

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

IN RE:	)	CASE NUMBER: 03-018
)	
PHYLLIS A. COLLIER	)	STIPULATION
Broker (B37379)	)	AND
	)	VOLUNTARY SUSPENSION
CENTRAL IOWA REALTY	)	OF
102 E. MAIN STREET	)	BROKER LICENSE
STATE CENTER, IA 50247	)	No. B37379
)	

On this 17th day of JUNE, 2004, the Iowa Real Estate Commission and **PHYLLIS A. COLLIER**, 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 April 25, 2000 and is in full force and effect until 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. Respondent does not admit all allegations in the charges, but agrees that upon hearing the evidence may support one or more of the allegations against her.

6. If this Stipulation and Consent Order is approved by the Commission, it shall be a public record.

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 543B.29(3), 543B.34(2) and 272C.3(2)(a) (2003).

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

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.

IT IS THEREFORE ORDERED that the Respondent's real estate broker license No. B37379 is hereby **SUSPENDED**. The suspension shall commence July 1, 2004, and terminate at midnight on July 30, 2004, provided that Respondent has fully complied with all of the following terms. If Respondent has not fully complied with all of the following terms, the suspension shall continue until the Commission issues an order of reinstatement following its receipt of evidence verifying compliance:

A. **Civil Penalty:** Respondent shall pay to the Commission the sum of \$2,500 no later than July 30, 2004. The civil penalty must come under a cover letter addressed to the Commission's Executive Officer and refer to case 03-018.

B. **Notification:** Respondent must provide the Commission evidence of her compliance with 193E Iowa Administrative Code 7.3 ("Suspended and revoked licenses"), 18.14(4) ("Notification requirements"), and 8.1 ("Closing a real estate firm"). Respondent's submission of documents verifying compliance with these rules must come under a cover letter addressed to the Commission's Executive Officer and refer to case 03-018.

If the Commission timely receives the civil penalty and evidence verifying Respondent's compliance with the above rules by the close of business (4:30 p.m.) on July 30, 2004, the Commission shall issue an order of reinstatement at 4:30 p.m. on July 30, 2004.

If the Commission does not receive by the close of business on July 30, 2004, the civil penalty and evidence verifying Respondent's compliance with the above rules, Respondent will need to follow the procedure set forth in 193 Iowa Administrative Code 7.38 and 193E Iowa Administrative Code 8.15 to seek reinstatement following her belated, but full compliance with this Order.

THE RESPONDENT FURTHER ACKNOWLEDGES that a Suspended license must be renewed when required or it will expire.

FOR THE RESPONDENT:

This Stipulation and Consent Order is voluntarily entered into by **PHYLLIS A. COLLIER** on this 3rd day of June, 2004.

[Redacted Signature]

PHYLLIS A. COLLIER, Respondent

State of Iowa

County of MARSHALL

Signed and sworn to before me on this 3rd day of June, 2004, by

[Redacted Signature]

Notary Public, State of Iowa



Printed Name: Kevin R Hitchins

My Commission Expires: _____

FOR THE COMMISSION:

This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission on this 17th day of JUNE, 2004.

[Redacted Signature]

James E. Hughes, Chair
Iowa Real Estate Commission

[Redacted Signature]

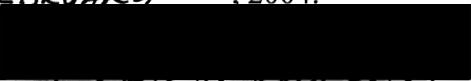
CIRCUMSTANCES OF THE COMPLAINT

1. On August 14, 2001, property located at 307 1st Avenue W., State Center, Iowa, was listed for \$55,000 by Brooke Carr, a licensed agent with Central Iowa Realty.
2. On or about August 16, 2001, the seller accepted an offer for \$58,000 subject to 95% financing at 10.8%. Respondent prepared an addendum to the offer providing "seller pay \$8,900 toward closing cost and down payment. Seller to pay commission on \$50,000." The purchase agreement and addendum were faxed to the lender. Loan approval was initially verbally denied and changes in contract terms were suggested.
3. Respondent changed the addendum to read as follows: " Seller to pay \$3,900 toward closing cost and down payment. Seller to pay commission on \$50,000, Seller will carry second mortgage on contract for \$5000.00 to be paid at an interest rate of 10% for 10 years. The payment will be \$66.08." The Respondent did not obtain dated signatures or initials of the parties to the contract to acknowledge and agree to the changes.
4. On or about September 19, 2001, the modified addendum was faxed to the lender and the loan was approved based upon the representations.
5. The transaction closed September 21, 2001. The closing statement shows a \$5000 Purchase Money Note reduction from the seller and a \$5000 Purchase Money Note credit to the buyer. The seller did not carry a second mortgage and no contract for a second mortgage was prepared or filed.
6. The addendum was not referenced in the purchase agreement and drafted only for the purpose of deception. As a result, the buyer qualified for a 90% mortgage based upon showing 10% equity that did not exist. The addendum could become detached when the mortgage is sold in the secondary market, falsely giving the appearance of equity.
7. Designing a purchase agreement which includes an immediately forgivable second mortgage under conditions where the true terms of the mortgage may not be fully disclosed raises numerous consumer and business issues including inflated property values, potentially misleading declarations of value forms in public records, potentially unforeseen tax consequences for a buyer and seller, and possible deception in the secondary market.

FINDING OF PROBABLE CAUSE

On October 02, 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.

Executed this 16th day of FEBRUARY, 2004.



