

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

IN RE:)

Firm:)

AL MARTIN REAL ESTATE, INC)
(F02243))

CASE NUMBER: A99-002

Broker:)

JAMES P. KOSMAN (B12120))

Broker)

307 Church Street)

Ottumwa, Iowa 525014212)

STATEMENT OF

CHARGES

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.

JAMES P. KOSMAN (B12120), was at all material times during the following events, a licensed real estate broker officer and designated broker in charge AL MARTIN REAL ESTATE, INC a licensed real estate firm, license number F02243, in Ottumwa, Iowa.

COUNT I

The Respondent, is charged with engaging in a practice harmful or detrimental to the public by preparing an inaccurate closing statement that resulted in the trust account being over drawn, in violation of Iowa Code section 543B.29(3) (engaging in a practice harmful or detrimental to the public) 543B.29 (10) and 543B.46 (1997), and 193E IAC sections 1.27(6), 1.28, and 4.40(6).

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CIRCUMSTANCES OF THE COMPLAINT

1. On March 2, 1999, Iowa Real Estate Commission Field Auditor Frank Hansen, conducted an audit of the trust account records of Al Martin Real Estate, Inc., Ottumwa, Iowa.
2. The audit found an \$ 880.48 shortage in the trust account on 7-11-97, after the Larry B. Seals and Dixie L. Parker/ Wilma McCall transaction that closed.
3. The Respondent discovered the closing statement was in error, which caused the resulting shortage. His attempts to gain recovery from the sellers were unsuccessful. Although the sellers indicated that they would cover the \$ 880.48, no payment was received.
4. The Respondent did not deposit \$ 880.48 to correct the shortage until 2-23-99.

FINDING OF PROBABLE CAUSE

On April 22, 1999 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 1st day of JULY, 1999.



Roger L. Hansen, Executive Secretary
Iowa Real Estate Commission

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IN RE:)	
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Firm:)	
AL MARTIN REAL ESTATE, INC)	CASE NUMBER: A99-002
(F02243))	
)	
Broker:)	STIPULATION AND
JAMES P. KOSMAN (B12120))	CONSENT ORDER
Broker)	
)	
307 Church Street)	
Ottumwa, Iowa 525014212)	

On this 1st day of JULY, 1999, the Iowa Real Estate Commission, and JAMES P. KOSMAN, as officer/broker designated in charge of AL MARTIN REAL ESTATE, INC., 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. Respondent has a right to a hearing on the charges, but waives his right to a 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 contested case hearing.

2. Respondent, Al Martin Real Estate, Inc. was issued a firm license on January 12, 1984 as evidenced by license number F02243, which is in full force and effect through December 31, 2000. Respondent James P. Kosman, was issued an officer/broker license to practice real estate on March 8, 1983 as evidenced by license number B12120, which is in full force and effect through December 31, 2000.

3. The Iowa Real Estate Commission has jurisdiction over the parties and subject matter jurisdiction over each allegation in the Statement of Charges.

4. A Statement of Charges will be filed against Respondent together with this voluntary Stipulation and Consent Order.

5. Respondent admits each and every allegation in the Statement of Charges.

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6. 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.

7. 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.

8. 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).

9. 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.

10. 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 HEREBY ORDERED that the Respondent is Reprimanded.

IT IS FURTHER ORDERED that the Respondent shall personally take eight (8) hours of real estate continuing education in "Iowa Real Estate Trust Accounts," the course must be approved as a "Broker Pre-License Course." These hours may be used for other real estate continuing education required by law for license renewal. Original certificate of attendance must be submitted to the Iowa Real Estate Commission within six (06) 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 A99-002.

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 FIRM:

This Stipulation and Consent Order is voluntarily entered into by the Respondent on this 14th
day of June, 1999.



JAMES P. KOSMAN, Respondent

State of Iowa)

County of Wapello)

Signed and sworn to before me on this 14th day of June, 1999, by



Notary Public, State of Iowa

Printed Name: Diana L Baker

My Commission Expires: 01-11-02

FOR THE COMMISSION:

This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission
on the 15th day of JULY, 1999.



RUSSELL D. NADING, Chair
Iowa Real Estate Commission