

BEFORE THE IOWA REAL ESTATE COMMISSION
1918 SE HULSIZER
ANKENY, IOWA

IN RE:)

GEORGE C. BENSON)
Broker (B23727))

CASE NUMBER: 00-080

STATEMENT OF
CHARGES

ADVANTAGE REAL ESTATE)
1507 South Lakeport)
Sioux City, IA 51106)

The Iowa Real Estate Commission has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 543B, and 272C (1999).

Licenses issued by the Commission are subject to the laws of the state of Iowa and to the administrative rules of the Commission.

GEORGE C. BENSON is, and was at all material times during the following events, a licensed broker officer and designated person in charge of Advantage Real Estate, a licensed real estate firm in Sioux City, Iowa, license number F03888. His license, number is B23727, expired December 31, 2000.

COUNT I

The Respondent is charged with failing to provide information to the Commission relative to a complaint when requested and failing to inform the Commission as required when the business address of Advantage Real Estate changed, in violation of Iowa Code sections 543B.29(8) and 543B.32, 543B.34(10 (1999), and Iowa Administrative Code Chapter 193E sections 2.15(3), 4.54(4)(a), and 4.54(9).

00-080

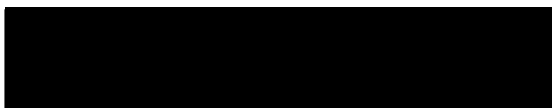
CIRCUMSTANCES OF THE COMPLAINT

1. On or about January 31, 2000, a salesperson with Advantage Real Estate filed an application to renew his salesperson license. George signed the application Benson, broker for Advantage Real Estate.
2. On or about May 2, 2000, the Iowa Real Estate Commission opened case number 00-079, alleging the salesperson filed a false affirmation of continuing education, and he failed to comply with the audit of his continuing education.
3. On or about May 9, 2000, a request for information relating to the complaint was sent to Respondent at the address Advantage Real Estate address of record, S. Lakeport & Gordon Drive, P O Box 2521, Sioux City, IA. No response was received and the letter was not returned. On or about June 21, 2000 a second request was send via certified restricted mail To P O Box 2521, Sioux City, IA. The letter was returned June 23, 2000 with a post office yellow address change sticker attached to the envelope. On or about July 6, 2000, a third certified restricted request was sent to the new address, 2830 S. Palmetto Street, Sioux City, IA. Respondent signed the return receipt on July 13, 2000, the address was crossed out and changed to 1507 S. Lakeport Street, and no response was received. On or about August 17, 2000, a fourth certified restricted request was sent to the 1507 S. Lakeport Street address. This letter was returned September 5, 2000, unclaimed.
4. The mailing address of Advantage Real Estate is unclear and may have been changed more than one time without the required notification to the Commission. On October 2, 2000, a letter was sent via regular mail to 1507 S. Lakeport to advise the Respondent of the Commission's decision to file formal charges. No response was received. On November 1, 2000, a letter was sent to 2830 S. Palmetto Street to advise of the Commission's decision and to request an accurate address notification and the response relating to the complaint.

FINDING OF PROBABLE CAUSE

On September 28, 2000 the Iowa Real Estate Commission found probable cause to file this Statement of Charges and to order that a hearing be set in this case.

Dated this 28th day of MARCH, 2001.


Roger L. Hansen, Executive Secretary
Iowa Real Estate Commission

BEFORE THE IOWA REAL ESTATE COMMISSION
1918 S.E. HULSIZER
ANKENY, IOWA

IN RE:)	DIA NO. 01DOCRE001
)	CASE NO. 00-080
)	
GEORGE BENSON)	FINDINGS OF FACT,
)	CONCLUSIONS OF LAW,
)	DECISION AND ORDER
)	

On March 28, 2001, the Iowa Real Estate Commission (hereinafter Commission) filed a Statement of Charges against George Benson, a licensed Iowa broker (hereinafter Respondent). The Statement of Charges alleged that the Respondent violated Iowa Code '§ 543B.29(8), 543B.32 and 543B.34(10)(1999) and 193E Iowa Administrative Code sections 2.15(3), 4.54(4)a and 4.54(9). A Notice of Hearing set the hearing for May 24, 2001 at 2:00 p.m.

The hearing was held on May 24, 2001 at 2:00 p.m. The following members of the Commission were present and participated in making the decision: Robert Miller, Chairperson; James Hughes, Vice Chairperson; Barbara Leestamper, Dorothy Woline and Evelyn Rank. Pamela Griebel, Assistant Attorney General, represented the State. The Respondent failed to appear. John M. Priester, Administrative Law Judge from the Iowa Department of Inspections and Appeals, presided.

The hearing was recorded by a certified court reporter. The hearing was open to the public, pursuant to Iowa Code section 272C.6(1)(1999). After hearing the testimony and examining the exhibits, the Commission convened in closed session, pursuant to Iowa Code section 21.5(1)(f)(1999) to deliberate their decision. The administrative law judge was instructed to draft the Findings of Fact, Conclusions of Law, Decision and Order, in accordance with their deliberations.

