

# 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)

---

IN THE MATTER OF DISCIPLINARY :  
PROCEEDINGS AGAINST : **FINAL DECISION AND ORDER**  
**BINH S. HUA,** : LS0804242REB  
RESPONDENT. :

---

Division of Enforcement case file 05 REB 040

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

Binh S. Hua  
6335 5<sup>th</sup> Avenue  
Kenosha, WI 53143

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

### **PROCEDURAL HISTORY**

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 adopts the attached Stipulation in this matter and makes the following Findings of Fact, Conclusions of Law, and Order:

### **FINDINGS OF FACT**

1. Binh S. Hua is licensed in the State of Wisconsin as a Real Estate Broker, having license #90-50313, first issued on August 18, 2000. Prior to that, Mr. Hua was licensed as a Real Estate Salesperson, with license #94-47503, active from July 23, 1997 to December 31, 2000.

2. Mr. Hua’s most recent address on file with the Department of Regulation and Licensing (“Department”) is 6335 5<sup>th</sup> Avenue, Kenosha, WI 53143.

3. On October 17, 2000, Louane Rasavong signed a Residential Listing Contract with Mr. Hua to market her property at 1202 South Layton Boulevard in Milwaukee, with a list price of \$89,900.

4. On November 30, 2000, Rosa Singh spoke to Mr. Hua about the property. The nature of the discussion and transaction is unclear. Neither Ms. Singh nor Mr. Hua has provided a copy of an Offer to Purchase, but Ms. Singh claims that she made an Offer to Purchase on the property for \$90,000, and that she paid Binh Hua \$18,000 earnest money in cash. She said no documents were signed as Mr. Hua told her his wife was working on them, and that he would return with them, but he never did. Mr. Hua claims that he negotiated a short-term lease with Ms. Singh, and that she did not give him \$18,000 in cash, but that she did pay him \$1,000 as a security deposit. Neither Mr. Hua nor Ms. Singh has provided a copy of a short-term lease agreement. Mr. Hua stated that Ms. Singh wanted to make an offer on the property, but she had only \$1,000 for a down payment and she could not obtain financing. He said the owner of the house accepted Ms. Singh and her family as

renters and was going to have a lease agreement drawn up (though it never was), and that Mr. Hua agreed to accept \$1,000 as a security deposit. In an interview with a Department Investigator on November 5, 2002, Mr. Hua said he prepared an Offer to Purchase for Ms. Singh but that it was a carbon copy form, that he gave her all the copies to sign, and that she never returned it. He also stated that Ms. Singh told him she would be getting a settlement from a lawsuit with her landlord over an accident with a garage door, and she mentioned a figure of \$18,000.

5. Ms. Singh and her family moved into the house on or shortly after November 30, 2000.

6. On December 7, 2000, Ghassan Batayneh, as a representative of Petra Capital Corporation, presented an Offer to Purchase for the property for \$90,000, with an earnest money payment of \$1,000.

7. Line 39 of the OTP from Mr. Batayneh stated "Property is not currently, and shall not be, leased or rented to a third party." This was not an accurate statement but Mr. Hua presented the offer to the seller for signature without informing Mr. Batayneh that Ms. Singh was residing in the house.

8. Mr. Hua stated that when the homeowner received the OTP from Mr. Batayneh he told the Singhs to move out, and that he returned the security deposit. Mr. Hua supplied a photocopy of an M&I bank check for \$1,000 to Rosa Singh dated December 12, 2000. The cover letter to this check from Mr. Hua to Ms. Singh reads

"Enclosed is a check for the return of your deposit for 1202 S. Layton Blvd. At the request of the seller, since this option to purchase has not been exercised, we are returning your deposit of \$1,000.00."

This language strongly suggests a lease with option to purchase, which should have been documented in writing.

9. The contract to sell the property to Mr. Batayneh eventually fell through. The inability to evict the Singhs seems to have been the primary reason for the failure to close.

10. On May 24, 2001, Ms. Singh filed a complaint with the Department stating that Mr. Hua had failed to return the \$18,000 in cash she gave him as an earnest money payment for the property. In her complaint, she stated that also without a written agreement Mr. Hua had let her family move into the house prior to closing, and that he then sold the house to someone else who started an eviction action against them. This complaint to the Department was opened for investigation and designated 01 REB 123.

