

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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**STATE OF WISCONSIN**

**BEFORE THE REAL ESTATE BOARD**

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**IN THE MATTER OF THE DISCIPLINARY**

**PROCEEDINGS AGAINST**

**DAVID A. NEUVILLE,  
RESPONDENT.**

**FINAL DECISION AND ORDER**

**98 REB 092**

**LS0004271REB**

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The parties to this action for the purpose of Wis. Stats. sec. 227.53 are:

*DAVID A. NEUVILLE  
1152 RIDGEWAY DRIVE  
STURGEON BAY, WI 54235*

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

*Wisconsin 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 disposition of this matter, subject to the approval of the Real Estate Board ("Board"). The Board has reviewed the stipulation and considers it acceptable.

Accordingly, the Board adopts the attached stipulation and makes the following:

**FINDINGS OF FACT**

1. **DAVID A. NEUVILLE** ("Neuville"), is and was at all times relevant to the facts set forth herein, a real estate broker licensed to practice in the State of Wisconsin pursuant to license #90-29116, originally granted to him on July 1, 1983. Neuville does business under the trade name of Four Sail Realty. The last address on record for Neuville at the Department of Regulation and Licensing is 1152 Ridgeway Drive, Sturgeon Bay, WI 54235
2. Neuville's real estate business is a sole proprietorship. Neuville does not employ any real estate broker or real estate sales-person in his business.
3. On or about July April 13, 1999 in Johnson v. Neuville, 226 Wis.2d. 365 (1999), a decision was entered finding that Neuville, acting as a real estate broker, failed to diligently exercise reasonable skill and care in providing brokerage services to Johnson, thereby violating section 452.133(1)(b) of the Wisconsin Statutes. A copy of the Court of Appeals decision in this case, as printed in the *Wisconsin Court of Appeals Advance Sheets*, Volume 226 at page 365 is attached hereto as **Exhibit A**, and hereby incorporated into this document by this reference.

**CONCLUSIONS OF LAW**

1. The Real Estate Board has jurisdiction in this matter pursuant to section 452.14 of the Wisconsin Statutes.
2. The Wisconsin Real Estate Board is authorized to approve the attached Stipulation pursuant to section.

227.44(5) of the Wisconsin Statutes.

3. Respondent, **DAVID A. NEUVILLE** has violated the following:

a. Sections 452.133(1)(b) and 452.14(L) of the Wisconsin Statutes by failing to use reasonable skill and care in providing real estate brokerage services.

### **ORDER**

NOW, THEREFORE, IT IS HEREBY ORDERED, that the attached Stipulation is accepted.

IT IS FURTHER ORDERED, that the license of **DAVID A. NEUVILLE**, license #90-29116, to practice as a real estate broker in Wisconsin be, and hereby is, **SUSPENDED** for a period of **SIX MONTHS**, commencing five (5) days from the date of this Order.

IT IS FURTHER ORDERED, that the suspension is hereby STAYED for a period of three months, conditioned upon compliance with the conditions and limitations outlined below:

a) Respondent may apply for a consecutive three (3) month extension of the stay of suspension, which shall be granted upon acceptable demonstration of compliance with the conditions and limitations imposed on the respondent for rehabilitation and practice during the prior three (3) month period.

b) The Board may without hearing deny an application for extension of the stay, or commence other appropriate action, upon receipt of information that respondent has violated any of the terms or conditions of this Order. If the Board denies the petition by the respondent for an extension, the Board shall afford an opportunity for hearing in accordance with the procedures set forth in ch. RL 1, Wis. Adm. Code upon timely receipt of a request for hearing.

IT IS FURTHER ORDERED, that the license to practice of respondent shall be **LIMITED** for a period of SIX MONTHS, commencing 5 days from the date of this Order, as follows:

### **SUPERVISION OF TRANSACTIONAL REAL ESTATE PRACTICE**

a) Respondent shall continue successful participation in all components of a supervision program established with the law offices of Attorneys Robert Ross and Collin Dahl, 216 South Fourth Avenue, Sturgeon Bay, WI 54235.

Respondent shall commence involvement in the supervision program within 5 days of the date of the Final Decision and Order of the Board.

Supervision Program. The supervision program shall include, and respondent shall participate in, individual consultation meetings on at least a weekly basis with either Attorney Robert Ross or Attorney Collin Dahl. These meetings shall continue on at least a weekly basis, without interruption, during the period of limitation.

Either Attorney Robert Ross or Attorney Collin Dahl shall personally conduct the supervision consultation. This requirement for consultation sessions may be modified only upon written petition to the Real Estate Board supported by a written recommendation by the supervising attorney expressly supporting the modifications sought. A denial of such petition for modification shall not be deemed a denial of the license under §§ 227.01(3) or 227.42, Wis. Stats., or ch. RL 1, Wis. Adm. Code, and shall not be subject to any right to further hearing or appeal.

