

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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**STATE OF WISCONSIN**  
**BEFORE THE REAL ESTATE BOARD**

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**IN THE MATTER OF THE DISCIPLINARY**  
**PROCEEDINGS AGAINST**

**DIANE C. GUSTIN,**  
**RESPONDENT.**

**FINAL DECISION AND ORDER**  
**97 REB 294**  
**LS991028REB**

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

*Diane C. Gustin*  
*W 13210 Beechnut Drive*  
*Wautoma, WI 54982*

*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. **Diane C. Gustin** ("Gustin"), date of birth 5/30/53, is licensed in the State of Wisconsin as a Real Estate Broker having license # 90-3598. This license was first granted to her on 5/1/80.
2. Gustin's most recent address on file with the Department of Regulation and Licensing is W13210 Beechnut Drive, Wautoma, WI 54943. Gustin was employed at all times relevant to the transaction described herein, as a broker with the Eagan Agency, a licensed real estate firm, in Wautoma, Wisconsin.
3. On May 11, 1995, Gustin prepared a WB-1 Residential Listing Contract- Exclusive Right to Sell for Craig Staffeldt, the owner of property located at 205 W. Division Street, Hancock, Wisconsin. The listing contract form was completed in its entirety except for the property description at lines 4 and 5 which contained the handwritten notation "exact legal to follow."
4. Subsequent to the preparation of the WB-1 form, Gustin prepared the property advertisements and specification sheets. These documents described the lot or acreage of the Staffeldt property as "2.5 acres." Exhibit 1.
5. On or about July 1, 1995, Roger and Pamela Reany went to the Eagan Agency inquiring about property for sale. The couple was told about the Staffeldt property, a place in Hancock, Wisconsin. The property information

sheet given to the couple described a 3 bedroom mobile home "in a quiet location near Hancock on 2 1/2 acres

6. Scott M. Eagan, a licensed sales person with Eagan Agency, handled the showing. In response to questions by the couple about the location of the lot lines, Eagan went to the recorder's office and obtained a copy of the certified survey map. The lot size was not checked for accuracy by Gustin or Eagan before it was given to the couple.

7. On or about July 1, 1995, an Offer To Purchase was drafted by Eagan, acting as agent for seller. The Offer to Purchase was presented to the seller by Gustin on July 1, 1995 and accepted by the sellers on July 2, 1995.

8. The closing occurred on July 29, 1995. The buyers received a copy of the survey at closing but they could not determine the size of the lot from the information in the survey map. Exhibit 2.

9. Approximately 3 months after closing, Roger Reany cut down some trees on what he thought was his property. His neighbor, Eugene Stance, claimed that Reany had cut down the trees on his property and showed Reany a survey which revealed the trees were on his property. The Reanys discovered subsequently that the property they had purchased was only .83 acres and not 2.5 acres.

10. A complaint was filed with the Department of Regulation and Licensing and an investigation was commenced by the Division of Enforcement. As a pre-condition to the informal settlement of the disciplinary complaint, the parties agreed that Gustin and Eagan would take specific education and training in calculating acreage at their own expense. Verification of the successful completion of the training and proficiency in calculating acreage by the licensees was received from the expert witness who conducted the training. An out-of court settlement was reached whereby the buyers received financial compensation from the Eagan Agency for the additional acreage which they had purchased from the adjacent landowner.

### 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 **Diane C. Gustin** has violated:

a. Section 452.133(1)(b) and (c) Section 452.14(3)(b), and 452.14(3)(i)

of the Wisconsin Statutes and Section RL 24.03(2)(b), 24.04(1),

and RL 24.07(1)(b) of the Wisconsin Administrative Code.

### ORDER

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

IT IS FURTHER ORDERED, that Respondent **Diane C. Gustin**, Real Estate Broker License # 90 23598, is hereby **Reprimanded**,

IT IS FURTHER ORDERED, that Respondent **Diane C. Gustin**, pay partial costs of \$500.00, within 30 days 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 Respondent **Diane C. Gustin** fails to pay the \$500.00 partial costs within the time and in the manner as set forth above, her real estate license shall be suspended without further hearing and without further 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. Failure to pay the costs shall be considered a violation of this Order by the Board.

IT IS FURTHER ORDERED, that Respondent **Diane C. Gustin**, within six months of the date of this Order, successfully complete a specialized training in calculation of acreage as required by the Board, and as evidenced by receipt of letter from the designated instructor, chosen by the Board, in addition to 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 three hour Legal Descriptions module RL 25.03(3)(f).

b. The four hour Ethical Real Estate Practices module RL 25.03(3)(m).

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.

IT IS FURTHER ORDERED, that in the event Respondent **Diane C. Gustin** fails to successfully complete the educational requirements within the time and in the manner as set forth above, her real estate broker's 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 file 97 REB 294 is hereby closed.

Dated this 28th day of October, 1999.

**WISCONSIN REAL ESTATE BOARD**

By: Richard E. Hinsman

A member of the Board