

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
TODD FREY, :
 : LS05041410REB
RESPONDENT. :

Division of Enforcement Case No. 02 REB 089

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

Todd Frey
10180 Whitnall Edge Circle
Franklin, WI 53132

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

PROCEDURAL HISTORY

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. Todd Frey (“Respondent”) (DOB 07/30/1954) is duly licensed as a Real Estate Broker in the state of Wisconsin (90-32420). The license was first granted on 06/18/1984. The license expires on 12/31/2006.
2. Respondent's most recent address on file with the Wisconsin Real Estate Board is 10180 Whitnall Edge Circle, Franklin, WI, 53132.
3. On or about May 25, 1999, J.W. made an offer to purchase a condominium. Subsequently, J.W. purchased the condominium. After the purchase was complete J.W. discovered undisclosed defects in the roof, siding and windows affecting other units belonging to the condominium association.
4. Respondent was the listing broker for the condominium purchased by J.W. Respondent was also a member of the condominium association board, and a current and/or former officer of the condominium association board at all times

relevant to this matter.

5. Condominium association board meeting records show that Respondent was present at meetings where issues regarding roof leaks, siding problems and water damage were on the agenda, discussed, and acted upon by the condominium association board from 1997-1999. Further, condominium association board records show that the condominium association board considered legal action against a third party related to these issues in February of 1999. Thus, even though Respondent may not have participated in decision-making regarding these issues due to a conflict of interest, Respondent knew of these issues.

6. Per Wis. Admin. Code § RL 24.07(3), “A licensee, when engaging in real estate practice, who becomes aware of information suggesting the possibility of material adverse facts to the transaction, shall be practicing competently if the licensee discloses to the parties the information suggesting the possibility of material adverse facts to the transaction in writing and in a timely fashion...”

7. Adverse material facts are described by Wis. Admin. Code § RL 24.07(2), as follows: “This provision is not limited to the condition of the property, but *includes other material adverse facts in the transaction*” (emphasis added).

8. Per Wis. Stat. § 452.14(3)(i), a licensee is subject to discipline if he or she has, “Demonstrated incompetency to act as a broker... in a manner which safeguards the interests of the public.”

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Board has jurisdiction to act in these matters pursuant to Wis. Stat. § 458.26.
2. The Wisconsin Real Estate Board has authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. § 227.44(5).
3. By failing to disclose, in writing, known defects regarding the roofing, siding and windows of buildings owned by the same condominium association that owned the exterior of the condominium unit listed by the Respondent, which, in turn, created a potential financial liability for the purchaser of the property in the form of a special assessment, Respondent violated Wis. Stat. § 452.14(3)(i).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The license of TODD R. FREY to practice as a real estate broker in the State of Wisconsin and shall be, and hereby is, SUSPENDED for a period of 21 days, said suspension to begin one day after the signing of this order.
2. Respondent shall pay partial costs of the Division of Enforcement in investigating this matter, in the amount of \$2,500.00.
3. All payments required by this Order shall be mailed or delivered to:

Department Monitor
Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Ave.
P.O. Box 8935
Madison, WI 53708-8935
Fax: (608) 266-2264
Telephone: (608) 267-3817

4. 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. In the event Respondent fails to timely submit any payment of the forfeiture as set forth above, or fails to timely submit proof of completion of education as set forth above, the Respondent's license (90-49932) SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order, and with the suspension called for in this Order not to begin until the other terms of the Order have been complied with.

5. This Order is effective on the date of signing.

WISCONSIN REAL ESTATE BOARD

By:	Richard Kollmansberger	4-14-05
	A Member of the Board	Date