

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

IN RE:)

FRED M. JOHNSON (B11716))
Broker)

CASE NUMBER: A98-061

P O Box 252)
Shellsburg, Iowa 52332)

STIPULATION AND
CONSENT ORDER

On this 19th day of August, 1999, the Iowa Real Estate Commission, FRED M. JOHNSON 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 July 2, 1986 as evidenced by license number B11716, which is in full force and effect through December 31, 2000. Respondent's license has been on inactive status since January 30, 1998.

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 is Reprimanded.

IT IS FURTHER ORDERED that the Respondent shall personally 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 any other real estate continuing education required by law for license renewal. The original certificate of attendance must come under a cover letter addressed to the Commission's Executive Secretary and must refer to case A98-061. Respondent's license shall not be returned to active status until this educational requirement is satisfied and the civil penalty described below has been paid.

IT IS FURTHER ORDERED that the Respondent shall pay a civil penalty in the amount of \$500.00 to 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.

FOR THE RESPONDENT:

This Stipulation and Consent Order is voluntarily entered into by the Respondent on this 13
day of AUGUST, 1999.

[Redacted Signature]

FRED M. JOHNSON, Respondent

Witnessed on this 13 day of AUGUST, 1999, by

[Redacted Signature]

(Witness Signature)

KENNETH BLOOM
(Print or Type Witness Name)

Witnessed on this 13 day of AUGUST, 1999, by

[Redacted Signature]

(Witness Signature)

TIM A JOHNSON
(Print or Type Witness Name)

FOR THE COMMISSION:

This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission
on the 19th day of AUGUST, 1999.

[Redacted Signature]

RUSSELL D. NADING, Chair
Iowa Real Estate Commission

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

IN RE:)	
)	
FRED M. JOHNSON (B11716))	CASE NUMBER: A98-061
Broker)	
)	STATEMENT OF
)	CHARGES
P O Box 252)	
Shellsburg, Iowa 52332)	

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.

FRED M. JOHNSON, license number B11716, was at all material times during the following events, a licensed real estate broker officer and designated broker in charge of HIAWATHA REALTY, INC. a licensed real estate firm, license number F02734, in Marion, Iowa.

COUNT I

The Respondent, as designated broker for the firm, is charged with engaging in a practice harmful or detrimental to the public by issuing checks drawn on the real estate trust without sufficient funds in the account to cover the checks on several separate occasions, in violation of Iowa Code sections 543B.29(3) (engaging in a practice harmful or detrimental to the public) and 543B.29(8) (1997), and 193E IAC sections 1.30(7)(a) and 4.40(6).

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CIRCUMSTANCES OF THE COMPLAINT

1. On April 1, 1998, Iowa Real Estate Commission Field Auditor J. Michael Sharp, conducted a desk audit of the trust account records of Hiawatha Realty, Inc. Marion, Iowa.
2. The audit found that between March 3, 1997 and October 2, 1997, the Respondent repeatedly issued checks drawn on the real estate trust account without sufficient funds to cover the checks. This practice resulted in a negative balance in the trust account and overdraft charges thirteen times. The overdraft charges appeared on the monthly bank statements and also were represented on the general ledger

FINDING OF PROBABLE CAUSE

On November 5, 1998 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 19th day of AUGUST, 1999.



Roger L. Hansen, Executive Secretary
Iowa Real Estate Commission

Cc. Pam Griebel, Assistant Attorney General

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