

FILED 6.16.2024 (Date)

Real Estate

Board / Commission

Cheryl Thompson
Signature, Executive Officer

BEFORE THE IOWA REAL ESTATE COMMISSION
6200 PARK AVENUE; SUITE 100
DES MOINES, IOWA 50321

IN RE:)	
)	CASE NUMBER: 24-038
KYLE JOHN KELLY)	
BROKER (B41121000))	COMBINED STATEMENT OF
)	CHARGES, INFORMAL
400 45 th STREET)	SETTLEMENT AGREEMENT,
SIoux CITY, IA 51104)	AND CONSENT ORDER IN A
)	DISCIPLINARY CASE
RESPONDENT)	

The Iowa Real Estate Commission (Commission) and Kyle J. Kelly (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).

1. The Commission issued the Respondent real estate broker license number B41121000 on June 24, 2005. The Respondent's license is current and in full force and effect through December 31, 2025. At all times relevant to this matter, the Respondent, was a licensed broker officer, located in Sioux City, Iowa.

2. The Commission has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 543B. 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 failing to comply with all procedures mandated by statute to effectuate a change of employment by a salesperson then employed by the Respondent's brokerage in violation of Iowa Code section 543B.33 by failing to place the licensee on inactive status. See 193E Iowa Administrative Code sections 6.1(1), 6.1(2), 18.14(5)(c)(2).

CIRCUMSTANCES

4. The Respondent is responsible for ensuring compliance with all applicable rules and regulations governing its operations in the state of Iowa.

5. On March 4, 2024, a licensee in the employment of the Respondent was sent a random

audit by the Commission for compliance with the mandatory errors and omissions insurance requirement.

6. The aforementioned licensee responded with an email to staff stating she retired in 2021 and that she did not have the mandatory errors and omissions insurance because she was to be placed on inactive status in 2021.

7. However, Commission licensing records indicate the aforementioned licensee was assigned to the Respondent until March 5, 2024, at which time her Iowa salesperson license was placed on inactive status.

8. Consequently, the Respondent failed to effectuate a change of employment by a salesperson then employed by the Respondent.

SETTLEMENT AGREEMENT

9. Without admission of wrongdoing or guilt, the Respondent does not contest the violations alleged in the above-stated Statement of Charges.

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) 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.

CONSENT ORDER

IT IS THEREFORE ORDERED:

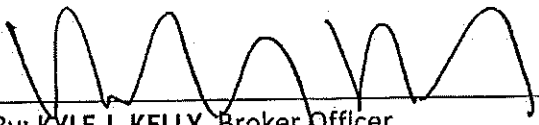
16. CIVIL PENALTY. The Respondent shall pay a civil penalty to the Commission in the amount of two hundred fifty dollars (\$250.00) no later than six (6) months after acceptance of this Order by the Commission. The civil penalty must come under a cover letter addressed to the Commission's Executive Officer, referencing Case Number 24-038.

17. 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:

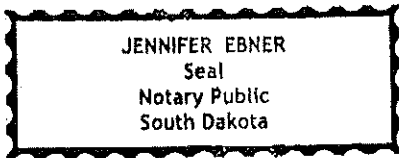
Voluntarily agreed to and accepted by Kyle J. Kelly on this 28th day of May, 2024.


By: KYLE J. KELLY, Broker Officer

State of South Dakota

County of Union

Signed and sworn to before me on this 28th day of May, 2024, by:



Jennifer Ebner
Notary Public, State of South Dakota
Printed Name: Jennifer Ebner
My Commission Expires: 12/9/2027

FOR THE COMMISSION:

Voluntarily agreed to and accepted by the **IOWA REAL ESTATE COMMISSION** on this 6th day of June, 2024.

James Clingman
JAMES M.H. CLINGMAN, Chair
Iowa Real Estate Commission