

**FILED** May 7, 2020 (Date)  
JREC  
Board / Commission  
[Signature]  
Signature, Executive Officer

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

<b>IN RE:</b>	)	
	)	<b>CASE NUMBER: 19-204</b>
<b>Monnie Sudman</b>	)	
<b>Broker (B62865000)</b>	)	<b>COMBINED STATEMENT OF</b>
	)	<b>CHARGES, INFORMAL</b>
<b>Top Shelf Property Management</b>	)	<b>SETTLEMENT AGREEMENT,</b>
<b>3408 Woodland Ave., Suite 403</b>	)	<b>AND CONSENT ORDER IN A</b>
<b>West Des Moines, IA 50266</b>	)	<b>DISCIPLINARY CASE</b>
	)	
<b>RESPONDENT</b>	)	

The Iowa Real Estate Commission (Commission) and **Monnie Sudman** (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 B62865000 on May 18, 2016. Respondent's license is in full force and effect until December 31, 2021. 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 Top Shelf Property Management, license number F05827000, located in West Des Moines, Iowa.

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**

(Security Deposit Trust Account)

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.29(1)(k), 543B.34(1), 543B.46 (2019) by:

- (a) Failing to properly account for conditionally refundable deposits in the Respondent's trust account containing security deposits. See 193E Iowa Administrative Code §§ 13.1(6)(c), 15.1(7)(e), 18.14(5)(f).

- (b) Failing to provide a means for a monthly reconciliation of the Respondent's trust account containing security deposits to ensure agreement of the general ledger balance, reconciled bank balance and individual ledger accounts. See 193E Iowa Administrative Code §§ 13.1(6)(a)(3), 15.1(7)(f), 18.14(5)(e), 18.14(5)(f).

## COUNT II

### (Property Management Trust Account)

4. Respondent is charged with engaging in practices harmful or detrimental to the public in violation of Iowa Code sections 543B.29(1)(d), 543B.29(1)(k), 543B.34(1), 543B.46 (2019) by:

- (a) Failing to maintain at all times a record of the Respondent's trust account and improper trust account procedures. See 193E Iowa Administrative Code §§ 13.1(6), 18.14(5)(e), 18.14(5)(f).
- (b) Failing to accurately maintain a general ledger to record in chronological order all receipts and disbursements for the Respondent's trust account. See 193E Iowa Administrative Code §§ 13.1(6)(a), 18.14(5)(e)(1).
- (c) Failing to accurately maintain the running balance of all individual ledger accounts for the Respondent's trust account. See 193E Iowa Administrative Code §§ 13.1(6)(b), 18.14(5)(e)(2).
- (d) Failing to accurately maintain an individual ledger for broker's equity for the Respondent's trust account. See 193E Iowa Administrative Code §§ 13.1(1)(c), 13.1(6), 18.14(5)(e)(2).
- (e) Failing to provide a means for a monthly reconciliation of the Respondent's trust account to ensure agreement of the general ledger balance, reconciled bank balance and individual ledger accounts. See 193E Iowa Administrative Code §§ 13.1(6)(a)(3), 15.1(7)(f), 18.14(5)(e), 18.14(5)(f).

## CIRCUMSTANCES

5. Respondent was assigned as the designated broker in charge of real estate brokerage firm Top Shelf Property Management at all times relevant to this matter. As the designated broker in charge of the real estate brokerage firm, the Respondent is responsible for ensuring compliance with all applicable rules and regulations governing the firm's operations in the state of Iowa, including maintenance of all trust accounts used by the firm.

6. Between October 7, 2019 and October 14, 2019, an onsite examination of the Respondent's Iowa real estate trust accounts and transaction records was conducted by the Commission auditor (auditor). The auditor examined both the Respondent's trust account containing security deposits and the trust account relating to property management activity.

(Security Deposit Trust Account)

7. The auditor found that for the Respondent's Iowa real estate trust account containing security deposits, there was not an accurate monthly reconciliation being performed to ensure agreement of the general ledger balance, reconciled bank balance and sum of the individual ledgers.

8. The auditor found that for an unknown period of time, the Respondent had a shortage in the Iowa real estate trust account containing security deposits in the amount of \$9,010.00.

9. The Respondent rectified the deficiency by depositing \$1,650 and \$7,360 in his Iowa real estate trust account containing security deposits on October 7, 2019 and October 9, 2019.

(Property Management Trust Account)

10. The auditor found that the Respondent is failing to properly maintain accurate accounting of the general ledger balance for the Respondent's Iowa real estate trust account relating to property management activity.

11. The auditor found that the Respondent was not accurately maintaining an updated individual ledger for the broker's equity balance held in the Iowa real estate trust account relating to property management activity.

12. The auditor found that for the Respondent's Iowa real estate trust account relating to property management activity, there was not an accurate monthly reconciliation being performed to ensure agreement of the general ledger balance, reconciled bank balance and sum of the individual ledgers.

