

**BEFORE THE REAL ESTATE COMMISSION
OF THE STATE OF IOWA**

IN THE MATTER OF:)	Case No. 05-181
)	
Gary K. Willman)	
B16697)	
Rightway Realty)	
South Hwy 52, P.O. Box 818)	
Guttenberg, Iowa 52052)	
)	COMBINED STATEMENT OF CHARGES AND CONSENT ORDER IN DISCIPLINARY CASE
Respondent)	
)	

A. Statement of Charges

The Iowa Real Estate Commission (Commission) and Gary K. Willman (Respondent) enter into this Combined Statement of Charges, Informal Settlement, 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’s real estate broker’s license number B16697 on the 13th day of July, 1977. Respondent’s license is current and in full force through December 31, 2008. At all times relevant to this matter, the Respondent was a licensed real estate broker, sole proprietor, d/b/a Rightway Realty (T03864) in Guttenberg, Iowa.

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 in engaging in practices harmful or detrimental to the public, making misleading, deceptive, untrue, or fraudulent representations, and failing to diligently exercise reasonable care in providing services to all parties in violation of 543B.29(3), 543B.34, and 543B.56 (2005) by attempting to present a purchase agreement for a property; knowing his listing on said property had expired, and knowing the seller had re-listed said property with another agency. See Iowa Code 543B.56(1)(a) & (b), 543B.56 (2)(a), and 193E Iowa Admin. Code §§ 7.15(1), 11.1 (2), and 18.14(5)(s).

CIRCUMSTANCES

4. On or about October 26, 2005, Respondent's listing for property expired. On or about November 1, 2005, the Respondent contacted the seller asking if the seller wanted to re-list the property. The seller told the respondent that she was listing with another agency.

5. Respondent advised seller that party to whom he had shown the home may be interested in making an offer. Respondent obtained purchase offer from a prospective buyer and proceeded to contact the seller with the purchase agreement, knowing that the seller had a newly established listing with a licensee representing another agency.

COUNT II

6. Respondent is charged in engaging in practices harmful and detrimental to the public, making misleading, deceptive, untrue, or fraudulent representations, and failing to diligently exercise reasonable care in providing services to all parties in violation of 543B.29(3), 543B.34, and 543B.56 (2005) by advertising a property for which the Respondent did not have a valid listing. See Iowa Code 543B.34 (3), 543B.56 (1)(a) and (b), and 193E Iowa Admin. Code §§ 10.1 (2) and 18.14(5)(s).

CIRCUMSTANCES

7. On or about November 30, 2005, Respondent; knowing that the listing on the property involved in Count I above had expired on or about October 26, 2005, continued to advertise said property in a local print media.

Settlement Agreement

8. Respondent admits 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 may have to participate in the discussion of this Order among the Commission staff and the State's attorney.

11. This Order shall be a part of the permanent record of the 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 provisions 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 Respondent for violations of these provisions 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 formal acceptance by both the Commission and the 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:

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 \$1000 no later than 30 calendar days after the 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 05-181.

17. EDUCATION. Pursuant to 193E Iowa Administrative Code Section 18.14 (1)(f), the Respondent shall attend the Commission approved eight (8) hour course "Real Estate Law and Agency Law." 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

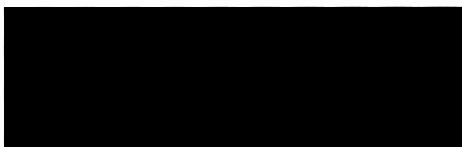
Iowa Real Estate Commission within twelve (12) months of the signing of this Order by the Commission and must come under a cover letter addressed to the Commission's Executive Officer and refer to case 05-181.

18. FUTURE COMPLIANCE. Respondent agrees that at all future times he shall 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 Gary K. Willman on this 16 day of March, 2006.

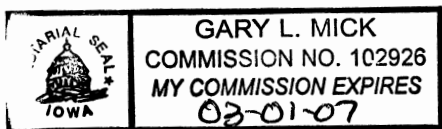


Gary K. Willman, Respondent

State of Iowa
County of Clayton

Signed and sworn to before me on this 16 day of March, 2006, by





Notary Public, State of Iowa

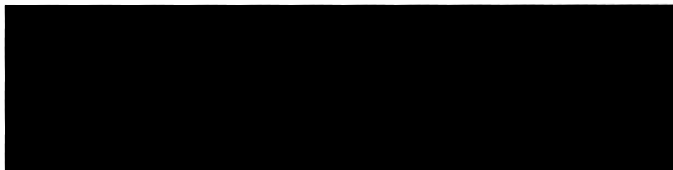
Printed name: GARY L MICK

My Commission Expires: 03-01-07

FOR THE COMMISSION:

Voluntarily agreed to and accepted by the **Iowa Real Estate Commission** on this

13th day of APRIL, 2006.



James E. Hughes, Chair
Iowa Real Estate Commission