

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST : FINAL DECISION
: AND ORDER
LANCE T. DREWS, : LS9603281REB
RESPONDENT. :

The State of Wisconsin, Real Estate Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Real Estate Board.

The Division of Enforcement and Administrative Law Judge are hereby directed to file their affidavits of costs, and mail a copy thereof to respondent or his or her representative, within 15 days of this decision.

Respondent or his or her representative shall mail any objections to the affidavit of costs filed pursuant to the foregoing paragraph within 30 days of this decision, and mail a copy thereof to the Division of Enforcement and Administrative Law Judge.

The rights of a party aggrieved by this Decision to petition the board for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 27th day of JUNE 1996.



STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS	:	
AGAINST	:	PROPOSED DECISION
LANCE T. DREWS,	:	Case No. LS-9603281-REB
RESPONDENT.	:	(95 REB 356)

PARTIES

The parties in this matter under § 227.44, Stats., and § RL 2.037, Wis. Admin. Code, and for purposes of review under § 227.53, Stats., are:

Complainant:

Division of Enforcement
Department of Regulation and Licensing
Madison, WI 53708-8935

Respondent:

Lance T. Drews
2434 North 38th Street
Sheboygan, WI 53083

Disciplinary Authority:

Real Estate Board
1400 East Washington Ave.
Madison, WI 53703

PROCEDURAL HISTORY

A. This case was initiated by the filing of a complaint with the Real Estate Board on March 28, 1996. A disciplinary proceeding (hearing) was scheduled for May 14, 1996. Notice of Hearing (containing a date of May 16th) was prepared by the Division of Enforcement of the Department of Regulation and Licensing and sent by certified mail on March 28, 1996 to Lance T. Drews at 2434 North 38th Street, Sheboygan, WI 53083, which is the most recent address for Mr. Drews on file with the Department. The notice was returned unclaimed. A Corrected Notice containing the May 14th date was mailed by certified mail to the same address on March 29, 1996, and also returned unclaimed.

B. No answer was filed by Mr. Drews.

C. The disciplinary proceeding was held as scheduled on May 14, 1996. Mr. Drews did not appear. The Real Estate Board was represented by Attorney Steven Gloe of the Department's Division of Enforcement.

D. Mr. Gloe moved that Mr. Drews be found in default under RL 2. 14, Wis. Admin. Code, and the motion was granted.

E. The hearing was recorded. No transcript was prepared. The complaint forms the basis for this Proposed Decision.

FINDINGS OF FACT

1. The respondent, Lance T. Drews, is a real estate salesperson licensed in the state of Wisconsin, under license number 43661.
2. Mr. Drews' most recent address on file with the Wisconsin Real Estate Board is 2434 North 38th Street, Sheboygan, WI 53083.
3. On July 7, 1995, the Wisconsin Department of Regulation and Licensing issued an order granting Mr. Drews an initial limited license as a real estate salesperson. Paragraph 3 of the order read:
Lance T. Drews shall file with the department reports within 5 days before or after the following dates: October 1, 1995; January 1, 1996; April 1, 1996; July 1, 1996; and every October 1, January 1, April 1, and July 1 thereafter until further order of the department.
Paragraph 4 of the order read:
The report shall include: a. The name, address and telephone number of applicant and name, address and telephone number of applicant's broker-employer. b. A statement from applicant Drews as to whether or not he has been charged with or convicted of a crime (including Driving While Intoxicated) during the term of this order. c. A statement from the broker-employer concerning applicant Drews' performance and dealings with the public as a real estate salesperson and whether or not he has followed guidelines and requirements of the broker-employer.
Paragraph 8 of the order read:
Failure by applicant Drews to comply with the terms of this limitation shall be cause for the revocation of his limited real estate salesperson's license and the applicant shall voluntarily enter into a stipulated agreement that his license be revoked.
4. Mr. Drews has not submitted any of the reports required by paragraphs 3 and 4 of the 7-7-95 order, nor has he entered into the stipulated agreement as required by paragraph 8 of the order.

