

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



Wisconsin Department of Regulation & Licensing Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Regulation & Licensing website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Regulation and Licensing from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Regulation and Licensing data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Regulation and Licensing, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name as it appears on the order.*
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Regulation and Licensing is shown on the Department's Web Site under "License Lookup." The status of an appeal may be found on court access websites at: <http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscca>.
- Records not open to public inspection by statute are not contained on this website.

By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.

Correcting information on the DRL website: An individual who believes that information on the website is inaccurate may contact the webmaster at web@drl.state.wi.gov

FILE COPY

STATE OF WISCONSIN
REAL ESTATE BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

DALE W. MUSTAS,
RESPONDENT.

:
:
:
:
:

FINAL DECISION
AND ORDER
LS9411101REB

The State of Wisconsin, Real Estate Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

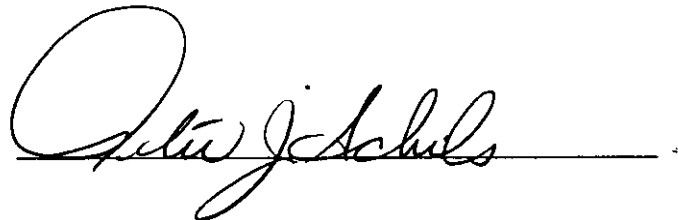
NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Real Estate Board.

The Division of Enforcement and Administrative Law Judge are hereby directed to file their affidavits of costs, and mail a copy thereof to respondent or his or her representative, within 15 days of this decision.

Respondent or his or her representative shall mail any objections to the affidavit of costs filed pursuant to the foregoing paragraph within 30 days of this decision, and mail a copy thereof to the Division of Enforcement and Administrative Law Judge.

The rights of a party aggrieved by this Decision to petition the board for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 23RD day of FEBRUARY, 1995.



STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST

DALE W. MUSTAS

LS9411101REB

Respondent

PROPOSED DECISION

The parties to this matter for the purposes of sec. 227.53, Stats., are:

Dale W. Mustas
295 Regency Court, Suite 102
Brookfield, WI 53045

Department of Regulation & Licensing
Division of Enforcement
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708

State of Wisconsin
Real Estate Board
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

On January 24, 1995, a hearing was conducted in this matter on complainant's Motion for Default Judgment. Complainant's Motion seeks an order finding respondent in default based on his failure to file an Answer in the matter, and complainant petitions for a proposed decision incorporating the allegations of the Complaint. In the alternative, complainant asks for a discovery order requiring production of documents and requiring respondent to submit to oral deposition. Complainant appeared by Attorney Charles J. Howden. Respondent did not appear, and no one appeared to represent him. At the hearing, prima facie evidence was presented by the complainant tending to establish the allegations of the Complaint.

Based upon the entire record in this matter, including prima facie evidence presented by complainant at hearing, the administrative law judge recommends that the Real Estate Board adopt as its final decision in the matter the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Dale W. Mustas (respondent), 295 Regency Court, Suite 102, Brookfield, Wisconsin 53045 is licensed as a real estate broker in Wisconsin by license #42410, granted on June 10, 1987.

2. On October 19, 1994, pursuant to sec. 440.03(4), Stats., a Subpoena Duces Tecum was served on respondent requiring him to appear at 9:30 a.m., on October 25, 1994, to give testimony relating to this matter. Respondent failed to appear at the prescribed time and place.

3. The Complaint and Notice of Hearing in this matter was served on respondent on November 10, 1994 by both certified mail with return receipt requested and by regular first-class U.S. mail. Respondent was notified by the Notice of hearing that, pursuant to sec. RL 2.09, Code, he was required to file a written Answer to the Complaint within 20 days, and that failure to do so could result in a default judgment rendered against him. Respondent failed to file an Answer within the prescribed time.

4. A telephone prehearing conference was conducted in the matter on December 20, 1994. Participating were respondent, Mr. Howden, and the administrative law judge (ALJ). At that time, respondent agreed, and the ALJ ordered, that respondent file his Answer on or before December 23, 1994. Respondent failed to file his Answer by that date or at any time thereafter.

