

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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- 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 Safety and Professional Services 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.

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

**BRIAN I. BILES,  
RESPONDENT.**

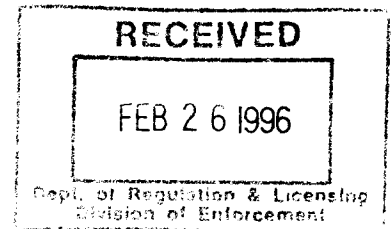
FINAL DECISION AND ORDER  
93 REB 323  
ORDER 0003034.

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

Brian I. Biles  
N8512 Little Elkhart Lake Rd.  
Elkhart Lake, WI 53020

Department of Regulation and Licensing  
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:

1. Brian I. Biles (D.O.B. 7/3/56) is duly licensed in the state of Wisconsin as a real estate broker (license #27395). This license was first granted on August 30, 1982.
2. Respondent's latest address on file with the Department of Regulation and Licensing is 8512 Little Elkhart Lake Road, Elkhart Lake, WI 53020.
3. At all times relevant to this matter, Respondent in engaged in the residential construction business as a building contractor and approximately 95% of his real estate activity is acting as sellers agent for a single land owner.
4. On or about May 31, 1995, Jeanne Pegelow, an auditor with the Division of Enforcement of the Department of Regulation and Licensing performed a compliance audit of trust account records and real estate records maintained by the Respondent.

5. Auditor Pegelow discovered the following deficiencies in the trust account records and real estate records of the Respondent:

- a. The Respondent failed to retain listing agreements for more than one year;
- b. The Respondent, in some transactions, had used approved forms beyond the use expiration date;
- c. That the Respondent failed to enter performance dates or monitor performance by parties by required dates in some transactions;
- d. The Respondent failed to perform trial balances and bank reconciliations for his trust account in a timely fashion;
- e. The Respondent failed in one transaction to properly disburse trust funds in accordance with the offer to purchase agreement;
- f. The Respondent, in some transactions, failed to provide purchaser with written disclosure of agency;
- g. The Respondent failed in some transactions to obtain the signatures of all the parties involved in the transaction.
- h. The Respondent failed in some transactions to draft an extension of the contracts prior to the expiration date;

#### CONCLUSIONS OF LAW

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

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

Respondent Brian I. Biles has violated:

- a. Section 452.14(3)(i), Wis. Stats., by his violation of secs. RL 24.01(3), RL 24.05, 24.07(4), and 24.08. Wis. Adm. Code, by his failure to draft all contracts and agreements in writing; failure to properly disclose to a buyer that he was acting as agent for the seller.
- b. Section 452.14(3)(i), Wis. Stats., and secs. RL 18.14, and RL 18.13(3)(4), Wis. Adm. Code, by failing to prepare trust account, trial balances and account reconciliation;
- c. Section 452.14(3)(i), Wis. Stats., and sec. RL 15.04, Wis. Adm. Code, by failure to retain exact and complete copies of all listing contracts for three years.
- d. Section 452.14(3)(I), Wis. Stats., and sec. RL 16.03, Wis. Adm. Code, by failing to use the proper approved form.

#### ORDER

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

IT IS FURTHER ORDERED, that Respondent, Brian I. Biles, within 9 months of this Order, successfully complete the following course modules from the 36-hour real estate brokers course at an educational institution approved by the Department of Regulation and Licensing:

- a. 2-hour Contract course; and
- b. 4-hour Approved Forms course; and
- c. 5-hour Trust Accounts, Escrow, Closing, Statements course; and
- d. 4-hour Business Ethics course;

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, 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 Respondent pay a forfeiture in the sum of \$500.00 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 the Respondent 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, or fails to pay the forfeiture as set forth above then the real estate broker's license of the Respondent, in failing to comply with this Order, shall be immediately suspended, without further notice or hearing, until full compliance with the terms of this Order has been obtained.

IT IS FURTHER ORDERED, that file 93 REB 323, be, and hereby is, closed.

Dated this 22 day of FEBRUARY 1995

By: 

THE WISCONSIN REAL ESTATE BOARD

2/22/96  
Date

RRH:daw  
ATY-FLG2501

STATE OF WISCONSIN  
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF THE DISCIPLINARY  
PROCEEDINGS AGAINST

BRIAN I. BILES,  
RESPONDENT.

:  
:  
:  
:  
:  
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STIPULATION  
93 REB 323  
ORDER 0003034

It is hereby stipulated between Brian I. Biles, personally on his own behalf and Roger R. Hall, Attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows that:

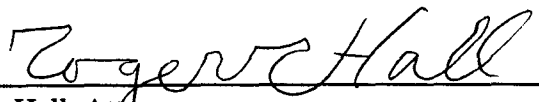
1. This Stipulation is entered in resolution of the pending proceedings concerning Brian I. Biles' license. The stipulation and order shall be presented directly to the Real Estate Board for its consideration for adoption.
2. Respondent understands that by the signing of this Stipulation he voluntarily 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 by a preponderance of the evidence; 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 is aware of his right to seek legal representation and has been provided the opportunity to seek legal advice prior to signing this stipulation.
4. Respondent agrees to the adoption of the attached Final Decision and Order by the Real Estate Board. 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. Respondent waives all rights to any appeal of the Board's order, if adopted in the form as attached.
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this 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.

6. The parties to this stipulation agree that the attorney for the Division of Enforcement and the member of the Real Estate Board assigned as an advisor in this investigation may appear before the Real Estate Board for the purposes of speaking in support of this agreement and answering questions that the members of the Board may have in connection with their deliberations on the stipulation.

7. The Division of Enforcement joins Brian I. Biles in recommending the Real Estate Board adopt this Stipulation and issue the attached Final Decision and Order.

  
\_\_\_\_\_  
Brian I. Biles

1-1-96  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Roger R. Hall, Attorney  
Division of Enforcement

January 30, 1996  
\_\_\_\_\_  
Date

RRH:djm  
DOEATTY-glg941.doc

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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

1400 East Washington Avenue

P.O. Box 8935

Madison, WI 53708.

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

February 26, 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.)