11. On March 17, 2003, Mr. Batayneh filed a complaint with the Department stating that after the sale failed to close, Mr. Hua refused to return his \$1,000 earnest money payment. Mr. Batayneh filed a small claims case against Mr. Hua and on August 22, 2002, the court ordered Mr. Hua to pay \$1,109.00, the earnest money plus interest. This complaint to the Department was opened for investigation and designated 03 REB 055.

12. In response to an investigative inquiry from the Department about Mr. Batayneh's complaint, Mr. Hua replied through his attorney that the parties would not sign a release and that his client was unwilling to disburse the earnest money to either party until the dispute was resolved by the court, but that once he received a court order he returned the earnest money to Mr. Batayneh.

13. Mr. Hua's Real Estate Broker's license expired on December 31, 2002 and was not renewed in 2003.

14. On March 25, 2004, because Mr. Hua had not renewed his license, case 03 REB 055 was closed using code P5, "There may have been a violation, but because the person or entity in question ... does not have a current credential to practice, a decision was made to close the case and place a "FLAG or HOLD" on the credential. In the event that the ... credential is renewed, the case may be reopened and reconsidered."

15. At about the same time the cases were closed, on February 26, 2004, Mr. Batayneh reported to the Department that he had received the court-ordered payment

16. In March of 2004, Ms. Singh contacted the Department with the information that she had reached a settlement with Mr. Hua in August of 2003, though she said he had not paid her yet.

17. Mr. Hua applied to renew his Real Estate Broker's license on March 21, 2005, and the renewal was granted on March 29, 2005.

18. The matter was referred to the Real Estate Board's screening panel on March 21, 2005, and on April 14, 2005, this case, 05 REB 040, was opened for investigation, to consist of an investigation of the facts in the two cases that had been closed with code P5, 01 REB 123 and 03 REB 055. Those two cases remain in closed status.

19. Mr. Hua was contacted by letter on June 3, 2005. Initially, he did not respond. Mr. Hua's attorney was contacted on September 16, 2005 and responded that he no longer represented Mr. Hua, but Mr. Hua replied by email on September 28, 2005, and he supplied information previously provided.

20. Although Mr. Hua renewed his license, he is not practicing as a Real Estate Broker in Wisconsin. As of December 20, 2007, he stated that he is working as a "licensed assistant" for his wife, Melissa Hua, who operates Blondie Realty LLC, and that he is applying for a real estate license in Illinois by reciprocity.

### **CONCLUSIONS OF LAW**

1. The Wisconsin Real Estate Board has jurisdiction to act in this matter pursuant to section 452.14 (3) of the Wisconsin Statutes and is authorized to enter into the attached Stipulation pursuant to sec. 227.44(5), Wis. Stats.

2. Respondent Binh S. Hua is subject to discipline under section 452.14 (3) of the Wisconsin Statutes for the following violations:

a. Mr. Hua should not have permitted Ms. Singh and her family to move into the property without a signed document: either an Offer to Purchase with a provision for early occupancy, a short-term lease, or a lease with option to purchase. This is a violation of the requirement that all agreements be in writing in section RL 24.08 of the Wisconsin Administrative Code.

b. Mr. Hua concealed and failed to disclose a material adverse fact, that the premises were occupied by Ms. Singh, contrary to section RL 24.07 (2) of the Wisconsin Administrative Code.

### **ORDER**

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

IT IS FURTHER ORDERED that the Respondent, Binh S. Hua, is hereby REPRIMANDED.

IT IS FURTHER ORDERED that Mr. Hua pay the Department's costs for 01 REB 123 and 05 REB 040, but not for 03 REB 055 in which no violation was found, in the amount of \$1862.62 within 60 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 the Department Monitor. In the event Mr. Hua fails to pay the costs within the time and in the manner as set forth above, his Real Estate Broker's license shall be suspended without further notice, without further hearing, and without further Order of the Board, and said suspension shall continue until the full amount of said costs have been paid to the Department of Regulation and Licensing.

IT IS FURTHER ORDERED that file 05 REB 040 be closed.

Dated this 24<sup>th</sup> day of April, 2008.

By: Peter Sveum  
A member of the Board