

FILED August 2, 2018 (Date)

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

JREC
Board / Commission
Signature Executive Officer

IN RE:)	
)	CASE NUMBER: 17-257
Eagle Partners, LLC)	
Firm (F05258000))	COMBINED STATEMENT OF
)	CHARGES, INFORMAL
2514 S 119 th Street)	SETTLEMENT AGREEMENT,
Omaha, NE 68144)	AND CONSENT ORDER IN A
)	DISCIPLINARY CASE
RESPONDENT)	

The Iowa Real Estate Commission (Commission) and **Eagles Partners, LLC** (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) (2017).

1. The Commission issued the Respondent real estate firm license number F05258000 on February 11, 2008. The Respondent firm license is current and in full force and effect through December 31, 2019. At all times relevant to this matter, Evan R. Winters, broker officer license number B14360000, served both as the designated broker in charge and a licensed real estate broker officer for the Respondent real estate brokerage firm, located in Omaha, Nebraska.

2. The Commission has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 543B (2017). 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

3. Respondent is charged with engaging in improper trust account procedures in violation of Iowa Code sections 543B.29(1)(k), 543B.34(1), 543B.46 (2017) by disbursing earnest money funds from an Iowa real estate trust account prior to closing and without the informed written consent of all the parties to a transaction. See 193E Iowa Administrative Code sections 13.1, 13.1(1), 13.1(7), 18.14(5)(f)(2).

CIRCUMSTANCES

4. The Respondent is responsible for ensuring compliance with all applicable rules and regulations governing its operations in the state of Iowa.

5. On November 30, 2017, an onsite examination of the Respondent's Iowa real estate trust account and transaction records was conducted by the Commission auditor (auditor).

6. In a random sampling of transaction files, the auditor discovered one (1) real estate transactions for a property located in Council Bluffs, Iowa where the Respondent transferred trust funds from Eagles Partners, LLC Iowa Real Estate Trust Account to Clear Title & Abstract, LLC without the informed written consent of all the parties to this respective transaction.

SETTLEMENT AGREEMENT

7. Without admission of wrongdoing or guilt, the Respondent does not contest the violations alleged in the above-stated Statement of Charges.

8. Respondent acknowledges that it 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 its 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.

9. 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.

10. 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.

11. 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) (2018) 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.

12. 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.

13. Upon acceptance by both the Commission and Respondent, this Combined Statement of Charges, Informal Settlement 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 (2018).

CONSENT ORDER

IT IS THEREFORE ORDERED:

14. **CIVIL PENALTY.** The Respondent shall pay a civil penalty to the Commission in the amount of five hundred dollars (\$500.00) no later than thirty (30) days 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 Number 17-257.

15. **FUTURE COMPLIANCE.** The Respondent also 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 Eagle Partners, LLC on this 11TH day of MAY, 2018.


By: **EVAN R. WINTERS**, Broker Officer

State of NE

County of Douglas

Signed and sworn to before me on this 11 day of May, 2018, by:



Sherie K. Bussen
Notary Public, State of NE
Printed Name: Sherie K. Bussen
My Commission Expires: 12-20-19

FOR THE COMMISSION:

Voluntarily agreed to and accepted by the **IOWA REAL ESTATE COMMISSION** on this 2nd day of August, 2018.

Dennis L. Stolk
~~TERRANCE M. DUGGAN~~, Chair
Iowa Real Estate Commission
Dennis L. Stolk, Vice Chair