

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

IN RE:)
Loren Albrecht (B00029)) CASE NUMBER: 88-005
Broker)
173 Main) INFORMAL SETTLEMENT
Wall Lake, IA 51466)

Pursuant to Iowa Code Section 17A.10(1989) and 193E Iowa Administrative Code Section 4.12(117), this Informal Settlement is entered into between Loren Albrecht 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. Loren Albrecht is, and was at all times during the following events, a licensed broker. His license number is B00029.

3. Broker Albrecht received \$7,200 earnest money on the Busch-Kies transaction and it was used to purchase a Certificate of Deposit.

4. An abstracting bill of \$65.00 was paid on the Busch-Kies transaction from the trust account.

5. No money was in the trust account for this transaction since the earnest money had been deposited in a separate interest-bearing account.

6. During a trust account examination on December 22, 1987 it was noted that the following transactions pending had funds paid from the trust account prior to closing:

Burnside/Ashinger, Peters & Ludwig
Busch/Keith Kies
Weber/Milo Kies
Renee/Mutzman

7. The bills paid prior to closing were for advertising and abstracting.

8. Disbursing funds prior to closing without the informed written consent of all parties was a customary practice for the broker.

9. Iowa Administrative Code 1.27(1) states:

"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."

10. Broker Albrecht failed to maintain an individual ledger sheet for the amount of personal funds.

11. 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."

12. 193E Iowa Administrative Code Section 4.40(117) provides a list of violations for which civil penalties may be imposed. Within that list are the following:

"5. Maintaining inadequate transaction records such as:
(b) Failing to maintain individual account ledgers."

"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. Broker Albrecht 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 Albrecht shall take twelve hours of real estate continuing education in "Trust Accounts and Closing Procedures". This course must be approved as a "broker prelicense course" (See 193E Iowa Administrative Code Section 3.2[3][117]). These hours shall be in addition to all other real estate continuing education hours required by law for license renewal. The original certificate of attendance for the course must be submitted to the Commission no later than June 30, 1990 as evidence that this requirement has been fulfilled. The certificate of attendance must come under a cover letter addressed to the Commission's Executive Secretary and must refer to case number 88-005.

3. Pursuant to 193E Iowa Administrative Code Section 4.40(5)b(117) and 4.40(6)b(117), Broker Albrecht shall pay a civil penalty of \$200.00. Payment shall be made to the Commission no later than June 30, 1989 to satisfy this requirement.

4. This Informal Settlement shall be made a part of the record of Broker Albrecht 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 violation by him.

5. Failure to comply with the provision of this Agreed Order shall be considered prima facie evidence of a violation of Iowa Code Section 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).

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. If approved by the Commission, the settlement will be deemed an agreed-upon disposition of a contested case initiated by the Commission and will dispose of all matters contained in the complaint for case 88-005.

FOR THE BROKER:

Dated this 19th day of June, 1989.

[Redacted Signature]

Loren Albrecht

Signed and sworn to before me this 19th day of June, 1989.

[Redacted Signature]

Notary Public, State of Iowa

FOR THE COMMISSION:

Signed this 13 day of July, 1989.

[Redacted Signature]

Executed this 13th day of July, 1989.

[Redacted Signature]

Kenneth L. Smith
Secretary

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JUN 20 1989
AUDITS DIVISION