

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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# FILE COPY

## STATE OF WISCONSIN BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF  
DISCIPLINARY PROCEEDINGS AGAINST

Mark R. Cummisford,  
RESPONDENT.

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FINAL DECISION AND ORDER  
88 REB 103

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

Mark R. Cummisford  
2254 West Layton Avenue  
Milwaukee, WI 53221

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 disposition 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. Mark R. Cummisford ("Cummisford"), 2254 West Layton Avenue, Milwaukee, WI 53221 is a real estate broker licensed to practice in the State of Wisconsin pursuant to license # 36874, granted on February 13, 1986.

2. Commencing January 5, 1988, and continuing through March 1, 1988, Cummisford was employed by Metro Realty South, Inc., ("Metro") a real estate corporation located at 5551 South 108th Street, P.O. Box 501, Hales Corners, WI 53130, having license # 833557.

3. On or about January 12, 1988, during the course of his employment with Metro, Cummisford obtained a Residential Listing Contract - Exclusive Right To Sell, ("First Listing Contract"), with Leonard R. Stanczyk and Kathleen M. Stanczyk, ("Stanczyks") for the sale of the Stanczyks' residence located at 2254 West Layton Avenue, Milwaukee, Wisconsin.

4. The Stanczyks' First Listing Contract with Metro had a commencement date of January 12, 1988 and an expiration date of July 12, 1988.

5. On March 1, 1988 Cummisford's employment with Metro was terminated effective March 1, 1988.

6. On March 3, 1988 at approximately 11:00 p.m. Cummisford roused the Stanczyks out of bed and obtained from them their signature on an "Amendment to Listing Contract" which was back dated to March 1, 1988. The purpose of this amendment was to change the expiration date of the Stanczyks' First Listing Contract with Metro to March 2, 1988.

7. On March 3, 1988, in the presence of Cummisford, Stanczyks signed a Listing Contract ("Second Listing Contract") with Broker Sherry A. Nelson, now known as Sherry A. Cummisford and formerly doing business as Results Realty of Wisconsin ("Results") License # 34187, with a commencement date of March 3, 1988 and an expiration date of June 30, 1988.

8. The Second Listing Contract was obtained by Results, in part, through the assistance of Cummisford working on behalf of Results.

9. On or about January 3, 1989 the Milwaukee Board of Realtors, acting through its Board of Directors, issued an official letter of warning to Cummisford for his violation of Article 21 of the Code of Ethics/Standards of Practice of the National Association of Realtors on account of Cummisford's actions set forth above.

10. During the course of the investigation of this complaint, Cummisford gave false and misleading information to the Department of Regulation and Licensing, Division of Enforcement, in that he stated in correspondence addressed to the Department that his final act as an employee of Metro was to obtain Amendments to listing contracts on March 1, 1988, when, in fact, the Stanczyks' Amendment was not executed until March 3, 1988.

11. Cummisford first submitted a notice of transfer of employment regarding his employment with Metro which began of January 5, 1988, to the Department of Regulation and Licensing on or about January 22, 1988.

#### 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.

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3. Respondent Mark R. Cummisford has violated the following:

a. Section 452.14(3)(a) Wis. Stats., in that he provided false information to the Department of Regulation and Licensing, Division of Enforcement when he informed the Department in written correspondence that he amended the Stanczyks' First Listing Contract on March 1, 1988 when the amendment was actually signed on March 3, 1988 at a time when Cummisford no longer worked for Metro.

b. Sections 452.14(3)(g), 452.14(3)(i) and 452.14(3)(k) Wis. Stats., and Sections RL 24.025 and 24.03(2)(b) Wis. Adm. Code in that on March 3, 1988 while no longer employed by Metro, he represented or implied to the Stanczyks that he had authorization from Metro to draft an Amendment to the Stanczyks' First Listing Contract with Metro and then proceeded to obtain the Stanczyks signatures thereon.

c. Section 17.05 Wis. Adm. Code in that he failed to submit a completed transfer application to the Department of Regulation and Licensing prior to commencement of his employment with Metro on January 5, 1988.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that the attached Stipulation is accepted, and that consistent with the Stipulation:

IT IS FURTHER ORDERED, that a forfeiture of \$500.00 per violation, for a total forfeiture of \$1,500.00 is imposed upon the Respondent Mark R. Cummisford (License # 36874). The total of this forfeiture shall be paid to the Department of Regulation and Licensing, P. O. Box 8935, Madison, Wisconsin 53708 within sixty (60) days of the date of this order.

