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STATE OF WISCONSIN

**BEFORE THE REAL ESTATE BOARD
IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST:**

**SCOTT H. PECOR,
RESPONDENT.**

**FINAL DECISION AND ORDER
LS 9810013 REB**

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

Scott H. Pecor
205 North Green Bay Road
Thiensville, WI 53092

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. **Scott H. Pecor** ("Pecor"), date of birth 4/27/56, is licensed in the State of Wisconsin as a real estate broker having license # 90-42454. This license was first granted to him on 6/10/87.
2. Pecor's most recent address on file with the Department of Regulation and Licensing is 205 N. Green Bay Rd. Thiensville, WI 53092. Pecor does business under the name of "North Shore Realty Group".
3. Pecor's real estate broker's license was in an unlicensed status during the time period commencing January 1, 1995 and continuing through April 3, 1995.
4. **Peter W. Knapp**, ("Knapp"), date of birth 10/02/46, was licensed in the State of Wisconsin as a real estate salesperson having license # 94-35289. This license was first granted to him on 4/12/91 and continued in active status until 12/31/94. Currently this license is in inactive status, giving Knapp the right to renew the license without taking an exam. This right continues until 12/31/99, at which time this right will terminate unless exercised prior to that date.
5. Knapp's most recent address on file with the Department of Regulation and Licensing is 11134 Wyngate Trace, Mequon, WI 53092.
6. On, or about, June 17, 1994 Knapp was the owner of certain property located in the Town of Grafton, Ozaukee County, Wisconsin which Knapp had surveyed by registered surveyor Dennis J. Van Sluys. At the request of Knapp, Van Sluys, surveyed and mapped the land into what came to be known as Certified Survey Map Number 2743 of Ozaukee County, Wisconsin, a copy of which is attached hereto as **Exhibit A**, and incorporated herein by this reference.
7. On or about February 22, 1995, Pecor, acting as an agent of Knapp, drafted a WB-13 Vacant Land Offer to Purchase, for the signature of potential buyers Michael J. Cibulka and Betty J. F. Cibulka, whereby the Cibulkas offered to purchase Lot 3 of Certified Survey Map Number 2743. A copy of this offer is attached hereto as **Exhibit B**, and incorporated herein by this reference.
8. Pecor presented the Cibulka offer to Knapp on February 22, 1995 at 6:00 P.M.
9. Knapp accepted the Cibulka offer on February 22, 1995.
10. The Knapp to Cibulka transaction closed on March 3, 1995. A copy of the closing statement for that

transaction is attached as **Exhibit C**, and incorporated herein by this reference.

11. Pecor did not have a written agency agreement with Knapp authorizing Pecor to act as Knapp's agent during the course of this transaction.

12. Immediately prior to the closing of the Knapp to Cibulka transaction, Knapp deeded one-half interest in the property to Pecor. Pecor and Knapp signed the deed to the Cibulkas as grantors.

13. At the time that Pecor drafted the Cibulka offer, and continuing through March 3, 1995, Pecor and Knapp had an oral agreement whereby Pecor would share equally with Knapp in the net profit of the sale of the property being sold to Cibulka. Pecor did not disclose his interest in the property to Cibulka in the offer to purchase or in any other written document.

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14. The offer to purchase drafted by Pecor as agent for seller and signed by Knapp as seller is for a lot in a residential subdivision. The terms of the offer represent that the lot is "holding tank approved". At the time the transaction took place no soil tests had been completed on Lot number 3, the lot being purchased by the Cibulkas. Final soil tests on Lot 3 were not completed until April 1997.

15. The offer to purchase further represents that the seller knew of no planned or commenced public improvements that may result in special assessments or materially affect the property.

16. At the time the offer was drafted and continuing through the date of closing, both Pecor and Knapp knew, or should have known, that an owner of a lot in the subdivision could not be issued a building permit until the road work had been completed and until the quality of the work had been approved by the Township of Grafton. Road work was not completed and approval was not granted until November 1997, or sometime thereafter.

