

FILED June 4, 2015 (Date)

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

REC
Board / Commission
M. L.
Signature, Executive Officer

IN RE:)	
)	CASE NUMBER: 15-123
QCA Progressive Partners, LLC)	
Firm (F05441000))	COMBINED STATEMENT OF
)	CHARGES, INFORMAL
1225 E River Drive #110)	SETTLEMENT AGREEMENT,
Davenport, IA 52803)	AND CONSENT ORDER IN A
)	DISCIPLINARY CASE
RESPONDENT)	

The Iowa Real Estate Commission (Commission) and QCA Progressive Partners, LLC (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) (2015).

1. The Commission issued the Respondent real estate firm license number F05441000 on August 2, 2010. Respondent's firm license is now current and in full force and effect through December 31, 2015. At all times relevant to this matter, Dawnita Neff, broker license number B41639000, was the designated broker of the Respondent real estate brokerage firm, located in Davenport, Iowa.

2. The Commission has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 543B (2015). 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(1)(k), 543B.34(1), 543B.46, 543B.46(4) (2015) by:

- (a) Failing to maintain at all times a record of the Respondent's trust account and improper trust account procedures. See 193E Iowa Administrative Code §§ 13.1(6), 18.14(5)(e), 18.14(5)(f).

- (b) Failing to maintain the general ledger, individual ledgers, and monthly bank reconciliation to reflect accurate current balances for the Respondent's trust account. See 193E Iowa Administrative Code §§ 13.1(6)(a)(3), 18.14(5)(e).
- (c) Having more than \$500 of personal funds in the Respondent's trust account due to the failure to promptly withdraw funds due and payable to the Respondent. See 193E Iowa Administrative Code §§ 13.1(1)(c), 13.1(1)(d), 18.14(5)(f)(8).

CIRCUMSTANCES

4. From the time period of September 24, 2013 through February 18, 2015 Sophina L. Dirck, broker license number B44609000, was the designated broker of the Respondent real estate brokerage firm. As designated broker of the Respondent real estate brokerage firm, the licensee is responsible for ensuring compliance with all applicable rules and regulations governing its operations in the state of Iowa.
5. On February 18, 2015, Dawnita Neff, broker license number B41639000, became the designated broker of the Respondent real estate brokerage firm. As designated broker of the Respondent real estate brokerage firm, the licensee is responsible for ensuring compliance with all applicable rules and regulations governing its operations in the state of Iowa.
6. On or about April 23, 2015, an examination of the Respondent's Iowa real estate trust account and transaction records was conducted by the Commission auditor.
7. The auditor found that the Respondent is failing to properly maintain the general ledger for the real estate trust account.
8. The auditor found that the Respondent is failing to properly maintain the accounting for its individual ledger accounts.
9. The auditor found that the Respondent was not providing a means for a monthly reconciliation on a written worksheet to ensure agreement of the general ledger balance, reconciled bank balance, and sum of the individual ledgers.
10. The auditor was not able to reconcile the Respondent's Trust Account due to the Respondent's failure to maintain the general ledger, maintain individual ledgers, and reconcile real estate trust account bank statements.

11. In February or March 2015, the current designated broker of the Respondent real estate brokerage firm discovered \$9,380 from August 2014 in the real estate trust account that was not promptly withdrawn by the broker and deposited in the Respondent's business operating account.

SETTLEMENT AGREEMENT

12. Respondent admits to each and every allegation in the above-stated Statement of Charges.

13. Respondent acknowledges that it 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 its 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.

14. 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.

15. 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.

16. 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) (2015) 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.

17. 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.

18. 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 (2015).

CONSENT ORDER

IT IS THEREFORE ORDERED:

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

20. **CIVIL PENALTY.** Respondent shall pay a civil penalty to the Commission in the amount of two thousand, five hundred dollars (\$2,500.00) no later than one hundred eighty (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, referencing Case Number 15-123.

21. **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. The CPA's audit report demonstrating Respondent's current compliance with applicable standards, Iowa law, and Commission trust account rules must be submitted on or before August 31, 2015. The audit must come under a cover letter addressed to the Commission's Executive Officer, referencing Case Number 15-123.

22. **FUTURE COMPLIANCE.** The Respondent also 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 QCA Progressive Partners, LLC on this 15th day of May, 2015.

Dawnita Neff

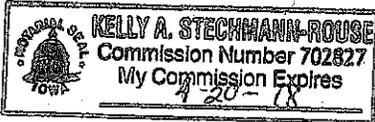
By: DAWNITA NEFF, Designated Broker

IREC Case No. 15-123
QCA Progressive Partners, LLC

State of Iowa)

County of Scott)

Signed and sworn to before me on this 15th day of May, 2015, by:



Kelly A. Stechmann-Rouse
Notary Public, State of Iowa

Printed Name: Kelly A. Stechmann-Rouse

My Commission Expires: 4-20-18

FOR THE COMMISSION:

Voluntarily agreed to and accepted by the IOWA REAL ESTATE COMMISSION on this 5th day of JUNE, 2015.

Terrance M. Duggan
TERRANCE M. DUGGAN, Chair
Iowa Real Estate Commission