CONCLUSIONS OF LAW

I. The Real Estate Board is the legal authority responsible for controlling credentials for real estate salespersons, under ch. 452, Stats. The Real Estate Board has subject-matter jurisdiction over a complaint alleging unprofessional conduct, under sec. 15.08(5)(c), Stats., sec. 452.14 (3), Stats., and ch. RL 24, Wis. Admin. Code.

II. Notice to the respondent was satisfied by mailing the Notice of Hearing to the respondent's last-known address on file with the Department, under sec. RL 2.08, Wis. Admin. Code. The Real Estate Board has personal jurisdiction over Lance T. Drews under sec. 801.04 (2), Stats., based on service under sec. RL 2.08, Wis. Admin. Code, as well as his holding a credential issued by the board.

III. The respondent, Lance T. Drews, is in default under sec. RL 2.14, Wis. Admin. Code. The Real Estate Board may make findings of fact and enter a disciplinary order on the basis of the complaint alone.

IV. The violation in Finding of Fact 4 constitutes unprofessional conduct under sec. RL 24.17(3), Wis. Admin. Code, and discipline is appropriate, under sec. 452.14, Stats.

ORDER

THEREFORE, IT IS ORDERED that the limited license as a real estate salesperson previously granted to the respondent, Lance T. Drews, be revoked.

IT IS FURTHER ORDERED that Lance T. Drews pay the costs of this proceeding, as authorized by sec. 440.22 (2), Stats., and sec. RL 2.18, Wis. Admin. Code.

OPINION

This is a disciplinary proceeding conducted under the authority of ch. 227, Stats. and ch. RL 2, Wis. Admin. Code. The respondent, Lance T. Drews, applied for a license as a real estate salesperson, but the department was unwilling to grant him an unrestricted license because Mr. Drews had a record of criminal convictions between 1980 and 1993 consisting of nine disorderly conducts, one battery, and one possession of a controlled substance. The department did grant Mr. Drews a license with limitations which required him to submit quarterly reports containing information about his employment and any arrests or convictions, along with a statement from his employer.

The first report was due October 1, 1995. None was received. The next reports were due on January 1, 1996 and April 1, 1996, and nothing was received from Mr. Drews. It is fairly clear that the department in granting the limited license was being scrupulously fair to Mr. Drews in not discriminating against him based on his prior criminal record. However, Mr. Drews failed to take advantage of the professional opportunity offered to him, he violated the terms under which his

license was granted, and the proper remedy is to withdraw or otherwise cancel that license. Since the license granted to Mr. Drews was not "provisional", merely "limited", the proper remedy for stripping him of the license is a disciplinary proceeding seeking revocation, and revocation is justified under these circumstances.

In addition, Mr. Drews has apparently not kept the department informed of his current address. The certified notices which were sent to his last address on file were returned (although a first-class mailing was not returned to the department). Under sec. RL 2.08, Wis. Admin. Code, service on Mr. Drews was satisfied by the mailing to his last address on file. His failure to file an answer or to appear acts as a default under sec. RL 2.14, Wis. Admin. Code, and the board may proceed in this matter as if Mr. Drews had admitted the allegations in the complaint.

The assessment of costs against a disciplined professional is authorized by sec. 440.22 (2), Stats., and sec. RL 2.18, Wis. Admin. Code. One justification for this is to impose the costs of investigating and prosecuting unprofessional conduct on the individual responsible for the action rather than on the profession or the public as a whole. Either Mr. Drews failed to inform the department of his current address or he failed to accept certified mail from the department, and consequently he failed to answer the complaint. Had he responded in some way, the hearing or some other part of this proceeding might have been unnecessary. His disregard for his obligations to the department which granted him his license makes an order for costs appropriate.

Dated and signed: May 14, 1996



John N. Schweitzer
Administrative Law Judge
Department of Regulation and Licensing

NOTICE OF APPEAL INFORMATION

Notice Of Rights For Rehearing Or Judicial Review, The Times Allowed For Each, And The Identification Of The Party To Be Named As Respondent.

