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STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF DISCIPLINARY PROCEEDINGS AGAINST DONNA M. SCHULTZ and NEIL J. SCHULTZ RESPONDENTS.	: : : : : :	FINAL DECISION AND ORDER LS 9008071 REB

The parties to this proceeding for purposes of s. 227.53, Stats., are:

Donna M. Schultz
41 South Broad Street
Bayfield, WI 54814

Neil J. Schultz
133 North Sixth Street
Bayfield, WI 54814

Wisconsin Real Estate Board
Department of Regulation
and Licensing
P.O. Box 8935
Madison, WI 53708

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

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

A hearing was held in this matter on November 16, 1990, at 1400 East Washington Avenue, Madison, Wisconsin. The Division of Enforcement was represented by Attorney Richard Castelnuovo. The Respondents, Donna M. Schultz and Neil J. Schultz, appeared in person without counsel. The administrative law judge filed his Proposed Decision on February 6, 1991.

On February 13, 1991, complainant's attorney filed objections to the Proposed Decision regarding the discipline recommended for Donna M. Schultz. Also, by virtue of correspondence dated March 12, 1991, Attorney Joseph C. Crawford, on behalf of respondent Neil J. Schultz, requested that the hearing be reopened as respondent had appeared at the November 16, 1990 hearing without counsel. Complainant's attorney filed written objections to this request on March 18, 1991.

Based upon the entire record in this case, the Real Estate Board makes the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

As to Count I

1. Donna M. Schultz is a real estate broker licensed to practice in Wisconsin pursuant to a license issued April 16, 1974, and does business as North Land Realty in Bayfield, Wisconsin.

2. Neil J. Schultz is a real estate broker licensed to practice in Wisconsin pursuant to a license issued April 27, 1984, and was at all times material to this matter affiliated with and supervised by Donna M. Schultz.

3. At all times relevant to this proceeding, Respondent Neil J. Schultz also operated a construction firm, Madeline Island Construction, a general contracting firm.

4. For a period of at least one month prior to June 11, 1986, Neil Schultz was working together with Michael and Kathy Gronquist in their efforts to purchase land to be leased to the United States General Services Administration for the construction of small craft mooring on the shore of Lake Superior within a short distance of Bayfield. In pursuit of this goal, Neil Schultz had acted as agent for the Gronquists in the attempted purchase of vacant land meeting the General Services Administration specifications for land to lease on which to construct mooring facilities. Neil Schultz had an agreement with Gronquist that Schultz's construction firm, Madeline Island Construction, would construct the facilities if the Gronquists were successful in purchasing land meeting the government's specifications and entering into a lease/build agreement with the government.

5. The deadline date for submitting a lease offer to the government was June 11, 1986.

6. Ronald and Joyce Soper owned vacant land on the shore of Lake Superior meeting the specifications of the government lease/build bid request. Neil Schultz was familiar with the land, and was acquainted with the Sopers.

7. Prior to execution of any listing contract to sell vacant land owned by the Sopers, Neil Schultz and Michael Gronquist discussed the terms by which Gronquist could purchase the land. Neil Schultz drew up an offer to purchase the Soper property on behalf of Michael Gronquist, in furtherance of the plan to obtain the government lease/build contract.

8. The terms of the offer to purchase the Soper property which Neil Schultz drafted for the benefit of Gronquist were:

a. A purchase price of $35,000.

b. Earnest money of $100 tendered with the offer.

c. A closing date on or before September 10, 1986.

d. An acknowledgement that Neil Schultz was acting as an agent of the seller.

e. Acceptance of the offer was not binding unless deposited in the mail addressed to the buyer at North Land Realty.

9. Gronquist did not wish to purchase the Soper property unless the government awarded Gronquist the lease/build contract, but that contingency was not stated in the offer Neil Schultz drafted.

10. Neil Schultz signed and dated the Earnest Money Receipt on June 10, 1986, acknowledging the receipt and deposit of earnest money in a real estate trust account, but he had never received any earnest money to support the transaction.

