

FILED December 5, 2013 (Date)

IRCA
Board / Commission
[Redacted]
Signature Executive Officer

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

| | | |
|---------------------------|---|-----------------------------------|
| IN THE MATTER OF: |) | |
| |) | Case Nos. A09-022, 12-293, 13-191 |
| Mari J. Davis |) | |
| Broker (B39661000) |) | |
| |) | INFORMAL SETTLEMENT |
| Home Locators Realty |) | AGREEMENT AND CONSENT |
| 720 Center Point Road SE |) | ORDER IN A DISCIPLINARY |
| Cedar Rapids, Iowa 52402, |) | CASE |
| |) | |
| Respondent. |) | |

The Iowa Real Estate Commission (Commission) and **Mari J. Davis** (Respondent) enter into this Informal Settlement Agreement and Consent Order in a Disciplinary Case (Order) pursuant to Iowa Code Sections 17A.10(1) and 272C.3(4) (2013).

1. The Commission issued the Respondent real estate broker license number B39661000 on April 3, 2006. The Respondent's license is in full force and effect, and expires on December 31, 2014. At all times relevant to this matter, the Respondent was an actively licensed real estate broker, sole proprietor, operating in Cedar Rapids, 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.

SETTLEMENT AGREEMENT

3. On September 13, 2013, the Commission issued a Statement of Charges against the Respondent. A true and accurate copy of said Statement of Charges is attached to this Order as Exhibit 1. The Respondent admits for purposes of Count I of the attached Statement of Charges that she violated Iowa Code section 272C.3(2)(a) by failing to timely comply with all terms of the settlement agreement she entered with the Commission in Docket Number A09-022. Furthermore, the Respondent, without admission of wrongdoing or guilt does not contest the allegations recited in Count II of the attached Statement of Charges.

4. The Respondent acknowledges that she has a right to a hearing before the Commission on the merits of the charges. By freely and voluntarily entering into this Order, the Respondent waives her right to 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.

5. The Respondent further acknowledges that Iowa Code section 543B.29(4) provides that a real estate broker's or salesperson's license shall be revoked following three violations of Iowa Code section 543B.29 and/or Iowa Code section 543B.34 within a five-year period. For purposes of Iowa Code section 543B.29(4), this case and the violations previously alleged and resolved through the informal settlement agreement in Docket Number A09-022 shall each constitute one violation, leaving the Respondent with a total of two violations.

6. The 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.

7. This Order shall be part of the permanent record of the 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.

8. 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(2) 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.

9. 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.

10. Upon acceptance by both the Commission and Respondent, this 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.

CONSENT ORDER

IT IS THEREFORE ORDERED:

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

12. SUSPENSION. The Respondent's real estate broker license shall be suspended indefinitely commencing on January 1, 2014 pending submission of the CPA Audit report required by paragraph 17 of the informal settlement agreement entered between the Respondent and the Commission in Docket Number A09-022. Upon the Respondent's submission of 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 December 31, 2013, the suspension provided for in this paragraph shall not be imposed.

13. CIVIL PENALTY. The Respondent shall pay a civil penalty to the Commission in the amount of \$1,000 within 90 days of acceptance of this Order by the Commission. The civil penalty must come under a cover letter addressed to the Commission's Executive Officer and refer to Docket Numbers A09-022, 12-293, and 13-191.

14. 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. Should the Respondent commit any future violation of law governing the practice of real estate in the state of Iowa, the Commission may revoke and/or deny the renewal of the Respondent's real estate broker license following notice of the alleged violation and opportunity for hearing before the Commission.

WHEREFORE, the terms of this 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 Mari J. Davis on this 5th day of December, 2013.

By: MARI J. DAVIS, Respondent

State of Iowa)

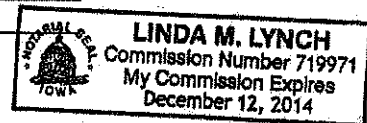
County of Linn)

Signed and sworn to before me on this 3rd day of December, 2013, by

Notary Public, State of Iowa

Printed Name: Linda M. Lynch

My Commission Expires: _____



FOR THE COMMISSION:

Voluntarily agreed to and accepted by the IOWA REAL ESTATE COMMISSION on this 5 day of December, 2013.

