

BEFORE THE IOWA REAL ESTATE COMMISSION  
1918 S.E. HULSIZER  
ANKENY, IOWA

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IN THE MATTER OF:	)	DIA NO. 99DOCRE007
	)	CASE NO. 99-094
DOUGLAS A LEHMAN	)	
BROKER (B12372)	)	FINDINGS OF FACT,
	)	CONCLUSIONS OF LAW,
710 14th Street	)	DECISION AND ORDER
Sioux City, Iowa 51105-1211	)	

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On November 5, 1999, the Iowa Real Estate Commission (hereinafter Commission) filed a Statement of Charges against Douglas A. Lehman, a licensed Iowa broker (hereinafter Respondent). The Statement of Charges alleged that the Respondent violated Iowa Code sections 543B.29(3), 543B.34(2), and 272C.3(2)a. A Notice of Hearing set the hearing for February 22, 2000 at 10:30 a.m.

The hearing was held on February 22, 2000 at 10:32 a.m. The following members of the Commission were present and participated in making the decision: Russ Nading, Chairmen: Evelyn Rank; Robert Miller; Terry Rodgers. The State was represented by Pamela Griebel, Assistant Attorney General. The State called as witnesses, Roger Hansen, Executive Secretary to the Board, and Douglas Lehman, the Respondent. The Respondent did appear but was not represented by counsel. R. L. Stephenson, Administrative Law Judge from the Iowa Department of Inspections and Appeals, Division of Administrative Hearings, presided.

The hearing was recorded by a certified court reporter. The hearing was closed to the public at the request of the Respondent, pursuant to Iowa Code section 272C.6(1)(1993). After hearing the testimony and examining the exhibits, the Commission convened in a closed session, pursuant to Iowa Code section 21.5(1)(f)(1995) to deliberate their decision. The administrative law judge was instructed to draft the Findings of Fact, Conclusions of Law, Decision and Order, in accordance with their deliberations.

THE RECORD

The record includes the Statement of Charges, Notice of Hearing, testimony of the witnesses, and the following exhibits:

- State Exhibit A: Certified Mail Receipt (November 8, 1999)
- State Exhibit B: Statement of Charges (Case No.96-006)
- State Exhibit C: Stipulation and Consent Order (Case No96-006, August 22, 1996)
- State Exhibit D: Statement of Charges (Case No.98-028)

State Exhibit E: Stipulation and Consent Order (Case No.98-028)

State Exhibit F: Letter from Commission to Respondent (2/23/99)

State Exhibit G: Letter from Commission to Respondent (2/23/99)

State Exhibit H: Letter from Respondent to Commission (3/15/99)

State Exhibit I: Letter from Commission to Respondent (3/19/99)

State Exhibit J: Letter from Commission to Respondent (6/24/99)

State Exhibit K: Letter from Respondent to Commission (7/6/99)

State Exhibit L: Letter from Commission to Respondent (6/24/99)

State Exhibit M: Letter from Respondent to Commission (7/13/99)

State Exhibit N: Letter from Commission to Respondent (7/22/99)

State Exhibit O: Letter from Respondent to Commission (7/29/99)

State Exhibit P: Letter from Commission to Respondent (8/26/99)

Respondent Exhibit 101: Education Transcript

Respondent Exhibit 102: Certificate of Completion

#### FINDINGS OF FACT

The Iowa Real Estate Commission finds as follows:

1. The Commission has jurisdiction of this matter under Iowa Code Chapters 17A, 272C, and 543B, as well as the administrative rules found in Chapter 193E of the Iowa Administrative Code.

2. The Respondent is a licensed real estate broker, license number B12372. He is a sole-proprietor broker doing business as LEHMAN REALTY in Sioux City, Iowa.

3. On August 22, 1996, the Respondent entered into an Informal Settlement in case number 96-006 with the commission for certain violations. The Respondent was required to take two, specific eight-hour broker pre-license courses by September 22, 1997, as provided in State Exhibit C.

4. When the Respondent failed to comply with the Consent Order set forth in Exhibit C, a Statement of Charges was filed by the Commission on July 9, 1998.

5. The Respondent admitted the allegations of the Statement of Charges, and entered into a Stipulation and Consent Order which was accepted by the Commission on July 9, 1998. Said Order provided that the Respondent was reprimanded, ordered to pay a civil penalty of \$300.00 within thirty (30) days of the Order, and required to take two eight (8) hour courses, to wit: Iowa Real Estate Trust Accounts, and Contract Law and Contract Writing, within ninety (90) days of the Order.

6. The Respondent was notified by a letter dated February 23, 1999 from Executive Secretary Hansen that he had failed to satisfy the requirements of the Consent order of July 9, 1998.

7. The Respondent paid the civil penalty of \$300.00 and provided proof that he completed the Contract Law and Writing Course on March 19, 1999, but provided no satisfactory explanation for failure to complete the other course.

