

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

ROBERT E. CHRYST,
RESPONDENT.

FINAL DECISION AND ORDER
91 REB 391

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

Robert E. Chryst
Box 75
Siren, Wisconsin 54872

Wisconsin Real Estate Board
P.O. Box 8935
Madison, Wisconsin 53708-8935

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, Wisconsin 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 adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Robert E. Chryst ("Chryst"), Box 75, Siren, WI 54872, 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 #18016, originally granted on May 19, 1977.

2. At all times relevant to the facts set forth herein, Chryst was associated as a real estate broker with Northern Financial Services Corporation and has previously done business as "Chryst Realty" in Siren, Wisconsin. Northern Financial Services Corporation is a Wisconsin real estate corporation having broker's license #833207, originally granted on May 3, 1985, and has as its address registered with the Department of Regulation and Licensing, Box 75, Siren, WI 54872.

3. Chryst currently is associated as a real estate broker with Burnet Realty, Inc., Box 75, Siren, Wisconsin 54872.

4. James A. Casler ("Casler"), is associated with Ringlien, Inc., HCR Box 58, Spooner, WI 54801, and is currently licensed as a real estate broker having license #46529. At the time of the events set forth herein, Casler was a licensed real estate salesperson having license #30846 and was employed by Chryst and Northern Financial Services Corporation, doing business as Chryst Realty.

5. On or about May 23, 1990, Casler, for the benefit of Chryst Realty, drafted a WB 1 Residential Listing Contract - Exclusive Right to Sell for the signature of Jerry M. Hutcheson for the purpose of listing Hutcheson's property for sale with Chryst Realty. This property is located in the Town of Trego in the County of Washburn, Wisconsin.

6. On or about June 28, 1990, Casler drafted a WB 11 Residential Offer to Purchase for the signature of Michael P. Mulligan and Cindy Mulligan wherein the Mulligan's offered to purchase the Hutcheson property.

7. In pertinent part, the offer drafted by Casler on behalf of the Mulligans provided:

- a. That time was of the essence as to: additional earnest money, acceptance, legal possession, occupancy, date of closing and as to all dates inserted in this offer;
- b. A closing date of August 30, 1990;
- c. Earnest money of \$500.00 in the form of check tendered with this offer;
- d. Earnest money receipt signed by Casler which states "broker acknowledges receipt of initial earnest money as per line 12 of the above offer/Chryst Realty Brokers, by Jim Casler";
- e. Disbursement of earnest money was provided for on lines 119 to 125 of the offer in the manner set forth below:

"If the transaction fails to close and the parties fail to agree on the disposition of earnest money, then earnest money held by a broker shall be disbursed as follows:

1. To Buyer, unless Seller notifies Buyer and Broker in writing no later than 15 days after the earlier of the Buyer's written demand for return of the earnest money or the date set for closing, that Seller elects to consider the earnest money as liquidated damages or partial payment for specific performance.
2. To Seller, subject to amounts payable to broker, provided the above notice is given and neither party commences a lawsuit on this matter within 30 days after receipt of the notice."

8. By subsequent amendments to the contract of sale the parties agreed that the closing would take place on or before February 15, 1991.

9. The transaction failed to close on or before February 15, 1991, and the Mulligans requested a return of their earnest money.

10. At no time did Hutcheson notify the buyer and the broker in writing that Hutcheson elected to consider the earnest money as liquidated damages or partial payment for specific performance.

11. Subsequent to February 15, 1991, Chryst mailed a cancellation agreement and mutual release to both parties for the purpose of obtaining their signature. Set forth in the mutual release drafted by Chryst was the following statement:

"The parties hereby authorize and direct the broker Chryst Realty to disburse the earnest money deposit of \$500.00 to George Benson, Attorney - \$55.00, Washburn County abstract - \$190.00, Michael P. Mulligan - \$255.00."

12. Neither the Mulligans nor Hutcheson signed the cancellation agreement and mutual release.

13. On or about November 12, 1991, Chryst directed Betty Lou Chryst, an employee of Chryst Realty, to disburse the Mulligan earnest money as follows:

- a. Check #3705 to George W. Benson in the amount of \$55.00.
- b. Check #3706 to Washburn County Abstract Company in the amount of \$190.00.
- c. Check #3707 to Michael P. Mulligan and Sandy Mulligan in the amount of \$255.00.

14. Disbursal by Chryst of the Mulligan earnest money to George W. Benson and to Washburn County Abstract Company was without the consent of the Mulligans.

15. The Washburn County Abstract Company, when contacted by the Department of Regulation and Licensing regarding investigation of this matter, indicated that it was not owed the \$190.00 because it never issued a title insurance policy in this transaction and subsequently returned \$190.00 to the Mulligans.

