

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

IN RE:)	
)	
KENTON I. KIBURZ)	CASE NUMBER: 04-078
Salesperson (S36138))	
)	STIPULATION
PREFERRED PROPERTIES OF IOWA)	AND
500 WEST TEMPLE)	ORDER
LENOX, IA 50851)	

On this 13th day of JANUARY, 2005, the Iowa Real Estate Commission and **KENTON I. KIBURZ**, 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 broker license on July 14, 1981, and is in full force and effect through December 31, 2004.
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 will be filed against Respondent together with this voluntary Stipulation and Consent Order.
6. Respondent admits each and every allegation in the Statement of Charges.
7. If this Stipulation and Consent Order is approved by the Commission it will be filed, along with the Statement of Charges, and upon filing both documents will become 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) (2003).

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 in the amount of \$ 500 within thirty (30) days of acceptance of this Stipulation and Consent Order by the Commission and come under a cover letter addressed to the Commission's Executive Officer and refer to case 04-078.

IT IS FURTHER ORDERED that the Respondent shall personally attend the Commission approved eight (8) hour broker pre-license education course: "Real Estate Law and Agency Law." 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 thirteen (13) 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 04-078.

IT IS FURTHER ORDERED AND AGREED that at all future times Respondent shall 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 **KENTON I. KIBURZ** on this 4 day of Jan, 2005.

[Redacted Signature]

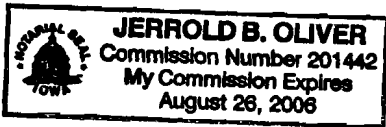
KENTON I. KIBURZ, Respondent

State of Iowa

County of Madison

Signed and sworn to before me on this 5 day of Jan, 2005, by

[Redacted Signature]



Notary Public, State of Iowa

Printed Name: Jerrold B. Oliver

My Commission Expires: 8-26-06

FOR THE COMMISSION:

This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission on this day of ~~January 13~~, 2005.

JANUARY 13

[Redacted Signature]

James E. Hughes, Chair
Iowa Real Estate Commission

[Redacted Signature]

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

IN RE:)	
)	
)	CASE NUMBER: 04-078
KENTON I. KIBURZ)	
Salesperson (S36138))	STATEMENT
)	OF
PREFERRED PROPERTIES OF IOWA)	CHARGES
500 WEST TEMPLE)	
LENOX, IA 50851)	
)	

The Iowa Real Estate Commission has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 543B, and 272C (2003).

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

KENTON I. KIBURZ was at all material times, during the following events, a licensed salesperson with Preferred Properties of Iowa, a licensed real estate firm in Lenox, Iowa. His license, number S36138 was issued May 24, 1995 and is in full force and effect through December 31, 2006.

COUNT I

The Respondent is charged with engaging in practices harmful or detrimental to the public by 1) failing to provide written disclosure of his status as a real estate licensee to the seller, and 2) by failing to disclose agreement to be paid a share of the commission to be paid to the listing broker, in violation of Iowa Code sections 543B.29(3) (practice harmful or detrimental to the public), 543B.56(1)(b), 543B.56(3)(a) and 543B.56(3) (b), 543B.57(1), 543B.57(1) (2003), and Iowa administrative Code Chapter 193E, sections 7.8(543B), 7.8(1), 7.8(2), 7.8(3), 11.6(d), and 18.14(5)(s).

CIRCUMSTANCES OF THE COMPLAINT

1. During the summer 2003, D. Scott Simpson, listed 120 acres in Dallas County Iowa, located at 250th and Beaumont Avenue, Linden, Iowa, owned by D. Scott Simpson. Michael Earl and James Hain, listing agents. Lund Company, a licensed real estate firm (F03054) located in Omaha, NE.
2. On or about September 15, 2003, Hain prepared an offer on behalf of respondent for \$220,000 with contingencies. Negotiations resulted in an accepted offer of \$225,000 with contingencies. No written disclosure of licensee status acting as a principal was made.
3. The seller was unable to find a suitable property for the 1031 exchange and a contract dispute resulted. At this point, Simpson became aware that he had been dealing with a buyer that is a licensed real estate agent. Simpson maintains he had no knowledge of the fact until mentioned by the Respondent at the time of the dispute.
4. Prior to preparing the offer to purchase, Respondent had negotiated a commission payment from Lund Company to be paid to him as buyer's agent. Respondent failed to make the required agency and commission disclosures to Simpson, the seller.
5. The transaction eventually closed. Due to other issues involved in this transaction, the Lund Company agreed to be removed from involvement and forfeited any claim to commission to be paid.

FINDING OF PROBABLE CAUSE

On September 16, 2004 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.

Executed this 13th day of JANUARY, 2005.


Roger L. Hansen, Executive Officer
Iowa Real Estate Commission