

**BEFORE THE IOWA REAL ESTATE COMMISSION
1920 SE HULSIZER
ANKENY, IOWA**

IN THE MATTER OF:

Case No. 06-003

Robert W. Spearman
Broker (B35811)

Re/Max Real Estate Concepts
3125 Douglas Ave, Ste. 205
Des Moines, IA. 50310

Respondent.

**COMBINED STATEMENT OF
CHARGES AND CONSENT ORDER
IN DISCIPLINARY CASE**

1. The Iowa Real Estate Commission has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 193E (2005).

2. Respondent was issued Iowa broker license number B35811 on the 6th day of August, 2001. The license B35811 is active and will next expire on the 31st day of December, 2006.

Statement of Charges

Count I

3. Respondent is charged with engaging in practices harmful or detrimental to the public, and failing to diligently exercise reasonable skill and care in supervising a salesperson employed by the Respondent in violation of Iowa Code section 543B.29(3), 543B56(1)(a) & (b) by:

(a) Allowing a salesperson employed by the Respondent to permit occupancy of a property by the buyers without a funded closing and without the express written consent of the sellers. See Iowa Code section 543B.34(8) & (11), 543B.56(1)(a)(b); and 193E Iowa Admin. Code 18.14(5)(m).

Circumstances

4. Respondent is the supervising broker for Re/Max Real Estate Concepts located in Des Moines, Iowa.

5. A licensee employed by the Respondent sold a property with a closing scheduled for November 23, 2005.

6. On November 22, 2005, the Respondent became aware that a funded closing would not be possible on November 23, 2005, as agreed upon due to needed signatures on the title.

7. Respondent was aware that the licensee under his supervision told sellers a “dry closing” would take place the following day, with funding to take place early the following week.

8. Respondent was aware that the dry closing took place on November 23, 2005. Additionally, the Respondent was aware that the licensee under his supervision supplied the buyers with a key to the home without an expressed written agreement from the sellers to do so.

Settlement Agreement and Consent Order

9. Respondent admits to the allegations in the above-stated Statement of Charges.

10. Respondent acknowledges that he has a right to receive notice of the above-stated charges and to request a hearing before the Commission on the merits of the charges. By freely and voluntarily entering into this Order, the Respondent waives his right to notice and a hearing and all attended rights, including the right to seek judicial review. The Order constitutes discipline against the Respondent, and is the final agency order in this contested case pursuant to Iowa Code section 17A.10 and 193 Iowa Admin Code 7.4.

11. Respondent agrees that the State’s attorney and/or Commission staff may present this Order to the Commission and may have *ex parte* communications with the Commission while presenting it. Respondent waives any right of notice of this meeting or any right that the Respondent may have to participate in the discussion of this Order among the Commission, the Commission staff and the State’s attorney.

12. This Order shall be part of the permanent record of the Respondent and shall be considered by the Commission in determining the nature and severity of any future disciplinary action to be imposed in the event of any future violations of the laws and rules governing the practice of real estate by the Respondent.

13. Failure to comply with the terms of this Order shall be prime facie evidence of a violation of Iowa Code sections 543B.29(3), 543B.34(2) and 272C.3(2)(a)(2005) and shall be grounds for further disciplinary action. However, no action may be taken against the respondent for violations of this Order without a hearing, or waiver of hearing.

14. This Order is not binding on the Iowa Real Estate Commission until it has been formally approved by a majority of the Commission members.

(a) In the event that this Order is rejected by the Commission it shall be of no force or effect to either party, and it shall not be admissible for any purpose in further proceedings in this matter.

(b) If the Commission approves this Order, it shall fully dispose of all issues in this case.

15. Upon acceptance by both the Commission and the Respondent, this Combined Statement of Charges, Informal Settlement and Consent Order shall be made a public record available for inspection and copying in its entirety in accordance of Iowa Code chapter 212 (2005).

Consent Order

16. Reprimand. Pursuant to 193E Iowa Administrative Code section 18.14 (1)(j), the Respondent is reprimanded.

17. Civil Penalty. The Respondent shall pay a civil penalty to the Commission in the amount of \$250 no later than thirty (30) calendar days after acceptance of this Order by the Commission. The civil penalty must come under a cover letter addressed to the Commission's Executive Officer and refer to case 06-003.

18. EDUCATION. Pursuant to 193E Iowa Administrative Code Section 18.14 (1)(f), the Respondent shall attend the Commission approved eight (8) hour course "Contract Law and Contract Writing." These hours shall be in addition to any real estate continuing education required for license renewal. The original certificate of attendance must be submitted to the Iowa Real Estate Commission within twelve (12) months of the signing of this Order by the Commission and must come under a cover letter addressed to the Commission's Executive Officer and refer to case 06-003.

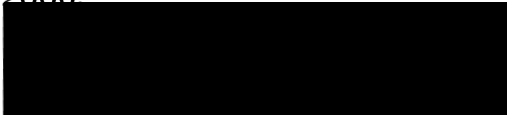
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19. **FUTURE COMPLIANCE.** Respondent agrees that at all future times he shall fully and promptly comply with all pertinent orders of the Commission and the statutes and Commission rules regulating the practice of real estate.

WHEREFORE, the terms of this Combined Statement of Charges, Informal Settlement Agreement, and Consent Order are agreed to and accepted by the Iowa Real Estate Commission and the Respondent.

FOR THE RESPONDENT:

Voluntarily agreed to and accepted by Robert W. Spearman on this 29 day of April, 2006

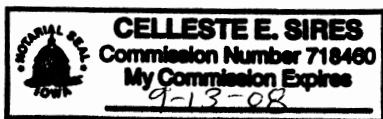


Robert W. Spearman, Respondent

State of _____

County of _____

Signed and sworn to before me on this 2nd day of May, 2006, by



Notary Public, State of Iowa

Printed Name: CELESTE E SIRES

My Commission Expires: 9/13/08

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AGREED AND ACCEPTED:

Respondent

Iowa Real Estate Commission



[Respondent's name]

[Signature]
By: **James E. Hughes**, Chair

Date

May 25, 2006

Date