

FILED December 19, 2018 (Date)

J. Nel

Board / Commission

[Signature]  
Signature, Executive Officer

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

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IN RE: )  
 ) CASE NUMBER: 17-229  
 Jason J. Smith )  
 Broker (B58269000) ) COMBINED STATEMENT OF  
 ) CHARGES, INFORMAL  
 Dream Dirt Farm and Ranch Real Estate, LLC ) SETTLEMENT AGREEMENT,  
 101 S Noyes Street ) AND CONSENT ORDER IN A  
 Mondamin, IA 51557 ) DISCIPLINARY CASE  
 )  
 RESPONDENT )

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The Iowa Real Estate Commission (Commission) and **Jason J. Smith** (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) (2018).

1. The Commission issued the Respondent real estate broker license number B58269000 on September 11, 2013. Respondent's license is current and in full force and effect through December 31, 2018. At all times relevant to this matter, the Respondent served both as the designated broker in charge and a licensed real estate broker officer of Dream Dirt Farm and Ranch Real Estate, LLC, license number F05640000, located in Mondamin, Iowa.

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 failing to properly effectuate the terms of an executed purchase agreement and failing to deposit earnest payments received by the broker in an Iowa real estate trust account in violation of Iowa Code sections 543B.29(1)(k), 543B.34(1), 543B.46, 543B.56(1)(b) (2017). See 193E Iowa Administrative Code sections 12.3(1)(a), 12.3(1)(b), 13.1, 13.1(1), 18.14(5)(f)(10).

## CIRCUMSTANCES

4. As a broker officer of the real estate brokerage firm and designated broker, the Respondent is responsible for ensuring compliance with all applicable rules and regulations governing its operations in the state of Iowa.

5. On October 10, 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 transaction for a property located in Ionia, Iowa, in which the earnest money deposit was deposited into Noah Smith & Schuknecht attorney trust account (attorney trust account).

7. In reviewing the aforementioned real estate transaction file for the subject property, the auditor discovered that the executed purchase agreement nonetheless provided that the earnest money was to be held in trust by Dream Dirt Farm and Ranch Real Estate, LLC, not in an attorney trust account. By depositing the earnest money funds in an attorney trust account, the Respondent failed to properly effectuate the terms of an executed purchase agreement and failed to deposit trust funds in an Iowa real estate trust account.

## SETTLEMENT AGREEMENT

8. Without admission of wrongdoing or guilt, the Respondent does not contest the allegations stated in the Statement of Charges. This case shall constitute one violation for purposes of Iowa Code section 543B.29(4) (2018).

9. Respondent acknowledges that he 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 his 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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:**

15. 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 17-229.

16. 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 Jason J. Smith on this 22 day of November, 2018.

  
By: **JASON J. SMITH**, Respondent

IREC Case No. 17-229  
Jason J. Smith

State of IA )

County of Harrison)

Signed and sworn to before me on this 2 day of November, 2018, by:



Kristin Janssen  
Notary Public, State of IA  
Printed Name: Kristin Janssen  
My Commission Expires: 5-11-21

**FOR THE COMMISSION:**

Voluntarily agreed to and accepted by the **IOWA REAL ESTATE COMMISSION** on this 19th day of DECEMBER, 2018.

Terrance M. Duggan  
**TERRANCE M. DUGGAN, Chair**  
Iowa Real Estate Commission