

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

IN RE:)	
)	
)	CASE NUMBER: A94-044
JOHNSON AND SONS, INC. (F00709))	
Firm)	STATEMENT OF CHARGES
)	
DARYL W. JOHNSON (B04891)))	
Broker)	
)	
322 E. Walnut)	
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.

DARYL W. JOHNSON is and was at all times during the following events, a licensed real estate broker. His license number is B04891. DARYL W. JOHNSON is licensed as a broker officer and designated broker in charge of JOHNSON AND SONS, INC, Ogden, Iowa, a licensed real estate firm, license number F00709.

JOHNSON AND SONS, INC. at all times during the following events, had a branch office located in Boone, Iowa as evidenced by license number B251401, broker associate Ronald Dean Tilley, license number B251400, designated broker in charge, and a branch office located in Dayton, Iowa, as evidenced by license number B04897001, officer/broker E. Alan Johnson, license number B04897, designated broker in charge.

COUNT I

The Respondent is charged with managing property without a written agreement, in violation of Iowa Code sections 543B.29(2) and (3) and 543B.34(8) (1993) and Iowa Administrative Code Chapter 193E, sections 1.30, and 4.40(6).

A94-044

COUNT II

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).

COUNT III

The Respondent is charged with failing to obtain the signatures of the buyers on the Sellers Property Condition Disclosure Statement, in violation of Iowa Code sections 543B.29(2) and (3) and 543B.34(8) (1993) and Iowa Administrative Code Chapter 193E, sections 1.39(2)(b), and 4.40(10).

COUNT IV

The Respondent is charged with failing to provide supervision to the branch offices located in Boone, Iowa, and Dayton, Iowa, in violation of Iowa Code sections 543B.29(2) and (3) and 543B.34(8) (1993) and Iowa Administrative Code Chapter 193E, section 2.16.

CIRCUMSTANCES OF THE COMPLAINT

1. On September 14, 1994 Iowa Real Estate Commission Field Auditor J. Michael Sharp, examined the trust account records of Johnson and Sons, Inc. Daryl W. Johnson, designated broker in charge.
2. The audit found that the Respondent had managed properties without a written property management agreement with the owners.
3. A written escrow agreement was not obtained when all funds were not disbursed at closing in the Mike Hass transaction.
4. The buyers' signatures were not obtained on the Sellers Property Condition Disclosure Statement in the Hass Transaction.
5. On September 27, 1994, Iowa Real Estate Commission Field Auditor J. Michael Sharp, examined the trust account records of the branch office located at 817 8th Street, Boone, Iowa, and found violations of real estate license law and rules, and are incorporated by this reference and a copy of the Examination Interview Report is attached to this document.

A94-044

6. On September 27, 1994, Iowa Real Estate Commission Field Auditor J. Michael Sharp, examined the trust account records of the branch office located at 25 South Main Street, Dayton, Iowa, and found violations of real estate license law and rules, which are incorporated by this reference and a copy of the Examination Exit Interview is attached to this document.

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.


Roger L. Hansen, Executive Secretary
Iowa Real Estate Commission

cc. Pam Griebel, Assistant Attorney General

A94-044

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1918 SE HULSIZER
ANKENY, IOWA

IN RE:)	
)	
JOHNSON AND SONS, INC. (F00709))	CASE NUMBER: A94-044
Firm)	
)	STIPULATION AND
)	CONSENT ORDER
DARYL W. JOHNSON (B04891))	
Broker)	
)	
322 E. Walnut)	
Ogden, Iowa 50212)	
)	

On this 25 day of JANUARY, 1995, the Iowa Real Estate Commission and DARYL W. JOHNSON, 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 15th day of October, 1974, as evidenced by license number B04891 which is in full force and effect through December 31, 199 . During all material times Johnson and Sons, Inc. was a licensed real estate firm, as evidenced by licensed number F00709.
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.

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 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 A94-044.

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.

A94-044

This Stipulation and Consent Order is voluntarily entered into by the Firm on this 23RD day of December, 1994.

FOR THE FIRM:

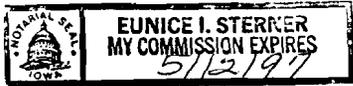


Johnson and Sons Inc.

State of Iowa)

County of Boone)

Signed and sworn to before me on this 23RD day of December, 1994, by



Notary Public, State of Iowa

Printed Name: Eunice I. Sterner

My Commission Expires: 5/12/97

This Stipulation and Consent Order is voluntarily entered into by the Broker on this 23RD day of December, 1994.

FOR THE BROKER:



Daryl W. Johnson Respondent/Broker

State of IOWA)

County of Boone)

Signed and sworn to before me on this 23rd day of December, 1994, by



Notary Public, State of Iowa

Printed Name: Eunice I. Sterner

My Commission Expires: 5/12/97

A94-044

A94-044

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

A94-044