

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN

BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF THE DISCIPLINARY

PROCEEDINGS AGAINST:

GREGORY D. SLAPAK,

Respondent

FINAL DECISION AND ORDER

LS0005121REB

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

Gregory D. Slapak

925 Rose Street

La Crosse, WI 54603

Wisconsin 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 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. **Gregory D. Slapak** (hereafter "Slapak"), DOB 4/26/51 is licensed in the State of Wisconsin as a real estate salesperson having license # 94-48122. This license was first granted to him on 1/20/98. Slapak's most recent address on file with the Department of Regulation and Licensing is 1421 10th Street South, LaCrosse, WI 54601.
2. Slapak was employed by Prudential Lovejoy Realty, Inc., located at 9542 US Highway 16, Onalaska, Wisconsin, license # 91 700002, from July 8, 1999 through March 2, 1999. Slapak was supervised by his broker, Peggy Lovejoy, at all times during his employment by Prudential Lovejoy Realty, Inc.,
3. Slapak's last former employer was Century 21 Affiliated-LaCrosse, LLP, located at 700 North Third Street, Suite 101, LaCrosse, WI 54601, license # 91 9333297.

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4. On April 9, 1999, Peggy Lovejoy, a licensed real estate broker and owner of Prudential Lovejoy Realty, Inc., (hereafter "Lovejoy Realty") filed a complaint with the Department against Slapak, alleging that Slapak had engaged in unprofessional conduct; namely, numerous instances of incompetent real estate practice and

repeated acts of retaliatory harassment, which resulted in a criminal conviction for unlawful use of the telephone.

5. Lovejoy found that Slapak had failed to prepare a completed listing agreement in connection with his sale of a property at 1918 Sandalwood Drive, LaCrosse, Wisconsin. Lovejoy repeatedly asked Slapak to submit the signed listing agreement. After several requests, Slapak faxed a copy bearing a signature to her office. When Lovejoy later checked the file, the signed copy was not there. When Lovejoy requested that Slapak send in another copy, Slapak refused to cooperate and blamed the staff for the missing document.

6. Lovejoy found that on or about September 9, 1998, Slapak had listed a home located at 1535 Main Street, LaCrosse, Wisconsin. Lovejoy advised Slapak to verify the zoning since the home had an apartment in the basement, which may have been non-conforming. Slapak showed the property to a prospective buyer, James McDonald, and informed him that the property was zoned for 5 unrelated occupants, when it was actually zoned R-1, a maximum of 3 unrelated occupants. McDonald relied upon Slapak's statements and purchased the property.

7. Lovejoy received letter from McDonald, after he discovered the actual zoning for the property. McDonald stated that Slapak had told him that Lovejoy had verified the zoning. When Lovejoy confronted Slapak about his misrepresentation to McDonald, Slapak responded that he was a selling agent and had no obligation to protect the buyer. Slapak further stated that he told the buyer to research the zoning and that he did not draft any zoning contingency for the buyer.

8. Slapak failed to provide Lovejoy with copies of certain Addendums referenced in an Offer that he drafted for property at 2017 Mississippi Street. Lovejoy was informed by the listing broker, Cindy Gerke, that Slapak was verbally abusive to her and had repeatedly called her about his commission.

9. Lovejoy advised Slapak that he was not allowed to include a financial credit to the buyer at closing as an incentive to complete a purchase, since he was not a party to the transaction. Slapak refused to follow his broker's advice and continued to write such a provision in his Offers.

10. Lovejoy found that Slapak had made various errors in the computation of real estate closing statements, including a \$6,000.00 discrepancy in one transaction.

11. Beginning on or about Thanksgiving of 1998 and continuing through his termination on March 2, 1998, Slapak made a number of unidentified telephone calls to Lovejoy. In February, the LaCrosse Police Department placed a tracer on Lovejoy's telephone and verified that the calls were originating from Slapak's residence. When confronted, Slapak admitted to making the calls. Lovejoy obtained a Restraining Order against Slapak.

12. Slapak was charged with two counts, misdemeanor unlawful use of a telephone and harassment. Slapak pled guilty and on August 2, 1999, a Judgment of Conviction was entered against Slapak for *Unlawful Use of Telephone-Threaten with Concealed Identification*. The harassment charge was dismissed.