13. For the bank statement dated September 30, 2019, the auditor was not able to perform an accurate reconciliation due to the Respondent's failure to maintain the general ledger, failure to maintain the individual ledgers, and failure to perform accurate monthly reconciliations for the Iowa real estate trust account relating to property management activity.

**SETTLEMENT AGREEMENT**

14. 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) (2020).

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

20. Upon acceptance by both the Commission and 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:**

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

22. CIVIL PENALTY. Respondent shall pay a civil penalty to the Commission in the amount of five thousand dollars (\$5,000.00) on or before November 30, 2020. The civil penalty must come under a cover letter addressed to the Commission's Executive Officer, referencing Case Number 19-204.

23. EDUCATION. The Respondent shall attend the Commission approved six (6) hour course "Trust Accounts." These hours shall be in addition to any real estate continuing education required by law for license renewal. The original certificate of attendance shall be submitted to the Iowa Real Estate Commission on or before November 30, 2020. The certificate of attendance must come under a cover letter addressed to the Commission's Executive Officer, referencing Case Number 19-204.

24. CPA AUDIT. The Respondent shall hire an Iowa licensed Certified Public Accountant (CPA) at the Respondent's expense to audit and to establish trust account records following Generally Accepted Accounting Principles for both the trust account containing security deposits and the trust account relating to property management activity. The CPA's audit report demonstrating Respondent's current compliance with applicable standards, Iowa law and Commission trust account rules shall be submitted to the Iowa Real Estate Commission on or before November 30, 2020. The audit report must come under a cover letter addressed to the Commission's Executive Officer, referencing Case Number 19-204.

25. SUSPENSION. The Respondent's real estate broker license shall be suspended indefinitely commencing on November 30, 2020, pending submission of the civil penalty, proof of completion of the education, and compliant CPA Audit report required by Paragraphs 24 – 26 of this informal settlement agreement entered between the Respondent and the Commission. Upon the Respondent's submission of the civil penalty, education, and compliant CPA audit report to the Commission's Executive Officer, the Respondent's real estate broker license shall be reinstated upon order of the Commission's Executive Officer. Should the Respondent submit the full amount of the civil penalty, a course completion certificate for the 6-hour course "Trust Accounts", and a compliant CPA audit report to the Commission's Executive Officer at the Commission's offices prior to 1:00 PM on November 30, 2020, the suspension provided for in this paragraph shall not be imposed.

26. FUTURE COMPLIANCE. The Respondent also 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 **Monnie Sudman** on this 10<sup>th</sup> day of April, 2020.

  
By: **MONNIE SUDMAN**, Respondent

State of Iowa

County of Polk


Signed and sworn to before me on this 10<sup>th</sup> day of April, 2020, by:



  
Notary Public, State of Iowa  
Printed Name: Brandi Long  
My Commission Expires: 3/20/2022

**FOR THE COMMISSION:**

Voluntarily agreed to and accepted by the **IOWA REAL ESTATE COMMISSION** on this 7<sup>th</sup> day of May, 2020.

  
**TERRANCE M. DUGGAN**, Chair  
Iowa Real Estate Commission

FILED January 7, 2021 (Date)

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

2021  
Board / Commission  
M. L.  
Signable, Executive Officer

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IN RE:	)	
	)	CASE NUMBER: 19-204
Monnie Sudman	)	
Broker (B62865000)	)	ORDER GRANTING MODIFICATION
	)	OF SETTLEMENT AGREEMENT
Top Shelf Property Management	)	AND CONSENT ORDER
3408 Woodland Ave., Suite 403	)	
West Des Moines, IA 50266	)	
	)	
RESPONDENT	)	

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Respondent **Monnie Sudman's** compliance with the terms of the settlement agreement and consent order previously entered in this docket came before the Iowa Real Estate Commission (Commission) at its December 3, 2020 meeting. Upon due deliberation, the Commission authorized the undersigned Executive Officer to enter the following order:

1. On May 7, 2020, the Commission formally accepted as its final decision in this disciplinary case the attached Informal Settlement Agreement and Consent Order.
2. Pursuant to paragraphs 22 – 25 of the May 7, 2020 settlement agreement, the Commission ordered that the Respondent's pay a \$5,000 civil penalty, complete a trust account education course, and submit a compliant CPA audit report of his trust account on or before November 30, 2020 to avoid the commencement of an indefinite license suspension on November 30, 2020.
3. On June 15, 2020, the Respondent remitted in full the \$5,000 civil penalty to the Commission.
4. On November 30, 2020, the Respondent submitted to the Commission a certificate of completion for the six (6) hour course "Iowa Real Estate Trust Accounts" completed on October 27, 2020. The Respondent is advised that pursuant to the terms of the May 7, 2020 settlement agreement, this course may not be applied toward fulfillment of the continuing education hours required for his upcoming December 31, 2021 licensure renewal.
5. In a good faith effort to comply with the requirements of paragraph 24 of the May 7, 2020 settlement agreement, the Respondent submitted a letter from a certified public accountant retained by the Respondent dated November 30, 2020. Commission staff determined, however, that the letter in and of itself was inadequate to demonstrate that the

CPA audit required by paragraph 24 was fully completed and that the Respondent's trust account now complies with applicable GAAP standards, Iowa law, and Iowa Real Estate Commission trust account rules. Commission staff further determined that the Respondent's failure to submit a compliant CPA report arose in part from a misunderstanding and miscommunication between the above-referenced CPA and the Respondent as to the required contents of a complaint audit report.

