

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



Wisconsin Department of Regulation & Licensing Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Regulation & Licensing website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Regulation and Licensing from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Regulation and Licensing data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Regulation and Licensing, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name as it appears on the order.*
- 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 Regulation and Licensing 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/wscqa>.
- Records not open to public inspection by statute are not contained on this website.

By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.

Correcting information on the DRL website: An individual who believes that information on the website is inaccurate may contact the webmaster at web@drl.state.wi.gov

STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 : Case No. LS9809246REB
JOHN W. LYNCH, :
RESPONDENT. :

FINAL DECISION AND ORDER

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

John W. Lynch
W5136 Lynch Ln
Necedah, WI 54646

Wisconsin Real Estate Board
PO Box 8935
Madison, WI 53708-8935

Department of Regulation and Licensing
Division of Enforcement
PO 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 in 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. John W. Lynch, Respondent, date of birth November 28, 1934, is licensed by the Real Estate Board as a real estate broker in the state of Wisconsin, pursuant to license number 22573, which was first granted September 5, 1979.
2. Respondent's last address reported to the Department of Regulation and Licensing is W 5136 Lynch Ln, Necedah, WI 54646.
3. On April 6, 1998, Respondent was charged in Juneau County Wisconsin Circuit Court, case number 98-CF-54, with:

- a. One count of having sexual contact with a child who had not attained the age of 13 years (S.J.G., DOB 2/22/90, age 8) for the purpose of sexually arousing or gratifying the Respondent, in violation of § 948.02(1), Stats., which is a class B felony.
- b. One count of having sexual contact with a child who had not attained the age of 13 years (K.N.B., DOB 12/3/89, age 8) for the purpose of sexually arousing or gratifying the Respondent, in violation of § 948.02(1), Stats., which is a class B felony.
- c. One count of having sexual contact with a child who had not attained the age of 13 years (K.B., DOB 10/1/90, age 7) for the purpose of sexually arousing or gratifying the Respondent, in violation of § 948.02(1), Stats., which is a class B felony.
- d. One count of having sexual contact with a child who had not attained the age of 13 years (K.J.F., DOB 10/31/90, age 7) for the purpose of sexually arousing or gratifying the Respondent, in violation of § 948.02(1), Stats., which is a class B felony.
- e. One count of having sexual contact with a child who had not attained the age of 13 years (K.M.F., DOB 11/30/89, age 8) for the purpose of sexually arousing or gratifying the Respondent, in violation of § 948.02(1), Stats., which is a class B felony.
- f. One count of having sexual contact with a child who had not attained the age of 13 years (B.E.F., DOB 2/10/92, age 6) for the purpose of sexually arousing or gratifying the Respondent, in violation of § 948.02(1), Stats., which is a class B felony.
- g. One count of having sexual contact with a child who had not attained the age of 13 years (K.A.G., DOB 9/11/90, age 7) for the purpose of sexually arousing or gratifying the Respondent, in violation of § 948.02(1), Stats., which is a class B felony.
- h. One count of having sexual contact with a child who had not attained the age of 13 years (S.L.I., DOB 3/25/92, age 6) for the purpose of sexually arousing or gratifying the Respondent, in violation of § 948.02(1), Stats., which is a class B felony.
- i. One count of having sexual contact with a child who had not attained the age of 13 years (S.A.J., DOB 5/30/91, age 6) for the purpose of sexually arousing or gratifying the Respondent, in violation of § 948.02(1), Stats., which is a class B felony.
- j. One count of having sexual contact with a child who had not attained the age of 13 years (R.S.D., DOB 9/6/89, age 8) for the purpose of sexually arousing or gratifying the Respondent, in violation of § 948.02(1), Stats., which is a class B felony.
- k. One count of having sexual contact with a child who had not attained the age of 13 years (A.N.J., DOB 2/27/90, age 8) for the purpose of sexually arousing or gratifying the Respondent, in violation of § 948.02(1), Stats., which is a class B felony.

l. One count of having sexual contact with a child who had not attained the age of 13 years (S.K.K., DOB 9/22/89, age 8) for the purpose of sexually arousing or gratifying the Respondent, in violation of § 948.02(1), Stats., which is a class B felony.

m. One count of having sexual contact with a child who had not attained the age of 13 years (B.M., DOB 9/13/91, age 6) for the purpose of sexually arousing or gratifying the Respondent, in violation of § 948.02(1), Stats., which is a class B felony.

n. One count of having sexual contact with a child who had not attained the age of 13 years (B.S., DOB 2/20/91, age 7) for the purpose of sexually arousing or gratifying the Respondent, in violation of § 948.02(1), Stats., which is a class B felony.

o. One count of having sexual contact with a child who had not attained the age of 13 years (M.J.S., DOB 7/27/90, age 7) for the purpose of sexually arousing or gratifying the Respondent, in violation of § 948.02(1), Stats., which is a class B felony.

p. One count of having sexual contact with a child who had not attained the age of 13 years (A.W., DOB 12/25/90, age 7) for the purpose of sexually arousing or gratifying the Respondent, in violation of § 948.02(1), Stats., which is a class B felony.

q. One count of having sexual contact with a child who had not attained the age of 13 years (A.M.W., DOB 2/9/91, age 7) for the purpose of sexually arousing or gratifying the Respondent, in violation of § 948.02(1), Stats., which is a class B felony.

r. One count of having sexual contact with a child who had not attained the age of 13 years (M.S., DOB 4/4/90, age 7) for the purpose of sexually arousing or gratifying the Respondent, in violation of § 948.02(1), Stats., which is a class B felony.

