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STATE OF WISCONSIN

BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF THE DISCIPLINARY

PROCEEDINGS AGAINST:

MATTHEW F. IMPERL

FINAL DECISION AND ORDER

RESPONDENT

LS0109051REB

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

Matthew F. Imperl

4540 S. 117th St.

Greenfield, WI 53228

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. **Matthew F. Imperl** ("Imperl"), date of birth 11/01/59, is licensed in the State of Wisconsin as a real estate broker having license # 90-29357. This license was first granted to him on 08/16/83. Imperl's most recent address on file with the Department of Regulation and Licensing is 4540 S. 117th St., Greenfield, WI 53228.
2. At all times relevant hereto, Imperl was the real estate broker for Team Realty of Greater Milwaukee Inc. license # 91-833475 located at, 6116 W. Howard Ave., Milwaukee, WI 53708-8935. Team Realty of Greater Milwaukee Inc's real estate business entity license expired on January 1, 2001, and has not been renewed to date.
3. In the later part of 1999, Harvey and Mary Struck were attempting to sell, (for sale by owner), their 3 unit rental property located at 2509 W. Greenfield Ave., Milwaukee, WI.
4. On or about November 30, 1999, a Residential Offer To Purchase with ADDENDUM "A" was drafted for the Struck's property by Imperl on behalf of Douglas Kirsch. The offered price was \$45,000.00, with closing to take place no later than December 17, 1999. A DISCLOSURE OF REAL ESTATE AGENCY form signed by Kirsch on November 28, 1999, shows that Imperl was acting as the Seller's Agent. The Kirsch offer with addendum was presented to the Strucks by Imperl on December 2, 1999, and accepted that same day. A copy of the

RESIDENTIAL OFFER TO PURCHASE with ADDENDUM "A" is attached as **Exhibit 1** and is incorporated herein by reference. A copy of the DISCLOSURE OF REAL ESTATE AGENCY form is attached as **Exhibit 2** and is incorporated herein by reference.

5. Lines 56 – 58 of ADDENDUM "A" of the Offer to Purchase (Exhibit 1) read:

"2. SELLER TO PAY MATTHEW F. IMPERL, BROKER WITH TEAM REALTY OF GREATER MILWAUKEE INC. A CASH FEE AT CLOSING OF \$4,500.00 FOR BROKERAGE SERVICES DUE AND PAYABLE AT CLOSING. "

6. On or about November 30, 1999, Imperl drafted an AMENDMENT/NOTICE RELATING TO OFFER TO PURCHASE document on behalf of Kirsch. On January 21, 2000, Imperl drafted four AMENDMENT TO OFFER TO PURCHASE documents for Kirsch. A copy of the November 30, 1999, AMENDMENT/NOTICE RELATING TO OFFER TO PURCHASE is attached as **Exhibit 3** and is incorporated herein by reference. Copies of the four January 21, 2000, AMENDMENT TO OFFER TO PURCHASE documents are attached as **Exhibits 4, 5, 6 and 7** and are incorporated herein by reference.

7. Lines 8-15 of the January 21, 2000, AMENDMENT TO OFFER TO PURCHASE (Exhibit 7) read:

SELLER TO ESCROW \$2000.00 WITH TEAM REALTY TRUST ACCOUNT TO BE USED TOWARDS WORK ORDERS AS BUYER DEEMS APPROPRIATE. ANY OVERAGE TO BE RETURNED TO SELLER UPON COMPLETION. (RECEIPTS TO VERIFY WORK DONE TO BE PROVIDED TO TEAM REALTY) AND SELLERS. ALSO LEIN WAIVERS TO BE SUPPLIED TOO.

8. The Strucks allege that the \$2,000.00 placed in escrow (paragraph 7 above) was to be used solely for payment of City of Milwaukee Work Orders, specifically for required electrical and structural repairs. There were multiple City of Milwaukee Work Orders in existence at the time of the closing for a variety of building defects.

9. On or about February 2, 2000, Imperl wrote check # 0720 from Team Realty's IBRETA Trust Account 11-93 in the amount of \$190.00 to CHRIS FEEZOR of FEEZOR EXTERMINATING. This check was for pest control (roaches) found in the 2509 W. Greenfield property. The \$190.00 was withdrawn from the \$2,000.00 escrowed by the Strucks for payment of work orders. There was no existing City of Milwaukee Work Order regarding pest control for the 2409 W. Greenfield property and the Strucks did not specifically authorize this treatment or the \$190.00 payment. A copy of check # 0720 in the amount of \$190.00 is attached as **Exhibit 8** and is incorporated herein by reference.

10. The Strucks were subsequently reimbursed the \$ 190.00 by Douglas Kirsch.

11. At the time relevant to the facts set forth above Imperl did not have a written listing agreement or agency agreement with the Strucks.

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 **Matthew F. Imperl** has violated:

a. Sections RL 16.04(1), RL 18.09, RL 24.025(2) and RL 24.08 of the Wisconsin Administrative Code and sections 452.135(1), 452.14(3)(i) and 452.14(3)(L) of the Wisconsin Statutes by failing to use approved forms, by disbursing in a manner not directed in the written earnest money disbursement agreement \$190.00 of escrow money to Feezor Exterminating for pest control, by failing to have a written agency agreement with the Strucks, and by failing to put all agreements in writing.

ORDER

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

IT IS FURTHER ORDERED, that Respondent **Matthew F. Imperl**, license #90-29357, be, and hereby is, **REPRIMANDED**.

IT IS FURTHER ORDERED, that Respondent **Matthew F. Imperl**, within six months of the date of this Order, successfully complete the following course modules from the 36 hour pre-licensing real estate broker's course at an educational institution approved by the Department of Regulation and Licensing:

- a. The Approved Forms module-section RL 25.02(2)(b), of the Wisconsin Administration Code and,
- b. The Trust accounts, escrow, closing statement module-section RL 25.02(2)(c), of the Wisconsin Administration 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, WI 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 **Matthew F. Imperl** 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 **Matthew F. Imperl**, 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.

IT IS FURTHER ORDERED, that Respondent **Matthew F. Imperl**, pay **PARTIAL COSTS** in this matter in the amount of a \$250.00, within 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 Respondent **Matthew F. Imperl** fails to pay the \$250.00 partial costs within the time and in the manner as set forth above, then and in that event, and without further notice to the Respondent **Matthew F. Imperl**, his real estate license shall be suspended without further hearing and without further Order of the Board, and said suspension shall continue until the full amount of said partial costs have been paid to the Department of Regulation and Licensing and his failure to pay the partial costs shall be considered a violation of this Order by the Board.

IT IS FURTHER ORDERED, that file 00 REB 107 be, and hereby is, closed.

Dated this 6th day of December, 2001.

WISCONSIN REAL ESTATE BOARD

James Imhoff, Jr.

A member of the Board