

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

IN RE:)	
)	
)	CASE NUMBER: 00-017
GARY W. CONRAD)	
Broker (B03837))	- STATEMENT OF
)	CHARGES
21622 KINGS ROW)	
DUBUQUE IA 520019512)	
)	
)	

The Iowa Real Estate Commission has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 543B, and 272C (1999).

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

GARY W. CONRAD was at all material times during the following events, a licensed Sole-Proprietor Broker in Dubuque, Iowa. His license, number B03837, is in full force and effect through 12-31-2002.

COUNT I

Respondent is charged with engaging in a practice harmful or detrimental to the public by failing to advise his clients to obtain professional well treatment services and by going beyond his expertise as a broker by treating a well, in violation of Iowa Code sections 543B.56(1), 543B.29(3) (practice harmful or detrimental to the public) (1999) and 193E IAC sections 1.43(1)(b), 1.43(2) and 4.54(14) and (19).

COUNT II

Respondent is charged with failing to retain copies of all records pertinent to a transaction, in violation of Iowa Code section 543B.29(3) (practice harmful or detrimental to the public) (1999) and 193E IAC sections 1.28(543B) and 4.54(5)(c).

COUNT III

The Respondent, is charged with failing to timely deposit the earnest money in a transaction as required, in violation of Iowa Code section 543B.29(10) (1999), and 193E IAC sections 1.27(1)(a) and 4.54(6)(a).

CIRCUMSTANCES OF THE COMPLAINT

1. On August 23, 1998, Respondent listed the property owned by Leonard and Eileen Merfield located at 11462 287th Street, Bernard, Iowa, 254 acres for \$393,700.
2. On April 12, 1999, Respondent prepared an offer on behalf of Martin and Brenda Bormann, for \$150,00 to purchase 40 acres and buildings. The offer was subject numerous items. The offer was accepted April 14, 1999. The \$250.00 earnest money check was not deposited into the real estate trust account until May 17, 1999.
3. The Bormanns were unable to perform and the transaction failed. On June 30, 1999, Respondent returned the \$250.00 earnest money deposit to the Bormanns without the written consent of the seller.
4. On June 21, 1999, Respondent prepared an offer on behalf of Bernard and Kimberly Bergfeld for \$149,000, for 50 acres. The offer was subject to financing and "water test showing safe for humans and babies." After negotiations, a \$150,000 sale price was accepted on June 23, 1999.
5. Water tests conducted July 19, 1999, July 22, 1999, and July 27, 1999, indicated the water was bacterially unsafe and contained unsafe high levels of nitrate in the analysis. The sellers did not reside in the property during the winter. Instead of recommending that the sellers obtain professional well services and advice, the Respondent advised the sellers to sterilize the well casing. Approximately 7 or 8 days prior to the scheduled closing, the Respondent poured chlorine tablets into the well.

6. The closing was delayed and the sellers agreed to have a new well drilled. On or about July 23, 1999, the buyers moved into the property. The water test on the new well dated September 9, 1999, indicated the water was bacterially safe and the nitrate level did not exceed infant health advisory. The transaction closed September 10, 1999.
7. The Respondent failed to retain copies of the agency disclosure and the lead based paint disclosure for the transaction.

FINDING OF PROBABLE CAUSE

On June 29, 2000 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 25th day of SEPTEMBER, 2000.



Roger L. Hansen, Executive Secretary
Iowa Real Estate Commission

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

IN RE:)	
)	
)	CASE NUMBER: 00-017
GARY W. CONRAD)	
Broker (B03837))	STIPULATION
)	AND
21622 KINGS ROW)	CONSENT ORDER
DUBUQUE IA 520019512)	
)	
)	

On this 28th day of SEPTEMBER, 2000, the Iowa Real Estate Commission and GARY W. CONRAD, 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 October 10, 1979 as evidenced by license number B03837, which is in full force and effect through December 31, 2002.

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 does not admit to the allegations in the Statement of Charges, but agrees to settle this matter.

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) (1999).

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 personally attend the eight (8) hour Commission approved broker pre-license education course "Contract Law and Contract Writing." 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. The certificate of attendance must come under a cover letter addressed to the Commission's Executive Secretary and must refer to case 00-017.

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 GARY W. CONRAD on this 12th day of August, 2000.



GARY W. CONRAD, Respondent

State of Iowa)

County of Dubuque)

Signed and sworn to before me on this 12th day of August, 2000, by



Notary Public, State of Iowa

Printed Name: Tom Jenk

My Commission Expires:

MY COMMISSION EXPIRES
SEPTEMBER 15, 2000

FOR THE COMMISSION:

This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission on this 28 day of September, 2000.



(Evelyn M. Rank, Chair)
Iowa Real Estate Commission

cc: Pam Griebel, Assistant Attorney General
Tom Jenk, Attorney for Respondent