

BEFORE THE IOWA REAL ESTATE COMMISSION  
1918 S.E. HULSIZER  
ANKENY, IOWA

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IN RE:	)	CASE NUMBER: 91-019
	)	
Weber-Carmer, Inc. (F01831)	)	
Firm	)	
	)	INFORMAL SETTLEMENT
Wayne Weber (B02952)	)	
Broker	)	
	)	
208 N. 12th	)	
Centerville, IA 52544	)	

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Pursuant to Iowa Code Section 17A.10(1991) and 193E Iowa Administrative Code Section 4.12(117), this Informal Settlement is entered into between Weber-Carmer, Wayne Weber and the Iowa Real Estate Commission (Commission). The parties agree as follows:

STIPULATED STATEMENT OF FACTS

1. The Commission has jurisdiction of this matter under Iowa Code Chapters 17A, 117, and 258A(1991) as well as the administrative rules found in Chapter 193E of the Iowa Administrative Code.
2. Weber-Carmer, Inc. is, and was at all times during the following events, a licensed Real Estate Corporation. Their license number is F01831.
3. Wayne Weber is, and was at all times during the following events, a licensed real estate broker. His license number is B02952. Wayne Weber is Broker in charge of Weber-Carmer, Inc.
4. On May 7, and May 8, 1991, the Department of Inspections and Appeals examined the trust account of Weber-Carmer, Inc.
5. The examination revealed that the trust account was short \$1,477.69.
6. The examination also revealed that a check for \$1,500.00 down payment on a real estate transaction was not deposited and that Broker Weber failed to balance to the individual ledgers.

7. Weber-Carmer, Inc. and Wayne Weber have properly accounted for the shortages in the trust account. The proper ledgers have been reconciled and are balanced.

8. Iowa Code Section 117.46(4) states:

Each broker shall only deposit trust funds received on real estate or business opportunity transactions as defined in section 117.6 in said common trust account and shall not commingle the broker's personal funds or other funds in said trust account with the exception that a broker may deposit and keep a sum not to exceed one hundred dollars in said account from the broker's personal funds, which sum shall be specifically identified and deposited to cover bank service charges relating to said trust account.

9. Iowa Administrative Code Section 1.27 1 states:

All money belonging to others and accepted by the broker or the broker's salesperson on the sale, purchase or exchange of real property located in the state of Iowa shall no later than the next banking day after acceptance of the offer be deposited in one or more interest-bearing checking accounts separate from the money belonging to the broker, except for funds deposited to cover bank service charges as specified in Iowa Code Section 117.46. The name of the separate account(s) shall be identified by the word "trust".

10. Iowa Administrative Code Section 193E--1.27(117) states:

Trust account. Earnest payments, rents collected, property management funds, and other trust funds received by the broker shall be deposited in an identified "trust" account in a bank, savings and loan association, savings bank, or credit union located in Iowa. A broker shall maintain in the broker's office a general ledger for the trust account and an account ledger for each account or transaction which shall provide a complete record of all moneys received on real estate transactions, rents, and management funds, including the sources of the money, the date of receipt, depository, and date of deposit; and when a transaction has been completed, the final disposition of the moneys. The notification to the commission of the name, depository, and address of the broker's trust account shall include the account number.

11. Iowa Administrative Code Section 193E--4.40(117) states:

Violations for which civil penalties may be imposed.

b. Failing to maintain individual account ledgers.

AGREED ORDER

By agreement it is therefore ORDERED, ADJUDGED, and DECREED by the Iowa Real Estate Commission as follows:

1. Weber-Carmer, Inc. and Wayne Weber have the right to a hearing on this matter, but waive their right to a hearing and all attendant rights by freely entering into this Informal Settlement.

2. By allowing a shortage of \$1,477.69 in the trust account, Weber-Carmer, Inc. and Wayne Weber violated Iowa Code Section 117.46(4).

3. By failing to deposit the \$1,500.00 down payment into the trust account, Weber-Carmer, Inc. and Wayne Weber violated Iowa Administrative Code Section 1.27 1.

4. By failing to properly maintain the individual ledgers, Weber-Carmer, Inc. and Wayne Weber violated Iowa Administrative Code Sections 193E 1.27(117) and 4.40(5)b.

5. Weber-Carmer, Inc. and Wayne Weber agree to do monthly reconciliations as a preventive measure against trust account irregularities.

6. Wayne Weber shall take twelve hours of real estate continuing education in "Trust Account and Closing Procedures". This course must be approved as a "Broker Pre-license Course". [(See 3.2(3)(117)]. These hours shall be in addition to all other real estate continuing education required by law for license renewal. Proof of compliances must be submitted to the Iowa Real Estate Commission within thirteen (13) months of the signing of this Informal Settlement by the Commission. The Certificate of Attendance must come under a cover letter addressed to the Commission's Executive Secretary and must be referred to as case number 91-019.

7. This Informal Settlement shall be made part of the permanent record of and shall be considered by the Commission in determining the nature and severity of the disciplinary action to be imposed for any future license law violations by the broker.

8. Failure to comply with the provisions of this agreed order shall be considered prima facie evidence of a violation of Iowa Code Sections 117.29(3) and 117.34(2)(1991). However, no action may be taken against any licensee without a hearing as provided for in Iowa Code Section 117.35(1991).

9. The within settlement is subject to the approval of the Commission and if the Commission fails to approve this settlement, it shall be of no force or effect on either the Commission or the licensee, and it shall not be admissible for any purposes at any further proceedings in this matter.

FOR THE FIRM:

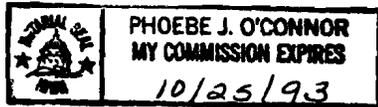
Dated this 29th day of JANUARY, 1992.

[Redacted]

Webex-Carmer, Inc.

Signed and sworn to before me this 29th day of

January, 1992.



[Redacted]

Notary Public, State of Iowa

FOR THE BROKER:

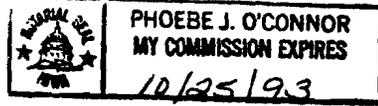
Dated this 29th day of JANUARY, 1992.

[Redacted]

Wayne Weber

Signed and sworn to before me this 29th day of

January, 1992.



[Redacted]

Notary Public, State of Iowa

FOR THE COMMISSION:

signed this 20<sup>th</sup> day of FEBRUARY, 1992.

[Redacted Signature]

Jerry F. Duggan, Chairperson

Executed this 20<sup>th</sup> day of FEBRUARY, 1992.

[Redacted Signature]

Roger L. Hansen  
Executive Secretary