

COPY

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

IN RE:)	CASE NUMBERS: 91-032 & 92-019
)	
NORMAN G. HEATH (B04612))	
Broker)	STATEMENT OF CHARGES
)	
IOWALAND REALTY CORPORATION)	
North Front & Columbus Str.)	
Humeston, IA 50213)	

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.

Norman G. Heath is, and was at all times during the following events, a licensed real estate broker. His license number is B04612. Norman G. Heath is currently a broker and has been since March 27, 1973.

COUNT I

The Respondent is charged with disbursing \$1,000 from the trust without the informed written consent of all parties, in violation of 193E Iowa Administrative Code sections 1.27(2) and 4.40(6)b.

COUNT II

The Respondent is charged with disbursing \$5,000 from the trust account without the informed written consent of all parties in violation of 193E Iowa Administrative Code sections 1.27(2) and 4.40(6)(b).

COUNT III

The Respondent is charged with retaining a \$1,000 earnest money deposit by issuing a check from his trust account and payable to his business account in violation of Iowa Code sections 117.29(2) (3) and 117.34(8) (11) (1991) and 193E Iowa Administrative Code sections 1.27(2) and 4.40(6)(c).

COUNT IV

The Respondent is charged with retaining the \$5,000 earnest money deposit by issuing a check from his trust account payable to his business account, in violation of Iowa Code sections 117.29(2) (3), 117.34(8) (11) (1991) and 193E Iowa Administrative Code section 1.27(2) and 4.40(6)(c).

COUNT V

The Respondent is charged with failing to maintain complete trust account records by being unable to provide a copy of the \$1,000 check issued from the trust account, in violation of Iowa Code sections 117.29(2) (3), 117.34(8) (11) (1991) and 193E Iowa Administrative Code sections 1.27 and 4.40(5)(c).

COUNT VI

The Respondent is charged with failing to obtain a written Agency Disclosure Statement, in violation of Iowa Code sections 117.29(2) (3), 117.55 and 193E Iowa Administrative Code sections 1.37 and 1.37(1) (4).

CIRCUMSTANCES OF THE COMPLAINT

1. On April 5, 1990 Paul D. Campbell, a licensed salesperson with Iowaland Realty Corporation of Humeston, Iowa drafted an Offer to Purchase Agreement between Howard J. McDermott (seller) and Robert Johnson (buyer) for 318 acres located in Wayne County, Iowa.
2. The offer to purchase agreement indicates \$5,000 earnest money accompanied the offer.
3. On April 8, 1990 the offer was accepted by the seller, Howard J. McDermott.
4. Paul D. Campbell turned the \$5,000 earnest money over to Norman G. Heath, broker to be deposited into the trust account.
5. The transaction failed to close on March 10, 1991 as Johnson, the buyer, failed to appear.
6. On January 7, 1991 Respondent issued check number 149 from Iowaland Realty trust account in the amount of \$5,000 payable to his other company Iowaland Auction Service. The check was endorsed by Respondent and deposited in Iowaland Auction Service bank account.
7. Respondent did not obtain written consent from the parties to release funds from the trust account.

8. The Iowa Real Estate Commission received the complaint on June 7, 1991. June 27, 1991 an investigator from Inspections and Appeals wrote to the Respondent requesting information about the \$5,000 earnest money deposit.

9. August 30, 1991 Respondent issued check number 1229 from the Iowaland Auction Service payable to Elson and Fulton Trust in the amount of \$5,000, which was deposited into the attorney trust account September 3, 1991 where it remains.

10. On October 30, 1990 Respondent listed 335 acres in Wayne County, Russell Parsons, seller. The listing had an expiration date of January 1, 1990.

11. An offer from Robert Johnson (buyer) was drafted November 29, 1990 indicating \$1,000 earnest money accompanied the offer to be held by Iowaland Realty Corporation.

12. The offer was accepted by Russell Parsons on November 29, 1990 and the \$1,000 earnest money was deposited in the Iowaland Realty Trust Account on November 29, 1990.

13. On March 10, 1991 as the buyer, Robert Johnson, failed to appear.

14. It is indicated that at some point after the transaction failed to close, the Respondent disbursed the \$1,000 earnest money to his company Iowaland Auction Service.

15. Respondent did not obtain the written consent of the parties to release the funds from the trust account.

16. Respondent was unable to provide requested documentation of the \$1,000 check issued from the trust account payable to Iowaland Auction Service.

17. On December 12, 1991 Russell Parsons, seller, wrote to Respondent requesting the earnest money.

18. Information from Respondent's attorney, Robert L. Fulton, indicates Respondent deposited \$1,000 in the attorney trust account on December 27, 1991. No copy of the check was available.

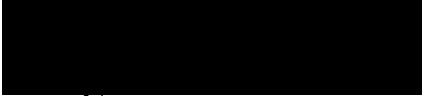
19. The Respondent's Purchase Agreement used in both transactions makes reference to the 1946 Code of Iowa in item number eleven.

20. No agency disclosure statement was obtained in either transaction.

FINDING OF PROBABLE CAUSE

On November 18, 1992 the Investigative Committee of 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 21st day of JANUARY, 1993.



Roger L. Hansen, Executive Secretary
for the Iowa Real Estate Commission

cc: Robert L. Fulton, Attorney
Sherie Barnett, Assistant Attorney General

BEFORE THE IOWA REAL ESTATE COMMISSION
OF THE STATE OF IOWA

COPY

IN THE MATTER OF:

NORMAN G. HEATH
Broker (B04612)
Respondent
N. Front Street & Columbus St.)
Humeston, Iowa

CASE NO. 91-032 AND 92-019

STIPULATION AND
CONSENT ORDER

On this 21st day of JANUARY, 1993, the Iowa Real Estate Commission and Norman G. Heath, 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 27th day of March, 1973 as evidenced by license number B04612 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 117.29(3), 117.34(11), and 258A.3(2)(a) (1991).

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's license to practice real estate is suspended for a period of two years effective on February 1, 1993.

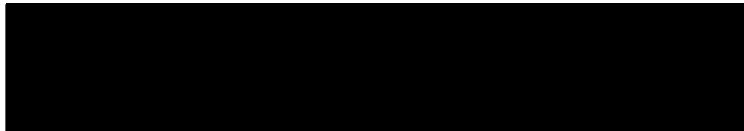
✓ IT IS FURTHER ORDERED that for the twelve month period beginning on February 1, 1993, through February 1, 1994, the Respondent shall not engage in any activities for which a license is required under Iowa Code chapter 117.

X IT IS FURTHER ORDERED that Respondent's suspension is hereby stayed during the twelve (12) month period beginning on February 2, 1994 through February 2, 1995, and Respondent is placed on probation through February 2, 1995.

✓
Sec. 100
IT IS FURTHER ORDERED that Respondent shall pay a reinstatement fee to the Iowa Real Estate Commission in the amount of five hundred dollars (\$500.00) by February 2, 1994. The reinstatement fee shall be delivered to the Executive Secretary of the Iowa Real Estate Commission at the following address: 1918 SE Hulsizer, Ankeny, Iowa 50021, before an active status license may be issued.

IT IS FURTHER ORDERED 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.

This Stipulation and Consent Order is voluntarily entered into by the Respondent on this 17 day of JAN, 1993.



Respondent

Subscribed and Sworn to before me on this 17th day of January, 1993.



Notary Public, State of Iowa

This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission on the 21st day of JANUARY, 1993.



E. Joe Ann Lutz, Chairperson
Iowa Real Estate Commission

cc: Robert L. Fulton
Attorney for Respondent

Sherie Barnett
Assistant Attorney General