

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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1996

STATE OF WISCONSIN  
BEFORE THE REAL ESTATE BOARD

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IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	FINAL DECISION AND ORDER
	:	96 REB 072
RANDALL KRYSINSKI,	:	95 REB 095
AMA INDUSTRIES, INC.,	:	93 REB 295
MAYFAIR REAL ESTATE, INC.,	:	92 REB 230
RESPONDENTS.	:	

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

Randall Krysinski  
N54W30850 Windwood Drive  
Hartland, WI 53029

AMA Industries, Inc.  
810 Cardinal Lane  
Hartland, WI 53029

Mayfair Real Estate, Inc.  
810 Cardinal Lane  
Hartland, WI 53029

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 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:

9. That subsequent to July 27, 1995, Krysinski, when he knew or should have known that his real estate license had been suspended, continued to hold himself out to the public as licensed to provide real estate brokerage services in the State of Wisconsin:

A. That in August, 1995, he procured an advertisement that appeared in Harmon Homes, a Milwaukee Metro real estate property listing publication for properties located in Ozaukee, Racine, Washington and Waukesha counties. The advertisement represented that he was engaged in the Real Estate Business as RE/MAX West, Inc.; and further, represented that he was the contact person for two residential property listings appearing in that publication.

B. That on Sunday, January 21, 1996, Krysinski a/k/a Randy Krysinski appeared in a REMAX advertisement in the Milwaukee Journal Sentinel representing that he was licensed to provide brokerage services on behalf of the REMAX trade name.

## COUNT II

10. Paragraphs 1 through 7 of this Decision are realleged herein as if fully set forth at length.

11. That prior to July 27, 1995, Krysinski had provided brokerage services relating to property owned by seller McCaw.

A. On or about June 9, 1995, Krysinski drafted on behalf of REMAX West, Inc. and McCaw a WB-1 Residential Listing Contract - Exclusive Right to Sell agreement for the McCaw property located at 30814 Windwood Drive, Hartland, Wisconsin. Krysinski also drafted a Notice to Clients and Customers" that REMAX West, Inc., and he were acting as a listing and Seller's Agent for McCaw.

B. That on or about July 17, 1995, Cathy Liebert, a licensed REMAX WEST salesperson, drafted on behalf of buyer Horton a residential offer to purchase for the McCaw property.

C. Krysinski drafted a counter-offer on behalf of McCaw to the Horton offer. The counteroffer was not accepted by Horton.

12. That subsequent to July 27, 1995, Krysinski continued to hold himself out to McCaw as licensed to provide brokerage services and he continued to provide brokerage services involving the McCaw property.

A. On or about October 1, 1995, Krysinski caused to be erected or failed to take action to prevent erection of a REMAX yard sign on the McCaw property containing his name and telephone number.

B. On or about October 17, 1995, Equitable/Stefaniak Realtor Farber drafted on behalf of Buyer Robinson an Offer to Purchase the McCaw property.

C. On or about October 18, 1995, Krysinski d/b/a REMAX WEST, Inc., drafted on behalf of McCaw a counter-offer to the Robinson offer to purchase.

D. On or about October 26, 1995, Farber drafted a Counter Offer on behalf of Robinson.

E. On or about October 30, 1995, Krysinski drafted an Amendment to Listing Contract extending the term of the REMAX WEST, INC., listing of the McCaw property to October 31, 1995.

F. On or about October 30, 1995, Krysinski drafted a Counter Offer to the Counter Offer of Robinson. This counter offer was not accepted by McCaw.

### COUNT III

13. Paragraphs 1 through 7 of this Decision are realleged herein as if fully set forth at length.

14. That subsequent to July 27, 1995, Krysinski continued to hold himself out as licensed to provide real estate brokerage services in Wisconsin.

15. Krysinski in connection with the real estate brokerage business of REMAX WEST, INC., caused to be printed business cards bearing the trade name RE/MAX West, Inc., containing his photograph and bearing an inscription that he was the Owner/broker. The business card also contained information that REMAX WEST, INC., was independently owned and operated, with business offices at 810 Cardinal Lane, Hartland, Wisconsin 53029. His business telephone number was also listed on the card.

16. That Krysinski distributed business cards to his business clients.

### COUNT IV

17. Paragraphs 1 through 7 of this Decision are realleged herein as if fully set forth at length.

18. That subsequent to July 27, 1995, Krysinski held himself out as licensed to provide brokerage services and provided services in the Gribble/McCaigue real estate transaction.

19. That on or about August 17, 1995, Krysinski drafted on behalf of buyer McCaigue an Offer to Purchase property owned by seller Gribble located at 4421 W. Reichert Place, Milwaukee, Wisconsin.

20. The Gribble/McCaigue real estate transaction closed on or about September 27, 1995.

COUNT V

21. Paragraphs 1 through 7 of this Decision are realleged herein as if fully set forth at length.

22. That subsequent to July 27, 1995, Krysinski held himself out as licensed to provide brokerage services and provided services in the Cuerden/Wermager real estate transaction.

