

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

| | | |
|------------------------------------|---|----------------------|
| IN RE: |) | |
| |) | |
| |) | |
| Remax Opportunities, Inc. (F03581) |) | CASE NUMBER: A94-035 |
| Firm |) | |
| |) | |
| MIKE HAWS (B25409) |) | STATEMENT OF CHARGES |
| Broker |) | |
| |) | |
| 607 S. 1st Street |) | |
| Ogden, Iowa 50212 |) | |
| |) | |

The Iowa Real Estate Commission has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 543B, and 272C (1993).

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

MIKE HAWS is, and was at all times during the following events, a licensed real estate broker. Her license number is B25409. MIKE HAWS is licensed as an officer and the designated broker in charge of ReMax Opportunities, Inc. license number F03581, in Ogden, Iowa.

COUNT I

The Respondent is charged with 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.29(2) and 543B.34(8), (1993), and Iowa Administrative Code Chapter 193E, sections 1.27, 1.27(6)(a)(3), 1.27(6)(a)(3), 4.40(5) and 4.40(5)(b).

COUNT II

The Respondent is charged with having a negative balance in the trust account, in violation of 543B.29(3), 543B.34 (8), and 543B.46(4) and Iowa Administrative Code Chapter 193E, sections 1.27(1)(c) and 4.40(5).

A94-035

COUNT III

The Respondent is charged with failing to obtain a written escrow agreement signed by the parties when all funds were not disbursed at closing, in violation of Iowa Code sections 543B.29(2) and (3) and 543B.34(8) (1993) and Iowa Administrative Code Chapter 193E, sections 1.27(9), 4.40(6)(d), and 4.40(10).

CIRCUMSTANCES OF THE COMPLAINT

1. On September 27, 1994 Iowa Real Estate Commission Field Auditor J. Michael Sharp, examined the trust account records of ReMax Opportunities Inc., Mike Haws designated broker in charge.
2. Mike Haws failed to maintain adequate personal funds in the trust account to cover bank initiated service charges, which resulted in a \$28.09 negative balance.
3. Trust account records were not properly maintained as there were no written monthly reconciliation of the general ledger balance with the bank balance and with the individual ledger accounts to ensure agreement. .
4. Mike Haws failed to obtain a written escrow agreement when all funds were not disbursed at closing in the Thomas/Albus transaction.

FINDING OF PROBABLE CAUSE

On November 3, 1994, 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 25 day of JANUARY, 1995.


Rog~~e~~L. Hansen, Executive Secretary
Iowa Real Estate Commission

cc. Pam Griebel, Assistant Attorney General

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

| | | |
|------------------------------------|---|----------------------|
| IN RE: |) | |
| |) | |
| |) | |
| Remax Opportunities, Inc. (F03581) |) | CASE NUMBER: A94-035 |
| Firm |) | |
| |) | |
| MIKE HAWS (B25409) |) | STIPULATION AND |
| Broker |) | CONSENT ORDER |
| |) | |
| 607 S. 1st Street |) | |
| Ogden, Iowa 50212 |) | |
| |) | |

On this 25 day of JANUARY, 1995, the Iowa Real Estate Commission and MIKE HAWS, 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 12th day of July, 1988, as evidenced by license number B25409 which is in full force and effect through December 31, 1996.
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.

A94-035

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.

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) (1993).

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 HEREBY ORDERED that the Respondent is REPRIMANDED.

IT IS FURTHER ORDERED that Respondent shall take twelve (12) 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 A94-035.

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.

A94-035

15th This Stipulation and Consent Order is voluntarily entered into by the Firm on this day of December, 1994.

FOR THE FIRM:

[Redacted Signature]

/ Remax Opportunities, Inc.

State of Iowa)

County of Boone)

Signed and sworn to before me on this 15 day of Dec, 1994, by

[Redacted Signature]

Notary Public, State of Iowa

Printed Name: Joyce Haws

My Commission Expires: 11-16-95

This Stipulation and Consent Order is voluntarily entered into by the Broker on this _____ day of _____, 1994.

FOR THE BROKER:

[Redacted Signature]

MIKE HAWS, Broker/Respondent

State of Iowa)

County of Boone)

Signed and sworn to before me on this 15 day of Dec, 1994, by

[Redacted Signature]

Notary Public, State of Iowa

Printed Name: Joyce Haws

My Commission Expires: 11-16-95

A94-035

A94-035

FOR THE COMMISSION:

This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission
on the 25 day of JANUARY, 1995.


Jerry F. Duggan, Chairman
Iowa Real Estate Commission

cc: Pam Griebel, Assistant Attorney General

A94-035