13. Sentence was withheld on the conviction, and Slapak was placed on probation for one year, ordered to pay a fine of \$145.00, required to continue psychological counseling, and to have no contact with Lovejoy.

14. The Department was not informed by Slapak that he had been criminally convicted, nor did he submit a copy of the complaint or information describing the circumstances surrounding his conviction.

15. Shortly after the Court Order issued, Slapak had unauthorized contact with Lovejoy. Slapak was warned in writing by his Probation Officer that such conduct was a violation of his probation and that any further contact would result in serious sanctions, including jail time.

16. On October 29, 1999, a "no contact" provision was imposed upon Slapak in response to a request by Attorney Ablan, who had also received nuisance calls and harassing faxes from Slapak. Attorney Ablan represents Conrad Seymour, a former employer of Slapak who filed suit against Slapak.

17. From March 1998 through early July 1998, Slapak worked for Coldwell Banker Barbour Realtors in La Crosse. Richard Barbour, the owner/broker, had numerous problems with Slapak, including the placement of newspaper advertisements offering credits to buyers and sellers contrary to Barbour's advice and directive.

18. Barbour found that Slapak had directly contacted parties prior to expiration of their exclusive listing contracts with other agents and had not prepared accurate and complete transaction documents.

19. Barbour sought advice from the WRA regarding termination of Slapak. Barbour was particularly concerned that Slapak might try to retaliate against him if he fired him. Slapak voluntarily left Barbour's firm shortly after July 4th, 1998.

20. Shortly after Slapak left the Barbour firm, he began to make numerous harassing faxes and phone calls to Barbour. Many of the faxes were sent at 2:00, 3:00 or 4:00 in the morning, during weekends or after business hours. Barbour also received a number of anonymous phone calls.

21. During this time, Slapak contacted one of Barbour's former clients, George Sanders and identified himself as a neighbor of Sanders. Slapak told Sanders that he had a bad experience with Barbour and that there was an ethics complaint against Barbour. He warned Sanders not to do business with Barbour. Sanders dialed *69 to trace the number of the caller and determined that the call originated from a fax machine connected to Slapak.
22. On or about August 20, 1998, a civil judgment was entered against Slapak for intentional damage to property. Slapak had been living in a duplex owned by Margaret Annett. Slapak was notified that he had to vacate the premises since he had not paid rent for several months. Slapak refused to move and allegedly damaged the apartment in retaliation for his eviction. Judgment was entered against Slapak in the amount of \$5,000.00 for intentional damage to property.
23. On or about March 2, 2000, Slapak was alleged to have made multiple harassing phone calls to Robert Crystal in violation of the probation rule #1 signed by him on August 18, 1999 in connection with the Lovejoy incident.
24. Robert Crystal was a buyer working with Daniele Blihovde, a sales agent for Lovejoy Realty. The calls to Crystal contained derogatory references to Blihovde and the realty firm.
25. A phone tracer placed on Blihovde's telephone traced the calls to the phone of Gary Keifer, a personal friend of Slapak, who adamantly denied making any calls to Crystal. Telephone tapes of Slapak's calls to Blihovde at Lovejoy Realty were obtained by the police investigators.
26. Based upon the preliminary investigative reports, Slapak's Probation Officer ordered that him arrested and held in custody, pending the outcome of further investigation. Slapak was held in custody from March 21, 2000 until March 29, 2000.
27. On March 30, 2000, Slapak sent a letter by facsimile to all members of the Greater La Crosse Area Board of Realtors containing negative remarks about Blihovde, Lovejoy and the Lovejoy Realty firm.
28. Slapak appeared before Judge Perlich on April 7, 2000 in La Crosse Circuit Court. Slapak rejected the probation agreement and was sentenced to 60 days for a Class B Misdemeanor, *Unlawful Use of Telephone-Threaten with Concealed Identification*.
29. The Assistant District Attorney in LaCrosse filed criminal charges on August 17, 2000 (Case No. 00CM001202) against Mr. Slapak in connection with the faxes that Slapak sent to the La Crosse area realtors.