11. Thereafter, Neil Schultz drafted a Vacant Land Listing Contract-Exclusive Right to Sell, dated June 10, 1986, in which the Sopers granted Neil Schultz an exclusive right to sell their vacant land for the period between June 10 and June 11, 1986.

12. Neil Schultz drafted the listing contract during a discussion he had with the Sopers on June 10, 1986, held at his instigation in a hotel tavern in Wausau.

13. In the course of the discussion over the listing price, Soper told Neil Schultz that he did not want any expenses from the transaction and wanted to net $25,000 from the sale of the property, but Neil Schultz never told Soper the price which he, Schultz, thought he could get for the property.

14. The listing contract provided for a listed price of $25,000 plus commission.

15. Material terms concerning the broker's commission were absent from the listing contract Neil Schultz prepared for the Soper property, there being no mention of any specific commission in lines 55-60 of the listing contract.

16. Neil Schultz intended to receive the $10,000 difference between the listing contract he prepared for the Sopers' signature and the offer he prepared for the benefit of Gronquist, and told the Sopers that when they remarked on the difference between the listing price in the listing contract and the offer price.

17. By the terms of the listing contract he drafted, Neil Schultz was not obligated to pay for the sellers' expenses other than as follows: "Realtor to pay sellers attorneys fees and surveyed."

18. The Sopers understood that the difference between the offer price and the listing price, minus the stated expenses, would be retained by Neil Schultz as compensation.

19. On or about June 10, 1986, the Sopers signed their acceptance of the Offer, but failed to date their acceptance.

20. Neil Schultz did not attempt to correct the omission of the date from the Sopers' acceptance.

21. On June 11, 1986, Donna Schultz reviewed the Soper listing contract drafted by Neil Schultz and determined that it was invalid. No action was ever taken to execute a new listing contract.

22. When the transaction failed to close, the Sopers demanded payment of the earnest money which had never been collected by Neil Schultz.

23. Without written authority to act as agent for either the Sopers or Gronquist, Schultz negotiated and drafted a grant of option dated November 26, 1986, by which Gronquist received an option until January 31, 1987, to purchase the vacant land for $30,000.

24. The Option contained a condition in the Special Provisions Section that "GSA offers a rental agreement to buyer."

25. The Option was signed by Gronquist and Ronald Soper, but not by Joyce Soper, who was identified as a seller in the option.

26. During the course of the investigation of this matter, Neil Schultz falsely stated that he never intended to collect a commission on the sale of the Soper property to Gronquist.

<u>As to Count II</u>

27. Neil Schultz drafted a Residential Listing Contract - Non-Exclusive Right to Sell dated for signature by Carl and Amy French, as sellers, for property located at 10 North 3rd Street, Bayfield.

28. Neil Schultz did no investigation to determine the owners of the property or whether Carl and Amy French had merchantable title to the property.

29. The terms of the listing contract Neil Schultz secured with Carl and Amy French provided for a term from December 18, 1987, to June 18, 1988; a listing price of $49,500; a commission of 7%; and a named exception for an owner secured buyer who had not been in contact with North Land Realty.

30. Neil Schultz did not learn that Carl and Amy French did not own the property until very nearly the expiration of the listing contract, when Carl French directed him to present an offer to Franklin French, not Carl.

31. Neil Schultz still did not inquire as to the state of title of the property.

32. Neil Schultz submitted the name of Richard Ryan pursuant to the override clause following expiration of the French listing contract.

33. Following expiration of the French listing contract, Neil Schultz drafted and submitted to Franklin French a Residential Offer to Purchase on behalf of Ryan, dated June 30, 1988. The offer provided for:

a. A purchase price of $25,000;

b. Earnest money in the amount of $25 tendered with the offer, with additional earnest money in the amount of $75 to be paid within ten days of acceptance;

c. A condition that acceptance of the offer not be binding unless deposited in the mail addressed to the buyer at North Land Realty;

d. A closing date on or before September 1, 1988.

34. Neil Schultz signed the earnest money receipt acknowledging receipt of the $25 earnest money payment on June 30, 1988, but he had not in fact received any earnest money payment.

