

BEFORE THE REAL ESTATE COMMISSION
OF THE STATE OF IOWA

IN THE MATTER OF:

CASE NO. 10-509
DOCKET 12REC002

Michael C. Von Hollen
Broker (B36778)

Von Matt Partners Corporation
34345 Asbury Road
Dubuque, Iowa 52002

**FINDINGS OF FACT,
CONCLUSIONS OF LAW,
DECISION AND ORDER**

RESPONDENT

On December 29, 2011, the Iowa Real Estate Commission (Commission) found probable cause to file a Notice of Hearing and Statement of Charges against Michael C. Von Hollen, licensed real estate broker, and Von Matt Partners Corporation, (Respondent). The Statement of Charges alleged that Mr. Von Hollen failed to diligently exercise reasonable skill and care in supervising a licensee employed by the Respondent by allowing the unlicensed practice of real estate in the State of Iowa in violation of Iowa Code sections 543B.1, 543B.29(1)(c), 543B.62(3)(b)(2009) and 193E IAC 7.11, 18.2(6), and 18.14(5)(m).

The matter proceeded to hearing before the Iowa Real Estate Commission on February 23, 2012 at 1:30 p.m. Assistant Attorney General John Lundquist represented the state of Iowa. Respondent Michael C. Von Hollen did not appear. The Dubuque County Sheriff's Office personally served a Notice of Hearing on Mr. Von Hollen on January 10, 2012. (Exhibit 1-4). The following Commission members presided at the hearing: Laurie L. Dawley, Chairperson and public member; Bob Broomfield, Salesperson; Dick Robert, Broker member; Susan Sanders, Salesperson; and Mike Telford, public member. Administrative Law Judge Robert H. Wheeler assisted the Commission in conducting the hearing. A certified court reporter, Kelli Mulcahy, recorded the proceedings. The hearing was open to the public pursuant to Iowa Code section 272C.6(1)(2011) because the Respondent failed to participate. The State of Iowa presented the testimony of Investigator Jeff Evans. Exhibits 1-8 entered the record without objection. After hearing the testimony and examining the exhibits, the Commission convened in closed executive session, pursuant to Iowa Code section 21.5(1)(f)(2011), to deliberate its decision. The Commission instructed the administrative law judge to draft Findings of Fact, Conclusions of Law, Decision and Order, in conformance with their deliberations.

THE RECORD

The record includes the Notice of Hearing and Statement of Charges, the state's Prehearing Conference Report, the testimony of Investigator Jeff Evans and State Exhibits 1-8 (See Exhibit Index for description).

FINDINGS OF FACT

1. On January 7, 2000, the Commission issued Iowa real estate broker license B36778 to Respondent Von Hollen. Respondent's broker license has been in effect continuously since that time until expiration on December 31, 2011. At all times relevant to this matter, Mr. Von Hollen was the real estate broker in charge assigned to the Respondent firm, Von Matt Partners Corporation, a licensed real estate firm, Iowa real estate license F04684, located in Dubuque, Iowa. (Exhibits 2, 3; Evans testimony).
2. Beginning in October, 2008, Jodi Covington was a licensed real estate salesperson assigned to and employed by the Respondent firm. Ms. Covington's license expired on December 31, 2008, and has not been renewed. (Exhibit 6; Evans testimony).
3. Professional Licensing Investigator Jeff Evans received a complaint regarding Ms. Covington practicing real estate without a license from Kevin Platz of the Cedar Rapids Area Association of Realtors. Investigator Evans received documents from the Cedar Rapids Area Multiple Listing Service with the complaint. (Exhibit 5-1; Evans testimony).
4. Evans found that between January 1, 2009, and November 1, 2010, despite the fact that her real estate salesperson's license was expired, Ms. Covington continued to perform activities on behalf of the Respondent firm that requires a real estate license in the State of Iowa as follows:
 - a. Selling agent for real property at 5405 Vermont Street SW, Cedar Rapids, IA, sold 5/26/10; (Exhibit 5-3; Evans testimony)
 - b. Listing agent for real property at 318 Crestview Drive, Center Point, IA, listed 8/10/10; (Exhibit 5-4; Evans testimony)
 - c. Listing agent for real property at 406 Endeavor Avenue, Urbana, IA, listed 1/31/10; (Exhibit 5-5; Evans testimony)
 - d. Listing agent for real property at 3172 Nolen Avenue, Walker, IA, listed 1/23/10; (Exhibit 5-6; Evans testimony)
 - e. Listing agent for real property at 207 Center Street, Urbana, IA, listed 1/23/10; (Exhibit 5-7; Evans testimony)
 - f. Listing agent for real property at 119 N. Hillcrest Circle, Center Point, IA, listed 1/23/10; (Exhibit 5-8; Evans testimony)

