

FILED November 4, 2021 (Date)

3861

Board / Commission

M. G. L.
Signature, Executive Officer

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

IN RE:)	
)	CASE NUMBERS: 20-301, 21-091
Dennis J. Buchheit)	
Broker (B38236000))	COMBINED STATEMENT OF
)	CHARGES, INFORMAL
New Eagle Holdings, Inc.)	SETTLEMENT AGREEMENT,
3520 Kennedy Circle, Suite 7)	AND CONSENT ORDER IN A
Dubuque, IA 52002)	DISCIPLINARY CASE
)	
RESPONDENT)	

The Iowa Real Estate Commission (Commission) and **Dennis J. Buchheit** (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) (2021).

1. The Commission issued the Respondent real estate broker license number B38236000 on November 3, 2003. Respondent's license is in full force and effect until December 31, 2023. At all times relevant to this matter, the Respondent served both as the designated broker in charge and a licensed real estate broker officer of New Eagle Holdings, Inc., license number F05422000, located in Dubuque, Iowa.

2. The Commission has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 543B (2020). 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 (CASE NO. 20-301)

3. Respondent is charged with failing to diligently exercise reasonable skill and care in supervising a licensee employed by the Respondent, by failing to properly assign a salesperson to his firm in violation of Iowa Code sections 543B.2, 543B.5(20), 543B.33, 543B.34(1), 543B.62(3)(b) (2020). See 193E Iowa Administrative Code sections 7.1(7), 7.11, 18.2(1), 18.14(5)(s).

CIRCUMSTANCES

4. Respondent was assigned as the designated broker in charge of real estate brokerage firm New Eagle Holdings, Inc., at all times relevant to this matter. As the designated broker in charge of the real estate brokerage firm, the Respondent is responsible for ensuring compliance with all applicable rules and regulations governing the firm's operations in the state of Iowa.

5. Between the time period of August 2020 and November 2020, the Respondent allowed a broker to practice real estate for his licensed real estate firm, New Eagle Holdings, Inc. However, pursuant to Commission licensing records, the broker was assigned as the sole broker officer to Conrad Inc., a licensed real estate firm, license number F05708000 during the time period in question.

6. On November 18, 2020, the Commission received written correspondence from the aforementioned designated broker of Conrad, Inc., notifying the Commission of the cancellation of the real estate firm license F05708000. Subsequently, the broker then submitted an application request on November 23, 2020, requesting that his license be assigned to New Eagle Holdings, Inc.

7. Consequently, in 2020, the Respondent allowed a broker to conduct activities in the state of Iowa requiring a real estate license outside of the licensed broker or firm that the broker associate was assigned to.

COUNT II (CASE NO. 20-301)

8. Respondent is charged with advertising real estate under an unlicensed tradename in violation of Iowa Code section 543B.34(1) (2020). See 193E Iowa Administrative Code sections 10.1, 10.1(2), 10.1(3), 18.14(5)(s).

CIRCUMSTANCES

9. Respondent was assigned as the designated broker in charge of real estate brokerage firm New Eagle Holdings, LLC at all times relevant to this matter. As the designated broker in charge of the real estate brokerage firm, the Respondent is responsible for ensuring compliance with all applicable rules and regulations governing the firm's operations in the state of Iowa.

10. In November 2020, it was discovered that the Respondent was engaged in Internet advertising and holding himself and his real estate brokerage as being engaged in the business of practicing real estate using the unlicensed tradename "EXIT Realty Dubuque."

11. On December 3, 2020, "EXIT Realty Dubuque" became licensed as a tradename (T06250000) with the Commission.

COUNT III (CASE NO. 21-091)

12. Respondent is charged with knowingly aiding or abetting an unlicensed person, by allowing the unlicensed practice of real estate in Iowa in violation of Iowa Code sections 543B.1, 543B.3, 543B.29(1), 543B.34 (2021). See 193E Iowa Administrative Code sections 7.13, 18.2(6), 18.14(5)(s), 21.2(7).

