

**FILED** August 4, 2022 (Date)  
JREC  
Board / Commission  
M. E.  
Signature Executive Officer

BEFORE THE REAL ESTATE COMMISSION  
OF THE STATE OF IOWA

TISHA N. ANDRIE  
Salesperson (S68374000)  
Inactive

IN RE: CASE NO. 21-260  
DIA NO. 22PLBREC0004

2405 Jones Street  
Sioux City, IA 51104

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW,  
DECISION AND ORDER**

RESPONDENT

On March 16, 2022, the Iowa Real Estate Commission (Commission) found probable cause to file a Notice of Hearing and Statement of Charges against Tisha Andrie (Respondent). The Statement of Charges alleged that the Respondent:

(1) engaged in conduct that demonstrates bad faith or improper dealings which would have disqualified the licensee from securing a license, in violation of ICA 543B.15(9), 543B.34(1)(j), 543B.34(1)(k) and IAC 193E- 4.3, 18.2(1), 18.14(5)(i), and 18.14(5)(s).

(2) failed to fully cooperate with a licensee disciplinary investigation and/or failing to timely provide information requested by the Commission relative to a complaint investigation in violation of ICA 543B.34(1)(j) and IAC 193E- 18.2(7) and 18.14(5)(i).

A prehearing conference was held on May 26, 2022. The hearing was held in-person on June 2, 2022 at 9:30 a.m. Assistant Attorney General John Lundquist represented the state of Iowa. The following Commission members presided at the hearing: Jim Clingman, Broker Member, Chairperson; Dakota Reed, Broker Member, Vice Chairperson; Janet DeMott, Salesperson Member; Helen Kimes, Broker Member; and John Sweeney, Broker Member. Administrative Law Judge Kathleen O'Neill assisted the Commission in conducting the hearing. A certified court reporter recorded the proceedings. The hearing was open to the public, pursuant to Iowa Code section 272C.6(1) (2022).

After hearing the testimony and examining the exhibits, the Commission convened in closed executive session, pursuant to Iowa Code section 21.5(1)(f), to deliberate its decision. The Commission instructed the administrative law judge to draft Findings of Fact, Conclusions of Law, Decision and Order, in conformance with their deliberations.

### THE RECORD

The record includes the state's Prehearing Conference Report; testimony of background manager, Ashley Thompson; testimony of Respondent Tisha Andrie; and State's Exhibits 1-8. (See exhibit index for description).

### FINDINGS OF FACT

1. The Respondent's Iowa real estate broker license (S68374000) was first issued on May 22, 2020 and is in full force and effect through December 31, 2022. The Respondent's real estate salesperson license was placed on inactive status on March 31, 2021. (Ex. 3).
2. Iowa code section 543B.15(9) requires that all applicants for an initial real estate salesperson license provide fingerprints to the Iowa Real Estate Commission (Commission) for submission to the federal bureau of investigation for a background check. (Thompson testimony).
3. Due to the COVID-19 pandemic, Governor Reynolds issued a proclamation of disaster emergency that temporarily suspended the provisions of section 543B.15(9). This allowed real estate applicants to receive a license prior to the completion of the otherwise required national criminal history check. (Thompson testimony, Ex. 6).
4. The Commission accordingly issued new licenses, conditioned upon the requirement that once the COVID-19 health emergency subsided, any deferred background checks would need to be completed within 30 days. (Thompson testimony, Ex. 4).
5. The Commission issued the Respondent a license on May 22, 2020, without a prior background check. On June 3, 2020, Jeff Evans, Executive Officer, emailed the Respondent and explained that the Commission issued this license with the understanding that once the COVID-19 health emergency subsided, the deferred background checks must be completed. Based upon the information obtained through those respective checks, the Commission could take any and all appropriate action -

including license revocation or cancellation. Upon expiration of the proclaimed disaster emergency, Commission staff would reach out to the Respondent and she would be given thirty (30) days to mail in a completed fingerprint card, along with the completed waiver forms. (Ex. 4, p. 15).

6. The Respondent replied to Mr. Evans and informed him that the sheriff's office at Woodbury County was open for fingerprinting by appointment. (Ex. 4, p. 17).

