

BEFORE THE IOWA REAL ESTATE EXAMINING BOARD  
1918 SE HULSIZER  
ANKENY, IOWA

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IN RE:	)	
	)	
Roger Long (B05336)	)	
Broker-Partner,	)	CASE NUMBER 88-009
	)	
Thomas Ricklefs (B08112)	)	
Broker-Partner,	)	INFORMAL SETTLEMENT
	)	
ERA-Algona Realty (F02634),	)	
Firm.	)	
	)	

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Pursuant to Iowa Code Section 17A.10(1987) and 700 Iowa Administrative Code Section 4.12(117), this Informal Settlement is entered into between Roger Long; Thomas Ricklefs, ERA-Algona Realty, and the Iowa Real Estate Examining Board (Board), who 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. ERA-Algona Realty is a partnership which holds Iowa real estate license number F02634.

3. Roger Long and Thomas Ricklefs are, and were during the following events, licensed real estate brokers and partners of ERA-Algona Realty (the firm). Their license numbers are B05336 and B08112 respectively.

4. Pursuant to Iowa Code Section 10A.302, the Iowa Department of Inspections and Appeals conducted a review of the firm's trust account records. This review was conducted on November 4th and 5th, 1987.

5. In the course of this review, it was determined that commissions had been paid from the trust account prior to the closing on two transactions. The specifics are as follows:

- A. Black-Bolig transaction. The commission check for \$8000 was cashed on March 19, 1987. The closing for this transaction occurred on April 10, 1987.
- B. ITT Financial Services-Hanselman transaction. The commission check for \$1000 was cashed on April 17, 1987. The transaction closed March 17, 1988.

6. Thomas Ricklefs was personally involved in these transactions as the listing broker on the Black-Bolig transaction and the selling agent on the ITT Financial Services-Hanselman transaction.

7. Roger Long was personally involved in that he signed the commission checks for each of these transactions.

8. The firm had not obtained the informed written consent of all the parties authorizing the release of these funds from the trust account prior to the closing for either of these two transactions.

9. 700 Iowa Administrative Code Section 1.27(1)(117) states in relevant part, "No funds shall be disbursed from

the trust account prior to the closing without the informed written consent of all the parties."

10. 700 Iowa Administrative Code Section 4.40(117) provides a list of violations for which civil penalties may be imposed. Sub-paragraph 6b within this section states: "Disbursing trust funds prior to closing without written authorization."

11. By releasing two commissions from the trust account prior to the closing without the informed written consent of all the parties, the firm, Ricklefs, and Long admit they violated 700 Iowa Administrative Code Sections 1.27(1) and 4.40(6)b(117).

12. The firm, Ricklefs, and Long committed the aforementioned acts as real estate licensees.

AGREED ORDER

1. A date and time for an administrative hearing has been established for this matter, and each of the licensees named herein has received proper notice of this hearing.

2. Each of the named licensees waive their right to hearing and all attendant rights by entering into this Informal Settlement.

3. Pursuant to 700 Iowa Administrative Code Section 4.40(6)b(117), Brokers Ricklefs and Long shall each pay a \$200 civil penalty and ERA-Algona Realty shall pay a \$600 civil penalty. Payment shall be made no later than May 30, 1988, to satisfy this requirement.

4. ERA-Algona Realty, Thomas Ricklefs, and Roger Long shall be placed on probation for six months commencing on the date this document is signed by the Board's Chairperson. If the licensees violate or fail to comply with any real estate law or rule during this period of probation, they will be afforded the same administrative procedures as any licensee not on probation. However, if the Board after hearing finds each or any of them guilty of a violation of the real estate license law, the Board may consider their probationary status in assessing the penalty.

5. Brokers Ricklefs and Long shall also each take twelve hours of real estate continuing education in either (1) trust accounts or (2) 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 hours shall be in addition to all other real estate continuing education hours required by law for license renewal. Each of the brokers must submit the original certificates of attendance for the course to the Board no later than May 30, 1989, as evidence that the brokers have each completed this requirement. The certificates of attendance must come under a cover letter addressed to the Board's Executive Secretary and must refer to Case Number 88-009.

6. This Informal Settlement shall be made a part of the record of ERA-Algona Realty, Broker Ricklefs, and Broker Long and shall be considered by the Board in determining the nature and severity of the disciplinary action to be imposed for any future license law violation by each or any of them.

7. Failure to comply with the provisions of this Agreed Order shall be considered prima facie evidence of a violation of Iowa Code Section 117.29(3) and 117.34(2)(1987). However, no action may be taken against any licensee without a hearing as provided for in Iowa Code Section 117.35(1987).

8. 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 licensee, and it shall not be admissible for any purposes at any further proceedings in this matter.

FOR THE LICENSEES:

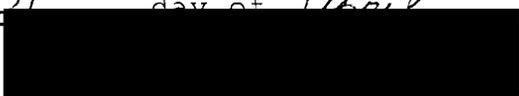
Dated this 21 day of April, 1988.

  
\_\_\_\_\_  
Roger Long, individually and on behalf of  
ERA-Algona Realty

Signed and sworn to before me this 21 day of April, 1988.

  
\_\_\_\_\_  
Notary Public, State of Iowa

Dated this 21 day of April, 1988.

  
\_\_\_\_\_  
Thomas Rickiers, individually and on behalf  
of ERA-Algona Realty

Signed and sworn to before me this 21 day of April, 1988.

  
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Notary Public, State of Iowa

  
Michael L. McEnroe, attorney for  
ERA-Algona Realty, Thomas Ricklefs,  
and Roger Long

FOR THE IOWA REAL ESTATE EXAMINING BOARD:

Dated this 28<sup>th</sup> day of April, 1988.

By: 

James R. Berry, Chairperson

Executed this 28<sup>th</sup> day of April, 1988.

By: 

Kenneth L. Smith  
Executive Secretary