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STATE OF WISCONSIN

BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF THE DISCIPLINARY

PROCEEDINGS AGAINST

KEVIN S. BAHE,

RESPONDENT.

FINAL DECISION AND ORDER

Case Number 98 REB 109

LS 9905274REB

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

*Kevin S. Bahe
W5641 Rolling Acres
Monroe, WI 53566*

*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. KEVIN S. BAHE ("Bahe"), is licensed in the State of Wisconsin as a real estate broker having license # 90-47296. This license was first granted to him on January 27, 1994. Prior to holding a real estate broker license, Bahe was licensed as a real estate sales person in Wisconsin commencing October 17, 1992.
2. Bahe's most recent address on file with the Department of Regulation and Licensing is, W5641 Rolling Acres, Monroe, WI 53566.
3. Bahe does business under the trade name of Bahe Realty & Associates and previously did business as Bahe Realty and as Sunshine/Bahe Realty.

TRUST ACCOUNT VIOLATIONS

4. On or about October 16, 1998, October 28, 1998 and November 6, 1998, Xiaodong Li, a compliance auditor for the Division of Enforcement, performed an audit on the Real Estate Trust Account records of Bahe.
5. Li found that Bahe was out of compliance with numerous trust account requirements. A copy of Form 344 drafted by Li and signed by Bahe is attached hereto as **Exhibit A**, and is hereby incorporated herein by this reference. Form 344 describes the violations found by Li.

TRANSACTION VIOLATIONS

6. On or about February 24, 1998 Joshua O. Sullivan and Deanna D. Sullivan, as Buyers, and Terry L. Stephenson

and Constance R. Stephenson, as Sellers, entered into a purchase contract for the sale of the Stephenson home located at 602 13th Street, Brodhead, Wisconsin. The terms of this contract called for a closing no later than April 15, 1998 and occupancy to the Buyers at the time of closing.

7. Bahe was the listing broker for the Stephensons. Barb Krattiger, of Towne Square Realty of Monroe, was the selling broker.

8. The purchase contract states, in part that "TIME IS OF THE ESSENCE as to: . . . occupancy; (4) date of closing . . . and all other dates and deadlines . . . except: none"

9. At some time prior to April 6, 1998 and subsequent to March 5, 1998, Bahe indicated to Krattiger that the Sellers wanted to postpone the closing to April 30, 1998. Krattiger informed the buyers of this request and was told by the buyers that they needed possession at the April 15, 1998 closing and would not postpone the closing. Buyers further stated that sellers could use the garage and sun porch for storage until April 18. Krattiger informed Bahe of this. Bahe then called Krattiger and asked if buyers could rent storage and delay closing until April 30, 1998 and Krattiger informed him that they could not.

10. On April 6, 1998 Bahe sent a fax to Krattiger. This fax is attached hereto as **Exhibit B**, and is hereby incorporated herein by this reference.

11. The April 6 fax from Bahe contained the following under PART II; NOTICE RELATING TO CONTRACT OF SALE, *"Notice is given that: Sellers need to extend closing date to on or before April 30th 1998"* This notice bears the signatures of the Sellers only and is dated April 5th, 1998.

12. In response to the fax, Krattiger informed Bahe that the Buyers would not change the closing date and that closing was to take place on April 15, 1998. Krattiger further informed Bahe that the sellers could not change the terms of the purchase contract without the consent of the buyers and that the buyers did not consent to the requested change.

13. On April 14, 1998 Bahe called Krattiger and stated to her that the Sellers would not be moving out at closing and that the buyers could move into the basement after closing. Krattiger again informed Bahe that the contract required the sellers to transfer occupancy to buyers at closing on April 15.

14. At the closing on April 15, 1998 the sellers were asked if they were out of the home and the sellers said no. The sellers further stated that they did not intend to move out until April 18. The sellers further said that they did not understand the offer as requiring the closing and the change of occupancy to take place on the same day. In support of the sellers' position, Bahe presented the April 6 fax which was signed only by the sellers. Bahe was again informed that one party cannot change the terms of a purchase contract without the consent of the other party.

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 **Kevin S. Bahe** has violated:

a. Section 452.14(3)(i) of the Wisconsin Statutes by failing to maintain a bookkeeping system for his Wisconsin Real Estate Trust account in compliance with sections RL 18.13(1), 18.13(2), 18.13(3), 18.13(4), 18.13(5), 18.09(3) and 18.10 of the Wisconsin Administrative Code.

b. Sections 452.14(3)(i) and 452.133(1)(b) of the Wisconsin Statutes and sections RL 24.03(2)(c) and 24.08 of the Wisconsin Administrative Code by failing to be knowledgeable regarding laws on real estate matters, by failing to appropriately assist, guide and advise his clients based upon these factors, and by failing to draft an appropriate document for the signature of all parties to the transaction relating to the date of closing and the date of occupancy.

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

Kevin S. Bahe, real estate broker license # 90-47296, is hereby **REPRIMANDED**.

IT IS FURTHER ORDERED, that Respondent Kevin S. Bahe, within six months of the date of this Order, successfully complete the following course modules from the Real Estate Broker's 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 five hour trust accounts, escrow, closing statement module (RL 25.02(2)(c)), 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, Kevin S. Bahe 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 complied with the terms of this Order.

IT IS FURTHER ORDERED, that Respondent, Kevin S. Bahe, pay partial costs of this matter in the amount of Three Hundred Dollars (\$300.00), within thirty days of the date of this Order. Payment of costs 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 Kevin S. Bahe fails to pay the \$300.00 costs within the time and in the manner as set forth above, his real estate broker's 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 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 98 REB 109 be, and hereby is closed.

Dated this 27th day of May, 1999.

WISCONSIN REAL ESTATE BOARD

By: Richard Hinsman