

BEFORE THE IOWA REAL ESTATE COMMISSION  
1918 S.E. HULSIZER  
ANKENY, IOWA

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IN RE:	)	DIA NO. 96DOCRE-3
	)	CASE NO. X96-003
STEPHEN P. NABHOLZ	)	
Applicant	)	FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW,
255 Jackson Street	)	DECISION AND ORDER
P.O. Box 62	)	
Winthrop, Iowa 50682	)	

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On April 18, 1996, the Iowa Real Estate Commission (hereinafter Commission) received an application for individual licensure as a real estate salesperson from Stephen P. Nabholz (hereinafter Applicant). On May 17, 1996, the applicant made a written request for a formal hearing on the denial, pursuant to Iowa Code section 543B.19(1995). A Notice of Hearing set the hearing for July 11, 1996 at 9:30 a.m.

The hearing was held on July 11, 1996 at 9:30 a.m. The following members of the Commission were present and participated in making the decision: Evelyn Rank, Chairperson; Theresa Loffredo; Russ Nading; Terry Rogers; and Mark Odden. The State was represented by Pam Griebel, Assistant Attorney General. The applicant appeared and was not represented by counsel. Margaret LaMarche, Administrative Law Judge from the Iowa Department of Inspections and Appeals, presided.

The hearing was recorded by a certified court reporter. Since the hearing concerned an initial application for a license, the hearing was open to the public. See Iowa Code section 272C.6(1)(1995). After hearing the testimony and examining the exhibits, the Commission convened in closed session, pursuant to Iowa Code section 21.5(1)(f)(1995) to deliberate their decision. The administrative law judge was instructed to draft the Findings of Fact, Conclusions of Law, Decision and Order, in accordance with their deliberations.

THE RECORD

The record includes the Notice of Hearing, testimony of the witnesses, and the following exhibits:

- State Exhibit A: Acknowledgement of Service, 6/16/96
- State Exhibit B: Application for Individual Licensure, 4/2/96
- State Exhibit C: Notice of Hearing and Consent Order, Iowa Insurance Division, 1987

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- State Exhibit D: Letter dated 4/4/96 (Hansen to Nabholz)
- State Exhibit E: Letter dated 4/25/96 (Hansen to Nabholz)
- State Exhibit F: Letter dated 5/1/96 (Hansen to Nabholz)
- State Exhibit G: Letter dated 5/10/96 (Nabholz to Hansen),  
with attachments
- State Exhibit H: Letter dated 5/21/96 (Hansen to Nabholz)
- State Exhibit I: Documents received from American Family  
Insurance

FINDINGS OF FACT

1. On April 2, 1996, the applicant filed an application for individual licensure as an Iowa real estate salesperson with the Commission. The applicant answered yes to question 9 on the application,

Have you ever been subject to disciplinary action by any state board or similar licensing body, any governmental agency before which you practiced real estate or any other profession, or any professional organization of which you are a member?

Due to this answer, the application was administratively denied and placed on the Commission's agenda for their personal consideration. The applicant was invited to appear before the Commission on April 18, 1996. (Testimony of Roger Hansen; State Exhibits B, D)

2. The Commission obtained documentation from the Iowa Insurance Commissioner which established that the applicant had consented to the permanent revocation of his insurance agent license on October 2, 1987. The applicant consented to the revocation after he had been charged by the Commissioner with lacking the requisite character and competency to act as an insurance agent in the state of Iowa. It was alleged that the applicant had converted premium payments to his own personal use and had failed to submit insurance applications. (Testimony of Roger Hansen; Applicant; State Exhibit C, I)

3. Following his personal appearance on April 18, 1996, the Commission voted to deny the applicant a salesperson's license. However, the applicant was informed that his application could be reconsidered if he provided additional information and references to support his application. The applicant was informed of his right to request a formal hearing. The applicant submitted further information and requested reconsideration of his application, or,

in the alternative, a formal hearing. (Testimony of Roger Hansen; State Exhibits E, F, G, H)

4. The applicant testified that he had extreme personal family and financial problems when he was charged with failing to submit premiums and file insurance applications. The applicant had not had any moral or financial problems before that time, nor has he had any such problems since that time. He has resolved his personal problems and is happily remarried. The applicant submitted affidavits in support of his character from his minister, a local businessman, his banker, and the county sheriff. (Testimony of Applicant; State Exhibit G)

5. The insurance company that employed the applicant paid the premiums not forwarded by the applicant and insured those who paid the applicant premiums. The applicant was asked to make restitution and agreed to do so. He made some payments towards restitution but eventually declared bankruptcy, due to a large debt to the Internal Revenue Service. (Testimony of Applicant; State Exhibit I)

6. The applicant has been employed as a paint contractor for a number of years, but does not feel that he will be able to physically do the work in the future. The applicant feels that he would be able to do a good job as a real estate salesperson. He plans to work for his wife, who is a real estate broker. (Testimony of Applicant)

#### CONCLUSIONS OF LAW

1. Iowa Code section 543B.15(4) and (7) (1995 Supp.) provide:

4. An applicant for a real estate broker's or salesperson's license who has had a professional license of any kind revoked in this or any other jurisdiction may be denied a license by the commission on the grounds of the revocation.

...  
7. The commission, when considering the denial or revocation of a license pursuant to this section, shall consider the nature of the offense; any aggravating or extenuating circumstances which are documented; the time lapsed since the revocation, conduct, or conviction; the rehabilitation, treatment, or restitution performed by the applicant or licensee; and any other factors the commission deems relevant. Character references may be required but shall not be obtained from licensed real estate brokers or salespersons.

2. The Commission has the authority to deny the applicant a salesperson's license based upon the prior revocation of his Iowa

insurance agent license in 1987. Iowa Code section 543B.15(4). The applicant's improper actions when he was an insurance agent seriously concern the Commission. However, the Commission carefully considered the circumstances of the applicant's improper actions, including his serious family problems at the time. Most importantly, it has been nine years since the prior revocation. The applicant has submitted several substantial current character references. The applicant has had no further legal or financial problems and has been law-abiding during the past nine years. He has resolved his personal and financial problems. The Commission concludes that the applicant is qualified and should be granted an Iowa real estate salesperson's license.

DECISION AND ORDER

IT IS THEREFORE ORDERED, that the application for a real estate salesperson's license, filed by Stephen P. Nabholz, is hereby GRANTED.

Dated this 26 day of July, 1996.

  
Evelyn Rank  
Chairperson  
Iowa Real Estate Commission

cc: Pam Griebel  
Assistant Attorney General  
Iowa Department of Justice

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