

BEFORE THE IOWA REAL ESTATE COMMISSION

STATE CAPITOL  
DES MOINES, IOWA

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IOWA REAL ESTATE COMMISSION )

Complainant, )

vs. )

STEVEN R. HARBAUGH (B04552) )

Broker-Respondent, )

MARK L. WINNINGER (B16716) )

Broker-Respondent. )

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ORDER OF CENSURE

COMES NOW the Iowa Real Estate Commission and states:

1. That by virtue of its authority under section 117.35 of the 1983 Code of Iowa, the Iowa Real Estate Commission scheduled a hearing on September 22, 1983, in the above named cause to determine whether the real estate brokers licenses of Steven R. Harbaugh and Mark L. Winninger should be suspended or revoked.

2. That at the time scheduled for the hearing, Steven R. Harbaugh and Mark L. Winninger appeared before the Iowa Real Estate Commission for the purpose of presenting a proposed Assurance of Voluntary Compliance.

3. That after due consideration, the Iowa Real Estate Commission accepted the Assurance of Voluntary Compliance.

4. That the Iowa Real Estate Commission in addition to accepting the Assurance of Voluntary Compliance determined that the real estate brokers licenses of Steven R. Harbaugh and Mark L. Winninger be Censured.


THEREFORE, it is ordered by the Iowa Real Estate Commission:

1. That the brokers license of Steven R. Harbaugh and Mark L. Winninger are hereby censured.


2. That this censure be made a part of the Iowa Real Estate Commission's permanent record of Steven R. Harbaugh and Mark L. Winninger.

3. That the complaint file against Steven R. Harbaugh and Mark L. Winninger be and the same is hereby closed.

Executed this 3<sup>rd</sup> day of oct, 1983.

  
Mildred E. Elliott, Chairman  
Iowa Real Estate Commission

ATTEST:

  
Eugene O. Johnson, Director  
Iowa Real Estate Commission

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State Capitol  
Des Moines, Iowa

IOWA REAL ESTATE COMMISSION  
Complainant,

vs.

STEVEN R. HARBAUGH (B04552)  
Broker-Respondent,  
MARK L. WINNINGER (B16716)  
Broker-Respondent.

ASSURANCE OF VOLUNTARY COMPLIANCE

COME NOW the Iowa Real Estate Commission and Steven R. Harbaugh, Broker-Respondent, and Mark L. Winninger, Broker-Respondent, and enter into this Assurance of Voluntary Compliance based upon the following stipulated facts:

1. That the Iowa Real Estate Commission has jurisdiction of this matter under Sections 117.29, 117.34 and 117.35 of the 1983 Code of Iowa.
2. That Steven R. Harbaugh, hereinafter referred to as Respondent No. 1, is a licensed real estate broker (B04552), who at all times relevant to the matters contained herein was licensed as a broker-associate to Larry Winninger and Company, Waterloo, Iowa.
3. That Mark L. Winninger, hereinafter referred to as Respondent No. 2, is a licensed real estate broker (B16716) who at all times relevant to the matters contained herein was licensed as a broker-associate to Larry Winninger and Company, Waterloo, Iowa.
4. That on November 29, 1982, William J. Westerman II and Phyllis J. Westerman, hereinafter referred to as the Sellers, listed for sale with Larry Winninger and Company by way of a listing agreement signed with Respondent No. 1 certain property located at 2625 West Fourth Street, Waterloo, Iowa, hereinafter referred to as property.
5. That at all times relevant to the matters contained herein, the Sellers had vacated the property and were living in South Carolina.

6. That an offer to purchase dated March 7, 1983 was obtained from Eugene H. Gavlock, hereinafter referred to as Purchaser, to purchase the property which was presented over the phone to the Sellers by Respondent No. 1.

7. That the offer to purchase mentioned in No. 6 was for \$127,000.00 with \$119,500.00 being held by Sellers on contract and that this offer was a lease-purchase agreement.

8. That prior to this offer to purchase being accepted by all parties, the offer was withdrawn by the Purchaser.

9. That a subsequent offer to purchase was obtained from Purchaser dated March 10, 1983 which was a different lease-purchase agreement with the offer to purchase in the amount of \$105,000.00 with \$97,500.00 being held by Sellers; this was also for less property than the previous offer.

10. That this second offer was presented to the Sellers by telephone by Respondent No. 1 and the offer to purchase was forwarded to the Sellers by letter on March 11, 1983; that in addition to the offers to purchase, a letter was forwarded containing a statement relative to the method by which the real estate commission was to be paid on March 17, 1983.

11. That on March 16, 1983, Respondent No. 2 received by telephone a partial credit report on the Purchaser from the Waterloo-Cedar Falls Credit Bureau.

12. That this information was never forwarded to the Sellers.

13. That Respondent No. 1 and Respondent No. 2 should have informed the Sellers of the partial credit report they received on the Purchaser's credit.

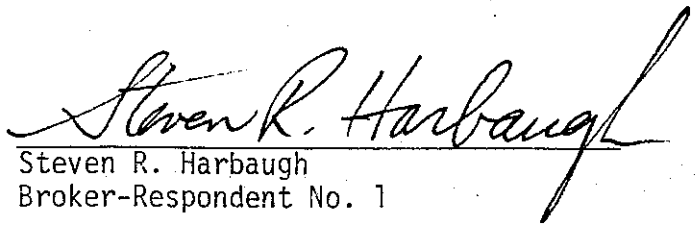
THEREFORE, it is hereby agreed by and between the Iowa Real Estate Commission and Steven R. Harbaugh and Mark L. Winninger that:

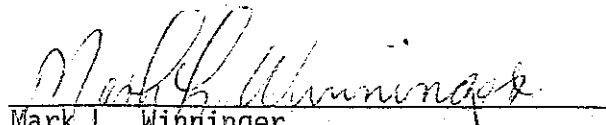
1. Steven R. Harbaugh and Mark L. Winninger will refrain from a practice of withholding credit information about a purchaser from the seller.


2. Mark L. Winninger and Steven R. Harbaugh have instituted a practice and policy at Larry Winninger and Company Realtors that the real estate broker will no longer conduct any credit review of a potential purchaser; that they will inform all sellers that they represent that any credit information will have to be supplied by the purchaser or by the seller.

3. This agreement be made a part of the Iowa Real Estate Commissions's permanent record of the Respondents No. 1 and No. 2.

AGREED to this 22<sup>nd</sup> day of September, 1983.

  
Steven R. Harbaugh  
Broker-Respondent No. 1

  
Mark L. Winninger  
Broker-Respondent No. 2

  
Chairperson  
Iowa Real Estate Commission

Attest:

  
Eugene O. Johnson, Director  
Iowa Real Estate Commission