

FILED 2-2-23 (Date)

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Board / Commission

Signature, Executive Officer

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

IN RE:

Bethanie S. Farus
Broker (B27263000)

First Choice Realty
250 N Clark Street
Forest City, IA 50436

RESPONDENT

CASE NUMBERS: 21-041

INFORMAL SETTLEMENT

AGREEMENT AND CONSENT

ORDER IN A DISCIPLINARY CASE

The Iowa Real Estate Commission (Commission) and Bethanie S. Farus (Respondent) enter into this Informal Settlement Agreement and Consent Order in a Disciplinary Case (Order) pursuant to Iowa Code Sections 17A.10(1) and 272C.3(4) (2022).

1. The Commission issued the Respondent real estate broker license number B62158000 on January 7, 2016. Respondent's license is current and in full force and effect through December 31, 2024. At all times relevant to this matter, the Respondent was a licensed real estate sole-proprietor broker operating as First Choice Realty, a licensed real estate trade name, license number T05816000, located in Forest City, Iowa.

2. The Commission has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 543B (2021). Licenses issued by the Commission are subject to the laws of the State of Iowa and to the administrative rules of the Commission.

SETTLEMENT AGREEMENT

3. On August 12, 2022, the Commission issued a Corrected Statement of Charges against the Respondent. A true and accurate copy of said Statement of Charges is attached to this Order as Exhibit 1. To avoid the expense and uncertainties of further litigation on this matter, the parties voluntarily agree to resolve this matter through the entry of this Order.

4. Without admission of wrongdoing or guilt, the Respondent does not contest the violation alleged in Count II of the Corrected Statement of Charges. In so doing, the Respondent affirmatively denies that she engaged in any practice that was harmful or detrimental to the public. This case shall constitute one violation for purposes of Iowa Code section 543B.29(4) (2022).

5. The Respondent acknowledges that she has a right to a hearing before the Commission on the merits of the charges. By freely and voluntarily entering into this Order, the Respondent waives her right to a hearing and all attendant rights, including the right to seek judicial review. This Order constitutes the final agency order in this contested case pursuant to Iowa Code section 17A.10 and 193 Iowa Administrative Code 7.

6. The 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.

7. The 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. This Order shall be part of the permanent record of the 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.

8. 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) (2022) 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.

9. This Order is not binding on the 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.

10. Upon acceptance by both the Commission and Respondent, this Informal Settlement Agreement and Consent Order, including the attached exhibit, shall be a public record available for inspection and copying in its entirety in accordance with the requirements of Iowa Code chapter 22 (2022).

CONSENT ORDER

IT IS THEREFORE ORDERED:

11. **DISMISSAL.** In consideration of the Respondent's timely correction of the excess broker's equity in her Iowa real estate trust account, the Commission dismisses Count I of the hearing complaint.

12. The following sanctions shall be imposed for Count II of the hearing complaint:

- a. **REPRIMAND.** Pursuant to 193E Iowa Administrative Code section 18.14(1)(j), the Respondent is reprimanded.
- b. **CIVIL PENALTY.** The Respondent shall pay a civil penalty to the Commission in the amount of five hundred dollars (\$500.00) on or before May 31, 2023. The civil penalty must come under a cover letter addressed to the Commission's Executive Officer, referencing Case Number 21-041.
- c. **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 Number 21-041.

13. **FUTURE COMPLIANCE.** The 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 Informal Settlement Agreement and Consent Order are agreed to by the Iowa Real Estate Commission and the Respondent.

FOR THE RESPONDENT:

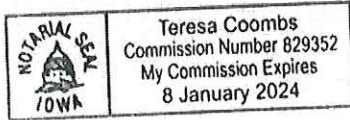
Voluntarily agreed to and accepted by Bethanie S. Farus on this 30 day of January, 2023.

State of Iowa

County of Winnebago

By:  **BETHANIE S. FARUS**, Respondent

Signed and sworn to before me on this 30 day of January, 2023, by:



Teresa Coombs
Notary Public, State of Iowa
Printed Name: Teresa Coombs
My Commission Expires: 8 Jan 2024

FOR THE COMMISSION:

Voluntarily agreed to and accepted by the **IOWA REAL ESTATE COMMISSION** on this
2 day of February, 2023.

James M.H. Clingman
JAMES M.H. CLINGMAN, Chair
Iowa Real Estate Commission

FILED August 13, 2022 (Date)

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

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Board / Commission
M. T. E.
Signature Executive Officer

IN RE:)	
)	CASE NUMBER: 21-041
Bethanie S. Farus)	
Broker (B62158000))	CORRECTED
)	NOTICE OF HEARING AND
1st Choice Realty)	STATEMENT OF CHARGES
250 N. Clark Street)	
Forest City, IA 50436)	
)	
RESPONDENT)	

The Iowa Real Estate Commission ("Commission") Issues this Notice of Hearing pursuant to Iowa Code sections 17A.12(2), 17A.18, and 543B.35 (2022). The Commission has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 272C, and 543B (2021). Licenses issued by the Commission are subject to the laws of the state of Iowa and to the administrative rules of the Commission.

The Commission issued Bethanie S. Farus ("Respondent") real estate broker license number B62158000 on January 7, 2016. Respondent's license is current and in full force and effect through December 31, 2024. At all times relevant to this matter, the Respondent was a licensed real estate sole-proprietor broker operating as 1st Choice Realty, a licensed real estate trade name, license number T05816000, located in Forest City, Iowa.

