

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JOHNNIE D. BOND,

WISCONSIN FINANCIAL AND

REALTY SERVICES, INC., and

WISCONSIN REALTY &

FINANCIAL SERVICES, INC.,

RESPONDENTS.

FINAL DECISION

AND ORDER

LS9910211REB

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 hereby ordered that the Proposed Decision annexed hereto, 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.

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.

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

Dated this 27th day of January, 2000.

James Imhoff, Jr.

Member of the Board

STATE OF WISCONSIN

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IN THE MATTER OF THE DISCIPLINARY

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JOHNNIE D. BOND,
WISCONSIN FINANCIAL
AND REALTY SERVICES, INC., and
WISCONSIN REALTY &
FINANCIAL SERVICES LLC
RESPONDENTS

PROPOSED DECISION

AND ORDER

LS 9910211 REB

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PARTIES

The parties to this action for the purposes of section 227.53 Stats., are:

*Johnnie D. Bond
4701 West Woolworth Ave.
Milwaukee, WI 53218*

*Wisconsin Financial and Realty Services, Inc.
P.O. Box 06662
Milwaukee, WI 53206*

*Wisconsin Realty & Financial Services, LLC
4701 West Woolworth Ave.
Milwaukee, WI 53218*

*Charles J. Howden
Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, Wisconsin 53708-8935*

PROCEDURAL HISTORY

A hearing in the above-captioned matter was held on December 14, 1999, before Administrative Law Judge William A. Black. The Division of Enforcement appeared by Attorney Charles J. Howden. The respondents did not appear.

Based on the entire record of this case, the undersigned administrative law judge recommends that the Real Estate Board adopt as its final decision in this matter, the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. Johnnie D. Bond, date of birth March 18, 1952, is licensed in the state of Wisconsin as a real estate broker, having license #90-48239. This license was first granted to him on December 6, 1995.
2. Bond's most recent address on file with the Department of Regulation and Licensing is 4701 West Woolworth Avenue, Milwaukee, WI 53218.
3. Wisconsin Financial and Realty Services, Inc., ("WFRS"), is a Wisconsin Corporation and is licensed as a Real Estate Corporation having Wisconsin license #91-834853. This license is currently in a non-renewed status. WFRS has the right to renew this license upon payment of a late fee and the renewal credential fee pursuant to

section 440.08(3) of the Wisconsin Statutes. The most recent address on file for WFRS with the Department of Regulation and Licensing is P.O. Box 06662, Milwaukee, WI 53206.

4. Wisconsin Realty & Financial Services, LLC., ("WR&FS"), is a Wisconsin Limited Liability Corporation and is licensed as a Real Estate Corporation having Wisconsin license #91-700073. The most recent address on file for WR&FS with the Department of Regulation and Licensing is 4701 West Woolworth Ave., Milwaukee, WI 53218.

5. At the time of the acts complained of, the respondent, Bond, was president of WFRS.

6. At the time of the acts complained of, the respondent, Bond, was president and owner of WR&FS.

7. On or about July 2, 1999, respondent Bond, was found guilty in Case No. 99-CR-073 in the United States District Court for the Eastern District of Wisconsin of a scheme to defraud mortgage lenders, investors, and the City of Milwaukee, by obtaining loan proceeds on real estate transactions using nominee borrowers, falsified financial information, and artificially inflated purchase prices, to wit:

a. Conspiracy in violation of Title 18, United States Code, section 371;

b. Interstate transmitting of funds in violation of Title 18, United States Code, sections 2 and 2314; and

c. Interstate transmitting of funds in violation of Title 18, United States Code, sections 2 and 2314.

8. The respondents were validly served pursuant to statute.

CONCLUSIONS OF LAW

1. The Real Estate Board has jurisdiction in this matter pursuant to section 452.14, Stats.

2. By failing to file an Answer as required by Wis. Admin. Code RL 2.09, and by failing to appear at the hearing, the respondents are in default under Wis. Admin. Code RL 2.14, and the Real Estate Board may make findings and enter an order on the basis of the Complaint and the evidence presented at the hearing.

3. The respondent, Bond, has violated sections 452.14(3)(i), and (k), Stats, and Wis. Adm. Code section RL 24.17(2).

4. The respondent, Bond, was at the times relevant hereto, a business representative of WFRS and WR&FS, as defined in section 452.01(3k), Stats.

