

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF THE DISCIPLINARY	:	FINAL DECISION AND ORDER
PROCEEDINGS AGAINST	:	93 REB 096
JOAN M. MCINTYRE,	:	93 REB 317
RESPONDENT.	:	

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

Joan M. McIntyre
W7390 Spring Rd.
Greenville, WI 54942

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:

FINDINGS OF FACT

1. Joan M. McIntyre, a/k/a Joan M. Krenke (D.O.B. March 15, 1951) is duly licensed in the state of Wisconsin as a real estate broker (license #44722). This license was first granted on January 16, 1991, to Joan M. Krenke.
2. Respondent's latest address on file with the Department of Regulation and Licensing is W7390 Spring Rd., Greenville, WI 54942.
3. At all times relevant to the matters set forth herein, Respondent was doing business as Real Estate Market Place.

4. On or about December 2, 1993, the Division of Enforcement requested the Respondent to provide copies of real estate transaction documents and financial records, including trust account journal, ledger sheets and bank statements. The Respondent provided real estate transaction documents; however, the Respondent failed to provide any business or trust account financial records.

5. On December 9, 1993, the Division of Enforcement requested copies of trust account bank records from Valley Bank Service Corporation for the time period from October, 1992, to March, 1993 for the Real Estate Market Place Trust Account #004-50-8971. These records were received from the bank on or about December 28, 1993.

6. On April 4, 1995, the Division of Enforcement requested copies of bank records from M&I Bank Support Services Corporation for the Respondent's trust account for the time period from April, 1993 to January, 1994 for the Real Estate Market Place Trust Account. These records were received on or about April 26, 1995.

7. The Division of Enforcement audit of the Real Estate Market Place Trust Account discloses the following:

- a) That upon six (6) occasions, the Respondent issued trust account checks without sufficient funds to fund the withdrawal. These occasions were as follows:

<u>Date</u>	<u>Check#</u>	<u>Amount</u>
01/19/93	1148	\$500.00
08/17/93	1184	\$5,100.00
09/14/93	1187	\$2,000.00
09/24/93	1184	Reissued
10/04/93	1185	\$298.06
10/27/93	1190	\$1,000.00

- b) That upon three (3) occasions, the Respondent made improper disbursement from her Real Estate Market Place Trust Account for personal expenses. These occasions were as follows:

<u>Date</u>	<u>Check#</u>	<u>Amount</u>
05/06/93	1170	\$3,000.00
09/23/93	1185	\$298.06
11/01/93	1200	\$40.00

- c) That upon six (6) occasions, the Respondent made personal payments to her Real Estate Market Place Trust Account. These payments are unsupported by any real estate transactions.

- d) That on thirteen (13) occasions involving closed real estate transactions real estate commissions were not disbursed from the Real Estate Marketplace Trust Account after closing.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Board has jurisdiction to act in this matter pursuant to section 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 Joan M. McIntyre has violated the following Wisconsin Statutes and Administrative Rules:
 - a) Section 452.14(3)(i), Wis. Stats., and Sections RL 18.14, 18.09(2) and (4), Wis. Adm. Code, by improper disbursement of trust funds;
 - b) Section 452.14(3)(i) Wis. Stats., and Sections RL 18.14 and 18.13(1), (2), (3), (4), (5), of the Wis. Adm. Code by failing to maintain her real estate trust account records in compliance with the above sections of the administrative code.
 - c) Section 452.14(3)(i), Wis. Stats., and Sections RL 18.24 and 18.09(3), Wis. Adm. Code, for failure to timely withdraw commissions or fees earned by a broker from her real estate trust account.
 - d) Section RL 15.04, Wis. Adm. Code for failure to retain real estate trust account records for at least three years.

ORDER

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

IT IS FURTHER ORDERED, that on the effective date of this Order, the Real Estate Broker license of Joan M. McIntyre, is hereby limited in the following manner:

1. The Respondent shall only perform the real estate activities of a licensed salesperson under the supervision of a licensed broker-employer.

2. Applicant shall file with the Department, quarterly reports within five days before or after the following dates:

January, 1, 1997

April 1, 1997

July 1, 1997

October 1, 1997,

and every January 1, April 1, July 1, and October 1, thereafter until further order of the Department.

3. Each report shall include: the name, address and telephone number of Respondent and name, address and telephone number of Respondent's broker-employer.

- a) A statement from Respondent as to whether or not she has been in compliance with the Wisconsin Statutes and Wisconsin Administrative Code in her practice of real estate and in the terms of the Order.
- b) A statement from the Broker-employer concerning Respondent's performance and dealings with the public and whether or not she has followed the guidelines and requirements of the broker-employer.

