

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
FORWARD MANAGEMENT, INC., and : 96 REB 219
DAN R. SCHMIDT, :
RESPONDENTS : LS 9807231 REB

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

Forward Management, Inc.
110 S. Brooks St.
Madison, WI 53715

Dan R. Schmidt
7730 Mass Dr.
Verona, WI 53593

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. **Dan R. Schmidt** ("Schmidt"), date of birth 4/13/56, is licensed in the State of Wisconsin as a real estate broker having license # 90-30659. This license was first granted to him on 1/6/84.

2. Schmidt's most recent address on file with the Department of Regulation and Licensing is 7730 Maas Dr., Verona, WI 53593

3. **Forward Management, Inc.**, ("Forward Management") is duly licensed in the state of Wisconsin as a real estate corporation having license #91 833718. This license was first granted to it on 8/24/88.

4. Forward Management's most recent address on file with the Department of Regulation and Licensing is 110 S. Brooks St. Madison, WI 53715.

5. Schmidt is broker of record and Vice President of Forward Management.

6. Terrance R. Wall is President of HC Apartments-Phase I Corp., General Partner of High Crossing Apartments-Phase I Limited Partnership, the owner of Holborn Village, a 96 unit apartment complex. Schmidt and Forward Management managed Holborn Village from January 1, 1995 through August 27, 1995.

7. Wall's accountant, Tim Sherry of Suby Von Haden and Associates, conducted an audit of Holborn Village's financial records. The audit found numerous errors in the billing of services and the payment of expenses by Schmidt and Forward Management during the short time it managed Holborn.

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 **Dan R. Schmidt** has violated:

a. Section 452.14(3)(i) of the Wisconsin Statutes and section RL 24.03(2)(b) of the Wisconsin Administrative code by his conduct described above.

4. Respondent **Forward Management, Inc.** is subject to discipline pursuant to the provisions of section 452.12(3) and 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, **Dan R. Schmidt**, real estate broker license # 90 30659 is hereby issued a **PRIVATE LETTER OF WARNING**, pursuant to section 452.14(4m) of the Wisconsin Statutes.

IT IS FURTHER ORDERED, that **Dan R. Schmidt**, within six months of the date of this Order, successfully complete the following course modules, and successfully pass the examination for each course, from the *Institute of Real Estate Management*:

- a. Course FIN201 Mastering Property Budgeting and Accounting; and
- b. Course MNT201 Managing Maintenance Operations,

and submit proof of the same in the form of official verification directly from the *Institute of Real Estate Management* 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 **Dan R. Schmidt** 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 **Dan R. Schmidt** real estate broker's license shall be suspended, without further notice, hearing or order of the Board until Respondent has complied with the terms of this Order.

IT IS FURTHER ORDERED, Respondent **Dan R. Schmidt** pay partial costs of this matter in the amount of \$250.00 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 **Dan R. Schmidt** fails to pay the \$250.00 costs within the time and in the manner as set forth above, then and in that event, and without further notice to the Respondent Dan R. Schmidt, his real estate 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 and his failure to pay the costs shall be considered a violation of this Order by the Board.

IT IS FURTHER ORDERED, that, **Forward Management, Inc.**, real estate corporation license # 91 833718 is issued a **PRIVATE LETTER OF WARNING**, pursuant to section 452.14(4m) of the Wisconsin Statutes.

IT IS FURTHER ORDERED, Respondent **Forward Management, Inc.**, pay partial costs of this matter in the amount of \$250.00 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 **Forward Management, Inc.** fails to pay the \$250.00 costs within the time and in the manner as set forth above, then and in that event, and without further notice to the Respondent Forward Management, Inc., its real estate 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 and its failure to pay the costs shall be considered a violation of this Order by the Board.


IT IS FURTHER ORDERED, Respondent **Forward Management, Inc.**, pay a **FORFEITURE** of \$1,000.00 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 **Forward Management Inc.** fails to pay the \$1,000.00 forfeiture within the time and in the manner as set forth above, then and in that event, and without further notice to the Respondent Forward Management 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 file 96REB219 be, and hereby is closed.

Dated this 23 day of JULY, 1998.

WISCONSIN REAL ESTATE BOARD

By: 

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

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST:	:	
	:	STIPULATION
FORWARD MANAGEMENT INC., and	:	96REB219
DAN R. SCHMIDT,	:	
RESPONDENTS.	:	LS 9807231 REB

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 Dan R. Schmidt, and Forward Management Inc. This investigation involves Division of Enforcement file #96 REB 219.

