

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

IN RE:)	
)	
)	CASE NUMBER: 03-142
KENNETH L. GARRETT)	
Broker (B04340))	STIPULATION
)	AND
KEN GARRETT REAL ESTATE)	ORDER
217 E WASHINGTON STREET)	
PO Box 301)	
CLARINDA, IA 516320302)	
)	

On this 17th day of JUNE, 2004, the Iowa Real Estate Commission and **KENNETH L. GARRETT**, 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 July 23, 1980, which is in full force and effect through December 31, 2005.
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 that the Respondent shall pay a civil penalty in the amount of \$ 750 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 03-142.

IT IS FURTHER ORDERED that the Respondent shall personally attend the Commission approved eight (8) hour 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 Officer and must refer to case 03-142.

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 **KENNETH L. GARRETT** on this 26th day of May, 2004.

[Redacted Signature]

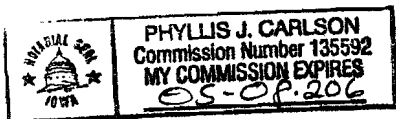
KENNETH L. GARRETT, Respondent

State of IOWA)

County of Page)

Signed and sworn to before me on this 26 day of May, 2004, by

[Redacted Signature]



Notary Public, State of Iowa
Printed Name: Phyllis J. Carlson
My Commission Expires: 05-08-2006

FOR THE COMMISSION:

This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission on this 17th day of JUNE, 2004.

[Redacted Signature]
James E. Hughes, Chair
Iowa Real Estate Commission

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

IN RE:)	
)	
)	CASE NUMBER: 03-142
KENNETH L. GARRETT)	
Broker (B04340))	STATEMENT
)	OF
Garrett Real Estate)	CHARGES
217 E WASHINGTON STREET)	
PO Box 301)	
CLARINDA, IA 516320302)	

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.

KENNETH L. GARRETT was at all material times, during the following events, a licensed Sole-Proprietor Broker in Clarinda, Iowa. He license, number B04340 was reissued July 23, 1980 and is in full force and effect through 12-31-2005.

COUNT I

The Respondent is charged with engaging in practices harmful or detrimental to the public by 1) by failing to obtain the seller's written authorization for a buyer to make material changes and move personal belongings into a property prior to closing, 2) failing to include a closing date, possession date and financing due date in an offer, and 3) failing to diligently exercise reasonable care in providing brokerage services as a consensual dual agent to the buyer and seller, in violation of Iowa Code sections 543B.29(3) (practice harmful or detrimental to the public), 543B.34(8), 543B.56(1)(b) (2003), and Iowa Administrative Code Chapter 193E, sections 12.5(1)(b) and 18.14(5)(s).


CIRCUMSTANCES OF THE COMPLAINT

1. On or about October 25, 2002, Respondent listed the property located at 111 South 20th Street, Clarinda, Iowa for \$50,000 with Lucinda J. Martin, Conservator.
2. On or about August 28, 2003, the Respondent, acting as dual agent, prepared an offer for \$42,500 with contingencies, including financing. The Respondent failed to include in the offer: a) Due date for obtaining financing, b) Closing date, or c) Possession date. The offer was accepted.
3. The Respondent believed the seller gave oral approval for the buyer to clean the house and do yard work. On several times prior to closing and without the written authorization of the seller, the Respondent provided the buyer with keys to access to the property.
4. The Respondent knew the buyer had a). Moved furniture, a refrigerator and other personal belongings into the property, b). Made material alterations to the property, and c). Experienced issues in trying to obtain financing.
5. On or about October 17, 2003, after discovering the situation and the extent of work being done at the house, the seller consulted a lawyer. A rental agreement was signed October 18, 2003. From approximately August 28, 2003 to October 18, 2003 the buyer and the seller were at risk
6. The transaction closed November 5, 2003.

FINDING OF PROBABLE CAUSE

On May 6, 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 17th day of JUNE, 2004.


Roger L. Hansen, Executive Officer
Iowa Real Estate Commission