

FILED August 6, 2015 (Date)

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

IREL
Board / Commission
Signature Executive Officer

IN RE:)	
)	CASE NUMBER: 15-134
Todd Bartusek)	
Salesperson (S45355000))	INFORMAL SETTLEMENT
SUSPENDED)	AGREEMENT AND CONSENT
)	ORDER IN A DISCIPLINARY CASE
1720 S 86 th Cir)	
Omaha, NE 68124)	
)	
RESPONDENT)	

The Iowa Real Estate Commission (Commission) and **Todd Bartusek** (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) (2015).

1. The Commission issued the Respondent real estate salesperson license number S45355000 on September 27, 2004. The Respondent's real estate salesperson license was suspended pursuant to Iowa Code § 543B.29(1)(f)(1) on April 30, 2015. At all times relevant to this matter, the Respondent was a licensed real estate salesperson, assigned to Ambassador Real Estate, license number F02651000, located in Omaha, Nebraska.

2. The Commission has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 543B (2015). 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 April 30, 2015, the Commission issued a Statement of Charges against the Respondent. A true and accurate copy of said Statement of Charges is attached to this Order as Exhibit 1. The Respondent admits to each and every allegation recited in the attached Statement of Charges. This case shall constitute two violations (Count I & II) for purposes of Iowa Code section 543B.29(4) (2015).

4. The Respondent acknowledges that he 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 his 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.

5. 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.

6. 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.

7. 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) (2015) 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.

8. 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.

9. Upon acceptance by both the Commission and Respondent, this 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 (2015).

CONSENT ORDER

IT IS THEREFORE ORDERED:

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

11. **SUSPENSION.** The Respondent's real estate salesperson license shall be suspended for a period of no less than eighteen (18) months. The eighteen (18) month license suspension shall commence upon the date this Order is accepted by the Commission.

12. CIVIL PENALTY. The Respondent shall pay a civil penalty to the Commission in the amount of \$5,000.00 (\$2,500 for Count I and \$2,500 for Count II) as a condition precedent to the reinstatement of his Iowa real estate salesperson license. The civil penalty shall come under a cover letter addressed to the Commission's Executive Officer, referencing Case Number 15-134.

13. EDUCATION. The Respondent shall attend the Commission approved twelve (12) hour course "Developing Professionalism and Ethical Practices." These hours shall be in addition to any real estate continuing education required by Iowa law for license renewal. The original certificate of attendance must be submitted to the Commission as a condition precedent to the reinstatement of his Iowa real estate salesperson license. The certificate of attendance shall come under a cover letter addressed to the Commission's Executive Officer, referencing Case Number 15-134.

14. LICENSEE REINSTATEMENT. Reinstatement of the Respondent's Iowa Real Estate license shall be governed by 193E Iowa Administrative Code section 18.15. Upon serving a minimum of eighteen (18) months of the license suspension ordered in paragraph 11 and upon the Respondent's submission of the civil penalty and proof of education to the Commission's Executive Officer, the Respondent's real estate salesperson license shall be reinstated upon order of the Commission's Executive Officer.

15. 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 is agreed to by the Iowa Real Estate Commission and the Respondent.

FOR THE RESPONDENT:

Voluntarily agreed to and accepted by Todd Bartusek on this 1st day of June, 2015.

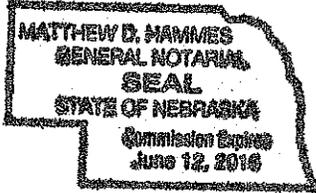

By: **TODD BARTUSEK**, Respondent

IREC Case No. 15-134
Todd Bartusek

State of NEBRASKA

County of DOUGLAS

Signed and sworn to before me on this 1st day of JUNE, 2015, by:



[Signature]

Notary Public, State of ~~Iowa~~ NEBRASKA

Printed Name: MATTHEW D. HAMMES

My Commission Expires: 6-12-2016

FOR THE COMMISSION:

Voluntarily agreed to and accepted by the **IOWA REAL ESTATE COMMISSION** on this 6th day of August, 2015.

[Signature]

TERRANCE M. DUGGAN, Chair
Iowa Real Estate Commission

FILED April 30, 2015 (Date)

IREC
Board / Commission
[Signature]
Signature, Executive Officer

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

IN RE:)
)
Todd Bartusek)
Salesperson (S45355000))
)
Ambassador Real Estate)
13340 California Street, Suite 101)
Omaha, NE 68154)
)
RESPONDENT)

CASE NUMBER: 15-134

NOTICE OF HEARING and
STATEMENT OF CHARGES

The Iowa Real Estate Commission ("Commission") issues this Notice of Hearing pursuant to Iowa Code sections 17A.12(2), 17A.18A, 543B.29(1)(f), and 543B.35. The Commission has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 272C, and 543B (2015). 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 the Respondent real estate salesperson license number S45355000 on September 27, 2004. The Respondent's license is current and in full force and effect through December 31, 2015.

