

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

IN RE:)	
)	
DARRELL D. MURPHY)	CASE NUMBER: A96-101
Broker (B17911)))	
)	STATEMENT OF CHARGES
Murphy Real Estate)	
1st and Main Streets)	
Coin, Iowa 51636)	

The Iowa Real Estate Commission has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 543B, and 272C (1995).

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

DARRELL D. MURPHY is and was at all times during the following events, a licensed sole-proprietor real estate broker in Coin, Iowa. His license number is B17911.

COUNT I

The Respondent is charged with engaging in a practice harmful or detrimental to the public by failing to maintain an individual ledger for each transaction, in violation of Iowa Code sections 543B.29(3) and 543B.34(8) (1995) and Iowa Administrative Code Chapter 193E-- sections 1.27(6)(3)(b), and 4.40(5)(b).

COUNT II

The Respondent is charged with having \$448.27 in unidentified funds in the trust account, in violation of Iowa Code sections 543B.29(3), and 543B.46(4) (1995) and Iowa Administrative Code Chapter 193E, sections 1.27(1)(c) and 4.40(6)(h).

COUNT III

The Respondent is charged with engaging in a practice harmful or detrimental to the public by failing to do monthly written reconciliation of the general ledger balance with the individual ledger accounts to ensure agreement, in violation of Iowa Code sections 543B.29(3) and 543B.34(8) (1995) and Iowa Administrative Code Chapter 193E-- sections 1.27(6)(3) and 4.40(5).

COUNT IV

The Respondent is charged with engaging in a practice harmful or detrimental to the public by allowing the balance in an owner's property management account to drop below the amount of the security deposit, in violation of Iowa Code sections 543B.29(3) and 543B.34(8) (1995) and Iowa Administrative Code Chapter 193E-- sections 1.30(6)(a) and 4.40(6).

COUNT V

The Respondent is charged with engaging in a practice harmful or detrimental to the public by disbursing funds prior to closing without the written consent of all parties, in violation of Iowa Code sections 543B.29(3) and 543B.34(8) (1995) and Iowa Administrative Code Chapter 193E-- sections 1.27(7) and 4.40(6)(b).

CIRCUMSTANCES OF THE COMPLAINT

1. On June 4, 1996, Iowa Real Estate Commission Field Auditor J. Michael Sharp, examined the trust account records of Darrell D. Murphy.
2. Audit found Respondent did not maintain individual ledgers for each transaction or property managed.
3. Audit found Respondent had not been doing a monthly written reconciliation worksheet to ensure agreement between the bank balance, general ledger, and the individual ledgers.
4. Audit found unidentified funds in the amount of \$448.27.
5. Audit found the owner's property management account that was to have contained a \$200.00 security deposit, to have a balance of \$156.15.

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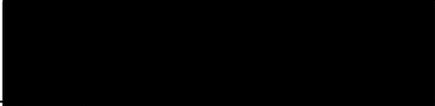
6. Respondent paid an abstract bill for \$95.00 on a delayed closing without written authorization of the parties to the transaction.

7. In a letter dated June 17, 1987, the Commission advised Respondent that an audit of his trust account June 3, 1987, found that 1. he did not maintain individual ledger sheets for broker's personal funds and for each transaction or rental, 2. he failed to remove a management fee, and 3. he had failed to remit interest earned on the account to the state.

FINDING OF PROBABLE CAUSE

On August 22, 1996, 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 14th day of NOVEMBER, 1996.



Roger L. Hansen, Executive Secretary
Iowa Real Estate Commission

cc. Pam Griebel, Assistant Attorney General

A96-101

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

IN RE:)	
)	
DARRELL D. MURPHY (B17911))	CASE NUMBER: A96-101
Broker)	
)	STIPULATION AND
)	CONSENT ORDER
Murphy Real Estate)	
1st & Main Streets)	
Coin, Iowa 51636)	

On this 14th day of NOVEMBER, 1996, the Iowa Real Estate Commission and DARRELL D. MURPHY, 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's license to practice real estate on the 6th day of January, 1986, as evidenced by license number B04411 which is in full force and effect through December 31, 1997.
3. The Iowa Real Estate Commission has jurisdiction over the parties and subject matter jurisdiction over each allegation in the Statement of Charges.
4. A Statement of Charges will be filed against Respondent together with this Stipulation and Consent Order.
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 543B.29(3), 543B.34(2) and 272C.3(2)(a) (1995).

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 that the Respondent is **Reprimanded**.

IT IS FURTHER ORDERED that the Respondent shall pay a civil penalty in the amount of \$250.00 to the Commission within thirty (30) days of acceptance of this Stipulation and Consent Order by the Commission.

IT IS FURTHER ORDERED that the Respondent shall take eight (8) hours of real estate continuing education in "Trust Account and Closing Procedures" in addition to the real estate continuing education required by law for license renewal. The course must be approved as a "Broker Pre-License Course". 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. The certificate of attendance must come under a cover letter addressed to the Commission's Executive Secretary and must refer to case A96-101.

IT IS FURTHER ORDERED 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.

FOR THE RESPONDENT:

This Stipulation and Consent Order is voluntarily entered into by the Respondent on this 10 day of October, 1996.



DARRELL D. MURPHY, Respondent

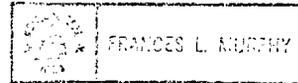
State of Iowa)

County of Page)

Signed and sworn to before me on this 10th day of October, 1996, by

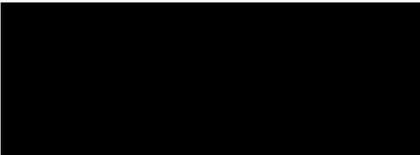


Notary Public, State of Iowa
Printed Name: Frances L. Murphy
My Commission Expires: 12-12-97



FOR THE COMMISSION:

This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission on the 14th day of NOVEMBER, 1996.



~~Frances L. Murphy, Chair~~ / RUSSELL D. NADING, VICE CHAIR
Iowa Real Estate Commission

cc: Pam Griebel, Assistant Attorney General