35. Following several rounds of Counter-Offers centering on the purchase price, Ryan submitted a July 20, 1988 Counter-offer which increased the purchase price to $32,000 on the condition that the sale be financed by a land contract.

36. Neil Schultz negotiated and drafted a Counter-offer for Franklin French to sign, accepting the purchase price of $32,000 but modifying the terms of the land contract. Before Neil Schultz transmitted this counter-offer to Franklin French for his signature to validate the terms as a counter-offer by French to Ryan, Schultz had Ryan sign and date an acceptance of the terms contained in the counter-offer not yet made by Franklin French.

37. By letter dated July 25, 1988, Neil Schultz transmitted this counter-offer, with its purported acceptance in place before the signature of the party supposedly making the counter-offer, to Franklin French to have him sign that he was making the counter-offer accepted by Ryan. By the same letter, Neil Schultz sought to confirm a lower commission for the sale of the property.

38. Neil Schultz never amended the French Listing Contract with Carl and Amy French in an approved manner to reflect the actual state of title to the property or the lowered commission.

39. Franklin French received the counter-offer which Neil Schultz had constructed in such a way as to make it appear to have been accepted by Ryan, but French added additional terms before he signed and dated it. Betty French, who also owned the property unbeknownst to Neil Schultz, also signed as seller.

40. Neil Schultz did not attempt to have Betty French sign any of the preceding counter-offers once he finally learned of her interest in the property.

41. Neil Schultz drafted his own agreement to release the earnest money he had finally collected from Richard Ryan to Franklin French, and had Ryan sign and date the release on August 28, 1988.

As to Count III

42. Donna M. Schultz knew, or should have known, that Neil J. Schultz was not competent to draft documents relating to the transfer of real estate, or to recognize conflicts of interest which would prevent him from acting as broker in a manner which was honest and fair to all interested parties.

43. Donna M. Schultz failed to maintain an adequate supply of approved forms in her brokerage, and affirmatively approved the use of materially different forms as substitutes for approved forms.

44. Donna M. Schultz affirmatively approved the use of her brokerage as the buyer's address for the return of acceptances of offers to purchase, depriving buyers of the protections of their offers' conditions as to time and notice of acceptance.

CONCLUSIONS OF LAW

1. The Real Estate Board has jurisdiction in this matter pursuant to Wis. Stat. s. 452.14(3).

2. Neil J. Schultz has violated s. 452.14(3)(i), Stats., and s. RL 24.08, Wis. Admin. Code, demonstrating incompetency as a real estate licensee by drafting an invalid listing contract for the Sopers, in failing to reduce to writing Gronquist's contingency of a government lease in his offer to purchase the Soper property, in proceeding with the transaction without correcting the omission of the date of acceptance of the Gronquist offer by Sopers, and by failing to obtain a required signature on the Grant of Option from Ronald, but not Joyce, Soper, to Gronquist.

3. Neil J. Schultz has violated s. RL 24.025, Wis. Admin. Code, in purporting to be the buyers' agent for receipt of the accepted offer in the Soper-Gronquist transaction.

4. Neil J. Schultz has violated s. 452.14(3)(i), Stats., and s. RL 24.06, Wis. Admin. Code demonstrating incompetency in negotiating and drafting documents in the Soper-Gronquist real estate transaction in the absence of a valid written listing contract.

5. Neil J. Schultz has violated s. RL 24.07(1), Wis. Admin. Code, and s. 452.14(3)(b), Stats., by misrepresenting the receipt and deposit of earnest money in the Soper-Gronquist transaction.

6. Neil J. Schultz has violated s. 452.14(3)(k), Stats., by engaging in improper, fraudulent, and dishonest dealing in the concealment from Soper, his purported principal, of his, Schultz's, real and personal interest in the transaction for which he sought the listing contract and a commission.

7. Neil J. Schultz has violated s. RL 24.10, Wis. Admin. Code, by intentionally negotiating a net listing contract with Soper providing for a stipulated net price to the owner with excess over the stipulated net to be paid to Schultz, as broker, as commission.

