

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

IN RE:)	CASE NUMBER: 88-037
Carol A. Lohrer (B05327))	
Broker)	
)	
619 South Frederick)	INFORMAL SETTLEMENT
Box 618)	
Oelwein, Iowa 50662)	

Pursuant to Iowa Code Section 17A.10(1989) and 193E Iowa Administrative Code Section 4.12(117), this Informal Settlement is entered into between Carol A. Lohrer 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. Carol A. Lohrer is, and was at all times during the following events, a licensed real estate broker. Her license number is B05327.

3. On May 3, 1988 and May 12, 1988, the trust account records of Broker Lohrer were audited by Department of Inspections and Appeals Auditor Ron Rasmussen.

4. The Auditor reported that Broker Lohrer was not maintaining an individual ledger sheet for each transaction or a general ledger for the trust account.

5. The Auditor reported that Broker Lohrer was not maintaining an individual ledger sheet for the amount of personal funds.

6. The Auditor reported that the trust account had an overage of \$2,842.94 as of April 30, 1988.

7. It was also noted that Broker Lohrer was holding \$17.02 in the trust account after closing on the IPC-Cowell transaction without an escrow agreement.

8. On April 10, 1989, the trust account records of Broker Lohrer were audited by Department of Inspections and Appeals Auditor Ron Rasmussen.

9. The Auditor reported that the trust account had an overage of \$3,267.32 on April 10, 1989.

10. Broker Lohrer failed to reconcile the trust account on a regular basis.

11. Broker Lohrer failed to properly account for the client's money in the trust account.

12. 193E Iowa Administrative Code Section 1.27(117) states:

"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."

13. 193E Iowa Administrative Code Section 1.27(3)117 states:

"In the event all funds being held by the broker for a transaction cannot be disbursed at the time of closing the broker shall obtain an escrow agreement signed by both parties which shall direct the broker regarding the future disbursement of the funds."

14. 193E Iowa Administrative Code Section 4.40(117) states:

"Violations for which civil penalties may be imposed.

5. Maintaining inadequate transaction records such as:

- a. Failing to maintain a general ledger.
- b. Failing to maintain individual account ledgers.

6. Improper trust account and closing procedures:

- d. Failing to obtain escrow agreement for undisbursed funds."

AGREED ORDER

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

1. Broker Carol A. Lohrer has the right to a hearing on this matter, but waives her right to a hearing and all attendant rights by freely entering into this Informal Settlement.

2. Broker Carol A. Lohrer agrees to hire an accountant to establish trust account records following the Generally Accepted Accounting Principals. The trust account records shall include a General Ledger, Individual Ledgers for all transactions, Personal Funds Ledger, Interest Ledger and Unidentified or Unclaimed Funds (if needed).

3. Broker Carol A. Lohrer agrees to remit to the State Treasurer Unidentified or Unclaimed Funds after three years. Unclaimed property report forms are available from the Office of Treasurer of the State of Iowa. [See 193E Iowa Administrative Code Section 1.27(5)]

4. Broker Carol A. Lohrer agrees to provide a notarized statement from the accountant that the trust account records have been established and that the trust account records are being properly maintained. The notarized statement is to be sent under a cover letter addressed to the Commission's Executive Secretary and, must be referred to as case number 88-037. The notarized statement is to be received no later than March 30, 1990.

5. By authority of 193E Iowa Administrative Code Section 4.40(5) a,b (117) and 4.40(6)d (117), Broker Lohrer shall pay a civil penalty of \$300.00. Broker Lohrer shall deliver a certified check payable to the Iowa Real Estate Commission no later than December 29, 1989 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 88-037.

6. Broker Carol A. Lohrer 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 December 31, 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 88-037.

7. This Informal Settlement shall be made part of the record of Broker Lohrer 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 her.

8. 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 a licensee without a hearing as provided for in Iowa Code Section 117.35(1989).

9. The within settlement is subject to the approval of the Commission. If the Commission fails to approve this settlement, it shall be of no force or effect on either the Commission or the licensee, and 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 88-037.

FOR THE BROKER:

Dated this 8th day of December, 1989.



Carol A. Lohrer

Signed and sworn to before me this 8th day of December, 1989.



Notary Public, State of Iowa

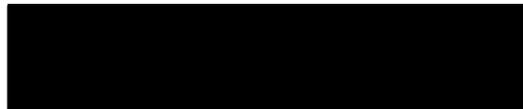
FOR THE COMMISSION:

Signed this 14th day of December, 1989.



Marlys Nielsen, Chairperson

Executed this 16th day of December, 1989.



Kenneth L. Smith
Executive Secretary