

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :
 : FINAL DECISION AND ORDER
PATRICIA PULVER, and : 87 REB 270
ROGER PULVER, :
RESPONDENTS :

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

Patricia Pulver
Roger Pulver
5517 Dorsett Drive
Madison, WI 53711

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

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 Board. The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Patricia Pulver, 5517 Dorsett Drive, Madison, Wisconsin 53711, is and was at all times relevant to the facts set forth herein licensed as a real estate salesperson in the State of Wisconsin pursuant to license # 25661, and the wife of Roger Pulver.

2. Roger Pulver, 5517 Dorsett Drive, Madison, Wisconsin 53711, is and was at all times relevant to the facts set forth herein licensed as a real estate broker in the State of Wisconsin pursuant to license # 26592 and the husband of Patricia Pulver.

3. At all times relevant to the facts set forth herein, Roger Pulver was doing business as Pulver Real Estate and Patricia Pulver salesperson's license was listed in the name of a real estate broker other than her husband.

4. At all times relevant to the facts set forth herein, a duplex ("duplex") located in Madison, Wisconsin was subject to a residential listing contract granting First Realty, Inc. ("First"), 6709 Raymond Road, Madison, Wisconsin, an exclusive right to sell the duplex owned by Michael and Nancy Olson (collectively referred to as "Olsons").

5. On or about Thursday, May 28, 1987, Patricia Pulver contacted Gloria M. Wilberg ("Wilberg"), a real estate broker licensed pursuant to license # 39356 and then employed by First, to arrange for Pulver Real Estate to show the duplex.

6. On or about Friday, May 29, 1987, Wilberg contacted Pulver Real Estate and informed Patricia Pulver that First would be willing to provide Pulver Real Estate with only 10% of the real estate commission in the event that Pulver Real Estate was successful as selling broker in procuring the purchaser of the duplex, because Pulver Real Estate was not a member of the Greater Madison Board of Realtors.

7. Later that day, Patricia Pulver and Roger Pulver were shown the duplex by Nancy Olson. Michael Olson was not present at that time.

8. Roger Pulver indicated that his wife Patricia Pulver was interested in purchasing the duplex, but asked whether the Olsons would object to a term in an offer providing for Pulver Real Estate to receive 50% of the real estate commission, rather than the 10% offered by First. Nancy Olson indicated she would have to discuss the matter with her husband when he returned home.

9. Later that evening, Roger Pulver and Michael Olson discussed Roger Pulver's request that a provision be placed in an offer indicating that Pulver Real Estate would receive a 50% real estate commission.

10. Prior to formally submitting any offer through First, Roger Pulver attempted to obtain the Olsons' approval of a provision in an offer that Pulver Real Estate would receive a 50% real estate commission.

11. That same evening, Roger Pulver contacted Wilberg to advise that he had shown the duplex to the prospective purchaser. Roger Pulver stated that the prospective buyer was very interested in submitting an offer on the duplex but that he was concerned that First would not agree to a 50-50 split of the real estate commission.

12. On or about Monday, June 1, 1987, Roger Pulver informed Wilberg that he intended to submit an offer to purchase on the duplex.

13. That evening Roger Pulver delivered an offer to purchase the duplex to Wilberg. The offer indicated that Patricia Pulver was the buyer. The offer called for a purchase price of \$101,500, and, among other things:

- a. Contained a provision stating, "Earnest money of \$1,000 tendered herewith."
- b. Contained a provision stating, "Sellers agree that Pulver Real Estate shall be entitled to 50% of the whole commission."

- c. Contained a provision disclosing that Patricia Pulver possessed "a valid real estate license", but did not disclose that Roger and Patricia Pulver were husband and wife.
- d. Represented that Pulver Real Estate had received a personal check in the amount of \$1,000.00 from Patricia Pulver as earnest money.

14. On or about Tuesday, June 2, 1987, Wilberg presented the offer to purchase to the Olsons. At that time, the Olsons made a counter-offer which among other things increased the purchase price to \$102,900, and effectively deleted the 50% commission provision.

15. On or about Wednesday, June 3, 1987, Patricia Pulver rejected the Olsons' counter-offer. The printed written rejection stated:

"Offer refused. Seller will not warrant property for at least one year."

"Outside settling is a major repair."

"Buyer is of the opinion that the original offer was fair. Sorry."

"...Licensee never negotiated a selling price with seller. Roger A. Pulver 6-3-87"

16. At no time relevant to this transaction did Roger Pulver receive a personal check from Patricia Pulver as an earnest money downpayment.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Board has jurisdiction to act in this matter pursuant to sec. 452.14, Wis. Stats.

2. The Wisconsin Real Estate Board is authorized to enter into the attached Stipulation pursuant to sec. 227.44(5), Wis. Stats.

3. Respondent Roger Pulver has violated:

a. Sec. RL 24.07(1), Wis. Adm. Code, by misrepresenting material facts concerning receipt and deposit of earnest money and failing to disclose in writing his relationship to Patricia Pulver in connection with an offer to purchase the Olsons' property.

b. Sec. RL 24.13(5), Wis. Adm. Code, by attempting to negotiate directly with the sellers without permission from the listing broker.