8. Neil J. Schultz has violated s. 452.13(3)(a), Stats., by making material misstatements of fact to the Department of Regulation and Licensing in connection with his handling of the Soper-Gronquist transaction.

9. Neil J. Schultz has violated s. 452.13(3)(i), Stats., and ss. RL 24.025 and 24.08, Wis. Admin. Code, demonstrating incompetency as a real estate licensee in drafting Richard Ryan's purported acceptance of a Counter-offer by Franklin French before the execution of the counter-offer.

10. Neil J. Schultz has violated s. RL 24.025, Wis. Admin. Code, in purporting to be agent for the buyer for receipt of the accepted offer in the French-Ryan transaction.

11. Neil J. Schultz has violated s. 452.14(3)(i), Stats., by failing to determine the true state of title to the property in the French-Ryan transaction and by failing to obtain the signatures of the owners on the required documents throughout the course of the transaction.

12. Neil J. Schultz has violated s. 452.14(3)(i), Stats., and ss. RL 16.04 and 24.08 by demonstrating incompetency as a real estate licensee in failing to reduce agreements changing his commission and agreeing to the release of earnest money in the French-Ryan transaction to writing on approved forms.

13. Donna M. Schultz has violated s. RL 17.08, Wis. Admin. Code, by allowing Neil J. Schultz to avoid her supervision of his activities in her office as a broker for North Land Realty, contrary to her responsibility under s. 452.12(3)(a), Stats., and has thereby demonstrated incompetency to act as a real estate broker in a manner which will protect the public, as specified in s. 452.14(3)(i), Stats.

ORDER

NOW, THEREFORE, IT IS ORDERED that all real estate licenses previously issued to Neil J. Schultz be, and hereby are, REVOKED, effective 30 days from the date of this decision.

IT IS FURTHER ORDERED that the request of Neil J. Schultz to re-open the evidentiary hearing in this matter be, and hereby is DENIED.

IT IS FURTHER ORDERED that Donna M. Schultz be, and hereby is, REPRIMANDED, and further that the real estate broker's license previously issued to Donna M. Schultz be, and hereby is, LIMITED by the condition that she may hold the license only for so long as she prevents Neil J. Schultz from having any part in the operation, management, or control of any real estate brokerage under her supervision or control.

IT IS FURTHER ORDERED that the real estate broker's license of Donna M. Schultz is LIMITED, effective 90 days after the date of this decision, to preclude her from supervising any real estate salesperson or broker unless she successfully completes 20 hours of real estate related education covering (a) real estate office procedures, (b) offer, acceptance and closing, (c) applied aspects of offers and listings, (d) service and responsibility to clients and customers, and (e) other related matters, and submits proof of the same in the form of verification from the institution providing the education. None of the education completed pursuant to this requirement may be used to satisfy any continuing education requirements that are or may be instituted by the board.

EXPLANATION OF VARIANCE

The Proposed Decision of the administrative law judge in this matter made Findings of Facts and Conclusions of Law, and recommended that the real estate license of Neil J. Schultz be revoked and that Donna M. Schultz's be limited to prevent Neil from being involved in the operation, management, or control of any real estate firm under her supervision or control. The board has accepted the Proposed Decision, with one modification regarding the Order pertaining to Donna M. Schultz.

Subsequent to the issuance of the Proposed Decision, complainant's attorney filed objections to that portion of the recommended order regarding Donna M. Schultz, arguing that she should also be required to complete continuing education courses in order to maintain her license. There was no objection to the discipline recommended regarding Neil Schultz.

DONNA SCHULTZ ORDER

Upon review of the record in this case, including the administrative law judge's Opinion and the arguments contained in the objections of complainant's attorney, the board agrees that real estate related education should be required of Donna M. Schultz. It appears clear that Donna either intentionally, or through a lack of knowledge, disregarded her supervisory responsibility. As stated in the Opinion of the administrative law judge:

> "Neil's incompetency to draft a valid, binding document basic to the practice of real estate and the successful closure of a sale is clear from his action in the Soper transaction....Donna certainly had actual notice that Neil did not have the basic tools at his disposal to practice safely or effectively, and should have taken significant action at the time....There is no evidence that Donna did anything to protect the public, her clients, from Neil's lack of competence. Instead, she allowed him to continue to practice...."

