

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

IN RE:

JOHN F. GARNER (B00873)
Broker

517 B Avenue W
Oskaloosa, Iowa 525772

CASE NUMBER: A97-066

STIPULATION AND
CONSENT ORDER

On this 6th day of NOVEMBER, 1997, the Iowa Real Estate Commission and JOHN F. GARNER, 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. Respondent has a right to a hearing on the charges, but waives his right to a 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 contested case hearing.

2. The Respondent was issued a broker license to practice real estate on April 21, 1997, as evidenced by license number B00873, 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 voluntary 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.

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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 543B.29(3), 543B.34(2) and 272C.3(2)(a) (1997).

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 shall take eight (8) hours of real estate continuing education in "Iowa Real Estate Trust Accounts," the course must be approved as a "Broker Pre-License Course." These hours shall be in addition to all other real estate continuing education required by law for license renewal. 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 A97-066.

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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FOR THE RESPONDENT:

This Stipulation and Consent Order is voluntarily entered into by the Respondent on this 26th day of September, 1997.



/ JOHN F. GARNER, Respondent

State of Iowa)

County of Muskego)

Signed and sworn to before me on this 26th day of September, 1997, by



Notary Public, State of Iowa

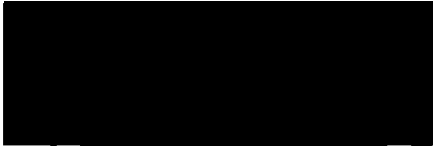
Printed Name: Hugh V Faulkner

My Commission Expires: _____

1-1099

FOR THE COMMISSION:

This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission on the 6th day of NOVEMBER, 1997.



/ RUSSELL D. NADING, Chair
Iowa Real Estate Commission

THE IOWA REAL ESTATE COMMISSION
1918 SE HULSIZER
ANKENY, IOWA

IN RE:)	
)	
JOHN F. GARNER (B00873))	CASE NUMBER: A97-066
Broker)	
)	STATEMENT OF
)	CHARGES
517 B Avenue W)	
Oskaloosa, Iowa 525772)	

The Iowa Real Estate Commission has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 543B, and 272C (1997).

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

JOHN F. GARNER is and was at all times during the following events, a licensed sole-proprietor real estate broker in Oskaloosa, Iowa. His license number is B000873.

COUNT I

The Respondent is charged with failing to maintain an interest bearing trust account, in violation of Iowa Code sections 543B.46(1) (1996) and 193E IAC sections 1.27(2) and 4.40(6)(j).

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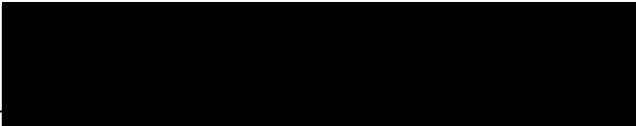
CIRCUMSTANCES OF THE COMPLAINT

1. On May 27, 1997, Iowa Real Estate Commission Field Auditor J. Michael Sharp, examined the trust account records of JOHN F. GARNER.
2. Audit found the real estate trust account was non-interest bearing.
3. Respondent agreed to open an interest bearing trust account on May 27, 1997.

FINDING OF PROBABLE CAUSE

On August 27, 1997 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 6th day of NOVEMBER, 1997.


Roger L. Hansen, Executive Secretary
Iowa Real Estate Commission

cc. Pam Griebel, Assistant Attorney General

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