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30. On August 3, 1999, the Department received a complaint from William J. Schmitz alleging that Slapak had threatened him and had placed a number of harassing phone calls to him and his tenants.
31. Schmitz had signed a Buyer's Agency agreement with Slapak in February 1999. Slapak told Schmitz that the agreement was to cover a single property only. Slapak failed to complete line 57 and 58 as to the term of the agreement at the time that Schmitz signed it. Slapak later filled in the lines, without Schmitz's knowledge or approval, providing that the duration of the buyer's agency would be six months.
32. On March 7, 1999, Schmitz also listed a property located on 1934 Wood Street, with Slapak. On April 2, 1999, Slapak presented an Offer to Schmitz on behalf the buyers. He inserted the words on the first line of the Offer to the effect that he was a dual agent. Slapak did not obtain the written consent of the parties to multiple representation.
33. On April 29, 1999, Schmitz notified Slapak that he decided not to complete the sale of the property because the buyers had failed to submit a letter of financing for the purchase within the required time frame.
34. After Schmitz refused to complete the sale, Slapak began to harass him with threatening phone calls. Slapak contacted the tenants in Schmitz's building and made slanderous statements to them about Schmitz. Schmitz's relatives also received unidentified harassing calls derogatory to Schmitz. After listening to a recording of Slapak's voice, they were able to identify that Slapak was the person who had made the harassing calls.
35. On May 3, 1999, Slapak wrote a letter to Schmitz's tenants, without Schmitz's knowledge or approval, stating that a safety inspection of the building was to be conducted. Schmitz later found out that the inspection was actually an appointment for an appraisal.
36. Slapak had advertised Schmitz's property on Wood Street in the May 1999 Home Buyer's Guide with notation that it had been sold by Slapak, although Schmitz had not agreed to sell the property and is still the current owner of the property.

37. A Petition for Summary Suspension was presented to the Real Estate Board on May 1, 2000. The Division of Enforcement appeared by Attorney Colleen M. Baird and the respondent and his Attorney William P. Skemp appeared by telephone.

38. Based upon the verified Petition for Summary Suspension, the attached exhibits, the sworn testimony of Peggy Lovejoy and William Schmitz, the Real Estate Board found probable cause to believe that the respondent had engaged in, and is likely to engage in, conduct such that the public health safety or welfare imperatively requires that emergency suspension of respondent's credentials to practice as a real estate salesperson in the State of Wisconsin and issued a summary suspension order.

39. Slapak's real estate license was immediately suspended effective on May 2, 2000 and continuing until the effective date of a final decision and order by the Real Estate Board reinstating his license.

40. Since the date of the Summary Suspension, the Department has not received any information that Slapak has engaged in any further acts of harassment or inappropriate conduct involving the individuals listed in the above paragraphs.

CONCLUSIONS OF LAW

41. The Wisconsin Real Estate Board has jurisdiction to act in this matter pursuant to sec. 452.14, Wis. Stats. and is authorized to enter into the attached Stipulation pursuant to sec. 227.44(5), Wis. Stats.

42. Respondent **Gregory D. Slapak** has violated:

a.) 452.14(3)(b) of the Wisconsin Stats. by making a substantial misrepresentation with reference to a transaction injurious to a seller or purchaser in which the broker or salesperson acts as an agent and Wis. Adm. Code secs. RL 24.07 (2) by exaggerating or misrepresenting facts in the practice of real estate.

b.) 452.133 of the Wisconsin Stats. by failing to provide brokerage services to all parties to the transaction honestly, fairly and in good faith.

c.) Wis. Adm. Code secs. RL 24.03 (2)(b) by failing to protect the public against fraud, misrepresentation and unethical practices.

d.) 452.133 (1) of the Wisconsin Stats. by failing to exercise reasonable skill and care in providing brokerage services and Wis. Adm. Code secs. RL 24.08 by failing to put in writing all listing contracts, buyer agency agreements and any other commitment expressing the exact agreement of the parties.

e.) Wis. Adm. Code secs. RL 24.17, by violating any law the circumstances of which substantially relate to the practices of real estate broker or salesperson and failing to send to the Department within 30 days after the judgment of conviction, a copy of the complaint or other information which describes the nature of the crime.

f.) 452.14(3)(k) of the Wisconsin Stats. by being found guilty of any other conduct, whether of the same or different character from that specified herein, which constitutes improper, fraudulent or dishonest dealing.

