

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

IN RE:)	CASE NUMBER: 89-075
C.B.S. Real Estate Company)	
Firm (F01279))	
12020 Shamrock Plaza)	INFORMAL SETTLEMENT
Suite 100)	
Omaha, Nebraska 68154)	

Pursuant to Iowa Code Section 17A.10(1989) and 193E Iowa Administrative Code Section 4.12(117), this Informal Settlement is entered into between C.B.S. Real Estate Company 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. C.B.S. Real Estate is, and was at all times during the following events, a licensed corporation. The license number is F01279.

3. C.B.S. Real Estate failed to supervise Gary A. Parilman, an agent with C.B.S. Real Estate, who was not licensed in the State of Iowa.

4. Zane D. Campbell and Brenda K. Campbell purchased a property located at R. R. #4, Box 243A, Council Bluffs, Iowa on June 4, 1987. The Campbell's dealt with Gary A. Parilman and C.B.S. Real Estate in the purchase and closing of this property.

5. C.B.S. Real Estate Company prepared the closing statement.

6. C.B.S. Real Estate Company prorated the property taxes from January 1, 1987 to June 4, 1987.

7. In March, 1989, the Campbell's received a notice from the mortgage company that the escrow account was short. Approximately \$600.00 of this shortage was due to the error of the proration of property taxes from January 1, 1987 to June 4, 1987. The taxes should have been prorated from July, 1986 through June, 1987.

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89-075

271

8. Iowa Code Section 117.1 states:

A person shall not act as a real estate broker or real estate salesperson without first obtaining a license as provided in this chapter. The word "person" as used in this chapter means an individual, partnership, associate, or corporation.

9. Iowa Code Section 117.29(2) states:

A license to practice the profession of real estate broker and salesperson may be revoked, or suspended when the licensee is guilty of the following acts or offenses:

2. Professional incompetency.

10. Iowa Administrative Code 193E--2.16(117) states:

Supervision required. An employing broker is responsible for providing supervision of any salesperson or broker associate employed by or otherwise associated with the broker as a representative of the broker. The existence of an independent contractor relationship or any other special compensation arrangement between the broker and the salesperson or broker associate shall not relieve either the broker or the salesperson or broker associate of duties, obligations or responsibilities required by law.

A broker associate is a broker employed by or otherwise associated with another broker as a salesperson and, during the time the broker remains a broker associate, is subject to the provisions of Iowa Code Sections 117.24 and 117.33 and commission rules pertaining to salespersons.

11. Iowa Administrative Code Sections 193E--4.40(6)f and (13) states:

Violations for which civil penalties may be imposed.

f. Computing closing statements improperly.

(13) Failing by a broker to supervise salespersons or broker associates.

AGREED ORDER

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

1. C.B.S. Real Estate Company has the right to a hearing on this matter, but waives the right to a hearing and all attendant rights by freely entering into this Informal Settlement.

2. By allowing Gary A. Parilman to sell property in Iowa without a Iowa real estate license, C.B.S. Real Estate Company violated Iowa Code Sections 117.1, 117.29(2) and Iowa Administrative Code Sections 193E 2.16 and 4.40(13).

3. By failing to properly compute the proration of property taxes on the closing statement, C.B.S. Real Estate Company violated Iowa Administrative Code 193E 4.40(6)f.

4. C.B.S. Real Estate Company is hereby REPRIMANDED.

5. C.B.S. Real Estate Company shall pay a civil penalty of \$1,000.00. C.B.S. Real Estate Company shall deliver a certified check payable to the Iowa Real Estate Commission no later than August 31, 1990 to satisfy this requirement. The certified check must come under a cover letter addressed to the Commission's Executive Secretary and must be referred to as case number 89-075.

6. This Informal Settlement shall be made a part of the record of C.B.S. Real Estate Company 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 firm.

7. 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).

8. 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 89-075.

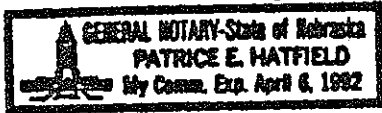
FOR THE OFFICER OF THE FIRM:

Dated this 17th day of July, 1990.

[Redacted Signature]

C.B.S. Real Estate Company

Signed and sworn to before me this 17th day of July, 1990.



[Redacted Signature]

Notary Public, State of ~~Iowa~~ Nebraska

FOR THE COMMISSION:

Signed this 19th day of July, 1990.

[Redacted Signature]

E. Joe Ann Lutz, Chairperson

Executed this 20th day of July, 1990.

[Redacted Signature]

K. Marie Thayer, Administrator

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 herein at their respective addresses appearing on the pleadings, on 20 1990

[Redacted Signature]