

BEFORE THE IOWA REAL ESTATE COMMISSION
1920 S.E. HULSIZER
ANKENY, IOWA

Department of Commerce
Professional Licensing Bureau

FILED

September 5, 2013 (Date)

J.R.C.
Board / Commission

Signature of Executive Officer

IN RE:)	CASE NUMBER: 15-049
John L. Smith)	COMBINED STATEMENT OF
Salesperson (S38667000))	CHARGES, INFORMAL
INACTIVE)	SETTLEMENT AGREEMENT,
2346 260 th Avenue; Box 243)	AND CONSENT ORDER IN A
DeWitt, IA 52742)	DISCIPLINARY CASE
Respondent.)	

The Iowa Real Estate Commission (Commission) and John L. Smith (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) (2013).

1. The Commission issued the Respondent a real estate salesperson license number S38667000 on April 13, 1998. Respondent's license is active and in full force and effect until December 31, 2015. At all times relevant to this matter, the Respondent was a licensed real estate salesperson assigned to Total Realty Co., a licensed real estate firm, license number F03245000 located in De Witt, Iowa. The Respondent's license was placed on inactive status on July 5, 2013.

2. The Commission has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 543B (2013). 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. The Respondent is charged with submitting, or causing to be submitted; whether intentional or otherwise, incorrect information on a renewal application. See Iowa Code sections 272C.10(1); 543B.15(5); 543B.29(1), 543B.34(1) & (11) (2013); and 193E Iowa Administrative Code section 16.2(2); 16.4(2); 16.4(4); 16.5(4) and 18.14(5)(s).

CIRCUMSTANCES

4. On January 18, 2013, the Respondent submitted his on-line renewal application for an Iowa real estate salesperson license. On the renewal, the Respondent attested that he had completed the required thirty-six (36) hours of continuing education required by 193E Iowa Administrative Rule 16.2(2).

5. In February of 2013, the Respondent was chosen for a random audit for his continuing education for his 2012 license renewal.

6. Results of the continuing education audit revealed the Respondent included as a part of his renewal, the twelve (12) hour "Developing Professionalism and Ethical Practices" course, which was taken on January 11, 2013 and the twelve (12) hour "Listing Practices" course, which was taken on January 18, 2013; both were completed outside of the three (3) year renewal period of 2010, 2011, and/or 2012.

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) (2013). 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. 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) (2013).

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(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.

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 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 (2013).

CONSENT ORDER

IT IS THEREFORE ORDERED:

15. CIVIL PENALTY. The Respondent shall pay to the Commission a civil penalty in the amount of \$500.00 as a condition precedent to:

- (a) The Respondent's reactivation of his inactive Iowa real estate salesperson license.
- (b) The Respondent's reinstatement of his Iowa real estate salesperson license in the event of its expiration.

The Commission shall not reactivate or reinstate the Respondent's real estate salesperson license before and until it has received payment in full of the required civil penalty from the Respondent. Payment of the civil penalty shall

not excuse the Respondent from demonstrating compliance with all other applicable statutory and regulatory requirements or otherwise qualifying for reactivation or reinstatement of his real estate salesperson license.

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 John L. Smith on this 18 day of August, 2013.



By: JOHN L. SMITH, Respondent

State of Iowa

County of Clinton

Signed and sworn to before me on this 29 day of Aug, 2013, by:



Notary Public, State of Iowa
Printed Name: Tami Guy
My Commission Expires: 1-14-15

FOR THE COMMISSION:

Voluntarily agreed to and accepted by the IOWA REAL ESTATE

IREC Case No. 13-049
John L. Smith

COMMISSION on this 5th day of September, 2013.



SUSAN J. SANDERS, Chair
Iowa Real Estate Commission