

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

Department of Commerce
Professional Licensing Bureau

FILED

May 7 2015 (Date)

J. Sec.
Board / Commission
[Signature]
Signatory Executive Officer

IN RE:)	
)	CASE NUMBER: 15-052
Richard D. Makohoniuk)	
Salesperson (S32411000))	STIPULATION AND
INACTIVE)	VOLUNTARY SURRENDER
)	OF SALESPERSON LICENSE
785 Walnut Ridge Drive)	
Waukee, IA 50263)	
)	
RESPONDENT)	

The Iowa Real Estate Commission (Commission) and **Richard D. Makohoniuk** (Respondent) enter into this Stipulation and Voluntary Surrender of License (Stipulation) pursuant to Iowa Code Sections 17A.10(1) and 272C.3(4) (2015).

1. The Commission issued the Respondent real estate salesperson license number S32411000 on November 26, 1991. Respondent's license is in full force and effect until December 31, 2017. At all times relevant to this matter, the Respondent was a licensed real estate salesperson assigned to Stanbrough Realty Company, LLC, a licensed firm, license number F04806000, located in Clive, Iowa. The Respondent's license was placed on inactive status on February 27, 2015.

2. The Commission has jurisdiction of this disciplinary matter pursuant to Iowa Code chapters 17A, 272C, and 543B (2015). 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. The Respondent is charged with having been convicted of a felony criminal offense and/or a criminal offense involving forgery, embezzlement, obtaining money under false pretenses, theft, arson, extortion, conspiracy to defraud, or other similar offense, any offense involving moral turpitude, or other offense involving a criminal breach of fiduciary duty in a court of competent jurisdiction in this state, or in any other state, territory, or district of the United States in violation of Iowa Code § 543B.29(1)(f) (2015). See also Iowa Code §§ 272C.10(5), 543B.15(3); 193E Iowa Administrative Code §§ 18.2(1), 18.2(4).

CIRCUMSTANCES

4. On or about February 13, 2015, the Respondent was found guilty following a jury trial in the United States District Court Southern District of Iowa of one count of bank fraud, in violation of Title 18, United States Code, §§ 1344(1) and 1344(2). See United States of America v. Rick Makohoniuk, Criminal No. 4:14-cr-00089.

SETTLEMENT AGREEMENT

5. The Respondent admits to each and every allegation in the above-stated Statement of Charges.

6. The 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 Stipulation, the Respondent waives his right to notice and a hearing and all attendant rights, including the right to seek judicial review. This Stipulation 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 section 7.4.

7. The Respondent agrees that the State's attorney and/or Commission staff may present this Stipulation to the Commission and may have *ex parte* communications with the Commission while presenting it. The Respondent waives any right of notice of this meeting or any right that the Respondent might have to participate in the discussion of this Stipulation among the Commission, the Commission staff and the State's attorney.

8. This Stipulation 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.

9. Failure to comply with the terms of this Stipulation shall be prima facie evidence of a violation of Iowa Code sections 543B.29(1)(d), 543B.34(1) and 272C.3(2)(a) (2015) and shall be grounds for further disciplinary action. However, no action may be taken against the Respondent for violations of this Stipulation without a hearing, or waiver of hearing.

10. This Stipulation 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 Stipulation 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 Stipulation, it shall fully dispose of all issues in this case.

11. Upon acceptance by both the Commission and Respondent, this Stipulation and Voluntary Surrender of License shall be a public record available for inspection and copying in its entirety in accordance with the requirements of Iowa Code chapter 22 (2015).

CONSENT ORDER

IT IS THEREFORE ORDERED:

12. **VOLUNTARY SURRENDER:** The Respondent voluntarily agrees to surrender his Iowa Real Estate Salesperson License (S32411000) to the Iowa Real Estate Commission in lieu of a formal hearing as required by Iowa Code section 543B.29(1)(f)(1) (2015). Pursuant to 193E Iowa Administrative Code section 18.15(4)(c), the duration of the Respondent's license surrender shall be for an indefinite period of time and the Commission shall not grant an application for reinstatement until all terms of the sentencing has been fully satisfied. The effective date of the license surrender shall be the date this Order is accepted by the Commission.

13. **LICENSEE REAPPLICATION:** Reinstatement of the Respondent's Iowa Real Estate license shall be governed by 193E Iowa Administrative Code section 18.15. The Respondent further acknowledges that Iowa Code § 543B.15(3) (2015) prohibits the Respondent from applying for an Iowa Real Estate license until five (5) years after the Respondent has successfully satisfied any applicable period of incarceration, payment of all fines, and/or fulfillment of any other type of sentence pursuant to United States of America v. Rick Makohoniuk, Criminal No. 4:14-cr-00089, AND that the Respondent must qualify as a salesperson starting over as if never licensed, AND that reapplication may or may not be granted by the Iowa Real Estate Commission. Should the conviction entered against the Respondent in United States of America v. Rick Makohoniuk, Criminal No. 4:14-cr-00089 be reversed or otherwise set aside, the Respondent shall be eligible to seek immediate reinstatement of his Iowa Real Estate license.

WHEREFORE, the terms of this Stipulation and Voluntary Surrender of License is agreed to by the Iowa Real Estate Commission and the Respondent.

FOR THE RESPONDENT:

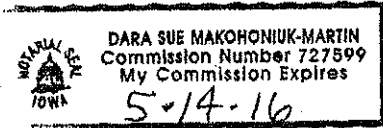
Voluntarily agreed to and accepted by Richard D. Makohoniuk on this 29th day of APRIL, 2015.

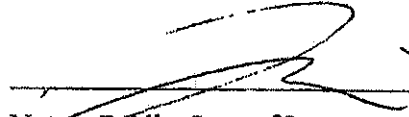

By: **RICHARD D. MAKOHONIUK**, Respondent

State of Iowa)

County of Polk)

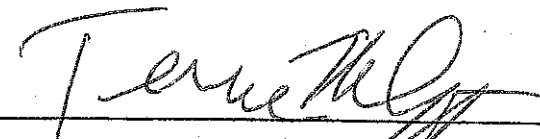
Signed and sworn to before me on this 29th day of APRIL, 2015, by




Notary Public, State of Iowa
Printed Name: DARA MARTIN
My Commission Expires: 5-14-16

FOR THE COMMISSION:

Voluntarily agreed to and accepted by the **IOWA REAL ESTATE COMMISSION** on this 11th day of MAY, 2015.


TERRANCE M. DUGGAN, Chair
Iowa Real Estate Commission