

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 :
JOHN D. HANSON, : FINAL DECISION
RESPONDENT, : AND ORDER
 : 90 REB 149
 :

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

John D. Hanson
220 North Union Street, Box 7
Mauston, WI 53948

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. John D. Hanson ("Hanson"), 220 North Union Street, Box 7, Mauston, WI 53948, is and was at all times relevant to the facts set forth herein a real estate broker licensed to practice in the State of Wisconsin pursuant to license #13866, granted on February 11, 1974.

2. That as a licensed real estate broker Hanson is obligated to fully comply with Wisconsin Administrative Code regulations relating to brokers including Chapters RL 15 through RL 24.

COUNT I

3. On Monday, December 4, 1989, Larry Schmitt, an Auditor with the Wisconsin Department of Regulation and Licensing, Division of Enforcement, commenced an audit on the real estate trust account records of Hanson.

4. On December 4, 1989, Hanson admitted to Auditor Schmitt that Hanson had disbursed trust monies to himself in an unauthorized fashion during 1989 because Hanson needed money to live on and that Hanson knew that the trust account was "short" and that his real estate trust account records were inaccurate.

5. The audit of the real estate trust account of Hanson disclosed the following discrepancies:

- a. That Hanson falsified his trust account journals and closing statements in the following transactions which are identified below by setting forth his ledger card page and name of principal:

<u>Ledger Page #</u>	<u>Name of Principal</u>
S-529	Viola Tomasello
S-530	M & I Community First Bank
S-531	First Baptist Church
S-532	Farmers Home Administration
S-533	Mabel Skaer
S-534	Juneau County Housing Authority
S-535	Karen F. Hale
S-536	Johnson Hanson
S-537	Mabel Skaer
S-538	Terry and Jane Ruehlow
S-539	Alfred Lukas
S-540	David Cleaver
S-543	Frank Baudendistel
S-544	Kathleen Kenyon
S-545	Beralton and Joyce Ney
S-547	John Hanson
S-548	John Hanson
S-549	Edward Weglarz
S-550	Edward Weglarz
S-552	John Hanson

- b. That Hanson issued checks out of his trust account to himself for unearned amounts at various times in violation of RL 18.09, Wis. Adm. Code including, without limitation, the following disbursements which are identified by the number, date and amount of check:

<u>Check #</u>	<u>Date</u>	<u>Amount of Check</u>
3468	1/3/89	\$240.00
3469	1/14/89	\$20.00
3470	1/21/89	\$20.00
3471	1/24/89	\$20.00
3472	2/7/89	\$100.00
3473	2/11/89	\$35.00
3476	2/13/89	\$885.00
3479	3/13/89	\$100.00
3490	4/5/89	\$294.35
3491	4/14/89	\$150.00
3492	4/21/89	\$780.00
3493	4/24/89	\$200.00
3494	5/2/89	\$300.00
3495	5/15/89	\$100.00
3496	5/18/89	\$1,250.00
3500	7/18/89	\$400.00

3502	6/14/89	\$2,654.40
3506	8/16/89	\$500.00
3507	8/25/89	\$250.00
3533	8/30/89	\$613.80
3534	9/8/89	\$350.00
3535	9/12/89	\$550.00
3536	9/20/89	\$650.00
3543	9/30/89	\$411.11
3551	10/6/89	\$3,500.00
3552	10/14/89	\$100.00
3553	10/20/89	\$250.00
3555	10/25/89	\$500.00

- c. That in every month of 1989, Hanson's real estate trust account was short of funds on deposit due to Hanson's improper disbursement of money from the account. Examples of the shortages are the following:

<u>Date</u>	<u>Correct Balance</u>	<u>Actual Balance</u>
1/13/1989	\$800.00	\$75.05
2/15/1989	\$1,600.00	\$815.00
3/15/1989	\$1,100.00	\$209.40
4/14/1989	\$1,300.00	\$265.05
5/15/1989	\$1,500.00	\$119.45
6/15/1989	\$3,000.00	\$1129.55
7/14/1989	\$1,048.00	\$50.10
8/15/1989	\$2,300.00	\$915.90
9/15/1989	\$2,700.00	(\$64.55)
10/13/1989	\$2,100.00	(\$34.42)
11/15/1989	\$1,000.00	(\$60.92)
12/15/1989	\$1,000.00	\$932.20

- d. That Hanson issued checks for real estate trust funds on checks imprinted with "Hanson Realty & Appraisal Service" during portions of 1989, which checks were not imprinted with "trust account", said checks including those from check #3506 dated August 16, 1989, and continuing through the rest of 1989 and all of 1990.

