

BEFORE THE IOWA REAL ESTATE COMMISSION
1918 SE HULSIZER
ANKENY, IOWA

IN RE:)

LOLA VAITH)
Broker Associate (B33116))

CENTURY 21 PREFERRED)
2800 4TH S.W. STE. 3)
MASON CITY, IA 50401)

CASE NUMBER: 00-149

STATEMENT OF
CHARGES

The Iowa Real Estate Commission has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 543B, and 272C (1999).

Licenses issued by the Commission are subject to the laws of the state of Iowa and to the administrative rules of the Commission.

LOLA VAITH was at all material times, during the following events; a broker associate licensed Century 21 Preferred a licensed real estate firm (F04281) in Mason City, Iowa. Her license, number B33116 is in full force and effect through 12-31-2003.

COUNT I

The Respondent is charged with engaging in a practice harmful or detrimental to the public by failing to promptly present an offer to purchase and failing to promptly obtain signatures of the parties, in violation of Iowa Code sections 543B.29(3) (practice harmful or detrimental to the public) (1999), and 193E IAC sections 1.26 and 4.54(7).

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CIRCUMSTANCES OF THE COMPLAINT

1. On November 12, 1999, Respondent, as an agent licensed with Johnson Financial Services d/b/a Johnson Real Estate, a licensed real estate firm, license number F03431, listed property owned by John and Shannon Determan located at 1997 Bourn Avenue, Rockford, Iowa, for \$167,00.00
2. On or about July 18, 2000 James Riekens, also an agent licensed with Johnson Real Estate at this time, prepared an offer for James and Jody Fink, for \$140,000.00, with contingencies, including subject to the sale of the buyer's property by October 31, 2000. On July 18, 2000 the Determans and Finks signed a dual agency agreement and the Determans accepted the offer.
3. On or about October 13, 2000 Respondent's license was transferred to Century 21 Preferred, a licensed real estate firm, license number F04281. On October 12, 2000, with written agreement of the parties, the listing was transferred to Century 21 Preferred..
4. On October 12, 2000, Scott Johnson, also an agent with Century 21 Preferred, prepared an offer for Cheryl Hendrickson and David Rottinghaus, for \$120,00. This offer was presented by telephone to the Determans and rejected.
5. On October 14, 2000, Hendrickson countered at \$135,000 and a framed original art print, this offer was presented by telephone. The evening of October 15, 2000 Determans verbally accepted the offer and Respondent verbally notified agent Riekens was of the verbal acceptance and to invoke the 48 hour to remove contingency clause in Fink's purchase agreement. Respondent did not immediately present the Hendrickson offer in part due to her status as a part-time agent.
6. The evening of October 18, 2001 Respondent obtained and presented the \$90,000.00 unsigned loan commitment letter the Hendrickson offer to the Determans. Determans would not sign the Hendrickson offer until the Fink offer had been resolved.
7. On October 19, 2001 the Finks removed all contingencies from the purchase agreement and agent Reikens faxed a signed \$140,000.00 loan commitment letter to the Respondent who then presented the document to Determans.
8. The Hendrickson/Rottinghaus offer was never signed by the Determans to invoke the Fink offer 48 hour clause.
9. While it is very possible the outcome in this case would not have changed had the Respondent timely presented the written offer to the sellers, Respondent's lack of appreciation for the need to secure signatures documenting a verbally accepted offer demonstrates extreme lack of care and could caused harm to the sellers or buyers in the future.

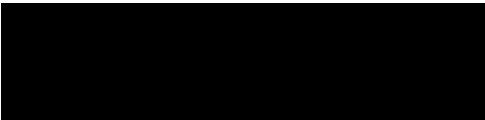
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Vaith

FINDING OF PROBABLE CAUSE

On April 12, 2001 the Iowa Real Estate Commission found probable cause to file this Statement of Charges and to order that a hearing be set in this case.

Executed this 24th day of MAY, 2001.