5. Respondents WFRS, and WR&FS are subject to discipline pursuant to section 452.14(4), Stats.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that the licenses of respondents Johnnie D. Bond, #90-48239; Wisconsin Financial and Realty Services Inc., #91-83453; and Wisconsin Realty & Financial Services, LLC., #91-700073 be Revoked, along with any right to renew. Costs to Complainant.

OPINION

Section RL 2.14 of the Wisconsin Administrative Code provides that a respondent who fails to answer a complaint or fails to appear at a hearing is in default. If found to be in default, the disciplinary authority may make findings and enter an order on the basis of the complaint and other evidence against the respondent. In this case, after proper service the respondents did not file an answer to the above-captioned complaint, nor appear at the scheduled hearing. As a result, the respondents are in default.

Violation of sections 452.14(3)(i)(k), Stats by respondent Bond

Sections 452.14(3)(i)(k), Stats. provide for the discipline of a licensee where the licensee has:

"(i) Demonstrated incompetency to act as a broker, salesperson or time-share salesperson in a manner which safeguards the interests of the public;

(k) Been guilty of any other conduct, whether of the same or a different character from that specified herein, which constitutes improper, fraudulent or dishonest dealing."

Bond, has been found guilty of fraudulent and dishonest dealing, which also constitutes incompetence based upon his scheme to defraud mortgage lenders, investors, and the City of Milwaukee. Bond obtained loan proceeds on real estate transactions using nominee borrowers, falsified financial information, and artificially inflated purchase prices. Such conduct supports a finding of fraudulent, dishonest and incompetent business practices in the use of his license.

Violation of Wis. Adm. Code section RL 24.17(2) by respondent Bond

Wis. Adm. Code section RL 24.17(2) provides in part:

"(2) Conviction. The board may discipline a licensee on the basis of a conviction of any crime, the circumstances of which substantially relate to the practice of real estate..."

The circumstances of Bond's violation of law substantially relate to his practice as a real estate broker. The exact same circumstances which constitute a violation of Wis. Adm. Code section RL 24.17(2), and sections 452.14(3)(i)(k), Stats., also are the circumstances which satisfy the factual elements of the crimes for which Bond was convicted. Bond used his real estate broker license to commit fraud. In this instance, therefore, Bond as a licensed real estate broker is the specific person contemplated whom, while subject to the rules of professional practice, can actually violate both a practice rule and a statutory fraud law by the same act. Bond has done so here. The abuse of his position of public trust as a licensed real estate broker also violated criminal law.

Wisconsin Financial and Realty Services Inc., and Wisconsin Realty & Financial Services, LLC., are subject to discipline pursuant to section 452.14(4), Stats.

Bond is a business representative of WFRS owing to his status as an officer and of WR&FS owing to his status as an officer and owner. Section 452.01(3k), Stats. By statute, it is sufficient cause for revocation of a business entity license where any business representative of the business entity, has been guilty of any act or omission which would be cause for refusing a broker's license to such person as an individual. Section 452.14(4). Bond's violation of section 452.14(3)(i), Stats., amounts to demonstrated incompetence for which the board may refuse licensure in the interest of safeguarding the public. Section 452.09(1)(e), Stats.

The final issue here is the appropriate discipline for the respondents keeping in mind the nature of the charges and the pattern and practice of his activities leading to this proceeding. Revocation of the respective respondents' licenses has been recommended. It is well established that the objectives of professional discipline include the following: (1) to promote the rehabilitation of the licensee; (2) to protect the public; and (3) to deter other licensees from engaging in similar conduct. *State v. Aldrich*, 71 Wis. 2d 206, 209 (1976). Punishment of the licensee is not an appropriate consideration. *State v. McIntyre*. 41 Wis. 2d 481, 485 (1969).

There is nothing in the record to suggest that imposing any discipline short of revocation would have a rehabilitative effect on the respondents or that there is an interest in being rehabilitated. The respondents have not come forward to show remorse, an explanation, or cooperation with the board in this matter.

Absent some mitigating evidence (of which none has been presented), imposing anything less than revocation would not aid in deterrence. To not revoke the respondents' licenses would instead wrongly signal others to engage in similar conduct without consequence. Revocation remains as the only way in which to safeguard the public.

Dated at Madison, Wisconsin, this 6th day of January, 2000.

STATE OF WISCONSIN

DEPARTMENT OF REGULATION & LICENSING

William Anderson Black /Administrative Law Judge

