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**Before The
State Of Wisconsin
REAL ESTATE BOARD**

Matter of the Disciplinary Proceedings
Against **MICHAEL H. GRANGER**,
Respondent

FINAL DECISION AND ORDER
Case No. LS0906181REB

Division of Enforcement Case # 09 REB 21

The State of Wisconsin, Real Estate Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, make the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Real Estate Board.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated at Madison, Wisconsin on 10/29/09

Peter Sveum
Member
Real Estate Board



Before The
State Of Wisconsin
DIVISION OF HEARINGS AND APPEALS

In the Matter of the Disciplinary Proceedings
Against **MICHAEL H. GRANGER**, Respondent

PROPOSED DECISION AND ORDER
Case No. LS0906181REB

Division of Enforcement Case # 09 REB 21

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

Michael H. Granger
2824 55th Avenue
Kenosha, WI 53144

Real Estate Board
Wisconsin 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

On June 18, 2009, the Division of Enforcement (Division) issued a Notice and Petition for Summary Suspension. On June 19, 2009, the Division of Enforcement issued a Notice of Hearing and Complaint. The Notice of Hearing directed Mr. Granger to file an answer to the complaint within twenty days. On June 26, 2009, the Real Estate Board issued an Order of Summary Suspension.

No answer to the Complaint was filed by Mr. Granger. On July 15, 2009, the Division filed a Notice of Motion for Default Order. A hearing on the Division's motion was conducted on August 10, 2009. Neither Mr. Granger nor anyone on his behalf appeared at the hearing or otherwise responded to the Division's Motion for Default Judgment. Pursuant to Wis. Admin. Code § RL 2.14, the following findings are taken from the Division's complaint.

FINDINGS OF FACT

1. Michael H. Granger, dob 01/21/60, is a licensed real estate salesperson in Wisconsin. Michael Granger (Mr. Granger or Respondent) was granted license #48892 on June 24, 1998. Respondent's address of record is 2824 55th Ave., Kenosha, WI 53144.

COUNT I

2. On 12/05/06, Respondent received an offer to purchase the home of C.E. and J.E., in Kenosha, from a buyer, Mr.

A. Respondent conveyed the offer to the owners, which was ultimately accepted, and the sale closed on 12/21/06.

3. Respondent was, in receiving and conveying this offer, and subsequently participating in the closing, acting outside his employment by Century 21 Colleen Realty, Kenosha, Wisconsin, and without the supervision of a licensed broker.

4. Respondent signed the name of Mr. E. to the Offer to Purchase, accepting the Offer. A subsequent Amendment to Offer to Purchase was also signed with Mr. E's name, by Respondent.

5. Both of these signatures were affixed without the consent or knowledge of Mr. or Mrs. E.

6. Before the closing, Respondent faxed (or caused to be faxed) to the closing agent a document in the form of a memorandum as follows:

To: Closing Agent.

Re: Proceeds check

Property address: [house address stated]

Property tax key No.: [tax key number stated]

Closing Date: 12/21/06

Sellers: C[...] and J[...] E...]

Please make the proceeds check payable to VK4J, LLC

s/ C[...] E[...] date 12/20/06

s/ J[...] E[...] date 12/20/06

7. In fact, neither of the sellers signed the document, nor had any knowledge of it.

8. "VK4J, LLC" is an entity owned and controlled by Respondent.

9. Respondent attended the closing and signed the documents on behalf of the sellers, or presented documents purportedly signed by the sellers but actually signed by him. These include the Warranty Deed, closing statement, HUD Settlement statement, and Wisconsin Real Estate Transfer Return.

10. Respondent did not have consent or legal authority to sign these documents from either Mr. or Mrs. E.

11. Respondent received the net proceeds from the sale, totaling \$46,220.27, in the form of a check in this amount made payable to VK4J, LLC.

12. These funds constituted real estate trust funds.

13. Respondent did not submit this check to his employer-broker.

14. Respondent was required by Wis. Admin. Code RL § 18.031(2) to submit the check to his employer-broker.

15. Respondent converted the funds represented by the check to his own use, without the consent of the owners, Mr. and Mrs. E., and with intent to permanently deprive them of possession.

