

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

IN RE:)	
)	
)	CASE NUMBER: 01-091
DAVID M. BLESZ)	
Salesperson (S23965))	STATEMENT OF
)	CHARGES
REMAX A-1 BEST REALTORS)	
2940 104 TH STREET)	
DES MOINES, IA 50322)	

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

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

DAVID M. BLESZ was at all material times, during the following events, a licensed salesperson with Metro Realty Inc., a licensed real estate firm (F04028) in Des Moines, Iowa. His license, number S23965 is in full force and effect through 12-31-2002.

COUNT I

The Respondent engaged in an unethical practice which is harmful or detrimental to the public, and knowingly made a misleading, deceptive, or untrue representation in the practice of real estate by preparing an addendum to an offer to purchase which, on its face, causes representations in the body of the offer to be untrue and possibly hidden from persons making underwriting decisions on the secondary market, in violation of Iowa Code sections 543B.29(3) and 543B.34(1) (2001), and 193E IAC 1.20 and 4.54(19).


CIRCUMSTANCES OF THE COMPLAINT

1. On or about July 1, 2001, the property located at 1304 Boyd Street, Des Moines, was listed by First Realty, Des Moines, for \$75,900. On or about August 21, 2001, Respondent prepared an offer on the property for \$86,360, with \$100 earnest money, and contingent upon terms contained in Item "F" of the offer, the seller carrying back a 30 year second mortgage in the amount of \$8,536 at 7% with a 5 year balloon and the seller to pay \$3000 buyer's closing costs. An addendum to the purchase agreement provide as follows: "Both buyer and seller agree and understand that the 2nd mortgage is a forgivable 2nd mortgage and that the buyers will never make any payments and the seller will never collect any money on this 2nd mortgage."
2. The price was changed to \$86,700 and on or about August 29, 2002, the Respondent presented the offer to the listing agent and seller. The listing agent consulted the brokerage manager concerning the financing terms of the offer. The brokerage corporate attorney was contacted and advised not to participate in the transaction with the financing terms as offered. The listing was canceled. Respondent, acting as dual agent, entered into a 24-hour listing agreement with the seller with a listing price of \$86,900. Respondent prepared an offer for \$92,000, later changed to \$91,000, with \$100 earnest money, and provisions in Item "F" as follows: "Seller to cary a 2nd mortgage in the amount of \$13,800 amortized over a 30 year period at 7% with a 5 year balloon." The offer included an addendum that provided the forgivable 2nd mortgage and that the buyers will never make any payments and the seller will never collect any money on this 2nd mortgage. The transaction closed October 10, 2001.
3. The addendum was not referenced in the purchase agreement and drafted only for the purpose of deception. As a result, the buyer qualified for a 80% mortgage with actually nothing down, based upon showing 20% equity that did not exist. The addendum could become detached when the mortgage is sold in the secondary market, falsely giving the appearance of equity.
4. Designing an offer which includes an immediately forgivable second mortgage under conditions where the true terms of the mortgage may not be fully disclosed raises numerous consumer and business issues including inflated property values, potentially misleading declarations of value forms in public records, potentially unforeseen tax consequences for a buyer and seller, and possible deception in the secondary market.

FINDING OF PROBABLE CAUSE

On June 06, 2002 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 29th day of AUGUST, 2002.


Roger L. Hansen, Executive Secretary
Iowa Real Estate Commission

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

IN RE:)	
)	
DAVID M. BLESZ)	CASE NUMBER: 01-091
Salesperson (S23965))	
)	STIPULATION
REMAX A-1 BEST REALTORS)	AND
2940 104 TH STREET)	ORDER
DES MOINES, IA 50322)	

On this 29th day of AUGUST, 2002, the Iowa Real Estate Commission and DAVID M. BLESZ, 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 salesperson license on April 26, 1985, which is in full force and effect through December 31, 2002.

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 does not admit 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.

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 \$1,000 within thirty (30) days of acceptance of this Stipulation and Consent Order by the Commission.

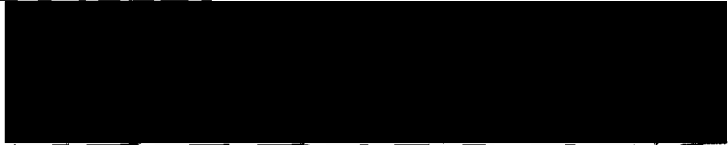
IT IS FURTHER ORDERED that Respondent shall immediately cease misleading or potentially deceptive practices in drafting offers to purchase, and shall, in particular, assure that representations concerning seller financing in the body of an offer to purchase are genuine and not designed to create the impression of an inflated property value for the purpose of qualifying a buyer for financing or other potentially deceptive purpose.

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.

01 091

FOR THE RESPONDENT:

This Stipulation and Consent Order is voluntarily entered into by **DAVID M. BLESZ** on this 22nd day of August, 2002.



DAVID M. BLESZ, Respondent

State of IOWA)

County of POLK)

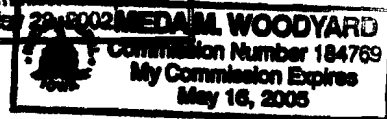
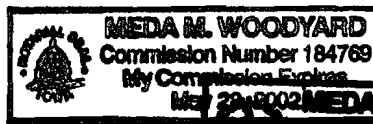
Signed and sworn to before me on this 22nd day of August, 2002, by



Notary Public, State of Iowa

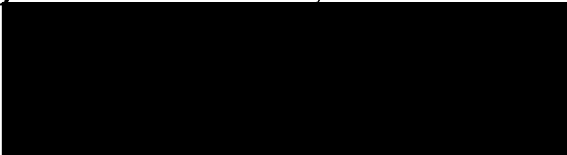
Printed Name: Meda M. Woodyard

My Commission Expires: 5-16-2005



FOR THE COMMISSION:

This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission on this 29th day of AUGUST, 2002.



James E. Hughes, Chair
Iowa Real Estate Commission