

BEFORE THE IOWA REAL ESTATE COMMISSION
1918 SE HULSIZER
ANKENY, IOWA

IN RE:)	CASE NUMBER: 91-020
SCOTT BYERS (B03682))	
Broker)	
VIVIAN MOESSNER (S14122))	STATEMENT OF CHARGES
Salesperson)	

The Iowa Real Estate Commission has jurisdiction of this matter pursuant to Iowa Code Chapters 17A, 117, and 258A as well as chapter 193E of the Iowa Administrative Code.

Licenses issued by the Commission are subject to the laws of the State of Iowa and to the administrative rules of the Commission.

Scott Byers is, and was at all material times during the following events, a licensed real estate broker in charge of Bahre, Inc., F01869. His license number is B03682.

Vivian Moessner is, and was at all material times during the following events, a licensed real estate salesperson assigned to Bahre, Inc., F01869. Her license number is S14122.

COUNT I

Respondents are charged with engaging in unethical conduct or practice harmful or detrimental to the public by engaging in a prohibited tying arrangement in violation of Iowa Code §117.29(3)(1991) and Iowa Administrative Code section 193E--1.31(5)(1991).

CIRCUMSTANCES OF THE COMPLAINT

1. On or about May 2, 1991, Respondents listed seven lots at Lilly Lake in Iowa County, Iowa.
2. The seven lots were owned by the Amana Society.
3. The listing agreement for each lot required that the purchaser to use a specified builder, the Amana Society Builders, to build the house to be constructed on the lot.
4. The listing agreement also required that the house be built within one year of the date of purchase of the lot.

FINDING OF PROBABLE CAUSE

On September 19, 1991, the Iowa Real Estate Commission found probable cause to file this Statement of Charges and to order that a hearing be set in this case.

Executed this 22ND day of FEBRUARY, 1993.


Roger L. Hansen
Executive Secretary
Iowa Real Estate Commission

7. This Stipulation and Consent Order shall be made a part of the record of the Respondent and may be considered by the Commission in determining the nature and severity of any disciplinary action to be imposed on the Respondent for any future violations of the laws and rules governing the practice of real estate.

8. Failure to comply with the terms of this Stipulation and Consent Order shall be prima facie evidence of a violation of Iowa Code sections 117.29(3), 117.34(2) (1991) and 258A.3(2)(a).

9. This Stipulation and Consent Order shall be presented to the Commission in closed session by the prosecuting attorney and/or Commission staff. Respondent waives any right of notice of this meeting or any right which the Respondent might have to participate in the discussion of this Stipulation and Consent Order among the Commission, the Commission staff and the prosecuting attorney.

10. This Stipulation and Consent Order is not binding on the Iowa Real Estate Commission until it has been formally approved by a majority of the Commission members. In the event that this Stipulation and Consent Order is rejected by the Commission it shall be of no force or effect to either party.

THEREFORE, IT IS HEREBY ORDERED that Respondent is hereby reprimanded.

IT IS FURTHER ORDERED that Respondent, Vivian J. Moessner shall take the twelve hours broker prelicense course "Real Estate Law, Contract Law and Agency Law" within twelve (12) months of the acceptance of this settlement by the Commission. These twelve (12) hours shall be taken in addition to all other real estate education required by law. Proof of compliance must be submitted to the Iowa Real Estate Commission within thirteen (13) months of acceptance by the Commission under a cover letter to the Commission's Executive Secretary and must refer to case number 91-020.

IT IS FURTHER ORDERED that at all future times Respondent shall fully and promptly comply with all pertinent Orders of the Commission and the statutes and Commission rules regulating the practice of real estate.

This Stipulation and Consent Order is voluntarily entered into by the Respondent on this 9th day of March, 1993.

[Redacted Signature]

Vivian J. Moessner, Respondent

Subscribed and Sworn to before me on this 9th day of March, 1993.

[Redacted Signature]

Notary Public, State of Iowa

This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission on the 18th day of MARCH, 1993.

[Redacted Signature]

E. Joe Ann Lutz, Chairperson
Iowa Real Estate Commission