

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**
: **97 REB 202**
BARBARA DRAPER, : **LS 9803261 REB**
LAKE VIEW REALTY INC. :
RESPONDENTS. :

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

Barbara Draper
PO Box 498
Fontana, WI 53125

Lake View Realty, Inc.
268 Reid Street
PO Box 498
Fontana, WI 53125

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. **Barbara Draper** ("Draper"), date of birth 2/28/49, is licensed in the state of Wisconsin as a real estate broker, having license #90-44067. This license was first granted to her on 9/19/90.

2. Draper's most recent address on file with the Department of Regulation and Licensing is P O Box 498, Fontana, WI 53125.

3. **Lake View Realty, Inc.**, ("Lake View"), is duly licensed in the state of Wisconsin as a real estate corporation having license #91-834827. This license was first granted to it on 1/30/96.

4. Lake View's most recent address on file with the Department of Regulation and Licensing is 268 Reid Street, PO Box 498, Fontana, WI 53125

5. Draper, is the principal shareholder in Lake View. Draper is the President of Lake View.

6. This investigation involves a loan fraud scheme Draper engaged in for the purpose of obtaining a \$40,000.00 mortgage loan from Anchor Bank on property she was purchasing on her own account having a true purchase price of \$27,000.00. The investigation further involves Draper's alteration of transaction documents to falsely represent a purchase price of \$50,000.00, the creation of false billings to the seller from Draper's husband's business, the creation of false records regarding payment into Lake View's trust account of earnest money, creation of a false closing statement and a false Wisconsin Transfer Return, and the obtaining of a \$10,000.00 commission by Draper on the purchase of property when Draper had neither an agency agreement nor a commission agreement with the sellers. Anchor Bank made an independent investigation of the value of the property and obtained comparable values of similar lots in the vicinity.

7. Draper's actions created a necessity for the sellers to falsely report to the Internal Revenue Service and the Wisconsin Department of Revenue a sale of property for \$50,000.00 when the true selling price was \$27,000.00. After the sellers obtained the assistance of an accountant and an attorney, Draper reimbursed the sellers for the increased income taxes incurred as a result of the transaction in the sum of \$3,549.27 prior to the commencement of the investigation into this matter.

8. Draper and Lake View have offered to resolve this investigation by the voluntary surrender of their respective real estate broker licenses pursuant to the terms of the Order set forth below.

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 approve the attached Stipulation pursuant to sec. 227.44(5), Wis. Stats.

3. Respondent Barbara Draper has violated:

- a. Sections 452.133(1)(a), 452.14(3)(i) and 452.14(3)(k) of the Wisconsin Statutes and sections RL 24.03(2)(b), 24.07(2) and 24.07(4) of the Wisconsin Administrative Code by intentionally concealing the true purchase price of the property from her secured lender and in furtherance of that scheme, altering and drafting real estate documents to reflect a false purchase price and false expenses related to the transaction.
- b. Sections 452.13(2)(c) and 452.14(3)(i) of the Wisconsin Statutes and section RL 18.031 of the Wisconsin Administrative Code, by failing to deposit real estate trust funds into a real estate trust account registered with the Department of Regulation and Licensing.

4. Respondent Lake View Realty, Inc., is responsible for the acts of Draper pursuant to section 452.12(3) of the Wisconsin Statutes and is subject to discipline pursuant to section 452.14(4) of the Wisconsin Statutes.

ORDER

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

IT IS FURTHER ORDERED, that the Voluntary Surrender of the Real Estate Broker's license of Respondent Barbara Draper, credential #90-44067, is accepted.

IT IS FURTHER ORDERED, that all rights and privileges heretofore granted to Respondent Barbara Draper pursuant to real estate broker license #90-44067 are forever terminated effective at 11:59 P.M. on the date of this Order as set forth below.

IT IS FURTHER ORDERED, that Respondent Barbara Draper shall not be granted a credential under chapter 452 of the Wisconsin at any time in the future. The denial, in whole or in part, of any petition by Barbara Draper for a credential authorized under chapter 452 of the Wisconsin Statutes shall not constitute denial of a license and shall not give rise to a contested case within the meaning of sections 227.01(3) and 227.42 of the Wisconsin Statutes.

IT IS FURTHER ORDERED, that the Voluntary Surrender of the Real Estate Broker's license of Respondent Lake View Realty, Inc., credential #91-834827, is accepted.

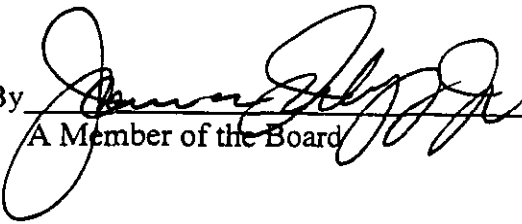
IT IS FURTHER ORDERED, that all rights and privileges heretofore granted to Respondent Lake View Realty, Inc., pursuant to real estate broker license #91-834827 are forever terminated effective at 11:59 P.M. on the date of this Order as set forth below.

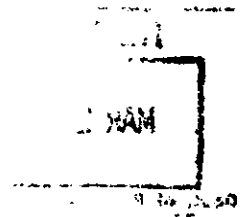
IT IS FURTHER ORDERED, that Respondent Lake View Realty, Inc., shall not be granted a credential under chapter 452 of the Wisconsin at any time in the future. The denial, in whole or in part, of any petition by Lake View Realty, Inc., for a credential authorized under

chapter 452 of the Wisconsin Statutes shall not constitute denial of a license and shall not give rise to a contested case within the meaning of sections 227.01(3) and 227.42 of the Wisconsin Statutes.

