

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

ART ANDERSON REALTY, INC.,
ROBERT E. ANDERSON,
A. CHARLES ANDERSON,
MARIGEN E. ANDERSON,
RESPONDENTS.

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FINAL DECISION
AND ORDER
(87 REB 301)

The parties to this action for the purposes of Wis. Stats., Sec. 227.53:

Art Anderson Realty, Inc.
Hwy 35 & 48
P.O. Box 176
Luck, WI 54853

Robert E. Anderson
Hwy 35 & 48
P.O. Box 176
Luck, WI 54853

A. Charles Anderson
Hwy 35 & 48
P.O. Box 176
Luck, WI 54853

Marigen E. Anderson
Hwy 35 & 48
P.O. Box 176
Luck, WI 54853

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 Stipulations 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. Art Anderson Realty, Inc., a Wisconsin corporation, is and was at all times relevant to the events set forth herein a real estate corporation licensed to engage in the practice of real estate in the State of Wisconsin pursuant to license number 8997 granted May 9, 1973; Robert E. Anderson is a real estate broker licensed to practice in the State of Wisconsin pursuant to license number 29996 granted March 3, 1973; A. Charles Anderson is a real estate broker licensed to practice in the State of Wisconsin pursuant to license number 29997 granted April 10, 1968; and Marigen E. Anderson is a real estate salesperson licensed to practice in the State of Wisconsin pursuant to license number 23323 granted October 18, 1983.

2. On or about September 12, 1986, Respondent A. Charles Anderson, broker, negotiated and drafted and submitted an Offer to Purchase property owned by Robert E. Anderson, Frederick Memmer, Leon H. Erickson, and himself d/b/a Croixland Properties, a Wisconsin Partnership, consisting of an 8 acre hobbyfarm with a residence and barn outbuildings located on the property, on behalf of prospective buyers Myron J. Peterson and Mairea B. McCabe who resided in California at the time and neither of whom had ever viewed the property. The prospective buyers had been informed that the property was in good condition.

3. The Offer provided for earnest money in the amount of \$500.00 in the form of a personal check (postdated to September 9, 1986) from Mairea B. McCabe, and the receipt of the check was acknowledged by completion of the earnest money receipt by Marigen E. Anderson on August 29, 1986, but funds were not deposited in a broker's trust account until September 9, 1986.

4. The Offer also provided in pertinent part:

(a) That the property consisted of approximately 8 acres and the sale price was \$34,500.00.

(b) That the Offer was subject to buyers making a total down payment of \$3,500.00 and obtaining a first mortgage loan at Fidelity State Bank for \$27,500.00; and also conditioned on the sellers granting the buyers a second mortgage in the amount of \$3,500.00 at an interest rate not to exceed 11% per annum with a final balloon payment of the balance due within 3 years.

(c) Additional items included in the sale were a range and refrigerator.

(d) A closing date of October 25, 1986.

(e) Time is of the essence as to legal possession, occupancy, and date of closing.

(f) The sellers stated that the property was being sold in an "as is" condition, but all systems to function at closing.

5. The sellers had previously sold the property to a David and Carol Profitt pursuant to a land contract agreement in April 1983. When they defaulted in their payments, the sellers took the property back in September 1986. Neither the sellers nor the brokers made a personal inspection of the property prior to contracting with Peterson and McCabe for the sale of the property.

6. On or about October 30, 1986, Respondents A. Charles Anderson and Robert E. Anderson, doing business as Croixland Properties, a Wisconsin partnership, entered into a land contract agreement with Myron J. Peterson and Mairea B. McCabe for the sale and purchase of the property contained in the offer to purchase at a sale price of \$34,500.00 with a down payment of \$3,500.00 and the balance of \$31,000.00 payable at the rate of 11% per annum in monthly installments of not less than \$356.10 per month with a final balloon payment 3 years from the date of execution of the contract for sale. The land contract agreement was subject to the existing mortgage of the sellers to Fidelity State Bank. The contract agreement was signed and acknowledged by the buyers in California on October 27, 1986, and signed and acknowledged by the sellers in Polk County, Wisconsin, on October 30, 1986. No disclosure was made by sellers of the existing Fidelity State Bank mortgage balance or that the property taxes were delinquent.

