

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 :
: FINAL DECISION AND ORDER

MELVYN F MUELLER & MUELLER
:
LS0209262REB

REALTY AND AUCTION SERVICE :
INC., RESPONDENTS. :

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

Melvyn F. Mueller
404 State St.
Neillsville, WI 54456

Mueller Realty & Auction Service Inc.
211 E. Division St.
Neillsville, WI 54456

Wisconsin Real Estate Board
P.O. Box 8935
Madison, WI 53708-8935

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. **Melvyn F. Mueller** ("Mueller"), date of birth 04/03/41, is licensed in the State of Wisconsin as a real estate broker having license # 90-35257. This license was first granted to him on 08/14/85. Mueller's most recent address on file with the Department of Regulation and Licensing is, 404 State St., Neillsville, WI 54456.
2. Mueller Realty and Auction Service Inc. is licensed in the State of Wisconsin as a real estate business entity having license # 91-834425. This license was first granted on June 28, 1993. Mueller Realty and Auction Service Inc's most recent address on file with the Department of Regulation and Licensing is 211 E. Division St., Neillsville, WI 54456.
3. Mueller and Mueller Realty and Auction Service were the subject of a disciplinary action taken by the Real Estate Board on October 26, 2000. Mueller and Mueller Realty and Auction Service received a reprimand. Mueller was ordered to complete remedial education within six months of the date of the Order and pay partial costs of \$250.00. A copy of the Order is attached as **Exhibit 1** and is incorporated herein by reference.
4. In June 2001, Mueller requested that the Real Estate Board grant him an extension of time in order to obtain the required education. On June 29, 2001, the Board granted an extension. The Board gave Mueller until August 31, 2001, to complete the education required on the Order. A copy of the Order Granting Extension Of Time To Complete Education is attached as **Exhibit 2** and is incorporated herein by reference.
5. On or about September 27, 2001, Mueller requested another extension of time to complete the required education. The Board denied his request for another extension. By letter dated September 27, 2001, the Department Monitor, Marlene Meyer, notified Mueller of the denial. The letter also informed Mueller that his license was suspended and that he was "no longer able to perform or provide any services or duties of a licensed real estate individual," and to forward his license to the Department by October 8, 2001. A copy of the letter to Mueller dated September 27, 2001, is attached as **Exhibit 3** and is incorporated herein by reference.
6. On or about October 11, 2001, Meyer notified Mueller a second time that his license was suspended and to forward his license to the Department. A copy of the letter dated October 11, 2001, is attached as **Exhibit 4** and is incorporated herein by reference.
7. Mueller denies receiving the two letters from the Department.
8. On or about November 5, 2001, Mueller forwarded to the Department documentation showing the completion of the required education. The Real Estate Board considered this information at their January 24, 2002, meeting. The Board granted Mueller full licensure.
9. During the time frame that Mueller's license was suspended (September 27, 2001, through January 23, 2002), Mueller continued to practice real estate and was involved in at least 4 closings as exemplified in paragraph 10 below.
10. On or about December 6, 2001, Mueller drafted a Residential Offer To Purchase document on behalf of John and Carol Trunkel for the property located at W8255 Spencer Rd., Hendren, WI. The offered price

was \$82,000.00. Earnest money in the amount of \$1,000.00 was to be paid within 5 days of acceptance. Closing was to take place no later than January 4, 2002. A copy of the Residential Offer To Purchase is attached as **Exhibit 4** and is incorporated herein by reference.

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. Respondents **Melvyn F. Mueller and Mueller Realty and Auction Service Inc.**, have violated:
 - a. Section RL 24.03(2)(b) of the Wis. Adm. Code and section 452.14(3)(i) of the Wis. Stats. by failing to comply with the October 26, 2000, Board Order.

ORDER

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

IT IS FURTHER ORDERED, that the license of **Melvyn F. Mueller # 90-35257** shall be **LIMITED** to practice as a real estate broker in the state of Wisconsin. The limited license shall be for a term of two (2) years and subject to the following conditions.

SCOPE OF PRACTICE; LIMITATIONS AND CONDITIONS

Practice restrictions.

- a. Respondent shall provide the name of the supervising broker to the Real Estate Board for the Board's approval before December 31, 2002.
- b. Respondent shall practice only in settings where he works under supervision by another real estate broker acceptable to the board.
- c. Respondent shall refrain from real estate employment where he is responsible for any other salesperson or broker.
- d. Respondent shall arrange for quarterly reports from his real estate employer reporting the terms

and conditions of his employment and evaluating his work performance for a two (2) year period following the effective date of this Order. These reports shall be submitted to the Department Monitor in the Department of Regulation and Licensing, Division of Enforcement. The Respondent's employer shall report **immediately** to the Department Monitor any violation or suspected violations of the Real Estate Board's Final Decision and Order.

Disclosure

Respondent shall report to the Board any change in employment status, change of residence address or phone number, within fifteen (15) days of the change.

Petition for Modification of restrictions

At any time following two (2) years from the effective date of this Order, Respondent may petition the Board, in writing, to revise or eliminate any of the above conditions. The Real Estate Board may in its discretion require that Respondent to personally appear before the Board in conjunction with a petition under this paragraph to answer any questions the Board may have concerning him. Denial in whole or in part of a petition under this paragraph shall not constitute denial of a license and shall not give rise to a contested case within the meaning of Wis. Stats. sec. 227.01(3) and 227.42.

Department Monitor

The Department Monitor is the individual designated by the Board as its agent to coordinate compliance with the terms of this Order, including receiving and coordinating all reports and petitions. The Department Monitor may be reached as follow:

Department Monitor

Department of Regulation and Licensing

P.O. Box 8935

Madison, WI 53708-8935

FAX (608) 266-2264

TEL. (608) 261-7938

Summary Suspension

Violation of any of the terms of this Order may result in a summary suspension of Respondent's license; the board in its discretion may in the alternative impose additional condition and limitations or Other additional discipline for a violation of any of the terms of this Order.

IT IS FURTHER ORDERED, that the **VOLUNTARY SURRENDER** of Real Estate broker's license of **Melvyn F. Mueller** license number # 90-35257, is hereby accepted effective December 31, 2002, unless Respondent arranges for employment with a licensed real estate broker and submits the name of the supervising broker for the approval of the Real Estate Board.

IT IS FURTHER ORDERED, if Respondent has not submitted the name of a supervising broker to the Real Estate Board by December 31, 2002, then all rights and privileges heretofore granted to Respondent Melvyn F. Mueller are forever terminated effective December 31, 2002.

IT IS FURTHER ORDERED, that the **VOLUNTARY SURRENDER** of the Real Estate business entity license of **Mueller Realty and Auction Service Inc.** license number # 91-834425, is hereby accepted as of December 31, 2002.

IT IS FURTHER ORDERED, that all rights and privileges heretofore granted to Respondent Mueller Realty and Auction Service Inc. are forever terminated effective December 31, 2002.

IT IS FURTHER ORDERED, that Respondent **Melvyn F. Mueller**, pay **PARTIAL COSTS** in this matter in the amount of a \$ 1,000.00, by December 31, 2002, 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 **Melvyn F. Mueller** fails to pay the \$ 1,000.00 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 **Melvyn F. Mueller**, 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 partial costs have been paid to the Department of Regulation and Licensing and his failure to pay the partial costs shall be considered a violation of this Order by the Board.

IT IS FURTHER ORDERED, that files 00REB207, 02REB006 & 02REB014 shall be and hereby are closed as to all Respondents.

Dated this 26th day of September, 2002.

WISCONSIN REAL ESTATE BOARD

By: Richard Kollmansberger

A member of the Board