

FILED

December 26, 2019

(Date)

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

IREC

Board / Commission

Signature, Executive Officer

IN RE:	)	
	)	CASE NUMBER: 19-238
Rory S. Prazak	)	
Salesperson (S62993000)	)	CONSENT AGREEMENT
	)	
Carlson Elwood, Inc.	)	
2401 S. Federal Ave.	)	
Mason City, IA 50401	)	
	)	
RENEWAL APPLICANT	)	

The Iowa Real Estate Commission (Commission) and **Rory S. Prazak** (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 December 9, 2019, the Applicant submitted an application (Application) electronically to the Commission for renewal of his Iowa real estate salesperson license. On the 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. In explanation, the Applicant disclosed that he had been convicted on or about December 12, 2016 of operating while under the influence (OWI) in violation of Iowa Code section 321J.2(2)(a), a serious misdemeanor. No other criminal convictions were disclosed or otherwise identified by the Applicant to the Commission through his Application.
- (B) 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 2.1 on the renewal application. In addition to OWI, the Applicant was also convicted on or about December 12, 2016 of assault on persons in certain professions in violation of 708.3A(4), a serious misdemeanor. See *State of Iowa v. Rory Steven Prazak*, Cerro Gordo County No. OWOM006974.
- (C) Truthful and complete disclosure of one's criminal history is essential to the Commission's determination of whether an applicant meets all requirements for renewing an Iowa real estate salesperson license. See Iowa Code § 543B.29(1)(f). A person who makes a false statement of material fact on a renewal 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).

- (D) The Applicant does not contest that he failed to accurately disclose his criminal history as requested by question 2.1 on the renewal application. 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 renewal application.
- (E) Furthermore, having been found guilty of committing an assault in violation of Iowa Code § 708.3A(4), the Applicant 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 (defining "moral turpitude").
- (F) A licensed real estate broker or salesperson is required by statute to notify the Commission of the licensee's conviction of any offense included in Iowa Code § 543B.15(3)(a), including any offense involving moral turpitude, within ten days of the conviction. See Iowa Code § 543B.29(f)(1). A licensee's failure to timely notify the Commission of a qualifying conviction is grounds for the revocation and/or denial of the renewal of that licensee's real estate license. *See Id.*
- (G) The Applicant does not contest that he failed to report his Iowa Code section 708.3A(4) assault conviction to the Commission within ten days of entry in Cerro Gordo County No. OWOM006974 as required by Iowa Code § 543B.29(1)(f)(1). The Applicant's failure to timely report this criminal conviction to the Commission constitutes independent grounds upon which the Commission may deny his license renewal application.
- (H) Upon a balancing of the factors delineated in Iowa Code § 543B.29(1)(f)(2), the Commission concludes that the Applicant's criminal history does not disqualify him from retaining his Iowa real estate salesperson license. However, because of the nature of the Applicant's misconduct that led to his criminal convictions, the Commission finds that the imposition of conditions upon any renewal license issued to the Applicant is an appropriate precaution to safeguard the safety and wellbeing of the public.

2. CIVIL PENALTY. In recognition of the material false statements submitted to the Commission and his failure to timely report his criminal offenses as detailed above, the Applicant voluntarily agrees that as a condition for renewing his 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 renewal application. Furthermore, the Applicant shall submit an amended real estate salesperson license renewal application to the Commission that correctly states his criminal history.

3. PROBATION. The Applicant further voluntarily agrees that he shall be granted the renewal of his salesperson license subject to probation for the time period of the next license term, through December 31, 2022. 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 that is in full force and effect through December 31, 2022, subject to the above probationary term upon his submission of a corrected license renewal 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 renewal application for a 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 Applicant 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.



**RORY S. PRAZAK**  
Applicant

076 DEC 19

Date

  
JEFFREY M. EVANS, Authorized Designee  
Iowa Real Estate Commission

December 26, 2019

Date