

10. Carol A. Johnson made no effort during the life of the real estate contract to satisfy the liens or remove the cloud on the title as a result of the liens.

11. Carol A. Johnson made no mortgage payments to Rothschild Financial Corporation after February 1986.

12. On April 20, 1988, a Decree of Foreclosure was entered in favor of Rothschild Financial Corporation.

13. As a result of the foreclosure, Terri Lynne Killen suffered a financial loss of \$9,000.42.

LAWS AND RULES CITED

1. Iowa Code Section 117.29 Revocation or Suspension.

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.

3. Knowingly making misleading, deceptive, untrue or fraudulent representations in the practice of the profession or engaging in unethical conduct or practice harmful or detrimental to the public. Proof of actual injury need not be established.

2. Iowa Code Section 117.34 Investigations by the Board.

The real estate commission may upon its own motion and shall upon the verified complaint in writing of any person, if the complaint together with evidence, documentary or otherwise, presented in connection with the complaint makes out a prima-facie case, request the department of inspections and appeals to investigate the actions of any real estate broker, real estate salesperson, or other person who assumes to act in either capacity within this state, and may suspend or revoke a license issued under this chapter at any time if the licensee has by false or fraudulent representation obtained a license, or if the licensee is found to be guilty of any of the following:

8. Being unworthy or incompetent to act as a real estate broker or salesperson in such manner as to safeguard the interest of the public.

3. Iowa Administrative Code Section 1.27(6) Broker as principal.

Where a licensee acts as a principal in the sale of property owned by the licensee and receives payments from the purchaser, those payments must be deposited into the trust account when the licensee is acting in the capacity of a real estate broker and in those instances where any part of the funds must be used to pay taxes, insurance, mortgage, or any other types of encumbrances. When a licensee is acting as a principal in the renting of property owned by the licensee, funds other than security deposits should not be deposited into the broker's trust account except when the broker is not the sole owner of the property or is acting in the broker's capacity as a real estate licensee under a management agreement relative to the management of the property whether it be for the licensee or others. Whenever a licensee is in doubt as to whether activities as a principal require that funds received be deposited into the broker's trust account, the safest course of action is to account for those funds through a broker's trust account.

ALLEGATIONS

By failing to deposit contract payments into her trust account, Carol A. Johnson violated Iowa Administrative Code Section 1.27(6).

By allowing numerous judgements and other statutory liens to be recorded against the property, Carol A. Johnson violated Iowa Code Sections 117.29(2)(3) and 117.34(8).

By failing to satisfy the liens and remove the cloud on the title, Carol A. Johnson violated Iowa Code Section 117.29(2)(3).

By failing to make mortgage payments, Carol A. Johnson violated Iowa Code Sections 117.29(2)(3) and 117.34(8).

By causing foreclosure on the property which caused Terri Lynn Killen to suffer a financial loss of \$9,000.42, Carol A. Johnson violated Iowa Code Sections 117.29(2)(3) and 117.34(8).

WHEREFORE, the Iowa Real Estate Commission by virtue of its authority under Iowa Code Section 117.35(1989) has set this matter down for hearing on October 18, 1990 at 9:30 a.m., at the office of the Iowa Real Estate Commission, whereupon it will be decided after a full presentation by all parties whether the evidence presented warrants that action should be taken against the real estate license of Carol A. Johnson.

Iowa Real Estate Commission

Date

K. Marie Thayer, Administrator

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

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|---------------------------|---|----------------------|
| IN RE: |) | CASE NUMBER: 88-102 |
| |) | |
| Carol A. Johnson (B01357) |) | |
| Broker |) | |
| |) | VOLUNTARY REVOCATION |
| P. O. Box 12007 |) | OF BROKER LICENSE |
| Des Moines, IA 50312 |) | B01357 |

1. Carol A. Johnson admits that by failing to make mortgage payments and causing foreclosure, she violated Iowa Code Sections 117.29(2)(3) and 117.34(7(8)).

2. Carol A. Johnson has a right to a hearing on this matter but waives her right to a hearing.

3. Carol A. Johnson does hereby voluntarily submit her Iowa Real Estate License, Number B01357 for immediate revocation.

4. Carol A. Johnson understands that Iowa law allows her to re-apply for an Iowa Real Estate License if revocation took place two years (or longer) prior to re-application.

5. Carol A. Johnson understands that a re-application may or may not be granted by the Iowa Real Estate Commission and that the violations of law admitted herein may provide a basis for denial.

FOR THE BROKER:

Dated this 19 day of Sept, 1990.

[Redacted Signature]

Carol A. Johnson

Signed and sworn to before me this 19th day of September, 1990.

[Redacted Signature]

Notary Public, State of Iowa

FOR THE COMMISSION:

Signed this 20th day of September, 1990.

[Redacted Signature]

E. Boe Ann Lutz, Chairperson

Executed this 21st day of September, 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 disclosed on the pleadings, on September 21, 1990.

[Redacted Signature]