

FILED Nov 1 2014 (Date)

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

IREC
Board / Commission
[Redacted]
Signature Executive Officer

IN RE:)	
)	CASE NUMBER: 13-198
Robert J. Caluzzi)	
31279 Napa Valley Drive)	CONSENT AGREEMENT AND
Waukee, IA 50263)	CEASE AND DESIST ORDER
)	
Respondent.)	
)	

The Iowa Real Estate Commission (Commission) and **Robert J. Caluzzi** (Respondent), enter into this Consent Agreement and Cease and Desist Order (Agreement), pursuant to Iowa Code Iowa Code sections 543B.34(3) (2013) and 193E Iowa Administrative Code section 21.9.

1. The Commission issued the Respondent real estate salesperson license number S29213000 on March 21, 1989. The Respondent's license subsequently expired on December 31, 1994. Because more than three years have elapsed since the Respondent's real estate salesperson license expired, he shall be treated as if he has never been licensed in Iowa. 193E Iowa Admin. Code § 4.6(3). The Respondent, therefore, does not possess a license issued pursuant to Iowa Code chapter 543B and is not authorized to practice real estate in the state of Iowa.

2. The parties acknowledge the following:

- (A) The Respondent is prohibited from practicing real estate in the State of Iowa without a license issued pursuant to Iowa Code chapter 543B unless otherwise exempted by law. See Iowa Code §§ 543B.1, 543B.7.
- (B) Iowa Code section 543B.3 provides that a real estate broker includes anyone who "[l]ists, offers, attempts, or agrees to list real estate for sale, exchange, purchase, rent, or lease" and/or "[a]ssists or directs in the procuring of prospects, intended to result in the sale, exchange, purchase, rental, or leasing of real estate." Property management for others for a fee therefore constitutes the practice of real estate for which a license is required by Iowa law.

- (C) The Commission is authorized by statute to commence legal proceedings to secure compliance with the licensing requirements of Iowa Code chapter 543B and shall impose civil penalties against those persons found to have engaged in the unlicensed practice of real estate. See Iowa Code §§ 543B.34, 543B.44, 543B.49.
- (D) The Commission received a complaint in July, 2013, alleging that the Respondent was engaged in the business of managing real estate for multiple properties in central Iowa. The Commission's investigation revealed that the Respondent was actively engaged in performing property management services for others for a fee. The Respondent's activities in doing so were not exempt from Iowa Code chapter 543B's licensure requirements. See Iowa Code §§ 543B.1, 543B.7. The Respondent does not contest that he engaged in activities that required an Iowa real estate license.
- (E) The Commission has jurisdiction over those actions by unlicensed persons that fall within the prohibitions described in Iowa Code section 543B.34(3), including those property management activities performed by the Respondent described above.
- (F) Upon a finding that the Respondent practiced real estate without a license, the Commission is required by Iowa law to issue both a cease and desist order and a civil penalty against the Respondent. See Iowa Code § 543B.34(3). Rather than engage in the formal administrative process described in 193E Administrative Code chapter 21, the parties find that an informal resolution of this matter is appropriate.
- (G) On or about April 22, 2014, the Respondent submitted an application to the Commission for a new Iowa real estate salesperson license

3. In recognition of the violation detailed above in sub-paragraph 2-D, the Respondent voluntarily agrees to pay to the Commission a civil monetary penalty in the amount of five thousand dollars (\$5,000.00) within thirty (30) days of the Commission's approval of this Agreement. Timely payment of the civil penalty imposed by this paragraph shall also be a condition precedent for receiving a new Iowa real estate salesperson license.

4. Failure to timely submit the agreed upon civil penalty shall result in the denial of the Respondent's license application. Furthermore, provided that the Respondent can demonstrate he meets all other licensing requirements, including payment of the applicable licensing fee, the Respondent shall be issued an Iowa real estate salesperson license upon submission of the civil monetary penalty.

5. The Respondent voluntarily submits this Agreement to the Commission for its consideration. By entering into this Agreement, the Respondent acknowledges and voluntarily waives his right to adjudicate the merits of the violation detailed above in paragraph 2 and his pending application for a new real estate salesperson 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.

6. The Commission has authority to seek an injunction in district court and/or to initiate a process to impose further civil penalties against the Respondent pursuant to Iowa Code sections 543B.34, 543B.44 and 543B.49 in the event the Respondent commits future violations of Iowa Code chapter 543B. This Agreement may be considered by the Commission in determining the nature and severity of any disciplinary action to be imposed upon the Respondent for any future violations of the laws and rules governing the practice of real estate.

7. This Agreement shall be presented to the Commission in closed session by the prosecuting attorney and/or Commission staff. The Respondent waives any right of notice of this meeting or any right which the Respondent might have to participate in the discussion of this Agreement among the Commission, the Commission staff and the prosecuting attorney.

8. 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.

9. This Agreement shall be a public record available for inspection and copying in its entirety in accordance with the requirements of Iowa Code chapter 22. The Respondent 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 and Cease and Desist Order are agreed to and accepted by the Iowa Real Estate Commission and the Respondent.

FOR THE RESPONDENT:

Voluntarily agreed to and accepted by **Robert J. Caluzzi** on this 30th day of April, 2014.


By: **ROBERT J. CALUZZI**, Respondent

State of Iowa

County of Dallas

Signed and sworn to before me on this 30th day of April, 2014, by:

[Redacted Signature]



Notary Public, State of Iowa
Printed Name: Stephanie Sanders
My Commission Expires: _____

FOR THE COMMISSION:

Voluntarily agreed to and accepted by the IOWA REAL ESTATE COMMISSION on this 1ST day of MAY, 2014.

[Redacted Signature]

Chair
Iowa Real Estate Commission