SUSAN SANDERS, Chair
Iowa Real Estate Commission

FILED September 13, 2013 (Date)

BEFORE THE IOWA REAL ESTATE COMMISSION

TRC
Board / Commission
[Redacted]
Signature, Executive Officer

IN THE MATTER OF:)
)
Mari J. Davis)
Broker (B39661000))
)
Home Locators Realty)
720 Center Point Road NE)
Cedar Rapids, IA 52402)
)
RESPONDENT)

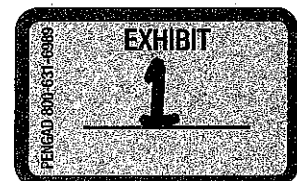
CASE NUMBERS: A09-022, 12-293, 13-191

NOTICE OF HEARING AND
STATEMENT OF CHARGES

The Iowa Real Estate Commission ("Commission") issues this Notice of Hearing pursuant to Iowa Code Section 17A.12(2). The Commission has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 543B, and 272C (2013). Licenses issued by the Commission are subject to the laws of the State of Iowa and to the administrative rules of the Commission.

The Commission issued the Respondent real estate broker license number B39661000 on April 3, 2006. Respondent's license is current and in full force and effect through December 31, 2014. At all times relevant to this matter, the Respondent was a licensed real estate broker sole proprietor operating as Home Locators Realty, a licensed real estate tradename, license number T05059000 and Rentalsolutions Property Management, a licensed real estate tradename, license number T05060000, located in Cedar Rapids, Iowa.

1. **HEARING.** A contested case hearing will be held concerning the below-stated disciplinary charges before the Iowa Real Estate Commission on the 31st day of **October, 2013**, at **1:30 o'clock PM**, at 200 East Grand, Suite 350, Des Moines, Iowa.
2. **ACKNOWLEDGMENT.** The Commission requests that you file a statement to acknowledge receipt of the notice of hearing within 10 days of the date you are served with this Notice.
3. **ANSWER.** Within 20 days of the date you are served with this Notice you must file an answer to the charges as provided in 193 Iowa Administrative Code 7.9.
4. **PREHEARING CONFERENCE.** A prehearing conference will be held by telephone on the **24th day of October, 2013 at 10:30 o'clock AM** before an Administrative Law Judge from the Iowa Department of Inspections and Appeals ("ALJ"). You are responsible for notifying the Commission office of the telephone number at which you or your counsel can be reached. Commission rules on prehearing conferences may be found at 193 Iowa Administrative Code 7.21.



5. PRESIDING OFFICER. The full Commission shall serve as presiding officer at hearing, pursuant to Iowa Code section 272C.6(1) and 193 Iowa Administrative Code 7.10(1). The Commission may request that an ALJ make initial rulings on prehearing matters, and be present to assist and advise the Board at hearing, as described in 193 Iowa Administrative Code 7.10(4).

6. HEARING PROCEDURES. Commission rules on hearing procedures may be found at 193 Iowa Administrative Code chapter 7. You have the right to respond to the charges, produce evidence on your behalf, cross-examine witnesses, and examine any documents introduced at hearing. You may appear personally and be represented by counsel at your own expense. Consult rule 193 Iowa Administrative Code 7.22 if you need to request an alternative time or date. The hearing may be open to the public or closed to the public at the discretion of the Respondent.

7. DEFAULT. If you fail to appear at hearing, the Commission may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code section 17A.12(3) and 193 Iowa Administrative Code 7.27.

8. PROSECUTION. Licensee disciplinary cases are prosecuted by an Assistant Attorney General acting on behalf of the public interest (the State). Copies of all pleadings shall be filed with the Commission, with copies mailed to:

John R. Lundquist
Assistant Attorney General
Iowa Department of Justice
2nd Floor, Hoover State Office Building
Des Moines, Iowa 50319
Phone: 515-281-3658
Fax: 515-281-4209
jlundqui@ag.state.ia.us

9. RESPONDENT'S COUNSEL. Copies of all pleadings filed with the Commission shall also be provided to Respondent's counsel of record:

NONE

10. SETTLEMENT. The procedural rules governing the Commission's settlement process are found at 193 Iowa Administrative Code 7.42. If you are interested in pursuing settlement of this matter, please contact Assistant Attorney General John R. Lundquist.

11. COMMUNICATIONS. You may not contact Commission members by phone, letter, facsimile, e-mail, or in person about this Notice of Hearing and Statement of Charges.