17. Pecor and Knapp failed to hold the earnest money paid by the Cibulkas in a real estate trust account.

18. The Cibulkas found it necessary to secure the services of an Attorney to pursue Knapp and Pecor for the purpose of obtaining the necessary soils testing and final approval of the Township for public road improvements.

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 **Scott H. Pecor** has violated:

a. Sections 452.03 and 452.14(3)(L) of the Wisconsin Statutes by engaging in activities that require a valid real estate brokers license at a time when he was not licensed.

b. Sections 452.14(3)(i), 452.135(I), and 452.14(3)(L) of the Wisconsin Statutes and section RL 24.08 of the Wisconsin Administrative Code by failing to place into writing an agency agreement between himself and the seller.

c. Sections 452.133(3)(b) and 452.14(3)(L) of the Wisconsin Statutes by acting in a transaction on his own behalf and on behalf of a business entity in which he has an interest without the written consent of all parties to the transaction.

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d. Section 452.14(3)(i) of the Wisconsin Statutes and sections RL 24.03(2)(b), RL 24.03(2)(c), and RL 24.08 of the Wisconsin Administrative Code by failing to place into writing material terms relating to the soil tests on the property and relating to the obligations of the seller to complete public improvements to the subdivision prior to any building permits being issued for construction of residential buildings on the property.

e. Sections 452.14(3)(c) and 452.14(3)(i) of the Wisconsin Statutes and section RL 24.07(2) of the Wisconsin Administrative Code, by exaggerating or misrepresenting material facts relating to the status of the soil tests and the status of public improvements required prior to the issuance of building permits on the property.

f. Section 452.14(3)(i) of the Wisconsin Statutes and section RL 18.031 of the Wisconsin Administrative Code, by failing to deposit the earnest money in an authorized real estate trust account.

ORDER

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

IT IS FURTHER ORDERED, that the Wisconsin Real Estate Broker's license of Respondent **Scott H. Pecor**, license number 90-42454 is hereby **SUSPENDED** for a period of six (6) months, commencing thirty (30) days from the date of this Order. During the period of suspension of Respondent's real estate broker's license, Respondent shall not engage in any activities requiring a license under chapter 452 of the Wisconsin Statutes and shall not be granted any other license under the provisions of chapter 452 of the Wisconsin Statutes.

IT IS FURTHER ORDERED, that Respondent **Scott H. Pecor**, within six (6) months of the date of this Order, successfully complete the 36 hour educational requirement for applicants for an original real estate broker's license, as set forth in Chapter RL 25 of the Wisconsin Administrative Code, 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, 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.

IT IS FURTHER ORDERED, that in the event Respondent **Scott H. Pecor**, 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 his real estate broker's license shall be suspended, without further notice, hearing or order of the board, until he has fully complied with all the terms of this Order, and his failure to complete this education and verify it as set forth above shall be considered a violation of this Order by the Board.

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IT IS FURTHER ORDERED, that Respondent **Scott H. Pecor** pay a **FORFEITURE** in the amount of **\$2,000.00** within six (6) months 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 537088935.

IT IS FURTHER ORDERED, that in the event Respondent **Scott H. Pecor** fails to pay the \$2,000.00 forfeiture within the time and in the manner as set forth above, then and in that event, and without further notice to the Respondent **Scott H. Pecor**, his real estate broker shall continue to be 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 his failure to pay the forfeiture shall be considered a violation of this Order by the Board.

IT IS FURTHER ORDERED, that Respondent **Scott H. Pecor** pay partial **COSTS** of this matter in the amount of **\$2,000.00** within six (6) months 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 **Scott H. Pecor** fails to pay costs of \$2,000.00 within the time and in the manner as set forth above, then his real estate broker's license shall remain suspended, without further notice, hearing or 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 file 97 REB 23 1/LS 9810014 REB be, and hereby is, closed as to Scott H. Pecor, and not as to any other respondent.

Dated this 10th day of December, 1998.

WISCONSIN REAL ESTATE BOARD

By: Richard E. Hinsman

A member of the Board