5. At the prehearing conference on December 20, 1994, respondent agreed to sit for oral deposition on January 10, 1995 at 9:30 a.m., the date originally set for hearing in the matter. On December 27, 1994, respondent was served with a Notice of Oral Examination and Demand for Production of Documents. Respondent failed to appear for his deposition on January 10, 1995.

6. On January 10, 1995, respondent's Motion for Default Judgment, Motion for Discovery Order, Notice of Motions and Affidavit in support of Motions was served on respondent by certified mail with return receipt requested and by regular first-class U.S. mail. Respondent did not appear at the motion hearing.

7. The Complaint in this matter makes the following substantive allegations:

a. On or about March 2, 1993, Carl A. Fiala and Elizabeth J. Fiala agreed to purchase property located at 5328 West Plainfield Avenue,

Milwaukee, Wisconsin from the owners Melvin R. Mortier and Jeanette M. Mortier. The respondent, Mustas, represented the Mortiers in this transaction as a real estate broker. Pursuant to the terms of this agreement, the Sellers Mortier were to provide to the Buyers, the Fialas, a homeowner warranty to be paid for by the sellers.

b. Mustas represented to the Mortiers that the Mustas would arrange for the procurement of the homeowners warranty plan from a company known as "Homeowners Warranty Company of America" herein referred to as "Homeowners".

c. Mustas further represented to the Mortiers that the cost of the homeowner warranty policy would be \$360.00 and that it would be purchased out of the sellers moneys available at the closing of the transaction.

d. The transaction closed on April 14, 1993.

e. At the closing Mustas completed an application for a buyer warranty plan to be issued through the Homeowners and obtained a check in the amount of \$360.00 from the closing proceeds for payment of the one-time premium for the plan.

f. Mustas did not send the application to Homeowners until on or about June 7, 1993.

g. Homeowners refused to accept the application because it was submitted over 10 days after the date of the closing.

h. Subsequent to the closing, the Fialas attempted to make a claim against the homeowner warranty and found that the warranty had never been placed into effect. The Fialas contacted Mustas and informed him that the warranty had not been issued and requested that he take corrective action.

i. Mustas has not taken action to correct the matter and no warranty plan has been issued for the benefit of the Fialas on the above described property.

j. Mustas has not accounted for the \$360.00 in real estate trust funds received by him at the closing of this transaction.

8. The Complaint in this matter alleges the following violations of the real estate laws:

a. Section 452.14(3)(b) of the Wisconsin Statutes by having made a substantial misrepresentation with reference to a transaction injurious to a seller or purchaser in which respondent acted as an agent; and

b. Section 452.14(3)(h) of the Wisconsin Statutes by having failed, within a reasonable time, to account for or remit moneys coming into his possession which funds belong to another person; and

c. Section 452.14(3)(i) of the Wisconsin Statutes and sections RL 24.025 and 24.03(2)(a) and (b) by failing to treat the parties in the above transaction fairly and by exhibiting incompetence to complete his obligations in the above described transaction.

CONCLUSIONS OF LAW

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

2. Respondent's failure to file an Answer to the Complaint in this matter pursuant to sec. RL 2.09, Code, renders respondent in default within the meaning of sec. RL 2.14, Code, and the Real Estate Board may therefore make findings and enter an order on the basis of the Complaint and other evidence.

ORDER

NOW, THEREFORE, IT IS ORDERED that complainant's Motion for Default Judgment be, and hereby is, granted.

IT IS FURTHER ORDERED that, pursuant to sec. RL 2.14, Code, the following Findings of Fact, as alleged in the Complaint in this matter, and as set forth in Finding of Fact 8, above, are adopted.

1. On or about March 2, 1993, Carl A. Fiala and Elizabeth J. Fiala agreed to purchase property located at 5328 West Plainfield Avenue, Milwaukee, Wisconsin from the owners Melvin R. Mortier and Jeanette M. Mortier. The respondent, Mustas, represented the Mortiers in this transaction as a real estate broker. Pursuant to the terms of this agreement, the Sellers Mortier were to provide to the Buyers, the Fialas, a homeowner warranty to be paid for by the sellers.

