

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

COPY

IN RE:)	
)	
HORSTMAN REALTY INC. (F00652))	CASE NUMBER: A97-099
WILLIAM F. HORSTMAN (B04751))	
Broker)	STATEMENT OF
)	CHARGES
1205 E. 33 rd Street)	
Des Moines, Iowa 50317-2797)	

The Iowa Real Estate Commission has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 543B, and 272C (1997).

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

WILLIAM F. HORSTMAN, license number B04751, was at all material times during the following events, a licensed real estate broker officer and designated broker in charge of HORSTMAN REALTY INC. a licensed real estate firm, license number F00652.

COUNT I

The Respondent, as designated broker for the firm, is charged with failure to assure that the monthly written reconciliation of the general ledger balance with the bank balance and with the individual ledger accounts to ensure agreement was completed and with having a shortage in the trust account, in violation of Iowa Code sections 543B.29(3) (engaging in a practice harmful or detrimental to the public) and 543B.46 (1997), and 193E IAC sections 1.27, 1.27(6)(a)(3) and 4.40(5).

A97-099

A97-099
Horstman


CIRCUMSTANCES OF THE COMPLAINT

1. On January 19, 1995, Iowa Real Estate Commission Field Auditor J. Michael Sharp, examined the trust account records of Horstman Realty, Inc. Des Moines, Iowa.
2. The audit found that the firm's real estate trust account was short \$1072.68 and the individual ledgers had not been reconciled to the bank statement .
3. On October 2, 1997 Iowa Real Estate Commission Field Auditor J. Michael Sharp, examined the trust account records of Horstman Realty, Inc. Des Moines, Iowa.
4. The audit found that the firm's real estate trust account was short \$536.20 and the individual ledgers had not been reconciled to the bank statement .

FINDING OF PROBABLE CAUSE

On March 5, 1998 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 4th day of JUNE, 1998.


Roger L. Hansen, Executive Secretary
Iowa Real Estate Commission

Cc. Pam Griebel, Assistant Attorney General

A97-099

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

IN RE:

HORSTMAN REALTY INC. (F00652)

WILLIAM F. HORSTMAN (B04751)

Broker

1205 E. 33rd Street

Des Moines, Iowa 50317-2797

CASE NUMBER: A97-099

STIPULATION AND
CONSENT ORDER

On this 4th day of JUNE, 1998, the Iowa Real Estate Commission, WILLIAM F. HORSTMAN, and WILLIAM F. HORSTMAN and HORSTMAN REALY, INC. (collectively "Respondent"), agree 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. The Respondent was issued a broker license to practice real estate on May 16, 1969, as evidenced by license number B04751, which is in full force and effect through December 31, 2000. Respondent is a broker officer and designated broker in charge of Horstman Realty, Inc, a licensed real estate firm as evidenced by license number F00652.

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. While Respondent does not agree to all the allegations in the Statement of Charges, Respondent agrees the Commission may rely on the charges to provide the factual basis for the Consent Order.

A97-099

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) (1998).

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.

11. Respondent William F. Horstman is the designated broker in charge of Horstman Realty, Inc., but he requires assistance in complying with the trust account laws based on poor eyesight. As a result, another broker in the office, Eva Horstman, generally exercises day-to-day oversight of the trust account books and records under the supervision of Mr. Horstman. The continuing education ordered below may therefore be completed by Eva Horstman on behalf of the firm.

THEREFORE IT IS HEREBY ORDERED that the Respondent shall assure that the person responsible for keeping the trust account books and records for the firm shall 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 by the person attending 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 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 A97-099.

IT IS FURTHER ORDERED that the Respondent shall pay a civil penalty in the amount of \$300.00 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.

FOR THE FIRM:

This Stipulation and Consent Order is voluntarily entered into by the Respondent on this 8th day of MAY, 1998.



WILLIAM F. HORSTMAN, Broker
HORSTMAN REALTY INC.

State of Iowa
County of Polk

Signed and sworn to before me on this 8th day of May, 1998 by



Notary Public, State of Iowa
Printed Name: Michael Joseph Bennett

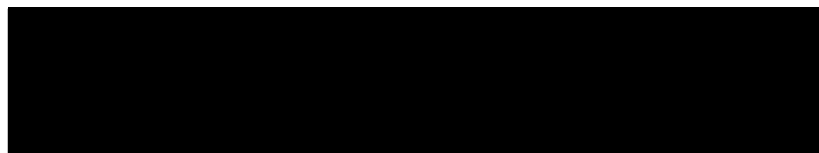


My Commission Expires: _____

Page 4
A97-099
Horstman

FOR THE RESPONDENT:

This Stipulation and Consent Order is voluntarily entered into by the Respondent on this 8th
day of MAY, 1998.



WILLIAM F. HORSTMAN, Respondent

State of Iowa)

County of Polk)

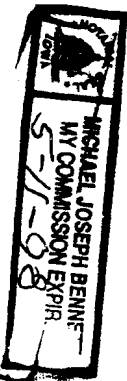
Signed and sworn to before me on this 8th day of May, 1998 by _____



Notary Public, State of Iowa

Printed Name: MICHAEL Joseph Bennett

My Commission Expires: 5-11-99



FOR THE COMMISSION:

This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission
on the 4th day of JUNE, 1998.



~~RUSSELL D. NADING~~, Chair
Iowa Real Estate Commission

cc: Pam Griebel, Assistant Attorney General

A97-099