Additionally, the record indicates that, among other things, she failed to understand that the existence of an improper "net listing" contract would not serve to render an offer to purchase invalid; perceive the manner in which counter-offers should be handled; or maintain an adequate supply of approved forms at her firm for her sales staff's use.

It is also clear that a portion of the blame for the violations engaged in by Neil in this case must be attributed to Donna's failure to recognize her supervisory responsibilities and to have a clear grasp of real estate law in general. Accordingly, the board has adopted a final order requiring that Donna obtain 20 hours of real estate related education within 90 days following the date of this order, and that her failure to do so will result in her not being permitted to supervise any real estate licensee in her practice.

NEIL SCHULTZ REQUEST TO RE-OPEN HEARING

The board has also denied the request by Neil J. Schultz' recently retained attorney that the hearing be re-opened, since Mr. Schultz was not represented by legal counsel at the hearing.

During the course of this proceeding, Mr. Schultz was repeatedly advised that it would be in his interest to retain an attorney. He consciously chose not to do so until well after the Proposed Decision had been rendered by the administrative law judge. Furthermore, the request does not contain a reference to any specific evidence which indicates that a material error of fact exists in the determination made pursuant to the actual evidence presented such as would warrant the reopening of this matter. Cf., Wis. Stats. sec. 227.49(3)(b). Nor is there any showing that the additional evidence alluded to would require a change in the decision and was unavailable to respondent at the time of hearing. Cf., Wis. Stats. sec. 227.49(3)(c).

Accordingly, it is the board's opinion that a re-opening of this matter would not be appropriate under either the circumstances or legal considerations relevant to this case.

Dated: APRIL 25, 1991.

STATE OF WISCONSIN
REAL ESTATE BOARD

Peter J. Schils
Chairman

BDLS2-179

NOTICE OF APPEAL INFORMATION

(Notice of Rights for Rehearing or Judicial Review, the times allowed for each and the identification of the party to be named as respondent)

The following notice is served on you as part of the final decision:

1. Rehearing.

Any person aggrieved by this order may petition for a rehearing within 20 days of the service of this decision, as provided in section 227.49 of the Wisconsin Statutes, a copy of which is attached. The 20 day period commences the day after personal service or mailing of this decision. (The date of mailing of this decision is shown below.) The petition for rehearing should be filed with the State of wisconsin Real Estate Board.

A petition for rehearing is not a prerequisite for appeal directly to circuit court through a petition for judicial review.

2. Judicial Review.

Any person aggrieved by this decision has a right to petition for judicial review of this decision as provided in section 227.53 of the Wisconsin Statutes, a copy of which is attached. The petition should be filed in circuit court and served upon the State of Wisconsin Real Estate Board.

within 30 days of service of this decision if there has been no petition for rehearing, or within 30 days of service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30 day period commences the day after personal service or mailing of the decision or order, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing of this decision is shown below.) A petition for judicial review should be served upon, and name as the respondent, the following: the State of Wisconsin Real Estate Board.

The date of mailing of this decision is April 26, 1991.

WLD:dms
886-490

227.49 Petitions for rehearing in contested cases. (1) A petition for rehearing shall not be a prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s. 17.025 (3) (e). No agency is required to conduct more than *one rehearing based on a petition for rehearing* filed under this subsection in any contested case.

(2) The filing of a petition for rehearing shall not suspend or delay the effective date of the order, and the order shall take effect on the date fixed by the agency and shall continue in effect unless the petition is granted or until the order is superseded, modified, or set aside as provided by law.

(3) Rehearing will be granted only on the basis of:

(a) Some material error of law.

(b) Some material error of fact.

(c) The discovery of new evidence sufficiently strong to reverse or modify the order, and which could not have been previously discovered by due diligence.

