

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

IN RE:)	
)	
)	CASE NUMBERS 04-045 and A04-036
CLARA M. STANLEY)	
Broker (B02665))	STATEMENT
)	OF
Stanley Real Estate)	CHARGES
216 E 5TH STREET)	
STORM LAKE, IA 50588234)	
)	

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.

CLARA M. STANLEY was at all material times, during the following events, a licensed Sole-Proprietor Broker in Storm Lake, Iowa. Her license, number B02665 was reissued July 8, 1980 and is in full force and effect through 12-31-2005.

COUNT I

The Respondent engaged in an unethical practice which is harmful or detrimental to the public, and knowingly made a misleading, deceptive, or untrue representation in the practice of real estate by misrepresenting the true nature of seller financing provisions, and preparing an addendum to an offer to purchase which, on its face, causes representations in the body of the offer to be untrue and possibly hidden from persons making underwriting decisions on the secondary market, in violation of Iowa Code sections 543B.29(3), 543B.34(1), and 543B.56(1)(a) & (1)(b) (2001, 2003), and 193E IAC 11.4 and 18.14(5)(s).

COUNT II

The Respondent is charged with engaging in numerous practices involving her trust account which are harmful or detrimental to the public, in violation of Iowa Code sections 543B.29(3) (practice harmful or detrimental to the public), and 543B.34(7) and (8), and 543B.46(1) and (4) (2003) and 193E--IAC sections 13.1(6), 13.1(6)(a) & (b), 13.1(6)(a)(3), 13.5, and 18.14(5)(e)(1), (2) & (3), by the following:

- a. the trust account records were not made available for inspection when requested,
 - b. failing to maintain adequate trust account records at all times,
 - c. failing to perform monthly reconciliations of the general ledger with individual ledgers and bank records to ensure agreement,
 - d. failing to maintain the general ledger and individual ledgers to reflect current balances,
 - e. failing to maintain an individual ledger for the broker's personal funds in the account, and
 - f. failing to maintain an individual ledger for the interest earned on the account.
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CIRCUMSTANCES OF THE COMPLAINT

1. On or about January 7, 2004, Joseph Aube, a broker/officer in charge of Real Estate Specialist of Storm Lake, listed the property located at 102 Lake Street, Lakeside, IA, owned by Steven and Sherri Wuncshel, for \$56,000.
2. On or about February 14, 2004, Respondent prepared an offer on behalf of Constance Weaver and faxed it to Aube. The offer was for \$56,100 with the seller to allow 6% in closing costs and carry back a note for 5% of the purchase price. An addendum on Stanley Real Estate letterhead provided the buyer and seller agree to destroy the 5% note at closing.
3. The same day, Aube faxed Respondent that the offer was illegal and the seller could not respond to it.
4. On or about February 15, 2004, Respondent prepared and faxed a new offer to Aube. The terms provided for \$58,000 sale price with the same provisions as the first offer, with the same addendum to destroy the seller's carry back a note at closing. On or about February 19, 2004, Respondent faxed an offer to Aube with the same offer, but without the addendum to destroy the seller's carry back note.
5. The closing statement, item #508 shows a seller second mortgage in the amount of \$2,900. A second mortgage was signed March 10, 2004. While a second mortgage appears to have been signed, the buyer, Constance Weaver, did not knowingly sign a second mortgage, the second mortgage was never intended to be entered, and no money is owed to the seller. The seller, Steven Wunchel, does not recall the circumstances of a second mortgage or specifically agreeing to write it off, but indicates if the buyer states that was the agreement, then he must be have agreed.
6. On or about August 12, 2001 property located at 604 W 5th Street, Storm Lake, IA was listed by an agent with Respondent for \$75,000. On or about September 25, 2001, Respondent, prepared an offer for \$87,500 with the sellers to carry back a second mortgage for \$13,125 and to pay \$2000 toward closing costs. There was a verbal agreement that the buyer would not pay and the seller would not collect on the second mortgage provision of purchase agreement. The transaction closed December 18, 2001.


