

FILED

August 13, 2019

(Date)

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

REC
Board / Commission
Signature, Executive Officer

IN RE:)
) CASE NUMBER: 19-119
Todd Rutherford)
1016 64th Street)
Windsor Heights, IA 50324) CONSENT AGREEMENT
)
)
APPLICANT)

The Iowa Real Estate Commission (Commission) and **Todd Rutherford** (Applicant) enter into this Consent Agreement (Agreement) pursuant to Iowa Code Sections 17A.10, 272C.3(4) and 543B.19 (2019).

1. The parties acknowledge the following:

- (A) On or about May 13, 2019 the Applicant submitted a Waiver for Completing Criminal History Background Checks (Waiver) to the Commission so that the criminal history check required by Iowa Code 543B.15(9) (2019) could be completed.
- (B) On or about May 8, 2019, the Applicant submitted an Application for Individual License (Application) electronically to the Commission for a new Iowa real estate salesperson license. On the Application, the Applicant answered question 2.7 by stating that he did have a criminal conviction (or equivalent) for a serious misdemeanor, aggravated misdemeanor, or felony offense.
- (C) The criminal history checks conducted by the Iowa Division of Criminal Investigations and the Federal Bureau of Investigation pursuant to Iowa Code 543B.15(9) (2019) and a search of Iowa Courts Online established, however, that the Applicant failed to accurately and/or completely disclose his criminal history as requested by question 2.7 on the Application.
- (D) The Applicant does not contest that he failed to accurately disclose his criminal history as requested by question 2.7 on the Application.
- (E) A person who makes a false statement of material fact on an application for an Iowa real estate salesperson license may be denied a license by the Commission solely on the grounds of the false statement. See Iowa Code § 543B.15(5) (2019).

- (F) Truthful and complete disclosure of one's criminal history is essential to the Commission's determination of whether an applicant meets all requirements for obtaining an Iowa real estate salesperson license. See Iowa Code § 543B.15(3) (2019). The Applicant's failure to accurately and completely disclose his criminal history constitutes a false statement of material fact upon which the Commission may deny his license application.
- (G) The Applicant's criminal history as of the date of his license application would not have otherwise disqualified the Applicant from obtaining a real estate salesperson license had he accurately disclosed that history as requested by question 2.7 on the Application.

2. CIVIL PENALTY. In recognition of the material false statements submitted to the Commission as detailed above in subparagraphs 1-D and 1-F, the Applicant voluntarily agrees that as a condition for receiving a new Iowa real estate salesperson license, the Applicant shall pay to the Commission a civil monetary penalty in the amount of five hundred dollars (\$500.00) within thirty (30) days of the Commission's approval of this Agreement. Failure to timely submit the agreed upon civil penalty shall result in the denial of the Applicant's license application. Furthermore, the Applicant shall submit an amended real estate salesperson license Application to the Commission that correctly states his criminal history. Said Application and disclosures referencing question 2.7 are to be duly signed and acknowledged by the employing broker.

3. PROBATION. Although deemed not disqualifying, given the recency and nature of the Applicant's criminal history, the Applicant further voluntarily agrees that he shall be granted a salesperson license subject to probation for the time period of his first license term, through December 31, 2021. Should the Applicant 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 Applicant's real estate salesperson license following notice of the alleged violation and opportunity for hearing before the Commission.

4. NOTIFICATION. In addition to the reporting requirements detailed in Iowa Code section 543B.29(f)(1), the Applicant shall notify the Commission of any conviction for a criminal offense within ten (10) days of the Court entering judgment. Should the Applicant 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 Applicant's real estate salesperson license following notice of the alleged violation and opportunity for hearing before the Commission.

5. Provided that the Applicant can demonstrate he meets all other licensing requirements, including payment of the applicable licensing fee, the Applicant shall be issued an Iowa real estate salesperson license subject to the above probationary term upon his submission of a corrected license Application and the Commission's timely receipt of the civil monetary penalty as required by paragraph 2 of this Agreement. Should the Applicant otherwise fail to demonstrate his eligibility to hold a real estate salesperson license, the civil monetary penalty remitted by the Applicant to the Commission shall be returned.

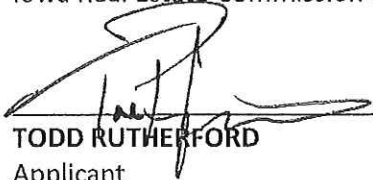
6. By entering into this Agreement, the Applicant acknowledges and voluntarily waives his right to adjudicate the merits of his pending Application for a new real estate salesperson license through the commencement of a contested case proceeding before the Commission, and all rights attendant to a contested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

7. 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.

8. 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.

9. This Agreement shall be public record. The Applicant further agrees to 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 Consent Agreement are agreed to and accepted by the Iowa Real Estate Commission and the Applicant.



TODD RUTHERFORD
Applicant



TERRANCE M. DUGGAN, Chair
Iowa Real Estate Commission

8/9/19

Date

August 12, 2019

Date