

FILED October 3, 2019 (Date)

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

JNEC
Board / Commission
[Signature]
Signature, Executive Officer

IN RE:)	
)	CASE NUMBER: 19-049
Landon E. Smith)	
Broker (B64835000))	COMBINED STATEMENT OF
)	CHARGES, INFORMAL
Tailwind Group Inc)	SETTLEMENT AGREEMENT,
530 S Front Street, #100)	AND CONSENT ORDER IN A
Mankato, MN 56001)	DISCIPLINARY CASE
)	
RESPONDENT)	

The Iowa Real Estate Commission (Commission) and **Landon E. Smith** (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) (2019).

1. The Commission issued the Respondent real estate broker license number B64835000 on July 28, 2016. Respondent's license is now current and in full force and effect through December 31, 2021. At all times relevant to this matter, the Respondent was an unlicensed real estate broker officer of Tailwind Group, Inc., license number F05877000, located in Mankato, Minnesota.

2. The Commission has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 543B (2019). 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 that is harmful or detrimental to the public by holding himself out as being engaged in the business of selling real estate and/or practicing real estate while his broker license was inactive, lapsed, or expired in violation of Iowa Code sections 543B.1, 543B.3, 543B.29(1)(d), 543B.34(1) (2019). See 193E Iowa Administrative Code sections 3.5, 3.6, 18.2(5), 18.14(5)(a).

COUNT II

4. Respondent, as the designated broker, is charged with engaging in a practice that is harmful or detrimental to the public by holding his real estate brokerage firm out as being engaged in the business of selling real estate and/or practicing real estate while the real estate firm license was inactive, lapsed, or expired in violation of Iowa Code sections 543B.1, 543B.2, 543B.29(1)(d), 543B.34(1) (2019). See 193E Iowa Administrative Code sections 3.3(2), 7.2(1), 18.2(5), 18.14(5)(s).

CIRCUMSTANCES

5. From the time period of July 28, 2016 through December 31, 2018, the Respondent was a licensed real estate broker officer assigned to Tailwind Group, Inc., a licensed real estate brokerage firm, license number F05877000, located in Mankato, Minnesota. 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 Tailwind Group, Inc. complied with all applicable statutes and regulations relating to its operations as a real estate brokerage firm.

6. Pursuant to Commission licensing records, the Respondent's Iowa real estate broker license expired on December 31, 2018. Subsequently, the Respondent reinstated his Iowa real estate broker license on February 28, 2019.

7. Pursuant to Commission licensing records, Tailwind Group, Inc.'s real estate brokerage firm license expired on December 31, 2018. Subsequently, the Respondent reinstated his Iowa real estate brokerage firm license on February 28, 2019.

8. Between the time period of January 1, 2018 and February 28, 2019, while his Iowa real estate broker license was expired while Tailwind Group, Inc.'s real estate firm license was expired, the Respondent conducted activities requiring a real estate license in the state of Iowa.

9. Consequently, during the time period between January 1, 2019 and February 28, 2019, the Respondent held himself out as or acted as a real estate broker and/or allowed Tailwind Group, Inc. to act as a real estate brokerage firm in the state of Iowa despite not having an actively licensed real estate broker officer or designated broker in charge assigned to it.

SETTLEMENT AGREEMENT

10. 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) (2019).

11. 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.

12. 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.

13. 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.

14. 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) (2019) 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.

15. 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.

16. 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 (2019).

CONSENT ORDER

IT IS THEREFORE ORDERED:

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

18. CIVIL PENALTY. Respondent shall pay a civil penalty to the Commission in the amount of one thousand, ~~five hundred~~ ^{five hundred} dollars (\$500.00 for Count I, \$500.00 for Count II) 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 19-049.

19. FUTURE COMPLIANCE. 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 **Landon E. Smith** on this 27 day of August, 2019.

Landon E. Smith
By: **LANDON E. SMITH**, Respondent

State of MN)

County of Blue Earth)

Signed and sworn to before me on this 27th day of August, 2019, by:



Kristin Moorhouse
Notary Public, State of Minnesota
Printed Name: Kristin Moorhouse
My Commission Expires: January 31, 2024

FOR THE COMMISSION:

Voluntarily agreed to and accepted by the **IOWA REAL ESTATE COMMISSION** on this 3rd day of OCTOBER, 2019.

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