

BEFORE THE IOWA REAL ESTATE COMMISSION
OF THE STATE OF IOWA

IN THE MATTER OF:)	
)	
LYLE E. KLINE)	CASE NO. 92-021
Salesperson (S22327))	
)	STIPULATION AND
Respondent)	CONSENT ORDER
)	
)	
)	

On this 17th day of December, 1992, the Iowa Real Estate Commission and Lyle E. Kline, 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 was issued a license to practice real estate on the 15th day of March, 1984 as evidenced by license number S22327 which is in full force and effect through December 31, 1992.
3. The Iowa Real Estate Commission has jurisdiction over the parties and subject matter jurisdiction of each allegation in the Statement of Charges.
4. A Statement of Charges will be filed against Respondent together with this Stipulation and Consent Order. The Statement of Charges is attached to this Stipulation and is incorporated into this Stipulation by this reference.
5. Respondent admits each and every allegation in the Statement of Charges.
6. 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.

7. 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.

8. Failure to comply with the terms of this Stipulation and Consent Order shall be prima facie evidence of a violation of Iowa Code sections 117.29(3), 117.34(11) and 258A.3(2)(a) (1991).

9. 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.

10. 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 HEREBY ORDERED that Respondent's license to practice real estate is suspended for a period of one year effective on December 17, 1992.


IT IS FURTHER ORDERED that for the two month period beginning on December 17, 1992 through February 17, 1993, the Respondent shall not engage in any activities for which a license is required under Iowa Code chapter 117.

IT IS FURTHER ORDERED that Respondent's suspension is hereby stayed during the ten (10) month period beginning on February 18, 1993 through December 17, 1993, and Respondent is placed on probation through December 17, 1993.

IT IS FURTHER ORDERED that Respondent shall pay a civil fine to the Iowa Real Estate Commission in the amount of five hundred dollars (\$500.00) by February 17, 1993. The fine shall be delivered to the Executive Secretary of the Iowa Real Estate Commission at the following address: 1918 S.E. Hulsizer; Ankeny, Iowa 50021.

IT IS FURTHER ORDERED 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.

This Stipulation and Consent Order is voluntarily entered into by the Respondent on this 24 day of NOVEMBER, 1992.


Respondent

Subscribed and Sworn to before me on this 24th day of November, 1992.




Notary Public, State of Iowa

This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission on the 17 day of December, 1992.


E. Joe Ann Lutz, Chairperson of
the Iowa Real Estate Commission

cc: Sherie Barnett
Assistant Attorney General

David Nelson, Attorney

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

IN RE:)	CASE NUMBER: 92-021
)	
LYLE E. KLINE (S22327))	
Salesperson)	STATEMENT OF CHARGES
)	
Iowa Realty)	
3501 Westown Parkway)	
West Des Moines, IA 50265)	

The Iowa Real Estate Commission has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 117, and 258A (1991).

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

Lyle E. Kline is, and was at all times during the following events, a licensed real estate salesperson. His license number is S22327. Lyle E. Kline is licensed with Iowa Realty Inc., West Des Moines, Ia.

COUNT I

The Respondent is charged with engaging in unethical conduct or a practice harmful or detrimental to the public in violation of Iowa Code section 117.29(3).

COUNT II

The Respondent is charged with conduct which demonstrates improper dealings in violation of Iowa Code section 117.34(11).

CIRCUMSTANCES OF THE COMPLAINT


1. On June 7, 1991 the Respondent listed a property owned by Dan & Marilyn Galvin.
2. On October 2, 1991, Robert Files submitted an offer to purchase through another real estate firm, for \$71,500, subject to inspection of any structural, mechanical, plumbing, electrical and other deficiencies, within seven (7) days of acceptance. The offer was accepted by Dan and Marilyn Galvin on October 3, 1991.

3. On October 8, 1991, Robert Files, the buyer, had the furnace inspected, and the report indicated a hole in the heat exchanger that rendered the furnace unsafe to operate.
4. Robert Files, the buyer, then initiated negotiations with the Galvins, the sellers, regarding replacement of the furnace.
5. On October 9, 1991, the Respondent had the furnace inspected and that report indicated that the hole in the heat exchanger was external and did not condemn the furnace, but did recommend replacement.
6. On October 10, 1991, the Respondent submitted a "back-up offer" to the Galvins with himself as buyer for \$71,500 and accepting the property in "as is" condition.
7. The Respondent, as listing agent knew the details of the Files' purchase agreement and knew that negotiations between the Files and Galvins concerning the furnace were ongoing.
8. By submitting his personal offer at the same price but accepting "as is" condition, the Respondent compromised the negotiating position of Files, the buyer, on the furnace replacement.

FINDING OF PROBABLE CAUSE

On August 19, 1992 the Investigation Committee of 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 17th day of DECEMBER, 1992.



Roger Hansen, Executive Secretary
for the Iowa Real Estate Commission

cc: Sherie Barnett, Assistant Attorney General
David Nelson, Attorney