

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

Department of Commerce
Professional Licensing Bureau

FILED

June 11, 2014

(Date)

IAEL

Board / Commission

Signature Executive Officer

IN RE:)
)
Kurt G. Thielen)
Salesperson (S44142000))
)
Jerald L. Staley, Broker Sole Proprietor)
21 - 4th Street NE)
Hampton, IA 50441)
)
Respondent.)

CASE NUMBER: 11-112
COMBINED STATEMENT OF
CHARGES, INFORMAL
SETTLEMENT AGREEMENT,
AND CONSENT ORDER IN A
DISCIPLINARY CASE

The Iowa Real Estate Commission (Commission) and Kurt G. Thielen (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) (2011).

1. The Commission issued the Respondent real estate salesperson license number S44142000 on September 17, 2003. Respondent's license is current and in full force and effect through December 31, 2014. At all times relevant to this matter, the Respondent was a licensed real estate salesperson assigned to Jerald L. Staley, a licensed real estate broker sole proprietor, license number B02661000, located in Hampton, Iowa.

2. The Commission has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 543B (2011). 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 engaging in a practice that is harmful or detrimental to the public by conduct which demonstrates bad faith, or improper, fraudulent or dishonest dealings in violation of Iowa Code sections 543B.29(2), 543B.29(3), 543B.34(1), 543B.34(8), 543B.56(1)(a), 543B.56(1)(b) (2007); and 193E Iowa Administrative Code sections 12.4(1)(a), 12.4(1)(b), 12.4(1)(c)(5)(7), 12.4(1)(c)(5)(8) and 12.4(1)(c)(5)(9), 18.14(5)(j), and 18.14(5)(s) by causing to be submitted, whether intentional or otherwise, incorrect information on a Request for Verification of Rent or Mortgage Account document.

CIRCUMSTANCES

4. On or about February 20, 2007, the Respondent entered into a listing agreement with the Seller's Representative for property located in Mason City, Iowa. A purchase agreement for the property was subsequently accepted by the Seller's.

5. A Verification of Rent or Mortgage Account was faxed to the Respondent by the mortgage loan officer. The form upon its return bore the signature of the Respondent's wife and her phone number attesting that she was the landlord or landlord's representative.

SETTLEMENT AGREEMENT

6. Without admission of wrongdoing or guilt, the Respondent does not contest the violations alleged in the above-stated Statement of Charges. This case shall constitute one (1) violation for purposes of Iowa Code section 543B.29(4) (2013).

7. 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.

8. 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.

9. 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.

10. 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) (2013) 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.

11. 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.

12. 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:

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

14. CIVIL PENALTY. The Respondent shall pay a civil penalty to the Commission in the amount of two thousand, five hundred dollars (\$2,500) 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 and refer to Case 11-112.

14. EDUCATION. The Respondent shall attend the Commission approved eight (8) hour course "Contract Law and Contract Writing", and the twelve (12) hour course "Developing Professionalism and Ethical Practices." 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 11-112.

15. 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 Kurt G. Thielen on this 24th day of April, 2014.

[Redacted Signature]

By: **KURT G. THIELEN**, Respondent

State of Iowa)

County of Franklin)

Signed and sworn to before me on this 24th day of April, 2014, by:
Kurt G. Thielen

[Redacted Signature]



Notary Public, State of Iowa
Printed Name: Michael J. Cross
My Commission Expires: 2-18-17

FOR THE COMMISSION:

Voluntarily agreed to and accepted by the **IOWA REAL ESTATE COMMISSION** on this 17th day of June, 2014.

[Redacted Signature]

Chair
Iowa Real Estate Commission