During each supervision consultation respondent shall provide to the attorney a full and complete copy of each document related to the purchase, sale, trade or other transfer of real estate or business assets, either drafted by respondent or received by respondent, during the immediate period of time predating the meeting and commencing with the most recent supervision consultation meeting. During the consultation meeting, the attorney shall closely examine each document drafted by respondent to determine if it complies with the Wisconsin Statutes and Administrative Rules and the commonly accepted legal principles of contract drafting in Wisconsin. The supervising attorney shall make diligent inquiry of respondent as to the intended purpose of each document to determine the transactional context within which the document is intended to be used. The attorney shall note on each document all comments, corrections and changes to the documents recommended by him. The respondent shall make changes and corrections to the documents as suggested by the supervising attorney. In addition, where documents need to be resigned by a party to a transaction, respondent shall immediately present the corrected document(s) to the necessary parties for signing.

In respect to transactional documents drafted by others and received by respondent in his real estate practice, the supervising attorney shall closely examine each document and make diligent inquiry of respondent as to the transactional context within which the document is intended to be used. The supervising attorney shall make

comments and recommendations to respondent as to whether Respondent should draft any responding or related documents, such as counter-offers, disclosures or notices. The additional documents to be drafted by respondent shall be carefully reviewed by the attorney making the recommendations.

The supervising attorney shall make a written, signed and dated report to the Real Estate Board on a once a month basis commencing 30 days after the stay has gone into effect. These reports shall continue for a period of six months (six reports). Each report shall include a statement assessing the cooperation of respondent with the supervision program stated above and shall state specifically how often each consultation session took place. The report shall include a compilation stating each date of consultation and the amount of time each consultation consisted of.

In addition, each report shall have attached to it copies of each document reviewed by the consulting attorney showing each comment, correction or recommendation made by the supervising attorneys to the respondent during the period of time the report covers.

b) Respondent **DAVID A. NEUVILLE**, within six months of the date of this Order, shall successfully complete the 36-hour prelicensing course for real estate brokers, as set forth in Chapter RL 25 of the Wisconsin Administrative Code, and submit proof of the same in the form of verification from the institution providing the education to the Department Monitor.

None of the education completed pursuant to this requirement may be used to satisfy any continuing education requirements that are or may be instituted by the Board or the Department of Regulation and Licensing.

c) Respondent **DAVID A. NEUVILLE** shall pay partial **COSTS** of this matter in the amount of 500.00 within thirty (30) days of the date of this Order by making payment of the same to the Department Monitor.

d) Respondent shall not engage the services of any real estate licensee as an employee, as that term is defined and used in Chapter 452 of the Wisconsin Statutes.

#### **Required Reporting by Supervising Attorneys**

In addition to the six monthly reports identified above, the Supervising Attorneys shall report immediately to the Department Monitor in the Department of Regulation and Licensing, Division of Enforcement by FAX or telephonic communication: any failure of Respondent to cooperate with the supervision consultations.

#### **Required reporting by Respondent**

Respondent is responsible for compliance with all of the terms and conditions of this Final Decision and Order. It is the responsibility of Respondent to promptly notify the Department Monitor, of any suspected violations of any of the terms and conditions of this Order, including any failures of the Supervising Attorneys to conform to the terms and conditions of this Order.

#### **Releases**

Respondent shall provide and keep on file with the Supervising Attorneys current releases which comply with state and federal laws authorizing release of all consultation records and reports to, and permitting the Supervising Attorneys to disclose and discuss the progress of respondent's supervision and rehabilitation with the Board or any member thereof, or with any employee of the Department of Regulation and Licensing acting under the authority of the Board. Copies of these releases shall be filed simultaneously with the Department Monitor.

#### **PETITIONS FOR MODIFICATION OF TERMS**

Respondent may petition the Board for modification of the terms of this limited license. Any such petition shall be accompanied by a written recommendation from respondent's Supervising Attorney expressly supporting the specific modifications sought. Denial of the petition in whole or in part shall not be considered a denial of a license within the meaning of Sec. 227.01(3)(a), Stats., and Respondent shall not have a right to any further hearings or proceedings on any denial in whole or in part of the petition for modification of the limited license.

#### **EXPENSES OF SUPERVISION AND MONITORING**

Respondent shall be responsible for all costs and expenses incurred in conjunction with the monitoring and supervision and any other expenses associated with compliance with the terms of this Order.

#### **CHANGE IN ADDRESS OR WORK STATUS**

Respondent shall report to the Board any change of employment status, residence, address or telephone number within five (5) days of the date of a change.

#### **DEPARTMENT MONITOR**

The Department Monitor is the individual designated by the Board as its agent to coordinate compliance with the terms of this Order, including receiving and coordinating all reports and petitions, and requesting additional monitoring and surveillance. The Department Monitor may be reached as follows:

Department Monitor

Department of Regulation Division of Enforcement

P.O. Box 8935

Madison, WI 53708-8935

FAX (608) 266-2264

TEL. (608) 267-7139

#### **VIOLATION OF ORDER**

**Violation of any of the terms of this Order shall be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license; the Board in its discretion may in the alternative deny a stay of suspension of the license or impose additional conditions and limitations or other discipline.**

IT IS FURTHER ORDERED, that Division of Enforcement file 98 REB 092 be, and is hereby, closed.

Dated this 27th day of April, 2000.

**WISCONSIN REAL ESTATE BOARD**

By: Richard E. Hinsman

A member of the Board