

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

IN RE:)	
)	
IOWA REALTY CO INC (F00710))	CASE NUMBER: 98-075
)	
3501 WESTOWN PKY)	STATEMENT
)	OF
WEST DES MOINES IA 502661007)	CHARGES

The Iowa Real Estate Commission has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 543B, and 272C (1999).

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

IOWA REALTY CO INC is a licensed real estate firm, license number F00710, in West Des Moines, Iowa. The firm license is in full force and effect until December 31, 2000.

COUNT I

The Respondent Firm is charged with engaging in a practice harmful or detrimental to the public by allowing funds to be transferred from the real estate trust account to an unlicensed escrow company without the written permission of the parties and by authorizing the partial release of escrowed funds without obtaining written approval of the parties as provided in the escrow agreement, in violation of Iowa Code section 543B.29(3) (engaging in a practice harmful or detrimental to the public) (1995), and 193E IAC sections 1.27(7), 1.28, 4.40(6) and 4.40(6)(b).

CIRCUMSTANCES OF THE COMPLAINT

1. On June 1, 1996 John B. O'Neil and Anne W. O'Neil, (Buyers), entered into a contract with Crown Colony, Inc. by John W. Grubb, President, (Seller), to purchase new construction to be built at 13571 Village Court, Clive, Iowa, for \$315,900.
2. On November 11, 1996, the parties entered into an escrow agreement that provided for Iowa Realty, as escrow agent, to hold \$7,500 until certain construction items were completed and approved by the Buyer or Ellen Harris and Ken Whitehead. The transaction closed November 12, 1996.
3. The \$7,500 escrow funds were deposited with Midland Escrow Services, Inc. and was not held by Iowa Realty as provided in the written agreement.
4. As construction items were reportedly satisfactorily finished, the Seller requested payment. A dispute developed and the Buyers would not sign authorization to release escrowed funds. Iowa Realty authorized release of \$4,755 from Midland Escrow Services, Inc. to the Seller. Midland Escrow continues to hold \$2,745. Escrowed funds are subject to threatened civil litigation.

FINDING OF PROBABLE CAUSE

On April 22, 1999 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 1st day of July, 1999.



Roger L. Hansen, Executive Secretary
Iowa Real Estate Commission

Cc. Pam Griebel, Assistant Attorney General

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WEST DES MOINES IA 502661007)

STIPULATION
AND
CONSENT ORDER

On this 1ST day of JULY, 1999, the Iowa Real Estate Commission and IOWA REALTY CO INC, each hereby agrees 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 Firm 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 Firm was issued a real estate license on June 14, 1956 as evidenced by license number F00710, which is in full force and effect through December 31, 2000.
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 Firm together with this voluntary Stipulation and Consent Order.
6. The Respondent Firm 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.

98-075

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) (1995).

10. This Stipulation and Consent Order shall be presented to the Commission in closed session by the prosecuting attorney and/or Commission staff. Respondent Firm 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 HEREBY ORDERED that the Respondent Firm is Reprimanded.

IT IS FURTHER ORDERED that the Respondent Firm shall pay a civil penalty in the amount of \$ 500.00 to the Commission within thirty (30) days of acceptance of this Stipulation and Consent Order by the Commission, and shall notify the commission when the continuing dispute over the earnest money is resolved.

IT IS FURTHER ORDERED AND AGREED that at all future times Respondent Firm 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 FIRM:

This Stipulation and Consent Order is voluntarily entered into by IOWA REALTY, INC. on this 28th day of May, 1999.



Garold D. Woltz, Broker/Officer
Designated Broker-in-Charge

State of Iowa)
County of Polk)

Signed and sworn to before me on this 28th day of May, 1999, by



Notary Public, State of Iowa
Printed Name: Susan M. Boe
My Commission Expires: 1-13-2001

FOR THE COMMISSION:

This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission on this 1st day of JULY, 1999.



Russell D. Nading, Chair
Iowa Real Estate Commission