

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

FILED

December 11, 2020

(Date)

JREL
Board / Commission
[Signature]
Executive Officer

IN RE:)	
)	CASE NUMBER: 20-302
Todd A. Smith)	
Salesperson (S63314000))	CONSENT AGREEMENT
)	
Cottage Realty, LLC)	
118 S Main St.)	
Mt. Pleasant, IA 52641)	
)	
RENEWAL APPLICANT)	

The Iowa Real Estate Commission (Commission) and **Todd A. Smith** (Applicant) enter into this Consent Agreement (Agreement) pursuant to Iowa Code Sections 17A.10, 272C.3(4) and 543B.19 (2020).

1. The parties acknowledge the following:

- (A) On or about November 16, 2020, 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.
- (B) A search of Iowa Courts Online established that the Applicant was convicted on or about December 30, 2019 of assault while displaying a dangerous weapon in violation of 708.2(3), an aggravated misdemeanor. *See State of Iowa v. Todd Alan Smith*, Henry County No. FECR007848. On that same date, the Court accepted the Respondent's guilty plea and imposed judgment with the following sentencing conditions: a \$625 fine plus court costs, 180 day period period of incarceration suspended except for 30 days in jail, and two years of supervised probation.
- (C) Having been found guilty of committing an assault in violation of Iowa Code § 708.2(3), 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")*.

- (D) 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)(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.*
- (E) The Applicant does not contest that he failed to report his Iowa Code section 708.2(3) assault conviction to the Commission within ten days of entry in Henry County No. FECR007848 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.
- (F) 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. PROBATION. The Applicant 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, 2023. 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.

3. NOTIFICATION. In addition to the reporting requirements detailed in Iowa Code section 543B.29(1)(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.

4. 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, 2023, subject to the above probationary term.

5. 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.

6. 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.

7. 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.

8. 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 A. SMITH
Applicant

12-11-2020
Date

J.M.E. FOR IREC
JEREMY M. EVANS, Authorized Designee
Iowa Real Estate Commission

December 11, 2020
Date