ORDER

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

IT IS FURTHER ORDERED, that **Gregory D. Slapak's**, license No. 94-48122 be, and hereby is **SUSPENDED** for a period of one (1) year. Mr. Slapak shall be given credit for the amount of time, which he has been suspended pursuant to the Summary Suspension Order dated May 2, 2000, and that time shall reduce the remaining period of his suspension.

IT IS FURTHER ORDERED that **Gregory D. Slapak**, may petition the Board for a reinstatement of his license pursuant to this Order, beginning on March 30, 2000, or thereafter, provided that that Slapak submits satisfactory proof to the Real Estate Board regarding his compliance with the following:

Assessment

1. Gregory D. Slapak shall submit a current independent mental health evaluation, performed by a duly licensed health care provider acceptable to the Department. Approval of the evaluator will not be unreasonably withheld.

2. The licensed health care provider shall have experience in conducting psychological assessments and evaluations, and shall utilize standardized psychological tests deemed appropriate, such as the MMPI, PAI, or Neo-Personality Inventory. The provider shall also conduct a face-to-face interview with Mr. Slapak as a part of

the assessment and evaluation.

3. The mental health assessment shall be conducted not more than thirty (45) days from the date of the petition for reinstatement of respondent's license.

4. The evaluator shall submit a written report of his or her findings directly to the Department. The report shall include the following:

- a) evaluation of Mr. Slapak's level of cooperation in the assessment process;
- b) diagnosis of Mr. Slapak's condition (if any);
- c) recommendation for Mr. Slapak's treatment (if any);
- d) prognosis for Mr. Slapak's complete recovery;
- e) assessment of Mr. Slapak's ability to safely and competently work as a real estate sales agent, and
- f) recommendations for work-setting restrictions (if any).

5. The evaluator shall reflect that he or she has received and reviewed copies of:

- a) prior orders by the Department of Regulation and Licensing (DRL) relevant to the respondent; and related complaints filed by respondent involving his former employer, Peggy Lovejoy.
- c) the Division of Enforcement Complaint and Exhibits filed in connection with the Summary Suspension and the disciplinary proceeding commenced thereafter, including depositions taken in connection with the proceedings.

Therapy

6. Mr. Slapak shall follow any recommendations for treatment and work restrictions provided by the evaluator.

Releases

7. Mr. Slapak shall provide and keep on file with the individual(s) performing his assessment as well as with all treatment facilities and personnel current releases which comply with state and federal laws authorizing release of medical and treatment records, and permitting all relevant physicians and therapists to disclose and discuss Mr. Slapak's assessment, treatment and rehabilitation with any employee of the Department of Regulation and Licensing acting under the authority of the Department. Copies of these releases shall be filed simultaneously with the Department Monitor.

Costs

8. Mr. Slapak shall be responsible for all expenses and/or costs incurred by him in connection with his compliance with the terms and conditions of this Order.

Work Setting and Scope of Practice

9. Until otherwise ordered by the Department, Mr. Slapak may only work as a real estate sales agent under the supervision of a licensed real estate broker in good standing who agrees to the requirement of supervision and at a work site approved by the Department of Regulation and Licensing. Denial in whole or in part of a request for work site approval shall not give rise to a contested case within the meaning of secs. 227.01(3) and 227.42, Stats. The Department shall not unreasonably deny approval of a work setting.

10. Until otherwise ordered by the Department, Mr. Slapak shall limit his practice of real estate and shall not be involved in any sales of real estate or any activities as a real estate agent in the La Crosse, Monroe, Trempealeau, Vernon, Crawford, Jackson, Clark and Buffalo County. If Mr. Slapak resumes the practice of real estate, he shall not reside in the above counties to ensure his compliance with the restrictions on his practice.

Supervision

11. Mr. Slapak's employment as a real estate agent shall be subject to a period of supervision for three (3) years from the date that his employment begins after the reinstatement of his license.

12. Mr. Slapak must be supervised by a licensed real estate broker in good standing approved by the Real Estate Board. Approval of his supervising broker shall not be unreasonably denied. This required supervision must be conducted on the premises of the real estate company where Mr. Slapak is employed. The supervising broker

shall supervise and assess Mr. Slapak's work performance to verify that Mr. Slapak fulfills the ethical requirements of licensed real estate salesperson.

