

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

IN RE:)	
)	
	)	CASE NUMBER 04-165
TRACY S. BARKALOW)	
Broker Officer (B36918000)	)	STIPULATION
	)	AND
RE/MAX PREMIER PROPERTIES	)	ORDER
59 2 ND STREET)	
CORALVILLE, IA 52241)	
)	

On this 28th day of JUNE, 2007, the Iowa Real Estate Commission and **TRACY S. BARKALOW**, each hereby agree with the other and stipulate as follows:

1. The allegations specified in the Statement of Charges in this case shall be resolved without proceeding to hearing, as the parties have agreed to the following Stipulation and Consent Order.

2. The Respondent has a right to a hearing on the charges, but waives the right to hearing and all attendant rights, including the right to appeal, by freely and voluntarily agreeing to this Order. Once entered, this Order shall have the force and effect of a disciplinary order entered following a contested case hearing.

3. The Respondent was issued a real estate salesperson license on April 10, 1996, and converted a broker officer license February 1, 2006, which is in full force and effect through December 31, 2008.

4. The Iowa Real Estate Commission has jurisdiction over the parties and subject matter jurisdiction over each allegation in the Statement of Charges.

5. A Statement of Charges has been filed against the Respondent in this docket and its contents are incorporated herein as though fully set out.

6. Respondent does not admit to the allegations contained in the Statement of Charges, but agrees to voluntarily resolve the charges with a Settlement Agreement.

7. If this Stipulation and Consent Order is approved by the Commission it will be filed, and upon filing, both it and the corresponding Statement of Charges will be public records.

8. This Stipulation and Consent Order shall be made a part of the record of the Respondent and may be considered by the Commission in determining the nature and severity of any disciplinary action to be imposed on the Respondent for any future violations of the laws and rules governing the practice of real estate.

9. Failure to comply with the terms of this Stipulation and Consent Order shall be prima facie evidence of a violation of Iowa Code sections 543B.29(3), 543B.34(2) and 272C.3(2)(a) (2007).

10. This Stipulation and Consent Order shall be presented to the Commission in closed session by the prosecuting attorney and/or Commission staff. Respondent waives any right of notice of this meeting or any right which the Respondent might have to participate in the discussion of this Stipulation and Consent Order among the Commission, the Commission staff and the prosecuting attorney.

11. This Stipulation and Consent Order is not binding on the Iowa Real Estate Commission until it has been formally approved by a majority of the Commission members. In the event that this Stipulation and Consent Order is rejected by the Commission it shall be of no force or effect to either party.

THEREFORE IT IS ORDERED that the Respondent is **Reprimanded**.

IT IS FURTHER ORDERED that the Respondent shall pay a civil penalty to the Commission in the amount of \$ 5,000 no later than 30 calendar days after acceptance of this settlement by the Commission. The civil penalty must come under a cover letter addressed to the Commission's Executive Officer and refer to case 04-165.

IT IS FURTHER ORDERED that the Respondent shall personally attend the Commission approved eight (8) hour broker prelicense course "Contract Law and Contract Writing" and the Commission approved eight (8) hour broker prelicense course "Real Estate Law and Agency." 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 04-165.

IT IS FURTHER ORDERED AND AGREED that 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.

FOR THE RESPONDENT:

This Stipulation and Consent Order is voluntarily entered into by **TRACY S. BARKALOW** on this 6th day of JUNE, 2007.

[Redacted Signature]

TRACY S. BARKALOW, Respondent

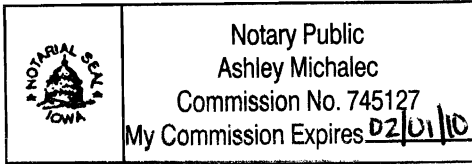
State of IOWA)

County of JOHNSON)

Signed and sworn to before me on this 6th day of June, 2007, by

[Redacted Signature]

Notary Public, State of Iowa
Printed Name: Ashley Michalec
My Commission Expires: 02-01-10



FOR THE COMMISSION:

This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission on this 28th day of JUNE, 2007.

[Redacted Signature]

JAMES E. HUGHES, Chair
Iowa Real Estate Commission

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

IN RE:)	
)	
	)	CASE NUMBER: 04-165
TRACY S. BARKALOW)	
Broker (B36918000))	
Formerly Salesperson (S36918))	
	)	CONFIDENTIAL STATEMENT OF
	)	MATTERS ASSERTED IN SUPPORT
RE/MAX Premier Properties	)	OF A NOTICE OF HEARING AND
1006 5th Street	)	STATEMENT OF CHARGES IN A
Coralville, IA 52577	)	DISCIPLINARY CASE
)	

The Iowa Real Estate Commission (“Commission”), issued a Notice of Hearing and Statement of Charges in this case on the 19th day of April, 2007, and sets forth the following summary of facts in support of the allegations contained therein:

1. Respondent is charged with engaging in practices harmful or detrimental to the public by making misleading, deceptive, untrue, or fraudulent representations, and failing to diligently exercise reasonable care in providing brokerage services to all parties in violation of Iowa Code sections 543B.29(3), 543B.34, and 543B.56 (2003) by engaging in the following acts:

- (a) Entering into a commission agreement with a buyer to collect or alter the commission due and owing to another licensed broker on a sale pending property without that broker’s written consent. See Iowa Code §§ 543B.34(6) & (11), 543B.56(1)(a), 543B.56(2)(a); and 193E Iowa Admin. Code §§ 7.11(1), 7.12(4), 7.15(2), and (11.1(5).
- (b) Misrepresenting the status of a transaction to his former employing broker to secure release of earnest money. See Iowa Code §§ 543B.29(3), 543B.34(1), 543B.56(1)(a) & (b); and 193E Iowa Admin. Code § 7.11(1).
- (c) Misrepresenting the status of a transaction to a party to the transaction. See Iowa Code §§ 543B.29(3), 543B.34(1), 543B.56(1)(a) & (b).
- (d) Rewriting an offer on a pending sale negotiated while in the employ of his former broker on his new broker’s offer form without the knowledge or consent of his former employing broker knowing that the previous purchase agreement was still valid. See Iowa Code §§ 543B.34(1), 543B.56(1)(a) & (b), 543B.56(2)(a); and 193E Iowa Admin. Code §§ 7.12(4), 7.15(2), and (11.1(5).

- (e) Authorizing his new broker to close on property whose sale was negotiated while in the employ of his former broker and withhold a commission on the sale, without the knowledge or consent of his former employing broker. See Iowa Code §§ 543B.34(1), 543B.34(5), 543B.56(1)(a) & (b), 543B.56(2)(a); and 193E Iowa Admin. Code §§ 7.11(1), 7.15(2), and (11.1(5).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

This Confidential Statement of Matters Asserted is filed and issued on the on the 19th day of April, 2007.

[REDACTED]
ROGER L. HANSEN, Executive Officer
Iowa Real Estate Commission

Copies to:

AAG John R. Lundquist
Respondent and Respondent's Counsel
Department of Inspections and Appeals, assigned Administrative Law Judge