

CIRCUMSTANCES OF THE COMPLAINT

1. In May 1990, Robert Kulmeier, a resident of Oklahoma, retained the Respondent to manage property he owns located at 1035 Avenue H, Fort Madison, Iowa. Respondent did not execute a written property management agreement, but did obtain tenants, collect rent and other money from tenants on behalf of the owner, and receive compensation. Money collected by the Respondent was not deposited into a real estate trust account, but were to be deposited into the owner's rental account.
2. Kulmeier maintains that from 1995 to 1998, rent deposits made by the Respondent had become sporadic and became more sporadic during 1999 to 2001. On or about January 4, 2002, Respondent wrote a personal check, number 6211, in the amount of \$ 1175.00, payable to Kulmeier. The check was returned twice for insufficient funds.
3. Kulmeier maintains his rental account for the property for the period 1990 to January 2002 is short \$1,750.00. The Commission's auditor examined records and information submitted by the Respondent. The auditor found the Respondent did not maintain adequate records or an accurate accounting of the money collected and the money deposited into the owner's rental account. The auditor found several problems including:
 1. Rent deposited into the Respondent's personal account;
 2. Gaps in the accounting;
 3. Deposit slips missing;
 4. A \$500 deposit was counted twice;
 5. No records to verify that \$1,750 in rent checks were deposited into the owner's account;
 - and 6. No record that an accounting of money was ever provided to the owner.
4. Kulmeier maintains the renter paid the Respondent a \$250.00 deposit in 1990, however, the rental account only shows a \$50.00 deposit.

FINDING OF PROBABLE CAUSE

On October 3, 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 28th day of AUGUST, 2003.


Roger L. Hansen, Executive Officer
Iowa Real Estate Commission

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

IN RE:

DIANE M. SAAR
Broker (B16318)

THE PROPERTY BROKERS, LTD
1035 AVENUE H
FORT MADISON, IA 526274515

CASE NUMBER: 02-011

**STIPULATION
AND
ORDER**

On this 28th day of AUGUST, 2003, the Iowa Real Estate Commission and **DIANE M. SAAR**, 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 June 27, 1978, which is in full force and effect through 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. A Statement of Charges will be filed against Respondent together with this voluntary Stipulation and Consent Order.

6. Respondent does not admit the allegations in the charges, but agrees to resolve the charges by entering into this Consent Order.

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.

02-011

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 that the Respondent shall pay a civil penalty in the amount of \$ 1000 for Count I and \$1000 for Count II of the Statement of Charges, 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 02-011.

IT IS FURTHER ORDERED that in lieu of the two civil penalties, the Respondent may reimburse the property owner for funds not properly accounted for in the amount of \$1,750. Satisfactory proof of reimbursement must be received 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 must refer to case 02-011.

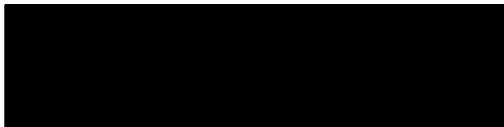
IT IS FURTHER ORDERED that the Respondent shall personally attend the eight (8) hour Commission approved broker prelicense education course "Iowa Real Estate Trust Accounts." These hours shall be in addition to any real estate continuing education required by law for license renewal. The original certificate 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 Officer and must refer to case 02-11.

IT IS FURTHER ORDERED that the Respondent shall not engage in any property management activities requiring a real estate license as provided by Iowa Code section 543B.3 Broker – definition and IAC Chapter 19 Property Management, for an indefinite period, until such time, if ever, the Respondent personally attends the twelve (12) hour Commission approved prelicense education course "Property Management / Leasing, Fair Housing, Environmental Risks and Health Issues" and submits the original certificate of attendance to the Iowa Real Estate Commission. The certificate of attendance must come under a cover letter addressed to the Commission's Executive Officer and must refer to case 02-11. These hours shall be in addition to any real estate continuing education required by law for license renewal.

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 **DIANE M. SAAR** on this 25th day of July, 2003.

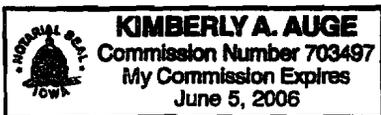


DIANE M. SAAR, Respondent

State of IOWA)

County of LEE)

Signed and sworn to before me on this 25th day of July, 2003, by



Notary Public, State of Iowa
Printed Name: Kimberly A. Auge
My Commission Expires: June 5, 2006

FOR THE COMMISSION:

This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission on this 28th day of AUGUST, 2003.



James E. Hughes, Chair
Iowa Real Estate Commission