

**BEFORE THE IOWA REAL ESTATE COMMISSION
1920 SE HULSIZER
ANKENY, IOWA**

IN RE:)	
)	CASE NUMBER: 06-040
Ardith E. Miller)	
Broker (B23318))	
)	COMBINED STATEMENT OF
Wild Kingdom Financial Service)	CHARGES, INFORMAL
1000 South Grand, Ste. 123)	SETTLEMENT AGREEMENT,
Charles City, IA. 50616)	AND CONSENT ORDER IN A
)	DISCIPLINARY CASE
Respondent.)	

The Iowa Real Estate Commission (Commission) and **Ardith E. Miller** (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 broker license number B23318 on January 1, 1996. Respondent's license is current and in full force and effect through December 31, 2007. At all times relevant to this matter, the Respondent was a licensed sole proprietor d/b/a Wild Kingdom Financial Service a licensed trade name (T03778).

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. Respondent is charged with engaging in practices harmful or detrimental to the public, and failing to diligently exercise reasonable skill and care in providing brokerage services to all parties in violation of Iowa Code section 543B.29(3), 543B.34, 543B.56 (2005) by:

- a. Failing to represent a buyer's best interest in that the Respondent threatened to withhold earnest monies for repayment of a loan previously made to the buyer. See Iowa Code § 543B.56(1)(a) & (b); and 193E Iowa Admin. Code § 18.14(5)(s).
- b. Failing to initiate and maintain written documentation for a loan made to assist the buyer with her down payment. See Iowa Code §§ 543B.34(11), 543B.56(1)(a),(b), & (d); and 193E Iowa Admin. Code §§ 11.3(5)(a) and 13.5.
- c. Being unworthy or incompetent to act as a real estate broker or salesperson in such manner as to safeguard the interests of the public. See Iowa Code § 543B.34(8) and 193E Iowa Admin. Code § 18.14(5)(s).

CIRCUMSTANCES

4. On November 3, 2005, the Respondent prepared a purchase agreement for a property located at 806-8th Avenue, Charles City, Iowa, in the amount of \$45,000 on the behalf of the buyer.

5. The purchase agreement was signed by the buyer and presented and accepted by the sellers' on November 4, 2005.

6. The Respondent referred the buyer to Equity One, a mortgage brokerage located in West Des Moines, Iowa, for a loan.

7. The Respondent prior to the scheduled closing on the property made a loan to the buyer in the amount of \$300 without initiating documentation of the loan.

8. Due to the Respondent's inability to understand HUD-1 documentation, numerous questionable lending practices on the part of the mortgage broker could have been perpetrated upon the buyers including:

- a. increasing the purchase price from \$45,000 to \$56,000;
- b. calculating the real estate commission based upon \$56,000 rather than the \$45,000 selling price agreed upon by both buyer and seller; and
- c. authorizing a seller carry back in the form of a fraudulent forgivable second mortgage.

SETTLEMENT AGREEMENT

9. Respondent, without admission of wrongdoing or guilt, does not contest the allegations in the Statement of Charges; and agrees to resolve this matter by voluntarily entering into this Agreement.

10. 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.

11. 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.

12. 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

06-040

Miller, Ardith

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.

13. 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.

14. 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.

15. 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:

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

17. REEXAMINATION. The Respondent shall successfully pass the broker licensing examination provided for in 193E Iowa Administrative Code section 3.2 on or after the date this Order is approved and accepted by the Commission. The Commission waives, pursuant to 193E Iowa Administrative Code section 3.2(3), the requirement that the Respondent present proof of timely completion of pre-licensing education before she is allowed to take the broker licensing examination. The Respondent is responsible for payment of all fees and other costs arising from her compliance with the requirements of this paragraph.

17. SUSPENSION. The Respondent's real estate broker license is hereby **INDEFINITELY SUSPENDED** until she fully complies with the all requirements imposed upon her by paragraph 17 of this Order with commencement of said suspension **STAYED** for the first thirty (30) days immediately following the Commission's acceptance of this Order. Upon the Respondent's completion of all requirements imposed pursuant to paragraph 17, the Respondent's broker's license shall be reinstated to full force and effect.

06-040
Miller, Ardith

18. 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 **Ardith E. Miller** on this 11th day of September, 2006.

[Redacted Signature]

Ardith E. Miller, Respondent

State of Iowa

County of Floyd

Signed and sworn to before me on this 11 day of September, 2006, by

[Redacted Signature]



Notary Public, State of Iowa

Printed Name: Julie Cline

My Commission Expires: 3-17-09

FOR THE COMMISSION:

Voluntarily agreed to and accepted by the **IOWA REAL ESTATE COMMISSION** on this 14 day of September, 2006.

[Redacted Signature]

JAMES E. HUGHES, Chair
Iowa Real Estate Commission