

FILED September 1, 2016 (Date)

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

IRB  
Board / Commission  
[Signature]  
Signature, Executive Officer

IN RE:	)	
	)	CASE NUMBERS: 16-093, 16-095
Paul M. Klinge	)	
Broker (B39965000)	)	COMBINED STATEMENT OF
	)	CHARGES, INFORMAL
The Lincoln Group, Inc.	)	SETTLEMENT AGREEMENT,
122 6 <sup>th</sup> Street SE	)	AND CONSENT ORDER IN A
Waverly, IA 50677	)	DISCIPLINARY CASE
	)	
RESPONDENT	)	

The Iowa Real Estate Commission (Commission) and Paul M. Klinge (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) (2016).

1. The Commission issued the Respondent real estate broker license number B39965000 on April 15, 2002. Respondent's license is in full force and effect until December 31, 2016. At all times relevant to this matter, the Respondent was a licensed real estate broker officer, assigned to The Lincoln Group, Inc., license number F04934000, located in Waverly, Iowa.

2. The Commission has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 543B (2016). 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 (CASE NO. 16-093)**

COUNT I

3. Respondent is charged with engaging in practices harmful or detrimental to the public in violation of Iowa Code sections 543B.29(1)(d), 543B.29(1)(k), 543B.34(1), 543B.46 (2016) by:

- (a) Failing to maintain at all times a record of the Respondent's Iowa real estate trust account and improper trust account procedures. See 193E Iowa Administrative Code §§ 13.1(6), 18.14(5)(e), 18.14(5)(f).
- (b) Failing to accurately maintain a general ledger to record in chronological order all receipts and disbursements for the Respondent's trust account. See 193E Iowa Administrative Code §§ 13.1(6)(a), 18.14(5)(e)(1).

- (c) Failing to accurately maintain an individual ledger for broker's equity for the Respondent's trust account. See 193E Iowa Administrative Code §§ 13.1(1)(c), 13.1(6), 18.14(5)(e)(2).
- (d) Failing to accurately maintain an individual ledger for interest for the Respondent's trust account. See 193E Iowa Administrative Code §§ 13.1(2), 13.1(6), 18.14(5)(e)(2).
- (e) Failing to provide a means for a monthly reconciliation of the Respondent's trust account to ensure agreement of the general ledger balance, reconciled bank balance and individual ledger accounts. See 193E Iowa Administrative Code §§ 13.1(6)(a)(3), 18.14(5)(e), 18.14(5)(f).

#### CIRCUMSTANCES

4. On or about March 24, 2016, an onsite examination of the Respondent's Iowa real estate trust account and transaction records was conducted by the Commission auditor.
5. The auditor found that the Respondent is failing to properly maintain an updated general ledger balance for the Respondent's Iowa real estate trust account.
6. The auditor found that the Respondent was not accurately maintaining an updated individual ledger for the broker's equity balance held in the Iowa real estate trust account.
7. The auditor found that the Respondent was not accurately maintaining an updated individual ledger for the interest balance held in the Iowa real estate trust account.
8. The auditor found that for the Respondent's Iowa real estate trust account, there was not an accurate monthly reconciliation being performed to ensure agreement of the general ledger balance, reconciled bank balance and sum of the individual ledgers.
9. For the month end February 29, 2016 bank statement reconciliation performed, the auditor found a variance between the total of the Individual Ledgers, the General Ledger balance and the Reconciled Bank Balance. The General Ledger Balance was \$29,836.19, the Reconciled Bank Balance was \$29,836.19 and the sum of the Individual Ledgers was \$20,979.84; resulting in unidentified funds in the amount of \$8,856.35.

#### **STATEMENT OF CHARGES (CASE NO. 16-095)**

#### COUNT I

10. Respondent is charged with practices harmful and detrimental to the public and/or failing to supervise a licensee employed by the Respondent in violation of Iowa Code sections 543B.29(1), 543B.34(1)(h), 543B.62(3)(b) (2016) by allowing a salesperson employed by the

Respondent to conduct real estate business (property management) independently outside of the licensed broker or firm he is assigned to. See 193E Iowa Administrative Code sections 7.11, 15.1, 18.2(6), 18.14(5)(m).

#### CIRCUMSTANCES

11. As a broker officer of the real estate brokerage firm and designated broker, the Respondent is responsible for ensuring compliance with all applicable rules and regulations governing its operations in the state of Iowa.

12. At all times relevant to this matter, a licensed real estate salesperson assigned to the Respondent was in the business of conducting residential property management and did not have written property agreements between the owners of the properties and his designated broker.

13. As designated broker of the real estate brokerage, the Respondent is responsible for providing supervision of any salesperson or broker associate employed by or otherwise associated with the Respondent. The Respondent failed to provide adequate supervision over the associated real estate salesperson licensee by allowing him to practice real estate in the state of Iowa independently outside of the licensed broker or firm he is assigned to.

#### SETTLEMENT AGREEMENT

14. Respondent admits each and every allegation in the above-stated Statement of Charges. The allegations charged and admitted to in this Settlement Agreement shall constitute one violation for purposes of Iowa Code section 543B.29(4) (2016).

15. 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.

16. 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.

17. 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.

18. 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) (2016) 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.

19. 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.

20. 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 (2016).

### CONSENT ORDER

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

21. REPRIMAND. Pursuant to 193E Iowa Administrative Code section 18.14(1)(j), the Respondent is reprimanded.

22. CIVIL PENALTY. Respondent shall pay a civil penalty to the Commission in the amount of \$2,500.00 (\$2,000 for Case No. 16-093, \$500 for Case No. 16-095) no later than twelve (12) months 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 Numbers 16-093, 16-095.

23. EDUCATION. Respondent shall attend the Commission approved eight (8) hour course "Trust Accounts." 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 no later than six (6) months after acceptance of this Order by the Commission. The certificate of attendance must come under a cover letter addressed to the Commission's Executive Officer, referencing Case Number 16-093.

24. REVIEW. The Respondent shall be subject to an audit, conducted by the Commission auditor no later than twelve (12) months after acceptance of this Order by the Commission.

25. FUTURE COMPLIANCE. Respondent also 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:**

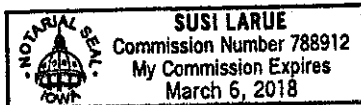
Voluntarily agreed to and accepted by Paul M. Klinge on this 22<sup>nd</sup> day of July, 2016.

Paul M. Klinge  
By: PAUL M. KLINGE, Respondent

State of Iowa )

County of Bremer )

Signed and sworn to before me on this 22<sup>nd</sup> day of July, 2016, by:



Susi Larue  
Notary Public, State of Iowa  
Printed Name: Susi Larue  
My Commission Expires: 3/6/18

**FOR THE COMMISSION:**

Voluntarily agreed to and accepted by the **IOWA REAL ESTATE COMMISSION** on this 15<sup>th</sup> day of SEPTEMBER, 2016.

Terrance M. Duggan  
TERRANCE M. DUGGAN, Chair  
Iowa Real Estate Commission