

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

IN RE:)	
)	
WALTER H. ZECK III)	CASE NUMBER: 02-021
Salesperson (S41029))	
)	STATEMENT
KEN WATERBECK REALTY)	OF
645 8TH AVENUE)	CHARGES
MARION, IA 523025754)	
)	

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

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

WALTER H. ZECK was at all material times during the following events, a licensed real estate salesperson with Hedges Associates, Inc. a licensed real estate firm, license number F00597, dba Coldwell Banker Hedges Realty, in Cedar Rapids, Iowa. His license, number is in full force and effect through December 31, 2002.

COUNT I

The Respondent is charged with engaging in a practice harmful or detrimental to the public by failing to turn trust funds over to the broker and converting trust funds to personal use, in violation of Iowa Code sections 543B.29(3) (practice harmful or detrimental to the public), 543B.34(7), (8) & (11), 543B.46(1), 543B.56(1)(a) & (b), 543B.56(2)(a) & (c) (2001) and Iowa Administrative Code Chapter 193E sections 1.27(543B), 1.27(1), 1.43(1)(a) & (b), 1.43(1)(c)(6) & (7), 2.16(543B) (failure to keep broker informed), 4.54(6)(i), 4.54(15), and 4.54(19).


CIRCUMSTANCES OF THE COMPLAINT

1. On or about August 18, 2001, Respondent as an agent for Hedges Associates, listed a four unit property located at 201 North Locust Street, Anamosa, Iowa, owned by Alva Melchers, for \$129,900. On or about November 20, 2001 and offer was received from a competing firm for \$125,00 and providing in item number 168 of the offer, "Seller to credit buyer for all deposits." On or about November 21, 2001, the offer was accepted with a purchase price of \$128,000 contingent upon financing.
2. On or about November 21, 2001, at the Respondent's request, the seller wrote a check for the rental deposits on the property to the Respondent in the amount of \$1,200. The Respondent deposited the \$1,200 into his personal bank account. The rental deposits were not deposited into the broker's trust account as required.
3. The transaction was scheduled to close on December 14, 2001 and this changed to December 27, 2001. Due to problems with financing and appraisal, the transaction failed to close. The Seller contacted the closing department, Premier Escrow and requested the return of the \$1,200 rental deposits.
5. On or about January 3, 2002, Hedges Associates management became aware of the problem from their closing department, Premier Escrow. The Respondent's explanation to the closing department relating to the handling of the money varied from that given to the broker in charge of Hedges Associates. Respondent indicated a cashier's check had been issued to the seller and he had hand delivered it.
6. On or about January 4, 2002, Respondent wrote a personal check payable to the seller in the amount of \$1,200. The check was returned insufficient funds. On January 18, 2002, Respondent transferred his license to a different broker. On January 21, 2002, the seller informed the broker of the Respondent's insufficient funds check. The broker paid the seller \$1,200 to cover the missing rental deposits funds. The Respondent agreed to reimburse the former broker, but as of his response dated April 3, 2002, he had not done so.

FINDING OF PROBABLE CAUSE

On April 18, 2002 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 29th day of April, 2002.


Roger L. Hansen, Executive Secretary
Iowa Real Estate Commission

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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) (2002).

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's Iowa Real Estate Salesperson License number S41029 is **SURRENDERED**.

RESPONDENT ACKNOWLEDGES that the effective date of the surrender shall be the date this Stipulation is accepted by the Commission.

RESPONDENT ALSO ACKNOWLEDGES that salesperson license number S41029, must be returned to the Iowa Real Estate Commission upon notification that this Stipulation has been accepted by the Commission.

RESPONDENT FURTHER ACKNOWLEDGES that Iowa law allows Respondent to reapply for an Iowa Real Estate license if the surrender or revocation took place two (2) years (or longer) prior to reapplication AND that reapplication for an Iowa Real Estate license may or may not be granted by the Iowa Real Estate Commission and that the violations of law admitted herein may provide a basis for denial.

RESPONDENT FURTHER ACKNOWLEDGES that as a pre-condition to reapplication the Respondent must submit adequate proof to verify that restitution has been paid in full. Also note that if reapplication is considered in the future it would be as a salesperson starting over as if never licensed.

May.31. 2002 10:33AM

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FOR THE RESPONDENT:

This Stipulation and Consent Order is voluntarily entered into by WALTER H. ZECK III on this 31st day of May, 2002.



WALTER H. ZECK III, Respondent

State of _____

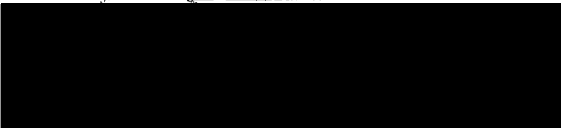
County of _____

Signed and sworn to before me on this _____ day of _____, 2002; by

Notary Public, State of Iowa
Printed Name: _____
My Commission Expires: _____

FOR THE COMMISSION:

This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission on this 02 day of JUNE, 2002.



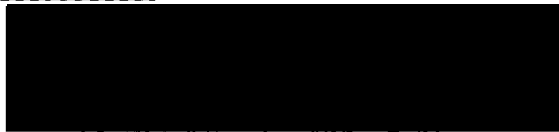
James E. Hughes, Chair
Iowa Real Estate Commission

cc: Pam Oriebel, Assistant Attorney General

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FOR THE RESPONDENT:

This Stipulation and Consent Order is voluntarily entered into by WALTER H. ZECK III on this 31st day of May, 2002.



WALTER H. ZECK III, Respondent

State of _____)

County of _____)

Signed and sworn to before me on this _____ day of _____, 2002, by

Notary Public, State of Iowa
Printed Name: _____
My Commission Expires: _____

FOR THE COMMISSION:

This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission on this 16th day of JUNE, 2002.



James E. Hughes, Chair
Iowa Real Estate Commission

cc: Pam Griebel, Assistant Attorney General