

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 :
 : FINAL DECISION AND ORDER
 HOMESTEAD REALTY INC., and :
 MARY ANN KOPP, : 95 REB 133
 RESPONDENTS. :

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

Homestead Realty Inc.
6935 N 76th St
Milwaukee, WI 53223

Mary Ann Kopp
5714 S 107th St.
Hales Corners, WI 53130

Department of Regulation and Licensing
Division of Enforcement
PO Box 8935
Madison, WI 53708-8935

Wisconsin Real Estate Board
PO 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. Homestead Realty Inc., ("Corporation") 6935 N 76th St., Milwaukee, WI 53223, is a Wisconsin Real Estate Corporation having license #833274, which license was originally granted to it on October 24, 1985.

2. Mary Ann Kopp, ("Kopp") 5714 S. 107th St., Hales Corners, WI 53130, is a real estate broker having state of Wisconsin license #35528, which license was originally granted to

her on September 11, 1985. Kopp was employed as a real estate salesperson for the corporation, said employment commencing on or about June 30, 1989. Said employment ended on March 23, 1995.

3. On or about September 16, 1994, Patricia A. Schmitz listed her condominium located at 8332 S. Tuckaway Shores, Franklin, county of Milwaukee, WI, for sale with the corporation.

During the course of that listing, Kopp submitted an advertisement to the Milwaukee Journal for publication on Sunday, October 23, 1994. The advertisement stated:

“TUCKAWAY SHORES
EXECUTIVE 1700 SQ. FT.
REDUCED MUST SELL!
BROKER 529-4997.”

4. On or about June 15, 1994, Levens DeBack and Vivien DeBack engaged Jeff Hoel of ReMax Realty 100 to find a condominium for purchase. The DeBacks often prescreened open houses or For Sale By Owner properties and if interested, made arrangements with Mr. Hoel to view the property. In October, 1994, after seeing the advertisement on Tuckaway Shores in the paper, the DeBacks' telephoned and arranged a preview of the condominium. At this preview, the DeBacks' discovered the property was listed with the corporation. They informed Kopp that they were working with Mr. Hoel.

5. In November, 1994, the listing price of the condo was reduced and Hoel showed the condo again to the DeBacks. On or about November 18, 1994, DeBacks signed an offer to purchase which was drafted by Jeff Hoel of ReMax 100, and submitted to the sellers through the corporation. The seller accepted the DeBack's offer.

6. Prior to the closing, Kopp called Hoel and informed him he would not receive a full commission on the condo because Kopp had first shown it to DeBacks.

7. On December 16, 1994, the transaction closed. Robert Heffernan, president and broker of record for the corporation., signed for the seller as "POA". Mr. Heffernan had written consent from the seller to sign as Power Of Attorney.

8. In response to the investigation of this matter, Mr. Heffernan explained that he was aware of the practices of corporation brokers placing newspaper advertisements that read "broker" without identifying the name of the broker. Heffernan stated this was permissible activity if the sales associate was not able to get the ad into the office in time for placing in the office ads.

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 HOMESTEAD REALTY INC. has violated:

Section RL 24.04(2)(a) of the Wisconsin Administrative Code and Section 452.14(3)(i) of the Wisconsin Statutes by failing to disclose in advertisements the broker's name exactly as printed on the broker's license and failing to clearly indicate that the broker is a business concern and not a private party.

Section RL 24.04(2)(b)) of the Wisconsin Administrative Code and Section 452.14(3)(i) of the Wisconsin Statutes by failing to supervise the advertisement of the employees of the corporation.

4. Respondent MARY ANN KOPP has violated:

Section RL 24.04(2)(a) of the Wisconsin Administrative Code and Section 452.14(3)(i) of the Wisconsin Statutes by failing to disclose in advertisements the broker's name exactly as printed on the broker's license and failing to clearly indicate that the broker is a business concern and not a private party.

Section RL 24.04(2)(b)) of the Wisconsin Administrative Code and Section 452.14(3)(i) of the Wisconsin Statutes by failing to advertise under the supervision of and in the name of the employing broker.

ORDER

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

IT IS FURTHER ORDERED, that Respondent Homestead Realty Inc., pay a FORFEITURE in the amount of \$300.00, said \$300.00 to be paid within 30 days of the date of this Order. Payment of this forfeiture shall be to the Wisconsin Department of Regulation and Licensing, ATTN: Real Estate Board, P.O. Box 8935, Madison, WI 53708-8935.

IT IS FURTHER ORDERED, that in the event Respondent Homestead Realty Inc. fails to pay the \$300.00 forfeiture within the time and in the manner as set forth above, then and in that event, and without further notice to the Respondent Homestead Realty Inc., its real estate broker's license shall be immediately suspended without further hearing and without further Order of the Board, and said suspension shall continue until the full amount of said forfeiture has been paid to the Department of Regulation and Licensing and its failure to pay the forfeiture shall be considered a violation of this Order by the Board.

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

- a. The 4 hour Business ethics module (RL 25.02(2)(g)); and
- b. The 5 hour Consumer Protection module (RL 25.02(2)(h),

and submit proof of the same within seven months of the date of this Order in the form of written verification from the institution providing the education to the Real Estate Board, P.O. Box 8935, Madison, WI 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 in the event KOPP 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 her real estate broker's license shall be suspended, without further notice, hearing or order of the Board until she has complied with the terms of this Order.

