

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

IN RE:)	
)	CASE NUMBER: 10-498
Elmer K. Reichert)	
Broker (B08080))	
)	STIPULATION AND
RESPONDENT)	VOLUNTARY SURRENDER
)	OF BROKER LICENSE
)	
3402 Tipton Road)	
Muscatine, Iowa 52761-2709)	

The Iowa Real Estate Commission (Commission) and **Elmer K. Reichert** (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 a real estate broker license number B08080 on February 27, 1973. Respondent's license is currently suspended pursuant to Iowa Code section 543B.29(1)(e) as amended by S.F. 2326 (2010) and expires on December 31, 2012.

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. The Respondent is charged with having been convicted of a felony criminal offense and/or 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 sections 543B.29(1) as amended by S.F. 2326 (2010). See also Iowa Code § 272C.10(5) (2009); Iowa Code § 543B.15(3) as amended by S.F. 2326 (2010); 193E Iowa Admin. Code §§ 18.2(1) & (4).

COUNT II

4. The Respondent is charged with failing to notify the Commission of his conviction of a reportable criminal offense within ten days of the conviction in violation of Iowa Code section 543B.29(1)(e) as amended by S.F. 2326 (2010). See 543B.15(3); 193E Iowa Admin. Code §§ 18.2(1) and 18.14(5)(s).

CIRCUMSTANCES

5. On or about September 3, 2010, the Respondent pled guilty in the Iowa District Court for Muscatine County to the charge of Theft 1st Degree. See State v. Elmer Karl Reichert, Muscatine County Case No. FECR042299. The Court deferred judgment on the Respondent's guilty plea on or about November 12, 2010. The Respondent was placed on supervised probation for a period of one year.

6. The Respondent failed to notify the Commission of the Theft conviction within ten days of the Court's acceptance of the Respondent's guilty plea entry and/or entry of the deferred judgment, however Respondent did voluntarily place his real estate broker's license in "inactive status" on September 14, 2010, and the Iowa Real Estate Commission is in possession of Respondent's real estate broker's license.

SETTLEMENT AGREEMENT

7. The Respondent admits each and every 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. The 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 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.

11. Failure to comply with the terms of this Order shall be prima 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.

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. **VOLUNTARY SURRENDER:** The Respondent voluntarily agrees to surrender his Iowa Real Estate Broker License (Number B08080) to the Iowa Real Estate Commission. Pursuant to 193E Iowa Administrative Code section 18.15(2), the duration of the Respondent's license surrender shall be for an indefinite period of time, but shall not be less than the period of time that the Respondent remains on probation pursuant to Muscatine County Case No. FECR042299. The effective date of the license surrender shall be the date this Order is accepted by the Commission. The Respondent shall return broker license number B08080 to the Commission immediately upon notification that this Order has been accepted by the Commission.

15. **LICENSEE REAPPLICATION:** Reinstatement of the Respondent's Iowa Real Estate license shall be governed by 193E Iowa Administrative Code section 18.15. The Respondent acknowledges that Iowa law allows the Respondent to reapply for an Iowa Real Estate license after the Respondent is successfully discharged from probation pursuant to Muscatine County Case No. FECR042299, AND that the Respondent must qualify as a salesperson starting over as if never licensed, AND that reapplication may or may not be granted by the Iowa Real Estate Commission.

WHEREFORE, the terms of this Stipulation and Voluntary Surrender of License is agreed to by the Iowa Real Estate Commission and the Respondent.

FOR THE RESPONDENT:

Voluntarily agreed to and accepted by **Elmer K. Reichert** on this 11th day of January, 2010.



By: **ELMER K. REICHERT**, Respondent



State of Iowa

County of Muscatine

Signed and sworn to before me on this 11 day of January, 2010 by



Notary Public, State of Iowa
Printed Name: Kathy Kelly
My Commission Expires: 4-12-2011

FOR THE COMMISSION:

Voluntarily agreed to and accepted by the **IOWA REAL ESTATE COMMISSION** on this 11 day of January, 2010.



LAURIE DAWLEY, Clerk
Iowa Real Estate Commission