

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

IN RE:)	
)	
)	CASE NUMBER: A94-037
REX BRANDSTATTER (B00277))	
Broker)	STATEMENT OF CHARGES
)	
1006 5th Street Suite 101)	
Coralville, Iowa 52241)	

The Iowa Real Estate Commission has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 543B, and 272C (1993).

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

REX BRANDSTATTER is and was at all times during the following events, a licensed real estate broker. His license number is B00277. REX BRANDSTATTER is licensed as a sole proprietor broker in Coralville, Iowa.

COUNT I

The Respondent is charged with failing to have monthly written reconciliation of the checkbook with the individual ledger sheets to ensure agreement, in violation of Iowa Code sections 543B.29(2) and 543B.34(8), (1993), and Iowa Administrative Code Chapter 193E, sections 1.27(6)(a)(3), and 4.40(5).

COUNT II

The Respondent is charged with having a negative balance in the trust account, in violation of 543B.29(3), 543B.34 (8), and 543B.46(4) and Iowa Administrative Code Chapter 193E, sections 1.27(1)(c) and 4.40(5).

COUNT III

The Respondent is charged with managing property without a written agreement and collecting fees directly from the trust account for managing property, in violation of Iowa Code sections 543B.29(2) and (3) and 543B.34(8) (1993) and Iowa Administrative Code Chapter 193E, sections 1.30, 1.30(7)(d), and 4.40(6).

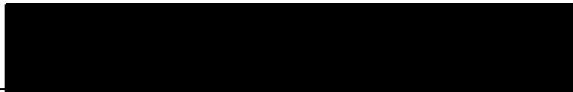
CIRCUMSTANCES OF THE COMPLAINT

1. On September 23, 1994 Iowa Real Estate Commission Field Auditor J. Michael Sharp, examined the trust account records of Rex Brandstatter.
2. Respondent's ledgers did not balance and the account had a negative balance of \$444.25.
3. Trust account records were not properly maintained as there were no written monthly reconciliation of the checkbook balance with the individual ledgers to ensure agreement.
4. Respondent had no written property management agreements for properties being managed.
5. Respondent was issuing checks to himself for management fees instead of to his business operating account.

FINDING OF PROBABLE CAUSE

On November 3, 1994, 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 12th day of APRIL, 1995.


Roger L. Hansen, Executive Secretary
Iowa Real Estate Commission

cc. Pam Griebel, Assistant Attorney General

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1918 SE HULSIZER
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IN RE:)	
)	
REX BRANDSTATTER (B00277))	CASE NUMBER: A94-037
Broker)	
)	STIPULATION AND
)	CONSENT ORDER
1006 5th Street Suite 101)	
Coralville, Iowa 52241)	

On this 12th day of APRIL, 1995, the Iowa Real Estate Commission and REX BRANDSTATTER, 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 broker's license to practice real estate on the 8th day of June, 1977, as evidenced by license number B00277 which is in full force and effect through December 31, 1997.
3. The Iowa Real Estate Commission has jurisdiction over the parties and subject matter jurisdiction over each allegation in the Statement of Charges.
4. A Statement of Charges will be filed against Respondent together with this Stipulation and Consent Order.
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.

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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 543B.29(3), 543B.34(2) and 272C.3(2)(a) (1993).

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 the Respondent is REPRIMANDED.

IT IS FURTHER ORDERED that Respondent shall take twelve (12) hours of real estate continuing education in "Trust Account and Closing Procedures" and these hours shall be in addition to all other real estate continuing education required by law for license renewal. The course must be approved as a "Broker Pre-License Course". 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. The certificate of attendance must come under a cover letter addressed to the Commission's Executive Secretary and must refer to case A94-037.

IT IS FURTHER ORDERED that the Respondent shall pay a civil penalty in the amount of \$250.00 to the Commission within thirty (30) days of acceptance of this Stipulation and Consent Order by the Commission.

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.

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This Stipulation and Consent Order is voluntarily entered into by the Respondent on this 8 day of March, 1995.

[Redacted Signature]

REX BRANDSTATTER, Respondent

State of Iowa)

County of Johnson)

Signed and sworn to before me on this 8th day of March, 1995, by

[Redacted Signature]

Notary Public, State of Iowa

Printed Name: Mary D. Deeds

My Commission Expires: 10/23/95

This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission on the 12th day of APRIL, 1995.

[Redacted Signature]

JERRY F. DUGGAN Chairperson
Iowa Real Estate Commission

cc: Pam Griebel, Assistant Attorney General

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