

BEFORE THE IOWA REAL ESTATE COMMISSION  
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ANKENY, IOWA

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IN RE:	)	
	)	
FRANCES M. BURKE (B03656)	)	CASE NUMBER: 95-087
Broker	)	STATEMENT OF CHARGES
	)	
RR 3 Box 78	)	
Cresco, Iowa 52136-9429	)	

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The Iowa Real Estate Commission has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 543B, and 272C (1995).

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

FRANCES BURKE was at all material times during the following events, a licensed sole-proprietor real estate broker in Cresco, Iowa. FRANCES M. BURKE is currently licensed as a sole-proprietor broker in Cresco, Iowa. Her license number is B03656.

COUNT I

The Respondent pled guilty in the United States District Court of the Northern District of Iowa on April 22, 1994, to devising a scheme and artifice to defraud Cresco Union Savings Bank and First Interstate Bank, now known as Boatman's Bank of North Iowa, Cresco, Iowa, and others, in violation of Iowa Code sections 543B.29(5), 543B.34(8) and 543B.34(11) (1995).

COUNT II

The Respondent is charged with failing to notify the Commission of the conviction as required in violation of Iowa Code section 543B.15(6) (1995).

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### CIRCUMSTANCES OF THE COMPLAINT

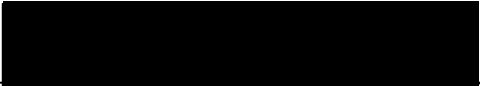
1. The Respondent was at all material times a licensed sole-proprietor real estate broker in Cresco, Iowa.
2. In the United States District Court for the Northern District of Iowa Eastern Division, CR 94-2001, Respondent was charged with devising and intending to devise a scheme and artifice to defraud Cresco Union Savings Bank and First Interstate Bank, now known as Boatman's Bank of North Iowa, Cresco, Iowa, and others.
3. On April 22, 1994, Respondent plead guilty to violating Title 18, United States Code, Section 1344 (a)(1). As a part of the plea agreement, the Respondent was imprisoned for a term of fifteen (15) days at a pre-release component of a community corrections facility with work release privileges, in Waterloo, Iowa. Respondent was placed on probation for 4 years, with 3 months of Home Confinement, and 250 hours of community service. Restitution was paid in full.
4. The Respondent drew checks on a checking account at one bank, which did not have sufficient funds to pay the check, then used the checks to purchase cashier's checks and money orders at a second bank.
5. The Respondent then would deposit these cashier's checks and money orders into a third bank and then draw checks upon that bank account to deposit back into the first bank to cover the first withdrawals and then start the process again.  
On <sup>April 22</sup>~~June 3~~, 1994, Respondent plead guilty to the charges.
6. The Respondent manipulated checks between bank accounts including, but not limited to drawing checks upon Burke Real Estate account at First State Bank, Leroy, Minnesota, which did not have sufficient funds to pay the check used to purchase a cashier's check and a money order from Cresco Union Savings Bank and First Interstate Bank which was then deposited into the Burke Real Estate checking account at the First National Bank, Spring Valley, Minnesota. Respondent then wrote a check on that account to cover the original transaction. Resulting in Cresco Union Savings Bank and First National Bank of Spring Valley losing approximately \$136,00.00.
7. The Respondent caused the accounts to appear as though they had available funds, when in fact they did not. Through this appearance Respondent was able to pay the operating expenses of Burke Real Estate.
8. Respondent's license has remained in full force and effect during the incarceration.

9. The Commission became aware of the conviction on September 14, 1995, through receipt of a newspaper article that appeared in the Waterloo Courier April 27, 1995.

FINDING OF PROBABLE CAUSE

On November 9, 1995, 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.

Dated this 25<sup>th</sup> day of JANUARY, 1996.

  
Roger L. Hansen, Executive Secretary  
Iowa Real Estate Commission

cc: Pam Griebel, Assistant Attorney General  
Christopher F. O'Donohoe, Attorney for Respondent

BEFORE THE IOWA REAL ESTATE COMMISSION  
OF THE STATE OF IOWA

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IN THE MATTER OF:	)	CASE NO. 95-087
	)	
FRANCES M. BURKE	)	STIPULATION AND
Broker (B03656)	)	VOLUNTARY REVOCATION
	)	OF BROKER LICENSE
RR 3 Box 78	)	NO. B03656
Cresco, Iowa 51236-9429	)	

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On this 25<sup>th</sup> day of JANUARY, 1996, the Iowa Real Estate Commission and FRANCES M. BURKE, each hereby agree with the other and stipulate as follows:

1. The allegations specified in the Statement of Charges in this case shall be resolved without proceeding to hearing as the parties have agreed to the following Stipulation and Consent Order;
2. The Respondent was issued a broker license to practice real estate on the 17th day of December, 1974 evidenced by license number B03656 which is in full force and effect through December 31, 1996.
3. The Iowa Real Estate Commission has jurisdiction over the parties and the subject matter jurisdiction of each allegation in the Statement of Charges.
4. A Statement of Charges will be filed against Respondent together with this Stipulation and Consent Order.
5. Respondent admits each and every allegation in the Statement of Charges.
6. If this Stipulation and Consent Order is approved by the Commission it will be filed, along with the Statement of Charges, and upon filing both documents will become public records.
7. 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.
8. 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) (1995).

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9. 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.

10. This Stipulation and Consent Order are 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.

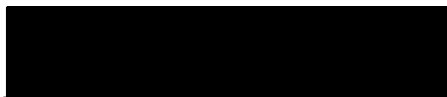
IT IS HEREBY ORDERED that the Respondent's Iowa Real Estate license (B03656) is revoked.

RESPONDENT ACKNOWLEDGES that in the event license B03656, is assigned to any broker, it must be return to the Iowa Real Estate Commission upon notification that this Stipulation has been accepted by the Commission. Iowa law allows Respondent to reapply for an Iowa Real Estate license if the revocation took place two years (or longer) prior to reapplication.

RESPONDENT ALSO ACKNOWLEDGES that a reapplication for an Iowa Real Estate license may or may not be granted by the Iowa Real Estate Commission and that the violations of law admitted herein may provide a basis for denial.

**FOR THE RESPONDENT:**

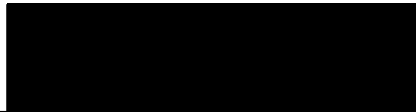
This Stipulation and Consent Order is voluntarily entered into by the Respondent on this 13 day of December, 1995.



FRANCES M. BURKE  
RESPONDENT

STATE OF: Iowa  
COUNTY OF: Howard

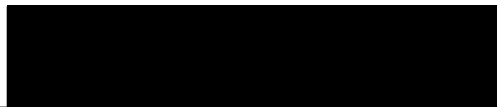
Signed and Sworn to before me on this 13<sup>th</sup> day of December, 1995.



Notary Public, State of Iowa  
Printed Name: Cary Aspinson  
My Commission Expires: 1-26-98

**FOR THE COMMISSION:**

This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission on the 25 day of January, 1996.



Theresa A. Loffredo, Chair  
Iowa Real Estate Commission

cc: Pam Griebel, Assistant Attorney General  
Respondent