4. On June 2, 3, 9 and 11, 1998, a preliminary hearing on the felony charges against Respondent was held in Juneau County Wisconsin Circuit Court, case number 98-CF-54. At the conclusion of the hearing, the court found probable cause in each of the 18 counts and bound Respondent over for trial. Respondent remains free on bond.

5. Respondent's conduct, which resulted in the charges set out in paragraph 3 above, occurred during his employment a school bus driver for Rockview Elementary School in Necedah, Wisconsin.

6. § 948.02(1), Stats, is a law the circumstances of which substantially relate to the practices of a real estate broker .

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Board has jurisdiction over this matter pursuant to § 452.14, Stats.

2. The Wisconsin Real Estate Board has authority to enter into this stipulated resolution of this matter pursuant to § 227.44(5), Stats.

3. Respondent, by having violated § 948.02(1), Stats., in the circumstances of this case, is subject to discipline for having demonstrated incompetency to act as a broker in such a manner as to safeguard the interests of the public under § 452.14(3)(i), Stats. and Wis. Admin. Code § RL 24.17(1).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that John W. Lynch's license as a real estate broker in the state of Wisconsin is hereby REVOKED, effective immediately.

IT IS FURTHER ORDERED THAT John W. Lynch's license as a real estate broker in the state of Wisconsin shall be reinstated immediately, if Respondent provides proof sufficient to the Board of the dismissal of all criminal charges pending against Respondent in Juneau County Wisconsin Circuit Court case number 98-CF-54.

The rights of a party aggrieved by this Decision to petition the Section for rehearing and to petition for judicial review are set forth on the attached "Notice of Appeal Information".

Dated at Madison, Wisconsin this 24th day of Sept., 1998.



James R. Imhoff, Jr., Chair
Real Estate Board

VIC - CHAIR

t:\ej\legal\lynchord.doc

STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :

JOHN W. LYNCH,
RESPONDENT. :

Case No. LS9809246REB

STIPULATION

It is hereby stipulated and agreed, by and between, John W. Lynch, Respondent; and John R. Zwieg, as attorney for the Complainant, Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a pending investigation of Respondent by the Department of Regulation and Licensing, Division of Enforcement on behalf of the Wisconsin Real Estate Board (file 98 REB 108).

2. Respondent understands that by the signing of this Stipulation Respondent voluntarily and knowingly waives Respondent's rights, including: the right to a hearing on the allegations against Respondent, 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 Respondent; the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena; the right to testify; 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 Respondent 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 prior to signing this Stipulation.

4. Respondent neither admits nor denies the allegations in this matter, but agrees to the adoption of the attached Final Decision and Order by the 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.

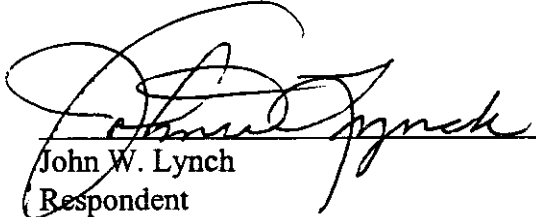
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. Attached to this Stipulation are Respondent's current wall and wallet registration certificates.

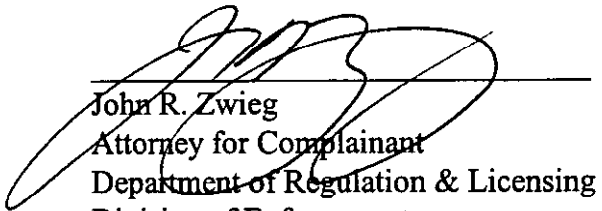
7. The parties to this Stipulation agree that the Respondent; Respondent's attorney; if any, and an attorney for the Division of Enforcement may appear before the Board for the purposes of speaking in support of this agreement and answering questions that the members of the Board may have in connection with their deliberations on the Stipulation.

8. The parties agree to waive all costs of the investigation and this proceeding.

Dated this 3rd day of September, 1998.


John W. Lynch
Respondent

Dated this 2nd day of August, 1998.


John R. Zwieg
Attorney for Complainant
Department of Regulation & Licensing
Division of Enforcement

t:\je\legal\lynchstp.doc

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

In the Matter of the Disciplinary Proceedings Against

John W. Lynch,

AFFIDAVIT OF MAILING

Respondent.

STATE OF WISCONSIN)
)
COUNTY OF DANE)

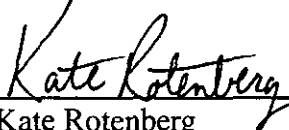
I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

1. I am employed by the Wisconsin Department of Regulation and Licensing.

2. On September 25, 1998, I served the Final Decision and Order dated September 24, 1998, and Guidelines for Brokers Whose Licenses have been Suspended or Revoked, LS9809246REB, upon the Respondent John W. Lynch by enclosing true and accurate copies of the above-described documents 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 Z 233 819 830.

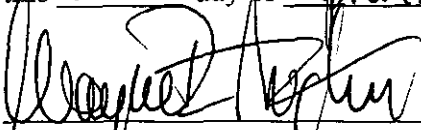
3. The address used for mailing the Decision is the address that appears in the records of the Department as the Respondent's last-known address and is:

John W. Lynch
W5136 Lynch Lane
Necedah WI 54646



Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me
this 28th day of September, 1998.



Notary Public, State of Wisconsin
My commission is permanent.

NOTICE OF RIGHTS OF APPEAL

TO: JOHN W LYNCH

You have been issued an Order. For purposes of service the date of mailing of this Order is 9/25/98. 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 Order 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 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 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 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 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