4. Respondent Patricia Pulver has violated Sec. RL 24.07(1), Wis. Adm. Code, by misrepresenting material facts concerning the payment of earnest money.

ORDER

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

IT IS FURTHER ORDERED, that the real estate broker's license (# 26592) of Respondent Roger Pulver be, and hereby is, suspended for thirty (30) days, effective 10 days from the date of this Final Decision and Order.

IT IS FURTHER ORDERED, that within four (4) months of the date of this Final Decision and Order Respondent Roger Pulver shall successfully complete Ten (10) hours of real estate-related education covering (a) Real estate trust funds, (b) Offer, acceptance and closing, (c) Service and responsibility to clients, (d) Code of ethics, and (e) other related matters, and submit proof of the same in the form of written 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.

IT IS FURTHER ORDERED, that Roger Pulver shall not employ Patricia Pulver or otherwise have her act on his behalf in the practice of real estate, unless such an arrangement is in compliance with the applicable law and the requirements imposed by any employer of Patricia Pulver.

IT IS FURTHER ORDERED, that the real estate broker's license (# 25661) of Respondent Patricia Pulver be, and hereby is, suspended for seven (7) days, effective 10 days from the date of this Final Decision and Order.

IT IS FURTHER ORDERED, that Respondent Patricia Pulver pay the Department of Regulation and Licensing One Hundred Dollars (\$100) in costs to partially reimburse the Department for the expenses incurred to investigate this matter.

IT IS FURTHER ORDERED, that Respondent Patricia Pulver shall

- a. Furnish her current employer-broker, Fredrick B. Weichbrod (# 15831), with a copy of this Final Decision and Order within ten (10) days of its approval by the Board.
- b. Engage in the practice of real estate only in affiliation with and under the supervision of her current broker-employer, and shall change or transfer affiliation or employment only in accordance with applicable law.
- c. Not be employed or otherwise act on behalf of Roger Pulver in the practice of real estate, unless such an arrangement is in compliance with the applicable law and the requirements imposed by any employer of Patricia Pulver.

IT IS FURTHER ORDERED, that within four (4) months of the date of this Final Decision and Order Respondent Patricia Pulver shall successfully complete Five (5) hours of real estate-related education covering (a) Real estate trust funds, (b) Offer, acceptance and closing, and (c) other related matters, and submit proof of the same in the form of written 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.

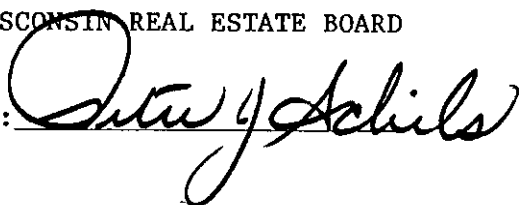
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IT IS FURTHER ORDERED, that the disciplinary proceeding be dismissed and investigative file # 87 REB 270 be closed.

Dated this 23RD day of AUGUST, 1990.

WISCONSIN REAL ESTATE BOARD

by:

A handwritten signature in cursive script, appearing to read "Peter J. Schils". The signature is written over a horizontal line.

STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

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IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
PATRICIA PULVER, and	:	87 REB 270
ROGER PULVER,	:	
RESPONDENTS	:	

It is hereby stipulated between Patricia Pulver and Roger Pulver, personally on their own behalf; their counsel Richard Pegg; and the Department of Regulation and Licensing, Division of Enforcement by its attorney Richard Castelnuovo, as follows that:

1. This Stipulation is entered into as a result of a formal complaint against Patricia Pulver and Roger Pulver ("Respondents") by the Division of Enforcement. Respondents consent to the resolution of this matter without further proceedings, and agree that this Stipulation shall be presented directly to the Real Estate Board ("Board") without the participation or approval of the Hearing Examiner.

2. Respondents are aware and understand their rights with respect to disciplinary proceedings, including the right to a statement of the allegations against them; a right to a hearing at which time the State has the burden of proving those allegations; the right to confront and cross-examine the witnesses against them; the right to call witnesses on their behalf and to compel attendance of witnesses by subpoena; the right to testify themselves; 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 them under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.

3. Respondents voluntarily and knowingly waive the rights set forth in paragraph 2 above, on the condition that all of the provisions of this Stipulation are approved by the Board.

4. Respondents are aware of their right to seek legal representation and have secured legal advice prior to execution of this Stipulation.

5. Regarding the attached Final Decision and Order, Respondents neither admit nor deny the facts set forth in the Findings of Fact, but agree for the purpose of resolving this matter that the Board may make such findings. Respondents further agree that the Board may reach the conclusions set forth in the Conclusions of Law, and may enter the Order suspending their licenses, requiring education, imposing conditions and requiring payment of costs.

6. With respect to the specific conditions imposed by the Final Decision and Order, Respondents agree that:

a. Roger Pulver shall not employ Patricia Pulver or otherwise have her act on his behalf in the practice of real estate, nor shall Patricia

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 August 24, 1990.

WLD:dms
886-490