935.

- C. In addition to the reporting requirements detailed in Iowa Code § 543B.29(f)(1), the Respondent shall notify the Commission of any conviction for a criminal offense within ten (10) days of the court entering judgment. Should the Respondent fail to timely report the entry of any criminal conviction, the Commission shall have the right to revoke and/or deny the renewal of the Respondent's real estate salesperson license following notice of the alleged violation and opportunity for hearing before the Commission.
- D. Should the Respondent commit any felony or misdemeanor criminal offense or commit any violation of law governing the practice of real estate in the state of Iowa during the pendency of the probationary period, the Commission shall have the right to revoke and/or deny the renewal of the Respondent's real estate salesperson license following notice of the alleged violation and opportunity for hearing before the Commission.

16. 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 **Patrick Pena** on this 28 day of December, 2018.



By: **PATRICK PENA**, Respondent

State of Iowa

County of polk

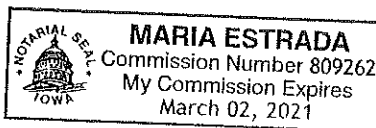
Signed and sworn to before me on this 28 day of December, 2018, by:



Notary Public, State of Iowa

Printed Name: Maria Estrada

My Commission Expires: March 02, 2021



**FOR THE COMMISSION:**

Voluntarily agreed to and accepted by the **IOWA REAL ESTATE COMMISSION** on this  
7<sup>th</sup> day of February, 2019.

Dennis L. Stolk

**TERRANCE M. DUGGAN**, Chair

Iowa Real Estate Commission

Dennis L. Stolk, Vice Chair