

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

| | | |
|----------------------------------|---|---------------------|
| IN RE: |) | |
| |) | |
| |) | CASE NUMBER: 00-083 |
| DOUGLAS W. SKARIN |) | |
| Broker (B16949) |) | STATEMENT OF |
| |) | CHARGES |
| CAPITAL MANAGEMENT SERVICES INC. |) | |
| 36 S MAIN STREET |) | |
| DENISON, IA 51442 |) | |

The Iowa Real Estate Commission has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 543B, and 272C (1999 and 2001).

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 Offer and designated broker in charge of Capital Management Services, Inc, a licensed real estate firm (F02312) in Denison, Iowa. His license, number B16949 is in full force and effect through 12-31-2003.

COUNT I

Respondent, as the designated broker, is charged with failing to properly supervise the brokerage and engaging in a practice harmful or detrimental to the public by allowing a licensee employed by or otherwise associated with the brokerage to inappropriately withhold prompt presentation of an offer to purchase to the seller without proper written direction from the buyer, in violation of Iowa Code sections 543B.29(3) (practice harmful or detrimental to the public) and 543B.56(1)(a) and (1)(b) (1999) and 193E IAC sections 1.26(543B), 1.28(2), and 4.54(13).

CIRCUMSTANCES OF THE COMPLAINT

1. On March 8, 2000, Dennis Nepl, on behalf of Skarin Real Estate, listed property located at 111 South 26th Street, Denison, Iowa, for \$52,000.
2. On or about May 2, 2000, an offer was prepared on the property with Sue Davis as buyer, for \$47,000. The offer provided for \$100 earnest money and an expiration date in seven days. Davis provided an earnest money check dated May 3, 2000.
3. Respondent signed the Davis offer as broker. Selling agent Warren Skarin advised Respondent that the offer could not be presented because Davis had verbally requested that the check held until she had sufficient funds to cover it. There is nothing in the Davis offer to indicate that the earnest money is anything other than cash or immediately cashable check. Respondent erroneously allowed the offer to be held knowing written documentation to do so had not been obtained from the buyer.
4. On or about May 16, 2000, Agent Nepl prepared an offer on the property for \$46,500 with Markita Mujica as buyer. The Davis and the Mujica offers were presented at the same time, on or about May 17, 2000. The Mujica offer was accepted and the Davis offer was rejected. The Davis offer was not presented until approximately eight days after the offer had expired. At some point in the process the date on the Davis earnest money check was changed from May 3 to May 13 and Warren Skarin's name was written on the Davis offer as selling agent.

FINDING OF PROBABLE CAUSE

On August 09, 2001 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 20th day of SEPTEMBER, 2001.


Roger L. Hansen, Executive Secretary
Iowa Real Estate Commission

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| IN RE: |) | |
| |) | |
| DOUGLAS W. SKARIN |) | CASE NUMBER: 00-083 |
| Broker (B16949) |) | |
| |) | STIPULATION |
| |) | AND |
| |) | ORDER |
| CAPITAL MANAGEMENT SERVICES INC. |) | |
| 36 S MAIN STREET |) | |
| DENISON, IA 51442 |) | |

On this 20th day of SEPTEMBER, 2001, the Iowa Real Estate Commission and DOUGLAS W. SKARIN, 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 October 25, 1979 which is in full force and effect through December 31, 2003.

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) (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 \$ 500.00 to the Commission within thirty (30) days of acceptance of this Stipulation and Consent Order by the Commission.

IT IS FURTHER ORDERED that the Respondent shall personally attend the eight (8) hour Commission approved continuing education course "Contract Law and Contract Writing." 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 00-083.

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 17th day of September, 2001.

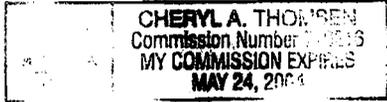


DOUGLAS W. SKARIN, Respondent

State of Iowa)

County of Carroll)

Signed and sworn to before me on this 17th day of September, 2001, by



Notary Public, State of Iowa
Printed Name: Cheryl A. Thomsen
My Commission Expires: 5-24-03

FOR THE COMMISSION:

This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission on this 20th day of SEPTEMBER, 2001.



Robert J. Miller, Chair
Iowa Real Estate Commission

cc: Pam Griebel, Assistant Attorney General