Commission members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file with the Commission office and serve upon all parties in the case. You should direct any questions to Assistant Attorney General John R. Lundquist at 515-281-3658, or the Commission's Executive Officer at 515-281-7361, or Fax 515-281-7411.

STATEMENT OF CHARGES

COUNT I

12. The Respondent is charged with failing to comply with the terms of a settlement agreement and consent order in violation of Iowa Code sections 543B.29(1)(i), 543B.34(1)(h) & (j), and 272C.3(2)(a) (2013); and Iowa Administrative Code sections 18.2(1) & (3), and 18.14(5)(s).

CIRCUMSTANCES

13. On or about July 10, 2009, a random audit was conducted on the Respondent's real estate trust account. As the result of this random audit, a complaint case was initiated by the Commission against the Respondent. See IREC Case No. A09-022.

14. This complaint case (IREC Case No. A09-022) was resolved through an Informal Settlement Agreement that was accepted by the Commission on December 9, 2010. A true and accurate copy of the above-referenced Informal Settlement Agreement is attached as Exhibit A.

15. Pursuant to paragraph 17 of the Informal Settlement Agreement, the Respondent agreed to hire a CPA to complete an audit of her trust account and submit a report to the Commission within ninety (90) days of the Commission's acceptance of the settlement agreement. To date, the Respondent has yet to submit to the Commission the CPA audit report required by paragraph 17 of the Informal Settlement Agreement and Consent Order.

COUNT II

16. The Respondent is charged with failing to comply with the mandatory errors and omissions insurance requirement for her Iowa real estate broker license in violation of Iowa Code sections 543B.29(1)(c), 543B.47(1), 543B.47(6) (2011) and 193E Iowa Administrative Code sections 18.2(5), 18.14(5)(s), 19.6(5) & (6).

CIRCUMSTANCES

17. In May of 2012, the Respondent was chosen for a random audit for her mandatory errors and omissions insurance.

18. The Respondent failed to maintain uninterrupted errors and omission while she was actively licensed and therefore could not provide proof of insurance coverage to the Commission for the period of January 1, 2012 to January 27, 2012.

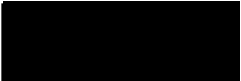
NOTICE OF APPLICABILITY OF IOWA CODE SECTION 543B.29(4)

19. On December 9, 2010, the Commission approved an Informal Settlement Agreement and Consent Order with the Respondent through which she did not contest the violations charged in IREC Case No. A09-022. A true and accurate copy of this settlement agreement is attached and its contents are incorporated herein.

20. In case number A09-022, the Respondent was charged with engaging in practices harmful or detrimental to the public in violation of Iowa Code section 543B.29(3), 543B.29(10), 543B.34, and 543B.46 by: failing to maintain at all times a record of the Respondent's trust account; failing to conduct and/or document a monthly reconciliation on a written worksheet to ensure the agreement of the general ledger balance, reconciled bank balance, and sum of the individual ledgers; and failing to properly maintain individual ledgers to reflect accurate current balances. This violation occurred in July 2009.

21. Should the above-stated charges in Count I and Count II be sustained by the Commission, it would constitute the second and third violations of Iowa Code section 543B.29 and/or Iowa Code section 543B.34 committed by the Respondent within a five-year period and her real estate broker's license will be subject to mandatory revocation. See Iowa Code § 543B.29(4) (2013) ("A real estate broker's or salesperson's license shall be revoked following three violations of [Iowa Code section 543B.29] or [Iowa Code] section 543B.34 within a five-year period.").

This Notice of Hearing and Statement of Charges is filed and issued on the 13th day of September, 2013.



Jeffrey M. Evans, Executive Officer
Iowa Real Estate Commission

In re: Mari J. Davis; IREC Case No. A09-022, 12-293, 13-191
Notice of Hearing
Page 5 of 5

Copies to:
Assistant Attorney General, John Lundquist
Respondent
Department of Inspections and Appeals, assigned Administrative Law Judge

**BEFORE THE IOWA REAL ESTATE COMMISSION
1920 SE HULSIZER
ANKENY, IOWA**

| | | |
|--|---|-------------------------------|
| IN RE: |) | |
| |) | CASE NUMBER: A09-022 |
| Mari J. Davis |) | |
| Broker (B039661) |) | |
| |) | COMBINED STATEMENT OF |
| Rental Solutions Property Management) |) | CHARGES, INFORMAL |
| 705-2nd Ave SW |) | SETTLEMENT AGREEMENT |
| Cedar Rapids, Iowa 52404 |) | AND CONSENT ORDER IN A |
| |) | DISCIPLINARY CASE |
| Respondent. |) | |

The Iowa Real Estate Commission (Commission) and **Mari J. Davis** (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) (2009).

