

FILED October 31, 2013 (Date)

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

IARL  
Board / Commission  
[Redacted]  
Signature, Executive Officer

IN RE:	)	
	)	CASE NUMBER: 13-023
Dennis W. Kellenberg	)	
Broker (B01431000)	)	COMBINED STATEMENT OF
	)	CHARGES, INFORMAL
Parcels of Land Realty	)	SETTLEMENT AGREEMENT,
349 Public Square	)	AND CONSENT ORDER IN A
Greenfield, IA 50849	)	DISCIPLINARY CASE
	)	
Respondent.	)	

The Iowa Real Estate Commission (Commission) and **Dennis W. Kellenberg** (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) (2011).

1. The Commission issued the Respondent real estate broker license number B04131000 on May 2, 2003. Respondent's license is in full force and effect until December 31, 2013. At all times relevant to this matter, the Respondent was a licensed real estate broker sole proprietor operating as Parcels of Land Realty, a licensed real estate tradename, license number T01578000 located in Greenfield, Iowa.

2. The Commission has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 543B (2011). 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 diligently exercise reasonable skill and care in providing brokerage services to all parties in a transaction in violation of Iowa Code sections 543B.34 and 543B.56(1)(b) (2013), and 193E Iowa Admin. Code sections 11.1(6), 13.2(3), and 13.2(5) by failing to supervise a closing while acting as the listing broker.

### CIRCUMSTANCES

4. The Respondent, acting as the listing broker for the subject property located at 206 NE 2<sup>nd</sup> Street, Greenfield, Iowa, had an affiliated broker associate assigned to him represent the sellers in the purchase agreement for the subject property dated October 29, 2012. The closing for the transaction took place on December 28, 2012.

5. The closing for the subject property was not properly supervised by the listing broker and was completed by the selling broker. The selling broker incorrectly disbursed commission compensation in the amount of 6% of the gross sales price as the listing agreement dated March 18, 2012 provided that compensation was to be 5% of the gross sales price.

### SETTLEMENT AGREEMENT

6. Respondent admits to 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) (2011).

7. 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 attended rights, including the right to seek judicial review. The 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 Admin Code 7.4.

8. 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 may have to participate in the discussion of this Order among the Commission, the Commission staff, and the State's attorney.

9. 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.

10. Failure to comply with the terms of this Order shall be prime facie evidence of a violation of Iowa Code sections 543B.29(3), 543B.34(2) and 272C.3(2)(a) (2011) 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.

11. 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.

12. 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 (2011).

#### **CONSENT ORDER**

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

14. **CIVIL PENALTY.** The Respondent shall pay a civil penalty to the Commission in the amount of \$500 no later than thirty (30) 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 13-023.

15. **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 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 13-023.

16. **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 Dennis W. Kellenberg on this 30 day of September, 2013.



By: DENNIS W. KELLENBERG, Respondent

State of Iowa

County of Adair

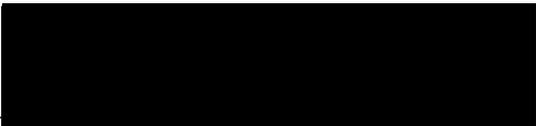
Signed and sworn to before me on this 30 day of September, 2013, by:



Notary Public, State of Iowa  
Printed Name: Roger Queck  
My Commission Expires: 11-24-15

**FOR THE COMMISSION:**

Voluntarily agreed to and accepted by the **IOWA REAL ESTATE COMMISSION** on this 31 day of October, 2013.



~~SUSAN J. SANDERS~~, Chair GAIL FLAGEL, CHAIR  
Iowa Real Estate Commission