CIRCUMSTANCES

13. At all times relevant to this matter, the Respondent was assigned as the designated broker in charge of real estate brokerage firm New Eagle Holdings, LLC at all times relevant to this matter. As the designated broker in charge, the Respondent was responsible for ensuring compliance with all applicable rules and regulations governing the firm's operations in the state of Iowa, including supervising the acts or activities of unlicensed personnel.

14. On March 30, 2021 through April 6, 2021, an offsite examination of the Respondent's Iowa real estate trust account and transaction records was conducted by the Commission auditor (auditor).

15. The auditor's examination revealed that one unlicensed support personnel for the Respondent were engaged in acts contained in the definition of a real estate broker for a residential rental property in Asbury, Iowa, by performing real estate property management duties for a fee.

16. Consequently, the Respondent knowingly aided or abetted the unlicensed practice of real estate in Iowa.

COUNT IV (CASE NO. 21-091)

17. Respondent is charged with advertising real estate under an unlicensed tradename in violation of Iowa Code section 543B.34(1) (2021). See 193E Iowa Administrative Code sections 10.1, 10.1(2), 10.1(3), 18.14(5)(s).

CIRCUMSTANCES

18. Respondent was assigned as the designated broker in charge of real estate brokerage firm New Eagle Holdings, LLC at all times relevant to this matter. As the designated broker in charge of the real estate brokerage firm, the Respondent is responsible for ensuring compliance with all applicable rules and regulations governing the firm's operations in the state of Iowa.

19. On March 30, 2021 through April 6, 2021, an offsite examination of the Respondent's Iowa real estate trust account and transaction records was conducted by the Commission

auditor (auditor).

20. The auditor's examination revealed that "New Eagle Rentals" was being used in real estate advertising by the Respondent.

21. Consequently, in 2021, the Respondent was advertising real estate in Iowa with an unlicensed tradename. "New Eagle Rentals" was licensed as a tradename (T06339000) with the Commission on April 8, 2021.

SETTLEMENT AGREEMENT

22. Respondent admits each and every allegation in the above-stated Statement of Charges. This case shall constitute one violation for purposes of Iowa Code section 543B.29(4) (2021).

23. 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.

24. 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.

25. 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.

26. 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) (2021) 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.

27. 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.

28. Upon acceptance by both the Commission and Respondent, this Combined Statement of Charges, Informal Settlement Agreement 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 (2020).

CONSENT ORDER

IT IS THEREFORE ORDERED:

29. REPRIMAND. Pursuant to 193E Iowa Administrative Code section 18.14(1)(j), the Respondent is reprimanded.

30. CIVIL PENALTY. Respondent shall pay a civil penalty to the Commission in the amount of two thousand, five hundred dollars (\$1,000.00 for Case No. 20-301, \$1,500.00 for Case No. 21-091) no later than twelve (12) months after acceptance of this Order by the Commission. The civil penalty must come under a cover letter addressed to the Commission's Executive Officer, referencing Case Numbers 20-301, 21-091.

31. EDUCATION. The Respondent shall attend the Commission approved twelve (12) hour course "Real Estate Office Organization, Administration and Human Resources." These hours shall be in addition to any real estate continuing education required by law for license renewal. The original certificate of attendance must be submitted to the Iowa Real Estate Commission no later than twelve (12) months after acceptance of this Order by the Commission. The certificate of attendance must come under a cover letter addressed to the Commission's Executive Officer, referencing Case Numbers 20-301, 21-091.

32. FUTURE COMPLIANCE. Respondent 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 Dennis J. Buchheit on this 13th day of October, 2021.


By: DENNIS J. BUCHHEIT, Respondent

IREC Case Nos. 20-301, 21-091
Dennis J. Buchheit

State of Iowa)

County of Des Moines)

Signed and sworn to before me on this 13th day of October, 2021, by:

Dennis Buchheit

Notary Public, State of Iowa

Printed Name: Cody Burger

My Commission Expires: 4/22/24



CODY A. BURGER
Commission Number 831509
My Comm. Exp. APR 22, 2024

FOR THE COMMISSION:

4 Voluntarily agreed to and accepted by the IOWA REAL ESTATE COMMISSION on this
day of November, 2021.

Dennis L. Stolk

DENNIS L. STOLK, Chair
Iowa Real Estate Commission