IT IS FURTHER ORDERED, that file #97 REB 202 be, and hereby is, closed.

WISCONSIN REAL ESTATE BOARD

By  _____ 3/26 _____ 1998.
A Member of the Board Date



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

**IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
: STIPULATION
BARBARA DRAPER, : 97 REB 202
LAKE VIEW REALTY INC. : LS 9803261 REB
RESPONDENTS. :**

The parties in this matter agree and stipulate as follows:

1. This Stipulation is entered into for the purpose of resolving a pending investigation relating to Barbara Draper and Lake View Realty Inc. This investigation involves Division of Enforcement file #97 REB 202.

BARBARA DRAPER and LAKE VIEW REALTY, INC., herein called "Respondents", and Attorney William L. Seymour, attorney for respondents, and the Division of Enforcement, Department of Regulation and Licensing, by its Attorney Charles J. Howden, consent to the resolution of this matter pursuant to the terms of 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 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 this mater and the legal implications of this stipulation. Both Respondents are represented in this matter by Attorney William L. Seymour.

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 denies the facts as set forth in the Findings of Fact, however, they agree 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 which may include the filing of a formal administrative disciplinary complaint. In the event that the Stipulation is not accepted by the Board, the parties agree not to contend that the 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, Charles J. Howden, 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 any right they may have to have prior notice of that meeting.

9. Respondents agree that the board advisor assigned to this case may attend and participate in any meeting of the Board related to this Stipulation and may vote on whether or not to approve this Stipulation.

Barbara Draper
Barbara Draper,
Respondent

3/16/98
Date

Barbara Draper
Lake View Realty, Inc., by
Barbara Draper, President
Respondent

3/16/98
Date

William L. Seymour
William L. Seymour
Attorney for Respondents

3/18/98
Date

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

3/24/98
Date

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

In the Matter of the Disciplinary Proceedings Against

Barbara Draper,
Lake View Realty Inc.,

AFFIDAVIT OF MAILING

Respondents.

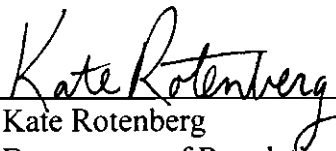
STATE OF WISCONSIN)
)
COUNTY OF DANE)

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 March 30, 1998, I served the Final Decision and Order dated March 26, 1998, LS9803261REB, upon the Respondents Barbara Draper and Lake View Realty Inc.'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 221 159 367.

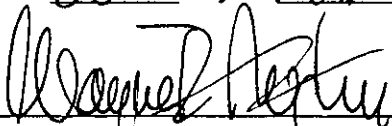
William L. Seymour, Attorney
23 N. Wisconsin Street
P.O. Box 470
Elkhorn WI 53121-0470



Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me

this 30th day of March, 1998.



Notary Public, State of Wisconsin
My commission is permanent.

NOTICE OF RIGHTS OF APPEAL

TO: WILLIAM L SEYMOUR ATTY

You have been issued a Final Decision and Order. For purposes of service the date of mailing of this Final Decision and Order is 3/30/98 Your rights to request a rehearing and/or judicial review are summarized below and set forth fully in the statutes reprinted on the reverse side.

A. 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 section 227.49 of the Wisconsin Statutes. The 20 day period commences on the day of personal service or the date of mailing of this decision. The date of mailing of this Final Decision is shown above.

A petition for rehearing should name as respondent and be filed with the party identified below.

A petition for rehearing shall specify in detail the grounds for relief sought and supporting authorities. Rehearing will be granted only on the basis of some material error of law, material error of fact, or new evidence sufficiently strong to reverse or modify the Order which could not have been previously discovered by due diligence. The agency may order a rehearing or enter an order disposing of the petition without a hearing. If the agency does not enter an order disposing of the petition within 30 days of the filing of the petition, the petition shall be deemed to have been denied at the end of the 30 day period.

A petition for rehearing is not a prerequisite for judicial review.

B. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in section 227.53, Wisconsin Statutes (copy on reverse side). The petition for judicial review must be filed in circuit court where the petitioner resides, except if the petitioner is a non-resident of the state, the proceedings shall be in the circuit court for Dane County. The petition should name as the respondent the Department, Board, Examining Board, or Affiliated Credentialing Board which issued the Final Decision and Order. A copy of the petition for judicial review must also be served upon the respondent at the address listed below.

A petition for judicial review must be served personally or by certified mail on the respondent and filed with the court within 30 days after service of the Final Decision and Order 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. Courts have held that the right to judicial review of administrative agency decisions is dependent upon strict compliance with the requirements of sec. 227.53 (1) (a), Stats. This statute requires, among other things, that a petition for review be served upon the agency and be filed with the clerk of the circuit court within the applicable thirty day period.

The 30 day period for serving and filing a petition for judicial review commences on the day after personal service or mailing of the Final Decision and Order by the agency, or, if a petition for rehearing has been timely filed, the day after personal service or mailing of a final decision or disposition by the agency of the petition for rehearing, or the day after the final disposition by operation of the law of a petition for rehearing. The date of mailing of this Final Decision and Order is shown above.

The petition shall state the nature of the petitioner's interest, the facts showing that the petitioner is a person aggrieved by the decision, and the grounds specified in section 227.57, Wisconsin Statutes, upon which the petitioner contends that the decision should be reversed or modified. The petition shall be entitled in the name of the person serving it as Petitioner and the Respondent as described below.

SERVE PETITION FOR REHEARING OR JUDICIAL REVIEW ON:

STATE OF WISCONSIN REAL ESTATE BOARD

1400 East Washington Avenue

P.O. Box 8935

Madison WI 53708-8935