

BEFORE THE IOWA REAL ESTATE COMMISSION  
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ANKENY, IOWA

COPY

IN RE: )

BRIAN E. MARTIN )  
Broker Associate (B34319) )

WHY USA ADVANTAGE REALTY )  
3915 CENTER POINT RD NE )  
CEDAR RAPIDS, IA 524026404 )

CASE NUMBER: 03-100

STATEMENT  
OF  
CHARGES

The Iowa Real Estate Commission has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 543B, and 272C (2003).

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

**BRIAN E. MARTIN** was at all material times, during the following events, a licensed broker associate with Why USA Advantage Realty, a licensed real estate firm (F03525) in Cedar Rapids, Iowa. His license, number B34319 expired 12-31-2002, was reissued July 14, 2003, and is in full force and effect through 12-31-2005.

COUNT I

The Respondent is charged with engaging in practice harmful or detrimental to the public by conducting real estate activities that require a license with an expired license, in violation of Iowa Code sections 543B.1, 543B.28, 543B.29(3), and 543B.34(1) (2003), and Iowa Administrative Code Chapter 193E, section 18.14(5)(s).


### CIRCUMSTANCES OF THE COMPLAINT

1. The Respondent was aware that the license was to expire December 31, 2002 and lacked continuing education required to renew to active status. Due to the time frame, the Respondent planned to substitute the broker examination to substitute for the continuing education, but failed to pass the examination.
2. The Respondent failed to renew the license and the license expired on December 31, 2002.
3. On or about June 30, 2003, Respondent's broker advised the license had expired. Upon becoming aware of the oversight, the Respondent ceased all real estate activities and arranged to take the additional continuing education course needed to reinstate the expired license to active status.
4. The completed application and fee were filed with the commission and the license was reinstated effective July 14, 2003.
5. Between December 31, 2002 and approximately June 30, 2003 the Respondent continued to practice real estate and engaged in activities that require a valid active license.

### FINDING OF PROBABLE CAUSE

On January 15, 2004 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 6<sup>th</sup> day of May, 2004.

  
\_\_\_\_\_  
Roger L. Hansen, Executive Officer  
Iowa Real Estate Commission



8. 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.

9. 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) (2001).

10. 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.

11. 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 ORDERED that the Respondent is **Reprimanded**.

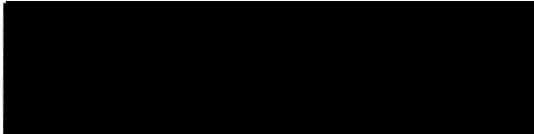
IT IS FURTHER ORDERED that the Respondent shall pay a civil penalty in the amount of \$ 500 within thirty (30) days of acceptance of this Stipulation and Consent Order by the Commission and come under a cover letter addressed to the Commission's Executive Officer and refer to case 03-100.

IT IS FURTHER ORDERED that the Respondent shall personally attend the eight (8) hour Commission approved continuing education course "Real Estate Law and Agency Law." These hours shall be in addition to any real estate continuing education required by law for license renewal. The original certificate of attendance must be submitted to the Iowa Real Estate Commission within twelve (12) 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 Officer and must refer to case 03-100.

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.

**FOR THE RESPONDENT:**

This Stipulation and Consent Order is voluntarily entered into by **BRIAN E. MARTIN** on this 6th day of APRIL, 2004.



**BRIAN E. MARTIN**, Respondent

State of IOWA )

County of LINN )

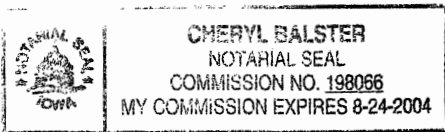
Signed and sworn to before me on this 6th day of APRIL, 2004, by



Notary Public, State of Iowa

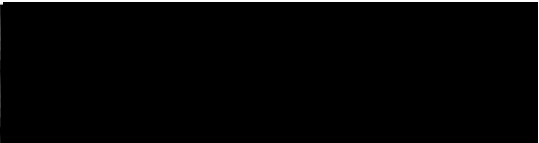
Printed Name: CHERYL BALSTER

My Commission Expires: 8-24-2004



**FOR THE COMMISSION:**

This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission on this 6th day of MAY, 2004.



**James E. Hughes**, Chair  
Iowa Real Estate Commission