

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

IN RE:)	
)	
JAMES A. KLEIN (B20754))	CASE NUMBER: 99-040
Broker)	
)	STIPULATION AND
)	CONSENT ORDER
169 S Washington)	
Remsen, Iowa 51050)	

On this 19th day of August, 1999, the Iowa Real Estate Commission and JAMES A. KLEIN, 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 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 broker license to practice real estate on January 1, 1985, as evidenced by license number B20754, 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 together with this voluntary Stipulation and Consent Order.

6. The 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) (1999).

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.

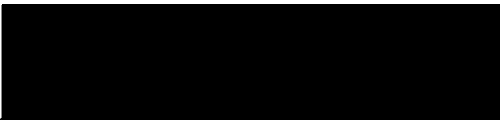
THEREFORE IT IS ORDERED that the Respondent is **Reprimanded**.

IT IS FURTHER ORDERED that the Respondent shall personally take eight (8) hours of real estate continuing education in "Real Estate Law and Agency Law," the course must be approved as a "Broker Pre-License Course." These hours shall be in addition to any real estate continuing education required by law for license renewal. 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 99-040.

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 A. KLEIN on this 11 day of August, 1999.



JAMES A. KLEIN, Respondent

State of Iowa

County of Plymouth

Signed and sworn to before me on this 11th day of August, 1999, by



Notary Public, State of Iowa

Printed Name: Beverly P. Bacon

My Commission Expires: 2-7-00

FOR THE COMMISSION:

This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission on this 19th day of August, 1999.



Russell D. Nading, Chair
Iowa Real Estate Commission

cc: Pam Griebel, Assistant Attorney General

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STATEMENT OF
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.

JAMES A. KLEIN was at all material times during the following events a licensed real estate broker in Remsen, Iowa. His license, number B20754, is in full force and effect through 12-31-2000.

COUNT I

Respondent is charged with engaging in a practice harmful or detrimental to the public by negotiating a sale of property directly with the owner knowing the owner had a written exclusive right to sell contract with another broker, in violation of Iowa Code section 543B.29(3) (1999) and 193E IAC section 1.23(1).

COUNT II

Respondent is charged with engaging in a practice harmful or detrimental to the public by acting or attempting to act as a dual agent without sub-agency authorization from the listing broker and the informed written consent of all parties to the transaction, in violation of Iowa Code sections 543B.29(3), 543B.34(4), 543B.57(1), and 543B.58 (1999) and 193E IAC section 1.45(1)(a).

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CIRCUMSTANCES OF THE COMPLAINT

1. On or about February 24, 1999, Robert Harpenau, broker, listed approximately 40 acres in Plymouth County, Iowa, owned by William Harpenau for \$255, 750.
2. Respondent indicated that the seller made efforts to enlist his assistance to sell the property and he relied on the seller's assurances that he would have a co-listing with the listing broker. This was never reduced to a written agreement with the seller or the listing broker.
3. On or about April 8, 1999, Respondent drafted an offer for \$98,000, with Clarence Harpenau as buyer. Respondent presented the offer directly to the seller and negotiated a purchase agreement without the knowledge or permission of the listing broker.
4. Respondent misrepresented his agency relationship to Clarence Harpenau, the buyer, by making written disclosure on or about March 30, 1999, that Respondent was acting as a dual agent in the transaction.

FINDING OF PROBABLE CAUSE

On July 1, 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.

Dated this 19th day of AUGUST, 1999.


Roger L. Hansen, Executive Secretary
Iowa Real Estate Commission

cc: Pam Griebel, Assistant Attorney General

99-040