2. Mustas represented to the Mortiers that the Mustas would arrange for the procurement of the homeowners warranty plan from a company known as "Homeowners Warranty Company of America" herein referred to as "Homeowners".

3. Mustas further represented to the Mortiers that the cost of the homeowner warranty policy would be \$360.00 and that it would be purchased out of the sellers moneys available at the closing of the transaction.

4. The transaction closed on April 14, 1993.

5. At the closing Mustas completed an application for a buyer warranty plan to be issued through the Homeowners and obtained a check in the amount of \$360.00 from the closing proceeds for payment of the one-time premium for the plan.

6. Mustas did not send the application to Homeowners until on or about June 7, 1993.

7. Homeowners refused to accept the application because it was submitted over 10 days after the date of the closing.

8. Subsequent to the closing, the Fialas attempted to make a claim against the homeowner warranty and found that the warranty had never been placed into effect. The Fialas contacted Mustas and informed him that the warranty had not been issued and requested that he take corrective action.

9. Mustas has not taken action to correct the matter and no warranty plan has been issued for the benefit of the Fialas on the above described property.

10. Mustas has not accounted for the \$360.00 in real estate trust funds received by him at the closing of this transaction.

IT IS FURTHER ORDERED that pursuant to sec. RL 2.14, Code, the following Conclusions of Law, as alleged in the Complaint in this matter, are adopted.

1. Respondent has made a substantial misrepresentation with reference to a transaction injurious to a seller or purchaser in which respondent acted as agent, in violation of sec. 452.14(3)(b), Stats.

2. Respondent has failed, within a reasonable time, to account for or remit moneys coming into his possession which belonged to another person, in violation of sec. 452.14(3)(h), Stats.

3. Respondent has failed to treat parties to a transaction fairly, and has provided services which respondent is not competent to provide, in violation of secs. RL 24.025 and RL 24.03(2)(a), Code. Pursuant to sec. 24.01(3), Code, respondent has thereby demonstrated incompetence to act as a broker in such manner as to safeguard the interests of the public, in violation of sec. 452.14(3)(i), Stats.

IT IS FURTHER ORDERED that the license of Dale W. Mustas to practice as a broker in Wisconsin be, and hereby is, revoked.

IT IS FURTHER ORDERED that, pursuant to sec. 440.22, Stats, the costs of this proceeding are assessed against the respondent.

OPINION

Usually, a motion for default is made at the hearing in a disciplinary matter based upon a respondent's failure to appear. Grant of the motion does not therefore alter the normal course of the proceeding, and does nothing more than relieve the complainant of introducing more than prima facie evidence of the allegations of the Complaint. This is not the usual case, however. Respondent has failed and refused to participate in these proceedings from the outset of the investigation. He has ignored lawful subpoenas, defied a lawful order of the ALJ, and failed to appear at the hearing on the motion for default judgment.

As an alternative to a default judgment, complainant's motion asks for an order requiring that respondent submit to oral and video deposition, and requiring respondent to comply with the demand for production of documents previously served. Were there any seeming likelihood that Mr. Mustas would comply with such an order, the ALJ would be inclined to issue a discovery order and proceed with the normal hearing process. Mr. Mustas' total disregard of and indifference to his professional and legal responsibility to cooperate with the board's disciplinary process, however, convinces the ALJ that any further attempts to regularize these proceedings would be futile. Accordingly, it is deemed appropriate to grant complainant's motion for a default judgment and dispose of the matter in the most expeditious manner possible.

