

DEPARTMENT OF COMMERCE  
PROFESSIONAL LICENSING DIVISION  
1928 S.E. HULSIZER AVENUE  
ANKENY, IOWA 50021

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IOWA REAL ESTATE COMMISSION	)	
	)	CASE NUMBER 90-058
Complainant	)	
	)	DIA NO. 92DOCRE-1
vs.	)	
	)	
WILLIAM L. SIRES	)	FINDINGS OF FACT,
(B23212)	)	CONCLUSIONS OF LAW,
	)	DECISION AND ORDER
Broker-Respondent	)	

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On February 13, 1992, the Iowa Real Estate Commission (hereinafter Commission) filed a complaint against William L. Sires, a licensed Iowa real estate broker (hereinafter Respondent). The complaint alleged specific acts and alleged these acts constituted a violation of Iowa Code Section 258A.3(2)"a".

On May 21, 1992, the Commission conducted a hearing to determine whether disciplinary action should be imposed against the Iowa real estate license of the Respondent.

The proceedings were conducted by Jenny J. Flaherty, Administrative Law Judge, Department of Inspections and Appeals, and heard by Commissioners Jerry Duggan, Joe Ann Lutz, Marlys Nielsen and Russ Nading. The Iowa Real Estate Commission was represented by Grant Dugdale, Assistant Attorney General. The Respondent appeared at the hearing and was represented by Jay P. Roberts, Attorney at Law. A full presentation of facts was made by both parties. The Administrative Law Judge was instructed by the Commission to prepare the Findings of Fact, Conclusions of Law, and Decision and Order.

FINDINGS OF FACT

1. The Respondent was a licensed real estate broker until May 30, 1990. As a result of a hearing before the Iowa Real Estate Commission, the Respondent's license was suspended for one year effective May 30, 1990. He received notice of his suspension on May 31, 1990.

2. On May 30, 1990, the Respondent presented an offer to purchase for property located at 203 Olive, Cedar Falls, Iowa, to Robert A. Mills, Seller and licensed real estate salesperson. The Buyers, Mr. and Mrs. Roger Christensen, signed the offer to purchase on May 30, 1990. The offer was subject to the Buyer receiving F.H.A.

financing by July 18, 1990. The offer to purchase was accepted by the Seller on May 30, 1990.

3. On June 1, 1990, the Respondent contacted the administrative office of the Iowa Real Estate Commission for advice and guidance concerning the above transaction due to the suspended status of his Iowa real estate broker's license; he spoke with the Acting Executive Secretary of the Commission and was told that he could follow the transaction to conclusion although another licensed broker would need to oversee the closing; he followed the advice given.

4. On or about June 20, 1990, Robert A. Mills (Seller and Agent) learned that the Buyers did not qualify for F.H.A. financing.

5. On June 28, 1990, the Seller wrote an offer based on a discussion of Seller financing with the Respondent. This offer was written with Seller financing. The offer to purchase was forwarded to the Respondent.

6. On June 29, 1990, the Respondent returned the signed offer to the Seller. The Respondent changed the commission from 5 percent to 7 percent.

7. On July 1, 1990, the Seller accepted the offer of June 28, 1990, with closing on September 1, 1990.

8. On July 15, 1990, the Respondent contacted the Seller and asked to close a week early to allow the Buyers to move in.

9. On August 9, 1990, the Respondent contacted the Seller confirming the closing and that he would be attending the closing.

10. On August 24, 1990, the Respondent showed up at the closing. However, the selling agent prevented him from participating in the closing because his broker's license was suspended.

#### CONCLUSIONS OF LAW

Iowa Code Section 258A.3(2) "a" states:

Authority of Licensing Boards:

2. Each licensing board may impose one or more of the following as license discipline:

a. Revoke a license, or suspend a license either until further order of the board or for a specified period, upon any of the grounds specified in section 114.21, 116.21, 117.29, 118.13, 118A.15, 147.55, 148B.7, 153.34, 154A.24, 169.13, or 602.3203 or Chapter 135E, 151, 507B,

or 522, as applicable, or upon any other ground specifically provided for in this chapter for revocation of the license of a licensee subject to the jurisdiction of that board, or upon failure of the licensee to comply with a decision of the board imposing licensee discipline.

There was no dispute among the parties concerning the fact as set forth. What must be decided here is whether the events described in Findings 2 - 9 constitute a singular real estate transaction or two separate transactions.

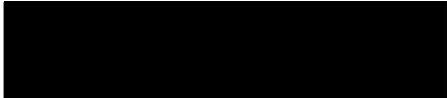
The Commission finds that the Respondent commenced a singular real estate transaction prior to disciplinary action imposed against his Iowa real estate broker license which took effect on May 31, 1990. On May 30, 1990, the Respondent handled a transaction between a buyer and seller of a particular piece of property. Although the buyers failed to qualify for F.H.A. financing and another offer was drawn up on June 28, 1990, this transaction was simply an extension of the actions which began on May 30. The buyers and sellers were the same. The revised offer which was initiated on June 28 and drawn up on another realtor's contract form could have been handled as an addendum to the May 30 offer. The seller (a real estate salesperson) insisted that, when financing failed initially, a new contract be drawn up and signed by both parties to the transaction. However, this fact does not change the nature of the transaction. This transaction was one and the same, irregardless of whether two contracts were involved.

The Commission concludes that the Respondent did not violate Iowa Code Section 258A.3(2)"a" by following through with the transaction initiated on May 30, as so advised by the Acting Executive Secretary of the Commission.

#### DECISION AND ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, the Commission finds the Respondent NOT GUILTY of violating Iowa Code Section 258A.3(2)"a". The charges brought against the Respondent in this matter by the Commission are hereby DISMISSED.

Executed this 18<sup>th</sup> day of JUNE, 1992.

  
E. JOE ANN LUTZ, CHAIR  
Iowa Real Estate Commission

Issued this 18<sup>th</sup> day of JUNE, 1992.

  
ROGER L. HANSEN, Executive Secretary

JJF/jmm

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**PROOF OF SERVICE**  
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause by depositing a copy thereof in the U. S. Mail, postage prepaid, in envelopes addressed to each of the attorneys of record at the addresses disclosed on the pleadings, on 