

**BEFORE THE IOWA REAL ESTATE COMMISSION  
1920 SE HULSIZER  
ANKENY, IOWA**

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IN RE:	)	
	)	
	)	<b>CASE NUMBER: 04-033</b>
<b>ROBERTA L. SEE</b>	)	
<b>Broker (B06635)</b>	)	<b>STATEMENT</b>
	)	<b>OF</b>
<b>FIFTH AVENUE REALTY, INC.</b>	)	<b>CHARGES</b>
<b>717 5<sup>TH</sup> AVENUE</b>	)	
<b>GRINNELL, IA 50112</b>	)	
	)	

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The Iowa Real Estate Commission has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 543B, and 272C (2003).

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

**ROBERTA L. SEE** was at all material times, during the following events, a licensed Broker Officer with Hometown Real Estate, Inc. a licensed real estate firm, license number F0302500, dba Century 21, in Grinnell, Iowa. She is currently licensed as a Broker Officer with Fifth Avenue Realty, Inc. a license real estate firm, license number F04668 dba Fifth Avenue Iowa Realty in Grinnell, Iowa. Her license, number B06635 was issued February 6, 1985 and is in full force and effect through 12-31-2005.

**COUNT I**

The Respondent is charged with failing to exercise reasonable care in not properly addressing the term of one purchase agreement referring to a water agreement, and then, while acting as a dual agent in a subsequent sale of the same property, in failing to disclose to the buyer a potentially materially adverse fact, in violation of Iowa Code sections 543B.29(3)(practice harmful or detrimental to the public), 543B.56(1)(b), (c)(1999, 2001), and 193E IAC 1.44(1)(b), 1.44(2), and 4.54(19).


### CIRCUMSTANCES OF THE COMPLAINT

1. In 1994, owner of the property located at 15562 S 88<sup>th</sup> Avenue East, Searsboro, Iowa, divided the 5 acres and house from the farm and deeded to a relative. The well is located on this acreage and supplied water to the owner's 155 acre farm via a pipe running under the road. No written water agreement was drafted or filed.
2. On or about April 19, 2000, Respondent, as buyer's agent, prepared an offer that was accepted on the property located at 15562 S 88<sup>th</sup> Avenue East, Searsboro, Iowa for \$115,000. The property was listed by another agent in the same firm, Hometown Real Estate Corporation, (F03025), doing business as Century 12. The terms of the offer included "Subject to water agreement which as of now is no monetary amount paid and form minimal amount use."
3. On or about June 20, 2000 the property closed without a water agreement being written or filed.
4. On or about June 27, 2002, Respondent, as dual agent, prepared an offer on the property for \$120,000 that was accepted. Neither the offer, nor the Seller Property Condition Disclosure Statement noted the shared well or lack of a water agreement. From experience in the previous sales, the Respondent knew the water was shared and knew a written water agreement had not be written or filed.
5. On or about July 31, 2002 the transaction closed, the well went dry, and the new owners permanently disconnected the water supply to the farm on the 155 acre farm on the other side of the road.

### FINDING OF PROBABLE CAUSE

On February 24, 2005 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 14<sup>th</sup> day of APRIL, 2005.

  
Roger L. Hansen, Executive Officer  
Iowa Real Estate Commission



8. 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.

9. Failure to comply with the terms of this Stipulation and Consent Order shall be prima facie evidence of a violation of Iowa Code sections 543B.29(3), 543B.34(2) and 272C.3(2)(a) (2003).

10. 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.

11. 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 ORDERED that the Respondent is **Reprimanded**.

IT IS FURTHER ORDERED that the Respondent shall personally attend the Commission approved eight (8) hour broker pre-license education course: "Contract Law and Contract Writing." 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 within twelve (12) months of the signing of this agreement by the Commission and must come under a cover letter addressed to the Commission's Executive Officer and refer to case 04-033.

IT IS FURTHER ORDERED AND AGREED 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.

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**FOR THE RESPONDENT:**

This Stipulation and Consent Order is voluntarily entered into by **ROBERTA L. SEE** on this 14 day of March, 2005.

[Redacted Signature]

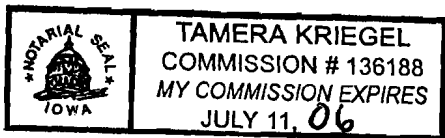
**ROBERTA L. SEE**, Respondent

State of Iowa

County of Linn

Signed and sworn to before me on this 14 day of March, 2005, by

[Redacted Signature]



Notary Public, State of Iowa  
Printed Name: Tamera Kriegel  
My Commission Expires: 7-11-06

**FOR THE COMMISSION:**

This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission on this 14<sup>th</sup> day of April, 2005.

[Redacted Signature]

**James E. Hughes**, Chair  
Iowa Real Estate Commission