16. At all times relevant to this matter, Chryst was the supervising broker for the Chryst Realty Trust Account.

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 Robert E. Chryst has violated the following:
- a. Section 452.14(3)(i), Wis. Stats., and secs. RL 18.09(2) and 24.03(2)(b), Wis. Adm. Code by his disbursement of trust funds from a real estate trust account contrary to the terms of the purchase contract between the seller and the buyer.
 - b. Section 452.14(3)(h), Wis. Stats. and sec. RL 18.09(2), Wis. Adm. Code by his failing within a reasonable time to account for or remit monies coming into his hands which belong to the Mulligans in that he failed to disburse the earnest money to the Mulligans in a timely manner and did disburse funds to Washburn County Abstract Company and George W. Benson without consent of the Mulligans.

ORDER

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

IT IS FURTHER ORDERED, that Respondent ROBERT E. CHRYST, within six months of the date of this Order, successfully complete the following course modules from the real estate broker's course at an educational institution approved by the Department of Regulation and Licensing:

- a. The five (5) hour Trust Accounts, Escrow, Closing Statements module; and
- b. The four (4) hour Business Ethics for real estate brokers module,

and submit proof of the same in the form of verification from the institution providing the education to the Real Estate Board, P.O. Box 8935, Madison, Wisconsin 53708-8935. 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 or the Department of Regulation and Licensing.

IT IS FURTHER ORDERED, that Respondent ROBERT E. CHRYST, pay a forfeiture in the amount of Five Hundred (\$500.00) Dollars within thirty (30) days of the date of this Order by making payment of the same to the Department of Regulation and Licensing, P.O. Box 8935, Madison, Wisconsin 53708-8935.

IT IS FURTHER ORDERED, that Respondent ROBERT E. CHRYST pay the partial costs of these proceedings in the amount of Four Hundred (\$400.00) Dollars within thirty (30) days of the date of this Order by making payment of the same to the Department of Regulation and Licensing, P.O. Box 8935, Madison, WI 53708-8935.

IT IS FURTHER ORDERED, that in the event Respondent ROBERT E. CHRYST fails to comply with the required education as set forth above, or fails to verify the same to the Department of Regulation and Licensing as set forth above then his real estate broker's license shall be suspended, without further notice, hearing or Order of the Board, until he has complied with the terms of this Order.

IT IS FURTHER ORDERED, that in the event the \$500.00 forfeiture or the \$400.00 of costs are not paid within the time and in the manner as set forth above, then and in that event Respondent's real estate broker license be immediately SUSPENDED, without hearing and without further Order of the Board, and said SUSPENSION shall continue until the full amount of said forfeiture and costs have been paid to the Department of Regulation and Licensing and said failure to pay the forfeiture and the costs shall be considered a violation of this Order of the Board.

IT IS FURTHER ORDERED, that file 91 REB 391 be, and hereby is closed.

Dated this 22ND day of JULY, 1993.

WISCONSIN REAL ESTATE BOARD

By: Patricia J. Schils

ATY2-4379
6/28/93

STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
ROBERT E. CHRYST,	:	91 REB 391
RESPONDENT.	:	

The parties in this matter agree and stipulate as follows:

1. This Stipulation is entered into for the purpose of resolving this matter known as investigative file 91 REB 391. Respondent ROBERT E. CHRYST ("Respondent") consents to the resolution of this investigation by this Stipulation and the attached Final Decision and Order.

This matter is now set for hearing before Administrative Law Judge Wayne Austin on August 20, 1993. In the event this Stipulation is not approved by the Board, this matter will be referred to Mr. Austin for further proceedings.

2. Respondent 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 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 has had the opportunity to consult with legal counsel regarding this matter and the legal implications of this Stipulation. Attorney George W. Benson, Post Office Box 370, Siren, Wisconsin 54872-0370, represents Respondent in this matter.

4. Respondent voluntarily and knowingly waives his rights set forth in paragraph 2 above, on the condition that all of the provisions of this Stipulation are approved by the Board.

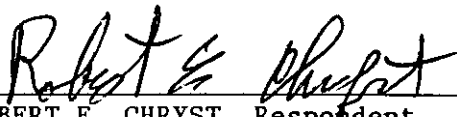
5. With respect to the attached Final Decision and Order, Respondent admits the facts as set forth in the Findings of Fact and agrees that the Board may make the Findings of Fact, may reach the Conclusions set forth in the Conclusions of Law and may enter the order of FORFEITURE, EDUCATION AND COSTS as set forth in the attached Order.

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. The matter shall then be returned to the Administrative Law Judge Wayne Austin for further proceedings. In the event that the Stipulation is not accepted by the Board, the parties agree not to contend that the Administrative Law Judge or the Board have 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 agrees 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. Respondent waives the right to have notice of that hearing and to be present at the meeting of the Board.

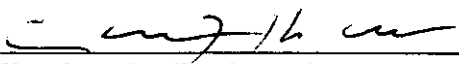
9. The Division of Enforcement joins Respondent in recommending that the Board adopt this Stipulation and issue the attached Final Decision and Order.


ROBERT E. CHRYST, Respondent

7-8-93
Date


George W. Benson
Attorney for Respondent
Post Office Box 370
Siren, WI 54872-0370

7-8-93
Date


Charles J. Howden, Attorney
Division of Enforcement

7/9/93
Date

ATY2-4377
6/28/93

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, 1993.