

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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IN THE MATTER OF THE DISCIPLINARY  
PROCEEDINGS AGAINST

THOMAS J. HARVEY,  
RESPONDENT

FINAL DECISION AND ORDER  
Case Number 97 REB 122

LS\_9812101REB

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

Thomas J. Harvey  
12A305 Nixon Lane  
Apple River IL, 61001

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. **THOMAS J. HARVEY** ("Harvey"), date of birth 4/18/37, is licensed in the State of Wisconsin as a real estate sales person having license # 94-29971. This license was first granted to him on January 9, 1989.
2. Harvey's most recent address on file with the Department of Regulation and Licensing is, 12A305 Nixon Lane, Apple River, Illinois 61001.
3. At all times relevant hereto, Harvey was employed as a real estate salesperson for Jesse McIntyre d/b/a Jesse McIntyre Realtors, 1257 Locust Street, Dubuque, Iowa 52001.
4. On or about November 29, 1995 Harvey, on behalf of McIntyre, obtained a Farm Listing Contract - Exclusive Right to Sell from William E. Leahy, whereby Leahy engaged the services of McIntyre as an agent in the sale of farm land located in LaFayette County, Wisconsin.
5. At the time of listing the property with McIntyre, Leahy, at the request of Harvey, signed a "Notice to clients and customers" wherein Leahy acknowledged that "Jesse McIntyre Realtors" would act only as a seller's agent. Leahy did not consent to multiple representation by Jesse McIntyre Realtors. Harvey also signed this document on behalf of McIntyre.
6. Subsequent to November 29, 1995, Harvey acted as a Buyer's agent in the purchase of the Leahy property without the consent of Leahy.
7. Acting as a Buyer's agent, Harvey obtained knowledge of a second potential purchaser for a portion of the Leahy property and engaged in the showing of the property and drafting of purchase documents as a buyer's agent without informing Leahy and without first obtaining consent from Leahy. During the course of this activity, Harvey, for a commission due to him and McIntyre from a potential purchaser, engaged in unauthorized negotiations between potential purchasers for division of the Leahy property.

#### **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 **Thomas J. Harvey** has violated:

a. Sections 452.133(2)(a), 452.133(3)(a) and 452.14(3)(L) of the Wisconsin Statutes by failing to loyally represent the client interests of William E. Leahy by providing the brokerage services described above to potential purchasers of Leahy property at a time when he had an agency relationship with Leahy which agreement did not allow for multiple representation of clients, and by accepting a commission from a person other than his principal.

b. Sections RL 24.03(2)(c) and 24.08 of the Wisconsin Administrative Code and Sections 452.133(2)(b), 452.133(2)(c) and 452.14(3)(i) of the Wisconsin Statutes by failing to properly and timely disclose to his principal, in writing, all material information known to him regarding potential purchasers of the Leahy property, prior to the time that he provided brokerage services to those potential purchasers and by providing brokerage services to one or more clients or customers without written consent of Leahy.

### **ORDER**

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

IT IS FURTHER ORDERED, that the real estate license of Respondent

Thomas J. Harvey, real estate sales persons license # 94-029971, is hereby **Reprimanded**.

IT IS FURTHER ORDERED, that Respondent Thomas J. Harvey, within six months of the date of this Order, successfully complete one of the following two educational programs:

ONE: The 36 hour prelicensing real estate broker course at an educational institution approved by the Department of Regulation and Licensing; or

TWO: The following two modules from the 72 hour prelicensing course for real estate sales persons:

a. The five hour Listing Agreements module RL 25.03(3)(d), and

b. The fifteen hour Real Estate Contracts module RL 25.03(3)(h),

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. However, in the event that Respondent Thomas J. Harvey successfully completes the entire real estate broker prelicensing course and passes the real estate broker's exam, he may use that education in furtherance of a request to be licensed as a real estate broker in Wisconsin.

IT IS FURTHER ORDERED, that in the event Respondent Thomas J. Harvey fails to successfully complete one of the above two educational requirements within the time and in the manner as set forth above, then and in that event, and without further notice to the Respondent Thomas J. Harvey, his real estate license shall be suspended without further hearing and without further Order of the Board, and said suspension shall continue until further order of the Board.

IT IS FURTHER ORDERED, that Respondent, Thomas J. Harvey, pay a **FORFEITURE** of Five Hundred Dollars (\$500.00), within thirty days of the date of this Order. Payment of this forfeiture shall be made payable to the Wisconsin Department of Regulation and Licensing and mailed or delivered to the Department at PO Box 8935, Madison, WI 53708-8935.

IT IS FURTHER ORDERED, that in the event Thomas J. Harvey fails to pay the \$500.00 forfeiture within the time and in the manner as set forth above, his real estate sales persons license shall be immediately suspended, without further notice, hearing or Order of the Board, and said suspension shall continue until the full amount of said forfeiture have 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 file 97 REB 122 be, and hereby is closed as to Thomas J. Harvey and not as to any other respondent.

Dated this 10th day of December, 1998.

**WISCONSIN REAL ESTATE BOARD**

By: Richard Hinsman