COUNT II

6. The allegations set forth in paragraphs 1 through 2 of these Findings of Fact, Conclusions of Law and Order are realleged by reference.

7. On or about December 13, 1988, Hanson drafted a WB-13 vacant land offer to purchase on behalf of Joseph J. Hall and Sheila Hall ("Hall Offer") wherein the Halls offered to purchase property owned by Viola Tomasello located in the Village of Lyndon Station, Juneau County, Wisconsin.

The terms of the Hall Offer included the following financing contingency:

"This offer is subject to the buyer obtaining a loan in the amount and on terms as agreed to between buyer and lending institution."

8. On or about January 17, 1989, Hanson drafted a WB-13 vacant land offer to purchase on behalf of Richard R Tremain and Kristi J. Tremain ("Tremain Offer") wherein the Tremains offered to purchase certain property owned by M&I Community First Bank and located in the Town of Lemonweir, County of Juneau, State of Wisconsin.

The terms of the Tremain Offer included the following contingency:

"This offer is subject to financing terms to be agreed upon between buyer and seller and survey by seller."

9. On or about June 6, 1989, Hanson drafted a WB-11 residential offer to purchase on behalf of Stephen J. Blank and Peggy L. Blank (Blank Offer") wherein the Blanks offered to purchase certain property owned by Walter Edgerton and located in the City of Mauston, County of Juneau, State of Wisconsin.

10. The terms of the Blank Offer included the following financing contingency:

"This offer is subject to buyer obtaining financing in the amount and on terms as agreed to between buyer and lending institution."

11. That the terms of the above-mentioned three financing contingencies drafted by Hanson are known to be inadequate under Wisconsin law and as a consequence the three above mentioned Offers drafted by Hanson were unenforceable and therefore Hanson failed to set forth in writing all financial obligations and other commitments regarding the transaction, expressing the exact agreement of the parties.

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 John D. Hanson has violated:

- a. Section 452.14(3)(i), Wis. Stats. and sec. RL 18.03(4)(b), Wis. Adm. Code, by failing to include the words "trust account" on all real estate trust account checks.
- b. Section 452.14(3)(i), Wis. Stats. and secs. RL 18.09(1), (2), (3) and (4) Wis. Adm. Code, by disbursing from his trust account unauthorized amounts and without providing notice to interested parties.
- c. Section 452.14(3)(i), Wis. Stats. and sec. RL 18.10, Wis. Adm. Code, by commingling his personal monies with those of a real estate trust account.

- d. Section 452.14(3)(i), Wis. Stats. and secs. RL 18.13(1) and (2), Wis. Adm. Code, by failing to keep accurate trust account books including an accurate case journal and ledger system.
- e. Section 452.14(3)(i), Wis. Stats. and sec. RL 18.13(3), Wis. Adm. Code, by failing to reconcile his real estate trust account records in writing on a monthly basis.
- f. Section 452.14(3)(i), Wis. Stats. and sec. RL 18.13(4), Wis. Adm. Code, by failing to run a trial balance on his real estate trust account on a monthly basis.
- g. Section 452.14(3)(i), Wis. Stats. and sec. RL 18.13(5), Wis. Adm. Code, by his failure to validate and review his real estate trust account records to ensure that all of these records are valid and in agreement as of the date the account statement has been reconciled.
- h. Sections 452.14(3)(i) and 452.14(3)(m), Wis. Stats. and secs. RL 16.04(1), 16.06(8), 24.08 and 24.03(2)(a), (b) and (c), Wis. Adm. Code, by his incompetency in failing to put in writing all essential terms of the agreement of the parties on documents approved by the State of Wisconsin, Department of Regulation and Licensing.
- i. Section 452.14(3)(i), Wis. Stats. and sec. RL 18.14, Wis. Adm. Code, by failing to comply with the rules of Chapter RL 18 in a manner as to safeguard the interests of the public.