7. No amendments or counteroffers to the original offer to purchase were drafted by the broker to reflect the change from financing to seller financing or provide for more definite financial contingency terms or extend the closing date of the transaction.

8. No listing agreement was ever drafted between the sellers, Croixland Properties, a partnership consisting of A. Charles Anderson, Robert E. Anderson, Frederick Memmer and Leon H. Erickson, and the brokers.

9. No disclosure was ever made to the buyers by Respondents A. Charles Anderson and Robert E. Anderson that they were licensed real estate brokers and had an ownership interest in the property being sold.

10. No application for a loan from the Fidelity State Bank prepared by the buyers appears to have ever been filed with that institution.

11. Upon moving from California to Wisconsin and taking possession of the property, the buyers discovered several deficiencies in the condition of the property including a failed septic system, evidence of undisclosed fire damage, roof and structural damage and leakage, a heating system that was not functioning properly, a hot water heater that was not operating properly, along with a chimney that was structurally unsound.

12. On or about June 11, 1987, Peterson and McCabe informed Art Anderson Realty in writing by certified mail of the above non functioning systems and demanded that the Respondents advise them when the malfunction of the systems would be corrected. No response was made by the Respondents to this demand until the buyers obtained private counsel.

13. On or about February 2, 1988, the buyers discovered that the property taxes had been in arrears on the date of closing of the transaction in the amount of an estimated \$1,400.00.

14. The sellers installed holding tanks for the septic system in the spring of 1989, replaced a stove, and gave buyers \$400.00 to replace the refrigerator.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Board has jurisdiction over this matter pursuant to Section 452.14, Wis. Stats.

2. Respondents A. Charles Anderson, Robert E. Anderson and Art Anderson Realty, Inc. have violated:

(a) Section 452.14(3)(i), Wis. Stats., and section RL 24.05, Wis. Adm. Code, by their incompetency in failing to disclose their ownership interest in the property being sold; RL 17.08 failure to supervise employee-salesperson recording of earnest money receipt.

3. Respondent A. Charles Anderson and Art Anderson Realty, Inc., have violated:

(b) Section 452.14(3)(i), Wis. Stats., and Wis. Adm. Code, sections RL 16.03 and RL 24.08, by their incompetency in failing to use approved listing contract agreements and amendments or counteroffers and to set forth the exact agreement of the parties in writing.

(c) Section 452.14(3)(i), Wis. Stats., and section RL 24.08, Wis. Adm. Code by their incompetency in failing to set forth in definite terms the financial contingency contained in the offer; or draft amendments or counteroffers to the original offer to purchase to reflect the change in the financing contingency from a first financial institution mortgage and seller second mortgage agreement to a land contract agreement between the sellers and the buyers with different terms and conditions; and to incorporate in writing the essential terms and conditions of the agreement of the parties.

(d) Section 452.14(3)(i), Wis. Stats., and Wis. Adm. Code, sections RL 18.11 and RL 18.03, for holding an instrument not depositable in a real estate trust account without written authority; failure to timely deposit earnest money; RL 18.05 incorrect receipt of postdated check as earnest money.

(e) Section 452.14(3)(i), Wis. Stats., and section RL 24.08, Wis. Adm. Code, by their incompetency in failing to provide in more specific language the warranties and exceptions to the sale of the property in an "as is" condition to set forth the essential terms and conditions of the exact agreement of the parties.

(f) Section 452.14(3)(i), Wis. Stats., and Wis. Adm. Code, sections RL 24.07(2), failure to inspect the property, RL 24.07(1); failure to disclose material facts; RL 24.07(4), failure to disclose the agency relationship with the sellers.

(g) Section 452.14(3)(i), Wis. Stats., and section RL 24.05(3), Wis. Adm. Code, failure to disclose fees and commissions to the buyers in writing.

