

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

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 IN RE:)
) CASE NUMBER 87-076B
 First Realty, Ltd. (F01527),)
 Firm) INFORMAL SETTLEMENT
)
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Pursuant to Iowa Code Section 17A.10(1987) and 193E Iowa Administrative Code Section 4.12(117), this Informal Settlement is entered into between First Realty, Ltd.(First) 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(1987) as well as the administrative rules found in Chapter 193E of the Iowa Administrative Code.
2. First is, and was at all times during the following events, a corporation holding real estate license number F01527.
3. Iowa Code Section 117.33(1987) states:

When any real estate salesperson is discharged or terminates employment with the real estate broker by whom the salesperson is employed, the real estate broker shall immediately deliver or mail by certified mail to the real estate examining board the real estate salesperson's license on the reverse side of which the employing broker shall set out the date and cause of termination of employment. The real estate broker at the time of mailing the real estate salesperson's license to the board shall address a communication to the last known residence address of the real estate salesperson stating that the license has been delivered or mailed to the board. A copy of the communication to the real estate salesperson shall accompany the license when mailed or delivered to the board. It is unlawful for any real estate salesperson to perform any of the acts contemplated by



this chapter either directly or indirectly under authority of a license from and after the date of receipt of the license by the board. The board shall, upon presentation of evidence by the salesperson that the salesperson has been employed by another broker, issue another license for the balance of the current license period showing each change of employment. A fee as determined by the board shall be charged for the issuance of the license. Not more than one license shall be issued to any real estate salesperson for the period of time. (Emphasis supplied)

4. 193E Iowa Administrative Code Section 2.15(4)(117) states:

Failure of a broker to deliver or mail by certified mail a license to the office within 72 hours after a salesperson or broker associate is discharged or terminated employment is prima facie evidence of a violation of Iowa Code section 117.33.

5. 193E Iowa Administrative Code Section 4.40(117) provides a list of violations for which civil penalties may be imposed. Item 3b within that list states, "failing to return license in a timely manner (72 hours)."

6. The Commission has filed a complaint against First for failing to return certain licenses as required.

7. First acknowledges that there have been instances where licenses have not been returned within 72 hours. However, First states they have taken remedial action by establishing written company procedures for the timely return of licenses.

AGREED ORDER

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

1. A date and time for an administrative hearing has been established for this matter, and First has received proper notice of this hearing. First waives its right to hearing and all attendant rights by entering into this Informal Settlement.

2. First agrees to adopt internal procedures so that it is in compliance with the Iowa real estate license law as it relates to the timely return of licenses.

3. Pursuant to 193E Iowa Administrative Code Section 4.40(3)b, First shall pay a civil penalty of \$1000.00. Payment shall be made to the Commission no later than October 31, 1988 to satisfy this requirement.

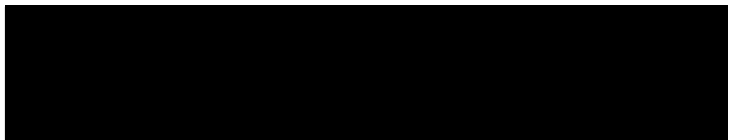
4. This Informal Settlement shall be made a part of the record of First and shall be considered by the Commission in determining the nature and severity of the disciplinary action to be imposed for any future license law violation by First.

5. 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).

6. 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. 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 87-076B.

FOR FIRST REALTY, LTD.:

Dated this 9th day of SEPTEMBER, 1988.



Gene W. Stanbrough, Broker

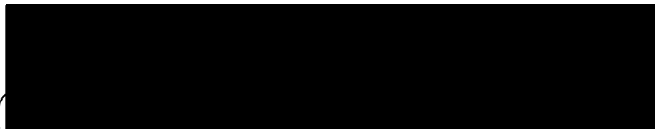
Signed and sworn to before me this 9th day of SEPTEMBER, 1988.



Notary Public, State of Iowa



Dated this 9th day of September, 1988.



Smith, Schneider, Stiles, Mumford,
Schrage & Zurek
Attorneys for First Realty, Ltd.

FOR THE COMMISSION:

Dated this 14th day of September, 1988.



James R. Berry, Chairperson

Executed this 14th day of September, 1988.



Kenneth L. Smith, Executive Secretary

PROOF OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties to the above case 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 Sept 15 1988.