A. That on or about October 18, 1995, Krysinski drafted on behalf of RE/MAX, WEST Inc., a WB-1 Residential Listing Contract - Exclusive Right to Sell property owned by Cuerden, located at 576 Bradford Way, Hartland, Wisconsin.

B. That on or about November 4, 1995, Krysinski drafted on behalf of Buyer Wermager a WB-11 Residential Offer to Purchase the property owned by Cuerden. The offer was rejected.

C. That on or about November 8, 1995 Krysinski drafted a Counter Offer on behalf of Wermager. The Counter Offer was accepted by the seller Cuerden.

COUNT VI

23. Paragraphs 1 through 7 of this Decision are realleged herein as if fully set forth at length.

24. That subsequent to July 27, 1995, Krysinski held himself out as licensed to provide brokerage services in Wisconsin and provided brokerage services in the Stuckert real estate transaction.

25. That on or about October 20, 1995, Krysinski drafted on behalf of REMAX WEST, Inc., a WB-4 Residential Condominium Listing Contract - Exclusive right to sell condominium property owned by Stuckert and located at 848 Shoal Creek, in the village of Waterford, County of Racine, Wisconsin.

COUNT VII

26. Paragraphs 1 through 7 of this Decision are realleged herein as if fully set forth at length.

27. That subsequent to July 27, 1995, Krysinski held himself out as licensed to provide brokerage services in Wisconsin and provided services in the Sokoly/Schoenherr real estate transaction.

A. That on or about September 15, 1995, Krysinski drafted on behalf of the buyer Schoenherr an Offer to Purchase property owned by Valjean Sokoly.

B. The Offer to Purchase was accepted by the seller.

### COUNT VIII

26. Paragraphs 1 through 7 of this Decision are realleged herein as if fully set forth at length.

27. That subsequent to July 27, 1995, Krysinski has controlled and managed the trust accounts and business accounts in the name of REMAX West, Inc.

28. On or about January 22, 1996, Department of Regulation and Licensing Auditor Kleinert completed an audit of the trust account of REMAX WEST., Inc. for the period of September through December, 1995, based upon records provided by Krysinski. His findings are as follows:

A. Trust account reconciliation for the month ending September 30, 1995. The audit discloses that a trust fund shortage of \$22,910.74 existed on September 30, 1995.

B. Trust account reconciliation for the month ending October 31, 1995. The audit discloses that a trust fund shortage of \$22,910.74 existed on October 31, 1995.

C. Trust account reconciliation for the month ending November 30, 1995. The audit discloses that a trust fund shortage of \$22,910.74 existed on November 30, 1995.

D. Trust account reconciliation for the month ending December 31, 1995. The audit discloses that a trust fund shortage of \$22,910.74 existed on December 31, 1995.

E. That on January 22, 1996, Randall Krysinski deposited \$22,910.74 in full reimbursement of the trust account shortage.

### CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Board has jurisdiction to act in this matter.
2. The Wisconsin Real Estate Board is authorized to enter into the attached Stipulation pursuant to sec. 227.44(5), Wis. Stats.
3. Respondent Randall Krysinski has violated:

- a. Section 452.03, Wis. Stats., by engaging in or following the business or occupation or advertising or holding himself out as, or acting temporarily or otherwise as a broker without a license.
- b. Section 452.14(3)(a) through (l) Wis. Stats.
- c. Section 452.14(3)(i), Wis. Stats., and sec. RL 24.01 and RL 24.17(1) and (3), Wis. Adm. Code by aiding and abetting the unlicensed practice as a real estate broker of AMA Krysiniski, Inc. and Mayfair Real Estate, Inc.
- d. Section 452.14(3)(i), Wis. Stats., and sec. RL 18.13 and RL 18.14, Wis. Admin. Code, by failure to designate a licensed broker to maintain and be responsible for the trust account bookkeeping system for REMAX West, Inc., AMA Krysiniski, Inc., and Mayfair Real Estate, Inc.
- e. Section 452.14(3)(i), Wis. Stats. and sec. RL 24.17(3), Wis. Adm. Code, by violation of a formal disciplinary order of the Real Estate Board.
- f. Section 452.14(3)(i), Wis. Stats., and sec. RL 18.09(1)(f) and sec. RL 18.14, Wis. Adm. Code, by making disbursements from a trust account without client authorization.

### ORDER

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

IT IS FURTHER ORDERED, that the VOLUNTARY SURRENDER of the real estate brokers license of Respondent Randall Krysiniski, license #90-2811, is hereby accepted.

IT IS FURTHER ORDERED, that the VOLUNTARY SURRENDER of the corporate real estate brokers license of AMA Industries, Inc., a Wisconsin corporation, license #834312, is hereby accepted.