Serve Petition for Rehearing or Judicial Review on:

STATE OF WISCONSIN REAL ESTATE BOARD

1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708.

The Date of Mailing this Decision is:

June 27, 1996

1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)

FILE COPY

BEFORE THE STATE OF WISCONSIN
REAL ESTATE BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :

LANCE T. DREWS, :
RESPONDENT. :

AFFIDAVIT OF SERVICE

Katie Rotenberg, being first duly sworn on oath deposes and states that she is in the
employ of the Department of Regulation and Licensing, and that on July 12, 1996, she served the
following upon the respondent:

Affidavit of Costs dated July 12, 1996, LS9603281REB

by mailing a true and accurate copy of the above-described document, which is attached hereto,
by certified mail with a return receipt requested in an envelope properly addressed to the
above-named respondent at:

2434 North 38th Street
Sheboygan, WI 53083
Certified Z 429 752 462

an address which appears in the files and records of the Real Estate Board as the respondent's
last known address.

Katie Rotenberg

Katie Rotenberg
Department of Regulation and Licensing

Subscribed and sworn to before me

this 12th day of July, 1996.

Wayne D. Martin

Notary Public
Dane County, Wisconsin
My Commission is Permanent

STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF THE DISCIPLINARY :
 PROCEEDINGS AGAINST :
 :
 LANCE T. DREWS, : AFFIDAVIT OF COSTS
 : 95 REB 356
 RESPONDENT. :

STATE OF WISCONSIN)
) ss.
 COUNTY OF DANE)

Steven M. Gloe, being duly sworn, deposes and states as follows:

1. That I am an attorney licensed in the state of Wisconsin and is employed by the Wisconsin Department of Regulation and Licensing, Division of Enforcement:
2. That in the course of those duties I was assigned as a prosecutor in the above-captioned matter; and
3. That set out below are the costs of the proceeding accrued to the Division of Enforcement in this matter, based upon Division of Enforcement records compiled in the regular course of agency business in the above-captioned matter.

PROSECUTING ATTORNEY EXPENSE

<u>Date</u>	<u>Activity</u>	<u>Time Spent</u>
January 9, 1996	Review file, prepare stipulation	1 hour 45 minutes
March 20, 1996	Draft Notice of Hearing and Complaint; Obtain Hearing Date	1 hour 00 minutes
May 14, 1996	Hearing preparation; attend Hearing	1 hour 15 minutes
TOTAL HOURS		4 Hours 00 Min.

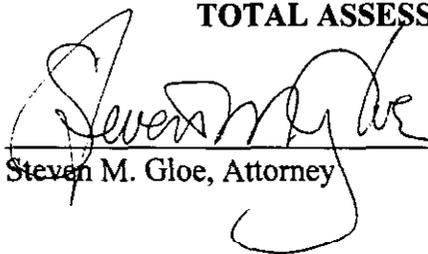
Total attorney expense for 4 hours and 00 minutes at
 \$41.00 per hour (based upon average salary and benefits
 for Division of Enforcement attorneys) equals: **\$164.00**

INVESTIGATOR EXPENSE FOR CANDACE BLOEDOW

<u>Date</u>	<u>Activity</u>	<u>Time Spent</u>
January 4, 1996	Review file, contact Board advisor	0 hour 10 minutes
January 10, 1996	Investigative work; travel to Sheboygan	4 hour 00 minutes
January 19, 1996	Telephone contact, respondent	0 hour 10 minutes
TOTAL HOURS		<hr/> 4 Hour 20 Min.

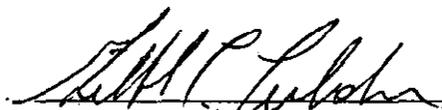
Total investigator expense for 4 hours and 20 minutes at \$20.00 per hour (based upon average salary and benefits for Division of Enforcement investigators) equals: **\$86.60**

TOTAL ASSESSABLE COSTS **\$250.60**



Steven M. Gloe, Attorney

Subscribed and sworn to before me this
12th day of July, 1996



Notary Public
My Commission is permanent.