IT IS FURTHER ORDERED, that Respondent Mark R. Cummisford pay the costs of these proceedings in the amount of \$300.00. The total of these costs shall be paid to the Department of Regulation and Licensing, P. O. Box 8935, Madison, Wisconsin 53708 within sixty (60) days of the date of this order.

IT IS FURTHER ORDERED, that in the event Respondent Mark R. Cummisford fails to comply with the Order for payment of a forfeiture in the amount of \$1,500.00 and for payment of costs in the amount of \$300.00 on or before the date set forth herein for the payment of the same, then and in that event his license #36874 shall be indefinitely suspended until he has complied with the terms of this Order.

IT IS FURTHER ORDERED, that investigative file # 88 REB 103 be, and hereby is, closed.

Dated this 23RD day of MAY, 1991.

WISCONSIN REAL ESTATE BOARD

by: 

STATE OF WISCONSIN  
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF  
DISCIPLINARY PROCEEDINGS AGAINST

Mark R. Cummisford  
RESPONDENT.

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STIPULATION  
88 REB 103

It is hereby stipulated between Mark R. Cummisford, personally on his own behalf, and by Paul F. Poehlmann, Attorney for Respondent, and the Department of Regulation and Licensing, Division of Enforcement by its attorney Charles J. Howden, as follows:

1. This Stipulation is entered into as a result of a pending investigation of licensure of Mark R. Cummisford ("Respondent") by the Department of Regulation, Division of Enforcement (88 REB 103). Respondent consents to the resolution of this investigation by Stipulation and without the issuance of a formal complaint.

2. Respondent is aware and understands his rights with respect to disciplinary proceedings, including the right to a statement of the allegations against him; the 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 him; the right to call witnesses on his behalf and to compel attendance of witnesses 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, and the Wisconsin Administrative Code.

3. Respondent voluntarily and knowingly waives 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. Respondent is aware of his right to seek legal representation and has been provided the opportunity to seek legal advice prior to execution of this Stipulation.

5. With respect to the attached Final Decision and Order, Respondent neither admits nor denies the facts set forth in the Findings of Fact, but does agree that the Board may reach the conclusions set forth in the Conclusions of Law and may enter the Order requiring Respondent to pay a forfeiture and costs as set forth in the Order.

6. In connection with the payment of a forfeiture, Respondent agrees that a forfeiture may be imposed in lieu of other discipline.

7. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation or the proposed Final Decision and Order, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that the 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 the consideration of this attempted resolution.

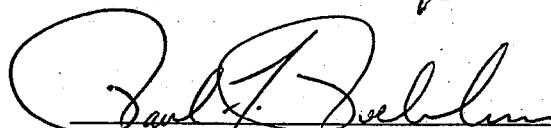
8. If the Board accepts the terms of this Stipulation, the parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties.

9. Respondent agrees that complainant's attorney, Charles J. Howden, may appear at any deliberative meeting of the Board with respect to this stipulation but that appearance is limited to statements solely in support of the Stipulation and for no other purpose.

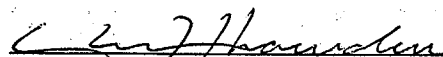
10. The Division of Enforcement joins Respondent in recommending that the Board adopt this Stipulation and issue the attached Final Decision and Order.

  
Mark R. Cummisford, Respondent

4-30-91  
Date

  
Paul F. Pöehlmann  
Attorney for Respondent  
1110 N. Old World Third Street  
Milwaukee, Wisconsin 53203

4/30/91  
Date

  
Charles J. Howden, Attorney  
Division of Enforcement

5/2/91  
Date

CJHID552