Roger L. Hansen, Executive Officer
Iowa Real Estate Commission

Department of Commerce
Bureau of Housing and Community Development
FILED 02/16/2004 (Date)
REAL ESTATE



BEFORE THE IOWA REAL ESTATE COMMISSION

IN RE:	)	Case No. 03-018
)	
PHYLLIS A. COLLIER	)	STATE'S APPLICATION TO
	)	AMEND CHARGES

The State moves the Commission to amend the pending charges, pursuant to 193 Iowa Admin. Code 7.16, and in support thereof, states:

1. On February 24, 2004, the Commission charged the Respondent as follows:

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 altering 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, and without obtaining signatures or initials of the parties acknowledging the change, in violation of Iowa Code sections 543B.29(3), 543B.34(1), and 543B.45 (2001), and 193 Iowa Admin. Code 1.20 and 4.54(19).

2. As fully described in the State's Pre-Hearing Conference Report, filed April 12, 2004, probable cause exists to additionally charge Respondent with an unethical practice which is harmful or detrimental to the public by failing to fully cooperate with the Commission's investigation, pursuant to 193E Iowa Admin. Code 18.2(7).

3. The State requests that the Commission add the following Count II:

Respondent engaged in an unethical practice which is harmful or detrimental to the public by failing to fully cooperate with the Commission's investigation and misrepresenting facts during the Commission's investigation, in violation of Iowa Code sections 543B.29(3), 543B.34(1), (3), and 8 (2001 and 2003), and 193E Iowa Admin. Code 18.2(7).

4. The State requests that the Commission add the following to the Circumstances of the Complaint:

8. Respondent misrepresented facts to Commission representatives during the course of the investigation of the complaint, including lying about her role in the creation of the modified addendum, through letter dated February 26, 2003, and verbal statements on May 28, 2003, and September 19, 2003.

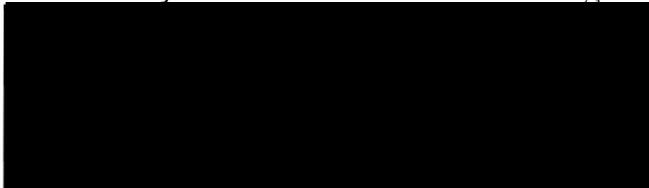
5. Hearing in this cause was recently continued to June 17, 2004.

6. Respondent will not be prejudiced by this amendment. She was aware of the conduct at issue as it transpired in 2003, and has now received a copy of the investigative materials revealing the facts surrounding the Commission's discovery of her role, along with the State's detailed Pre-Hearing Conference Report.

Wherefore, the State requests that the Commission amend the charges as described above.

Respectfully submitted,

THOMAS J. MILLER
Attorney General of Iowa



PAMELA GRIEBEL
Assistant Attorney General
Administrative Law Division
Hoover Building, 2nd Fl.
Des Moines, Iowa 50319
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Original filed with Iowa Real Estate Commission

Copies to:

Kevin R. Hitchins
Grimes, Buck, Schoell, Beach & Hitchins
102 E. Church Street
P.O. Box 776
Marshalltown, IA 50158

Administrative Law Judge assigned to case
Department of Inspections and Appeals
LOCAL

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the instrument was served upon each of the attorneys of all parties in the above-entitled cause by enclosing the same in an envelope addressed to each such attorney at his respective address as disclosed by the pleadings of record herein, with postage fully paid, and by depositing said envelope in a United States Post Office depository in Des Moines, Iowa, on the 16th day of April, 2004.

**BEFORE THE REAL ESTATE COMMISSION
OF THE STATE OF IOWA**

IN THE MATTER OF:)	
	)	CASE NO. 03-018
	)	DIA NO. 04DOCRE001
PHYLLIS A. COLLIER)	
Broker (B37379)	)	COMMISSION RULING:
	)	AMENDMENT TO STATEMENT
RESPONDENT	)	OF CHARGES

On February 16, 2004, the Iowa Real Estate Commission (Commission) filed a Statement of Charges against Phyllis A. Collier (Respondent) charging her with engaging in an unethical practice which is harmful or detrimental to the public, and knowingly making misleading, deceptive, or untrue representations in the practice of real estate by altering 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, and without obtaining signatures or initials of the parties acknowledging the change, in violation of Iowa Code sections 543B.29(3), 543B.34(1), and 543B.45(2001), and 193E Iowa Admin. Code 1.20 and 4.54(19).

On May 6, 2004, the Commission met to consider the State's Application to Amend Charges, filed on April 16, 2004, pursuant to 193 Iowa Admin. Code 7.16. The Respondent did not resist the proposed amendment, and the Commission voted to approve it.

IT IS THEREFORE ORDERED that the Statement of Charges filed on February 16, 2004 is hereby **AMENDED** to add the following:

Count II

Respondent engaged in an unethical practice which is harmful or detrimental to the public by failing to fully cooperate with the Commission's investigation and misrepresenting facts during the Commission's investigation, in violation of Iowa Code sections 543B.29(3), 543B.34(1), (3), and (8)(2001 and 2003), and 193E Iowa Admin. Code 18.2(7).

IT IS FURTHER ORDERED that the Statement of Charges filed on February 16, 2004 is hereby **AMENDED** to add the following paragraph 8 to the Circumstances:

8. Respondent misrepresented facts to Commission representatives during the course of the investigation of the complaint, including lying about her role in the creation of the modified addendum, through a letter dated February 26, 2003, and verbal statements on May 28, 2003, and September 19, 2003.

Dated this 10th day of May 2004.


Roger L. Hansen, Executive Officer
Iowa Real Estate Commission

cc: Kevin Hitchins
102 E. Church St.
Marshalltown, IA 50158-2942
(CERTIFIED)

Pamela Griebel
Assistant Attorney General
Hoover State Office Building
(LOCAL)