

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

IN RE:)	CASE NUMBER: 90-019
)	
Mary L. Mitchell (B01917))	
Broker)	
)	INFORMAL SETTLEMENT
235 Mill Street)	
Akron, Iowa 57001)	

Pursuant to Iowa Code Section 17A.10(1989) and 193E Iowa Administrative Code Section 4.12(117), this Informal Settlement is entered into between Mary L. Mitchell 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(1989) as well as the administrative rules found in Chapter 193E of the Iowa Administrative Code.
2. Mary L. Mitchell is, and was at all times during the following events, a licensed real estate broker. Her license number is B01917.
3. On February 16, 1990, Auditor Ron Rasmussen of the Department of Inspections and Appeals completed a compliance review of the trust account records and transaction files on Mary L. Mitchell.
4. Mary L. Mitchell disbursed trust account funds prior to closing without the informed written consent of all parties in two transactions. It is noted that in each transaction the buyer was in possession of the property and the parties had orally consented to the disbursement of said funds.

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5. 193E Iowa Administrative Code Section 1.27(1) states:

1.27(1) No funds shall be disbursed from the trust account prior to the closing without the informed written consent of all the parties. In the event of a dispute over the return or forfeiture of any earnest deposit held by a broker, the broker shall continue to hold the deposit in the trust account until a written release is received from all parties consenting to its disposition or until a civil action is filed to determine its disposition at which time payment may be made into court.

6. 193E Iowa Administrative Code Section 4.40(6)b states:

4.40(117) Violations for which civil penalties may be imposed:

4.40(6) Improper trust account and closing procedures:

b. Disbursing trust funds prior to closing without written authorization.

AGREED ORDER

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

1. Mary L. Mitchell has the right to a hearing on this matter, but waives her right to a hearing and all attendant rights by freely entering into this Informal Settlement.

2. Mary L. Mitchell agrees that no funds shall be disbursed from the trust account prior to closing without the informed written consent of all the parties.

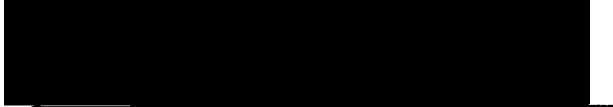
3. This Informal Settlement shall be made part of the permanent record of Mary L. Mitchell and shall be considered by the Commission in determining the nature and severity of the disciplinary action to be imposed for any future license law violations by the broker.

4. 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)(1989). However, no action may be taken against any licensee without a hearing as provided for in Iowa Code Section 117.35(1989).

5. 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.

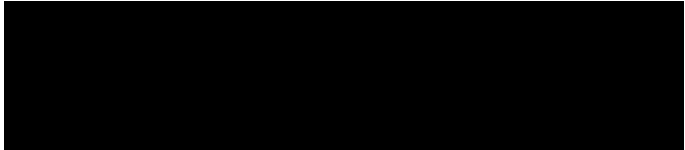
FOR THE BROKER:

Dated this 21 day of September, 1990.



Mary L. Mitchell

Signed and sworn to before me this 21 day of September, 1990.



Notary Public, State of Iowa
T.M. White

FOR THE COMMISSION:

Signed this 18th day of October, 1990.



E. Joe Ann Lutz, Chairperson

Executed this 19th day of October, 1990.



K. Marie Thayer,
Administrator