

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

| | | |
|---------------------------|---|---------------------|
| IN RE: |) | |
| |) | |
| BRIAN E MARTIN |) | CASE NUMBER: 99-085 |
| Broker Associate (B34319) |) | |
| |) | STATEMENT OF |
| |) | CHARGES |
| WHY USA ADVANTAGE REALTY |) | |
| 3915 CENTER PT. RD. N E |) | |
| CEDAR RAPIDS, IA 52402 |) | |
| |) | |

The Iowa Real Estate Commission has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 543B, and 272C (1999).

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, an inactive status broker associate or licensed with Why USA Advantage Realty, a licensed real estate firm, license number F03525, in Cedar Rapids, Iowa. His license number is S34319.

COUNT I

The Respondent is charged with failing to carry mandatory error and omissions insurance, in violation of Iowa Code sections 543B.29(9) and 543B.47 (1999), and 193E IAC sections 2.15(7), 4.54(4)(f), (19), and chapter 6.

99-085

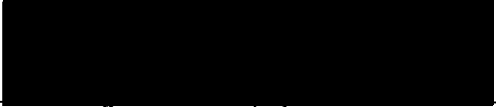
CIRCUMSTANCES OF THE COMPLAINT

1. Commission records indicate that the Respondent was not in compliance with the error and omissions insurance requirement between January 1, 1999 and November 23, 1999.
2. Respondent failed to comply with the requirement and did not respond to three computer generated letters from the Commission providing lapse notification.
3. The Respondent was aware of the insurance requirement and as a licensee, he had the responsibility to obtain the coverage and comply with this requirement.

FINDING OF PROBABLE CAUSE

On March 2, 2000 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 16th day of AUGUST, 2000.



Roger L. Hansen, Executive Secretary
Iowa Real Estate Commission

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| IN RE: |) | |
| |) | |
| |) | CASE NUMBER: 99-085 |
| BRIAN E MARTIN |) | |
| Broker Associate (B34319) |) | STIPULATION |
| |) | AND |
| WHY USA ADVANTAGE REALTY |) | CONSENT ORDER |
| 3915 CENTER PT. RD. N E |) | |
| CEDAR RAPIDS, IA 52402 |) | |

On this 16th day of AUGUST, 2000, 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 as evidenced by license number B34319, 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. The Respondent admits each and every allegation in the Statement of Charges.

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) (1999).

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 \$ 250.00 to the Commission within thirty (30) days of acceptance of this Stipulation and Consent Order by the Commission.

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 voluntarily entered into by BRIAN E MARTIN on this 26th day of July, 2000.

[Redacted Signature]

BRIAN E MARTIN, Respondent

State of IOWA)

County of LINN)

Signed and sworn to before me on this 26th day of July, 2000, by

[Redacted Signature]

Notary Public, State of Iowa

Printed Name: David E. Pitts

My Commission Expires: 12-18-01

FOR THE COMMISSION:

This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission on this 16th day of AUGUST, 2000.

[Redacted Signature]

Evelyn M. RANK

~~Russell D. Nyding~~, Chair
Iowa Real Estate Commission

cc: Pam Griebel, Assistant Attorney General