

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 :
PROCEEDINGS AGAINST :
: FINAL DECISION AND ORDER
ELIZABETH K HAGIST AND :
YESCHEK & ASSOCIATES REALTY INC : 97 REB 018
: LS9706262 REB
RESPONDENT :**

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

Elizabeth K Hagist
Yeschek & Associates Realty Inc
PO Box 150
Minocqua WI 54548

Wisconsin Real Estate Board
P.O. Box 8935
Madison, WI 53708

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 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. Yeschek & Associates Realty Inc, ("Yeschek"), PO Box 150, Minocqua, WI 54548, is a Wisconsin Company having a State of Wisconsin License No. 14916, which was originally granted to Yeschek on January 19, 1978. Yeschek also does business as Re/Max Yeschek & Associates.

2. Elizabeth K Hagist ("Hagist"), 2370 Highway 155, St. Germain, WI 54558, is a real estate broker having a State of Wisconsin license # 42363, which was granted on June 9, 1987. Hagist has been president of Yeschek, since September 23, 1987.

3. On or about, July 26, 1995, Department of Regulations and Licensing auditor Ralph Llanas met with Hagist to perform an audit on Yeschek's real estate records, including its trust account (Yeschek & Associates Minocqua Inc IBRETA Trust Account, # 145 912, at F& M Bank).

A. At that time, Auditor Llanas found that monthly trial balances and validations of the trust account were not performed; Ledger pages were missing Buyer and Seller names; a ledger page for "Broker's funds" was not prepared; The journal did not include a daily running balance and check numbers were not included in the journal for the time period of March 7, 1994 to August 4, 1994.

B. Llanas recreated Yeschek's May 31, 1994 and September 30, 1994 trial balances and discovered a \$500.00 difference in both.

C. Llanas requested that Yeschek provide to him an explanation or proof of correction for the \$500.00 differences and to perform trial balances from January 1, 1994 to July, 1995 to be mailed to Auditor within 30 days. No information was received from Yeschek in response to this request.

4. On or about September 10, 1996, Llanas met with Hagist to perform a follow-up audit on the Yeschek real estate trust account.

A. At this time, Llanas found that the \$500.00 trial balance error had been corrected, but all other items missing from previous audit were again not performed or corrected.

B. It was further found that the \$500.00 earnest money held for transaction ledger # 107 was not transferred to the listing broker within 30 days of receipt. It was subsequently transferred to the title company at closing.

C. Yeschek also failed to account for service fees and interest accruing to the trust account.

D. Hagist was instructed to mail a copy of the Yeschek trial balances for June, July and August 1996 to Auditor Llanas to demonstrate compliance with the code. Auditor Llanas received the information on or about September 27, and October 7, 1996.

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 Elizabeth K Hagist has violated:

Section 452.14(3)(i) of the Wisconsin Statutes and Sections RL 18.08, 18.10 and 18.13(1)(2)(3)(4)(5), of the Wisconsin Administrative Code by failing to transfer earnest money to listing broker within 30 days after receipt, by failing to include check numbers and a daily running balance in the Journal, by failing to include Buyer and Seller names on Ledger pages, by failing to account for broker's personal funds held in trust account and by failing to perform monthly trial balances and validations.

4. Respondent Yeschek & Associates Realty Inc has violated:

Section 452.14(3)(i) of the Wisconsin Statutes and Sections RL 18.08, 18.10 and 18.13(1)(2)(3)(4)(5), of the Wisconsin Administrative Code by failing to transfer earnest money to listing broker within 30 days after receipt, by failing to include check numbers and a daily running balance in the Journal, by failing to include Buyer and Seller names on Ledger pages, by failing to account for broker's personal funds held in trust account and by failing to perform monthly trial balances and validations.

ORDER

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

IT IS FURTHER ORDERED, that Yeschek & Associates Realty Inc, real estate company license No. 14916 is hereby REPRIMANDED.

IT IS FURTHER ORDERED, that Elizabeth K Hagist, real estate broker license No. 42363 is hereby REPRIMANDED.