16. The conduct described in Count I, above, constitutes unprofessional conduct under Wis. Stat. §§ 452.14(3)(b), (c), (g), (h), (i), and (k), 943.20(1)(b) and (d), and 943.38(1)(a) and (2); and Wis. Admin. Code §§ RL 16.03(2), 18.031(2), and 24.17(1) and (3).

COUNT II

17. On 5/1/08, Respondent was employed by Unum Realty, Inc., d/b/a Weichert, Realtors—Unum Properties, Kenosha, Wisconsin. On that day, he listed a home owned by a J.B., in Kenosha, for sale. J.B. is a close friend of Respondent's son. Shortly thereafter, Respondent showed the house to prospective buyer, P.B., and she expressed a desire to

purchase the home, but her financial history made conventional financing temporarily unavailable.

18. Respondent suggested a land contract, and drafted a land contract which P.B. signed on 8/18/08.

19. Respondent represented to P.B. that she would pay the monthly payments to Respondent, and Respondent would convey the money to the seller's mortgage company, Countrywide, until the end of the year, at which time P.B. anticipated being able to obtain financing and purchase the property outright.

20. In reliance upon these statements, P.B. gave two checks to Respondent on 8/18/08, each for \$1,000, and each of which had no stated payee, at Respondent's request. A third check for \$1,000 was also given by P.B. to Respondent at the same time, but dated 8/26/08, also with no stated payee.

21. Respondent subsequently wrote "cash" as the payee on two of the checks, and "Michael Granger" as the payee on the third check, deposited or cashed the checks.

22. Respondent subsequently stated to P.B. that the monthly payments would be \$1206.46, and P.B. subsequently gave Respondent a check in double that amount (for two months) on 11/6/08, and other checks in that amount on 12/6/08 and on 1/3/09, made out either to "cash" or to Respondent.

23. These checks (described in ¶¶ 20 and 22, above) constituted real estate trust funds.

24. Respondent did not submit any of these checks (described in ¶¶ 20 and 22, above) to his employer-broker.

25. Respondent was required by Wis. Admin. Code RL § 18.031(2) to submit these checks (described in ¶¶ 20 and 22, above) to his employer-broker.

26. Respondent subsequently deposited or cashed these checks.

27. Respondent converted all of the proceeds described in ¶¶ 20 and 22, above, totaling \$7,825.84, to his own use.

28. Concurrently with making the representations described in ¶¶ 18-19, above, Respondent represented to the seller, J.B., in August, 2008, that he had found a buyer and that the buyer would make J.B.'s mortgage payments until she could obtain financing, and that Respondent would facilitate this process. In reliance upon Respondent's statements, J.B. vacated the home on August 31, 2008, and allowed the buyer to move in, on September 1, 2008.

29. At no time did J.B. sign any land contract or other document associated with the transaction, other than the original listing contract, until 2/12/09, when Respondent requested that J.B. sign a handwritten document purporting to give Respondent authority to receive money from the buyer and pay the mortgage.

30. In fact, Respondent never made any payments to the seller's mortgage company, on the seller's mortgage account.

31. The failure to make the mortgage payments resulted in the mortgage company's commencing foreclosure proceedings against the seller, and causing the buyer to lose any and all equity in the home and the seller to become liable for costs, attorneys fees, and other expenses.

32. The conduct described in Count II, above, constitutes unprofessional conduct under Wis. Stat. §§ 452.14(3)(b), (c), (g), (h), (i), and (k), and 943.20(1)(b) and (d); and Wis. Adm. Code §§ RL 16.03(2), 18.031(2), 18.14, and 24.17(1) and (3).

COUNT III

33. On 8/3/08, Respondent was employed by Unum Realty, Inc., d/b/a Weichert, Realtors—Unum Properties, Kenosha, Wisconsin. On that day, he listed a home owned by a Ms. J.E.E., in Kenosha, for three months. On 8/22/08, Respondent's sister made an offer to purchase the property, subject to her obtaining financing, which was accepted. However the buyer was then unable to obtain financing, and the offer lapsed.

