

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

IN RE:

DOUGLAS W. SKARIN
Broker (B16949)

CAPITAL MANAGEMET SERVICES , INC
36 SOUTH MAIN STREET
DENISON, IA 51442

CASE NUMBER: 02-101

STATEMENT
OF
CHARGES

The Iowa Real Estate Commission has jurisdiction of this matter pursuant to Iowa Code chapter's 17A, 543B, and 272C (2001, 2003).

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

Douglas W. Skarin was at all material times during the following events, a licensed Broker Officer in charge of Capital Management Services, Inc. a licensed real estate firm, license number F02312, in Denison, Iowa. His license, number B16949 issued October 25, 1979, is in full force and effect through December 31, 2003.

COUNT I

The Respondent is charged with engaging in numerous practices involving his trust account which are harmful or detrimental to the public, in violation of Iowa Code sections 543B.29(3) (practice harmful or detrimental to the public), and 543B.34(7) 2001 and 193E--IAC sections 1.27(6)(b), 1.27(7) and 4.54(5), 4.54(6)(a) & (b), and (19), including the following:

- a. failing to immediately replace a shortage of over \$ 4,000 in his trust account upon discovery,
- b. allowing individual ledgers to reflect negative balance,
- c. commingling earnest money deposits and other trust funds belonging to others to cover the shortage, and
- d. transferring funds from one transaction ledger to cover the shortage in another transaction ledger, without the written authorization of the owner.

02-101

CIRCUMSTANCES OF THE COMPLAINT

1. On March 18, 2002, Jane Pagel, an agent for Respondent, listed property known as Applewood Knolls Apartments, owned by Applewood Development Corporation, located in Carroll, Iowa for \$ 1,380,000. The same day an offer by American Heritage LLC for \$ 1,380,000 with \$10,000 earnest money was accepted. Pagel is listed as selling agent.
2. After several extensions, the transaction closed October 1, 2002. Agent Pagel, a licensed salesperson since March 30, 2001, attended the closing, the Respondent did not attend. At the closing, the buyer and seller agreed to escrow \$ 4000 for potential furnace repairs resulting from yet to be completed inspections. On October 1, 2001, an additional check # 4626 was written on the Respondent's real estate trust in the amount of \$ 4000 and payable to Neu Law Firm Trust. The seller's proceeds check was not reduced \$ 4000, which resulted in a negative balance in the individual ledgers.
3. On or about November 6, 2002, the Respondent had become aware of the \$4000 shortage, but did not replace the funds. Trust funds in the account belonging to others were used to cover the \$ 4000 shortage from October 1, 2001 to November 8, 2001.
4. Respondent supplied individual ledgers for the Applewood Development Corporation/American Heritage transaction and the Hillside Apartments/ American Heritage transaction. Ledger entries dated November 8, 2001, show a \$ 4000 transfer payment from the Hillside transaction and credited to the Applewood transaction. The Respondent did not obtain written authorization from the buyer or seller to release funds from the Hillside transaction prior to closing.
4. On January 20, 2002, a \$4000 check from Applewood Development Corporation was deposited and credited to the Applewood transaction. A transfer payment was entered crediting the \$ 4000 back to the Hillside transaction.

FINDING OF PROBABLE CAUSE

On February 27, 2003 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 17th day of April, 2003.


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) (2003).

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 personally attend the eight (8) hour Commission approved continuing education course "Iowa Real Estate Trust Accounts." 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 thirteen (13) 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 Secretary and must refer to case 02-101.

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 **Douglas W. Skarin** on this 16th day of April, 2003.

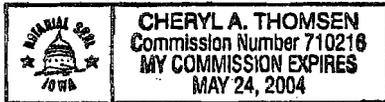


Douglas W. Skarin, Respondent

State of Iowa

County of Crawford

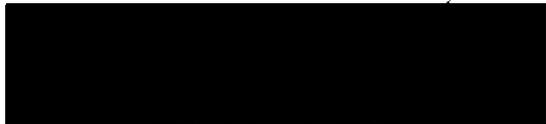
Signed and sworn to before me on this 16th day of April, 2003, by



Notary Public, State of Iowa
Printed Name: Cheryl A. Thomsen
My Commission Expires: 5-24-04

FOR THE COMMISSION:

This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission on this 17th day of APRIL, 2003.



James E. Hughes, Chair
Iowa Real Estate Commission