

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE REAL ESTATE BOARD

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IN THE MATTER OF THE DISCIPLINARY  
PROCEEDINGS AGAINST

CLETUS H. SCHEY,  
BEATRICE J. KVITLE,  
JOAN E. FERG,  
MARK T. MILLEN,

RESPONDENTS.

FINAL DECISION  
AND ORDER

88 REB 298

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The parties to this action for the purpose of Wisconsin Stats.  
Sec. 227.53 are:

Cletus H. Schey  
Vacation Properties Network  
P.O. Box 70  
Minocqua, WI 54548-0070

Beatrice J. Kvitle  
Vacation Properties Network  
P.O. Box 70  
Minocqua, WI 54548-0070

Joan E. Ferg  
Vacation Properties Network  
P.O. Box 70  
Minocqua, WI 54548-0070

Mark T. Millen  
Vacation Properties Network  
P.O. Box 70  
Minocqua, WI 54548-0070

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. Cletus Schey is and was at all times relevant to the events set forth herein a real estate broker licensed to practice in the State of Wisconsin pursuant to License No. 2663, granted on June 22, 1976.

2. Beatrice Kvitle is and was at all times relevant to the events set forth herein a real estate broker licensed to practice in the State of Wisconsin pursuant to License No. 0105, granted on December 11, 1975.

3. Joan E. Ferg is and was at all times relevant to the events set forth herein a real estate salesperson licensed to practice in the State of Wisconsin pursuant to License No. 7841, granted on March 31, 1977.

4. Mark T. Millen is and was at all times relevant to the events set forth herein a real estate broker licensed to practice in the State of Wisconsin pursuant to License No. 40047, granted on February 18, 1987.

5. Schey, Kvitle, Ferg, and Millen, at all times relevant to the events set forth herein, were either employed by or doing business as Vacation Properties Network at 8664 Hwy. 51 North, P.O. Box 70, Minocqua, WI 54548.

6. Charles D. Auclair owned property in Oneida County, Wisconsin, and his parents, Donald Auclair and Adelia Auclair had a life estate interest in that property.

7. Vacation Properties Network entered into a residential listing contract, dated August 23, 1987, in which Charles D.

Auclair granted Vacation Properties Network the exclusive right to sell residential property located in Oneida County, Wisconsin. The listing contract expired on February 23, 1988.

8. During the term of the listing agreement and subsequent to its expiration, Schey entered into discussions with Charles Auclair relating to rental of the property. Charles Auclair told Schey that he would want Vacation Properties Network to rent the property out, since his parents were living outside of the Wisconsin.

9. In late March, 1988, Joan Ferg received an inquiry from a party to rent the Auclair premises. Beatrice Kvitle called Adelia Auclair by telephone, and she stated that she approved Vacation Properties Network renting the property provided Charles Auclair could keep his boat on the premises until the next spring.

10. On or about April 1, 1988, Charles Auclair orally agreed to rent the property on a month-to-month basis for \$300.00 per month in April and May, 1988, and \$350.00 per month thereafter, along with the payment of a security deposit at the commencement of the tenancy in the amount of \$300.00.

11. Mark Millen is the rental agent for Vacation Properties Network. Upon returning from vacation, he called Charles Auclair on or about April 6, 1988. Mark Millen recited all of the terms and conditions of the lease to Charles Auclair and he again approved of all of the terms and conditions. He told Mark Millen to prepare a Lease Agreement and get the tenants to sign it, and he told Mark Millen to sign the lease as his agent. Charles

Auclair directed Mark Millen to send a Management Contract to him for his signature and also told him to send the Lease Agreement. Charles Auclair told Millen he would sign the Management Contract and return it as soon as he received it.

12. Millen followed all of Charles Auclair's instructions, and on or about April 11, 1988, Mark Millen of Vacation Properties Network forwarded to Charles Auclair a house lease dated April 1, 1988, signed by Millen, agent for Auclair, and by Karen Larson on behalf of herself and her husband, Jeffrey Larson, tenants, along with a property agreement for Auclair's signature and approval, together with a check in the amount of \$570.00 representing a \$300.00 security deposit and April rent of \$300.00 less \$30.00 commission to be retained by the broker.

13. Charles Auclair failed to sign the agreement despite his verbal representations and assurances to Vacation Properties Network. He retained legal counsel to notify Vacation Properties Network that he was rejecting the rental of the property, and he deposited the Vacation Properties check in the amount of \$570.00 in the trust account of his legal counsel pending the outcome of the matter.

14. On or about May 23, 1988, Vacation Properties Network forwarded a second rental check in the amount of \$300.00 for the May rent to Charles Auclair, which Charles Auclair deposited in his own personal account.

