

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

IN RE:)	
)	
)	CASE NUMBER: 99-023
JAMES L MITCHELL)	
Salesperson (S07550))	STIPULATION
)	AND
)	CONSENT ORDER
IOWA REALTY CO INC (F00710))	
3501 WESTOWN PKY)	
WEST DES MOINES IA 502661007)	
)	
)	

On this 19th day of AUGUST, 1999, the Iowa Real Estate Commission and JAMES L MITCHELL, each hereby agrees 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 license on November 21, 1973 as evidenced by license number S07750, which is in full force and effect through December 31, 2001.

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 HEREBY ORDERED that the Respondent is **Reprimanded**.

IT IS FURTHER ORDERED that the Respondent shall pay a civil penalty in the amount of \$ 750.00 (representing \$500.00 for subleasing the property without the owner's consent and \$250.00 for conducting real estate business and accepting a fee from other than the Respondent's broker.) 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.

FOR THE RESPONDENT:

This Stipulation and Consent Order is voluntarily entered into by JAMES L MITCHELL on this 12 day of JULY, 1999.



JAMES L MITCHELL, Respondent

State of Iowa

County of Polk

Signed and sworn to before me on this 12th day of July, 1999, by



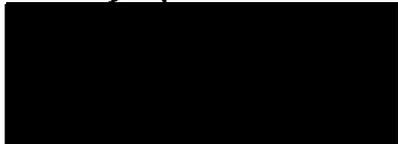
Notary Public, State of Iowa

Printed Name: Thomas A. Baty

My Commission Expires: OCT 5, 2001

FOR THE COMMISSION:

This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission on this 19th day of AUGUST, 1999.



Russell D. Nading, Chair
Iowa Real Estate Commission

cc: Pam Griebel, Assistant Attorney General

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

IN RE:)

JAMES L MITHCELL)
Salesperson (S07550))

Iowa Realty Inc. (F00710))
3501 Westown Parkway)
West Des Moines Iowa 502661007)

CASE NUMBER: 99-023

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 L MITHCELL was at all material times during the following events, a licensed real estate salesperson with Iowa Realty, Inc. , a licensed real estate firm in West Des Moines, Iowa, license number F00710. His license, number S07550, is in full force and effect through 12-31-2001.

COUNT I

Respondent is charged with engaging in a practice harmful or detrimental to the public by subleasing a property without the written permission of the owner, in violation of Iowa Code sections 543B29(3) (practice harmful or detrimental to the public) and 543B.34(8)(1997).

COUNT II

Respondent is charged with accepting a commission as a real estate salesperson from a person other than his sponsoring broker, in violation of Iowa Code sections 543B34(5) and 193E IAC section 4.40(14) and (19) (1997).

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CIRCUMSTANCES OF THE COMPLAINT

1. On or about August 1, 1998, Robert Coil, owner, entered into a lease agreement with Thomas Murtha, to lease the condominium located at 300 Walnut, #1101, Des Moines, Iowa. The lease term was August 1, 1998 to and including July 31, 1999. Item number 7 of the lease agreement states as follows: "7. Assignment, Subletting and Additional Tenants. The Tenant shall not assign, sublet, or permit additional persons to occupy the premises without the written consent of the landlord."
2. Respondent collected a commission of \$125.00 on this lease directly from Coil.
3. On or about November 1, 1998, Respondent entered into a lease agreement with Alvin Schultz for condominium # 1101. The term of the lease November 1, 1998 to and including April 30, 1999. Respondent signed the lease agreement "James L. Mitchell, Condo Manager." Respondent subleased this unit to Schultz and allowed him to occupy it, in violation of item # 7 of the Coil/Murtha lease. While Respondent reviewed the sublease with Plaza management, he did sublease without the knowledge or consent of the of the owner, Robert Coil.

FINDING OF PROBABLE CAUSE

On May 20, 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.

Dated this 19th day of AUGUST, 1999.


Roger L. Hansen, Executive Secretary
Iowa Real Estate Commission

cc: Pam Griebel, Assistant Attorney General

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