

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

IN RE:)	CASE NUMBER: 90-065
)	
Rex E. Brandstatter (B00277))	
Broker)	
)	INFORMAL SETTLEMENT
412 10th Avenue)	
Coralville, IA 52241)	

Pursuant to Iowa Code Section 17A.10(1991) and 193E Iowa Administrative Code Section 4.12(117), this Informal Settlement is entered into between Rex E. Brandstatter 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(1991) as well as the administrative rules found in Chapter 193E of the Iowa Administrative Code.
2. Rex E. Brandstatter is, and was at all times during the following events, a licensed real estate broker. His license number is B00277.
3. On August 9, 1990, August 13, 1990 and August 14, 1990, Auditor Ron Rasmussen of the Department of Inspections and Appeals examined the trust account records of Broker Brandstatter.
4. Broker Brandstatter failed to remit interest of \$140.84 to the State for a period from September 30, 1987 through December 30, 1988. Broker Brandstatter has taken corrective action by remitting the interest to the State.
5. The trust account of Broker Brandstatter was long \$600.00.

6. Broker Brandstatter failed to properly maintain the Individual Ledgers.

7. Iowa Code Section 117.46 (1) trust accounts states:

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 salesperson 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 salesperson. The account shall be an 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.

8. Iowa Administrative Code Section 193E--4.40(117) violations for which civil penalties may be imposed states:

4.40(5) Maintaining inadequate transaction records such as:

b. Failing to maintain individual account ledgers.

4.40(6) Improper trust account and closing procedures:

k. Failing to account for and remit to the state accrued interest due in accordance with the Iowa Code Section 117.46.

AGREED ORDER

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

1. Rex E. Brandstatter has the 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. Broker Brandstatter erred by failing to remit the interest or see that the interest was remitted to the State on a quarterly basis. Broker Brandstatter agrees to abide by the provisions in the future.

3. Broker Brandstatter erred by failing to properly maintain an Individual Ledger sheet for each transaction. Broker Brandstatter agrees to maintain the proper records.

4. Broker Brandstatter erred by failing to properly account for the public's money by having an overage of \$600.00 in his trust account. Broker Brandstatter agrees to remit to the State Treasurer any Unidentified or Unclaimed Funds after three years. Unclaimed property report forms are available from the Office of Treasurer of State of Iowa. [See 193E Iowa Administrative Code Section 1.27(5)].

5. Broker Brandstatter shall take twelve hours of real estate continuing education in "Trust Account and Closing Procedures". This course must be approved as a "Broker Pre-license Course". [(See 3.2(3)(117))]. These hours shall be in addition to all other real estate continuing education required by law for license renewal. The original Certificate of Attendance for the course must be submitted to the commission within 13 months of the signing of this informal settlement by the Commission. The Certificate of Attendance must come under a cover letter addressed to the Commission's Executive Secretary and must be referred to as case number 90-065.

6. Broker Brandstatter is hereby REPRIMANDED.

7. This Informal Settlement shall be made part of the permanent record of Rex E. Brandstatter 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 violations by the broker.

8. 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)(1991). However, no action may be taken against any licensee without a hearing as provided for in Iowa Code Section 117.35 1991).

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

FOR THE BROKER:

Dated this 5th day of JUNE, 1991.

[Redacted Signature]

Rex E. Brandstatter

Signed and sworn to before me this 5th day of
JUNE, 1991.

[Redacted Signature]

Notary Public, State of Iowa

FOR THE COMMISSION:

Signed this 20th day of JUNE, 1991.

[Redacted Signature]

Jerry F. Duggan, Chairperson

Executed this 20th day of JUNE, 1991.

[Redacted Signature]

Roger L. Hansen
Executive Secretary