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

IN RE:	
	CASE NUMBER: 02-038
James T. Nodland	
Broker (B05778)	STATEMENT
	OF
NODLAND REALTY	CHARGES
15532 LANDINGS AVE	
SPIRIT LAKE, IA 51360-7598	

The Iowa Real Estate Commission has jurisdiction of this matter pursuant to Iowa Code chapter's 17A, 543B, and 272C (2001, 2003).

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

James T. Nodland was at all material times during the following events, a licensed Sole-Proprietor Broker in Spirit Lake, Iowa. His license, number B05778 issued January 1, 1980, is in full force and effect through December 31, 2004.

COUNT I

The Respondent is charged with engaging in a practice harmful or detrimental to the public by disbursing trust funds prior to closing without the informed written consent of the parties and knowing the Respondent's client seller was not in agreement, in violation of Iowa Code sections 543B.29(3) (practice harmful or detrimental to the public) and 543B.56(1)(a) & (b) (2001) and Iowa Administrative Code Chapter 193E sections 1.27(7), 1.43(1)(b) & (c), 4.54(6)(b) and 4.54(19).

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CIRCUMSTANCES OF THE COMPLAINT

1. On October 15, 2001, Mark Leiss, an agent for Respondent, listed property owned by Harold Dunkle dba Black Horse Inn, located at 14 Highway 71 S, Fostoria, Iowa for \$ 110,000. In January 2002, the listing was extended until March 15, 2002.

2. On or about January 30, 2002, Leiss, acting as dual agent, prepared an offer for \$85,900 with Darin and Eve Freeman as buyers and with several contingencies, including obtaining suitable financing. Dunkle accepted the offer and the \$ 500.00 earnest money check was deposited into the real estate trust account on February 6, 2002.

3. The buyers experienced difficulty obtaining financing. Various financing options were explored, including seller financing. On March 17, 2002, the buyer's rejected the seller's last financing proposal and negotiations ended.

4. On March 18, 2002, the Respondent, as broker, approved the release of the \$ 500.00 earnest money to the client buyer, without the written consent of his client seller or as otherwise provided by Commission rules. The seller was not aware that the earnest money had been released to the buyer until April 8, 2002 after inquiring as to the status of the money.

FINDING OF PROBABLE CAUSE

On January 16, 2003 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 _	17 ¹² day of	APRIL	, 2003.
		Roger L. Hanser	, Éxecutive Officer
		lowa Real Est	ate Commission

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

)
IN RE:	
) CASE NUMBER: 02-038
James T. Nodland	
Broker (B05778)) STIPULATION
,	AND
NODLAND REALTY	ORDER
15532 LANDINGS AVE	
SPIRIT LAKE, IA 51360-7598	

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 January 1, 1980, which is in full force and effect through December 31, 2004.

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. The 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.

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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 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.

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FOR THE RESPONDENT:

This Stipulation and Consent Order is voluntarily entered into by James T. Nodland on this 27 day of March _____, 2003.

,	
	James T. Nodland, Respondent
State of <u>Funk</u>	
County of Dickinson)	
Signed and sworn to before me on this	s 27 day of March, 2003, by
	Notary Public, State of Iowa
Since MARK LEISS Commission Number 147657	Printed Name: MARK A LEISS
* 000 * MY COMMISSION EXPIRES JULY 21, 2003	My Commission Expires: July 21, 2003

FOR THE COMMISSION:

This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission on this 17^{16} day of $_{17}$ $_$

James E. Hughes, Cháir Jowa Real Estate Commission