

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

TOM A. SIMONSON,
dba BANK OF ONTARIO/ WESTERN WIS.
REALTY & INSURANCE COMPANY
RESPONDENT

:
:
:
: FINAL DECISION AND ORDER
: 97 REB 019

: LS 9705225 REB
:

The parties to this action for the purposes of section 227.53 of the Wisconsin statutes are:

Tom A. Simonson
RR 3, Box 170
Cashton, WI 54651

Real Estate Board
P.O. Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Tom A. Simonson (D.O.B. 10/28/52) is duly licensed in the state of Wisconsin as a real estate broker (license #42443). This license was first granted on June 10, 1987.
2. Mr. Simonson's latest address on file with the Department of Regulation and Licensing is RR 3, Box 170, Cashton, WI 54619.

3. At all times relevant to this action, Mr. Simonson was the responsible broker of the Bank of Ontario/ Western Wisconsin Realty & Insurance Company, 315 Main Street, Ontario, Wisconsin.

4. On December 16, 1996, a routine audit of Bank of Ontario/Western Wisconsin Realty & Insurance conducted by staff from the Division of Enforcement revealed violations in the following areas:

Trust accounts

- a. Wisconsin Administrative Code § RL 18.13(1) Journal
- b. Wis. Admin. Code § RL 18.13(3) Account Reconciliation
- c. Wis. Admin. Code § RL 18.13(4) Trial Balances
- d. Wis. Admin. Code § RL 18.13(5) Validation
- e. Wis. Admin. Code § RL 18.031 Deposits

5. In resolution of this matter, Mr. Simonson consents to the issuance of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

By the conduct described above, Tom A. Simonson is subject to disciplinary action against his license to practice as a real estate broker in the state of Wisconsin, pursuant to secs. 452.14, Stats. and Wis. Admin. Code §§ RL 18.13(1), (3), (4) and (5) and RL 18.031.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. Respondent Tom A. Simonson is REPRIMANDED.
2. Within thirty (30) days from the date of this Order, Mr. Simonson shall pay a FORFEITURE of ONE HUNDRED dollars (\$100.00).
3. Within thirty (30) days from the date of this Order, Mr. Simonson shall pay partial costs of this proceeding in the amount of TWO HUNDRED dollars (\$200.00).

4. Payment of all costs and forfeitures shall be made *via certified check or money order* payable to the Wisconsin Department of Regulation and Licensing and mailed to Department Monitor, Division of Enforcement, PO Box 8935, Madison, WI 53708-8935.

5. Mr. Simonson shall within six (6) months from the date of this Order submit documentation acceptable to the Board of successful completion of at least five (5) hours of the broker's 36 hour program (Wis. Admin. Code § RL 25.02) in trust accounts, escrow and closing procedures. Mr. Simonson may petition for approval of alternative continuing education in satisfaction of this paragraph. Alternative course work shall be pre-approved by the Department Monitor. Acceptable documentation shall include certification from the sponsoring organization as well as an affidavit executed by Mr. Simonson verifying that he attended the course(s) in its(their) entirety. The continuing education obtained as a result of this order shall not count as course hours in satisfaction of sec. 452.12(5)(c), Stats.

6. In the event that Mr. Simonson fails to timely comply with the terms and conditions set forth above, his real estate license shall be **SUSPENDED**, without further notice or hearing, until such time as he has complied with the terms of this Order

This Order shall become effective upon the date of its signing.

REAL ESTATE BOARD

By: James R. Simhoff Jr.
A Member of the Board
DRR

May 22, 1997
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST

TOM A. SIMONSON,
dba BANK OF ONTARIO/ WESTERN WIS.
REALTY & INSURANCE COMPANY
RESPONDENT

STIPULATION
97 REB 019

It is hereby stipulated between Tom A. Simonson, personally on his own behalf and Steven M. Gloe, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows that:

1. This Stipulation is entered into as a result of a pending investigation of Mr. Simonson's licensure by the Division of Enforcement (97 REB 019). Mr. Simonson consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

2. Mr. Simonson understands that by the signing of this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.

3. Mr. Simonson is aware of his right to seek legal representation and has been provided an opportunity to obtain legal advice prior to signing this stipulation.

4. Mr. Simonson agrees to the adoption of the attached Final Decision and Order by the Real Estate Board. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

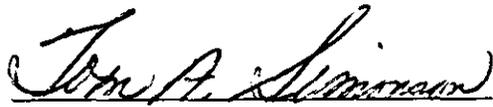
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

TAX FORFEITURE 100.00
TAX 200.00
TOTAL 300.00
MDRL 100
30/APR/97 71 1-9-98

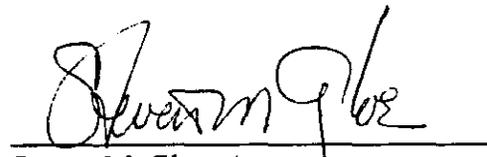
YCEI 07A

6. The parties to this stipulation agree that member of the Board assigned to this case as an advisor and the attorney for the Division of Enforcement may appear before the final decision maker in these proceedings for the purposes of speaking in support of this agreement and answering questions that the final decision maker may have in connection with him or his deliberations on the stipulation.

7. The Division of Enforcement joins Mr. Simonson in recommending the Real Estate Board adopt this Stipulation and issue the attached Final Decision and Order.


Tom A. Simonson

4-28-97
Date


Steven M. Gloe, Attorney
Division of Enforcement

5.1.97
Date

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING
BEFORE THE REAL ESTATE BOARD

In the Matter of the Disciplinary Proceedings Against

Tom A. Simonson,
dba Bank of Ontario/Western Wis.
Realty & Insurance Company,

AFFIDAVIT OF MAILING

Respondent.

STATE OF WISCONSIN)
)
COUNTY OF DANE)

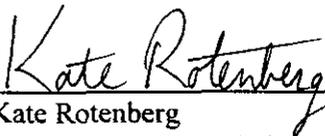
I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

1. I am employed by the Wisconsin Department of Regulation and Licensing.

2. On May 23, 1997, I served the Final Decision and Order dated May 22, 1997, LS9705225REB, upon the Respondent Tom A. Simonson, dba Bank of Ontario/Western Wis. Realty & Insurance Company, by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Respondent and placing the envelope in the State of Wisconsin mail system to be mailed by the United States Post Office by certified mail. The certified mail receipt number on the envelope is P 221 157 538.

3. The address used for mailing the Decision is the address that appears in the records of the Department as the Respondent's last-known address and is:

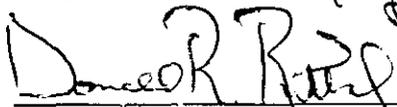
Tom A. Simonson,
dba Bank of Ontario/Western Wis.
Realty & Insurance Company
RR3 Box 170
Cashton WI 54651



Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me

this 23rd day of May, 1997.



Notary Public, State of Wisconsin
My commission is permanent

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:

May 23, 1997

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.)