



### CIRCUMSTANCES OF THE COMPLAINT

1. On October 15, 2001, Mark Leiss, an agent for Respondent, listed property owned by Harold Dunkle dba Black Horse Inn, located at 14 Highway 71 S, Fostoria, Iowa for \$ 110,000. In January 2002, the listing was extended until March 15, 2002.
2. On or about January 30, 2002, Leiss, acting as dual agent, prepared an offer for \$85,900 with Darin and Eve Freeman as buyers and with several contingencies, including obtaining suitable financing. Dunkle accepted the offer and the \$ 500.00 earnest money check was deposited into the real estate trust account on February 6, 2002.
3. The buyers experienced difficulty obtaining financing. Various financing options were explored, including seller financing. On March 17, 2002, the buyer's rejected the seller's last financing proposal and negotiations ended.
4. On March 18, 2002, the Respondent, as broker, approved the release of the \$ 500.00 earnest money to the client buyer, without the written consent of his client seller or as otherwise provided by Commission rules. The seller was not aware that the earnest money had been released to the buyer until April 8, 2002 after inquiring as to the status of the money.

### FINDING OF PROBABLE CAUSE

On January 16, 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.

Dated this 17<sup>th</sup> day of APRIL, 2003.

  
Roger L. Hansen, Executive Officer  
Iowa Real Estate Commission



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) (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 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.

**FOR THE RESPONDENT:**

This Stipulation and Consent Order is voluntarily entered into by **James T. Nodland** on this 27 day of March, 2003.



**James T. Nodland, Respondent**

State of Iowa

County of Dickinson

Signed and sworn to before me on this 27 day of March, 2003, by



Notary Public, State of Iowa

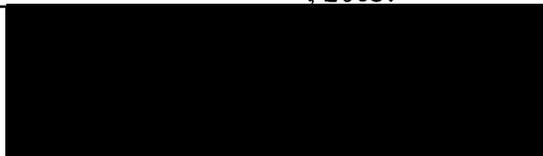
Printed Name: MARK A LEISS

My Commission Expires: July 21, 2003



**FOR THE COMMISSION:**

This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission on this 17<sup>th</sup> day of April, 2003.



**James E. Hughes, Chair**  
Iowa Real Estate Commission