

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

IN RE:)	
)	CASE NUMBER: 07-032
Marcia E. Brayton)	
Salesperson (S38217))	
8194 Cobblestone)	COMBINED STATEMENT OF
Urbandale, Iowa 50332)	CHARGES, INFORMAL
)	SETTLEMENT AGREEMENT,
INACTIVE)	AND CONSENT ORDER IN A
)	DISCIPLINARY CASE
Respondent.)	

The Iowa Real Estate Commission (Commission) and **Marcia E. Brayton** (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) (2005).

1. The Commission issued the Respondent real estate salesperson license number S38217 on September 9, 1997. Respondent's license is current and in full force and effect through December 31, 2008.

2. The Commission has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 543B (2005). 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 having been convicted of forgery, embezzlement, obtaining money under false pretenses, theft, extortion, conspiracy to defraud, or other similar offense, or of any crime involving moral turpitude in a court of competent jurisdiction in this state, or in any other state, territory, or district of the United States in violation of Iowa Code sections 543B.15(3) and 543B.29(5) (2005). See 193E Iowa Admin. Code §§ 18.2(1).

CIRCUMSTANCES

4. On November 7, 2006, Respondent was convicted in the Iowa District Court for Polk County on three charges of Theft in the Third Degree, aggravated misdemeanors, in violation of Iowa Code sections 714.1 and 714.2(3). Said convictions resulted from actions of the Respondent while acting in the capacity of Power of Attorney for an elder adult.

SETTLEMENT AGREEMENT

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

6. Respondent acknowledges that she 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 her 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.

7. 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.

8. 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.

9. 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) (2005) 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.

10. 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.

11. 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 (2005).

CONSENT ORDER

IT IS THEREFORE ORDERED:

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

13. **SUSPENSION.** The Respondent's real estate salesperson license shall be suspended for a period of ninety (90) consecutive days commencing upon the date on which the Commission accepts and approves this Order.

14. **PROBATION.** The Respondent shall be placed on probation for a period of six months. The probationary period will commence upon completion of the ninety (90) day suspension.

15. **EDUCATION.** Pursuant to 193E Iowa Administrative Code Section 18.14 (1)(f), the Respondent shall attend the Commission approved twelve (12) hour course "Developing Professionalism and Ethical Practices." These hours shall be in addition to any real estate continuing education required 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 Order by the Commission and must come under a cover letter addressed to the Commission's Executive Officer and refer to case 07-032.

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 **Marcia E. Brayton** on this 9th day of March, 2007.

Marcia E. Brayton
MARCIA E. BRAYTON, Respondent

State of IOWA)

County of POLK)

Signed and sworn to before me on this 9 day of MARCH, 2007, by

John P. Dollar
Notary Public, State of Iowa
Printed Name: JOHN P. DOLLAR
My Commission Expires: 6-22-07

FOR THE COMMISSION:



Voluntarily agreed to and accepted by the **IOWA REAL ESTATE COMMISSION** on this 29th day of MARCH, 2007.

James E. Hughes
JAMES E. HUGHES, Chair
Iowa Real Estate Commission