

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

In the Matter of Disciplinary Proceedings
Against

DONALD H. MUELLER

Respondent.

FINAL DECISION
AND ORDER

LS9901111REB

The State of Wisconsin Real Estate Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is ordered that the Proposed Decision annexed hereto with the CONCLUSIONS OF LAW corrected as described below, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin Real Estate Board.

IT IS FURTHER ORDERED That Conclusions of Law No. 2 and No. 4 in the Proposed Decision annexed hereto be amended to correct typographical errors and that the CONCLUSIONS OF LAW as amended shall state as follows:

CONCLUSIONS OF LAW

1. The real estate board has jurisdiction in this matter pursuant to sec. 452.14, Stats.
2. In having failed to deposit the earnest money funds held by him into an interest bearing common trust account, respondent has violated sec. 452.13(2)(c), Stats., and sec RL 18.031(3)(a), Code.
3. In having failed to notify the seller in this transaction of his long-term relationship with Ms. Woelffer and of their intent to be cohabitants of the condominium unit being purchased, respondent acted on his own behalf without the prior written consent of all parties to the transaction, in violation of sec. RL 24.05(2), Code.
4. In having failed to notify either Ms. Reilly or Ms. Luell that respondent and Ms. Woelffer had been shown the property twice during the period when Ms. Luell had an exclusive listing contract on the property, respondent has failed to provide brokerage services to all parties to the transaction honestly, fairly and in good faith, in violation of sec. 452.133(1)(a), Stats.

IT IS FURTHER ORDERED That the suspension for a period of 90 days as ordered herein shall commence on the tenth day following the signing of this order as indicated below.

Explanation of Correction or Variance.

The Real Estate Board has accepted the Findings of Fact, Conclusions of Law and Order recommended by the Administrative Law Judge in his Proposed Decision, and agrees with the reasoning set forth detailing the necessity for taking such action in this case. The only change is the final order is to correct typographical errors in the proposed decision. Paragraph 2. of the Conclusions of Law is amended to correct the citation to sec. RL 18.031(3)(a) Code. Paragraph 4. is corrected to reference a violation of sec. 452.133(1)(a), Stats. in accordance with the proposed decision of the Administrative Law Judge on page 10, where Conclusion of Law #4 is quoted.

Affidavits of Costs

The Division of Enforcement and Administrative Law Judge are hereby directed to file their affidavits of costs with the Department General Counsel within 15 days of this decision. The Department General Counsel shall mail a copy thereof to respondent or his or her representative.

Appeal Information

The rights of a party aggrieved by this decision to petition the department for rehearing and to petition for judicial review are set forth in the attached "Notice of Appeal Information."

Dated this 9th day of February 2000.

State of Wisconsin
Real Estate Board

by Cletus J. Hansen, Administrator,
Division of Business Licensure and Regulation