- g. Listing agent for real property at 318 Crestview Drive, Center Point, IA, listed 10/12/09; (Exhibit 5-9; Evans testimony)
- h. Listing agent for real property at 705 Linn Street, Walker, IA, listed 5/21/09; (Exhibit 5-10; Evans testimony)
- i. Listing agent for real property at 400 Wilson Street, Walker, IA, listed 2/7/09; (Exhibit 5-11; Evans testimony)
- j. Listing agent for real property at 510 Endeavor Avenue, Urbana, IA, listed 1/7/09; (Exhibit 5-12; Evans testimony)
- k. Listing agent for real property at 406 Endeavor Avenue, Urbana, IA, listed 8/10/10; (Exhibit 5-13; Evans testimony)

5. The Iowa Real Estate Commission charged Jodi Covington with violating Iowa Code sections 543B.1 and 543B.29(3) and 193 IAC 18.2(5) and 18.14(5)(a), by practicing real estate without a license. Ms. Covington admitted each and every allegation in the complaint in a settlement agreement in Case 10-508. Ms. Covington was reprimanded and paid a civil penalty of \$1,000.00. (Exhibit 7; Evans testimony).

6. Mr. Evans testified that a managing broker has a duty to supervise all salespersons employed by or associated with the broker, and Mr. Von Hollen failed to exercise such supervision with respect to Ms. Covington. Mr. Evans also testified that the Real Estate Commission opened a case to investigate Mr. Von Hollen and his staff attempted to reach Mr. Von Hollen numerous times for a response. Mr. Von Hollen never responded to any inquiries. (Exhibit 4; Evans testimony).

CONCLUSIONS OF LAW

The Iowa Real Estate Commission has jurisdiction in this case pursuant to Iowa Code 17A, 543B, and 272C.

The legislature has required all persons who practice real estate as a broker, broker associate or a salesperson to obtain a professional license. The license is mandatory.¹ A broker is responsible for supervising a salesperson employed by or associated with the broker. The nature of the business relationship or the failure of the salesperson to fully inform the broker of all activities conducted on behalf of the broker does not relieve the broker of this responsibility.²

By rule, the Commission is authorized to initiate disciplinary action against an active licensee for knowingly aiding or abetting an unlicensed person in committing any act which is grounds for discipline under the rules.³

¹ Iowa Code section 543B. 1.

² Iowa Code section 543B.62(3)(b); 193E IAC 7.11.

³ 193E IAC 18.2(6), 18.14(5)(m).

The preponderance of the evidence established that between January 1, 2009 and November 1, 2010, Respondent Michael Von Hollen failed to supervise Jodi Covington at a time when she practiced real estate without a license and he had a duty to so supervise as the managing broker of the firm. Respondent's failure to adequately supervise a licensee employed by his brokerage is a violation of Iowa Code sections 543B.1, 543B.29(1)(c), 543B.62(3)(b) and 193E IAC 7.11, 18.2(6) and 18.14(5)(m). The licensing requirement is for the protection of the public.

The Commission found that Respondent Von Hollen has failed to respond to the complaint in this case in any way. Despite personal service of notices of hearing and the prehearing conference, he failed to respond or participate at any stage of the proceedings. Based on the Respondent's violation of the applicable law and this aggravating circumstance the Commission has imposed a \$1500 civil penalty for a broker's failure to adequately supervise an unlicensed salesperson.

DECISION AND ORDER

IT IS THEREFORE ORDERED that Respondent Michael C. Von Hollen shall pay a civil penalty of \$1,500 for failure to adequately supervise a salesperson associated or employed by his brokerage who practiced real estate with an expired license from January 1, 2009 through November 1, 2010, in violation of Iowa Code sections 543B.1, 543B.29(1)(c), 543B.62(3)(b) and 193E IAC 7.11, 18.2(6) and 18.14(5)(m). Respondent shall pay the \$1500 civil penalty within thirty (30) days of receipt of this Decision and Order.

IT IS FURTHER ORDERED, pursuant to Iowa Code section 272C.6 and 193 IAC 7.41, that Respondent shall pay \$75.00 for fees associated with conducting the disciplinary hearing, within thirty (30) days of receipt of this decision.

Dated this *22* day of *March* 2012.


Laurie L. Dawley, Chair
Iowa Real Estate Commission

cc: Michael C. Von Hollen [CERTIFIED]
John Lundquist, Assistant Attorney General (LOCAL)

Judicial review of the commission's action may be sought in accordance with the Iowa administrative procedure act, from and after the date of the commission's order. If a party does not file a timely application for rehearing, a judicial review petition must be filed with the district court within 30 days after the issuance of the commission's final decision. 193 IAC 7.37.