NOTICE OF HEARING

- HEARING.** A contested case hearing will be held concerning the below-stated disciplinary charges before the Iowa Real Estate Commission on the 8th day of September, 2022, at 1:30 PM, at 200 East Grand Ave, Suite 350, Des Moines, Iowa.
- ACKNOWLEDGMENT.** The Commission requests that you file a statement to acknowledge receipt of the notice of hearing within 10 days of the date you are served with this Notice.
- ANSWER.** Within 20 days of the date you are served with this Notice you must file an answer to the charges as provided in 193 Iowa Administrative Code 7.9.

4. PREHEARING CONFERENCE. A prehearing conference will be held by telephone on the 31st day of August, 2022 at 10:00 AM before an Administrative Law Judge from the Iowa Department of Inspections and Appeals ("ALI"). You are responsible for notifying the Commission office of the telephone number at which you or your counsel can be reached. Commission rules on prehearing conferences may be found at 193 Iowa Administrative Code 7.21.

5. PRESIDING OFFICER. The full Commission shall serve as presiding officer at hearing, pursuant to Iowa Code section 272C.6(1) and 193 Iowa Administrative Code 7.10(1). The Commission may request that an ALJ make initial rulings on prehearing matters, and be present to assist and advise the Board at hearing, as described in 193 Iowa Administrative Code 7.10(4).

6. HEARING PROCEDURES. Commission rules on hearing procedures may be found at 193 Iowa Administrative Code chapter 7. You have the right to respond to the charges, produce evidence on your behalf, cross-examine witnesses, and examine any documents introduced at hearing. You may appear personally and be represented by counsel at your own expense. Consult rule 193 Iowa Administrative Code 7.22 if you need to request an alternative time or date. The hearing may be open to the public or closed to the public at the discretion of the Respondent.

7. DEFAULT. If you fail to appear at hearing, the Commission may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code section 17A.12(3) and 193 Iowa Administrative Code 7.27.

8. STATE'S COUNSEL. Licensee disciplinary cases are prosecuted by an Assistant Attorney General acting on behalf of the public interest (the State). Copies of all pleadings shall be filed with the Commission, with copies mailed to:

John R. Lundquist
Assistant Attorney General
Iowa Department of Justice
2nd Floor, Hoover State Office Building
Des Moines, Iowa 50319

Phone: 515-281-3658
Fax: 515-281-4209
john.lundquist@ag.iowa.gov

9. RESPONDENT'S COUNSEL. Copies of all pleadings filed with the Commission shall also be provided to Respondent's counsel of record:

NONE

10. SETTLEMENT. The procedural rules governing the Commission's settlement process are found at 193 Iowa Administrative Code 7.42. If you are interested in pursuing settlement of this matter, please contact Assistant Attorney General John R. Lundquist.

11. COMMUNICATIONS. You may not contact Commission members by phone, letter, facsimile, e-mail, or in person about this Notice of Hearing and Statement of Charges. Commission members may only receive information about the case when all parties have notice and an opportunity to participate, such as at the hearing or in pleadings you file with the Commission office and serve upon all parties in the case. You should direct any questions to Assistant Attorney General John R. Lundquist at 515-281-3658, or the Commission's Executive Officer at 515-725-9026, or Fax 515-725-9032.

12. ADA NOTICE. If you require the assistance of auxiliary aids or services to participate in this matter because of a disability, immediately call or e-mail the Commission's Executive Officer at 515-725-9026. If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942.

STATEMENT OF CHARGES

COUNT 1

13. Respondent is charged with failing to comply with trust account requirements in violation of Iowa Code sections 543B.29(1)(k), 543B.34(1), 543B.46(4) (2021) by having an excess of one thousand dollars of the broker's personal funds in an Iowa real estate trust account. See 193E Iowa Administrative Code sections 13.1(1)(c), 18.14(5)(f)(8).

CIRCUMSTANCES

14. 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, including the maintenance of the trust account used by the broker sole-proprietorship.

15. During the time period of February 9 – 15, 2021, an offsite examination of the Respondent's Iowa real estate trust account and transaction records was conducted by the Commission auditor (auditor).

16. The auditor discovered that after reviewing the individual ledger for broker's equity, the Respondent had an excess of one thousand dollars of broker's personal funds in her Iowa real estate trust account between the time period of December 7, 2020 and February 10, 2021.

17. The Respondent rectified the excess by transferring \$864.01 out of her Iowa real estate trust account on February 10, 2021.

COUNT II

18. Respondent is charged with engaging in practices harmful or detrimental to the public and/or failing to supervise a licensee employed by the broker in violation of Iowa Code sections 543B.29(1), 543B.34(1)(h), 543B.62(3)(b) (2021) by allowing a salesperson employed by the broker to conduct real estate business (property management) independently outside the licensed broker or firm she is assigned to. See 193E Iowa Administrative Code §§ 7.11, 15.1, 18.2(6), 18.14(5)(m).


CIRCUMSTANCES

19. 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.

20. From the time period of approximately May 2019 through February 15, 2021, the Respondent allowed a licensed real estate salesperson assigned to the broker sole-proprietorship to conduct residential property management independently; therefore, failing to have written property agreements between the owners of the properties and her designated broker.

21. As designated broker of the real estate broker sole-proprietorship, the Respondent is responsible for providing supervision of any salesperson or broker associate employed by or otherwise associated with the Respondent. The Respondent failed to provide adequate supervision over the associated real estate salesperson by allowing her to conduct residential property management in the state of Iowa independently outside of the licensed broker she is assigned to.

This corrected Notice of Hearing and Statement of Charges is filed and issued on the 12th day of August, 2022.



Jeffrey M. Evans, Executive Officer
Iowa Real Estate Commission

Copies to:
Assistant Attorney General John Lundquist
Department of Inspections and Appeals, assigned Administrative Law Judge
Mitchell R. Kunert, Nyemaster Goode, P.C.