It could be argued that revocation of Mr. Mustas' license, as recommended hereby, is a rather severe discipline given the nature of the findings. There are three factors which militate for revocation, however. First, of course, is Mr. Mustas' refusal to participate in these proceedings, and that refusal is in itself a sufficiently aggravating factor to militate for revocation. The second and perhaps equally important factor is the effect of that refusal. At the motion hearing, auditor Jeanne Pegelow testified that Mr. Mustas had apparently not maintained a proper accounting system for his trust account. She also testified that \$3500 was deposited into respondent's trust account as earnest money in the Fiala-Mortier transaction, and that on the date of closing, a check for \$3500 was written on the trust account, made payable to cash and negotiated by respondent. Mr. Howden commented on this aspect of the transaction in part as follows:¹

One of the reasons we wanted to take Mr. Mustas' deposition was to attempt to get additional information from him as to where the \$3500 went, for instance, which was cashed; or where the \$360 went, which is what we were really -- which was brought to our attention by the Fiala's. And that is why we were here in the first place. But there are a lot of questions unanswered. Without his sitting for deposition, we don't have those answers. We never received any

¹No transcript of this hearing has been prepared. Cites from hearing testimony were therefore gleaned by the ALJ from the hearing tapes.

journals or ledgers from him relating to any facet of his trust account; not just the transaction between the Fiala's and the Mortier's

The ALJ thereupon asked, "There is not an allegation in this case that [the \$3500] proceeds did not go to the sellers, is there?" Mr. Howden responded as follows:

Well, if we had been able to determine the answer to that question, along with an additional question -- that being why there are two amendments in the same day to this contract, which is March 27 -- those amendments, which both, apparently, were in effect between the sellers and the buyers, creating essentially two different purchase prices, one which we believe the bank was made aware of, one which was just a side agreement. I think the answer was that the \$3500 was funneled through the trust account and cashed essentially, in the end, as an additional payment to the sellers. We don't think Mr. Mustas kept that \$3500. But we do think that the vehicle of a cash amount payable to him was used in order to not disclose to the bank that there was actually more money being paid in this transaction than the bank was aware of. So the answer to your specific question is no, we don't think he took that \$3500, but we don't know that for sure. We would certainly have asked him why -- this is so unusual -- why would he do this. We believe we know the answer, but we can't assert to you as proof that they were trying to defraud the bank by, in essence, having a higher purchase price than the appraisal would have allowed under the circumstances, but we believe that was the circumstance.

Mr. Howden's observations are somewhat speculative, and his conclusions as to what may in fact have occurred in this transaction do not constitute evidence in that regard. Respondent's failure to cooperate in the investigation of this matter does, however, permit an inference that evidence sought to be produced during discovery of this matter would be unfavorable to the respondent.

The failure to bring before the tribunal some circumstance, document, or witness, when either the party himself or his opponent claims that the facts would thereby be elucidated, serves to indicate, as the most normal inference, that the party fears to do so, and this fear is some evidence that the circumstance or document or witness, if brought, would have exposed facts unfavorable to the party. These inferences, to be sure, cannot fairly be made except on certain conditions; and they are also open always to explanation by circumstances which make some other hypothesis a more natural one than the party's fear of exposure. But the propriety of such an inference in general is not doubted.

The nonproduction of evidence that would naturally have been produced by an honest and therefore fearless claimant permits the inference that its tenor is unfavorable to the party's cause. 2 *Wigmore, Evidence* (3d ed.), p. 162, sec. 285, cited with approval in *Coney v. Milwaukee & S.T. Corp.*, 8 Wis. 2d 520, 527 (1959).

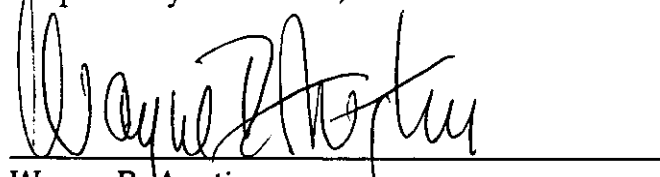
The third factor is that, under the circumstances of this case, anything less than revocation of the license would not adequately address the purposes of licensee discipline cited by the Wisconsin Supreme Court. These are to protect the public, to deter other licensees from engaging in similar conduct, and to promote the rehabilitation of the licensee. *State v. Aldrich*, 71 Wis. 2d 206 (1976). Where, as here, respondent has frustrated the orderly administration of the disciplinary process, and has thereby frustrated attempts to discover the full scope of his misconduct, it is impossible to conclude that discipline less than revocation would adequately protect the public. Moreover, failure to revoke in this case could actually promote refusal by other licensees to cooperate with the board's disciplinary process by establishing a basis to believe that it may well be to their advantage to refuse to provide to the board evidence which would ultimately serve as a basis for revocation.

