

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

IN RE: )  
 ) CASE NUMBER: 21-168  
Richard Montanaro )  
Broker (B63481000) )  
 ) COMBINED STATEMENT OF  
 ) CHARGES, INFORMAL  
The American Real Estate Company LLC )  
2815 Beaver Ave, Ste 106 )  
Des Moines, IA 50310 )  
 ) SETTLEMENT AGREEMENT,  
 ) AND CONSENT ORDER IN A  
 ) DISCIPLINARY CASE  
RESPONDENT )  
 )

The Iowa Real Estate Commission (Commission) and **Richard Montanaro** (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).

1. The Commission issued the Respondent real estate broker license number B63481000 on February 23, 2022. Respondent's license is current and in full force and effect through December 31, 2024. At all times relevant to this matter, the Respondent was a licensed real estate salesperson assigned to iHome Reality, a licensed real estate firm, license number F06019000, located in Boone, Iowa.

2. The Commission has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 543B. 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 practices harmful or detrimental to the public and/or failing to diligently exercise reasonable skill and care in providing brokerage services to all parties in violation of Iowa Code sections 543B.29(1)(d), 543B.34(1)(h), 543B.56(1)(a), 543B.56(1)(b) by allowing occupancy of a property to the buyers without a funded closing and without the express written consent of the sellers. See 193E Iowa Administrative Code §§ 12.3(1)(b), 12.3(1)(c)(7) 18.14(5)(s).

## CIRCUMSTANCES

4. From the time period of August 10, 2018 to April 4, 2022 the Respondent was a real estate licensee assigned to iHome Realty, a licensed real estate firm, license number F06019000, located in Boone, Iowa.
5. On October 25, 2019, the Respondent's affiliated broker entered into a listing agreement with the sellers for a distressed residential property located in Ames, Iowa, which subsequently expired on March 20, 2020. On June 23, 2020, the Respondent's affiliated broker entered into a second listing agreement with the sellers of the subject property.
6. On July 28, 2020, the Respondent's affiliated broker represented the sellers in an executed purchase agreement. The closing for the transaction was scheduled to take place on August 25, 2020, subsequently getting moved back to September 11, 2020.
7. Before the rescheduled closing date, the Respondent allowed the buyers to move personal property into the garage of the subject property without an executed Interim Occupancy Agreement.
8. An Earnest Money Return for Cancellation of Offer/Sale Contract was executed on September 29, 2020 and the transaction failed to consummate.
9. The Respondent failed to diligently exercise reasonable skill and care in providing brokerage services to all parties to a transaction and engaged in practices harmful or detrimental to the public by allowing the prospective buyers access to the subject property without an executed Interim Occupancy Agreement.

## 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.

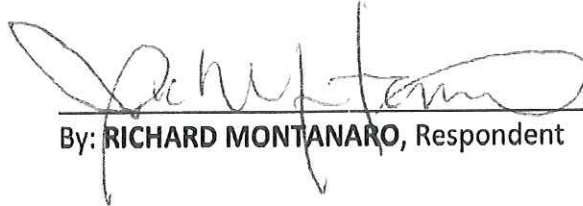
18. **CIVIL PENALTY.** Respondent shall pay a civil penalty to the Commission in the amount of five hundred dollars (\$500) no later than six (6) months after acceptance of this Order by the Commission. The civil penalty must come under a cover letter addressed to the Commission's Executive Officer, referencing Case Number 21-168.

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

**FOR THE RESPONDENT:**

Voluntarily agreed to and accepted by **Richard Montanaro** on this 23 day of October, 2023.

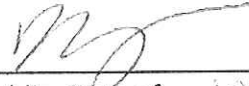
  
By: **RICHARD MONTANARO**, Respondent

State of IA

County of Dallas

Signed and sworn to before me on this 23 day of Oct, 2023, by:  
Richard Montanaro



  
Notary Public, State of IOWA  
Printed Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

**FOR THE COMMISSION:**

Voluntarily agreed to and accepted by the **IOWA REAL ESTATE COMMISSION** on this 2 day of November, 2023.

  
**JAMES M.H. CLINGMAN**, Chair  
Iowa Real Estate Commission