

COPY

BEFORE THE IOWA REAL ESTATE COMMISSION
OF THE STATE OF IOWA

IN THE MATTER OF:)	
)	
LESLIE J. YEAROUS (B24114))	CASE NUMBER 91-035
BROKER)	
)	STIPULATION AND
302 WATER STREET; BOX 309)	CONSENT ORDER
FAYETTE, IA 52142)	
)	
RESPONDENT)	

On this 21ST day of JANUARY, 1992, the Iowa Real Estate Commission and Leslie J. Yearous, 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 was issued a broker license to practice real estate on the 3rd day of August, 1987 as evidenced by license number B24114 which is in full force and effect through 12-31-92.

3. The Iowa Real Estate Commission has jurisdiction over the parties and subject matter jurisdiction of each allegation in the Statement of Charges.

4. A Statement of Charges will be filed against Respondent together with this Stipulation and Consent Order. The Statement of Charges is attached to this Stipulation and is incorporated into this Stipulation by this reference.

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.

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 117.29(3), 117.34(11) and 258A.3(2)(a) (1991).

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 AND AGREED that the Respondent shall adhere to all real estate trust account rules and regulations pertaining to the handling of earnest money.

IT IS FURTHER ORDERED that Respondent is hereby placed on probation for a period of six months effective upon the date this document is accepted by the Commission, which is shown on the last page of this Stipulation. During this time the Iowa Real Estate Commission may require Respondent to appear before them for the purpose of apprising the Commission of his activities in the practice of real estate.

IT IS FURTHER ORDERED that Respondent shall take twelve hours of real estate continuing education in "Trust Account and Closing Procedures". This course must be an approved "broker prelicense course". These hours shall be taken in addition to all other real estate continuing education hours required by law for license renewal. The original certificate of attendance for the course must be submitted to the commission within thirteen (13) months of the acceptance of this Stipulation and Consent Order by the commission as evidence this requirement has been fulfilled. The original Certificate of Attendance must come under a cover letter addressed to the Commission's Executive Secretary and must be referred to as Case No. 91-035.

This Stipulation and Consent Order is voluntarily entered into by the Respondent on this 14th day of January, 1993.

[Redacted]

Respondent

Subscribed and Sworn to before me on this 14th day of January, 1993.

[Redacted]

Notary Public, State of Iowa

This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission on the 21st day of JANUARY, 1993.

[Redacted]

E. Joe Ann Lutz, Chairperson of the Iowa Real Estate Commission

cc: Sherie Barnett, Assistant Attorney General
David Hansen, Attorney; 231 S. Main; P.O. Box 126
Fayette, IA 52142
File 91-035

IOWA REAL ESTATE COMMISSION
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ANKENY IA

IN RE:)	
LESLIE J. YEAROUS (B24114))	CASE NUMBER: 91-035
BROKER)	STATEMENT OF CHARGES
302 Water Street; PO Box 309)	
Fayette, IA 52142)	

The Iowa Real Estate Commission has jurisdiction of this matter pursuant to Iowa Code Chapters 17A, 117, and 258A (1991).

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

Leslie J. Yearous is, and was at all times during the following events, a licensed real estate broker. His license number is B24114. Leslie J. Yearous is a sole-proprietor of L. Jerome Yearous Real Estate located at 302 Water Street, Fayette, Iowa.

COUNT I

The Respondent is charged with professional incompetency and engaging in a practice harmful or detrimental to the public for failing to deposit earnest money into his real estate trust account, in a transaction in which the Respondent acted both as a broker and as the seller of the property, in violation of Iowa Code sections 117.29(2) and (3), 117.34(8), and 117.46(1) and Iowa Administrative Code chapter 193E, section 1.27, 1.27(1), (2) and (6) and 4.40(6)a.

COUNT II

The Respondent is charged with professional incompetency and engaging in a practice harmful or detrimental to the public by retaining earnest money as a seller's liquidated damages in a failed transaction in which the Respondent acted both as a broker/escrow agent and as the seller of the property, in violation of Iowa code section 117.29(2), 117.34(8), 117.46.1 and Iowa

Administrative Code chapter 193E section 1.27(2) and 4.40(6)
b and c.

CIRCUMSTANCES OF THE COMPLAINT

1. Respondent is a licensed broker and is also the owner and subdivider of lots offered for sale in Fayette, Iowa.
2. On May 24, 1992 the Scott J. and Gwen Recker signed an offer to purchase lots from the Respondent which was prepared by the Respondent. The offer showed the buyers to be Scott J. and Gwen Recker and the seller to be the Respondent, L. Jerome Yearous.
3. The offer provided that \$500.00 earnest money was to be deposited by the buyers with " L. Jerome Yearous, Broker, as Escrow Agent".
4. The offer provided that the buyers agreed to pay to "L. Jerome Yearous, Broker herein," a fee of 5% of the sale price.
5. L. Jerome Yearous signed the offer as seller. He also signed the offer as escrow agent-broker acknowledging the receipt the \$500 earnest money.
6. Respondent received the \$500 earnest money from the buyers, but he did not deposit the earnest money into his trust account.
7. The sale between the Reckers and the Respondent failed to close. The buyers and the Respondent did not agree as to the cause of the failure.
8. The Respondent retained the \$500 earnest money as the seller's liquidated damages.

FINDING OF PROBABLE CAUSE

On November 18, 1992 the Investigative Committee of 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 21st day of JANUARY, 1993.


Roger Hansen, Executive Secretary
for the Iowa Real Estate Commission

cc: Sherie Barnett, Assistant Attorney General
David Hansen, Attorney; 231 S. Main; P.O. Box 126;
Fayette, IA 52142