

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

IN RE:)

DOUGLAS J. GALE (S32539))
Salesperson)

2010 Isabella Street)
Sioux City, Iowa 51103)

CASE NUMBER: 94-081

STIPULATION AND
CONSENT ORDER

On this 12th day of APRIL, 1995, the Iowa Real Estate Commission and
DOUGLAS J. GALE, 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 was issued a salesperson license to practice real estate on the 15th day of January, 1992, as evidenced by license number S32539 which is in full force and effect through December 31, 1994.

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

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

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

6. 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.

7. 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.

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8. 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) (1993).

9. 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.

10. 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 HEREBY ORDERED that the Respondent shall take twelve (12) hours of real estate continuing education in "Real Estate Law, Contract Law, Agency Law" and these hours shall be in addition to all other real estate continuing education required by law for license renewal. The course must be approved as a "Broker Pre-License Course". 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 94-081. If the Respondent remains on inactive status during the period his educational requirement is due, Respondent may delay compliance until such time as he seeks a return to active status. Respondent shall not be returned to active status, however until this educational requirement is satisfied and the civil penalty described below has been paid.

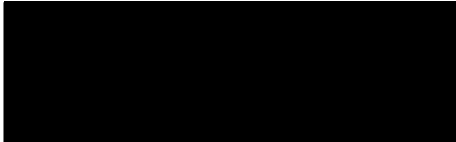
IT IS FURTHER ORDERED that the Respondent shall pay a civil penalty in the amount of \$350.00 to the Commission within thirty (30) days of acceptance of this Stipulation and Consent Order by the Commission, or prior to Respondent's reinstatement to active status, whichever shall later occur.

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.

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FOR THE RESPONDENT:

This Stipulation and Consent Order is voluntarily entered into by the Respondent on this 31 day of January, 1995.



DOUGLAS J. GALE, Respondent

State of Iowa)

County of Woodbury

Signed and sworn to before me on this 31 day of January, 1995, by



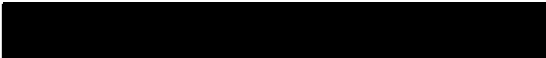
Notary Public, State of Iowa

Printed Name: Jodi Phipps

My Commission Expires: 4/22/95

FOR THE COMMISSION:

This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission on the 12th day of April, 1995.



Jerry F. Duggan, Chairman
Iowa Real Estate Commission

cc: Pam Griebel, Assistant Attorney General

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

IN RE:)	
)	
DOUGLAS J. GALE (S32539))	CASE NUMBER: 94-081
Salesperson)	STATEMENT OF CHARGES
)	
2010 Isabella Street)	
Sioux City, Iowa 51103)	

The Iowa Real Estate Commission has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 543B, and 272C (1993).

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

DOUGLAS J. GALE is, and was at all material times during the following events, a licensed real salesperson assigned to Michael R. Borschuk sole-proprietor broker, Sioux City, Iowa. The license of DOUGLAS J. GALE, number S32539, has been on file with the Commission office on inactive status since October 10, 1994.

COUNT I

The Respondent is charged with professional incompetency and engaging in a practice harmful or detrimental to the public by failing to obtain written cancelation of a written accepted offer to purchase agreement signed by all parties before placing a property back on the market, in violation of Iowa Code sections 543B.29(2) and (3) and 543B.34 (1), (3), and (8) (1993) and Iowa Administrative Code Chapter 193E, section 4.40(10) (1993).

COUNT II

The Respondent is charged with professional incompetency and engaging in a practice harmful or detrimental to the public by presenting an offer to purchase to his principal, the seller, and allowing that seller to enter into a second binding contract to sell the property, knowing the first contract had not been canceled, in violation of 543B.29 (2) and (3) and 543B.34 (1), (3), and (8) (1993).

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CIRCUMSTANCES OF THE COMPLAINT

1. On October 28, 1993, the property located at 417 West Clifton Avenue, Sioux City, Iowa, was listed by Richard and Patricia Koth, Executors for the A. C. and Lois Koth Estate with Michael Borshuk, broker, dba Century 21 Market Place, Sioux City, Iowa. Respondent Douglas J. Gale salesperson was the listing agent. The exclusive listing agreement covered the period between October 29, 1993 and April 29, 1994.
2. On or about January 26, 1994 an offer on the Koth property was written by Julie Skaff, salesperson, Coldwell Banker Associated Brokers Realty, Inc., for Mark and Susan Harms, as buyers. The offer was for \$55,000 with \$500 earnest money and the sale was contingent upon financing being obtained by March 11, 1994.
3. On or about January 26, 1994, the Harms offer was accepted by Richard and Patricia Koth.
4. The Harms were turned down for financing by Security Bank on January 31, 1994 and by Dakota County Bank on February 2, 1994.
5. On or about February 1, 1994, selling agent Skaff, advised Respondent that the Harms could not qualify for the loan.
6. On or about February 2, 1994, Respondent notified the sellers of the financing rejections then proceeded to 1. Advise Century 21 Market Place agents that the property was back on the market. 2. Send a change form to the MLS and place a message to the MLS computer that the property was back on the market as active. 3. Delivered a Release of Earnest Money form to the sellers and left it for their signatures.
7. On or about February 4, 1994, an offer was written by Donald L. Kirchner, agent with Gateway Realty of Siouxland, Inc. for the Koth property, with Gerald and Kathy Jacobsen, as buyers. The offer provided for a purchase price of \$55,000, with \$200 earnest money, and the sale was contingent upon obtaining financing by March 4, 1994.
8. On or about February 4, 1994, Respondent presented the Jacobsen offer to the sellers and it was accepted. Respondent picked up the Release of Earnest Money form signed by the sellers.

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9. On or about February 7, 1994, the Harms applied for financing through Pioneer Bank.
10. On or about February 7, 1994, Respondent delivered the Release of Earnest Money form, signed by the sellers, to agent Skaff to obtain Harms signatures.
11. On or about February 8, 1994, Respondent was advised by agent Skaff that the Harms would not sign the release and were continuing to try to obtain financing.
12. On or about February 14, 1994, the Harms received a mortgage loan commitment from Pioneer Bank.
13. On February 14, 1994, Michael Borschuk, broker, mailed the consent to release earnest money with a check for \$500 to the Harms for their signature. Harms refused to sign and were continuing to pursue financing as they had until March 11, 1994 to do so.
14. On the advice of his attorney, Michael Borschuk, broker, returned the earnest money deposit to the Jacobsens and attempted to obtain their agreement to the release.
15. With the buyer of the property being in dispute, both buyers and the seller obtained legal representation, which resulted in additional legal expenses.
16. During the process of making a legal determination, the Jacobsens report to have lost the buyer for their property.
17. Due to the existence of two executed purchase agreements, the sellers were placed in the potentially harmful situation of possibly being sued by one or both buyers.
18. Due to the existence of two executed purchase agreements, the Jacobsens were placed in a potentially harmful situation of possibly being sued on the Koth property transaction and the sale of their present home.
19. Due to the existence of two executed purchase agreements, the Harms were placed in a potentially harmful situation of possibly being sued.
20. The Harms, closed on the property on May 4, 1994.

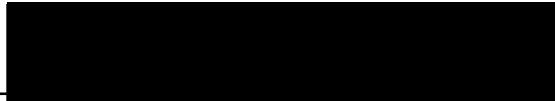
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FINDING OF PROBABLE CAUSE

On December 14, 1994, 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 12th day of APRIL, 1995.


Roger L. Hansen, Executive Secretary
Iowa Real Estate Commission

cc: Pam Griebel, Assistant Attorney General

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