

**BEFORE THE IOWA REAL ESTATE COMMISSION
1920 SE HULSIZER
ANKENY, IOWA**

IN THE MATTER OF:)	Case No. 10-460
)	
Jay Kathol)	
Salesperson (S44104))	
)	
Heartland Properties)	COMBINED STATEMENT OF
535 West Broadway, Ste. 100)	CHARGES, INFORMAL
Council Bluffs, Iowa 51503)	SETTLEMENT AGREEMENT
)	AND CONSENT ORDER IN A
)	DISCIPLINARY CASE
Respondent)	

The Iowa Real Estate Commission (Commission) and **Jay Kathol** (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) (2009).

1. The Commission issued the Respondent real estate salesperson license number (S44101) on September 3, 2003. Respondent's license is current and in full force and effect through December 31, 2011. At all times relevant to this matter, the Respondent was a licensed real estate salesperson, assigned to Heartland Properties, a licensed real estate firm, license number (F02938) located in Council Bluffs, Iowa.

2. The Commission has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 543B (2009). 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 with engaging in practices harmful or detrimental to the public, and failing to diligently exercise reasonable skill and care in providing brokerage services to all parties in violation of Iowa Code section 543B.29(1)(c), 543B.34(11), 543B56(1)(a) & (b) by failing to promptly present a purchase agreement to a seller for formal acceptance or rejection. See 193E Iowa Admin. Code section 7.15(543B),18.14(5)(s).

Circumstances

4. Respondent represented the Seller in a transaction for a property located in Council Bluffs, Iowa.

5. The Respondent initiated a Listing Agreement for the property in August of 2010.

6. At the time the Listing Agreement was initiated, the Respondent also submitted to the Seller a Purchase Agreement on behalf of himself which was accepted by the Seller.

7. In September of 2010, a Purchase Agreement was forwarded to the Respondent to be presented to the Seller by another interested party.

8. The Respondent failed to present the Purchase Agreement to the Seller as required

Settlement Agreement

9. Respondent admits to the allegations in the above-stated Statement of Charges.

10. Respondent acknowledges that she 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 her right to notice and a hearing and all attended rights, including the right to seek judicial review. The 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 Admin Code 7.4.

11. 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, the Commission staff and the State's attorney.

12. This Order shall be 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.

13. Failure to comply with the terms of this Order shall be prime facie evidence of a violation of Iowa Code sections 543B.29(3), 543B.34(2) and 272C.3(2)(a)(2009) 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.

14. 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.

15. Upon acceptance by both the Commission and the Respondent, this Combined Statement of Charges, Informal Settlement and Consent Order shall be made a public record available for inspection and copying in its entirety in accordance of Iowa Code chapter 22 (2009).

Consent Order

16. **EDUCATION.** Pursuant to 193E Iowa Administrative Code Section 18.14 (1)(f), the Respondent shall attend the Commission approved eight (8) hour course "Contract Law and Contract Writing." 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 10-460.

17. **FUTURE COMPLIANCE.** Respondent agrees that at all future times she 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.

In Re: Jay Kathol

10-460

4

FOR THE RESPONDENT:


Voluntarily agreed to and accepted by **Jay Kathol** on this 29 day of April, 2011.


By: **Jay Kathol**, Respondent

State of Iowa

County of Pottawattamie

Signed and sworn to before me on this 29 day of April, 2011, by:


Notary Public, State of Iowa

Printed Name: Jason M. James

My Commission Expires: 9-30-2011

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