

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

IN RE:)	
)	
JOHN E. CLAREY (B17218))	CASE NUMBER 90-073
)	
BROKER-ASSOCIATE)	STATEMENT OF CHARGES
)	

The Iowa Real Estate Commission has jurisdiction of this matter pursuant to Iowa Code Chapters 17A, 117, and 258A (1991).

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

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

COUNT I

The Respondent is charged with not reconciling to the individual ledgers in violation of Iowa Code sections 117.29(2), 117.29(3), and 117.34(8) (1990) and Iowa Administrative Code Chapter 193E, sections 1.27 and 4.40(5)(a) and (b).

COUNT II

The Respondent is charged with failing to maintain General and Individual ledgers in violation of Iowa Code sections 117.29(2), 117.29(3), and 117.34(8) (1990) and Iowa Administrative Code Chapter 193E, sections 1.27 and 4.40(5)(a) and (b).

COUNT III

The Respondent is charged with failing to maintain a Personal Funds Ledger, in violation of Iowa Code sections 117.46(4), 117.29(2), 117.29(3), 117.34(8) (1990) and Iowa Administrative Code Chapter 193E, sections 1.27 and 4.40(5).

COUNT IV

The Respondent is charged with failing to provide information to the Commission relating to a complaint within a reasonable time following the request for information in violation of Iowa Code sections 117.29(2), 117.29(3), 117.34(8) and 117.34(10) (1990) and Iowa Administrative Code Chapter 193E section 4.40(9).

CIRCUMSTANCES OF THE COMPLAINT

1. On June 6, 1990, auditor Ron Rasmussen of the Department of Inspections and Appeals examined the trust account of Respondent.

2. Auditor Rasmussen found that Respondent had not reconciled to the Individual Ledgers.

3. Auditor Rasmussen found that Respondent had not maintained the General Ledger and Individual Ledgers since March 24, 1990.

4. Auditor Rasmussen found that Respondent had not maintained a Personal Funds Ledger.

5. Auditor Rasmussen found an audit could not be completed until such time as incomplete records were updated.

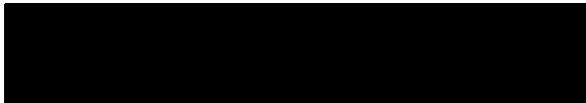
6. On July 11, 1990, Respondent was notified by letter to respond within 14 days by providing the specific information requested necessary to complete the audit of his trust account. Respondent failed to respond.

7. On October 25, 1990, Respondent was notified by certified mail that a disciplinary complaint had been opened against him and that he was to respond within 14 days. Respondent failed to respond.

FINDING OF PROBABLE CAUSE

On February 21, 1991 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.

Dated this 26th day of JANUARY, 1993.



Roger L. Hansen,
Executive Secretary
Iowa Real Estate Commission

6. If this Stipulation and Consent Order is approved by the Commission it will be filed and upon filing it will become a public record.

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 117.2(3) and 117.34(2) (1993).

9. This Stipulation and Consent order shall be presented to the Commission by the prosecuting attorney and/or Commission staff. Respondent waives any right of notice and any right which the Respondent might have to participate in the discussion of this Stipulation and Consent Order among Commission members, 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.

11. This Stipulation and Consent Order shall become effective on the date it is accepted by the Commission.

THEREFORE, IT IS HEREBY ORDERED that Respondent is REPRIMANDED.

IT IS FURTHER ORDERED that Respondent shall pay a civil fine to the Iowa Real Estate Commission in the amount of five hundred dollars (\$500.00) within thirty (30) days of acceptance of this stipulation by the Commission. The fine shall be delivered to the Executive Secretary of the Iowa Real Estate Commission, Roger Hansen, at the Commission's offices at 1918 S.E. Hulsizer, Ankeny, Iowa 50020.

IT IS FURTHER ORDERED that Respondent shall attend twelve hours of broker prelicense education in the area of trust accounts and closing procedures within 120 days of the acceptance of this Stipulation by the Commission which shall be in addition to the education required to maintain his license. The Respondent shall provide proof of his attendance at this course, within thirty (30) days of completion of the course, to the Executive Secretary of the Iowa Real Estate Commission, Roger Hansen, 1918 S.E. Hulsizer, Ankeny, Iowa 50020.

IT IS FURTHER ORDERED that the Respondent shall 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 this Stipulation within sixty (60) days of acceptance of this Stipulation by the Commission. The audit shall be conducted at the expense of the Respondent by an independent certified public accountant and shall meet the requirements of 193E Iowa Administrative Code section 1.38(3). The Commission reserves the right to file additional charges based on any additional irregularities which may be reflected in the audit report.

IT IS FURTHER ORDERED that at all future times Respondent shall fully and promptly comply with all pertinent orders of the Commission and all statutes and Commission rules regulating the practice of real estate.

The Respondent waives his right to hearing on these allegations and voluntarily enters into this Stipulation and Consent Order on this 19 day of April, 1993.


Respondent *J*

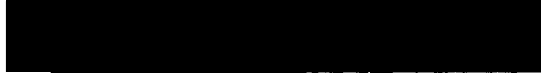
Subscribed and Sworn to before me on this 19th day of April, 1993.



 PAMELA J. VANDE HOEF
MY COMMISSION EXPIRES
10-10-93

This Stipulation and Consent Order is accepted by the
Iowa Real Estate Commission on the 22 day of

April, 1993.



Chairperson of the Iowa Real
Estate Commission