4. Respondents A. Charles Anderson and Marigen Anderson, and Art Anderson Realty, Inc., have violated:

(h) Section 452.14(3)(i), Wis. Stats., and Wis. Adm. Code, sections RL 18.11 and RL 18.03, for holding an instrument not depositable in a real estate trust account without written authorization and for failure to timely deposit earnest money; RL 18.05 incorrect receipt of postdated check as earnest money, RL 17.08, failure to supervise employee sales person.

ORDER

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

IT IS FURTHER ORDERED, that Art Anderson Realty, Inc., license No. 8997, Robert E. Anderson, license No. 29996, Marigen Anderson, license No. 23323, and A. Charles Anderson, license No. 29997, be, and hereby are, reprimanded.

IT IS FURTHER ORDERED, that within six (6) months of this Order Respondents A. Charles Anderson, and Marigen Anderson shall each successfully complete ten (10) hours of real estate related education covering:

(a) At least three (3) hours relating to Contract law, and

(b) At least three (3) hours relating to Advertising and Investigation, Inspection and Disclosure Duties, and

(c) At least four (4) hours relating to service and responsibility to clients, use of forms, and other related matters, and submit 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.

IT IS FURTHER ORDERED, that in the event Respondents A. Charles Anderson and Marigen Anderson fail to comply with the required ten (10) hours of education as set forth above within six (6) months of the date of this Order and fails to verify the same to the Department of Regulation and Licensing within seven (7) months of the date of this Order, then their individual licenses shall be indefinitely suspended until they have complied with the terms of this Order.

IT IS FURTHER ORDERED, that the Real Estate Board shall close investigative file number 87 REB 301.

Dated this 25TH of JULY, 1991.

WISCONSIN REAL ESTATE BOARD

By: 

RH:pp
ATTY-1452

STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
MARIGEN ANDERSON,	:	87 REB 301
RESPONDENT.	:	

It is hereby stipulated and agreed, by and between Marigen Anderson, Respondent; and Roger R. Hall, Attorney for Complainant, Wisconsin Department of Regulation and Licensing, Division of Enforcement, as follows:

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

2. This Stipulation is entered into as a result of a pending investigation of licensure of Marigen Anderson by the Division of Enforcement. Respondent consents to the resolution of this investigation by Stipulation and without the issuance of a formal disciplinary complaint and hearing.

3. The Respondent understands by signing this Stipulation that she voluntarily and knowingly waives her rights in this matter, including the right to a hearing on the allegations against her, at which time the State has the burden of proving the allegations, the right to confront and cross-examine the witnesses against her, the right to call witnesses on her own behalf and to compel their attendance by subpoena, the right to testify in her own behalf, the right to file objections to any proposed decision and 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 her under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes and the Wisconsin Administrative Code.

4. This Stipulation shall be submitted to the Wisconsin Real Estate Board to form the basis for the Final Decision and Order in this matter.

5. The pro forma Final Decision and Order attached to this Stipulation may be made and entered in this matter by the Wisconsin Real Estate Board, without prior notice, pleading, appearance or consent of any party. Respondent agrees that in the event the attached Final Decision and Order is made and entered, she will not appeal or seek review of the Final Decision and Order of the Board and hereby expressly waives any right to appeal.

6. In the event any portion of this Stipulation or attached Findings of Fact, Conclusions of Law and Final Decision and Order is not accepted by the Real Estate Board, the entire Stipulation and Findings of Fact, Conclusions of Law and Final Decision and Order shall be void and have no effect.

7. The attorney for the Complainant, and the Board Advisor assigned to this matter, may appear before the Real Estate Board and answer questions or argue in favor of acceptance of this Stipulation and the entering and issuance of the attached Final Decision and Order in the absence of any appearance by the Respondent.

8. If this Stipulation is adopted by the Wisconsin Real Estate Board, the attached Order shall become effective against Marigen Anderson as stated in the Order.

