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IN THE MATTER OF THE DISCIPLINARY

PROCEEDINGS AGAINST

**JOHN A. SOBOTA,
RESPONDENT.**

FINAL DECISION AND ORDER

99 REB 176

LS0005246REB

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

*John S. Sobota
1231 Broadway Street North
Menomonie, WI 54751*

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

*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 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. JOHN A. SOBOTA ("Sobota"), is licensed in the State of Wisconsin as a real estate broker having license # 90-47206. This license was first granted to him on December 8, 1993. Sobota is employed as a real estate broker for Andale Real Estate Inc., Menomonie, Wisconsin.
2. On or about July 17, 1997, Sobota, on behalf of his employer, drafted a listing contract for the signature of Sue S. Tangen, owner of a single-family rural residence located at 3643 173rd Street, Township of Weston, Dunn County, Wisconsin.
3. On or about August 3, 1997, Sobota, on behalf of Jodi A. Giroux, drafted an Offer to Purchase whereby Giroux offered to buy the Tangen property. Attached to the Offer is an "Addendum A", a form provided by Sobota. A copy of this Offer with Addendum A is attached hereto as **Exhibit A** and hereby made a part of this document as if set forth at length.
4. Addendum A requires that the Seller provide to the Buyer, within 15 days of acceptance of the offer, written evidence that the private well supplying water to the property is supplying water which is bacteriologically safe for human consumption.
5. After counter-offers were made, Tangen and Giroux entered into a sale agreement that incorporated the provisions of Addendum A.

6. At no time prior to closing did Tangen provide written evidence in compliance with the above stated safe water contingency.
7. Prior to closing and on or about August 18, 1997 Sobota received a fax of an unsafe water test report that indicated that the water was "Bacteriologically UNSAFE". Sobota provided a copy of this report to the lender for Giroux but did not deliver a copy to Giroux.
8. At the closing held on August 28, 1997, Sobota reported to Giroux that a second water test had been taken and that the water was safe for human consumption. At no time prior to closing, or thereafter, did Sobota obtain a written lab report that supported this representation. Sobota reports to the Division of Enforcement that he relied upon verbal statements made to him by Tangen. Sobota claims that Tangen told him that a second test showed the water was safe. Sobota allowed the closing to take place without the required written documentation. Sobota failed to draft a written document that represented to Giroux that the water was safe or represented that Giroux waived that written requirement.
9. On or about August 25, 1997 a second test of the water was made and the second test again showed the water as UNSAFE for human consumption.
10. Giroux had to replace the well at the property on account of this unsafe condition.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Board has jurisdiction to act in this matter pursuant to sec. 452.14, Wis. Stats.
2. The Wisconsin Real Estate Board is authorized to enter into the attached Stipulation pursuant to sec. 227.44(5), Wis. Stats.
3. Respondent **JOHN A. SOBOTA** has violated:
 - a. Section RL 24.08 of the Wisconsin Administrative Code and section 452.14(3)(i) of the Wisconsin Statutes by failing to place into writing commitments related to the safe water contingency and any modification or waiver of that contingency so as to reflect the exact agreement of the parties.
 - b. Sections 452.133(1)(b) and 452.14(3)(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 hereby accepted.

IT IS FURTHER ORDERED, that the real estate license of Respondent **JOHN A. SOBOTA**, license # 90-47206, is hereby **REPRIMANDED**.

IT IS FURTHER ORDERED, that Respondent **JOHN A. SOBOTA**, within six months of the date of this Order, successfully complete the 36 hour real estate broker's prelicensing course, as set forth in Chapter RL 25.02(2) of the Wisconsin Administrative Code, and submit proof of the same in the form of verification from the institution providing the education to the Real Estate Board, P.O. Box 8935, Madison, Wisconsin 53708-8935.

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.

IT IS FURTHER ORDERED, that in the event Respondent **JOHN A. SOBOTA**, fails to successfully complete the educational requirements within the time and in the manner as set forth above, then and in that event, and without further notice to the Respondent **JOHN A. SOBOTA**, her real estate license shall be suspended without further hearing and without further Order of the Board, and said suspension shall continue until further order of the Board.

IT IS FURTHER ORDERED, that Respondent **JOHN A. SOBOTA** pay partial **COSTS** of this matter in the amount of \$600.00 within thirty (30) days of the date of this Order by making payment of the same to the Department of Regulation and Licensing, P.O. Box 8935, Madison, WI 53708-8935.

IT IS FURTHER ORDERED, that in the event **JOHN A. SOBOTA** fails to pay costs of \$600.00 within the time and in the manner as set forth above, then his real estate license shall be suspended, without further notice, hearing or order of the Board, and said suspension shall continue until the full amount of said costs have been paid to the Department of Regulation and Licensing, and her failure to pay the costs shall be considered a violation of this Order by the Board.

IT IS FURTHER ORDERED, that file 99 REB 176 be, and hereby is closed as to **JOHN A. SOBOTA** and not as to any other respondent.

Dated this 24th day of May, 2000.

WISCONSIN REAL ESTATE BOARD

By:

James R. Imhoff, Jr.

A member of the Board