

FILED May 5, 2016 (Date)

BEFORE THE IOWA REAL ESTATE COMMISSION
200 EAST GRAND, SUITE 350
DES MOINES, IOWA 50309

3066
Board / Commission
[Signature]
Signature, Executive Officer

IN RE:)	
)	CASE NUMBER: 15-260
Thomas S. DeWaay)	
Broker (B42024000))	COMBINED STATEMENT OF
)	CHARGES, INFORMAL
Hubbell Commercial Brokers, L.C.)	SETTLEMENT AGREEMENT,
6900 Westown Parkway)	AND CONSENT ORDER IN A
West Des Moines, IA 50266)	DISCIPLINARY CASE
)	
RESPONDENT)	

The Iowa Real Estate Commission (Commission) and **Thomas S. DeWaay** (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) (2015).

1. The Commission issued the Respondent real estate broker license number B41024000 on January 2, 2009. Respondent's license is current and in full force and effect through December 31, 2017. At all times relevant to this matter, the Respondent was a licensed real estate salesperson assigned to Hubbell Commercial Brokers, L.C., a licensed real estate firm, license number F03815000, located in West Des Moines, Iowa.

2. The Commission has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 543B (2015). 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 submitting, or causing to be submitted; whether intentional or otherwise, incorrect information on a renewal application in violation of Iowa Code sections 272C.10(1), 543B.15(5), 543B.29(1), 543B.34(1), 543B.34(1)(k) (2015). See 193E Iowa Administrative Code sections 16.4(2), 16.5, 16.5(4), 18.14(5)(s).

CIRCUMSTANCES

4. On December 22, 2014, the Respondent submitted his on-line renewal application for an Iowa real estate broker license to be placed on active status. On the renewal, the Respondent attested that he had completed the required thirty-six hours (36) of continuing education required by 193E Iowa Administrative Rule § 16.4(2).

5. On or about August 18, 2015, the Respondent was chosen for a random audit by the Commission for compliance with the continuing education requirements for his 2014 real estate license renewal.

6. Results of the continuing education audit revealed the Respondent included as a part of his renewal, six (6) hours of continuing education taken at the 2014 CBRE Investment Properties Conference, which was held October 9th – 10th, 2014 in Chicago, IL. The conference was not preapproved by the Commission's Education Director.

7. On or about September 23, 2015, the Respondent submitted a "Post-Approval of a Course" form for the aforementioned conference to the Commission's Education Director and was subsequently approved; however, this was submitted after the Respondent submitted his on-line renewal application and after he was selected for a continuing education audit by the Commission.

8. Accurate and truthful attestation of one's continuing education history is essential to the Commission's determination of whether an applicant meets all requirements for renewing an Iowa real estate salesperson license. See Iowa Code § 543.15(5) (2015). The Respondent's failure to accurately report her continuing education history as attested on her Iowa real estate salesperson license renewal application constituted a false statement of material fact.

SETTLEMENT AGREEMENT

9. Without admission of wrongdoing or guilt, the Respondent does not contest the violations alleged in the above-stated Statement of Charges. This case shall constitute one violation for purposes of Iowa Code section 543B.29(4) (2015).

10. 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.

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 might 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 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 prima facie evidence of a violation of Iowa Code sections 543B.29(1)(d), 543B.34(1) and 272C.3(2)(a) (2015) 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 Respondent, this Combined Statement of Charges, Informal Settlement Agreement 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 (2015).

CONSENT ORDER

IT IS THEREFORE ORDERED:


16. **CIVIL PENALTY.** The Respondent shall pay a civil penalty to the Commission in the amount of two hundred fifty dollars (\$250.00) no later than thirty (30) calendar days after acceptance of this Order by the Commission. The civil penalty must come under a cover letter addressed to the Commission's Executive Officer, referencing Case Number 15-260.

17. **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:

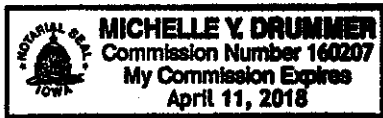
Voluntarily agreed to and accepted by **Thomas S. DeWaay** on this 5th day of April, 2016.

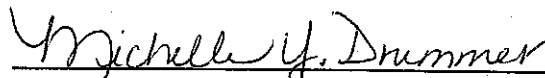

By: **THOMAS S. DE WAAY**, Respondent

State of Iowa

County of Dallas

Signed and sworn to before me on this 5th day of April, 2016, by:




Notary Public, State of Iowa
Printed Name: Michelle Y. Drummer
My Commission Expires: April 11, 2018

FOR THE COMMISSION:

Voluntarily agreed to and accepted by the **IOWA REAL ESTATE COMMISSION** on this 5th day of May, 2016.


TERRANCE M. DUGGAN, Chair
Iowa Real Estate Commission