Department of Commerce
Professional Licensing Bureau
FILED October 2, 2014 (Date)
IREC
Board / Commission
[redacted]
Signature, Executive Officer

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

IN THE MATTER OF:	)	
	)	**Case No. 14-018**
John P. Sweeney **Salesperson (S59906000)**	))	**CONSENT AGREEMENT**
	)	
Sweeney Real Estate & Development Co. **600 Rossville Road** **Waukon, IA 52172**	)))	
	)	
BROKER APPLICANT	)	

The Iowa Real Estate Commission (Commission) and John P. Sweeney (Applicant) enter into this Consent Agreement (Agreement) pursuant to Iowa Code Sections 17A.10, 272C.3(4), and 543.B.19 (2013).

1. The parties acknowledge the following:

(A) On or about October 4, 2013, the Applicant submitted a Waiver for Completing Criminal History Background Checks to the Commission so that the criminal history check required by Iowa Code § 543B.15(9) (2013) could be completed.

(B) On or about January 31, 2014, the Applicant submitted an application to the Commission for a new Iowa real estate broker license. On the Application form, the Applicant answered question 10a by stating that he did have a criminal conviction for a felony or misdemeanor offense and attached a copy of a criminal history report provided to the Applicant by a local law enforcement agency.

(C) The criminal history report failed to include all of Applicant's criminal convictions, as required by question 10a.

(D) The criminal history checks conducted by the Iowa Division of Criminal Investigations and the Federal Bureau of Investigation pursuant to Iowa Code 543B.15(9) (2013) and a search of Iowa Courts Online established that the Applicant failed to accurately and/or completely disclose his criminal history as

requested by question 10a on the license application form.

(E) The Applicant does not contest that he failed to accurately disclose his criminal history as requested by question 10a on the license application form. Applicant's failure to disclose the missing convictions was unintentional, but does not relieve him of the duty to submit an accurate application. See Iowa Code § 543B.15(5) (2013).

(F) Truthful and complete disclosure of one's criminal history is essential to the Commission's determination of whether an applicant meets all requirements for obtaining an Iowa real estate broker license. See Iowa Code § 543.15(3) (2013).

(G) The Applicant's criminal history as of the date of his license application would not have otherwise disqualified the Applicant from obtaining a real estate broker license had he accurately disclosed that history as requested by question 1 on the waiver form and question 10a on the license application form.

2. In recognition of the Applicant's failure to submit a complete criminal history to the Commission as detailed above, the Applicant voluntarily agrees that as a condition for receiving a new Iowa real estate broker license, the Applicant shall pay to the Commission a civil monetary penalty in the amount of five hundred dollars ($500.00) within thirty (30) days of the Commission's approval of this Agreement. Failure to timely submit the agreed upon civil penalty shall result in the denial of the Applicant's license application. Furthermore, the Applicant shall submit an amended real estate broker license Application to the Commission that correctly states his criminal history. Said Application and disclosures referencing question 10a are to be duly signed and acknowledged by the employing broker, if applicable.

3. Provided that the Applicant can demonstrate he meets all other licensing requirements, including payment of the applicable licensing fee, the Applicant shall be issued an Iowa real estate broker license upon his submission of a corrected license application and the Commission's timely receipt of the civil monetary penalty as required by paragraph 2 of this Agreement. Should the Applicant otherwise fail to demonstrate his eligibility to hold a real estate broker license, the civil monetary penalty remitted by the Applicant to the Commission shall be returned. If Applicant meets all the requirements, the Commission shall issue Applicant his license on January 1, 2015, or as soon after that date as possible.

4. By entering into this Agreement, the Applicant acknowledges and voluntarily waives his right to adjudicate the merits of his pending application for a new real estate broker license through the commencement of a contested case proceeding before the Commission, and all rights attendant to a contested case proceeding including the right to seek judicial review of the Commission's actions.

5. This Agreement shall be made a part of the record of the Applicant and may be considered by the Commission in determining the nature and severity of any disciplinary action to be imposed on the Respondent for any future violations of the laws and rules governing the practice of real estate.

6. The Applicant voluntarily submits this Agreement to the Commission for its consideration. This Agreement is not binding on the Iowa Real Estate Commission until it has been formally approved. If the Commission fails to approve this Agreement, it shall be of no force or effect on either party, and this Agreement shall become null and void.

7. This Agreement shall be public record. The Applicant further agrees to 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 Consent Agreement are agreed to and accepted by the Iowa Real Estate Commission and the Applicant.

[redacted]

JOHN P. SWEENEY
Applicant

9/29/14
Date

[redacted]

TERRANCE M. DUGGAN, Chair
Iowa Real Estate Commission

10-2-14
Date

Department of Commerce
Professional Licensing Bureau
FILED September 5, 2014 (Date)
IREC
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 No. 14-018
John P. Sweeney	)	
Salesperson (S59906000)	)	NOTICE OF HEARING
	)	
Sweeney Real Estate & Development Co.	)	
600 Rossville Road	)	
Waukon, IA 52172	)	
	)	
BROKER APPLICANT	)	

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). The hearing shall address the following issues cited by the Commission for the denial of the Respondent's license application:

> Whether the applicant's failure to accurately and completely disclose his criminal history as requested by question 10a on the license application for an Iowa real estate broker license constitutes a false statement of material fact for which the applicant may be denied a license by the Commission. See Iowa Code § 543B.15(5) and 193E Iowa Administrative Code § 3.3.

NOTICE OF HEARING

1. **HEARING.** A contested case hearing will be held concerning the Applicant's license denial appeal before the Iowa Real Estate Commission on the 2nd day of **October, 2014**, at **9:30 o'clock AM**, 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. **PREHEARING CONFERENCE.** A prehearing conference will be held by telephone on the 25th day of **September, 2014** at **9:30 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.

4. **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).

5. **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.

6. **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.

7. **PROSECUTION.** Contested 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
John.Lundquist@iowa.gov

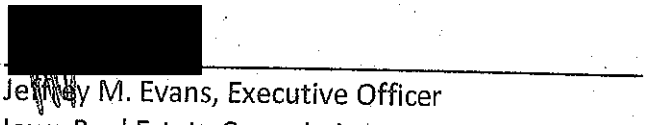
8. **RESPONDENT'S COUNSEL.** Copies of all pleadings filed with the Commission shall be also be provided to Respondent's counsel of record:

John S. Anderson
Anderson, Wilmarth, Van Der Maaten, Belay, Fretheim & Zahasky Law Firm
212 Winnebago Street, PO Box 450
Decorah, Iowa 52101
Phone: 563-382-2959
Fax: 563-382-3773
john.anderson@andersonlawdecorah.com

9. **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.

10. **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 515-725-9026, or Fax 515-725-9032.

This Notice of Hearing is filed and issued on the 5th day of September, 2014.



Jeffrey M. Evans, Executive Officer
Iowa Real Estate Commission

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