

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

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<b>IN RE:</b>	)	
	)	
<b>Michael John Cilek</b>	)	<b>CASE NUMBER A05-020</b>
<b>Broker (B10450)</b>	)	
	)	<b>STIPULATION</b>
<b>COLDWELL BANKER</b>	)	<b>AND</b>
<b>REAL ESTATE PROFESSIONALS</b>	)	<b>ORDER</b>
<b>44 STURGIS CORNER DRIVE</b>	)	
<b>Iowa City, Iowa 52246</b>	)	

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On this 12<sup>th</sup> day of JANUARY, 2008, the Iowa Real Estate Commission and **Michael John Cilek**, 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 brokers license on March 18, 1983, which is in full force and effect through December 31, 2006.

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

5. A Statement of Charges will be filed against Respondent together with this voluntary Stipulation and Consent Order.

6. Respondent admits each and every allegation in the Statement of Charges.

7. 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.

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) (2005).

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** that the Respondent shall pay a civil penalty in the amount of \$2000 within thirty (30) days of acceptance of this Stipulation and Consent Order by the Commission and come under a cover letter addressed to the Commission's Executive Officer and refer to case A05-020.

**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 **Michael John Cilek** on this 13 day of December, 2005.

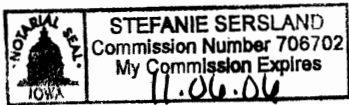


**Michael John Cilek, Respondent**

State of Iowa

County of Johnson

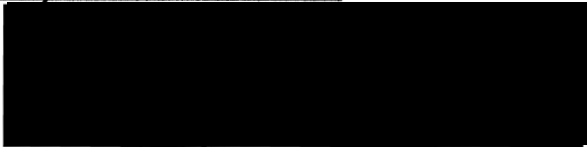
Signed and sworn to before me on this 13<sup>th</sup> day of December, 2005, by



Notary Public, State of Iowa  
Printed Name: Stefanie Sersland  
My Commission Expires: 11.06.06

**FOR THE COMMISSION:**

This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission on this 12<sup>th</sup> day of JANUARY, 2005.



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

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1920 SE HULSIZER  
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<b>IN RE:</b>	)	
	)	
<b>Michael John Cilek</b>	)	<b>CASE NUMBER A05-020</b>
<b>Broker (B10450)</b>	)	
	)	<b>STATEMENT</b>
<b>Coldwell Banker Real Estate Professionals)</b>	)	<b>OF</b>
<b>44 STURGIS CORNER DRIVE</b>	)	<b>CHARGES</b>
<b>IOWA CITY, IA 52246</b>	)	
	)	

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The Iowa Real Estate Commission has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 543B, and 272C (2005).

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

**Michael John Cilek** was at all material times, during the following events, a licensed Broker/Officer in Iowa City, Iowa. His license, number B10450 was issued March 18, 1983, and is in full force and effect through 12-31-2006.

**COUNT I**

The Respondent is charged with engaging in numerous practices involving his trust account which are harmful or detrimental to the public, in violation of Iowa Code sections 543B.29(3) (practice harmful or detrimental to the public), and 543B.34(7) (2005) and 193E--IAC sections 13.1(6)(b), 13.1(6)(a)(3), 13.1(14), 13.5, and 18.14(5)(e) by the following:

- a. failing to maintain the general ledger, individual ledgers, and bank reconciliation to reflect current balances, and
- b. failure to maintain a written worksheet as a part of the journal to ensure account agreement,
- c. failure to accurately maintain individual ledger accounts identified by property or the principal,
- d. failure to retain for a period of five years a copy of all checks related to each real estate transaction, and
- e. failure to comply with Iowa Administrative Rule as it applies to the disposition of unclaimed trust funds.

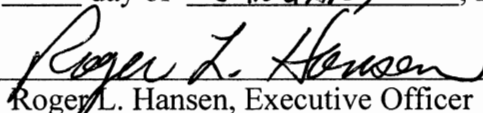
### CIRCUMSTANCES OF THE COMPLAINT

1. On or about October 20, 2005, Auditor Jeff Evans conducted an audit of the Respondent's trust account and records.
2. The audit found the following violations:
  - a. failure to conduct a written monthly reconciliation of the individual ledgers, general ledger, and bank records to assure balance; and
  - b. individual ledgers were \$2,302 less than the journal balance and \$262.55 less than the reconciled bank total.
  - c. auditor found that individual ledger sheets for earnest monies in escrow were not accurate
  - d. auditor found that voided checks were not being kept on file, but were being shredded.
  - e. auditor found there were several checks older than three years that had not been cashed.

### FINDING OF PROBABLE CAUSE

On November 3, 2005 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 12<sup>th</sup> day of January, 2005.

  
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Roger L. Hansen, Executive Officer  
Iowa Real Estate Commission