

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

IN RE:)	
)	
RUSSELL C. HAYES (B06311))	CASE NUMBER: A95-118
Broker)	STATEMENT OF CHARGES
)	
304 Hammond Avenue)	
Waterloo, Iowa 50702-2320)	

The Iowa Real Estate Commission has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 543B, and 272C (1995).

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

RUSSELL C. HAYES is and was at all material times during the following events, a licensed real estate broker. His license number is B06311. RUSSELL C. HAYES is licensed as a sole proprietor broker in Waterloo, Iowa.

COUNT I

The Respondent is charged with failing to maintain adequate trust account records by failing to maintain individual ledger sheets for interest and personal funds, and failing to have monthly written reconciliation of the general ledger balance with the bank balance and with the individual ledger sheets to ensure agreement, in violation of Iowa Code sections 543B.34(8), (1995), and Iowa Administrative Code Chapter 193E, sections 1.27(1)(c), 1.27(6)(b), 1.27(6)(a)(3), 4.40(5) and 4.40(5)(b).

COUNT II

The Respondent is charged with having \$130.74 in unidentified funds in the trust account, in violation of 543B.29(3), and 543B.46(4) (1995) and Iowa Administrative Code Chapter 193E, sections 1.27(1)(c) and 4.40(6)(h).

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COUNT III

The Respondent is charged with having a negative balance on two individual ledgers, totaling (\$652.84), in violation of 543B.29(3) (1995) and Iowa Administrative Code Chapter 193E, sections 1.27(1)(d) and 4.40(5).

CIRCUMSTANCES OF THE COMPLAINT

1. On August 16, 1995, Iowa Real Estate Commission Field Auditor J. Michael Sharp, examined the trust account records of RUSSELL C. HAYES .
2. Trust account records were not properly maintained as there were no individual ledger sheets for interest and personal funds.
3. Trust account records were not properly maintained as no monthly reconciliation was being done.
4. The trust account was found to have \$130.74 in unidentified funds.
5. Two individual ledgers were found to have a negative balance totaling (\$652.84).

FINDING OF PROBABLE CAUSE

On January 25, 1996, 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 7th day of MARCH, 1996.



Roger L. Hansen, Executive Secretary
Iowa Real Estate Commission

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1918 SE HULSIZER
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IN RE:)	
)	
RUSSELL C. HAYES (B06311))	CASE NUMBER: A95-118
Broker)	
)	STIPULATION AND
)	CONSENT ORDER
304 Hammond Avenue)	
Waterloo, Iowa 50702-2320)	

On this 7th day of MARCH, 1996, the Iowa Real Estate Commission and RUSSELL C. HAYES 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 was issued a broker's license to practice real estate on the 9th day of November, 1983, as evidenced by license number B06311 which is in full force and effect through December 31, 1997.
3. The Iowa Real Estate Commission has jurisdiction over the parties and subject matter jurisdiction over each allegation in the Statement of Charges.
4. A Statement of Charges will be filed against Respondent together with this Stipulation and Consent Order.
5. Respondent admits each and every allegation in the Statement of Charges.
6. 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.
7. 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.

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8. 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).

9. 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.

10. 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 FURTHER ORDERED that Respondent shall take eight (8) hours of real estate continuing education in "Trust Account and Closing Procedures" and these hours shall be in addition to all other real estate continuing education required by law for license renewal. The course must be approved as a "Broker Pre-License Course". 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 A95-118.

IT IS FURTHER ORDERED that the Respondent shall pay a civil penalty in the amount of \$250.00 to the Commission within thirty (30) days of acceptance of this Stipulation and Consent Order by the Commission.

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.

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FOR THE BROKER:

This Stipulation and Consent Order is voluntarily entered into by the Respondent on this 20 day of FEBRUARY, 1996.



RUSSELL C. HAYES, Broker/Respondent

State of Iowa

County of Black Hawk

Signed and sworn to before me on this 21st day of February, 1996, by



Notary Public, State of Iowa

Printed Name: Ethel Washington

My Commission Expires: 1/24/97

FOR THE COMMISSION:

This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission on the 7 day of March, 1996.



Theresa A. Loffredo, Chair
Iowa Real Estate Commission

cc: Pam Griebel, Assistant Attorney General

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