7. On June 15, 2021, Mr. Evans emailed the Respondent to notify her that the proclamation had expired and she was required to submit her fingerprint card within 30 days. The Respondent replied the same day, stating that she was not practicing real estate at that time. (Ex. 4, p. 19).

a) On June 24, 2021, Mr. Evans mailed the Respondent this same information via certified mail, along with fingerprints cards to complete the requirement. The Appellant did not claim this certified letter. (Ex. 4, p. 24, Thompson testimony).

8. On June 16, 2021, Kevin Archer, the Respondent's previous broker, emailed the Respondent and explained that the Respondent needed to provide fingerprint cards, regardless of whether she was active or practicing. If she failed to do so, her license could be revoked or cancelled. (Ex. 4, p. 21).

9. On August 18, 2021, Investigator Renee Paulsen emailed the Respondent and informed her that her failure to respond to Commission staff requests to complete the fingerprinting process has resulted in a complaint case. Ms. Paulsen reminded the Respondent that it was her duty as a licensee (active or inactive) to submit her fingerprints. She attached Mr. Evans' June 24, 2021 letter and instructed that the Respondent contact Mr. Evans with the arrangements of her fingerprints being submitted to Commission background manager, Ashley Thompson. (Ex. 5, p. 23-25, Thompson testimony).

10. In reply, the Respondent told Ms. Paulsen that she never received the June 24, 2021 certified letter, but did receive the email. She apologized and explained that she suffered a medical emergency of electrocution on August 3, 2021. She would follow up with the sheriff's office for fingerprints the following day. Ms. Paulsen responded with instructions where to send the fingerprints. (Ex. 5, 23-25, Thompson testimony).

11. On March 16, 2022, the Commission charged the Respondent with:

- a) Engaging in conduct that demonstrates bad faith or improper dealings which would have disqualified the licensee from securing a license under Iowa Code chapter 543B by failing to timely submit a completed fingerprint card and waiver forms to the Commission so that a previously deferred national criminal history check through the federal bureau of investigation could be conducted. *See* Iowa Code sections 543B.15(9), 543B.34(1)(j), 543B.34(1)(k) (2021) and 193E Iowa Administrative Code sections 4.3, 18.2{1}, 18.14(5)(it 18.14(5 )(s).
- b) Failing to fully cooperate with a licensee disciplinary investigation and/or failing to timely provide information requested by the Commission relative to a complaint investigation in violation of Iowa Code section 543B.34(1)(j) (2021). *See* 193E Iowa Administrative Code sections 18.2(7), 18.14(5)(i).

12. On March 28, 2022, Mr. Evans emailed the Respondent informing her that the previously scheduled April 14, 2022 hearing was continued to June 2, 2022. The Respondent responded that she was not aware of any hearing. She stated that she mailed fingerprint cards in September 2021 and believed the matter was resolved. (Ex. 5, p. 27-28).

13. The Commission did not receive completed fingerprint card or waiver forms. Commission staff mailed the Respondent another set of fingerprint cards on March 28, 2022, with instructions to complete. (Ex. 5, p. 30).

14. On April 8, 2022, the Respondent confirmed receipt of the packet and verified she would complete the fingerprints the following week. (Ex. 5, p. 31).

15. The Commission did not receive the packet by April 27, 2022, so confirmed with the Respondent the notice of hearing and statement of charges. (Ex. 5, p. 32, Thompson testimony).

16. At hearing, Respondent Tisha Andrie explained that this case involved substantial misunderstanding. Mail had been a big issue for her. While she did receive the April packet of information from Mr. Evans, she had not previously received all mail from the Commission. She intended to complete the fingerprint process, but had many barriers, including single parenting and treatment for advanced kidney cancer. (Andrie testimony).

The Respondent did not intentionally fail to complete the fingerprint requirement, but the timing of everything was difficult. She did complete a fingerprint card, but mailed

the card to the wrong address, which she belatedly realized. The sheriff's office was often not open over lunch and she did not have any PTO. Her real estate license was important to her and she had been trying. She did not mean for everything to get this far. She was going to get her fingerprint requirement completed and was asking for a little grace. (Andrie testimony).