IT IS FURTHER ORDERED, that file 95 REB 133 be, and hereby is closed.

Dated this 12th day of DEC, 1996.

WISCONSIN REAL ESTATE BOARD

By: _____



AJ:deh

RAENFORCE\CLG2067.DOC

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

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
HOMESTEAD REALTY INC., and	:	95 REB 133
MARY ANN KOPP,	:	
RESPONDENTS.	:	

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 95 REB 133. HOMESTEAD REALTY INC. and MARY ANN KOPP, are herein collectively called "Respondents". Respondents and their attorney, Robert B. Peregrine, and the Division of Enforcement, by its attorney Charles J. Howden, consent to the resolution of this matter by this Stipulation and the attached Final Decision and Order.

2. Respondents understand that by the signing of this Stipulation they voluntarily and knowingly waive their rights, including: the right to a hearing on the allegations against them, at which time the State has the burden of proving those allegations; the right to confront and cross-examine the witnesses against them; the right to call witnesses on their behalf and to compel their attendance by subpoena; the right to testify themselves; 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 them under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.

3. Respondents have had the opportunity to consult with legal counsel regarding these matters and the legal implications of this Stipulation. Respondents are represented by Attorney Robert B. Peregrine of Peregrine Law Offices S.C., 633 West Wisconsin Avenue, #1300, Milwaukee, Wisconsin 53203.

4. Respondents voluntarily and knowingly waive the 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, Respondents neither admit nor deny the facts as set forth in the Findings of Fact, however, Respondents agree that the Board may make the Findings of Fact and may reach the Conclusions set forth in the Conclusions of Law and may 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 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. Respondents agree that Complainant's attorney, Charles Howden, may appear at any meeting of 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 any right they may have to have notice of that meeting and to be present at the meeting of the Board.

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

Pat Heffernan, President
HOMESTEAD REALTY INC., Respondent

12/6/96
Date

Mary Ann Kopp
MARY ANN KOPP, Respondent

12-6-96
Date

Robert B. Peregrine
ROBERT B. PEREGRINE, Attorney
for Respondents

12/9/96
Date

Charles J. Howden
CHARLES J. HOWDEN, Attorney
Division of Enforcement

12/11/96
Date

Department of Regulation & Licensing

State of Wisconsin

P.O. Box 8935, Madison, WI 53708-8935

(608)

TTY# (608) 267-2416, hearing or speech
TRS# 1-800-947-3529, impaired only

GUIDELINES FOR PAYMENT OF COSTS AND/OR FORFEITURES

On December 12, 1996, the Real Estate Board
took disciplinary action against your license. Part of the discipline was an assessment of costs and/or a
forfeiture.

The amount of the costs assessed is: _____ Case #: _____

The amount of the forfeiture is: \$300.00 Case # 95REB133

Please submit a check or a money order in the amount of \$ 300.00

The costs and/or forfeitures are due: January 11, 1997

NAME: Homestead Realty, Inc. LICENSE NUMBER: 833274

STREET ADDRESS: 6935 North 76th Street

CITY: Milwaukee STATE: WI ZIP CODE: 53223

Check whether the payment is for costs or for a forfeiture or both:

 COSTS X FORFEITURE

Check whether the payment is for an individual license or an establishment license:

 INDIVIDUAL X ESTABLISHMENT

If a payment plan has been established, the amount due monthly is:

Make checks payable to:

DEPARTMENT OF REGULATION AND LICENSING
1400 E. WASHINGTON AVE., ROOM 141
P.O. BOX 8935
MADISON, WI 53708-8935

For Receipting Use Only

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Ch. 440.22, Stats.
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STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING
BEFORE THE REAL ESTATE BOARD

In the Matter of the Disciplinary Proceedings Against

Homestead Realty Inc.,
and Mary Ann Kopp,

AFFIDAVIT OF MAILING

Respondents.

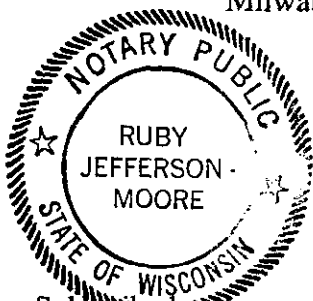
STATE OF WISCONSIN)
)
COUNTY OF DANE)

I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

1. I am employed by the Wisconsin Department of Regulation and Licensing.

2. On December 16, 1996, I served the Final Decision and Order dated December 12, 1996 and Guidelines for Payment of Costs and/or Forfeitures upon the Respondents Homestead Realty Inc.'s and Mary Ann Kopp's attorney by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Respondents' attorney and placing the envelope in the State of Wisconsin mail system to be mailed by the United States Post Office by certified mail. The certified mail receipt number on the envelope is P 213 340 296.

Robert B. Peregrine, Attorney
633 W. Wisconsin Avenue, Suite 1300
Milwaukee WI 53203-1960



Kate Rotenberg

Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me
this 16th day of December, 1996.

Ruby Jefferson-Moore

Notary Public, State of Wisconsin
My commission is permanent.

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:

STATE OF WISCONSIN REAL ESTATE BOARD

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

The Date of Mailing this Decision is:

December 16, 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.)