8. The Commission sent letters to the Respondent regarding his failure to provide proof of the Trust Account course completion with an admonition as to the penalty on March 19, and June 24, 1999.

9. When the Respondent failed to provide proof of completion of the Trust Account course, and a satisfactory explanation for his failure to do so, the Commission on August 19, 1999, voted to file a statement of charges for non-compliance.

10. The Respondent completed the required Iowa Trust Account course on September 23, 1999, but did not furnish proof of completion until after the Statement of Charges was filed by the Commission on November 5, 1999.

11. The Respondent admitted during the hearing that he was "guilty" as to the Statement of Charges submitted by the Commission.

CONCLUSIONS OF LAW

1. Iowa Code section 543B.29(2) and (3), formerly found at Iowa Code section 117.29(2) and (3)(1991), provide in relevant part:

**543B.29 Revocation or suspension**

A license to practice the profession of real estate broker or salesperson may be revoked or suspended when the licensee is guilty of the following acts or offenses:  
...

3. ... engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

2. Iowa Code section 543B.34(2), provides in relevant part:

**543.34 Investigations by commission**

The real estate commission may upon its own motion and shall upon the verified complaint in writing of any person, if the complaint together with evidence, documentary or otherwise, presented in connection with the complaint makes out a prima-facie case, request commission staff or any other duly authorized representative or designee to investigate the actions of any real estate broker, real estate salesperson, or other person who assumes to act in either capacity within this state, and may suspend or revoke a license issued under this chapter at any time...if the licensee is found to be guilty of any of the following:

2. Making any false promise of a character likely to influence, persuade or induce.

4. Iowa Code section 272C.3, Authority of Licensing Boards, provides in relevant part:

**2. Each licensing board may impose one or more of the following as licensee discipline:**

- a. Revoke a license, or suspend a license either until further order of the board or for a specified period, upon any of the grounds specified in section ... 543B.29 ..., as applicable, or upon any other grounds specifically provided for in this chapter for revocation of the license of a licensee subject to the jurisdiction of that board, or upon failure of the licensee to comply with a decision of the board imposing licensee discipline (Emphasis added).

6. At all times relevant to this proceeding, 193E IAC 4.54(19) and (10) provided:

**193E-4.54 Violations for which civil penalties may be imposed.**

...  
**4.54(19)** Violating any provisions of 193E

COUNT I

The preponderance of the evidence established that the Respondent violated Iowa Code sections 543B.29(3), 543.34(2) and 272C.3(2)a when he failed to comply with the terms and conditions of the Stipulation and Consent Order(s) in accordance with commission rules, to wit: as to a timely payment of the civil penalty, and timely completion with proof thereto, of the required course work.

DECISION AND ORDER

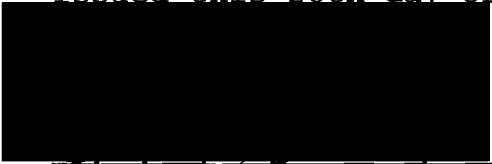
The licensed broker is expected to be knowledgeable of the statutes and rules which govern the practice of real estate. The actions of the Respondent in failing to timely comply with the Orders of the Commission demonstrate a careless disregard for the authority that governs the conduct of his profession.

IT IS THEREFORE THE ORDER OF THE IOWA REAL ESTATE COMMISSION that the RESPONDENT shall pay a civil penalty of \$1,000.00 within thirty (30) days of service of this decision and order.

IT IS FURTHER ORDERED that should the Respondent fail to timely pay the civil penalty of \$1000.00 within thirty (30) days of service of this decision and order, and the costs associated with this disciplinary hearing, then his license shall be suspended for an indefinite period subject to the reinstatement provisions of 193E, and as governed by the Commission in its rules and procedures.

IT IS FURTHER ORDERED, pursuant to 193E IAC 4.41, that the Respondent shall pay \$75.00 for costs associated with conducting the disciplinary hearing, within thirty (30) days of the date of this Order. In addition, the Executive Secretary shall bill the Respondent for any transcript costs associated with this hearing, and the Respondent shall remit payment within thirty (30) days of receipt of the bill.

Issued this 28th day of February, 2000.



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Russell Wading  
Chairperson  
Iowa Real Estate Commission

Copies to: Douglas A. Lehman  
710 14th Street  
Sioux City, IA 51105-1211

Pamela D. Griebel  
Assistant Attorney General  
Hoover Bldg., 2nd Floor  
Des Moines, IA 50319

Judicial review of the commission's action may be sought in accordance with the Iowa administrative procedure Act, Chapter 17A, from and after the date of the commission's order. 193E IAC 4.52(543B).