Roger L. Hansen, Executive Secretary
Iowa Real Estate Commission

00-149

BEFORE THE IOWA REAL ESTATE COMMISSION
1918 SE HULSIZER
ANKENY, IOWA

IN RE:)	
)	
)	CASE NUMBER: 00-149
LOLA VAITH)	
Broker Associate (B33116))	STIPULATION
)	AND
Century 21 Preferred)	ORDER
2800 4 TH S.W. STE. 3)	
Mason City, IA 50401)	

On this 24th day of MAY, 2000, the Iowa Real Estate Commission and LOLA VAITH, each hereby agree with the other and stipulate as follows:

1. The allegations specified in the Statement of Charges in this case shall be resolved without proceeding to hearing as the parties have agreed to the following Stipulation and Consent Order.

2. The Respondent has a right to a hearing on the charges, but waives the right to hearing and all attendant rights, including the right to appeal, by freely and voluntarily agreeing to this Order. Once entered, this Order shall have the force and effect of a disciplinary order entered following a contested case hearing.

3. The Respondent was issued a real estate broker license on June 06, 1995, which is in full force and effect through December 31, 2003.

4. The Iowa Real Estate Commission has jurisdiction over the parties and subject matter jurisdiction over each allegation in the Statement of Charges.

5. A Statement of Charges will be filed against Respondent together with this voluntary Stipulation and Consent Order.

6. The Respondent admits each and every allegation in the Statement of Charges.

7. If this Stipulation and Consent Order is approved by the Commission it will be filed, along with the Statement of Charges, and upon filing both documents will become public records.

8. This Stipulation and Consent Order shall be made a part of the record of the Respondent and may be considered by the Commission in determining the nature and severity of any disciplinary action to be imposed on the Respondent for any future violations of the laws and rules governing the practice of real estate.

9. Failure to comply with the terms of this Stipulation and Consent Order shall be prima facie evidence of a violation of Iowa Code sections 543B.29(3), 543B.34(2) and 272C.3(2)(a) (1999).

10. This Stipulation and Consent Order shall be presented to the Commission in closed session by the prosecuting attorney and/or Commission staff. Respondent waives any right of notice of this meeting or any right which the Respondent might have to participate in the discussion of this Stipulation and Consent Order among the Commission, the Commission staff and the prosecuting attorney.

11. This Stipulation and Consent Order is not binding on the Iowa Real Estate Commission until it has been formally approved by a majority of the Commission members. In the event that this Stipulation and Consent Order is rejected by the Commission it shall be of no force or effect to either party.

THEREFORE IT IS ORDERED that the Respondent is **Reprimanded**.

IT IS FURTHER ORDERED that the Respondent shall pay a civil penalty in the amount of \$ 500.00 to the Commission within thirty (30) days of acceptance of this Stipulation and Consent Order by the Commission.

IT IS FURTHER ORDERED that the Respondent shall personally attend the eight (8) hour Commission approved real estate broker prelicense course "Contract Law and Contract Writing." 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 thirteen (13) months of the signing of this agreement by the Commission. The certificate of attendance must come under a cover letter addressed to the Commission's Executive Secretary and must refer to case 00-149.

IT IS FURTHER ORDERED AND AGREED that at all future times Respondent shall fully and promptly comply with all pertinent Orders of the Commission and the statutes and Commission rules regulating the practice of real estate.

FOR THE RESPONDENT:

This Stipulation and Consent Order is voluntarily entered into by LOLA VAITH on this 11th day of May, 2001.

[Redacted Signature]

LOLA VAITH, Respondent

State of Iowa
County of Winneshiek

Signed and sworn to before me on this 11th day of May, 2001, by

[Redacted Signature]

Notary Public, State of Iowa

Printed Name: DODIE D. WILKINS

My Commission Expires: 6/30/01



Notary Public State of Iowa
DODIE D. WILKINS
My Commission Expires: 6/30/01

FOR THE COMMISSION:

This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission on this 24th day of MAY, 2001.

[Redacted Signature]

Robert J. Miller, Chair
Iowa Real Estate Commission

cc: Pam Griebel, Assistant Attorney General