NOTICE OF HEARING

1. **HEARING.** A contested case hearing will be held concerning the below-stated disciplinary charges before the Iowa Real Estate Commission on the 29th day of May, 2015, at 9:30 o'clock AM, at 200 East Grand, Suite 350, Des Moines, Iowa.
2. **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.
3. **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 22nd day of May, 2015 at 9:30 o'clock AM before an Administrative Law Judge from the Iowa Department of Inspections and Appeals ("ALJ"). 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. **PROSECUTION.** 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@iowa.gov

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

Matthew D. Hammes
Locher Pavelka Dostal Braddy & Hammes, LLC
200 The Omaha Club
2002 Douglas Street
Omaha, NE 68102

Phone: 402-898-7000
Fax: 402-898-7130
mhammes@lpdbhlaw.com

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.

STATEMENT OF CHARGES

COUNT I

12. The Respondent is charged with having been convicted of a felony criminal offense and/or a criminal offense involving forgery, embezzlement, obtaining money under false pretenses, theft, arson, extortion, conspiracy to defraud, or other similar offense, any offense involving moral turpitude, or other offense involving a criminal breach of fiduciary duty in a court of competent jurisdiction in this state, or in any other state, territory, or district of the United States in violation of Iowa Code section 543B.29(1)(f). See also Iowa Code §§ 272C.10(5) & 543B.15(3); 193E Iowa Administrative Code §§ 18.2(1) & 18.2(4).

COUNT II

13. The Respondent is charged with failing to timely notify the Commission of his conviction for a felony criminal offense and/or other criminal offense included in Iowa Code section 543B.15(3)(a) in violation of Iowa Code section 543B.29(1)(f)(1).

CIRCUMSTANCES

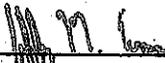
14. On or about October 9, 2014, the Respondent pled guilty in the United States District Court for the District of Nebraska to a felony charge of Tax Evasion in violation of 26 United States Code section 7201. See United States of America v. Todd Shannon Bartusek, D. Neb. Case No. 8:14CR297-001.

15. On or about February 27, 2015, the Court entered judgment against the Respondent. An amended judgment was filed on March 9, 2015.

16. The Respondent's felony conviction also constitutes a criminal offense involving forgery, embezzlement, obtaining money under false pretenses, theft, arson, extortion, conspiracy to defraud, or other similar offense, an offense involving moral turpitude, and/or an offense involving a criminal breach of fiduciary duty.

17. Iowa Code section 543B.29(1)(f) mandates that a licensed real estate broker or salesperson shall notify the commission of the entry of a felony conviction entered against the licensee within ten days of the conviction. The Respondent did not notify the Commission of his felony tax evasion conviction until on or about April 29, 2015, 61 days after the United States District court entered judgment against the Respondent.

This Notice of Hearing and Statement of Charges is filed and issued on the 30th day of April, 2015.



Jeffrey M. Evans, Executive Officer
Iowa Real Estate Commission

Copies to:
Assistant Attorney: General John Lundquist
Respondent's Counsel

FILED April 30, 2015 (Date)

REC
Board / Commission
Signature, Executive Officer

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

IN RE:

Todd Bartusek
Salesperson (S45355000)

Ambassador Real Estate
13340 California Street, Suite 101
Omaha, NE 68154

RESPONDENT

CASE NUMBER: 15-134

EMERGENCY ORDER TO
SUSPEND LICENSE

The Iowa Real Estate Commission ("Commission") enters the following emergency suspension order against Respondent Todd Bartusek pursuant to Iowa Code sections 17A.18A and 543B.29(1)(f):

FINDINGS OF FACT

1. The Commission issued the Respondent real estate salesperson license number S45355000 on September 27, 2004. The Respondent's license is current and in full force and effect through December 31, 2015.
2. On February 27, 2015, the Respondent was convicted in the United States District Court for the District of Nebraska of committing tax evasion in violation of 26 United States Code section 7201. See United States of America v. Todd Shannon Bartusek, D. Neb. Case No. 8:14CR297-001.
3. The crime of tax evasion in violation of 26 United States Code section 7201 constitutes a felony criminal offense.
4. The Respondent notified the Commission of his felony tax evasion conviction on April 29, 2015.

CONCLUSIONS OF LAW

5. Iowa Code section 17A.18A authorizes the Commission to immediately suspend a license or take other appropriate emergency action in situations involving an immediate danger to the public health, safety, or welfare.

6. Upon notification that that a licensed real estate broker or salesperson has been convicted of a felony criminal offense, the Commission shall immediately suspend the license of that real estate broker or salesperson pending the outcome of a hearing conducted pursuant to Iowa Code § 543B.35 to determine the nature of the disciplinary action, if any, the Commission will impose as a result of that conviction. See Iowa Code § 543B.29(1)(f)(1). The hearing shall be conducted within thirty days of the licensee's notification to the Commission of the felony criminal conviction. Id.

7. Because the Respondent has reported to the Commission that he was convicted of a felony criminal offense, the Commission has no discretion but to immediately suspend his real estate salesperson license and schedule a hearing to determine what, if any disciplinary action shall be imposed against the Respondent as a result of that felony criminal conviction. See Iowa Code § 543B.29(1)(f)(1).

ORDER

IT IS THEREFORE ORDERED that Iowa real estate salesperson license number S45355000 issued to the Respondent is immediately **SUSPENDED**. A notice of hearing and statement of charges scheduling the hearing required by Iowa Code section 543B.29(1)(f)(1) shall be issued concurrently with this order.

Dated this 30th day of April 2015.



Jeffrey M. Evans, Executive Officer
Iowa Real Estate Commission