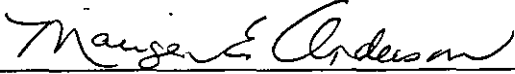
9. Marigen Anderson, Respondent herein, is a real estate broker currently licensed to practice in the State of Wisconsin. Her license bears No. 23323 granted on October 18, 1983.

10. The Department of Regulation and Licensing has received a complaint regarding the real estate practices of the Respondent.

11. With respect to the attached Final Decision and Order, the Respondent chooses not to contest the facts set forth in the Findings of Fact, and agrees that the Board may reach the conclusions set forth in the Conclusions of Law and may enter an Order of the Respondent requiring supplementary education.

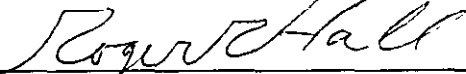
12. In view of the foregoing agreement on the part of the Respondent, the Division of Enforcement agrees to recommend to the Wisconsin Real Estate Board that it accept this Stipulation and issue the attached pro forma Final Decision and Order as it relates to Respondent Marigen Anderson.

Dated this 17 day of July, 1991.



Marigen Anderson, Respondent

Dated this 23rd day of July, 1991.



Roger R. Hall, Attorney for Complainant
State of Wisconsin
Department of Regulation and Licensing
Division of Enforcement

RRH:eaj
ATY-1481

STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
ROBERT E. ANDERSON,	:	87 REB 301
RESPONDENT.	:	

It is hereby stipulated and agreed, by and between Robert E. Anderson, Respondent; and Roger R. Hall, Attorney for Complainant, Wisconsin Department of Regulation and Licensing, Division of Enforcement, as follows:

1. The Wisconsin Real Estate Board has jurisdiction over this matter pursuant to sec. 452.14, Wis. Stats.
2. This Stipulation is entered into as a result of a pending investigation of licensure of Robert E. Anderson by the Division of Enforcement. Respondent consents to the resolution of this investigation by Stipulation and without the issuance of a formal disciplinary complaint and hearing.
3. The Respondent understands by signing this Stipulation that he voluntarily and knowingly waives his rights in this matter, including the right to a hearing on the allegations against him, at which time the State has the burden of proving the allegations, the right to confront and cross-examine the witnesses against him, the right to call witnesses on his own behalf and to compel their attendance by subpoena, the right to testify in his own behalf, the right to file objections to any proposed decision and 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.
4. This pro forma Stipulation shall be submitted to the Wisconsin Real Estate Board to form the basis for the Final Decision and Order in this matter.
5. The Final Decision and Order attached to this Stipulation may be made and entered in this matter by the Wisconsin Real Estate Board, without prior notice, pleading, appearance or consent of any party. Respondent agrees that in the event the attached Final Decision and Order is made and entered, he will not appeal or seek review of the Final Decision and Order of the Board and hereby expressly waives any right to appeal.
6. In the event any portion of this Stipulation or attached Findings of Fact, Conclusions of Law and Final Decision and Order is not accepted by the Real Estate Board, the entire Stipulation and Findings of Fact, Conclusions of Law and Final Decision and Order shall be void and have no effect.

7. The attorney for the Complainant, and the Board Advisor assigned to this matter, may appear before the Real Estate Board and answer questions or argue in favor of acceptance of this Stipulation and the entering and issuance of the attached Final Decision and Order in the absence of any appearance by the Respondent.

8. If this Stipulation is adopted by the Wisconsin Real Estate Board, the attached Order shall become effective against A. Charles Anderson as stated in the Order.


9. Robert E. Anderson, Respondent herein, is a real estate broker currently licensed to practice in the State of Wisconsin. His license bears No. 29996 granted on March 3, 1973.

10. The Department of Regulation and Licensing has received a complaint regarding the real estate practices of the Respondent.

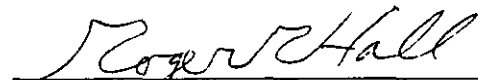
11. With respect to the attached Final Decision and Order, the Respondent chooses not to contest the facts set forth in the Findings of Fact, and agrees that the Board may reach the conclusions set forth in the Conclusions of Law and may enter an Order of reprimand of the Respondent and requiring supplementary education.