CIRCUMSTANCES OF THE AUDIT COMPLAINT

1. On or about May 11, 2004, Auditor Jeff Evans contacted Respondent to conduct the audit and was advised the records were not up to date.
 2. On or about May 12, 2004, an audit was conducted by Jeff Evans. The audit found the following violations: 1. the general ledger and individual ledgers were not up to date, 2. using the records provided, the auditor was not able to reconcile or balance the account, 3. no records indicate the Respondent was doing monthly reconciliation of the general ledger, individual ledgers, and bank records to ensure agreement, and 4. the Respondent did not have individual ledgers to account for interest earned and remitted to the State of Iowa or to account for personal funds in the account to cover expenses associate with maintaining the trust account.
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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 28th day of July, 2004.


Roger L. Hansen, Executive Officer
Iowa Real Estate Commission

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

IN RE:)

CLARA M. STANLEY)
Broker (B02665))

STANLEY REAL ESTATE)
216 E 5TH STREET)
STORM LAKE, IA 50588234)

CASE NUMBERS 04-045 and A04-036

STIPULATION
AND
ORDER

On this 28th day of OCTOBER, 2004, the Iowa Real Estate Commission and CLARA M. STANLEY, 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 8, 1980, which is in full force and effect through December 31, 2005.
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.

CMS

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's broker license No. B02662 is hereby **Suspended** for a period of one (1) year, however, the suspension is hereby **Stayed** and the license shall be placed on probation for a period of not less than one (1) year from the date this settlement is accepted by the Commission. six (6) months *CMS*

Each month during the probationary period, the Respondent shall provide the Commission's auditor copies of the monthly reconciliation, a written list identifying all transactions closed during the month, and any additional information requested for review, including, but not limited to, complete copies of specific transaction files selected at random to audit for compliance.

The Commission noted the Respondent demonstrated willingness to cooperate by immediately hiring a Certified Public Accountant to audit and to establish the trust account records following the Generally Accepted Accounting Principals, and the subsequent satisfactory audit conducted by the commission's auditor.

Respondent shall pay \$1,000 *CMS*
IT IS FURTHER ORDERED that the Respondent shall pay a civil penalty in the total *CMS* amount of \$ 2,500 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 cases A04-036 and 04-045.

and the remainder of \$1500 by the end of the probationary period. Such amounts shall *CMS*
IT IS FURTHER ORDERED that the Respondent shall personally attend the Commission approved twelve (12) hour commission approved education course: "Developing Professionalism and Ethical Practices." 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 cases A04-036 and 04-045.

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.

CMS

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Stanley

FOR THE RESPONDENT:

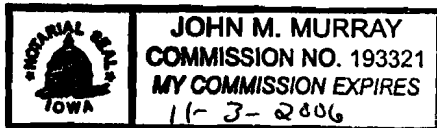
This Stipulation and Consent Order is voluntarily entered into by CLARA M. STANLEY on this 28 day of October, 2004.

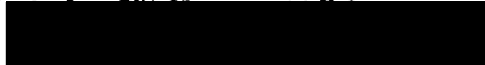

CLARA M. STANLEY, Respondent

State of Iowa)

County of Buena Vista)

Signed and sworn to before me on this 28 day of October, 2004, by




Notary Public, State of Iowa
Printed Name: John M. Murray
My Commission Expires: 11-3-2006

FOR THE COMMISSION:

This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission on this _____ day of _____, 2004.

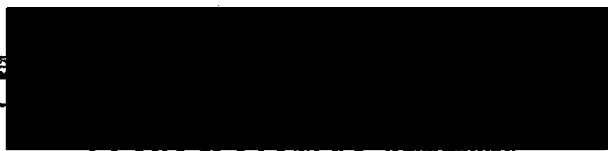
James E. Hughes, Chair
Iowa Real Estate Commission

CMS

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Stanley

FOR THE RESPONDENT:

This Stipulation and Consent Order is voluntarily entered into by **CLARA M. STANLEY** on this 28 day of October, 2004.



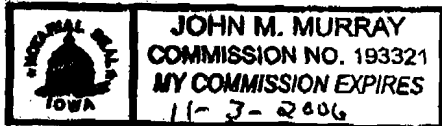
CLARA M. STANLEY, Respondent

State of Iowa

County of Bureau

by Clara M. Stanley

Signed and sworn to before me on this 28 day of October, 2004, by



Notary Public, State of Iowa
Printed Name: John M. Murray
My Commission Expires: 11-3-2006

FOR THE COMMISSION:

This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission on this 28 day of October, 2004.



James E. Hughes, Chair
Iowa Real Estate Commission

CMJ