

# 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:**

**BHW, INC., and GARY H. BAILLARGEON,**

**RESPONDENTS**

**FINAL DECISION AND ORDER**

**LS0203281REB**

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

BHW, Inc.

P.O. Box 286

New Richmond, WI 54017

Gary H. Baillargeon

1206 Pine Crest Drive #9

New Richmond, WI 54017

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. **BHW, Inc.**, (BHW) is licensed as a real estate corporation having State of Wisconsin license number 91-834185. This license was first granted to it on November 1, 1991. BHW's most recent address on file with the Department of Regulation and Licensing is P.O. Box 286, New Richmond, WI 54017. BHW's street address is 1237 North Knowles, New Richmond, Wisconsin. The president of BHW is David J. Hicks, licensed real estate broker number 90-1124.

2. **Gary H. Baillargeon** (Baillargeon), date of birth September 1, 1939, is licensed in the State of Wisconsin as a real estate broker having license number 90-44564. This license was first granted to him on January 1, 1991. Baillargeon's most recent address on file with the Department of Regulation and Licensing is 1206 Pine Crest Drive #9, New Richmond, WI 54401.

3. Baillargeon owns 50 percent of BHW, is the manager of BHW and is a "business representative" of BHW as that term is used in chapter 452 of the Wisconsin Statutes.

4. At all times material hereto, Baillargeon was the licensed real estate broker responsible for maintaining the Real Estate Trust Account records of BHW in compliance with the laws of the State of Wisconsin. Baillargeon assigned the task of keeping the real estate trust account books to a non-licensed person under his supervision.

5. On or about September 25, 2001, Gene Kleinert, an auditor of the Department of Regulation and Licensing, conducted a compliance audit on BHW's real estate trust account records. During this audit, Gene Kleinert discovered discrepancies in the real estate trust records. These discrepancies are detailed in form 344, a copy of which is attached hereto as **Exhibit A** and hereby made a part of this document by this reference.

6. Audits of BHW records previously performed by Gene Kleinert on July 12, 1994 and September 8, 1994 found similar discrepancies. A copy of the 1994 form 344 is attached hereto as **Exhibit B** and hereby made a part of this document by this reference.

### CONCLUSIONS OF LAW

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

2. The Wisconsin Real Estate Board is authorized to enter into the attached Stipulation pursuant to section 227.44(5), Wis. Stats.

3. Respondent **Gary H. Baillargeon**, license 90-44564, has violated:

Sections RL 18.13(5) and RL 18.09 of the Wisconsin Administrative Code and section 452.14(3)(I) of the Wisconsin Statutes by failing to have performed required monthly account reconciliation of the real estate trust account and by failing to disburse trust funds in a timely and appropriate manner.

4. Respondent **BHW, Inc.**, license 91-834185, is subject to discipline pursuant to section 452.14(4) of the Wisconsin Statutes.

### ORDER

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

IT IS FURTHER ORDERED, that Respondent **Gary H. Baillargeon**, license #90-44564, is hereby **REPRIMANDED**.

IT IS FURTHER ORDERED, that Respondent **Gary H. Baillargeon**, within six months of the date of this Order, successfully complete the following course modules from the real estate broker prelicensing course at an educational institution approved by the Department of Regulation and Licensing:

a) Trust Accounts, escrow, closing statement, RL 25.02(2)(c) of the Wisconsin Administrative Code; and

b) Financial and office management, RL 25.02(2)(e) of the Wisconsin Administrative Code; and

c) Personnel, RL 25.02(2)(f) of the Wisconsin Administrative Code,

and submit proof of the same in the form of written verification from the institution providing the education directed 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 **Gary H. Baillargeon** fails to successfully complete the educational requirements within the time and in the manner as set forth above, then and in that event, and without further notice to the Respondent **Gary H. Baillargeon**, his real estate 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 Respondent **Gary H. Baillargeon** pay partial **COSTS** of this matter in the amount of **Four Hundred Dollars (\$400.00)** within thirty (30) days of the dated of this Order by making payment of the same.

IT IS FURTHER ORDERED, that in the event **Gary H. Baillargeon** fails to pay costs of \$400.00 within the time and in the manner as set forth above, then his real estate broker's license shall be suspended, without further notice, hearing or order of the Board, and said suspension shall continue until the full amount of said costs has 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 IF FURTHER ORDERED, that Respondent, **BHW, Inc.**, license #91-834185 pay a **FORFEITURE** of **One Thousand Dollars (\$1,000.00)**, within thirty days of the date of this Order. Payment of this forfeiture shall be made payable to the Wisconsin Department of Regulation and Licensing and mailed or delivered to the Department at P.O. Box 8935, Madison, WI 53708-8935.

IT IS FURTHER ORDERED, that in the event **BHW, Inc.**, fails to pay the \$1,000.00 forfeiture within the time and in the manner as set forth above, its real estate 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 forfeiture has been paid to the Department of Regulation and Licensing, and its failure to pay the forfeiture shall be considered a violation of this Order by the Board.

IT IS FURTHER ORDERED, that Respondent **BHW, Inc.**, pay partial **COSTS** of **Four Hundred Dollars (\$400.00)**, 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 **BHW, Inc.**, fails to pay the \$400.00 costs within the time and in the manner as set for the above, then and in that event, and without further notice to the Respondent **BHW, Inc.**, its 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 has been paid to the Department of Regulation and Licensing and its failure to pay the costs shall be considered a violation of this Order by the Board.

IT IS FURTHER ORDERED, that investigative file 01 REB 295 be, and hereby is, closed as to all respondents.

Dated this 28<sup>th</sup> day of March, 2002.

**WISCONSIN REAL ESTATE BOARD**

James Imhoff, Jr.

A Member of the Board