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IN THE MATTER OF THE DISCIPLINARY
PROCEEDINGS AGAINST

FINAL DECISION AND ORDER

RANDALL G. STUMPF,

95 REB 286

RESPONDENT

LS9812104REB

The parties to this action, for the purpose of Wisconsin Statutes Section 227.53, are:

Randall G. Stumpf
74N2710 Oak Street
Pewaukee, WI 53072

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. Respondent Randall G. Stumpf (D.O.B. 1/9/51), is a licensed real estate broker, having State of Wisconsin License No. 90 35823, originally granted to him on 10/28/85. Mr. Stumpf's last known address on file with the Department of Regulation and Licensing is 74N2710 Oak Street, Pewaukee, WI 53072.
2. Mr. Stumpf was employed, at all pertinent hereto, as a real estate broker by Opportunity Homes, Inc., a licensed real estate company, owned by broker, Mark E. Malec.
3. On or about April 23, 1995, Mr. Stumpf met with Leland and Barbara Martell, (hereafter "Buyers") to show them vacant lots for sale. The seller was Malec Holdings II Ltd., a land development company owned by Mr. Malec. The lots were located at Bristlecone Pines Development in Hartland, Wisconsin.
4. Buyers had inquired about the number of lots sold in the development because they were seeking a real estate investment. Mr. Stumpf stated that a substantial number of lots had been sold (81 of 181 lots available). Buyers were also shown a chart in the broker's business office which depicted numerous lots as "sold." Mr. Stumpf failed to disclose that the purportedly "sold" were not closed sales but revocable options to purchase, known as "lot reservations."
5. Based upon the misrepresentations of Mr. Stumpf about the level of sales, Buyers submitted an Offer to Purchase. **Exhibit 1.** The total purchase price of the lot was \$128,500.00. Buyers tendered \$6,426.00 as earnest money. Buyers were required to sign a Rider attached to the Offer to Purchase prepared by Mr. Stumpf which provided that the earnest money would be deemed fully earned and non-refundable. **Exhibit 1-A.**
6. Approximately one week after submitting the Offer, Buyers discovered that the level of sales in the development was not as described by Mr. Stumpf. Buyers contacted Mr. Stumpf and asked him to explain or clarify his statement about the number of lots in the development which were sold. Mr. Stumpf admitted that only "four" lots were sold with completed closing, the remainder represented as sold had only accepted offers or options to purchase. Upon receiving this information, the Buyers informed Mr. Stumpf that they did not want to proceed with the purchase since the development was not as represented and demanded refund of their earnest money.
7. Buyers subsequently filed a legal action in Waukesha County Circuit Court against Malec Holdings II Ltd., after their efforts to rescind the Offer was denied by seller. The Circuit Court entered judgment against Malec Holdings II, Ltd., in the amount of \$10,047.00. **Exhibit 2.** The judgment awarded damages in the amount of Buyer's earnest money deposit, attorney's fees and costs in the action finding intentional misrepresentation and deceit

by seller's agent induced Buyers to enter into the contract.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Board has jurisdiction to act in this matter pursuant to Section 452.14, Wisconsin Statutes.
2. The Wisconsin Real Estate Board is authorized to enter into the attached Stipulation pursuant to Section 227.44(5), Wisconsin Statutes.
3. Respondent **Randall G. Stumpf** has violated the following:
 - (a) Sections 452.14(3)(b) and (k) of the Wisconsin Statutes and Section RL 24.07(2) of the Wisconsin Administrative Code, by misrepresenting to Buyers the number of lots in the development which were actually "sold."
 - (b) Sections 452.133(c) of the Wisconsin Statutes and Section RL 24.07(2) of the Wisconsin Administrative Code, by failing to disclose all material adverse facts known to the broker in regard to the number of sold lots in the development.
 - (c) Sections 452.14(3)(i) of the Wisconsin Statutes and Sections RL 16.04, RL 16.06, by using a non-approved form as a Rider to the Offer to Purchase.

ORDER

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

IT IS FURTHER ORDERED, that Respondent Randall G. Stumpf, Real Estate Broker, License No. 90 35823 is **REPRIMANDED**.

IT IS FURTHER ORDERED that Respondent Randall G. Stumpf, within twelve (12) months of the date of this Order, successfully complete the following course modules from the Real Estate Brokers Course at an educational institution approved by the Department of Regulation and Licensing:

- a. The two hour contracts module (RL 25.02 (2)(a)).
- b. The four hour approved forms module (RL 25.02(2)(b))
- c. The four hour ethical real estate practice module (RL 25.02(2)(g))

and that Respondent provides 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 the continuing education requirements that are or may be instituted by the Board or the Department of Regulation and Licensing.

IT IS FURTHER ORDERED, pursuant to Section 452.14(4m) of the Wisconsin Statutes, that Respondent, Randall G. Stumpf, shall be assessed a forfeiture in the amount of \$250.00 payable in installments not to exceed one year from date of the Final Decision and Order.

IT IS FURTHER ORDERED, that in the event that Respondent, Randall G. Stumpf, fails to comply with the education or forfeiture payment as required above, his real estate licenses shall be suspended, without further notice, hearing or order of the Board, until such compliance is demonstrated.

IT IS FURTHER ORDERED Division of Enforcement Case File 95 REB 286 is hereby closed as to Respondent Randall G. Stumpf.

Dated this 10th day of December, 1998.

WISCONSIN REAL ESTATE BOARD

By: Richard Hinsman

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