

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

IN RE:)	
)	CASE NUMBER: 08-171
Clifford Kathol)	
Salesperson (S33883))	
)	COMBINED STATEMENT OF
RESPONDENT)	CHARGES, INFORMAL
)	SETTLEMENT AGREEMENT,
Ronald J. Bergsten)	AND CONSENT ORDER IN A
427 E. Kanesville, #302)	DISCIPLINARY CASE
Council Bluffs, Iowa 51503)	

The Iowa Real Estate Commission (Commission) and **Clifford Kathol** (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) (2007).

1. The Commission issued the Respondent a real estate salesperson license number S33883 on May 6, 1993. Respondent's license is in full force and effect until December 31, 2010. At all times relevant to this matter, the Respondent was a licensed salesperson assigned to Ronald J. Bergsten, a licensed sole proprietor, license number B57595, located in Council Bluffs, Iowa.

2. The Commission has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 543B (2007). 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 making a false statement of material fact on an application for a real estate salesperson license, in violation of Iowa Code sections 272C.10(1); 543B.15(5); 543B.29(1) & (3), 543B.34(1) & (11) (2007); and 193E Iowa Administrative Code section 16.5(4).

CIRCUMSTANCES

4. In May of 2008, the Respondent was sent a random audit request for his continuing education for the 2007 license renewal period.

5. Verification of continuing education submitted by the Respondent did not meet the thirty six hours required for renewal of a salesperson license to active status.

6. A review of the Respondent's on-line renewal Application received December 7, 2007 found that the Respondent had falsely attested that he had completed the required thirty six hours

of continuing education for the 2007 license renewal period.

7. Truthful and complete disclosure 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) (2007) The Respondent's failure to accurately disclose his continuing education on his real estate sales person license renewal constituted a false statement of material fact.

SETTLEMENT AGREEMENT

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

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) (2007) 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 (2007).

CONSENT ORDER

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

16. CIVIL PENALTY. The Respondent shall pay a civil penalty to the Commission in the amount of \$500 no later than 30 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 08-171.

17. 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 is agreed to by the Iowa Real Estate Commission and the Respondent.

FOR THE RESPONDENT:

Voluntarily agreed to and accepted by Clifford Kothal on this 23 day of September, 2008.



CLIFFORD KOTHAL, Respondent

State of)

County of)

Signed and sworn to before me on this _____ day of _____, 2008, by

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

FOR THE COMMISSION:

Voluntarily agreed to and accepted by the IOWA REAL ESTATE COMMISSION on
this 10 day of October, 2008.



JAMES E. HUGHES, Chair
Iowa Real Estate Commission