THE RECORD

The record includes the Statement of Charges, Notice of Hearing and the testimony of the witnesses. The following exhibits were introduced on behalf of the State:

- Exhibit 1: Notice of Hearing and Statement of Charges;

DIA No. 01DOCRE-1

Page 2

- Exhibit 2: Sheriff's Return of Service, April 3, 2001 (401 11th St. Sioux City, Iowa);
- Exhibit 3: Scott Hansen's Application to Renew, January 31, 2000;
- Exhibit 4: Letter to Mr. Benson from Roger Hansen, May 9, 2000 (S. Lakeport & Gordon Drive, P.O. Box 2521, Sioux City);
- Exhibit 5: Letter to Mr. Benson from Roger Hansen, June 21, 2000 (P.O. Box 2521, Sioux City);
- Exhibit 6: Letter to Mr. Benson from Roger Hansen, July 6, 2000 (2830 S. Palmetto St., Sioux City), return receipt attached, signed by Mr. Benson with address changed again-to 1507 S. Lakeport, Sioux City);
- Exhibit 7: Letter to Mr. Benson from Roger Hansen, August 17, 2000 (1507 S. Lakeport, Sioux City);
- Exhibit 8: Letter to Mr. Benson from Roger Hansen, November 1, 2000 (2830 S. Palmetto Street);
- Exhibit 9: Letter to Mr. Benson from Roger Hansen, December 27, 2000 (1507 S. Lakeport, Sioux City & 410 11th Street, Sioux City);
- Exhibit 10: Summary of Contacts;
- Exhibit 11: Notes of calls November 1, 2000;
- Exhibit 12: Internet maps and addresses;
- Exhibit 13: Notes on certified mail in connection with attempted trust audit in October 1999;
- Exhibit 14: Computer license history records.

FINDINGS OF FACT

The Iowa Real Estate Commission finds as follows:

1. The Commission has jurisdiction of this matter under Iowa Code Chapters 17A, 272C, and 543B, as well as the administrative rules found in Chapter 193E of the Iowa Administrative Code.
2. The Respondent is a licensed real estate broker, license number B23727. His license expired on December 31, 2000.
3. An investigation was instigated concerning agent Scott Hansen in the Respondent's office. The Respondent failed to provide to the Commission any requested information regarding this investigation.
4. The Respondent's business, Advantage Real Estate, changed business addresses repeatedly. The Respondent has not notified the Commission of any of the address changes.

CONCLUSIONS OF LAW

1. Iowa law requires that:

Notice in writing shall be given to the real estate commission by each licensee of any change of principal business location, whereupon the commission shall issue a new license for the unexpired period upon the payment of a fee established by rule to cover the cost of issuing the license.

543B.32(1999)

2. Iowa Code ' 543B.29 (1999) provides, in relevant part:

543B.29 Revocation or suspension

A license to practice the profession of real estate broker or salesperson may be revoked or suspended when the licensee is guilty of the following acts or offenses:

- ...
8. Willful or repeated violations of the provisions of this Act.

3. The Iowa Code also provides that

The real estate commission may upon its own motion and shall upon the verified complaint in writing of any person, . . . request commission staff . . . to investigate the actions of any real estate broker, . . . and may suspend or revoke a license issued under this chapter at any time if the licensee has by false or fraudulent representation obtained a license, or if the licensee is found to be guilty of any of the following:

10. Failing, within a reasonable time, to provide information requested by the commission as the result of a formal or informal complaint to the commission which would indicate a violation of this chapter.

Iowa Code § 543B.43(10)(1999)

3. The Iowa Administrative Rules states that "Failure of a broker to inform the commission in writing within five working days of a change of address of a proprietorship, partnership, or corporation is prima facie evidence of a violation of Iowa Code section 543B.32." 193E IAC 2.15(3)

4. The Iowa Administrative Rules provide that civil penalties may

be imposed for violations for failing to inform commission and remit required fees "when changing business address (5 working days)," 193E IAC 4.54(4)a, and for "failing to provide information to the commission when requested relative to a complaint (14 calendar days)." 193 IAC 4.54(9).

5. The Respondent failed to provide any requested information to the Commission relative to a complaint being investigated against Agent Scott Hansen. The Respondent failed to provide the Commission with notification of numerous changes of addresses. Additionally, the Respondent failed to appear for the hearing and explain his actions and omissions.

6. The undersigned Commission finds by a preponderance of the evidence that the Respondent failed to follow the Commission's rules concerning providing requested information concerning an investigation and by failing to notify the Commission when his business, Advantage Real Estate, changed locations in violation of Iowa Code sections 543B.29(8), 543B.32, 543B.34(10) (1999) and 193E IAC sections 2.15(3), 4.54(4)a and 4.54(9). The Respondent has shown nothing but contempt to the Commission's actions.

DECISION AND ORDER

IT IS THEREFORE THE ORDER OF THE IOWA REAL ESTATE COMMISSION that the broker license of George Benson, No. B23727, is hereby SUSPENDED, effective the date this Decision and Order is accepted by the Commission. The Respondent shall not be eligible for reinstatement of his license until he personally comes before the Commission to explain his actions in this matter.

IT IS FURTHER ORDERED that the Respondent shall pay a civil penalty of \$1000.00 within thirty (30) days of service of this decision and order.

IT IS FURTHER ORDERED, pursuant to 193E IAC 4.41, that the Respondent shall pay \$75.00 for costs associated with conducting the disciplinary hearing, within thirty (30) days of the date of this Order. In addition, the Executive Secretary shall bill the Respondent for any transcript costs associated with this hearing, and the Respondent shall remit payment within thirty (30) days of receipt of the bill.

Issued this 20th day of June , 2001.

DIA No. 01DOCRE-1

Page 5



DATE: JUNE 20, 2001

~~Robert Miller~~
Chairperson
Iowa Real Estate Commission

Judicial review of the commission's action may be sought in accordance with the Iowa administrative procedure Act, from and after the date of the commission's order. 193E IAC 4.35.