

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
:
KENT E. HALUSKA, : LS08120418REB
RESPONDENT. :

Division of Enforcement Case Number 08 REB 100

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

Kent E. Haluska
Respondent
P.O. Box 12594
Green Bay, WI 54307

Real Estate Board
c/o Department of Regulation and Licensing
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 Division of Enforcement, Department of Regulation and Licensing (Department), has opened an investigation against Respondent. The parties in this matter agree to the terms and conditions of this Final Decision and Order and the attached Stipulation as the final disposition of this matter, subject to the approval of the Real Estate Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Respondent Kent E. Haluska (Haluska), whose date of birth is April 22, 1982, has been registered to practice as a real estate broker (#90-54800) in the State of Wisconsin, which was first granted on October 17, 2007, and which will expire on December 15, 2008. Mr. Haluska's last address reported to the Department of Regulation and Licensing is P.O. Box 12594, Green Bay, WI 54307. At all times relevant to this matter Mr. Haluska was the owner of Northwest Wisconsin Realty, LLC (NWR).

2. On October 10, 2007, Mr. Haluska signed an application for licensure of NWR as a Real Estate Business Entity. The application contained the following question: "Has the business entity or any of its business representatives ever been convicted of a misdemeanor or a felony...?" Mr. Haluska answered the question by checking the "NO" box.

3. On February 8, 2005, Mr. Haluska was convicted of a misdemeanor crime, after entering a plea of guilty to one count of violating Wis. Stat. § 813.12(8), Knowingly Violating a Domestic Abuse Order.

4. On August 7, 2008, Mr. Haluska was convicted of a misdemeanor crime, after entering a plea of no contest to three counts of violating Wis. Stat. § 942.01(1), Defamation. A review of the criminal complaint shows that Mr. Haluska made defamatory statements about a competing real estate broker. Sentencing was withheld, and Mr. Haluska was placed on probation for 18 months. Additionally, Mr. Haluska was barred from working in the “real estate industry” for one year, commencing August 21, 2008.

5. Mr. Haluska did not inform the Department of Regulation and Licensing of this conviction, and did not provide a copy of the complaint (or other document describing the crime) and judgment of conviction within 30 days of the entry of the judgment of conviction.

6. Per Wis. Admin. Code § RL 24.17(1), “Licensees may not violate... any law the circumstances of which substantially relate to the practices of a real estate broker...”

7. Per Wis. Admin. Code § RL 24.17(1), “...A licensee who has been convicted of a crime... shall send to the department within 30 days after the judgment of conviction a copy of the complaint and other information which describes the nature of the crime and the judgment of conviction in order that the department may determine whether the circumstances of which the licensee was convicted are substantially related to the practice of a real estate broker...”

8. Per Wis. Stat. § 452.14(3), “The board may revoke, suspend or limit any broker’s... license... or reprimand the holder of the license... if it finds that the holder of the license... has: (a) Made a material misstatement in the application for a license or registration, or in any information furnished to the board or department;” or “(i) demonstrated incompetency to act as a broker... in a manner which safeguards the interest of the public...”

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Board has jurisdiction to act in these matters pursuant to Wis. Stat. § 452.14.

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 answering “no” to the question of whether any business representative had ever been convicted of a misdemeanor crime on an application submitted to the Department, as set forth above in paragraphs 2 and 3 of the Findings of Fact, Respondent **Kent E. Haluska** violated Wis. Stat. § 452.14(3)(a), thereby subjecting himself to discipline.

4. By being convicted of a misdemeanor crime, the circumstances of which substantially relate his registration as a real estate broker, and failing to provide the Department of Regulation and Licensing with a copy of the complaint, other document describing the crime, and the judgment of conviction within 30 days of the entry of the Order, as set forth above in paragraphs 4 and 5 of the Findings of Fact, Respondent **Kent E. Haluska** violated Wis. Admin. Code § RL 24.17(1), thereby subjecting himself to discipline per Wis. Admin. Code § 24.01 and Wis. Stat. § 452.14(3)(i).

WHEREFORE, the Department of Regulation and Licensing makes the following:

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The license of **Kent E. Haluska** as a real estate broker (#90-54800) shall be, and hereby is, **REVOKED**. Mr. Haluska shall return all indicia of licensure, which are currently in his possession, to the Department of Regulation and Licensing within twenty (20) days of the date of signing of this Order.

IT IS FURTHER ORDERED that:

2. **Kent E. Haluska** shall pay costs of these investigations in the amount of ONE HUNDRED AND FIFTY DOLLARS (\$150.00). Costs shall be immediately due and owing on the date that the Department of Regulation and Licensing receives any application for any license administered by the Department.

3. Payment of costs and other submissions required by this Order shall be mailed, delivered or otherwise transmitted to:

Department Monitor
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935, Madison, WI 53708-8935
Telephone (608) 261-7904, Fax (608) 266-2264

4. Case number 08 REB 100 is hereby closed.
5. This Order is effective on the date of its signing.

WISCONSIN REAL ESTATE BOARD

By: Peter Sveum
A Member of the Board

12/04/08
Date

IN THE MATTER OF THE :
DISCIPLINARY PROCEEDINGS AGAINST : STIPULATION
:
KENT E. HALUSKA, : LS# _____ REB
RESPONDENT. :

Division of Enforcement Case Number 08 REB 100

It is hereby stipulated and agreed, by and between Kent E. Haluska, Respondent; and Mark A. Herman, Attorney for Complainant, State of Wisconsin, Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a pending investigation of Respondent's licensure by the Division of Enforcement (Case No. 08 REB 100). Respondent consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

2. Respondent understands that by signing this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and any other provisions of state or federal law.

3. Respondent has been provided with the opportunity to seek legal counsel prior to signing this stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Real Estate Board. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Real Estate Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of the Respondent or his attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with the Board's deliberations on the Stipulation. Additionally, any such Board advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondent is informed that should the Board adopt this Stipulation, the Board's final decision and order is a public record and will be published in accordance with standard Department procedure.

8. The Division of Enforcement joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

Kent E. Haluska, Respondent
P.O. Box 12594
Green Bay, WI 54307

Date

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

Date