34. On 9/23/08, Respondent caused the listing to be removed from the Multiple List Service by changing its expiration date, although the listing contract still had another five weeks to run.

35. On 9/29/08, Respondent attended a closing on this property, which was bought by his sister, the same person who had made the 8/22/08 offer to purchase.

36. Respondent did not inform his supervising broker about the closing.

37. Respondent's employment agreement with Unum Realty, Inc., provided that Respondent would receive 80% of any commission on sales generated by Respondent, with Unum Realty, Inc., being entitled to 20% of such commissions.

38. At this closing Respondent signed all the closing documents on behalf of the seller, with the signature "[...] E. E[...] POA Michael Granger."

39. Respondent also caused the commission check, which was in the amount of \$12,000, to be made payable to "New Century Real Estate LLC," which is not a licensed real estate business entity under Wis. Stat. § 452.12(2), and the owner of which is a former colleague of Respondent's.

40. Respondent received and endorsed the check as follows: "New Century. Pay to the order of Michael Granger. [s/ Michael Granger."

41. In fact, Respondent has no legal interest or connection with New Century Real Estate, LLC, and did not have any authority to cause the check to be written to New Century Real Estate, LLC, or to endorse "New Century" on the check, or to cash or deposit any instrument made out to New Century Real Estate, LLC. The owner of New Century Real Estate LLC had no knowledge of any of Respondent's actions, in this matter.

42. The check was then deposited by Respondent in an account controlled by him, or was cashed by him.

43. All the proceeds from the check were converted to Respondent's own use, without the knowledge or consent of Unum Realty, Inc., the rightful owner of a 20% share of the commission, and with intent to permanently deprive the owner of possession of its share of the commission, in the amount of \$2,400.

44. The conduct described in Count III, above, constitutes unprofessional conduct under Wis. Stat. §§ 452.14(3)(b), (c), (g), (h), (i), and (k), and 943.20(1)(b) and (d); and Wis. Adm. Code §§ RL 18.031(2) and 24.17(1) and (3).

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Board has jurisdiction over this matter pursuant to Wis. Stat. § 454.14.

2. Wisconsin Administrative Code § RL 2.08(1) provides in relevant part that "[t]he complaint, notice of hearing, all orders and other papers required to be served on a respondent may be served by mailing a copy of the paper to the respondent at the last known address of the respondent" and that "[s]ervice by mail is complete upon mailing." Because the Complaint, Notice of Hearing, Notice of Motion, Motion for Default Judgment, and supporting documents were mailed to Michael Granger at his last known address, Mr. Granger was duly served pursuant to Wis. Admin. Code § RL 2.08.

3. Michael Granger has defaulted in this proceeding pursuant Wis. Admin. Code § RL 2.14.

4. Pursuant to Wis. Stat. §§ 452.14(3)(b), (c), (g), (h), (i), and (k), Respondent's conduct as described above constitutes grounds that justify the revocation of his real estate salesperson license.

PROPOSED ORDER

For the reasons set forth above, IT IS ORDERED that the real estate salesperson license granted to Michael Granger should be and is hereby **REVOKED**.

IT IS FURTHER ORDERED that Respondent shall pay all recoverable costs in this matter, in an amount to be established pursuant to Wis. Admin. Code § RL 2.18. Payment shall be made by certified check or money order, payable to the Wisconsin Department of Regulation and Licensing and sent to:

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

IT IS FURTHER ORDERED that file 09 REB 21, be and hereby is closed as to Respondent Michael Granger.

Dated at Madison, Wisconsin on August 26, 2009.

STATE OF WISCONSIN
DIVISION OF HEARINGS AND APPEALS
5005 University Avenue, Suite 201
Madison, Wisconsin 53705
Telephone: (608) 266-7709
FAX: (608) 264-9885

By: _____
Mark J. Kaiser
Administrative Law Judge