

**BEFORE THE IOWA REAL ESTATE COMMISSION  
1920 S.E. HULSIZER  
ANKENY, IOWA**

---

<b>IN RE:</b>	)	
	)	<b>CASE NUMBER: 11-080</b>
<b>Jeffrey Downing</b>	)	
<b>Salesperson (S60618)</b>	)	
	)	<b>COMBINED STATEMENT OF</b>
<b>Coldwell Banker Mid-America Group, Realtors</b>	)	<b>CHARGES, INFORMAL</b>
<b>1401-50<sup>th</sup> Street, Ste. 105</b>	)	<b>SETTLEMENT AGREEMENT,</b>
<b>West Des Moines, Iowa 50266</b>	)	<b>AND CONSENT ORDER IN A</b>
	)	<b>DISCIPLINARY CASE</b>
	)	
<b>Respondent.</b>	)	

---

The Iowa Real Estate Commission (Commission) and **Jeffrey Downing** (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) (2011).

1. The Commission issued the Respondent real estate salesperson license number S60618 on August 6, 2010. The Respondent's license is current and in full force and effect through December 31, 2012. At all times relevant to this matter, the Respondent was a licensed real estate salesperson assigned to Coldwell Banker Mid-America Group, Realtors, a licensed real estate firm, license number F02963 located in West Des Moines, Iowa.

2. The Commission has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 543B (2011). 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. The Respondent is charged with, and upon a voluntary plea of guilty, has been convicted of a criminal offense involving forgery, embezzlement, obtaining money under false pretenses, theft, arson, extortion, conspiracy to defraud, or other similar offense, any offense involving moral turpitude, or other offense involving a criminal breach of fiduciary duty in a court of competent jurisdiction in this state, or in any other state, territory, or district of the United States in violation of Iowa Code section 543B.29(1) (2011). See also Iowa Code § 272C.3(2); Iowa Code § 543B.15(3) (2011); 193E Iowa Admin. Code §§ 18.2(1) & (4).

### CIRCUMSTANCES

4. On or about February 11, 2011, the Respondent pleaded guilty in the Iowa District Court for Polk County to one count of fraudulent practices in the third degree in violation of Iowa Code section 714.11(1), an aggravated misdemeanor. See State of Iowa v. Jeffrey Jay Downing, Polk County No. AGCR241327. Respondent received a deferred judgment and was ordered to serve two years of probation. The Respondent was further ordered to pay a civil penalty in the amount of \$625 and serve 50 hours community service.

5. The Respondent reported the deferred judgment entered in Polk County No. AGCR241327 to the Commission in a timely manner.

6. Fraudulent practices in the third degree constitutes a criminal offense involving forgery, embezzlement, obtaining money under false pretenses, theft, extortion, conspiracy to defraud, or other similar offense, any offense involving moral turpitude, or other offense involving a criminal breach of fiduciary duty as contemplated by Iowa Code section 543B.15(3) (2011). Until discharged by the sentencing court, the deferred judgment entered against the Respondent in Polk County No. AGCR241327 constitutes grounds to discipline the Respondent's real estate salesperson license. Iowa Code § 543B.29(1)(f) (2011).

### SETTLEMENT AGREEMENT

7. The Respondent admits to the allegation in the above-stated Statement of Charges.

8. The 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.

9. The 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.

10. 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 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.

11. Failure to comply with the terms of this Order shall be prima facie evidence of a violation of Iowa Code sections 543B.29(1)(c), 543B.34(2) and 272C.3(2)(a) (2011) 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.

12. 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.

13. 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 (2009).

### CONSENT ORDER

#### **IT IS THEREFORE ORDERED:**

14. SUSPENSION. The Respondent's real estate salesperson license shall be suspended for a period of sixty (60) consecutive days. The effective date of the license suspension shall be the date this Order is accepted by the Commission. The Respondent shall return real estate salesperson license number S60618 to the Commission immediately upon notification that this Order has been accepted by the Commission.

15. PROBATION. Upon completion of the license suspension ordered in paragraph 14 above, the Respondent shall be placed on probation indefinitely, but for a period of no less than 180 days. Provided that a minimum of 180 days have elapsed from the commencement of probation, the Respondent shall be discharged from probation immediately upon the Respondent's presentation to the Commission of a certified copy of the order discharging the deferred judgment entered in Polk County No. AGCR241327. Should the Respondent commit any violation of law governing the practice of real estate in the state of Iowa during the pendency of the probationary period, the Commission shall have the right to revoke the Respondent's salesperson license following notice of the alleged violation and opportunity for hearing before the Commission.

16. EDUCATION. The Respondent shall attend the Commission approved twelve (12) hour course "Developing Professionalism and Ethical Practices" 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 twelve (12) months of the signing of this agreement by the Commission and must come under a cover letter addressed to the Commission's Executive Officer and refer to case 11-080.

16. 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 **Jeffrey Downing** on this 28<sup>th</sup> day of April, 2011.



By: **JEFFREY DOWNING**, Respondent

State of Iowa )

County of Polk )

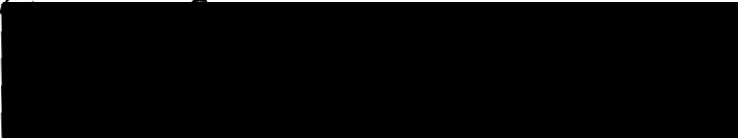
Signed and sworn to before me on this 28 day of April 2011, 2011, by



Notary Public, State of Iowa  
Printed Name: Tracy L Frette  
My Commission Expires: March 13 2013

**FOR THE COMMISSION:**

Voluntarily agreed to and accepted by the **IOWA REAL ESTATE COMMISSION** on this 26 day of May, 2011.



**LAURIE DAWLEY**, Chair  
Iowa Real Estate Commission