15. On or about June 22, 1988, Charles Auclair forwarded his Check No. 5044 in the amount of \$270.00 to Mr. and Mrs. Larson as

a refund of their security deposit less \$30.00 for a four day holdover by the tenant following the June 1, 1988, termination date of the rental tenancy.

#### CONCLUSIONS OF LAW

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

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

18. Respondents Cletus Schey, Beatrice Kvitle, Joan Ferg and Mark Millen have violated:

- a. Sections 452.12(3) and 452.14(3)(i), Wis. Stats. and Section RL 17.08, failure to supervise employees in that a written agency agreement or property management agreement was not provided to authorize the issuance of a house lease by Millen.

#### ORDER

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

IT IS FURTHER ORDERED, that within six (6) months Respondents Cletus Schey, Beatrice Kvitle, Joan Ferg and Mark Millen shall successfully complete ten (10) hours of real estate-related education covering (a) offer, acceptance and closing, (b) financing, (c) real estate trust funds, (d) service and responsibility of clients and (e) use of forms, 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 Cletus Schey, Beatrice Kvitle, Joan Ferg and Mark Millen 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 fail to verify the same to the Department of Regulation and Licensing within seven (7) months of the date of this Order, then Schey's License No. 2663, Kvitle's License No. 105, Ferg's License No. 7841 and Millen's License No. 40047 shall be indefinitely suspended until they have complied with the terms of this Order.

IT IS FURTHER ORDERED, that investigative file 88 REB 298 be, and hereby is, closed.

Dated this 5TH day of DECEMBER, 1991.

WISCONSIN REAL ESTATE BOARD

By: 

STATE OF WISCONSIN  
BEFORE THE REAL ESTATE BOARD

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IN THE MATTER OF THE DISCIPLINARY  
PROCEEDINGS AGAINST

CLETUS H. SCHEY,  
BEATRICE J. KVITLE,  
JOAN E. FERG,  
MARK T. MILLEN,

STIPULATION

88 REB 298

RESPONDENTS.

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It is hereby stipulated and agreed, by and between Cletus H. Schey, Beatrice J. Kvitle, Joan E. Ferg, and Mark T. Millen, Respondents, 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. Stat.
2. This Stipulation is entered into as a result of a pending investigation by the Division of Enforcement. Respondents consent to the resolution of this investigation by Stipulation.
3. The Respondents understand that by signing this Stipulation, they voluntarily and knowingly waive their rights in this matter, including the right to a hearing on the allegations against them, at which time the State has the burden of proving the allegations, the right to confront and cross-examine the witnesses against them, the right to call witnesses on their own behalf and to compel their attendance by subpoena, the right to testify on



their 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 them 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 proposed 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. Respondents agree that in the event the attached Final Decision and Order is made and entered, they will not appeal or seek review of the Final Decision and Order of the Board and hereby expressly waive 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 Respondents.

8. If this Stipulation is adopted by the Wisconsin Real Estate Board, the attached Order shall become effective against Cletus H. Schey, Beatrice J. Kvitle, Joan E. Ferg and Mark T. Millen as stated in the Order.

9. Cletus H. Schey, Respondent herein, is a real estate broker currently licensed to practice in the State of Wisconsin. His license bears No. 2663, granted on June 22, 1976. Beatrice J. Kvitle, Respondent herein, is a real estate broker currently licensed to practice in the State of Wisconsin. Her license bears No. 0105, granted on December 11, 1975. Joan E. Ferg, Respondent herein, is a real estate salesperson currently licensed to practice in the State of Wisconsin. Her license bears No. 7841, granted on March 31, 1977. Mark T. Millen, Respondent herein, is a real estate broker currently licensed to practice in the State of Wisconsin. His license bears No. 40047, granted on February 18, 1987.

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

11. With respect to the attached Final Decision and Order, the Respondents admit the facts set forth in the Findings of Fact and agree that the Board may reach the conclusions set forth in the Conclusions of Law and may enter an Order of supplementary education of the Respondents.

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

Dated this 15<sup>th</sup> day of October, 1991.

Cletus H. Schey  
Cletus H. Schey

Beatrice J. Kwitile  
Beatrice J. Kwitile

Joan E. Ferg  
Joan E. Ferg

Mark T. Millen  
Mark T. Millen

Dated this 15<sup>th</sup> day of October, 1991.

Roger R. Hall 10/21/91  
Roger R. Hall  
Attorney for Complainant  
State of Wisconsin  
Department of Regulation  
and Licensing  
Division of Enforcement

## **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 9, 1991.