IT IS FURTHER ORDERED, that Elizabeth K Hagist, within six months of the date of this Order, successfully complete the following course modules from the real estate broker's course at an educational institution approved by the Department of Regulation and Licensing:

- a. The five hour trust accounting, escrows, closing statements module [RL 25.02(2)(c)],

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 in the event Respondent Elizabeth K Hagist 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 Respondent Yeschek & Associates Realty Inc pay a FORFEITURE in the amount of \$1000.00 within 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 Respondent Yeschek & Associates Realty Inc fails to pay the \$1000.00 forfeiture within the time and in the manner set forth above, then and in that event, and without further notice to the Respondent Yeschek & Associates Realty Inc, it's real estate broker's license shall be immediately suspended, without further notice, hearing or order of the Board until they have complied with the terms of this Order.

IT IS FURTHER ORDERED, that Respondent Yeschek & Associates Realty Inc pay partial costs of this matter in the amount of \$600.00 within 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 Respondent Yeschek & Associates Realty Inc fails to pay the \$600.00 costs within the time and in the manner as set forth above, then and in that event, and without further notice to the Respondent Yeschek & Associates Realty Inc, it's real estate company's license shall be immediately suspended, without further notice, 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 and it's failure to pay the costs shall be considered a violation of this Order by the Board.

IT IS FURTHER ORDERED, that case file 97 REB 018 be, and hereby is closed.

Dated this 26 day of JUNE, 1997.

WISCONSIN REAL ESTATE BOARD

By: 

Member of the Real Estate Board

g:\bc&re\autotext\fr\order

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

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
ELIZABETH K HAGIST	:	
YESCHEK & ASSOCIATES REALTY INC:	:	97 REB 018
	:	
RESPONDENT.	:	

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 97 REB 018. ELIZABETH K HAGIST AND YESCHEK & ASSOCIATES REALTY INC ("Respondents") 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 itself; 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.
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.

STIPULATION
97 REB 018

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 J. 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.

Elizabeth K. Hagist
ELIZABETH K. HAGIST, as an individual
Respondent

6-6-97
Date

Elizabeth K. Hagist President
YESCHEK & ASSOCIATES REALTY INC,
Respondent
by its President Elizabeth K. Hagist

6-6-97
Date

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

6-23-97
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 June 26, 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: \$600.00 Case #: LS9706262REB

The amount of the forfeiture is: \$1,000.00 Case # LS9706262REB

Please submit a check or a money order in the amount of \$ 1,600.00

The costs and/or forfeitures are due: July 26, 1997

NAME: Yeschek & Associates Realty, Inc. LICENSE NUMBER: 14916

STREET ADDRESS: P.O. Box 150

CITY: Minocqua STATE: WI ZIP CODE: 54548

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

X COSTS X 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.

G\BDLS\FM2145.DOC

For Receipting Use Only

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING
BEFORE THE REAL ESTATE BOARD

In the Matter of the Disciplinary Proceedings Against

Elizabeth K. Hagist and
Yeschek & Associates Realty Inc.,

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 June 27, 1997, I served the Final Decision and Order dated June 26, 1997, and Guidelines for Payment of Costs and/or Forfeitures, LS9706262REB, upon the Respondent Elizabeth K. Hagist and Yeschek & Associates Realty Inc. 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 221 157 307.

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:

Elizabeth K. Hagist and
Yeschek & Associates Realty Inc.
P.O. Box 150
Minocqua WI 54548

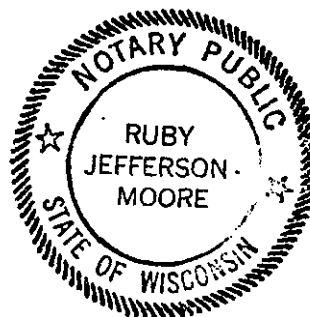
Kate Rotenberg

Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me

this 27th day of June, 1997.

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:

June 27, 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.)