DAN R. SCHMIDT and **FORWARD MANAGEMENT, INC.**, herein called "Respondents", their Attorney Wm. Pharis Horton, 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 these matters and the legal implications of this Stipulation. Respondents are represented by Attorney Wm. Pharis Horton, P.O. Box 5621 Madison, WI 53703.

4. Respondents voluntarily and knowingly waive their rights set forth in paragraph 2 above, on the condition that all of the provisions of this Stipulation are approved by the Board.

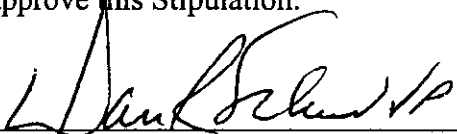
5. With respect to the attached Final Decision and Order, Respondents neither admit nor deny the facts as set forth in the Findings of Fact, however, they agree that the Board may make the Findings of Fact and may reach the conclusions set forth in the Conclusions of Law and may enter the Order attached 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 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 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 prior notice of that meeting.

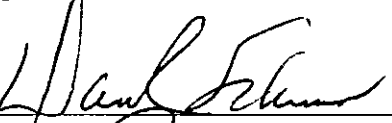
9. Respondents agree that the board advisor assigned to this case may attend and participate in any meeting of the Board related to this Stipulation and may vote on whether or not to approve this Stipulation.



Dan R. Schmidt, Vice President,
Forward Management, Inc.
Respondent

7. 8. 98

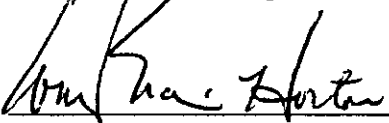
Date



Dan R. Schmidt,
as an individual Respondent

7. 8. 98


Date



Wm. Pharis Horton,
Attorney for the Respondents

July 9, 1998

Date



Charles J. Howden, Attorney
Division of Enforcement

July 15, 1998

Date

Department of Regulation & Licensing

State of Wisconsin

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

(608)

TTY# (608) 267-2416
TRS# 1-800-947-3529

hearing or speech
impaired only

GUIDELINES FOR PAYMENT OF COSTS AND/OR FORFEITURES

On July 23, 1998, 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: \$250.00 Case #: LS9807231REB

The amount of the forfeiture is: \$1,000.00 Case # LS9807231REB

Please submit a check or a money order in the amount of \$1,250.00

The costs and/or forfeitures are due: August 22, 1998

NAME: Forward Management, Inc. LICENSE NUMBER: 833718

STREET ADDRESS: 110 S. Brooks Street

CITY: Madison STATE: WI ZIP CODE: 53715

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

COSTS FORFEITURE

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

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**

For Receipting Use Only

#2145 (Rev. 9/96)

Ch. 440.22, Stats.

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Committed to Equal Opportunity in Employment and Licensing+

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 July 23, 1998, 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: \$250.00 Case #: LS9807231REB

The amount of the forfeiture is: _____ Case # _____

Please submit a check or a money order in the amount of \$250.00

The costs and/or forfeitures are due: August 22, 1998

NAME: Dan R. Schmidt LICENSE NUMBER: 30659

STREET ADDRESS: 7730 Mass Drive

CITY: Verona STATE: WI ZIP CODE: 53593

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

COSTS FORFEITURE

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

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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For Receipting Use Only

Committed to Equal Opportunity in Employment and Licensing+

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

In the Matter of the Disciplinary Proceedings Against

Forward Management, Inc., and Dan R. Schmidt,

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 July 24, 1998, I served the Final Decision and Order dated July 23, 1998, and Guidelines for Payment of Costs and/or Forfeitures (to both Respondents), LS9807231REB, upon the Respondents Forward Management, Inc., and Dan R. Schmidt's attorney by enclosing true and accurate copies of the above-described documents 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 Z 233 819 624.

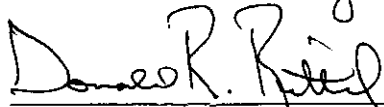
William Pharis Horton, Attorney
P.O. Box 5621
Madison WI 53705



Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me

this 24th day of July, 1998.



Notary Public, State of Wisconsin
My commission is permanent.

NOTICE OF RIGHTS OF APPEAL

TO: WILLIAM PHARIS HORTON 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 7/24/98. 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