

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

**IN RE:**

**JOHN C. KERNDT, JR.**  
**Broker (B05014)**

**VIKING REALTORS**  
**903 COMMERCE DR STE D**  
**DECORAH, IA 52101**

**CASE NUMBER: 03-095**

**STIPULATION  
AND  
ORDER**

On this 14<sup>th</sup> day of April, 2005, the Iowa Real Estate Commission and **JOHN C. KERNDT, JR.** 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 2, 1979, which is in full force and effect through December 31, 2007.

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 has been filed.

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 and upon filing, the documents will become public record.

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 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 03-095.

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 03-095.

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 **JOHN C. KERNDT, JR.** on this 15 day of MARCH, 2005.

  
\_\_\_\_\_  
**JOHN C. KERNDT, JR.** Respondent

State of Iowa

County of Winneshiek

Signed and sworn to before me on this 15<sup>th</sup> day of MARCH, 2005, by






Notary Public, State of Iowa  
Printed Name: Cindy A. Kacher  
My Commission Expires: 5-11-07

**FOR THE COMMISSION:**

This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission on this 14<sup>th</sup> day of APRIL, 2005.

  
\_\_\_\_\_  
**James E. Hughes, Chair**  
Iowa Real Estate Commission

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

---

<b>IN RE:</b>	)	
	)	
	)	<b>CASE NUMBER: 03-095</b>
<b>JOHN C. KERNDT, JR.</b>	)	
<b>Broker (B05014)</b>	)	<b>STATEMENT</b>
	)	<b>OF</b>
<b>Viking Realtors</b>	)	<b>CHARGES</b>
<b>903 COMMERCE DR STE D</b>	)	
<b>DECORAH, IA 52101</b>	)	

---

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.

**JOHN C. KERNDT, JR.** was at all material times, during the following events, a licensed Sole-Proprietor Broker in Decorah, Iowa. His license, number B05014 was issued July 2, 1979 and is in full force and effect through 12-31-2007.

**COUNT I**

The Respondent is charged with engaging in practices harmful or detrimental to the public and failure to provide brokerage services to all parties honestly and in good faith by the following: 1) failing to handle a request to return earnest money as required by current license law and rules, 2) failing to execute a written listing or brokerage agreement, 3) failing to make written disclosure of licensee status and acting as a principal, and 4) making substantial misrepresentation by advising the buyer and buyer's attorney that the earnest money could not be returned because of the complaint file with the Commission, in violation of Iowa Code sections 543B.29(3) (practice harmful or detrimental to the public), 543B.34(1) & (8), 543B.56(1)(b) (2003), and Iowa Administrative Code Chapter 193E, sections 7.8(1) & (2), 11.1(543B), 13.1(7), 13.1(8)(c) and 18.14(5)(f)(3) and 18.14(5)(s).


### CIRCUMSTANCES OF THE COMPLAINT

1. During May 2003, Respondent and Valorie L. Sanderson, a licensed real estate agent assigned to A Perfect House Realty, representing Cynthia B. Kay, engaged in negotiations to purchase the property located at 1008 Mechanic Street, Decorah, Iowa, owned by Respondent. Negotiations failed.
2. On or about June 1, 2003, Valorie L. Sanderson, a licensed real estate agent with A Perfect House Realty, prepared an offer of \$40,000 on behalf of Cynthia B. Kay, for the property located at 1008 Mechanic Street, Decorah, Iowa, with a closing date of July 15, 2003 and contingencies including financing and acceptance deadline before 5:00 p.m. June 2, 2003. On or about June 9, 2003, the offer was accepted by Respondent.
3. During the failed May negotiations, the Buyer had applied for financing on or about May 19, 2003 and was denied conventional loan, but applied for Rural Development Loan.
4. Toward the end of June, 2003 Respondent authorized updating the abstract and title opinion. On or about June 25, 2003 the Buyer's application for Rural Development Loan was denied and Respondent was notified by Buyer's agent on or about July 7, 2003. The Buyer and Buyer's agent requested return of the earnest money and Respondent refused.
5. On or about October 7, 2003 Buyer's attorney met with Respondent and requested return of the earnest money. Respondent refused, reportedly representing that the money could not be released, nor could he sell the property, while an investigation is pending with the Commission, unless the Buyer withdrew her complaint, which is erroneous.
6. Respondent stated in his response to the complaint dated October 14, 2003 in part "The earnest money is in our trust account and has never been moved and will not until you direct me on what to do."

### 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 25<sup>th</sup> day of FEBRUARY, 2005.

  
\_\_\_\_\_  
Roger L. Hansen, Executive Officer  
Iowa Real Estate Commission