

FILED

August 4, 2016

(Date)

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

IRESL
Board / Commission
[Signature]
Signature, Executive Officer

IN RE:)	
)	CASE NUMBER: 16-078
Brian McDowell)	
Salesperson (S60711000))	COMBINED STATEMENT OF
)	CHARGES, INFORMAL
RE/MAX Real Estate Concepts)	SETTLEMENT AGREEMENT,
8020 Douglas Ave)	AND CONSENT ORDER IN A
Urbandale, IA 50322)	DISCIPLINARY CASE
)	
RESPONDENT)	

The Iowa Real Estate Commission (Commission) and **Brian McDowell** (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) (2016).

1. The Commission issued the Respondent real estate salesperson license number S60711000 on October 11, 2010. Respondent's license is current and in full force and effect through December 31, 2018. At all times relevant to this matter, the Respondent was a licensed real estate salesperson assigned to RE/MAX Real Estate Concepts, a licensed real estate firm, license number F04363000, located in Urbandale, Iowa.

2. The Commission has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 543B (2016). 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 submitting, or causing to be submitted; whether intentional or otherwise, incorrect information on a renewal application and failing to comply with continuing education requirements in violation of Iowa Code sections 272C.10(1), 543B.15(5), 543B.29(1)(b), 543B.34(1)(k) (2016). See 193E Iowa Administrative Code sections 16.4(2), 16.5(2), 16.5(4), 18.2(5), 18.14(5)(s).

CIRCUMSTANCES

4. On January 5, 2016, the Respondent submitted his online renewal application for an Iowa real estate salesperson license. On the renewal, the Respondent attested that he had completed the required thirty-six hours (36) of continuing education required by 193E Iowa Administrative Rule § 16.4(2).

5. In February of 2016, the Respondent was chosen for a random audit by the Commission for compliance with the continuing education requirements for his 2015 real estate license renewal.

6. Results of the continuing education audit revealed the Respondent included as a part of his renewal, the following course: two (2) hour "Foreclosure in Iowa" completed on March 16, 2016. The course was completed after the submission of his renewal application and outside of the three (3) year renewal period of 2013, 2014 and/or 2015.

7. Accurate and truthful attestation of one's continuing education history is essential to the Commission's determination of whether an applicant meets all requirements for renewing an Iowa real estate salesperson license. See Iowa Code § 543.15(5) (2016). The Respondent's failure to complete all required continuing education within the renewal period as attested on his Iowa real estate salesperson license renewal application constituted a false statement of material fact.

SETTLEMENT AGREEMENT

8. Without admission of wrongdoing or guilt, the Respondent does not contest the violations alleged in the above-stated Statement of Charges. This case shall constitute one violation for purposes of Iowa Code section 543B.29(4) (2015).

9. 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.

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(1)(d), 543B.34(1) and 272C.3(2)(a) (2016) 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 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 (2016).

CONSENT ORDER

15. **CIVIL PENALTY.** Respondent shall pay a civil penalty to the Commission in the amount of five hundred dollars (\$500.00) 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, referencing Case Number 16-078.

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 **Brian McDowell** on this 28th day of JUNE, 2016.

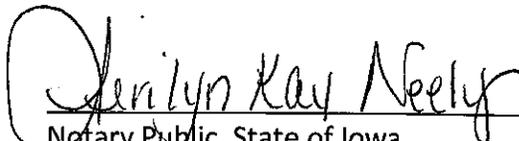

By: **BRIAN MC DOWELL**, Respondent

State of Iowa

County of Story

Signed and sworn to before me on this 28th day of June, 2016, by:




Notary Public, State of Iowa
Printed Name: Jerilyn Kay Neely
My Commission Expires: 10/23/18

FOR THE COMMISSION:

Voluntarily agreed to and accepted by the **IOWA REAL ESTATE COMMISSION** on this 4th day of August, 2016.


TERRANCE M. DUGGAN, Chair
Iowa Real Estate Commission