6. The Commission accordingly finds that good cause exists to extend for 45 days the November 30, 2020 deadline for submission of the required CPA audit report.

**IT IS THEREFORE ORDERED** that paragraph 24 of the May 7, 2020 Settlement Agreement and Consent Order is modified to read as follows:

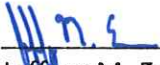
24. CPA AUDIT. The Respondent shall hire an Iowa licensed Certified Public Accountant (CPA) at the Respondent's expense to audit and to establish trust account records following Generally Accepted Accounting Principles for both the trust account containing security deposits and the trust account relating to property management activity. The CPA's audit report demonstrating Respondent's current compliance with applicable standards, Iowa law and Commission trust account rules shall be submitted to the Iowa Real Estate Commission on or before January 8, 2021. The audit report must come under a cover letter addressed to the Commission's Executive Officer, referencing Case Number 19-204.

**IT IS FURTHER ORDERED** that paragraph 25 of the June 11, 2020 Settlement Agreement and Consent Order is modified to read as follows:

25. SUSPENSION. The Respondent's real estate broker license shall be suspended indefinitely commencing on January 8, 2021, pending submission of a compliant CPA Audit report as required by Paragraph 24 of this Order. Upon the Respondent's submission a compliant CPA audit report to the Commission's Executive Officer, the Respondent's real estate broker license shall be reinstated upon order of the Commission's Executive Officer. Should the Respondent submit a compliant CPA audit report to the Commission's Executive Officer at the Commission's offices prior to 1:00 PM on January 8, 2021, the suspension provided for in this paragraph shall not be imposed.

**IT IS FURTHER ORDERED** that all other terms of the May 7, 2020 settlement agreement shall remain in full force and effect without modification.

Dated this 7<sup>th</sup> day of January 2021.

  
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Jeffrey M. Evans, Executive Officer  
Iowa Real Estate Commission



FILED

January 8, 2021

(Date)

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

JNEC

Board / Commission

M. L.  
Signature, Executive Officer

IN RE:	)	
	)	CASE NUMBER: 19-204
Monnie Sudman	)	
Broker (B62865000)	)	ORDER OF SATISFACTION
	)	
Top Shelf Property Management	)	
3408 Woodland Ave., Suite 403	)	
West Des Moines, IA 50266	)	
	)	
RESPONDENT	)	

NOW on this 8<sup>th</sup> day of January 2021, this matter comes before the undersigned Executive Office on behalf of the Iowa Real Estate Commission [Commission]. The Executive Officer finds as follows:

1. Monnie Sudman [Respondent] voluntarily agreed to an Informal Settlement Agreement and Consent Order [Consent Order] dated May 7, 2020 that provided the Respondent's real estate broker license would be indefinitely suspended effective November 30, 2020, pending the Respondent's completion of multiple events, including remittance of a \$5,000 civil penalty, completion of an 6-hour trust account course, and submission of a report from a Certified Public Accountant, demonstrating the Respondent's "current compliance with applicable standards, Iowa law and Commission trust account rules" following an "audit and to establish trust account records following Generally Approved Accounting Principles." See 05/07/2020 Consent Order, ¶¶ 22 – 25.

2. On January 7, 2021, the Commission issued an Order Granting Modification of Settlement Agreement and Consent Order, extending submission of the required CPA audit report until January 8, 2021. See 01/07/2021 Order Granting Modification of Settlement Agreement and Consent Order, ¶ 6.

3. On January 8, 2021, the Respondent presented to the Executive Officer proof that he has completed or otherwise fulfilled all conditions imposed by paragraphs 22 – 25 of the May 7, 2020 Consent Order as amended by paragraph 6 of the January 7, 2021 Order Granting Modification of Settlement Agreement and Consent Order.

**IT IS THEREFORE ORDERED** that having satisfied all conditions required of him by paragraphs 22 – 25 of the May 7, 2020 Consent Order as amended by paragraph 6 of the January 7, 2021 Order Granting Modification of Settlement Agreement and Consent Order within the time period allowed by the Commission, the Respondent's Iowa real estate broker license shall not be suspended. *See* 05/07/2020 Consent Order, ¶ 25 and 01/07/2021 Order Granting Modification of Settlement Agreement and Consent Order, ¶ 6. Respondent shall maintain compliance with all other terms of the May 7, 2020 settlement agreement.

Dated this 8<sup>th</sup> day of January 2021.



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Jeffrey M. Evans, Executive Officer  
Iowa Real Estate Commission