1. The Commission issued the Respondent real estate broker license number B039661 on April 3, 2006. Respondent's license is current and in full force and effect through December 31, 2011. At all times relevant to this matter, the Respondent was a licensed real estate broker sole proprietor located in Cedar Rapids, Iowa.

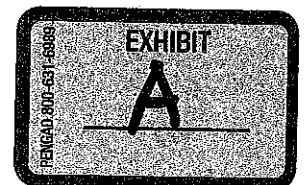
2. The Commission has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 543B (2009). Licenses issued by the Commission are subject to the laws of the State of Iowa and to the administrative rules of the Commission.

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(3), 543B.29(10), 543B.34, and 543B.46(2009) by:

- (a) Failing to maintain at all times a record of the Respondent's trust account. See 193E Iowa Admin. Code §§ 13.1(6) and 18.14(5)(e).
- (b) Failing to conduct and/or document monthly reconciliation on a written worksheet to ensure the agreement of the general ledger balance, reconciled bank balance, and individual ledger totals. See 193E Iowa Admin. Code §§ 13.1(6)(a)(3), 18.14(5)(e).
- (c) Failing to properly maintain individual ledgers to reflect accurate current balances. See 193E Iowa Admin. Code §§ 13.1(6)(3)(b), 18.14(5)(e).



CIRCUMSTANCES

4. On or about July 10, 2009, an audit of the Respondent's trust account and records was conducted.
5. The auditor found the Respondent is not updating the general ledger on a daily basis.
6. The auditor was not able to reconcile the Respondent's Trust Account due to the Respondent's failure to reconcile her bank statements.
7. The auditor found that the Respondent is not maintaining individual ledger cards for real estate transactions.

SETTLEMENT AGREEMENT

8. Respondent without admission of wrongdoing or guilt agrees to resolve the allegation with an Informal Settlement Agreement.
9. Respondent acknowledges that she 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 her 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.
10. 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.
11. 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.
12. Failure to comply with the terms of this Order shall be prima facie evidence of a violation of Iowa Code sections 543B.29(3), 543B.34(2) and 272C.3(2)(a) (2009) 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.

13. 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.

14. 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 (2009).

CONSENT ORDER

IT IS THEREFORE ORDERED:

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

16. **CIVIL PENALTY.** The Respondent shall pay a civil penalty to the Commission in the amount of \$2,500 no later than 180 calendar days after acceptance of this Order by the Commission. The civil penalty must come under a cover letter addressed to the Commission's Executive Officer and refer to case A09-022.

17. **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. When completed, a copy of the trust account records shall be promptly submitted to the Commission. The CPA's audit report demonstrating Respondent's compliance with applicable accounting standards, Iowa law, and Commission trust account rules must be submitted **no later than ninety (90) days** upon acceptance of this Order by the Commission. The audit must come under a cover letter addressed to the Commission's Executive Officer and refer to case A09-022.

18. **EDUCATION.** The Respondent shall attend the Commission approved eight (8) 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 must be submitted to the Iowa Real Estate Commission within twelve (12) months of the signing of this agreement by the Commission and must come under a cover letter addressed to the Commission's Executive Officer and refer to case A09-022.

19. **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 **Mari J. Davis** on this 21st day of December, 2010.

[Redacted Signature]

MARI J. DAVIS, Respondent
Mari

State of Iowa
County of Linn

Signed and sworn to before me on this 21st day of December, 2010, by: [Redacted]



Notary Public, State of Iowa
Printed Name: Lori L. Pearson
My Commission Expires: 11-23-2013

FOR THE COMMISSION:

Voluntarily agreed to and accepted by the **IOWA REAL ESTATE COMMISSION** on this 9 day of DECEMBER, 2010.

[Redacted Signature]

Laurie Dawley, Chair
Iowa Real Estate Commission