

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 :
 : **FINAL DECISION AND ORDER**
DONALD J. MOORE : **LS0403252REB**
Respondent. :

Division of Enforcement Case No. 03 REB 176

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

Donald J. Moore
1300 W. Bluemound Rd. Ste. 214
Elm Grove, WI 53122

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 Wisconsin Real Estate Board ("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. **Donald J. Moore** ("Moore"), date of birth 04/13/60, is licensed in the State of Wisconsin as a real estate broker having license # 90-46901. This license was first granted to him on 05/27/93. Moore's most recent address on file with the Department of Regulation and Licensing is 13000 W. Bluemound Rd. Ste. 214, Elm Grove, WI 53122. Moore is doing business as "Moore Appraisal & Real Estate Services."

2. On or about February 21, 2003, March 11, 2003, and April 29, 2003, an auditor with the Department of Regulation and Licensing conducted an audit of Moore's real estate trust account. During the audit the auditor discovered the following discrepancies:

- a. Trial balances were not performed;
- b. \$1,000.00 belonging to a transaction that closed on September 28, 1998, were never disbursed, and
- c. \$2,000.00 belonging to a transaction that closed on May 24, 1999, were never disbursed.

3. The funds from the two transactions described above consisted of earnest money deposits given to Moore by the buyers. Moore attempted to convey the funds to the lender or title companies, or obtain or direction regarding disbursement, but the funds were refused as the transactions had already closed.

4. There is no evidence to evidence to suggest that Moore converted the funds or withheld them from the owners. The funds have remained in Moore's trust account pending further direction as to how to disburse them.

5. Moore cooperated with the auditors throughout the audit and investigation. Form 344 completed by the auditor and signed by Moore on April 29, 2003 is attached as **Exhibit 1** and is hereby incorporated into this document.

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 **Donald J. Moore** has violated:

a. Section RL 18.13(4) of the Wisconsin Administrative Code by failing to do the required monthly trial balances; and

b. Section RL 18.09 of the Wisconsin Administrative Code by improper disbursement of trust funds.

ORDER

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

IT IS FURTHER ORDERED that Respondent **Donald J. Moore**, license #90-46901, be, and hereby is, **REPRIMANDED**.

IT IS FURTHER ORDERED that Respondent **Donald J. Moore**, within six months of the date of this Order, successfully complete the following course module 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 Trust Accounts, Escrow, Closing Statement module-section RL 25.02(2)(c), of the Wisconsin Administration Code.

and submit proof of same to the Real Estate Board, P.O. Box 8935, Madison, WI 53708-8935, in the form of verification from the institution providing the education. 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 Respondent **Donald J. Moore** pay a **FORFEITURE** of **\$350.00** and costs of this proceeding of **\$300.00** within ninety (90) days of the date of this Order. Payment shall be made by **certified check or money order**, payable to the Wisconsin Department of Regulation and Licensing, and sent to: **Department Monitor, Division of Enforcement, Department of Regulation and Licensing, PO Box 8935, Madison, WI 53708-8935**.

IT IS FURTHER ORDERED that if the Respondent **Donald J. Moore** fails to pay the forfeiture and costs or 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 **Donald J. Moore**, his real estate license shall be **SUMMARILY SUSPENDED** and suspension shall continue until the full amount of forfeiture, costs and education have been satisfied. Failure to pay the forfeiture and costs or complete the education shall be construed as a violation of this Board Order and may result in additional discipline.

IT IS FURTHER ORDERED, that file 03 REB 176 be, and hereby is, closed.

Dated this 25th day of March, 2004 .

WISCONSIN REAL ESTATE BOARD

Richard Kollmansberger
A member of the Board