

COUNT II

4. Respondent is charged with failing to keep his employing broker fully informed of all activities being conducted on behalf of the broker and any other activities that might have an impact on the broker's responsibilities in violation of Iowa Code Iowa Code §§ 543B.34(1), 543B.62(3)(b). See 193E Iowa Administrative Code §§ 7.11(1), 18.2(2), 18.14(5)(n).

COUNT III

5. Respondent is charged with engaging in practices harmful or detrimental to the public in violation of Iowa Code sections 543B.5(20), 543B.29(1)(d), 543B.34(1)(e) by accepting a commission or valuable consideration as a salesperson for the performance of property management duties from a person that is not the salesperson's employing real estate broker. See 193E Iowa Administrative Code sections 4.1(3), 15.1, 18.2(1), 18.14(5)(n), 18.14(5)(s).

CIRCUMSTANCES

6. The Respondent has been a licensed real estate salesperson assigned to The Ryder Group, PLC, located in Davenport, Iowa, since July 15, 2021.

7. In March 2022, it was discovered that the Respondent was in the business of conducting residential property management under a domestic limited liability company in the state of Iowa known as "Top Notch Property Management."

8. During the time period in question, Top Notch Property Management was a company that was not licensed to practice real estate in the state of Iowa. The Respondent in conducting property management activities did not have written property agreements between the owners of the properties and his designated broker.

9. Consequently, in 2022 the Respondent conducted and received compensation for activities in the state of Iowa requiring a real estate license outside of the licensed broker or firm that he was assigned to. As a real estate salesperson, the Respondent has an ongoing obligation to keep his employing broker apprised of all activities he conducts on behalf of or in the name of his affiliated real estate brokerage.

SETTLEMENT AGREEMENT

10. Respondent admits each and every allegation in the above-stated Statement of Charges. This case shall constitute one violation for purposes of Iowa Code section 543B.29(4).

11. 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.

12. 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.

13. 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.

14. 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) 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.

15. 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.

16. Upon acceptance by both the Commission and Respondent, this Combined Statement of Charges, 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.

CONSENT ORDER

IT IS THEREFORE ORDERED:

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

18. **CIVIL PENALTY.** Respondent shall pay a civil penalty to the Commission in the amount of five hundred dollars (\$500.00) no later than twelve (12) months 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 22-080.

19. 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 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:

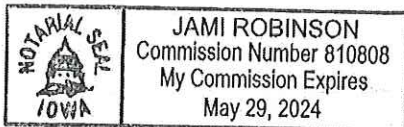
Voluntarily agreed to and accepted by **Tim S. Whitty** on this 25 day of April, 2023.

Tim S. Whitty
By: **TIM S. WHITTY**, Respondent

State of Iowa)

County of Scott)

Signed and sworn to before me on this 25th day of April, 2023, by:



Jami Robinson
Notary Public, State of Iowa
Printed Name: Jami Robinson
My Commission Expires: May 29, 2024

FOR THE COMMISSION:

Voluntarily agreed to and accepted by the **IOWA REAL ESTATE COMMISSION** on this 1st day of May, 2023.

James M.H. Clingman
JAMES M.H. CLINGMAN, Chair
Iowa Real Estate Commission