12. In view of the foregoing agreement on the part of the Respondent, the Division of Enforcement agrees to recommend to the Wisconsin Real Estate Board that it accept this Stipulation and issue the attached pro forma Final Decision and Order as it relates to Respondent Robert E. Anderson.

Dated this 17 day of July, 1991.


Robert E. Anderson, Respondent

Dated this 23rd day of July, 1991.


Roger R. Hall, Attorney for Complainant
State of Wisconsin
Department of Regulation and Licensing
Division of Enforcement

RRH:eaj
ATY-1484

STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 :
A. CHARLES ANDERSON, : STIPULATION
RESPONDENT. : 88 REB 27

It is hereby stipulated and agreed, by and between A. Charles Anderson, Respondent; and Roger R. Hall, Attorney for Complainant, Wisconsin Department of Regulation and Licensing, Division of Enforcement, as follows:

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

2. This Stipulation is entered into as a result of a pending investigation of licensure of A. Charles Anderson by the Division of Enforcement. Respondent consents to the resolution of this investigation by Stipulation and without the issuance of a formal disciplinary complaint and hearing.

3. The Respondent understands by signing this Stipulation that he voluntarily and knowingly waives his rights in this matter, including the right to a hearing on the allegations against him, at which time the State has the burden of proving the allegations, the right to confront and cross-examine the witnesses against him, the right to call witnesses on his own behalf and to compel their attendance by subpoena, the right to testify in his own behalf, the right to file objections to any proposed decision and 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.

4. This pro forma Stipulation shall be submitted to the Wisconsin Real Estate Board to form the basis for the Final Decision and Order in this matter.

5. The Final Decision and Order attached to this Stipulation may be made and entered in this matter by the Wisconsin Real Estate Board, without prior notice, pleading, appearance or consent of any party. Respondent agrees that in the event the attached Final Decision and Order is made and entered, he will not appeal or seek review of the Final Decision and Order of the Board and hereby expressly waives any right to appeal.

6. In the event any portion of this Stipulation or attached Findings of Fact, Conclusions of Law and Final Decision and Order is not accepted by the Real Estate Board, the entire Stipulation and Findings of Fact, Conclusions of Law and Final Decision and Order shall be void and have no effect.

7. The attorney for the Complainant, and the Board Advisor assigned to this matter, may appear before the Real Estate Board and answer questions or argue in favor of acceptance of this Stipulation and the entering and issuance of the attached Final Decision and Order in the absence of any appearance by the Respondent.

8. If this Stipulation is adopted by the Wisconsin Real Estate Board, the attached Order shall become effective against A. Charles Anderson as stated in the Order.

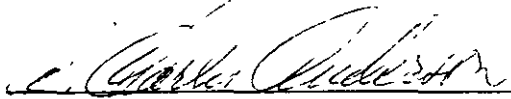
9. A. Charles Anderson, Respondent herein, is a real estate broker currently licensed to practice in the State of Wisconsin. His license bears No. 29997 granted on April 10, 1968.

10. The Department of Regulation and Licensing has received a complaint regarding the real estate practices of the Respondent.


11. With respect to the attached Final Decision and Order, the Respondent chooses not to contest the facts set forth in the Findings of Fact, and agrees that the Board may reach the conclusions set forth in the Conclusions of Law and may enter an Order of the Respondent of suspending his license for 30 days and of suspension of his license for 30 days and requiring supplementary education.

12. In view of the foregoing agreement on the part of the Respondent, the Division of Enforcement agrees to recommend to the Wisconsin Real Estate Board that it accept this Stipulation and issue the attached pro forma Final Decision and Order as it relates to Respondent A. Charles Anderson.

Dated this 17 day of July, 1991.


A. Charles Anderson, Respondent

Dated this 23rd day of July, 1991.