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

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IN RE:	)	
	)	
	)	CASE NUMBER: 99-094
DOUGLAS A. LEHMAN (B12372)	)	
Broker	)	STATEMENT OF
	)	CHARGES
	)	
710 14th Street	)	
Sioux City, Iowa 51105-1211	)	
	)	

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The Iowa Real Estate Commission has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 543B, and 272C (1999).

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

DOUGLAS A. LEHMAN is, and was at all material times during the following events, a licensed sole-proprietor broker in Sioux City, Iowa. His license number is B12372.

COUNT I

The Respondent is charged with failing to comply with the Stipulation and Consent Order in case # 96-028, in violation of Iowa Code sections 543B.29(3), 543B.34(2) and 272C.3(2)(a) (1997). The Stipulation and Consent Order is incorporated by this reference into this Statement of Charges and is attached.

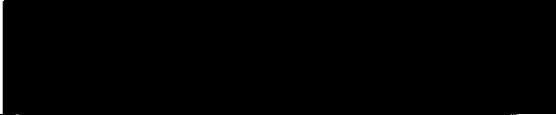
### CIRCUMSTANCES OF THE COMPLAINT

1. On August 22, 1996, Respondent entered into an Informal Settlement in case number 96-006 for failing to obtain a written escrow agreement, releasing money prior to closing without written consent, and failing to disclose in writing an interest in the transaction. As a result, the Respondent was required to take two specific eight-hour broker pre-license courses within thirteen (13) months (by September 22, 1997), as more fully described in the attached Stipulation and Consent Order.
3. Case 98-028 resulted from the Respondent's failure to comply with the settlement in case 96-006. In that Informal Settlement, he was fined \$300.00 and ordered to take the two specific eight-hour broker pre-license courses he had failed to take previously within ninety (90) days of July 9, 1998, as more fully described in the attached Stipulation and Consent Order. On March 19, 1999, Respondent submitted a certificate of attendance for one course due October 9, 1998 and he paid the civil penalty due August 9, 1998.
4. Pursuant to the terms of the July 9, 1998, Consent Order, failure to comply with its terms is prima facie evidence of a violation of Iowa Code sections 543B.29(3), 543B.34(2) and 272C.3(2)(a).
5. Respondent failed to comply with all settlement requirements in case 98-006 and he failed to provide a satisfactory explanation for his failure to comply.

### FINDING OF PROBABLE CAUSE

On August 19, 1999, 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 5<sup>TH</sup> day of NOVEMBER, 1999.

  
Roger L. Hansen, Executive Secretary  
Iowa Real Estate Commission



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

IN RE: )

DOUGLAS A. LEHMAN (B12372) )  
Broker )

710 14th Street )  
Sioux City, Iowa 51105-1211 )

CASE NUMBER: 98-028

STIPULATION AND  
CONSENT ORDER

On this 9<sup>th</sup> day of July, 1998, the Iowa Real Estate Commission and DOUGLAS A. LEHMAN, 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.
2. The Respondent has a right to a hearing on the charges, but waives his 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 broker license to practice real estate on November 27, 1991, as evidenced by license number B12372, which is in full force and effect through December 31, 1999.
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) (1997).

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 HEREBY ORDERED that the Respondent is Reprimanded.**

**IT IS FURTHER ORDERED that the Respondent shall pay a civil penalty in the amount of \$ 300.00 to the Commission within thirty (30) days of acceptance of this Stipulation and Consent Order by the Commission.**

**IT IS FURTHER ORDERED that the Respondent shall take eight (8) hours of real estate continuing education in "Iowa Real Estate Trust Accounts," and eight (8) hours of real estate continuing education in "Contract Law and Contract writing" the courses 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 certificates of attendance must be submitted to the Iowa Real Estate Commission within ninety (90) days of the signing of this agreement by the Commission. The certificates of attendance must come under a cover letter addressed to the Commission's Executive Secretary and must refer to case 98-028. These educational requirements shall satisfy the additional continuing education requirements previously ordered in the Stipulation and Consent Order for case number 96-006.**

**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 9<sup>th</sup>  
day of June, 1998.



DOUGLAS A. LEHMAN, Respondent

State of Iowa

County of Woodbury

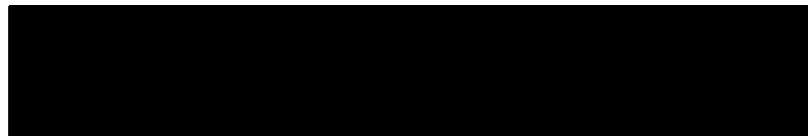
Signed and sworn to before me on this 9 day of June, 1998, by



Notary Public, State of Iowa  
Printed Name: Duane E. Hoffmeyer  
My Commission Expires: 6-15-2001

**FOR THE COMMISSION:**

This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission  
on this 9<sup>th</sup> day of JULY, 1998.



Terry W. Rogers, Chair  
Iowa Real Estate Commission

cc: Pam Griebel, Assistant Attorney General