

FILED

March 6 2014 (Date)

BEFORE THE IOWA REAL ESTATE COMMISSION
200 EAST GRAND, SUITE 350
DES MOINES, IOWA 50309

IAEC
Board / Commission
[Redacted Signature]
Signature Executive Officer

IN RE:)	
)	CASE NUMBER: 13-215
Martin Auction Service)	
1835 Brookville Road)	CONSENT AGREEMENT AND
Fairfield, IA 52556)	CEASE AND DESIST ORDER
)	
Respondent.)	
)	

The Iowa Real Estate Commission (Commission) and **Martin Auction Service** (Respondent), enter into this Cease and Desist Order by Consent Agreement (Agreement), pursuant to Iowa Code Iowa Code sections 543B.7(5) & 543B.34(3) and 193E Iowa Administrative Code section 21.9.

1. Respondent, **Martin Auction Service**, is an unlicensed entity performing auction services, located in Fairfield, Iowa.

2. Iowa Code section 543B.3 (2011 & 2013) provides that a real estate broker includes anyone who “[l]ists, offers, attempts, or agrees to list real estate for sale, exchange, purchase, rent, or lease” and/or “[a]ssists or directs in the procuring of prospects, intended to result in the sale, exchange, purchase, rental, or leasing of real estate.” Unless expressly exempted, any person who provides real estate brokerage services in the State of Iowa must be licensed by the Commission. See Iowa Code §§ 543B.1, 543B.7 (2011 & 2013).

3. Iowa Code section 543B.7(5) (2012 Supp. & 2013) provides that an “auctioneer shall provide in any advertising the name and address of the real estate broker who is providing brokerage services for the transaction and the name of the real estate broker, attorney, or closing company who is responsible for closing the sale of the property.” Furthermore, if investigation reveals that an auctioneer has violated Iowa Code section 543B.7(5), or has assumed to act in the capacity of a real estate broker or real estate salesperson, “the real estate commission shall issue a cease and desist order, and shall impose a penalty of one thousand dollars for the first offense” Iowa Code § 543B.7(5)(c) (2012 Supp. & 2013).

4. A complaint investigation conducted by Commission staff revealed that the Respondent violated Iowa Code §§ 543B.7(5)(a)(1) & 543B.7(5)(b)(2) (2012 Supp.) when it failed to provide the name of party responsible for closing the sale of the property in advertising for a public auction it conducted and when it independently hosted an open house for the subject properties located at 306 E Kirkwood, Fairfield, Iowa and 1005 & 1009 South 5th

Street, Fairfield, Iowa in August 2013. Without admission of wrongdoing or guilt, the Respondent does not contest this finding.

5. The Commission is authorized by statute to commence legal proceedings to secure compliance with Iowa Code chapter 543B. See Iowa Code §§ 543B.7(5), 543B.34, 543B.44, 543B.49. The Respondent acknowledges and agrees that the Commission has jurisdiction over those actions by unlicensed persons that fall within the prohibitions described in Iowa Code sections 543B.(7)(5) and 543B.34. Pursuant to 193E Iowa Administrative Code section 21.9, the parties find that an informal resolution of this matter is appropriate, as an alternative to the administrative process described in 193E Administrative Code chapter 21.

6. The Respondent acknowledges that it is prohibited from practicing real estate in the State of Iowa without a license issued pursuant to Iowa Code chapter 543B unless otherwise exempted by law. See Iowa Code § 543B.7. Furthermore, the Respondent acknowledges that it and its employees and agents must comport with all provision of Iowa Code section 543B.7(5) when conducting public auctions in the state of Iowa. The Respondent agrees that in the future it and its employees and agents will not act in violation of Iowa Code section 543B.7(5).

7. The Respondent voluntarily submits this Agreement to the Commission for its consideration. By entering into this Agreement, the Respondent acknowledges and voluntarily waives its right to adjudicate the merits of the violation detailed above in paragraph 4 through the commencement of a contested case proceeding before the Commission, and all rights attendant to a contested case proceeding including the right to seek judicial review of the Commission's actions.

8. The Commission has authority to seek an injunction in district court and/or to initiate a process to impose further civil penalties against the Respondent pursuant to Iowa Code sections 543B.7(5)(c), 543B.34, 543B.44 and 543B.49 in the event the Respondent commits future violations of Iowa Code chapter 543B. This Agreement may be considered by the Commission in determining the nature and severity of any disciplinary action to be imposed upon the Respondent for any future violations of the laws and rules governing the practice of real estate.

9. This Agreement is not binding on the Iowa Real Estate Commission until it has been formally approved. If the Commission fails to approve this Agreement, it shall be of no force or effect on either party.

10. This Agreement shall be a public record available for inspection and copying in its entirety in accordance with the requirements of Iowa Code chapter 22.

CONSENT AGREEMENT

IT IS THEREFORE AGREED:

11. CEASE AND DESIST. The Respondent shall cease and desist from any future violation of Iowa Code chapter 543B.

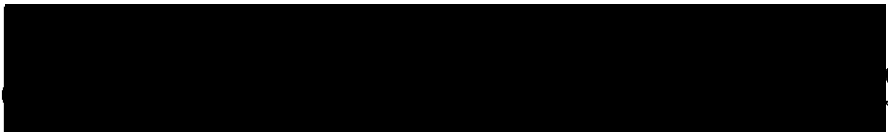
12. CIVIL PENALTY. The Respondent shall pay a civil penalty to the Commission in the amount of one thousand dollars (\$1,000.00) no later than one hundred and eighty (180) calendar days after acceptance of this Cease and Desist Order by the Commission. The civil penalty must come under a cover letter addressed to the Commission's Executive Officer and refer to Case 13-215.

13. FUTURE COMPLIANCE. The Respondent shall at all future times fully and promptly comply with all pertinent Orders of the Commission and the statutes and Commission rules regulating the practice of real estate including, but not limited to, Iowa Code section 543B.7(5).

WHEREFORE, the terms of this Consent Agreement and Cease and Desist Order are agreed to and accepted by the Iowa Real Estate Commission and the Respondent.

FOR THE RESPONDENT:

Voluntarily agreed to and accepted by Martin Auction Service on this 3 day of February, 2014.

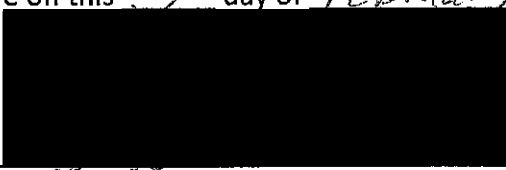


By: **MARTIN AUCTION SERVICE**, Respondent

State of Iowa

County of Jefferson

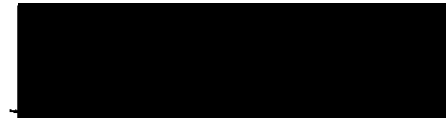
Signed and sworn to before me on this 3 day of February, 2014, by:



Notary Public, State of Iowa
Printed Name: Jane A. Scott
My Commission Expires: 1-6-2017

FOR THE COMMISSION:

6 ¹⁵ Voluntarily agreed to and accepted by the **IOWA REAL ESTATE COMMISSION** on this
day of March, 2014.



SUSAN J. SANDERS, Chair
Iowa Real Estate Commission