

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



## Wisconsin Department of Regulation & Licensing Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Regulation & Licensing website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

### Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Regulation and Licensing from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Regulation and Licensing data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Regulation and Licensing, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name as it appears on the order.*
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Regulation and Licensing is shown on the Department's Web Site under "License Lookup." The status of an appeal may be found on court access websites at: <http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscqa>.
- Records not open to public inspection by statute are not contained on this website.

**By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.**

**Correcting information on the DRL website:** An individual who believes that information on the website is inaccurate may contact the webmaster at [web@drl.state.wi.gov](mailto:web@drl.state.wi.gov)

STATE OF WISCONSIN  
BEFORE THE REAL ESTATE BOARD

---

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	<b>FINAL DECISION</b>
	:	<b>AND ORDER</b>
<b>MYRON L. HERMAN,</b>	:	LS0412025REB
RESPONDENT	:	

---

The parties to this action for the purposes of Wis. Stat. § 227.53 are:

Myron L. Herman  
204 56th Street  
Kenosha, WI 53140

Division of Enforcement  
Department of Regulation and Licensing  
1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708-8935

Real Estate Board  
Department of Regulation & Licensing  
1400 East Washington Avenue  
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 decision of this matter, subject to the approval of the Real Estate Board. The Board has reviewed the attached Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Myron L. Herman is duly licensed as a real estate broker in the state of Wisconsin under license #90-37681, first granted on May 5, 1986.
2. Mr. Herman's most recent address on file with the Wisconsin Department of Regulation and Licensing is 204 56th Street, Kenosha, WI 53140.
3. At all times relevant to this action, Mr. Herman was working as a real estate broker employed by Sparks White Investments, 6103 75th St., Kenosha, WI 53142, business entity license # 91-700280, whose managing broker was Lauren Stockdale Sparks, license #90-49854.

**Rusecki Transaction** - paragraphs 4 through 11

4. On February 8, 2001, Brian and Cheryl Rusecki listed their property at 11233 3rd Avenue, Pleasant Prairie, Wisconsin for sale for \$162,000. The listing contract was with Sparks White Investments dba Keller Williams Realty of Kenosha. The contract was signed by Debra McCormick as agent for broker Myron Herman. The term of the contract was from February 8, 2001 to March 28, 2001. A seller's information sheet completed by the Ruseckis at the time of the listing disclosed a first mortgage to M&I Bank and a second mortgage to Advanta Mortgage Corporation.

5. At the time of the listing, the Rusecki property was scheduled to be sold by auction at sheriff's sale on March 28, 2001.

6. On February 17, 2001, broker Tony Curi of Bear Realty in Kenosha submitted an Offer to Purchase the Rusecki property as buyer's agent on behalf of Paul Perry and Holly Weber-Perry. The offer was countered and eventually accepted on February 18, 2001, with closing to be on or before March 15, 2001.

7. On March 12, 2001, three days before the closing date specified in the contract, Curi spoke to McCormack, who informed him that title work for the sale had not been requested.

8. The March 15, 2001 date for closing passed without the completion of the necessary paperwork.

9. A title search was not performed until March 21, 2001, a month after offer and counter-offers had led to a contract, six days after the closing date specified in the contract, and only seven days before the sheriff's sale.

10. Only when title work was done were the following mortgages and judgments identified for the Rusecki property:

- a mortgage to M&I Bank for \$147,955.08.
- a mortgage to St. Francis Bank for \$14,900.
- a mortgage to Mego Mortgage Corp for \$68,599.69.
- a judgment for \$16,523.61.
- a judgment for \$9,164.41.
- a judgment for \$1,247.43.
- a judgment for \$7,981.61.

11. Even 3 days before the sheriff's sale, Herman did not inform the Ruseckis of the problems caused by the additional mortgages and liens.

#### **Joerndt Transaction** - paragraphs 12 through 21

12. On September 7, 2001 Arthur Joerndt listed his property at 7603 Shorewood Drive, Salem, WI 53168, which included a tavern, for sale for \$225,000. The listing contract was through Myron Herman with Sparks White Investments dba Keller Williams Realty of Kenosha.

13. An Offer to Purchase the Joerndt property was submitted by Doug and Jennifer Helman on December 30, 2001, which led to a contract on January 20, 2002 with a purchase price of \$202,500 and a 15-day mortgage commitment contingency.

14. Mr. Herman did not keep a copy of the original 12-30-01 Offer to Purchase the Joerndt property.

15. Mr. Herman did not have the parties to the Joerndt transaction complete an agency disclosure form.

16. Mr. Herman did not obtain a written agreement regarding well and septic inspection for the Joerndt property.

17. Mr. Herman or someone for whom he was responsible caused the Joerndt property to be advertised at the confidential minimum of \$180,000 instead of the agreed-upon asking price of \$225,000.

