

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

IN RE:

Gregory J. Downes (B04062)  
Broker

703 South Clinton Street  
Iowa City, IA 52240

CASE NUMBER: 90-066

INFORMAL SETTLEMENT

Pursuant to Iowa Code Section 17A.10(1991) and 193E Iowa Administrative Code Section 4.12(117), this Informal Settlement is entered into between Gregory J. Downes 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. Gregory J. Downes is, and was at all times during the following events, a licensed Real Estate Broker. His license number is B04062.

3. On August 7, 1990, Auditor Ron Rasmussen of the Department of Inspections and Appeals examined the trust account records of Gregory J. Downes.

4. Broker Downes failed to maintain Individual Ledgers for each account or transaction and a Personal Funds Ledger.

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5. Iowa Code Section 117.46(4) trust account states:

117.46 Trust accounts.

4. 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.

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

193E--1.27(117) 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.

7. Iowa Administrative Code Section 193E 4.40(117) Violations for which civil penalties may be imposed states:

4.40(5) Maintaining inadequate transaction records such as:

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. Gregory J. Downes has the right to a hearing on this matter, but waives his right to a hearing and all attendant rights by freely entering into this Informal Settlement.

2. Broker Downes agrees to properly maintain Individual Ledgers and a Personal Funds Ledger.

3. Gregory J. Downes 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. The original Certificate of Attendance for the course must be submitted to the commission within 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 90-066.

4. This Informal Settlement shall be made part of the permanent record of Gregory J. Downes 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.

5. 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).

6. 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 BROKER:

Dated this 6 day of June, 1991.



Gregory J. Downes

Signed and sworn to before me this 6 day of JUNE, 1991.



Notary Public, State of Iowa

FOR THE COMMISSION:

Signed this 20 day of JUNE, 1991.



Jerry F. Duggan, Chairperson

Executed this 20 day of JUNE, 1991.



Roger W. Hansen  
Executive Secretary