4. Respondent may not transfer to another licensed broker-employer and perform activities under this limited license without permission, in advance, from the Department of Regulation and Licensing, and unless the new broker-employer agrees, in writing, that the terms of this limitation will be complied with and that the new broker-employer will cooperate with the applicant in the preparation and submittal to the Department of the required reports.

5. Respondent shall renew her real estate broker's license in a timely manner, not withstanding any requirements in this Order.

6. This limitation may be removed no earlier than two years following the effective date of this Order.

IT IS FURTHER ORDERED, that Respondent shall successfully complete the following course modules from the real estate broker pre-licensed course at an educational institution approved by the Department of Regulation and Licensing within one year of the date of this Order:

- a. The 4-hour approved forms module (RL 25.02(2)(b));
- b. The 4-hour business ethics module (RL 25.02(2)(g));
- c. The 5-hour consumer protection module (RL 25.02(2)(h)); and
- d. The 5-hour trust accounts, escrow, closing statement module (RL 25.02(2)(c));

and that Respondent shall submit proof of the completion 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; and

IT IS FURTHER ORDERED, that Respondent shall pay partial costs of this matter in the amount of \$1,000.00 within one year 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 in the event Respondent fails to pay the partial costs of \$1,000.00 and fails to complete the educational requirements imposed within one year of the date of this Order, then and in that event, and without further notice to the Respondent, her 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 costs have been paid to the Department of Regulation and Licensing or proof of the completion of the educational modules have been verified. Both her failure to pay the costs or complete the educational modules shall be considered a violation of this Order by the Board.

IT IS FURTHER ORDERED, that files 93 REB 096 and 93 REB 317 be, and hereby are, closed.

Dated this 27 day of March, 1997.

WISCONSIN REAL ESTATE BOARD

By: Beechie O. Brooks
A Member of the Board

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STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

JOAN M. MC INTYRE
RESPONDENT.

STIPULATION
93 REB 096
93 REB 317

The parties in this matter agree and stipulate as follows:

1. This Stipulation is entered into for the purpose of resolving these matters known as investigative files 93 REB 096 and 93 REB 317. JOAN M. MC INTYRE ("Respondent") consents to the resolution of this matter by this Stipulation and the attached Final Decision and Order.

2. Respondent understands that by the signing of this Stipulation she voluntarily and knowingly waives her rights, including: the right to a hearing on the allegations against her, at which time the State has the burden of proving those allegations; the right to confront and cross-examine the witnesses against her; the right to call witnesses on her behalf and to compel their attendance by subpoena; the right to testify herself; 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 her 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 these matters and the legal implications of this Stipulation.

4. Respondent voluntarily and knowingly waives 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, Respondent neither admits nor denies the facts as set forth in the Findings of Fact, however, Respondent agrees 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.

STIPULATION

93 REB 096

93 REB 317

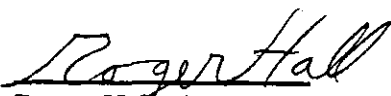
Page 2

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, Roger Hall, 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. Respondent waives any right she may have to have notice of that meeting 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.


JOAN M. MC INTYRE Respondent 3/17/97
Date


Roger Hall, Attorney 3/18/97
Division of Enforcement Date

g:\bc&re\3reb096s

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 March 27, 1997, 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: \$1,000.00 Case #: 93REB096 93REB317

The amount of the forfeiture is: _____ Case # _____

Please submit a check or a money order in the amount of \$ 1,000.00

The costs and/or forfeitures are due: March 27, 1998

NAME: Joan M. McIntyre LICENSE NUMBER: 44722

STREET ADDRESS: W7390 Spring Road

CITY: Greenville STATE: WI ZIP CODE: 54942

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

X COSTS FORFEITURE

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

X INDIVIDUAL 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

#2145 (Rev. 9/96)

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

Joan M. McIntyre,

AFFIDAVIT OF MAILING

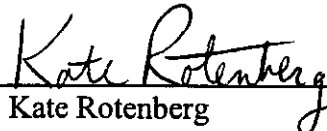
Respondent.

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 March 28, 1997, I served the Final Decision and Order dated March 27, 1997, and Guidelines for Payment of Costs and/or Forfeitures upon the Respondent Joan M. McIntyre by enclosing a true and accurate copy of the above-described document in an envelope properly stamped and addressed to the above-named Respondent 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 201 374 136.
3. The address used for mailing the Decision is the address that appears in the records of the Department as the Respondent's last-known address and is:


Joan M. McIntyre
W7390 Spring Road
Greenville WI 54942



Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me

this 28th day of March, 1997.



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:

March 28, 1997

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.)