

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF THE DISCIPLINARY

PROCEEDINGS AGAINST:

DONALD H. SUKOWATEY

RESPONDENT

FINAL DECISION AND ORDER

LS0205233REB

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

Donald H. Sukowatey

126 2nd St.

Hudson, WI 54016

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. Donald H. Sukowatey ("Sukowatey"), date of birth 11/02/51, is licensed in the state of Wisconsin as a real estate broker having license # 90-10811. This license was first granted to him on 04/25/75. Sukowatey's most recent address on file with the Department of Regulation and Licensing is 126 2nd St., Hudson, WI 540196.
2. At all times relevant to the facts contained herein Sukowatey was the broker for real estate firm Coldwell Banker 1st Choice located at 126 2nd St., Hudson, WI 540196.
3. On or about February 7, 2002, Gene Kleinert, an auditor with the Department of Regulation and Licensing, conducted an audit of Coldwell Banker 1st Choice trust account records and transaction files. During the audit Kleinert discovered certain discrepancies in the firm's real estate trust account and detailed those discrepancies on a Department form 344. A copy of that form 344 is attached as **Exhibit 1** and is hereby incorporated into this document.
4. The discrepancies found in Coldwell Banker 1st Choice bookkeeping system include:
 - a. Ledger entry dated July 12, 1993, shows \$500.00 earnest money received from Jennifer Schwalm and ledger entry dated August 6, 1996, shows \$1,000.00 earnest money received from Tammy Marsh.

This money was never disbursed and remained in the trust account until the audit date. These funds have since been properly disbursed. A copy of the applicable ledger page is attached as **Exhibit 2** and is incorporated herein by reference.

b. The auditor found no evidence of any monthly trial balances, or validations having been performed from January 1, 1999, through February 7, 2002.

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 **Donald H. Sukowatey** has violated:
 - a. Sections 452.14(3)(h) and 452.14(3)(i) of the Wisconsin Statutes by failing to disburse trust funds within a reasonable time.
 - b. Sections RL 18.13(4) and RL 18.13(5) of the Wisconsin Administrative Code and section 452.14(3)(i) of the Wisconsin Statutes by failing to prepare monthly trial balances, and perform validations from January 1, 1999, through February 7, 2002.

ORDER

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

IT IS FURTHER ORDERED, that Respondent **Donald H. Sukowatey**, license # 90-48923, be, and hereby is, **REPRIMANDED**.

IT IS FURTHER ORDERED, that Respondent **Donald H. Sukowatey**, within six months of the date of this Order, successfully complete the following course modules from the 36 hour pre- licensing real estate broker's course at an educational institution approved by the Department of Regulation and Licensing:

- a. Trust Accounts, Escrow, Closing Statement-module RL 25.02(2)(c).
- b. Business Ethics-module RL 25.02(2)(g).

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 **Donald H. Sukowatey** 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 **Donald H. Sukowatey** 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 **Donald H. Sukowatey**, pay partial costs of this matter in the amount of \$750.00, within 60 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 **Donald H. Sukowatey** fails to pay the \$750.00 partial costs within the time and in the manner as set forth above, then and in that event, and without further notice to the Respondent **Donald H. Sukowatey**, his 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 and his failure to pay the costs shall be considered a violation of this Order of the Board.

IT IS FURTHER ORDERED, that file 02EB050 be, and hereby is, closed.

Dated this 23rd day of May, 2002.

WISCONSIN REAL ESTATE BOARD

James Imhoff, Jr.

A member of the Board