ORDER

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

IT IS FURTHER ORDERED, that the real estate broker's license of the respondent John D. Hanson (license #13866) is revoked as of January 1, 1992, and that no license under Chapter 452 of the Wisconsin Statutes shall be issued to the respondent prior to January 1, 1994, and then only if the respondent has fully complied with the further provision of this Order.

IT IS FURTHER ORDERED, that the respondent John D. Hanson, prior to becoming relicensed as a real estate broker, must successfully complete all of the requirements of an applicant for a new real estate broker's license. More specifically:

1. He must successfully complete the required real estate brokers educational course;
2. He must successfully pass the real estate broker's examination; and,

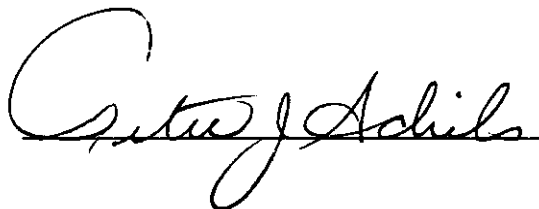
IT IS FURTHER ORDERED, that the Respondent, John D. Hanson, must pay the costs of these proceedings in the amount of \$2,500.00 by making payments to the Department of Regulation and Licensing, P.O. Box 8939, Madison, Wisconsin, 53708. A payment of \$1,000.00 on or before January 1, 1992, and the balance of \$1,500.00 on or before July 1, 1992.

IT IS FURTHER ORDERED, that investigative file 90 REB 149 be, and hereby is closed.

Dated this 5TH day of DECEMBER, 1991.

WISCONSIN REAL ESTATE BOARD

By:

A handwritten signature in cursive script, appearing to read "Curtis J. Achils". The signature is written in dark ink and is positioned to the right of the word "By:".

STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
JOHN D. HANSON	:	90 REB 149
RESPONDENT.	:	

It is hereby stipulated between John D. Hanson, Respondent, Roland W. Vieth, his attorney, 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 the licensure of John D. Hanson ("Respondent") by the Division of Enforcement (90 REB 149). Respondent consents to the resolution of this investigation by Stipulation and without issuance of a formal complaint.

2. Respondent is aware and understands that by the signing of this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him 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 their attendance by subpoena; the right to testify on his own behalf; 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 the right to seek legal representation and has been provided the opportunity to seek legal advice prior to execution of this Stipulation.

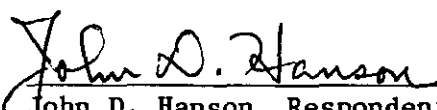
5. With respect to the attached Final Decision and Order, Respondent admits the facts set forth in the Findings of Fact and the conclusions set forth in the Conclusions of Law, and specifically agrees that the Board may make such Findings of Fact, reach such Conclusions of Law, and may enter the Order REVOKING his license and imposing costs.

6. 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.

7. 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.

8. Respondent agree that Complainant's attorney, Charles J. Howden, may appear at any deliberative meeting of the Board with respect to the Stipulation but that his appearance is limited to statements in support of the Stipulation and to answer any questions the board may have regarding the Stipulation.

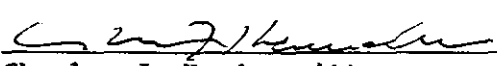
9. The Division of Enforcement joins Respondent in recommending that the Board adopt this Stipulation and issue the attached Final Decision and Order.



John D. Hanson, Respondent

October 30, 1991

Date

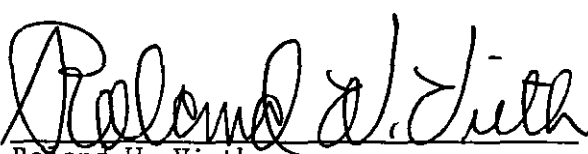


Charles J. Howden, Attorney
Division of Enforcement

10/31/91

Date

CJH:chh
ATY2-734
7-11-91



Roland W. Vieth,
Attorney for Respondent,
John D. Hanson

October 30, 1991

Date

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 December 10, 1991.