

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

IN RE:)	CASE NUMBER: 87-049
Michael A. Lamphier (S24836))	
Salesperson)	INFORMAL SETTLEMENT

Pursuant to 700 Iowa Administrative Code Section 4.12(117), this Informal Settlement is entered into between the Iowa Real Estate Examining Board (Board) and Michael A. Lamphier. They agree as follows:

STIPULATED STATEMENT OF FACTS

1. The Board has jurisdiction of this matter under Iowa Code Chapters 17A, 117, and 258A(1987) as well as the administrative rules found in Chapter 700 of the Iowa Administrative Code.
2. Michael A. Lamphier is, and was at all times during the following events, a salesperson licensed to Gibson-Midland Partners Real Estate, Inc. His license number is S24836.
3. In August, 1986, Lamphier wrote Uniform Purchase Agreements between Buyer Jan Zonneveld and Seller Frank Rocarek for property at 610 10th Avenue, S.E., Cedar Rapids.
4. After Buyer Zonneveld signed the final Uniform Purchase Agreement, Salesperson Lamphier added the language "as is condition" and "We accept above offer with as is condition added."

5. After adding this language, Salesperson Lamphier did not obtain Buyer Zonneveld's initials or signature on the Uniform Purchase Agreement.

6. 700 Iowa Administrative Code Section 4.40(117) provides a list of violations for which civil penalties may be imposed. Sub-paragraph 10 of this section states:

"Failing to obtain all signatures required on contracts or to obtain signatures or initials of all parties to changes in a contract."

7. By failing to obtain the initials or signature of the buyer after the Uniform Purchase Agreement had been changed, Salesperson Lamphier violated 700 Iowa Administrative Code Section 4.40(117).

8. Salesperson Lamphier committed the aforementioned acts as a real estate licensee.

AGREED ORDER

1. A date and time for an administrative hearing has been established for this matter. Salesperson Lamphier waives his right to this hearing and all attendant rights by entering into this Informal Settlement.

2. Salesperson Lamphier shall pay a \$200 civil penalty. He shall deliver a check payable to the Iowa Real Estate Examining Board no later than May 30, 1988, to satisfy this requirement.

3. Salesperson Lamphier shall also take twelve hours of real estate continuing education covering real estate law, contract law, and agency law. This course must be approved by the Board as qualifying as a "broker pre-license course" (See 700 Iowa Administrative Code Section 3.2(3)(117)). These twelve 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 this course must be submitted to the Board no later than May 30, 1989, as evidence that the salesperson has completed this requirement. This certificate of attendance must come under a cover letter addressed to the Board's Executive Secretary and must refer to Case Number 87-049.

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)(1987). However, no action may be taken against the licensee without a hearing as provided for in Iowa Code Section 117.35(1987).

5. This Informal Settlement shall be made a part of the record of Salesperson Lamphier and shall be considered by the Board in determining the nature and severity of the disciplinary sanction to be imposed for any future license law violation by Salesperson Lamphier.

6. The within settlement is subject to the approval of the Board and if the Board fails to approve this settlement, it shall be of no force or effect on either the Board or the licensees, and it shall not be admissible for any purposes at any further proceedings in this matter.

Dated this 19 day of April, 1988.

[Redacted signature]

Michael A. Lamphier, Salesperson

Signed and sworn to before me this 19th day of April, 1988.

[Redacted signature]

Notary Public, State of Iowa
Nancy Stahl

IOWA REAL ESTATE EXAMINING BOARD

Dated this 28th day of April, 1988

By: [Redacted signature]

James R. Berry, Chairperson

Executed this 28th day of April, 1988.

By: [Redacted signature]

Kenneth L. Smith, Executive Secretary