Work Reports

13. Mr. Slapak shall arrange for his supervising broker to provide formal written reports to the Department Monitor in the Department of Regulation and Licensing, Division of Enforcement, PO Box 8935, Madison, Wisconsin 53708-8935.

14. The work reports must be provided by the supervising broker in writing on a monthly basis during the first year of Mr. Slapak's three year supervision period. During the second year of his supervision, the work reports must be submitted in writing on a quarterly basis. For the third year of Mr. Slapak's supervision, the written report must be submitted on a bi-annual basis. The work reports shall be due on or before the 5th day of the month following the reporting period.

15. Mr. Slapak's supervising broker shall immediately report any direct knowledge or indirect allegations known to him or her concerning harassing contact or behavior by Mr. Slapak directed at his current or former employers, customers or other licensees affiliated with those employers. The supervising broker shall immediately report any other conduct that may constitute a violation of this Order and any violation of the statutes and rules governing the practice of real estate.

Background Reports

16. Mr. Slapak shall notify the Department Monitor of any and all arrests and/or criminal charges filed against him during the time in which this Order is in effect. Notification shall occur within five (5) days of the arrest or issuance of charges and shall include sufficient information to the Monitor to obtain adequate background information on the incident reported.

17. Mr. Slapak is responsible for compliance with all of the terms and conditions of this Order. It is the responsibility of Mr. Slapak to promptly notify the Department Monitor of any suspected violations of any of the terms and conditions of this Order.

Therapy Reports

18. If Mr. Slapak is required to obtain mental health therapy, he shall arrange for his mental health provider to send formal written reports to the Department Monitor in the Department of Regulation and Licensing, Division of Enforcement, PO Box 8935, Madison, Wisconsin 53708-8935. These reports shall assess Respondent's progress in therapy.

Change in Address or Work Status

19. Mr. Slapak shall report to the Board any change of employment status, residence, address or telephone number within fifteen (15) days of the date of a change. Any change in Mr. Slapak's residence must be approved by the Real Estate Board. Approval of his relocation shall not be unreasonably denied.

Disclosure

20. Mr. Slapak shall furnish a copy of this Order to any employer where Mr. Slapak may work pursuant to his real estate sales person license. Any employer who agrees to hire Mr. Slapak must submit a written confirmation to the Department that he or she shall adhere to the supervisory requirements set forth herein. Any change in Mr. Slapak's employment must be approved by the Real Estate Board. Approval of his relocation shall not be unreasonably denied.

Department Monitor

21. The Department Monitor shall act as the agent of the Department of Regulation and Licensing to coordinate compliance with the terms of this Order, including coordinating submissions of all reports and petitions made pursuant to this Order. The Department Monitor may be reached as follows: Department Monitor, Division of Enforcement, PO Box 8935, Madison, WI 53708-8935. FAX (608) 266-2264 TEL. (608) 261-7139.

Continuing Education

22. Mr. Slapak shall take and complete a minimum of three (3) credit hours of an approved course in ethical real estate business practices. Mr. Slapak shall submit verification of his course completion to the Department Monitor prior to the reinstatement of his license.

Petition for Modification of Terms

23. Mr. Slapak may petition the Board at anytime for approval of a new work setting or modification of any restrictions on the scope of his practice. A petition for modification will not be unreasonably denied, however,

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.

24. After three years of continuous active professional practice and full and complete compliance with the terms of this Order, Mr. Slapak may petition the Board for a termination or modification of all limitations on his license.

25. Any Board member who is presently or formerly affiliated with Prudential Lovejoy Realty, Coldwell Banker Barbour Realty or Century 21 Affiliated-LaCrosse LLP shall recuse themselves from any action on a modification petition or other matter related to this discipline order.

Violation of Order

26. If Mr. Slapak fails to successfully complete the above requirements within the prescribed time and manner, then and in that event, and without further notice to the Respondent Gregory D. Slapak, his 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.

Payment of Partial Costs

27. Mr. Slapak shall pay partial costs of this matter in the amount of \$1,000.00 prior to the reinstatement of his license 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 the investigative files 99 REB 112 and 99 REB 209, be and hereby are closed.

Dated this 22nd day of March, 2001.

WISCONSIN REAL ESTATE BOARD

James Imhoff, Jr.

A member of the Board