

FILED March 4, 2021 (Date)

I.R.E.C.

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: 19-186
John F. Lund)	
Broker (B37018000))	COMBINED STATEMENT OF
)	CHARGES, INFORMAL
The Lund Company)	SETTLEMENT AGREEMENT,
450 Regency Parkway, Suite 200)	AND CONSENT ORDER IN A
Omaha, NE 68114)	DISCIPLINARY CASE
)	
RESPONDENT)	

The Iowa Real Estate Commission (Commission) and **John F. Lund** (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 B05361000 on January 19, 1977. Respondent's license is in full force and effect until December 31, 2023. 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 Lund Company, license number F03054000, located in Omaha, Nebraska.

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 knowingly aiding or abetting the unlicensed practice of real estate in the state of Iowa in violation of Iowa Code sections 543B.1, 543B.3, 543B.29(1), 543B.34 (2019). See 193E Iowa Administrative Code rules 7.13, 18.2(6), 18.14(5)(s), 21.2(7).

CIRCUMSTANCES

4. 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 Lund Company. As the

designated broker in charge, the Respondent was responsible for ensuring that The Lund Company 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.

5. On May 7, 2019, an onsite examination of the Respondent's Iowa real trust account and transaction records was conducted by the Commission auditor (auditor).

6. The Commission auditor's inquiry revealed that three unlicensed support personnel employed by the Respondent purportedly had engaged in acts contained in the definition of a real estate broker by performing real estate property management duties for a fee for rental properties in Council Bluffs, Iowa and the surrounding area.

SETTLEMENT AGREEMENT

7. The Respondent denies that he has engaged in any wrongdoing or otherwise violated applicable Iowa real estate licensing law. However, to avoid the expense and uncertainties of further litigation on this matter, the parties voluntarily agree to resolve this matter through the entry of this Order. Therefore, without admission of wrongdoing or guilt, the Respondent does not contest the allegations stated in the above-stated Statement of Charges. This case shall constitute one violation for purposes of Iowa Code section 543B.29(4) (2020).

8. The 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 rule 7.4.

9. The 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. The 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.

10. This Order shall be part of the permanent record of the 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.

11. 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.

12. 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.

13. Upon acceptance by both the Commission and the 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:

14. CIVIL PENALTY. The Respondent shall pay a civil penalty to the Commission in the amount of one thousand, five hundred dollars (\$1,500.00) 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 19-186.

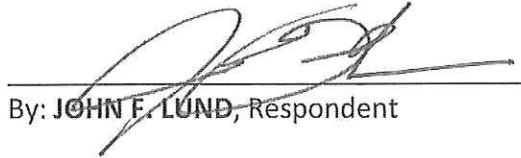
15. FUTURE COMPLIANCE. Within 90 days of the Commission's approval of this Order, the Respondent shall evaluate the activities performed on behalf of The Lund Company by all of its unlicensed support personnel so as to ensure that none of their assigned duties require an Iowa real estate license. The Respondent shall reassign to other employees or agents of The Lund Company that possess an active Iowa real estate license any and all duties that require an Iowa real estate that are presently being performed by unlicensed support personnel. 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.

16. SCOPE OF AGREEMENT. In consideration of the Respondent's agreement to evaluate and modify its operating practices and procedures as appropriate so as to ensure that all activities performed by The Lund Company that require an Iowa real estate license are only performed by active Iowa real estate licensees, the Commission agrees that no other penalties than those imposed through this Order shall be assessed against the Respondent as a consequence of any purported aiding and abetting of the unlicensed practice of real estate in the state of Iowa by the Respondent that occurred on or before the Commission's approval of this Order.

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:

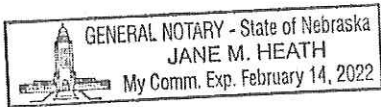
Voluntarily agreed to and accepted by **John F. Lund** on this 2nd day of March, 2021.



By: **JOHN F. LUND**, Respondent

State of Nebraska)

County of Douglas)

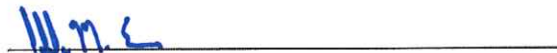
Signed and sworn to before me on this 2nd day of March, 2021, by:




Notary Public, State of Nebraska
Printed Name: Jane M Heath
My Commission Expires: 2/14/2022

FOR THE COMMISSION:

Voluntarily agreed to and accepted by the **IOWA REAL ESTATE COMMISSION** on this 4th day of March, 2021.


TERRENCE M. DUGGAN, Chair
Iowa Real Estate Commission