

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

IN RE:)	
Maurice L. Collins (B00471))	CASE NUMBER 89-060
Broker)	
P.O. Box H - 125 E. Main)	INFORMAL SETTLEMENT
Anthon, IA 51004)	

Pursuant to Iowa Code § 17A.10 (1991) and 193E Iowa Administrative Code § 4.12(117), this informal settlement is entered into between Maurice L. Collins and the Iowa Real Estate Commission. The parties agree as follows:

1. The Commission has jurisdiction of this matter under Iowa Code chapter 17A, 117, and 258A (1991) as well as the administrative rules found in chapter 193E of the Iowa Administrative Code.
2. Maurice L. Collins is, and was at all times during the following events, a licensed real estate broker. His license number is B00471.
3. The Department of Inspections and Appeals examined the trust account records of Broker Collins on July 11, 1989 and July 17, 1989. The trust account records contained no ledger, no individual ledgers for each transaction, no personal funds ledger and no interest ledger. The trust account was not an interest bearing account from July 1, 1985 to August 30, 1986. After September 1, 1986, Broker Collins had maintained an interest bearing trust account; however, interest from the trust account

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in the amount of \$390.41 was not remitted to the State of Iowa.

4. Iowa Code § 117.46(1) (1989) states:

"1. Each real estate broker shall maintain a common trust account in a bank, a savings and loan association, savings bank, or credit union for the deposit of all down payments, earnest money deposits, or other trust funds received by the broker or the broker's salespersons on behalf of the broker's principal, except that a broker acting as a salesperson shall deposit these funds in the common trust account of the broker for whom the broker acts as interest-bearing account. The interest on the account shall be transferred quarterly to the treasurer of state and deposited in the title guaranty fund and used for public purposes and the benefit of the public pursuant to section 220.91 unless there is a written agreement between the buyer and seller to the contrary. The broker shall not benefit from interest received on funds of others in the broker's possession." (Emphasis supplied)

5. Iowa Code § 117.46(4)(1989) states:

"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. 193E Iowa Administrative Code section 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."

7. 193E Iowa Administrative Code section 1.27(117)(1)
states:

"1. 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'."

8. 193E Iowa Administrative Code section 1.27(117)(2)
states:

"2. Unless there is a written agreement between a buyer and a seller to the contrary, the interest on the account shall be transferred quarterly to the state. The beginning of the first quarter is July 1, 1985. The broker may have the depository remit the interest directly, or the broker may remit the interest, but in either case, it will be the responsibility of the broker to see that the interest is remitted. The amount to be remitted to the state will be the net of interest earned less any service charges directly attributable to the requirement of maintaining an interest-bearing account and of remitting the interest to the state. If the interest is remitted by the broker, the broker shall include with the remittance a copy of the applicable bank statement(s)."

AGREED ORDER

IT IS THEREFORE ORDERED, adjudged and decreed by the Iowa Real Estate Commission as follows:

1. Maurice L. Collins has a 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. Maurice L. Collins shall take twelve (12) hours of real estate continuing education in "trust accounts and closing procedures" within twelve (12) months of the signing of this informal settlement. These twelve (12) hours shall be taken in the area of broker relicensing and shall be in addition to all other real estate education hours required by law. Proof of compliance must be submitted to the Iowa Real Estate Commission within thirteen (13) months of the signing of this informal settlement by the Commission. A certificate of attendance must come under a cover letter addressed to the Commission's executive secretary and must be referred to as case number 89-060.

3. Maurice L. Collins shall remit accrued interest in the amount of \$390.41 to the State of Iowa within thirty (30) days of the signing of this informal settlement by the Commission.

4. Maurice L. Collins shall establish trust account records no later than thirty (30) days than the date of the signing of this informal settlement by the Commission and thereafter he will maintain those records, including a general ledger, individual ledgers for each transaction, a personal funds ledger and an interest ledger as required by law. Funds, other

than a legally authorized amount of personal funds, which are not related to a real estate transaction shall not be maintained in this account.


5. Maurice L. Collins shall be courteous and cooperative with employees of the Department of Inspections and Appeals who examine his trust account records.

6. This informal settlement is subject to the approval of the Commission. If the Commission fails to approve this agreement, it shall be of no force or effect on either party, and it shall not be admissible for any purpose in further proceedings in this matter. If approved by the Commission, this agreement shall be deemed an agreed upon disposition of a contested case proceeding and will dispose of all matters contained in the complaint in case 89-060.


Case Number: 89-060

FOR THE BROKER:

Dated this 10 day of March, 1991.

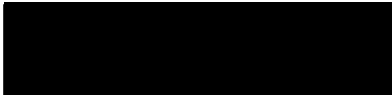

MAURICE L. COLLINS

Signed and sworn to before me this 10 day of March, 1991.



Notary Public, State of Iowa

FOR THE COMMISSION

Signed this 22 day of April, 1991.


E. JOE ANN LUTZ, Chairperson

Executed this 29th day of April, 1991.


K. MARIE THAYER, Administrator

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