

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

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IN RE:	)	
	)	
	)	CASE NUMBER:94-023
JOHN E. CLAREY	)	
Broker (B17218)	)	STATEMENT OF CHARGES
	)	
725 Poplar Drive	)	
Sibley, Iowa. 51249-1047	)	

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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.

John E. Clarey is, and was at all times during the following events, a licensed real estate broker. His license number is B17218. John E. Clarey was the broker and officer of Clarey Farm Management Services, Inc., Sibley, Iowa. John E. Clarey is currently licensed as

COUNT I

1. The Respondent is charged with failing to comply with Stipulation and Consent Order in case # 90-073, in violation of Iowa Code sections 543B.29(3), 543B.34(2) and 272C.3(2)(a) (1993). The Stipulation and Consent Order is incorporated by this reference into this Statement of Charges and is attached.

CIRCUMSTANCES OF THE COMPLAINT

1. On April 22, 1993, the Commission accepted the Stipulation and Consent Order in case 90-073, which was signed by the Respondent, April 19, 1993.
2. A copy of the accepted Stipulation and Consent Order was sent to Respondent April 26, 1993.
3. The Respondent was ordered to submit a special report of audit for all real estate trust accounts under his control for the period beginning on January 1, 1990 and continuing through the acceptance date of the Stipulation by the Commission.

4. The audit was ordered conducted at the expense of the Respondent by a Certified Public Accountant licensed to practice in the state of Iowa.
5. The audit was ordered to be completed within sixty (60) days of acceptance of the Stipulation by the Commission, June, 22, 1993.
6. On July 21, 1993, a letter was sent to Respondent concerning the the \$500.00 civil penalty that was due May 22, 1993, the audit that was due June 22, 1993, and the additional continuing education that will be due September 22, 1993.
7. On August 25, 1993, the Commission recieved the \$500.00 civil penalty that was due May 22, 1993.
8. Respondent indicated in a letter recived by the Commission August 25, 1993, "My special audit of the trust account should be in your hands soon as I now also have enough funds for the CPA fee".
9. On November 16, 1993, a letter was sent to Respondent concerning the twelve hour broker prelicense course that was to be completed by August 22, 1993, and proof of compliance received by the Commission by September 22, 1993, and to inquire as to when the audit of the trust accounts would be done and to request specific information about the CPA to conduct the audit. Verbal communications from the Respondent indicated the audit would be completed by December 28, 1993.
10. On February 18, 1994, the Commission received Respondent's certificate of attendance for the addional education that was due September 22, 1993.
11. Respondent indicated in a letter received by the Commission February 18, 1994, "My CPA and I have had to cancel and schedule again several times...It is my plan to have this completed this month".
12. On May 31, 1994, Respondent sent a facsimile to the Investiagation Committee of the Iowa Real Estate Committee, which was made available to the Committee when the case was reviewed June 1, 1994.

Carey, John E.  
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FINDING OF PROBABLE CAUSE

On June 2, 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 18<sup>th</sup> day of AUGUST,  
1994.

  
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Roger L. Hansen, Executive Secretary  
Iowa Real Estate Commission

cc. Pam Griebel, Assistant Attorney General

AUG 18 1994

AUG 28 1994

BEFORE THE IOWA REAL ESTATE COMMISSION  
OF THE STATE OF IOWA

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IN THE MATTER OF:	)	
	)	
JOHN E. CLAREY	)	CASE NO. 94-023
Broker (B17218)	)	
	)	
725 Poplar Drive	)	STIPULATION AND
Sibley , Iowa 51249-1047	)	VOLUNTARY REVOCATION
	)	OF BROKER LICENSE
	)	NO. 17218
	)	

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On this 18<sup>th</sup> day of AUGUST, 1994, the Iowa Real Estate Commission and JOHN E. CLAREY, 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 license to practice real estate on the 6th day of June, 1986 evidenced by license number B17218 which is in full force and effect through December 31, 1994.
3. The Iowa Real Estate Commission has jurisdiction over the parties and the subject matter jurisdiction of 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) and 543B.34(2) (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 are 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 HEREBY ORDERED that the Respondent's Iowa Real Estate license (B17218) is revoked.

RESPONDENT ACKNOWLEDGES that license B17218 must be returned to the Iowa Real Estate Commission upon notification that this Stipulation has been accepted by the Commission. Iowa law allows him to reapply for an Iowa Real Estate license if revocation took place two years (or longer) prior to reapplication.

RESPONDENT ALSO ACKNOWLEDGES that a reapplication for an Iowa Real Estate license may or may not be granted by the Iowa Real Estate Commission and that the violations of law admitted herein may provide a basis for denial.

This Stipulation and Consent Order is voluntarily entered into by the Respondent on this 10th day of August, 1994.

[REDACTED]  
JOHN E. CLAREY, RESPONDENT

STATE OF: IOWA  
COUNTY OF: OSCEOLA

Signed and Sworn to before me on this 10th day of August, 1994.



[REDACTED]  
Notary Public, State of Iowa  
Printed Name: Kim M. Clark  
My Commission Expires: 12-21-96

This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission on the 18<sup>th</sup> day of AUGUST, 1994.

[REDACTED]  
Gerry F. Duggan, Chairman  
Iowa Real Estate Commission