

FILED

August 2, 2018

(Date)

BEFORE THE IOWA REAL ESTATE COMMISSION
200 EAST GRAND, SUITE 350
DES MOINES, IOWA 50309

JREC
Board / Commission
Signature, Executive Officer

IN RE:)	
)	CASE NUMBER: 18-124
Terry R. Bradford)	
Broker (B61939000))	COMBINED STATEMENT OF
INACTIVE)	CHARGES, INFORMAL
)	SETTLEMENT AGREEMENT,
Option Real Estate)	AND CONSENT ORDER IN A
301 Bourland Avenue)	DISCIPLINARY CASE
Waterloo, IA 50701)	
)	
RESPONDENT)	

The Iowa Real Estate Commission (Commission) and **Terry R. Bradford** (Respondent) enter into this Combined Statement of Charges, Informal Settlement Agreement, and Consent Order in a Disciplinary Case (Order) pursuant to Iowa Code Sections 17A.10(1) and 272C.3(4) (2018).

1. The Commission issued the Respondent real estate broker license number B61939000 on March 4, 2013. Respondent's license is current and in full force and effect through December 31, 2018. At all times relevant to this matter, the Respondent was a licensed real estate sole-proprietor broker operating as Option Real Estate, a licensed real estate trade name, license number T05686000, located in Waterloo, Iowa. On June 22, 2018, the Respondent provided notification to the Commission of the closing of his sole-proprietor brokerage and the Respondent's license was subsequently placed on inactive status.

2. The Commission has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 543B (2018). Licenses issued by the Commission are subject to the laws of the State of Iowa and to the administrative rules of the Commission.

STATEMENT OF CHARGES

COUNT I

3. Respondent is charged with failing to diligently exercise reasonable skill and care in providing brokerage services to all parties to a transaction by failing to properly effectuate the terms of an executed purchase agreement in violation of Iowa Code sections 543B.29(1)(d), 543B.34(1), 543B.56(1)(b) (2018). See 193E Iowa Administrative Code sections 12.3(1)(a), 12.3(1)(b), 18.14(5)(s).

CIRCUMSTANCES

4. As designated broker of the real estate broker sole-proprietorship, the Respondent is responsible for ensuring compliance with all applicable rules and regulations governing the sole-proprietorship's operations in the state of Iowa.

5. On May 21, 2018, an offsite examination of the Respondent's Iowa real trust account and transaction records was conducted by the Commission auditor (auditor).

6. In a random sampling of transaction files, the auditor discovered one (1) real estate transaction for a property located in Waterloo, Iowa, in which the earnest money deposit was deposited into Title Services Corporation trust account. At the time, the Respondent did not maintain an Iowa real estate trust account in a bank, savings association or credit union for the deposit of earnest money.

7. In reviewing the aforementioned real estate transaction file for the subject property, the auditor discovered that the executed purchase agreement nonetheless provided that the earnest money was to be held in trust by Option Real Estate, not in Title Services Corporation trust account. By depositing the earnest money funds in Title Services Corporation trust account, the Respondent failed to properly effectuate the terms of an executed purchase agreement.

SETTLEMENT AGREEMENT

8. Without admission of wrongdoing or guilt, the Respondent does not contest the violations alleged in the above-stated Statement of Charges. This case shall constitute one violation for purposes of Iowa Code section 543B.29(4) (2018).

9. Respondent acknowledges that he has a right to receive notice of the above-stated charges and to request a hearing before the Commission on the merits of the charges. By freely and voluntarily entering into this Order, the Respondent waives his right to notice and a hearing and all attendant rights, including the right to seek judicial review. This Order constitutes discipline against the Respondent, and is the final agency order in this contested case pursuant to Iowa Code section 17A.10 and 193 Iowa Administrative Code 7.4.

10. Respondent agrees that the State's attorney and/or Commission staff may present this Order to the Commission and may have *ex parte* communications with the Commission while presenting it. Respondent waives any right of notice of this meeting or any right that the Respondent might have to participate in the discussion of this Order among the Commission, the Commission staff and the State's attorney.

11. This Order shall be part of the permanent record of Respondent and shall be considered by the Commission in determining the nature and severity of any future disciplinary action to be imposed in the event of any future violations of the laws and rules governing the practice of real estate by the Respondent.

12. Failure to comply with the terms of this Order shall be prima facie evidence of a violation of Iowa Code sections 543B.29(1)(d), 543B.34(1) and 272C.3(2)(a) (2018) and shall be grounds for further disciplinary action. However, no action may be taken against the Respondent for violations of this Order without a hearing, or waiver of hearing.

13. This Order is not binding on the Iowa Real Estate Commission until it has been formally approved by a majority of the Commission members.

- (a) In the event that this Order is rejected by the Commission it shall be of no force or effect to either party, and it shall not be admissible for any purpose in further proceedings in this matter.
- (b) If the Commission approves this Order, it shall fully dispose of all issues in this case.

14. Upon acceptance by both the Commission and Respondent, this Combined Statement of Charges, Informal Settlement and Consent Order shall be a public record available for inspection and copying in its entirety in accordance with the requirements of Iowa Code chapter 22 (2018).

CONSENT ORDER

IT IS THEREFORE ORDERED:

15. CIVIL PENALTY. Respondent shall pay to the Commission a civil penalty in the amount of five hundred dollars (\$500.00) as a condition precedent to:

- (a) The Respondent's reactivation of his inactive Iowa real estate broker license.
- (b) The Respondent's reinstatement of his Iowa real estate broker license in the event of its expiration.

The Commission shall not reactivate or reinstate the Respondent's Iowa real estate broker license before and until it has received payment in full of the required civil penalty from the Respondent. Payment of the civil penalty shall not excuse the Respondent from demonstrating compliance with all other applicable statutory and regulatory requirements or otherwise qualifying for reactivation or reinstatement of his Iowa real estate broker license.

16. FUTURE COMPLIANCE. The Respondent also shall at all future times fully and promptly comply with all pertinent Orders of the Commission and the statutes and Commission rules regulating the practice of real estate.

WHEREFORE, the terms of this Combined Statement of Charges, Informal Settlement Agreement and Consent Order are agreed to and accepted by the Iowa Real Estate Commission and the Respondent.

FOR THE RESPONDENT:

Voluntarily agreed to and accepted by Terry R. Bradford on this 2 day of July, 2018.

Terry R. Bradford
By: TERRY R. BRADFORD, Respondent

State of Iowa)

County of Black Hawk

Signed and sworn to before me on this 2nd day of July, 2018, by:



Tamara J Fouts
Notary Public, State of Iowa
Printed Name: Tamara J Fouts
My Commission Expires: 01/13/19

FOR THE COMMISSION:

Voluntarily agreed to and accepted by the IOWA REAL ESTATE COMMISSION on this 2nd day of August, 2018.

Dennis L. Stolk
~~TERRANCE M. DUGGAN~~, Chair
Iowa Real Estate Commission
Dennis L. Stolk, Vice Chair