### CONCLUSIONS OF LAW

Iowa law provides that an applicant for an initial real estate broker's or salesperson's license shall be subject to a national criminal history check through the federal bureau of investigation. The Commission shall request the criminal history check and shall provide the applicant's fingerprints to the department of public safety for submission through the state criminal history repository to the federal bureau of investigation.<sup>1</sup>

The Commission may assess civil penalties, suspend, or revoke a license if the licensee is found to be guilty of:

- j. Failing, within a reasonable time, to provide information requested by the commission as the result of a formal or informal complaint to the commission which would indicate a violation of this chapter.
- k. Any other conduct, whether of the same or different character from that specified in this section, which demonstrates bad faith, or improper, fraudulent, or dishonest dealings which would have disqualified the licensee from securing a license under this chapter.<sup>2</sup>

When the Respondent applied for a real estate license, the application required that she provide fingerprints. Based on the proclamation of disaster emergency, that requirement was deferred and she received her real estate license on May 22, 2020, prior to the completion of the required national criminal history check. On June 15, 2021, Executive Officer Jeff Evans notified the Respondent that she was required to submit her fingerprint card within 30 days. Both Commission staff and the Respondent's fellow real estate agent confirmed the requirement to provide fingerprint cards, regardless of whether the Respondent was active or practicing.

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<sup>1</sup> Iowa Code (ICA) § 543B.15(9).

<sup>2</sup> ICA § 543B.34 (k), (j).

Following the statement of charges, the hearing was continued and the Commission sent the Respondent additional fingerprint cards. As of the time of hearing, the Commission has received no fingerprint cards.

The fingerprint requirement is far from onerous. The Respondent is a licensed professional with an expectation to manage the requirements of her license. The Respondent's failure involves more than procrastination and lack of attention to detail. She has disregarded her obligations as a licensed real estate agent in the state of Iowa. The Commission has a duty to protect the public and without fingerprints for a background check, it is unable to fulfill that obligation.

The Commission is sympathetic to the Respondent's difficult situation and medical diagnosis, previously not shared with the Commission. However, the Commission and its staff have been forced to commit an inordinate amount of time and effort to enforce this fingerprint requirement. It was the Respondent's responsibility to timely provide fingerprints for a background check, and she failed to do so. This is conduct improper for an individual licensed as a real estate salesperson and the Respondent's license will be revoked.

If the order of revocation does not establish terms upon which reinstatement may occur, a person whose license has been revoked, suspended, or voluntarily surrendered may not apply for reinstatement until at least two years have elapsed from the date of the order.<sup>3</sup> Following the revocation or surrender of a broker or salesperson license, an applicant for reinstatement must, as a condition of reinstatement, start over as an original applicant for a salesperson license, regardless of the type of license the applicant previously held. The applicant shall be required to satisfy all preconditions for licensure as a salesperson.<sup>4</sup>

### DECISION AND ORDER

IT IS THEREFORE ORDERED that Salesperson License S68374000, issued to Respondent Tisha N. Andrie, is hereby REVOKED, effectively immediately upon service of this Decision and Order.

IT IS FURTHER ORDERED, pursuant to Iowa Code section 272C.6 and 193 IAC 7.41, that Respondent shall pay \$75.00 within thirty (30) days of receipt of this decision for

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<sup>3</sup> 193E Iowa Administrative Code (IAC) 18.15(2).

<sup>4</sup> 193E IAC 18.15(3).

fees associated with conducting the disciplinary hearing. If the Commission issues a separate order assessing additional costs or expenses, the Respondent shall promptly comply with the terms of that order.

Dated this 4<sup>th</sup> day of August, 2022.

A handwritten signature in black ink, appearing to read "James M.H. Clingman". The signature is written in a cursive style with a horizontal line underneath it.

James M.H. Clingman, Chairperson  
Iowa Real Estate Commission

cc: Respondent – Tisha N. Andrie [CERTIFIED]  
Assistant Attorney General - John Lundquist

Judicial review of the commission's action may be sought in accordance with the Iowa administrative procedure act, from and after the date of the commission's order. If a party does not file a timely application for rehearing, a judicial review petition must be filed with the district court within 30 days after the issuance of the commission's final decision. 193 IAC 7.37.