Should respondent possess evidence contravening either the evidence presented at the motion hearing in this matter or whatever inferences are raised by his refusal to cooperate in these proceedings, he is free to petition for reinstatement of his license under sec. 452.15, Stats. Should he do so, the burden will be on him to provide the evidence which he has refused to provide during this proceeding. At this point, that is exactly where the burden should be placed.

Finally, sec. RL 2.14, Code, provides that at any time before the Real Estate Board makes its Final Decision and Order in this matter, the board may, for good cause shown, relieve Mr. Mustas from the effects of the default judgment and the recommended findings made pursuant thereto. In the unlikely event that Mr. Mustas is able to make such a showing, the board may remand the matter to the ALJ for further proceedings.

Dated this 7th day of February, 1995

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Wayne R. Austin", is written over a horizontal line.

Wayne R. Austin
Administrative Law Judge

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.

Serve Petition for Rehearing or Judicial Review on:

THE STATE OF WISCONSIN REAL ESTATE BOARD.

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

The Date of Mailing this Decision is:

FEBRUARY 27, 1995.

1. REHEARING

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in sec. 227.49 of the *Wisconsin Statutes*, a copy of which is reprinted on side two of this sheet. The 20 day period commences the day of personal service or mailing of this decision. (The date of mailing this decision is shown above.)

A petition for rehearing should name as respondent and be filed with the party identified in the box above.

A petition for rehearing is not a prerequisite for appeal or review.

2. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in sec. 227.53, *Wisconsin Statutes* a copy of which is reprinted on side two of this sheet. By law, a petition for review must be filed in circuit court and should name as the respondent the party listed in the box above. A copy of the petition for judicial review should be served upon the party listed in the box above.

A petition must be filed within 30 days after service of this decision if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

The 30-day period for serving and filing a petition commences on the day after personal service or mailing of the decision by the agency, or the day after the final disposition by operation of the law of any petition for rehearing. (The date of mailing this decision is shown above.)

STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

Respondent

Conduct prehearing conference

12/20/94
10 minutes

Draft memorandum
of prehearing conference

1/24/95
51 minutes

Conduct hearing

12/27-28/94
3 hours (one-half the estimated actual time expended)

Prepare Proposed Decision

Total administrative law judge expense for Wayne R. Austin:
4 hours, 11 minutes @ \$44.55, salary and benefits:.....\$186.36

REPORTER EXPENSE -- PAMELA HAACK

DATE &
TIME SPENT

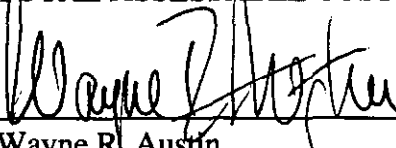
ACTIVITY

12/7/94
51 minutes

Record hearing

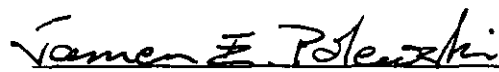
Total reporter expense for Pamela A. Haack
51 minutes @ \$19.41, salary and benefits:.....\$16.50

TOTAL ASSESSABLE COSTS FOR OFFICE OF BOARD LEGAL SERVICES: \$202.86



Wayne R. Austin
Administrative Law Judge

Sworn to and subscribed before me this 13th day of March, 1995.



Notary Public, State of Wisconsin
My commission is permanent

FILE COPY

**STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD**

**IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST**

**DALE W. MUSTAS,
RESPONDENT.**

:
:
:
:
:

**AFFIDAVIT IN SUPPORT
OF MOTION FOR COSTS
LS 9411101 REB**

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

Charles J. Howden, being duly sworn, deposes and states as follows:

1. He is an attorney licensed in the state of Wisconsin and is employed by the Wisconsin Department of Regulation and Licensing, Division of Enforcement;

2. That in the course of those duties he worked as a prosecutor in the above-captioned matter; and

3. That set forth below are the costs of the proceeding accrued to the Division of Enforcement in this matter, based upon Division of Enforcement records compiled in the regular course of business in the above-captioned matter:

AUDITOR EXPENSE

<u>Date</u>	<u>Activity</u>	<u>Time Spent</u>
01/05/94	Attempt to locate licensee and trust documents.	1.00 hour
11/23/94	Contact with Respondent regarding records.	.25 hour
11/28-29/94	Attempts to contact Respondent.	.25 hour
12/09/94	Further attempts to contact Respondent.	.25 hour
12/29/94	Review file and type summaries.	2.00 hours
01/03/95	Contact with bank concerning bank records.	.75 hour
01/06/95	Conference at bank and photocopy bank records.	2.25 hours
01/09/95	Construction of journal on computer and copying of documents for deposition.	1.50 hours
01/23/95	Conference with attorney regarding hearing preparation.	.50 hours

01/24/95 Hearing. 1.00 hour

TOTAL AUDITOR TIME: 9.75hrs x \$20.00 per hour equals----- \$195.00

INVESTIGATOR EXPENSE

<u>Date</u>	<u>Activity</u>	<u>Time Spent</u>
01/06/94	Correspondence.	.10 hour
02/22/94	Correspondence.	.10 hour
03/23/94	Correspondence.	.10 hour
04/06/94	Correspondence and subpoena.	.20 hour
04/26/94	Investigative stop.	3.00 hours
04/27/94	Memo.	.20 hour
05/02/94	Correspondence.	.10 hour
05/24/94	Interview.	1.50 hours
07/05/94	Memo.	.20 hour
07/06/94	Correspondence.	.20 hour
07/19/94	Correspondence.	.10 hour
08/06/94	Correspondence.	.20 hour
08/15/94	Phone calls, memos, letter.	.75 hour
08/19/94	Phone call, memo.	.25 hour
08/23/94	Correspondence.	.20 hour
08/25/94	Memo.	.10 hours
09/28/94	Case summary, letter	1.50 hours
10/03/94	Phone call	.25 hours

TOTAL INVESTIGATOR TIME: 9.05hrs x \$20.00 per hour equals---- \$181.00

PROSECUTING ATTORNEY EXPENSE


<u>Date</u>	<u>Activity</u>	<u>Time Spent</u>
10/04/94	Review of file and memo regarding audit.	.50 hour

10/05/94	Phone conference Respondent and memo to file.	.50 hour
10/09/94	Review of file and memo file.	1.00 hour
10/19/94	Preparation of subpoena.	.50 hour
10/19/94	Correspondence.	.20 hour
10/25/94	Preparation for meeting with Respondent.	1.00 hour
10/27/94	Conference Board Advisor and Investigator.	.50 hour
11/01-02/94	Drafting of complaint and notice.	2.00 hours
11/07/94	Finalization of complaint and arrangement for service of notice.	.50 hour
11/21/94	Correspondence with Land Closing Services regarding documents.	.30 hour
11/29/94	Correspondence with witness.	.30 hour
12/12/94	Correspondence with witness.	.30 hour
12/20/94	Pretrial.	.20 hour
01/04/95	Review of witness documents and review of subpoena documents.	1.50 hours
01/10/95	Preparation for deposition/exhibits.	2.00 hours
01/10/95	Drafting of motion and affidavit.	1.50 hours
01/17/95	Conference with witness.	.25 hour
01/23/95	Conference with auditor	.50 hour
01/24/95	Hearing.	1.00 hour
02/08/95	Review of proposed decision.	.80 hour
02/23/95	Drafting of affidavit of costs.	.50 hour
TOTAL ATTORNEY TIME: 15.85hrs x \$41.00 per hour equals:		\$649.85
ATTORNEY OUT-OF-POCKET EXPENSE		
10/25/94	Court reporter	\$55.00
01/10/95	Court reporter	\$65.00
TOTAL ATTORNEY OUT OF POCKET EXPENSES:		\$120.00
TOTAL ASSESSABLE COSTS		\$1,145.85



Charles J. Howden

Subscribed and sworn to before me
this 3rd day of March, 1995.



Notary Public
My Commission is Permanent.

CHH:kcb
WPPCHH-92