Roger R. Hall, Attorney for Complainant
State of Wisconsin
Department of Regulation and Licensing
Division of Enforcement

RRH:eaj
ATY-1483

STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
ART ANDERSON REALTY, INC.,	:	87 REB 301
RESPONDENT.	:	

It is hereby stipulated and agreed, by and between Art Anderson Realty, Inc., Respondent; and Roger R. Hall, Attorney for Complainant, Wisconsin Department of Regulation and Licensing, Division of Enforcement, as follows:

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

2. This Stipulation is entered into as a result of a pending investigation of licensure of Art Anderson Realty, Inc. by the Division of Enforcement. Respondent consents to the resolution of this investigation by Stipulation and without the issuance of a formal disciplinary complaint and hearing.

3. The Respondent understands by signing this Stipulation that it voluntarily and knowingly waives its rights in this matter, including the right to a hearing on the allegations against it, at which time the State has the burden of proving the allegations, the right to confront and cross-examine the witnesses against it, the right to call witnesses on its own behalf and to compel their attendance by subpoena, the right to testify in its own behalf, the right to file objections to any proposed decision and 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 it under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes and the Wisconsin Administrative Code.

4. This Stipulation shall be submitted to the Wisconsin Real Estate Board to form the basis for the Final Decision and Order in this matter.

5. The pro forma Final Decision and Order attached to this Stipulation may be made and entered in this matter by the Wisconsin Real Estate Board, without prior notice, pleading, appearance or consent of any party. Respondent agrees that in the event the attached Final Decision and Order is made and entered, it will not appeal or seek review of the Final Decision and Order of the Board and hereby expressly waives any right to appeal.

6. In the event any portion of this Stipulation or attached Findings of Fact, Conclusions of Law and Final Decision and Order is not accepted by the Real Estate Board, the entire Stipulation and Findings of Fact, Conclusions of Law and Final Decision and Order shall be void and have no effect.

7. The attorney for the Complainant, and the Board Advisor assigned to this matter, may appear before the Real Estate Board and answer questions or argue in favor of acceptance of this Stipulation and the entering and issuance of the attached Final Decision and Order in the absence of any appearance by the Respondent.

8. If this Stipulation is adopted by the Wisconsin Real Estate Board, the attached Order shall become effective against Art Anderson Realty, Inc., as stated in the Order.

9. Art Anderson Realty, Inc., Respondent herein, is a real estate corporation currently licensed to practice in the State of Wisconsin. Its license bears No. 8997 granted on May 9, 1973.

10. The Department of Regulation and Licensing has received a complaint regarding the real estate practices of the Respondent.

11. With respect to the attached Final Decision and Order, the Respondent chooses not to contest the facts set forth in the Findings of Fact, and agrees that the Board may reach the conclusions set forth in the Conclusions of Law and may enter an Order of reprimand of the Respondent.

12. In view of the foregoing agreement on the part of the Respondent, the Division of Enforcement agrees to recommend to the Wisconsin Real Estate Board that it accept this Stipulation and issue the attached pro forma Final Decision and Order.

Dated this 17 day of July, 1991.

By: [Signature]
Art Anderson Realty, Inc
Corporate Officer

By: [Signature]
Art Anderson Realty, Inc
Corporate Officer

Dated this 23rd day of July, 1991.

[Signature]
Roger R. Hall, Attorney for Complainant
State of Wisconsin
Department of Regulation and Licensing
Division of Enforcement

RRH:eaj
ATY-1480

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 July 26, 1991.

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) 1. 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. If the agency whose decision is sought to be reviewed is the tax appeals commission, the banking review board or the consumer credit review board, the credit union review board or the savings and loan review board, the petition shall be served upon both the agency whose decision is sought to be reviewed and the corresponding named respondent, as specified under par. (b) 1 to 4.

2. 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.

3. 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) A copy 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 each party who appeared before the agency in the proceeding in which the decision sought to be reviewed was made or upon the party's attorney of record. A court may not dismiss the proceeding for review solely because of a failure to serve a copy of the petition upon a party or the party's attorney of record unless the petitioner fails to serve a person listed as a party for purposes of review in the agency's decision under s. 227.47 or the person's attorney of record.

(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