BEFORE THE IOWA REAL ESTATE COMMISSION 1920 SE HULSIZER ANKENY, IOWA

IN RE:)) CASE NUMBER: 03-100
BRIAN E. MARTIN)
Broker Associate (B34319)	STATEMENT
	OF
WHY USA ADVANTAGE REALTY	CHARGES
3915 CENTER POINT RD NE	
CEDAR RAPIDS, IA 524026404	
)

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).

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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 day of May, 2004.

Roger L. Hansen, Executive Officer

Iowa Real Estate Commission

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

IN RE:)) CASE NUMBER: 03-100
BRIAN E. MARTIN)
Broker Associate (B34319)) STIPULATION) AND
WHY USA ADVANTAGE REALTY	ORDER ORDER
3915 CENTER POINT RD NE	
CEDAR RAPIDS, IA 524026404)
)

On this day of may, 2004, the Iowa Real Estate Commission and BRIAN E. MARTIN, 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 has a right to a hearing on the charges, but waives the right to hearing and all attendant rights, including the right to appeal, by freely and voluntarily agreeing to this Order. Once entered, this Order shall have the force and effect of a disciplinary order entered following a contested case hearing.
- 3. The Respondent was issued a real estate broker license on September 29, 1997, expired 12-31-2002, was reissued July 14, 2003, and is in full force and effect through December 31, 2005.
- 4. The Iowa Real Estate Commission has jurisdiction over the parties and subject matter jurisdiction over each allegation in the Statement of Charges.
- 5. A Statement of Charges will be filed against Respondent together with this voluntary Stipulation and Consent Order.
- 6. Respondent admits the allegations in the charges, but agrees to resolve the charges by entering into this Consent Order.
- 7. 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.

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- 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.

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FOR THE RESPONDENT:

This Stipulation and Consent Order is vo	luntarily entered into by BRIAN E. MARTIN on, 2004.
·	BRIAN E. MARTIN, Respondent
State of <u>IOWA</u>)	
County of LINN	
Signed and sworn to before me on this	s bith day of ARRIC . 2004. by
and the state of t	Notary Mublic, State of Iowa
CMERYL BALSTER NOTABIAL SEAL	Printed Name: <u>ONERUL BAUSTER</u>
COMMISSION NO. 198066 MY COMMISSION EXPIRES 8-24-2004	My Commission Expires: 9-24-2CC+
	,
FOR THE COMMISSION:	
on this day of May	Order is accepted by the Iowa Real Estate Commission, 2004.
	James E. Hughes, Chair
•	Jowa Real Estate Commission