IT IS FURTHER ORDERED that the VOLUNTARY SURRENDER of the corporate real estate brokers license of Mayfair Real Estate, Inc., license #83447, is hereby accepted.

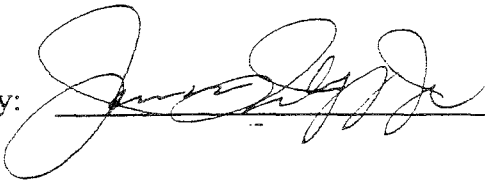
IT IS FURTHER ORDERED that the VOLUNTARY SURRENDER of the trade name registration of RE/MAX WEST, INC., is hereby accepted.

IT IS FURTHER ORDERED that Respondent Randall Krysiniski may apply for issuance of a real estate broker license no earlier than two years subsequent to the effective date of this order. As a condition prior to consideration of his application, he must pay partial costs of these proceedings in the amount of \$6,833.80.

IT IS FURTHER ORDERED, that files 92 REB 230, 93 REB 295, 95 REB 095 and 96 REB 072 be, and hereby are closed as to all Respondents.

Dated this 26th day of SEPTEMBER, 1996.

WISCONSIN REAL ESTATE BOARD

By:  \_\_\_\_\_

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STATE OF WISCONSIN  
BEFORE THE REAL ESTATE BOARD

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IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	STIPULATION
	:	96 REB 072
RANDALL KRYSINSKI,	:	95 REB 095
AMA INDUSTRIES, INC.,	:	93 REB 295
MAYFAIR REAL ESTATE, INC.,	:	92 REB 230
RESPONDENTS.	:	

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The undersigned parties to this matter agree and stipulate as follows:

1. This stipulation is entered into for the purpose of resolving the matters contained in investigative files 92 REB 230, 93 REB 295, 95 REB 095, and 96 REB 072 as to the undersigned Respondents Randall Krysinski, AMA Industries, Inc., and Mayfair Real Estate, Inc. The Respondent, personally, and as President and owner on behalf of AMA Industries, Inc., and Mayfair Real Estate, Inc., and his attorney, William J. Connell, and the Division of Enforcement, Department of Regulation and Licensing, by its attorney Roger R. Hall, consent to the resolution of this matter pursuant to the terms of this stipulation and the attached Final Decision and Order.

- (a) Respondent Krysinski specifically offers to voluntarily surrender his real estate brokers license pursuant to the terms of the attached Final Decision and Order. He further offers to surrender the real estate trade name registration of RE/MAX WEST, INC.
- (b) Respondent Krysinski represents that he is President and a major shareholder of and Respondent corporations and that he has the authority to act on behalf of said corporations; and he specifically offers to surrender the corporate real estate broker licenses of AMA Industries, Inc., and Mayfair Real Estate, Inc.
- (c) Respondent Krysinski hereby withdraws his request for a hearing on the denial of his Petition for the Reinstatement of his real estate broker's license by the Real Estate Board.

2. Respondent Krysinski 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 and all corporate respondents, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against him and the other respondents; 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 and the other respondents under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.

3. Respondent Krysinski has had the opportunity to consult with legal counsel regarding this matter and the legal implications of the stipulation. Respondent Krysinski is represented in this matter by the undersigned William J. Connell, Attorney at Law, 2500 Mayfair Road, M-211, Wauwatosa, WI 53226.

4. Respondent Krynski voluntarily and knowingly waives the rights set forth in paragraph 2 above on behalf of himself and respondent corporations, 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 Krynski admits for the purpose of this Stipulation that there may be evidence to support the Findings of Fact, and agrees that the Board may make the Findings of Fact and may reach the conclusions set forth in the Conclusions of Law and enter the Order attached hereto.

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 Division of Enforcement for further proceedings in this matter. In the event that the Stipulation is not accepted by the Board the parties agree not to contend that members of 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. Respondents agree that Complainant's attorney, Roger R. Hall, may appear at any meeting with the Board with respect to the Stipulation and that his appearance is limited to statements in support of the Stipulation and to answer any questions the Board may have regarding the Stipulation. Respondents waive their rights, if any, to have notice of that meeting.

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

*Randall Krynski* \_\_\_\_\_ 9/10/96  
Randall Krynski, individually, Date

*Randall Krynski* \_\_\_\_\_ 9/10/96  
AMA Industries, Inc., Date  
by Randall Krynski

*Randall Krynski* \_\_\_\_\_ 9/10/96  
Mayfair Real Estate, Inc. Date  
by Randall Krynski

*Roger R. Hall* \_\_\_\_\_ 9/11/96  
Roger R. Hall, Attorney Date  
Division of Enforcement

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## NOTICE OF APPEAL INFORMATION

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**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:**

STATE OF WISCONSIN REAL ESTATE BOARD

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1400 East Washington Avenue  
P.O. Box 8935  
Madison, WI 53708.

**The Date of Mailing this Decision is:**

October 1, 1996

### **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.)