18. The Helmans were unable to satisfy the financing contingency for the Joerndt property, i.e. they were not able to obtain a mortgage commitment within 15 days.

19. After a contract was reached, Mr. Herman caused the Joerndt property to be listed on the Multiple Listing Service (MLS) as "pending", but he did not remove "pending" from the listing after the 15 days for the mortgage commitment contingency passed.

20. Mr. Herman's communications or messages to Mr. Joerndt from mid-February through mid-April were that financing was not an issue, and until April 16, 2002, six days before the scheduled closing date of April 22, 2002, Mr. Herman had not notified the seller that the buyers had only verbally represented that their financing was in place, but had not delivered a written loan commitment. The buyers applied for mortgage commitments from multiple banks but could only obtain partial financing, and were seeking the remainder from a relative. On April 16, 2002, Mr. Joerndt finally reached an assistant to Mr. Herman and was informed of a serious medical emergency involving a family member of the buyer that would cause the closing to be delayed.

21. The Joerndt sale was terminated at the request of Mr. Joerndt, due to a combination of the buyers' failure to produce a financing commitment and the delay resulting from the illness in the buyers' family.

### CONCLUSIONS OF LAW

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

B. Mr. Herman's actions and inactions in paragraphs 8 through 16 constitute a violation of the duty to provide competent services under Wis. Stat. section 452.14 (3) (i) and Wis. Admin. Code section RL 24.03 (2).

C. A failure to keep a completed Offer to Purchase is a violation of Wis. Admin. Code section RL 15.04.

D. A failure to complete an agency disclosure form is a violation of Wis. Admin. Code section RL 24.07 (8).

E. A failure to place an agreement regarding well and septic inspection in writing is a violation of Wis. Admin. Code section RL 24.08.

F. Disclosing the seller's confidential minimum price for a property and listing the property at the confidential minimum rather than at the agreed-upon listing price is a violation of Wis. Stat. section 452.14 (3) (i) and Wis. Admin. Code section RL 24.01 (3).

G. A failure to notify a seller that a buyer's financing contingency had not been satisfied is a violation of the duty to one's client under Wis. Stat. section 452.133 (2) and Wis. Admin. Code section RL 24.025 (1), and a violation of the duty to provide competent services under Wis. Stat. section 452.14 (3) (i) and Wis. Admin. Code section RL 24.03 (2).

H. By the conduct described above, Mr. Herman is subject to disciplinary action against his license, pursuant to Wis. Stat. sec. 452.14 (3).

### ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

I. The license of Myron L. Herman to practice real estate in the State of Wisconsin is hereby **SUSPENDED** for 45 calendar days, beginning on December 15, 2004. During that period he shall not engage in the practice of real estate. Advertisements placed and listings made prior to the effective date of this order need not be cancelled.

II. Mr. Herman shall, within 60 days from the date of this order, pay costs of this proceeding in the amount of \$7,312.47. Payment shall be made payable to the Wisconsin Department of Regulation and Licensing, and mailed to:

Department Monitor  
Division of Enforcement  
Department of Regulation and Licensing  
P.O. Box 8935  
Madison, WI 53708-8935

III. Mr. Herman shall, within 60 days from the date of this order, pay a forfeiture in the amount of \$10,000 dollars. Payment shall be made payable to the Wisconsin Department of Regulation and Licensing, and mailed to:

Department Monitor  
Division of Enforcement  
Department of Regulation and Licensing  
P.O. Box 8935  
Madison, WI 53708-8935

IV. Within six months of the date of this order, Mr. Herman shall successfully complete the Business Conduct and Consumer Protection modules of the educational program for salespersons outlined in Wis. Admin. Code section RL25.035.

V. In the event Mr. Herman fails to timely submit payment of costs or the forfeiture as set forth above, Mr. Herman's license shall be suspended, without further notice or hearing, until Mr. Herman has complied with the terms of this Order. [\[smg1\]](#) Violation of any of the other terms of this order may be construed as a violation of a board order meriting further disciplinary action, and as conduct imperiling public health, safety and welfare justifying the Summary Suspension of Mr. Herman's license.

VI. This order is effective on the date of its signing.

REAL ESTATE BOARD

Richard Kollmansberger                      12-2-2004  
A Member of the Board                      Date

---

[\[smg1\]](#) This section should be the standard summary suspension provision: **Violation of any of the terms of this Order may 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 impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order.** Where the terms of discipline consist of a forfeiture, costs or continuing education, alternative "self-effectuating" language should be utilized. E.g.: **In the event Respondent fails to timely submit any payment of the forfeiture as set forth above, the Respondent's license(#1550) SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.**