

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

IN RE:
Michael T. Gatens (B21507)
Broker-Associate

500 South Dubuque Street
Iowa City, IA 52240

CASE NUMBER: 88-097

INFORMAL SETTLEMENT

Pursuant to Iowa Code Section 17A.10(1989) and 193E Iowa Administrative Code Section 4.12(117), this Informal Settlement is entered into between Michael T. Gatens 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. Michael T. Gatens is and was at all times during the following events, a licensed real estate agent. His license number is B21507.

3. Michael T. Gatens received an offer to purchase on a lot he had listed at 1850 Dubuque Road, Iowa City, Iowa from Lynn and Brenda Grieban on July 23, 1988.

4. Michael T. Gatens did not provide to Lynn and Brenda Grieban a copy of their Offer to Purchase.

5. Michael T. Gatens then made a counter-offer which was accepted by Lynn and Brenda Grieban.

6. Michael T. Gatens did not provide to Lynn and Brenda Grieban a copy of their accepted counter-offer.

7. Michael T. Gatens failed to retain any copies of the transactions between the Griebans and Michael T. Gatens for the file.

8. 193E Iowa Administrative Code Section 1.28(117) states:

Closing transactions. It shall be mandatory for every broker to deliver to the seller in every real estate transaction, at the time the transaction is consummated, a completed detailed statement, showing all of the receipts and disbursements handled by the broker. Also, the broker shall at the same time deliver to the buyer a complete statement showing all moneys received in the transaction from the buyer and how and for what the same were disbursed. The broker shall retain all trust account records and a complete file on each transaction for a period of at least five years after the date of the closing which shall include one copy of the listing, any offers to purchase, all correspondence pertinent to the transaction, and the closing statement. The listing broker shall be responsible for the closing even though the closing may be completed by another licensee. If the closing transaction is handled through an unlicensed escrow agent the escrow agent renders a closing statement, the listing broker shall assure that funds which the broker has received or paid as part of the transaction are accounted for properly.

9. 193E Iowa Administrative Code Section 1.35(117) states:

Distribution of executed instruments. Upon execution of any instruments in connection with a real estate transaction, a licensee shall, as soon as practicable, deliver a legible copy of the original instrument to each of the parties thereto. It shall be the responsibility of the licensee to prepare sufficient copies of such instruments to satisfy this requirement.

AGREED ORDER

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

1. Broker-Associate Michael T. Gatens 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-Associate Michael T. Gatens is hereby REPRIMANDED.

3. Broker-Associate Michael T. Gatens shall take 12 hours of Real Estate Continuing Education in "Real Estate Law, Contract Law and Agency Law." within twelve (12) months of the signing of this Informal Settlement. These twelve (12) hours shall be taken in the area of Broker Pre-Licensing and shall be in addition to all other real estate education hours required by law. Proof of compliance must be submitted to the Iowa Real Estate Commission within thirteen (13) months of signing this Informal Settlement by the commission. The Certificates of Attendance must come under a cover letter addressed to the Commission's Executive Secretary and must be referred to as case number 88-112.

4. This Informal Settlement shall be made a part of the permanent record of Broker-Associate Michael T. Gatens and may 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 Broker-Associate Michael T. Gatens.

5. 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).

6. This 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 party and shall not be admissible for any purposes at any further proceedings in this matter.

FOR THE BROKER:

Dated this 19th day of October, 1989.



Michael T. Gatens

Signed and sworn to before me this 19 day of Oct., 1989.


Notary Public, State of Iowa

FOR THE COMMISSION:

Signed this 16 day of November, 1989.


Marlys Nielsen, Chairperson

Executed this 16th day of November, 1989.


Kenneth L. Smith
Executive Secretary