

FILED 6/6/2024 (Date)

IREC - Real Estate

Board / Commission

Ashley Thompson

Signature, Executive Officer

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

IN RE:

Melissa R. Porter
2995 133rd Court
Van Meter, IA 50261

APPLICANT

)
) CASE NUMBER: 24-077
)
) CONSENT AGREEMENT
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The Iowa Real Estate Commission (Commission) and **Melissa R. Porter** (Applicant) enter into this Consent Agreement and Order (Agreement) pursuant to Iowa Code Sections 17A.10, 272C.3(4), and 543B.19.

1. The parties acknowledge the following:

- A. On or about April 11, 2024, the Applicant submitted an Application for Individual License (Application) electronically to the Commission for a new Iowa real estate salesperson license. On the Application, the Applicant acknowledged through question 2.7 that she had a criminal conviction (or equivalent) for a serious misdemeanor, aggravated misdemeanor, or felony offense. In explanation, the Applicant stated that she had received a deferred judgment on December 12, 2022, to the serious misdemeanor charges of operating while under the influence and possession of a controlled substance. *See State v. Porter*, Madison Co. No. OWCR109895.
- B. Additionally, the Applicant stated that was again charged with operating while under the influence on December 19, 2023. *See State v. Porter*, Pottawattamie Co. No. OWMG181578. Disposition on this charge remains outstanding. Trial on this charge is presently set for June 18, 2024.
- C. The criminal history checks conducted by the Iowa Division of Criminal Investigations and the Federal Bureau of Investigation pursuant to Iowa Code 543B.15(9) and search of Iowa Courts Online established that the Applicant accurately disclosed her criminal history as requested by question 2.7 on the Application.
- D. An applicant who has been convicted of a crime may be denied a real estate salesperson license if an unreasonable risk to public safety exists because the

offense directly relates to the duties and responsibilities of the profession. See Iowa Code § 272C.15(1).

- E. In determining whether an applicant's criminal conviction for an offense relating to the practice of the real estate profession should disqualify that applicant for licensure, the Commission shall consider: the nature and seriousness of the criminal offenses; the time elapsed since conviction; any documented aggravating or extenuating circumstances; the age of the applicant at the time the offense was committed; the rehabilitation, treatment, or restitution performed by the applicant; and, relevant evidence of rehabilitation and present fitness of the applicant. See Iowa Code § 272C.15(4).
- F. Upon a balancing of the factors delineated in Iowa Code section Iowa Code § 272C.15(4), the Commission concludes that the Applicant's criminal history does not disqualify her from obtaining an Iowa real estate salesperson license. Because of the nature of her criminal history, and the recency of her last conviction, the Commission does find that the imposition of conditions upon any license issued to the Applicant is an appropriate precaution to safeguard the safety and wellbeing of the public.

2. PROBATION. Provided that the Applicant can demonstrate she meets all other licensing requirements, including payment of the applicable licensing fee, the Applicant shall be issued an Iowa real estate salesperson license subject to probation for the entirety of her first license term, through December 31, 2026. The Respondent's probation shall be subject to the following terms:

- A. The Applicant shall maintain full compliance with all terms and conditions of the sentence imposed in *State v. Porter*, Madison Co. No. OWCR109895. Revocation or modification of her probation and/or deferred judgment as a consequence of her actions that led to the charges in *State v. Porter*, Pottawattamie Co. No. OWMG181578 shall not be deemed a violation of this condition. The Applicant shall promptly provide all necessary documentation to verify such compliance upon request of the Commission.
- B. The Applicant, if convicted, shall maintain full compliance with all terms and conditions of the sentence to be imposed in the matter of *State v. Porter*, Pottawattamie Co. No. OWMG181578. Respondent shall promptly provide all necessary documentation to verify such compliance upon request of the Commission.

- C. The Respondent shall notify the Commission within ten (10) days of the entry of any order either discharging, modifying, or revoking any term of probation entered against her in the matters of *State v. Porter*, Madison Co. No. OWCR109895 and *State v. Porter*, Pottawattamie Co. No. OWMG181578.
- D. Upon a finding of cause, the Commission may order the Applicant to be evaluated pursuant to Iowa Code § 272C.9.
- E. 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.
- F. In addition to the reporting requirements detailed in Iowa Code § 543B.29(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. By entering into this Agreement, the Applicant acknowledges and voluntarily waives her right to adjudicate the merits of her pending Application for a new 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.

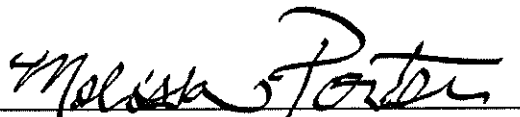
5. This Agreement shall be made a part of the record of the Applicant and may be considered by the Commission in determining the nature and severity of any disciplinary action to be imposed on the Respondent for any future violations of the laws and rules governing the practice of real estate.

6. 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.

7. The Applicant agrees to comply fully and promptly with all pertinent Orders of the Commission and the statutes and Commission rules regulating the practice of real estate.

8. Upon acceptance by both the Commission and Applicant, this Agreement and Consent shall be a public record available for inspection and copying in its entirety in accordance with the requirements of Iowa Code chapter 22 (2024).

WHEREFORE, the terms of this Consent Agreement are agreed to and accepted by the Iowa Real Estate Commission and the Applicant.



Melissa R. Porter
Applicant



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

6/5/2024
Date

6-6-24
Date