

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

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INRE:	)	
	)	CASE NUMBER: 07-024
Jacobus F. J. Nooren	)	
Broker (B33552)	)	
	)	COMBINED STATEMENT OF
Nooren Realtors Inc.	)	CHARGES, INFORMAL
3510 Kimball Ave.	)	SETTLEMENT AGREEMENT,
Waterloo,IA 500701	)	AND CONSENT ORDER IN A
	)	DISCIPLINARY CASE
Respondent.	)	

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The Iowa Real Estate Commission (Commission) and Jacobus F. J. Nooren (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) (2007).

1. The Commission issued the Respondent real estate broker license number B33552 on January 12, 1996. Respondent's license is current and in full force and effect through December 31, 2007. At all times relevant to this matter, the Respondent was a licensed real estate broker officer, assigned to Nooren Realtors Inc, a licensed real estate firm, license number (F03898) in Waterloo, Iowa.

2. The Commission has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 543B (2005 & 2007). 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 conduct or practice harmful or detrimental to the public in violation of Iowa Code section 543B.29(3) (2005) by failing to present a backup offer to the appropriate party associated with a transaction that had yet to close. See Iowa Code §§ 543B.34(4), 543B.56(1)(b), 543B.56A(I)& (2), and 193E Iowa Admin. Code §§ 7.15, 11.3(4), 12.3(1)(c), 12.4(1)(c), 12.5(1)(b), 18.14(5)(g).

COUNT II

4. Respondent is charged with failing to diligently exercise reasonable skill and care in providing brokerage services to all parties in violation of Iowa Code section 543B.56(1)(b) (2005) by:

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- (a) Acting for more than one party in a transaction without the knowledge of all parties for whom the licensee acts. See Iowa Code §§ 543B.34(4), 543B.56(2)(a); and 193E Iowa Admin. Code §§ 12.3(1)(c)(7), 12.4(1)(c)(7), 12.5(1)(b), 18.14(5)(s).
- (b) Failing to exercise reasonable care and skill in the preparation and presentation of listing agreements, purchase agreements, counteroffers, backup offers, and/or required disclosures. See Iowa Code §§ 543B.29(2), 543B.34(8), 543B.56A(I) & (2); and 193E Iowa Admin. Code §§ 12.3(1)(b), 12.3(1)(c)(2), 12.4(1)(b), 12.4(1)(c)(2), 12.5(1)(b), ~~18.14(5)0~~.

#### CIRCUMSTANCES

5. On September 1, 2005, a purchase agreement was initiated by Buyer 1 for property located in Cedar Falls, Iowa ("Property"). The Property was owned by a corporation ("Corporation") in financial distress. Although the Property was not yet subject to a foreclosure action, the purchase agreement was presented to a bank ("Bank") having a security interest in the Property.

6. The Bank agreed to a sale price of \$750,000 for the property, an amount insufficient to reimburse the Bank the full amount of its security interest in the property. Acceptance of the purchase agreement is noted on the agreement as September 2, 2005. Closing on the sale to Buyer 1 was scheduled for September 30, 2005.

7. On September 2, 2005, a listing agreement concerning the Property was entered between the Respondent brokerage and the Bank. An agency disclosure form was signed by the Bank on an unspecified date and by Buyer 1 on September 1, 2005.

8. Buyer 1 had a familial relationship with a participating salesperson in the Respondent's brokerage. This relationship was not disclosed in writing to the Bank or the Corporation.

9. The purchase agreement was contingent upon the Corporation consenting to the sale within 10 days. The Corporation consented to the sale on or about September 7, 2005. The initials / signature of the consenting representative of the Corporation is not dated on the purchase agreement.

10. An addendum to the purchase agreement was signed by Buyer 1 on September 1, 2005 and on an unspecified date by the Bank. The representatives of the Corporation signed the addendum on September 9, 2005.

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11. On or about September 8, 2005, the Respondent was contacted by Buyer 2 who also had an interest in purchasing the Property. The Respondent communicated Buyer 2's inquiries to Buyer 1. The Respondent advised neither the Bank nor the Corporation of Buyer 2's communications.

12. On September 9, 2005, the Respondent initiated a purchase agreement for the purchase of the Property on behalf of Buyer 2. The purchase offer was addressed to "Owner of Record." On an unspecified date, the purchase agreement was amended to identify Buyer 1 as the seller.

13. The Respondent presented this second purchase agreement to Buyer 1, not the Bank nor the Corporation. The Respondent advised neither the Bank nor the Corporation of Buyer 2's offer.

14. On September 9, 2005, Buyer 1 accepted Buyer 2's offer to sell the Property to Buyer 2 for \$1,000,000. Buyer 1's obligation to sell the property was not made contingent upon the closing of the purchase agreement between the Bank / Corporation and Buyer 1. Closing on this second sale was scheduled for October 14, 2005.

15. The sale of the Property from the Bank / Corporation to Buyer 1 closed on September 30, 2005.

16. The sale of the Property from Buyer 1 to Buyer 2 closed on October 14, 2005.

17. On October 14, 2005, a listing agreement effective October 17, 2005 through November 17, 2005 was signed by the Respondent and Buyer 1 listing the Property for sale.

#### SETTLEMENT AGREEMENT

18. Respondent, without admission of wrongdoing or guilt, does not contest the allegations in the above-stated Statement of Charges.

19. 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.

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20. 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.

21. 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.

22. 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) (2007) 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.

23. 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.

24. 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 (2007).

#### CONSENT ORDER

IT IS THEREFORE ORDERED:

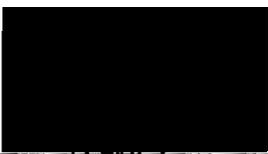
25. REPRIMAND. Pursuant to 193E Iowa Administrative Code section 18.14(1)0), the Respondent is reprimanded.

26. CIVIL PENALTY. The Respondent shall pay a civil penalty to the Commission in the amount of \$ 5000.00 no later than 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 07-024.

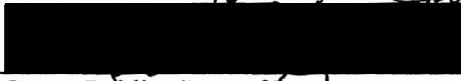
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27. EDUCATION. The Respondent shall attend the Commission approved eight (8) hour course "Real Estate Law and Agency Law" and the eight (8) hour course "Contract Law and Contract Writing." These hours shall be in addition to any real estate continuing 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 07-024.

28. 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.

  
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**JACOBUS F. J. NOOREN, Respondent**

State of Iowa )  
County of Black Hawk )

Signed and sworn to before me on this 16<sup>th</sup> day of January, 2008, by  
  
\_\_\_\_\_  
Notary Public, State of Iowa  
Printed Name: Faith R. Finko  
My Commission Expires: January 31, 2011

**FOR THE COMMISSION:**

this

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