

**BEFORE THE IOWA REAL ESTATE COMMISSION
1920 SE HULSIZER
ANKENY, IOWA**

IN RE:)	
)	
)	CASE NUMBER 05-024
DONALD G. MC CARTIE)	
Salesperson (S43799))	STIPULATION
)	AND
First Investment Realty, Inc.)	ORDER
209 A Avenue East)	
Oskaloosa, IA 52577)	
)	

On this 14th day of DECEMBER, 2005, the Iowa Real Estate Commission and **DONALD G. MC CARTIE**, 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 has a right to a hearing on the charges, but waives the right to hearing and all attendant rights, including the right to appeal, by freely and voluntarily agreeing to this Order. Once entered, this Order shall have the force and effect of a disciplinary order entered following a contested case hearing.

3. The Respondent was issued a real salesperson license on May 27, 2003, which is in full force and effect through December 31, 2005.

4. The Iowa Real Estate Commission has jurisdiction over the parties and subject matter jurisdiction over each allegation in the Statement of Charges.

5. A Statement of Charges will be filed against Respondent together with this voluntary Stipulation and Consent Order.

6. Respondent admits each and every allegation in the Statement of Charges.

7. 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.

8. 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.

9. 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)(a) (2005).

10. 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.

11. This Stipulation and Consent Order is 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.

THEREFORE IT IS ORDERED that the Respondent is **Reprimanded**.

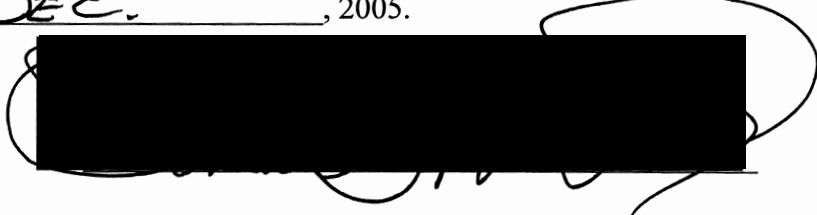
IT IS FURTHER ORDERED that the pay to the Commission the sum of \$ 1000 no later than 30 calendar days after acceptance of this settlement by the Commission. The civil penalty must come under a cover letter addressed to the Commission's Executive Officer and refer to case 05-024.

IT IS FURTHER ORDERED that the Respondent shall personally attend the two Commission approved eight (8) hour broker prelicense education courses: "Contract Law and Contract Writing" and "Real Estate Law and Agency Law." These hours shall be in addition to any real estate continuing education required by law for license renewal. The Respondent shall additionally attend the four (4) hour commission approved "Ethics" course, and these hours may be used toward education required by law for license renewal. The three original certificates of attendance must be submitted to the Iowa Real Estate Commission within twelve (12) months of the signing of this agreement by the Commission and must come under a cover letter addressed to the Commission's Executive Officer and refer to case 05-024.

IT IS FURTHER ORDERED AND AGREED that at all future times Respondent shall fully and promptly comply with all pertinent Orders of the Commission and the statutes and Commission rules regulating the practice of real estate.

FOR THE RESPONDENT:

This Stipulation and Consent Order is voluntarily entered into by **DONALD G. MC CARTIE**
on this 5 day of DEC., 2005.



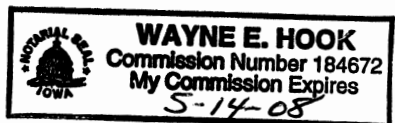
DONALD G. MC CARTIE, Respondent

State of IOWA)

County of MAHASKA)

Signed and sworn to before me on this 5 day of December, 2005, by





Notary Public, State of Iowa
Printed Name: WAYNE E. HOOK
My Commission Expires: 5-14-08

FOR THE COMMISSION:

This Stipulation and Consent Order is accepted by the Iowa Real Estate Commission
on this 14th day of DECEMBER, 2005.



James E. Hughes, Chair
Iowa Real Estate Commission

**BEFORE THE IOWA REAL ESTATE COMMISSION
1918 SE HULSIZER
ANKENY, IOWA**

IN RE:)	
)	
)	CASE NUMBER 05-024
DONALD G. MC CARTIE)	
Salesperson (S43799))	STATEMENT
)	OF
FIRST INVESTMENT REALTY, INC.)	CHARGES
209 A Avenue East)	
Oskaloosa, IA 52577)	
)	

The Iowa Real Estate Commission has jurisdiction of this matter pursuant to Iowa Code chapters 17A, 543B, and 272C (2004).

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

DONALD G. MC CARTIE was at all material times, during the following events, a licensed salesperson with First Investment Realty, Inc., a licensed real estate firm (F04765), in Oskaloosa, Iowa. His license, number S43799, was issued May 27, 2003, and is in full force and effect through 12-31-2005.

COUNT I

The Respondent engaged in unethical conduct and practices which are harmful or detrimental to the public, by failing to place the client's interests ahead of all others, failing to provide brokerage services honestly and in good faith, and acting on the licensee's own behalf without providing the required written disclosure, in violation of Iowa Code sections 543B.29(3)(unethical conduct or practice harmful or detrimental to the public), 543B.34(4) & (8), 543B.56(1)(a)& (1)(b), 543B.56(2)(a) & (b), 543B.56(3)(b) (2004) and 193E IAC -7.8(1) & (2), 12.4(1)(b), 12.4(1)(c)(7) & (8), and 18.14(5)(s).


CIRCUMSTANCES OF THE COMPLAINT

1. On or about April 13, 2004, Respondent, as buyer's agent, prepared an offer on a property listed by Professional Real Estate Services, Inc. located at 310 5th Avenue East, Oskaloosa, Iowa, for \$26,000, with contingencies, which was accepted. Item "B" of the purchase agreement contained a contingency for financing to be obtained no later than April 23, 2004, which seems to be an unusually fast expectation. The Buyers maintain that they were unaware of the financing deadline as they were not provided copies of the purchase agreement. Respondent failed to timely check his client's progress in securing financing. The buyer's obtained verbal loan commitment, but not written by the deadline.
2. Instead of representing his client's interests, the Respondent prepared an offer for the property on his own behalf on or about April 23, 2004. The Respondent's offer was for the same sale price and contained the same basic contingencies as his client's offer, only with a loan commitment date of April 30, 2004. An Acceptance of Back-up Offer was signed by the seller April 23, 2004 providing the Respondent's offer be accepted should original buyers fail to obtain a loan commitment by April 26, 2004. By this action, the Respondent eliminated his client's chances of an extension for financing past April 26, 2004, but provided himself a financing deadline of April 30, 2004, which could have provided the additional time needed for his client's to secure a written financing commitment.
3. The Respondent's offer included earnest money, but that was not reflected in the written agreement. The Respondent failed to make the written disclosure as licensee acting as a principal and failed to make his true position known.

FINDING OF PROBABLE CAUSE

On September 8, 2005, 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.

Executed this 14th day of DECEMBER, 2005.


Roger L. Hansen, Executive Officer
Iowa Real Estate Commission