

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

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<b>IN RE:</b>	)	
	)	<b>CASE NUMBER: 06-066</b>
<b>Gary E. Goldstein</b>	)	
<b>Salesperson (S34348)</b>	)	
	)	<b>COMBINED STATEMENT OF</b>
<b>SCP, Inc.</b>	)	<b>CHARGES, INFORMAL</b>
<b>1951-51st Street, NE</b>	)	<b>SETTLEMENT AGREEMENT,</b>
<b>Cedar Rapids, IA. 52402</b>	)	<b>AND CONSENT ORDER IN A</b>
	)	<b>DISCIPLINARY CASE</b>
<b>Respondent.</b>	)	

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The Iowa Real Estate Commission (Commission) and **Gary E. Goldstein** (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) (2005).

1. The Commission issued the Respondent real estate salesperson license number S34348 on October 19, 1993. Respondent's license is current and in full force and effect through December 31, 2007. At all times relevant to this matter, the Respondent was a licensed real estate salesperson, assigned to SCP, Inc. a licensed firm, license number F03741, d/b/a Re/Max Associates Realtors a licensed real estate trade name, license number T03742.

2. The Commission has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 543B (2005). 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 engaging in practices harmful or detrimental to the public in violation of Iowa Code sections 543B.29(3) and/or 543B.34(8) by:

- (a) Accepting a commission or valuable consideration as a real estate salesperson for the performance of real estate services from a person other than the Respondent's broker. See Iowa Code § 543B.34(5) & (7) and 193E Iowa Admin. Code §§ 18.14(5)(e)(9) & 18.14(5)(s).
- (b) Improperly charging, receiving, and/or disclosing a fee or commission for real estate services rendered. See Iowa Code §§ 543B.34(3), 543B.56(1)(a) & (b), and 193E Iowa Admin. Code §§ 11.1(543B), 11.3(6)(d) & (h), and 18.14(5)(s).

#### CIRCUMSTANCES

4. The Respondent was the listing agent for a parcel of residential property located in Cedar Rapids, Iowa.

5. Upon closing of the sale of the property in question, the Respondent charged and collected from his client sellers a \$450 "transaction fee." The sellers allege that this transaction fee was not disclosed to them prior to its imposition. This fee was in addition to the agreed upon sales commission to be paid by the sellers.

6. No written agreement between the sellers and the Respondent authorized the imposition of the \$450 transaction fee in question.

7. The Respondent collected the questioned transaction fee directly from the sellers and never turned the fee over to his supervising broker to be routed through the brokers operating account.

#### **SETTLEMENT AGREEMENT**

8. Respondent admits each and every allegation in the above-stated Statement of Charges.

9. 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.

10. 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.

11. 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.

12. 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) (2005) 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.

13. 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.

14. 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 (2005).

### **CONSENT ORDER**

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

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

16. CIVIL PENALTY. The Respondent shall pay a civil penalty to the Commission in the amount of \$2,500 no later than 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 and refer to case 06-066.

17. SUSPENSION. The Respondent's license shall be suspended for a period of one hundred eighty (180) days and stayed for all but 7 days . The suspension will commence upon acceptance of the Order by the Commission.

18. PROBATION. The Respondent shall be placed on probation for one hundred seventy three (173) days commencing upon the completion of the seven day suspension. Any new complaints during this probationary period that result in the filing of formal charges may result in a formal hearing being conducted in this matter.

19. 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.

06-066  
Goldstein, Gary

**FOR THE RESPONDENT:**

Voluntarily agreed to and accepted by **Gary E. Goldstein** on this 8 day of December, 2006.



**GARY E. GOLDSTEIN**, Respondent

State of Iowa )

County of Linn )

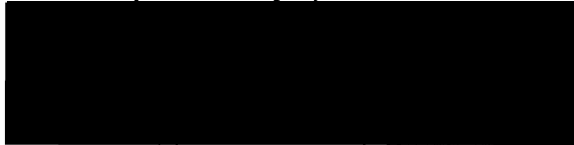
Signed and sworn to before me on this 8<sup>th</sup> day of December, 2006, by



Notary Public, State of Iowa  
Printed Name: Kelly Sass  
My Commission Expires: May 22, 2007

**FOR THE COMMISSION:**

Voluntarily agreed to and accepted by the **IOWA REAL ESTATE COMMISSION** on this 11<sup>th</sup> day of JANUARY, 2007.



**JAMES E. HUGHES**, Chair  
Iowa Real Estate Commission