

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

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IN RE:	)	
	)	
JOHNSON AND SONS, INC. (F00709)	)	CASE NUMBER: A94-046
Firm	)	
	)	STIPULATION AND
	)	CONSENT ORDER
E. ALAN JOHNSON (B04897)	)	
Broker Associate	)	
	)	
25 South Main	)	
Dayton, Iowa 50530	)	

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On this 12<sup>th</sup> day of APRIL, 1995, the Iowa Real Estate Commission and E. ALAN 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, 1992 as evidenced by license number B04897 which is in full force and effect through December 31, 1995.

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) (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.

IT IS THEREFORE 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 A94-046.

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 AND THE FIRM:

This Stipulation and Consent Order is voluntarily entered into by the Respondent on this 26 day of January, 1995.

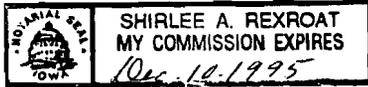


E. ALAN JOHNSON, Respondent  
Individually and on behalf of the firm.

State of Iowa

County of Boone

Signed and sworn to before me on this 26 day of January, 1995, by



Notary Public, State of Iowa

Printed Name: Shirlee A. Rexroat

My Commission Expires: Dec. 10, 1995

FOR THE COMMISSION:

This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission on the 12<sup>th</sup> day of April, 1995.



Jerry F. Duggan, Chairman  
Iowa Real Estate Commission

cc: Pam Griebel, Assistant Attorney General

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JOHNSON AND SONS, INC. (F00709)	)	
Firm	)	STATEMENT OF CHARGES
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E. ALAN JOHNSON (B04897)	)	
Broker	)	
	)	
25 S. Main	)	
Dayton, Iowa 50530	)	
	)	

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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.

JOHNSON AND SONS, INC., is and was at all material times during the following events, a licensed real estate firm, license number F00709, with a licensed branch office in Dayton, Iowa, license number F00709001.

E. ALAN JOHNSON is and was at all material times during the following events a licensed real estate broker officer, license number B04897, with JOHNSON AND SONS, INC.. He was and is additionally licensed, number B04897001, as the designated broker in charge of JOHNSON AND SONS, INC. branch office in Dayton, Iowa.

Iowa Administrative Code section 193E--2.14(7) imposes the same responsibilities of supervision for that location on a broker associate employed by or engaged to be in charge of the branch office as is imposed on the employing or sponsoring broker."

COUNT I

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).

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#### COUNT II

The Respondent is charged with failing to have monthly written bank reconciliation of the general ledger balance with the bank balance and with the individual ledger sheets to ensure agreement and failing to indicate the check number in the general and individual ledgers, in violation of Iowa Code sections 543B.29(3) (1993), and Iowa Administrative Code Chapter 193E, sections 1.27(6)(a)(1), 1.27(6)(a)(3), 1.27(6)(b) and 4.40(5).

#### COUNT III

The Respondent is charged with having a negative balance in the broker's equity funds in the trust account from 7-1-94 through 9-12-94, in violation of 543B.29(3) and 543B.46(4) and Iowa Administrative Code Chapter 193E, sections 1.27(1)(c) and 4.40(5).

#### CIRCUMSTANCES OF THE COMPLAINT

1. On September 27, 1994 Iowa Real Estate Commission Field Auditor J. Michael Sharp, examined the trust account records of Johnson and Sons, Inc. branch office in Dayton, Iowa.
2. Respondent is the designated broker in charge of the Dayton, Iowa branch office.
3. A written escrow agreement signed by all parties was not obtained when all funds were not disbursed at closing in a transaction.
4. Respondent did not have written bank reconciliation.
5. Respondent was not recording the check numbers on the general and individual ledgers.
6. The broker's equity account was under funded 7-1-94 through 9-12-94, resulting in trust funds being used to cover service charges.

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FINDING OF PROBABLE CAUSE

On December 14, 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 12<sup>th</sup> day of APRIL, 1995.



Roger Z. Hansen, Executive Secretary  
Iowa Real Estate Commission

cc. Pam Griebel, Assistant Attorney General

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