

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

IN RE:)	CASE NUMBER: 89-058
)	
Harry C. Crowl Company (F00315))	
Partnership)	INFORMAL SETTLEMENT
)	
123 4th Street)	
Council Bluffs, Iowa 51501)	

Pursuant to Iowa Code Section 17A.10(1989) and 193E Iowa Administrative Code Section 4.12(117), this Informal Settlement is entered into between Harry C. Crowl Company 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. Harry C. Crowl Company is, and was at all times during the following events, a licensed partnership. The license number is F00315.
3. On August 10, 1989, August 14, 1989 and August 15, 1989, the Department of Inspections and Appeals examined the trust account of Harry C. Crowl Company.
4. Harry C. Crowl Company failed to properly maintain the General Ledger and the Individual Account Ledgers.
5. Harry C. Crowl Company's trust account was \$4,949.80 short. The examination of the trust account revealed that \$4,500.00 of the shortage was embezzled by an employee.
6. Harry C. Crowl Company paid utility and other small bills prior to rents being received causing a negative balance in several of the rental accounts. Total shortage was \$449.80.
7. Harry C. Crowl Company deposited \$4,949.80 in the trust account to correct the shortage.

280

8. Iowa Code Section 117.46(4) 1989 states:

Each broker shall only deposit trust funds received on real estate or business opportunity transactions as defined in section 117.6 in said common trust account and shall not commingle the broker's personal funds or other funds in said trust account with the exception that a broker may deposit and keep a sum not to exceed one hundred dollars in said account from the broker's personal funds, which sum shall be specifically identified and deposited to cover bank service charges relating to said trust account.

9. Iowa Administrative Code Section 193E 1.27(117) states:

Trust account. Earnest payments, rents collected, property management funds, and other trust funds received by the broker shall be deposited in an identified "trust" account in a bank, savings and loan association, savings bank, or credit union located in Iowa. A broker shall maintain in the broker's office a general ledger for the trust account and an account ledger for each account or transaction which shall provide a complete record of all moneys received on real estate transactions, rents, and management funds, including the sources of the money, the date of receipt, depository, and date of deposit; and when a transaction has been completed, the final disposition of the moneys. The notification to the commission of the name, depository, and address of the broker's trust account shall include the account number.

10. Iowa Administrative Code Section 193E--4.40(117)(5)a, b states:

Violations for which civil penalties may be imposed.

4.40(5) Maintaining inadequate transaction records such as:

a. Failing to maintain a general ledger.

b. Failing to maintain individual account ledgers.

AGREED ORDER

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

1. Harry C. Crowl Company has the right to a hearing on this matter, but waive their right to a hearing and all attendant rights by freely entering into this Informal Settlement.

2. Harry C. Crowl Company agrees to properly maintain trust account records including the General Ledger, Individual Ledgers for all transactions, Personal Funds Ledger and Interest Card.

3. Harry C. Crowl Company agrees to do monthly trust account reconciliation as a preventive measure against trust account irregularities.

4. This Informal Settlement shall be made part of the permanent record of Harry C. Crowl Company 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 Harry C. Crowl Company.

5. 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)(1989). However, no action may be taken against any licensee without a hearing as provided for in Iowa Code Section 117.35(1989).

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.

FOR THE PARTNERSHIP:

Dated this 3rd day of August, 1990.

[Redacted Signature]

Harry C. Crowl Company
Harry C. Crowl Company

by [Redacted]

Signed and sworn to before me this 3rd day of August, 1990.

[Redacted Signature]

Notary Public, State of Iowa

FOR THE COMMISSION:

Signed this 16th day of August, 1990.

[Redacted Signature]

E. Joe Ann Lutz, Chairperson

Executed this 20th day of August, 1990.

[Redacted Signature]

K. Marie Thayer,
Administrator

PROOF OF SERVICE

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause 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 August 20, 1990

[Redacted Signature]