(4) Copies of petitions for rehearing shall be served on all *parties of record. Parties may file replies to the petition.*

(5) The agency may order a rehearing or enter an order with reference to the petition without a hearing, and shall dispose of the petition within 30 days after it is filed. If the agency does not enter an order disposing of the petition within the 30-day period, the petition shall be deemed to have been denied as of the expiration of the 30-day period.

(6) Upon granting a rehearing, the agency shall set the matter for further proceedings as soon as practicable. Proceedings upon rehearing shall conform as nearly may be to the proceedings in an original hearing except as the agency may otherwise direct. *If in the agency's judgment, after such* rehearing it appears that the original decision, order or determination is in any respect unlawful or unreasonable, the agency may reverse, change, modify or suspend the same accordingly. Any decision, order or determination made after such rehearing reversing, changing, modifying or suspending the original determination shall have the same force and effect as an original decision, order or determination.

227.52 Judicial review; decisions reviewable. Administrative decisions which adversely affect the substantial interests of any person, whether by action or inaction, whether affirmative or negative in form, are subject to review as *provided in this* chapter, except for the decisions of the department of revenue other than decisions relating to alcohol beverage permits issued under ch. 125, decisions of the *department of employe trust funds, the commissioner of* banking, the commissioner of credit unions, the commissioner of savings and loan, the board of state canvassers and those decisions of the department of industry, labor and human relations which are subject to review, prior to any judicial review, by the labor and industry review commission, and except as otherwise provided by law.

227.53 Parties and proceedings for review. (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified *in s. 227.52 shall be entitled to judicial* review thereof as provided in this chapter.

(a) Proceedings for review shall be instituted by serving a petition therefor personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. Unless a rehearing is requested under s. 227.49, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.48. If a rehearing is requested under s. 227.49, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and *filing a petition under this paragraph commences on the day* after personal service or mailing of the decision by the agency. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 77.59 (6) (b), 182.70 (6) and 182.71 (5) (g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

(b) The petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s. 227.57 upon which petitioner contends that the decision should be reversed or modified. The petition may be amended, by leave of court, though the time for serving the same has expired. The petition shall be entitled in the name of the person serving it as petitioner and the name of the agency whose decision is sought to be reviewed as respondent, except that in petitions for review of decisions of the following agencies, the latter agency specified shall be the named respondent:

1. The tax appeals commission, the department of revenue.

2. The banking review board or the consumer credit review board, the commissioner of banking.

3. The credit union review board, the commissioner of credit unions.

4. The savings and loan review board, the commissioner of savings and loan, except if the petitioner is the commissioner of savings and loan, the prevailing parties before the savings and loan review board shall be the named respondents.

(c) Copies of the petition shall be served, personally or by certified mail, or, when service is timely admitted in writing, by first class mail, not later than 30 days after the institution of the proceeding, upon all parties who appeared before the agency in the proceeding in which the order sought to be *reviewed was made.*

(d) The agency (except in the case of the tax appeals commission and the banking review board, the consumer *credit review board, the credit union review board, and the* savings and loan review board) and all parties to the proceeding before it, shall have the right to participate in the proceedings for review. The court may permit other interested persons to intervene. Any person petitioning the court to intervene shall serve a copy of the petition on each party who appeared before the agency and any additional parties to the judicial review at least 5 days prior to the date set for hearing on the petition.

(2) Every person served with the petition for review as provided in this section and who desires to participate in the proceedings for review thereby instituted shall serve upon the petitioner, within 20 days after service of the petition upon such person, a notice of appearance clearly stating the person's position with reference to each material allegation in the petition and to the affirmance, vacation or modification of the order or decision under review. Such notice, other than by the named respondent, *shall also be served on the named* respondent and the attorney general, and shall be filed, together with proof of required service thereof, with the clerk of the reviewing court within 10 days after such service. Service of all subsequent papers or notices in such proceeding need be made only upon the petitioner and such other persons as have served and filed the notice as provided in this subsection or have been permitted to intervene in said proceeding, as parties thereto, by order of the reviewing court.