

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

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IN RE: )

JOANN M. BUTCHER )  
Broker (B25271) )

RE/MAX EXECUTIVES )  
1901 SOUTH CENER )  
MARSHALLTOWN, IA 50158 )

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CASE NUMBER: A04-054

STIPULATION  
AND  
ORDER

On this 16<sup>th</sup> day of SEPTEMBER, 2004, the Iowa Real Estate Commission and **JOANN M. BUTCHER**, 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 January 1, 1989, which is in full force and effect through December 31, 2006.
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 AND AGREED that no later than October 1, 2004, the Respondent shall hire an Iowa licensed Certified Public Accountant, at the Respondent's expense, to audit and to establish trust account records following the Generally Accepted Accounting Principals, and request that when completed, a copy be promptly submitted to the Commission. The Respondent's broker license number B25271 shall be placed on probation until such time as the CPA audit is received and reviewed by the Commission. The CPA's audit report must be received by the Commission by December 1, 2004, demonstrating Respondent's compliance with applicable standards and Commission trust account rules.

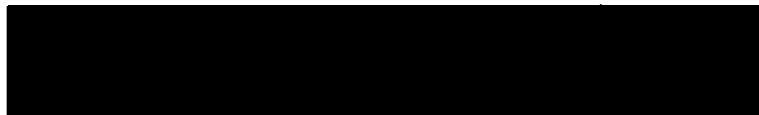
IT IS FURTHER ORDERED that the Respondent shall pay a civil penalty in the amount of \$ 500 within thirty (30) days of acceptance of this Stipulation and Consent Order by the Commission and come under a cover letter addressed to the Commission's Executive Officer and refer to case A04-054.

IT IS FURTHER ORDERED that the Respondent shall personally attend the Commission approved eight (8) hour broker pre-license education course: "Iowa Real Estate Trust Accounts." 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 A04-054.

IT IS FURTHER ORDERED AND AGREED that at all future times Respondent shall establish and properly maintain trust account records and 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 JOANN M. BUTCHER on this 30 day of August, 2004.



JOANN M. BUTCHER, Respondent

State of Iowa

County of Marshall

Signed and sworn to before me on this 30 day of August, 2004, by

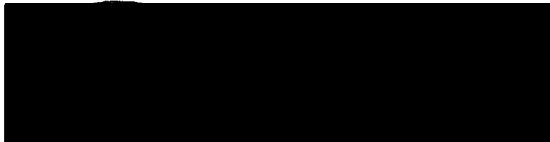


Notary Public, State of Iowa  
Printed Name: April L. Ayers  
My Commission Expires: 5-11-07



**FOR THE COMMISSION:**

16<sup>th</sup> day of SEPTEMBER, 2004. This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission on this



James E. Hughes, Chair  
Iowa Real Estate Commission

**BEFORE THE IOWA REAL ESTATE COMMISSION  
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**IN RE:**

**JOANN M. BUTCHER**  
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**STATEMENT  
OF  
CHARGES**

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.

**JOANN M. BUTCHER** was at all material times during the following events, a Sole-Proprietor Broker Officer dba RE/MAX Executives, in Marshalltown, Iowa. Her license, number B25271 was issued January 1, 1989 and is in full force and effect until December 31, 2006.

**COUNT I**

The Respondent is charged with engaging in numerous practices involving her trust account which are harmful or detrimental to the public, in violation of Iowa Code sections 543B.29(3) (practice harmful or detrimental to the public), and 543B.34(7), 543B.46(4) (2003) and 193E--IAC sections 13.1(6), 13.1(6)(a)(3), and 18.14(5)(e)(1), (2) & (3), by the following:

- a. auditor was not able to reconcile the general ledger with the bank balance, and individual ledgers,
- b. trust account records were not maintained and up to date,
- c. failing to maintain adequate trust account records at all times, .
- d. failing to perform monthly reconciliations of the general ledger with individual ledgers and bank records to ensure agreement,
- e. failing to maintain the general ledger and individual ledgers to reflect current balances.

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Butcher


### CIRCUMSTANCES OF THE COMPLAINT

1. On or about May 26, 2004, Auditor Jeff Evans conducted a trust account and compliance audit.
2. Based upon the trust account records available, the audit found the following violations:
  1. Auditor was not able to reconcile the general ledger balance, individual ledger balance, and bank balance, using the records provided,
  2. No record that the Respondent was not doing monthly written reconciliation of the general ledger, individual ledgers, and bank records to ensure agreement,
  3. Respondent was not maintaining accurate and up to date trust account records, and
  4. Respondent commingled two \$500 commissions that were not removed from the trust account when required. On May 25, 2004, Respondent wrote two checks, each payable to RE/Max Executives, for \$500 and backdated February 28, 2003 and June 13, 2003 respectively.

### FINDING OF PROBABLE CAUSE

On July 22, 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 16<sup>th</sup> day of SEPTEMBER, 2004.

  
Roger L. Hansen, Executive Officer  
Iowa Real Estate Commission