

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

IN RE:)	
)	
JAMES A. KLEIN (B20754))	CASE NUMBER: 97-043
Broker)	
)	STIPULATION AND
169 S Washington)	CONSENT ORDER
Remsen, Iowa 51050)	
)	

On this 6th day of NOVEMBER, 1997, the Iowa Real Estate Commission and JAMES A. KLEIN, each hereby agrees 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 January 1, 1985, as evidenced by license number B20754, which is in full force and effect through December 31, 1999.
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 pay a civil penalty in the amount of \$ 500.00 to the Commission within thirty (30) days of acceptance of this Stipulation and Consent Order by 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 27 day of September 27, 1997.

[Redacted Signature]

JAMES A. KLEIN, Respondent

State of Iowa

County of Polk

Signed and sworn to before me on this 29th day of September, 1997, by

[Redacted Signature]

Notary Public, State of Iowa

Printed Name: Beverly A. Bacon

My Commission Expires: 2-7-00

FOR THE COMMISSION:

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

[Redacted Signature]

RUSSELL D. NADING, Chair
Iowa Real Estate Commission

cc: Pam Griebel, Assistant Attorney General

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

IN RE:

JAMES A. KLEIN (B20754)
Broker

169 S Washington
Remsen, Iowa 51050

)
)
) CASE NUMBER: 97-043

)
) STATEMENT OF
) CHARGES

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.

JAMES A. KLEIN is, and was at all material times during the following events, licensed Sole-Proprietor Broker, his license number is B20754.

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COUNT I

The Respondent is charged with failing to obtain written agreement to collect a fee above the agreed amount of commission to be paid in the listing contract, in violation of Iowa Code section 543B.29(3) (engaging in conduct that is harmful or detrimental to the public), and 543B.8 (1997), and IAC 193E, section 4.40(19).

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CIRCUMSTANCES OF THE COMPLAINT

1. On June 6, 1997, Respondent listed the property belonging to Terry and Susan Utech, located at 614 Ash Cove, Remsen, Iowa, for \$163,000 with a 3% commission.
2. On or about August 29, 1996, Respondent drafted an offer for \$146,000 for Doug and Jill Utesch that was accepted.
3. Due to an agreement with the seller's former employer Ambank Company, Inc. Remsen, Iowa, Ambank purchased the property from Utech for \$156,054 and sold it to Utesch for \$146,000 as agreed.
4. Respondent collected a 3% commission, \$4380, the \$146,000 Ambank/Utesch transaction.
5. Respondent collected a \$1000 miscellaneous fee from the original sellers (Utech), on their closing statement for the Utech/Ambank transaction.
6. Respondent did not have a written authorization to charge the additional commission above the 3% as agreed in the listing agreement.

FINDING OF PROBABLE CAUSE

On August 21, 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.

Dated 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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