

FILED September 2, 2021 (Date)
IREC
Board / Commission
M. M. C.
Signature, Executive Officer

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

IN RE:)	
)	CASE NUMBER: 21-072
Brian J. Batterson)	
Broker (B45080000))	COMBINED STATEMENT OF
)	CHARGES, INFORMAL
Re/Max Oelwein Realty, LLC)	SETTLEMENT AGREEMENT,
1 W Charles St., Suite #4)	AND CONSENT ORDER IN A
Oelwein, IA 50662)	DISCIPLINARY CASE
)	
RESPONDENT)	

The Iowa Real Estate Commission (Commission) and **Brian J. Batterson** (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) (2021).

1. The Commission issued the Respondent real estate broker license number B45080000 on July 17, 2006. Respondent’s license is now current and in full force and effect through December 31, 2023. At all times relevant to this matter, the Respondent was a licensed real estate broker officer, assigned to Re/Max Oelwein Realty, LLC, license number F04978000, located in Oelwein, Iowa.

2. The Commission has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 543B (2021). 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 practices harmful or detrimental to the public in violation of Iowa Code sections 543B.29(1)(d), 543B.34(1) (2021) by conducting real estate business (property management) independently outside of the licensed firm he is assigned to. See 193E Iowa Administrative Code sections 15.1, 18.14(5)(s).

COUNT II

4. Engaging in practices harmful or detrimental to the public in violation of Iowa Code sections 543B.1, 543B.2, 543B.5(6), 543B.29(1)(d), 543B.34(1) (2021) by failing to obtain a

license for his corporation before its acting as a real estate brokerage in the state of Iowa. See 193E Iowa Administrative Code sections 7.2(1), 18.14(5)(s).

CIRCUMSTANCES

5. In March of 2021, it was discovered that the Respondent was in the business of conducting residential property management under a domestic limited liability company in the state of Iowa known as "Atrium Property Management, LLC."

6. During the time period in question, Atrium Property Management, LLC was a company that was not licensed to practice real estate in the state of Iowa. The Respondent in conducting property management activities did not have written property agreements between the owners of the properties and his designated firm.

7. Consequently, in 2021 the Respondent conducted activities in the state of Iowa requiring a real estate license outside of the licensed broker or firm that he was assigned to.

8. Atrium Property Management, LLC was licensed to practice real estate in Iowa on March 31, 2021 by the Commission with the Respondent assigned to the new real estate brokerage firm as the sole broker officer, real estate additional broker officer license number B45080100.

SETTLEMENT AGREEMENT

9. Respondent admits 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) (2021).

10. 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.

11. 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.

12. 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.

13. 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) (2021) 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.

14. 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.

15. 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 (2021).

CONSENT ORDER

IT IS THEREFORE ORDERED:

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

17. **CIVIL PENALTY.** Respondent shall pay a civil penalty to the Commission in the amount of one thousand dollars (\$1,000.00) 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 21-072.

18. **FUTURE COMPLIANCE.** 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.

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 **Brian J. Batterson** on this 3rd day of August, 2021.



By: **BRIAN J. BATTERSON**, Respondent

State of Iowa)

County of Fayette)

Signed and sworn to before me on this 3rd day of August, 2021, by:




Notary Public, State of Iowa
Printed Name: Jenna L. Vandehaar
My Commission Expires: 08/21/21

FOR THE COMMISSION:

Voluntarily agreed to and accepted by the **IOWA REAL ESTATE COMMISSION** on this 2nd day of September, 2021.


DENNIS L. STOLK, Chair
Iowa Real Estate Commission