

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF	:	
DISCIPLINARY PROCEEDINGS AGAINST	:	
	:	FINAL DECISION
	:	AND ORDER
LISA A. BYRNE,	:	LS0302274REB
RESPONDENT	:	

Division of Enforcement Case No: (00 REB 236)

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

Lisa A. Byrne  
P.O. Box 7  
LaPointe, Wisconsin 54850

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 decision 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. **Lisa A. Byrne** (hereinafter referred to as "Byrne"), (date of birth December 3, 1958), is licensed in the state of Wisconsin as a real estate salesperson, having license #49493. This license was first granted on August 5, 1998. Byrne's latest address on file with the Department of Regulation and Licensing is P.O. Box 7, La Pointe, Wisconsin, 54850.
2. Jeffrey L. Sowl is licensed in the state of Wisconsin as a real estate broker, having license # 34502. This license was first granted on June 4, 1985. Sowl is listed in the records of the Department of Regulation and Licensing as doing business as "Superior Properties." The latest address on file with the Department for Sowl is P.O. Box 252, La Pointe, Wisconsin, 54850.
3. At all times relevant to this action, Byrne was "employed" by Superior Properties and supervised by broker, Jeffrey L. Sowl, as that term is used in Chapter 452 of the Wisconsin Statutes.
4. James Ryder is licensed in the state of Wisconsin as a real estate broker, having license #49355. Ryder does business under the trade name, Waide-Ryder Associates, and is located in La Pointe, Wisconsin otherwise known as Madeline Island.
5. On May 13, 1999, Janice Salzman signed a WB-1 Residential Listing Contract with James Ryder. The WB-1 form signed by Ryder and Salzman was modified to create an open listing for the duration of one year. A true and correct copy of the modified WB-1 contract is attached and incorporated herein as **State's Exhibit A**.
6. Janice and Larry Salzman had purchased the property on Madeline Island from Lisa Byrne on May 22, 1998, on a land contract. The Salzmanns were in the process of getting a divorce and were in arrears in their mortgage payments to Byrne.
7. At the time of the listing with Ryder, Janice Salzman completed a Real Estate Condition Report. Salzman indicated that she had lived on the property for one year and was not aware of defects in the property including but not limited to, the septic system. A true and correct copy of the report is attached and incorporated herein as **State's Exhibit B**.
8. Shortly after the property was listed with Ryder, Byrne contacted the Salzmanns and told them that she knew of a couple, Todd and Deborah Hintz-Knopf, who wanted to buy a home on the island. Byrne did not enter into a listing contract with the Salzmanns.
9. Todd Knopf was a landscaper who worked for Byrne. Knopf and his wife told Byrne that they wanted to buy or build a home, but they had prior credit problems from their previous marriages.
10. Byrne told the Knopfs that she would help them find a property, but she did not enter into a buyer's agency agreement with them.
11. Byrne told the Knopfs that the Salzmanns needed to sell their property, but it was not listed with an agent because the Salzmanns could not afford to pay a commission.
12. The Salzmanns were introduced by Byrne to the Knopfs.

13. Byrne told the Knopfs that she could provide the financing for them if they bought the Salzman property since she held the land contract.
14. The Salzmanns were told by Byrne that the property had to be conveyed back to Byrne before she could sell it to the Knopfs on a new land contract because Byrne had a first and second mortgage on the property.
15. Byrne had to refinance the first and second mortgages in order to re-sell the land to the Knopfs on a new land contract.
16. The Knopfs believed that Byrne and Superior Properties were acting as brokers in the transaction, although Byrne would not receive a commission since she was part of the sale of the property.
17. The Salzmanns told the Knopfs that they had lived in the home for approximately one year and they were not aware of any problems or defects with the property.
18. Byrne told the Knopfs that she and her husband had purchased the property several years before they sold it to the Salzmanns and had used it as a seasonal rental unit.
19. Knopfs inquired about the septic system and were told by Salzmanns that it was an older septic system that needed to be pumped occasionally.
20. Byrne told the Knopfs that the property had passed stringent state inspections when it was managed by a property management company and used as a rental.
21. Byrne had purchased the property as bank owned foreclosure and had remodeled it before selling it to the Knopfs.
22. Byrne did not show the property to the Knopfs or go through the property with them. The meetings between Byrne and the Knopfs occurred at the Superior Properties Office.
23. The Knopfs did not receive a Real Estate Condition Report from Byrne or from the Salzmanns.
24. Byrne did not use the state-approved Offer to Purchase form in the transaction with the Knopfs. Instead the parties signed a document which stated as follows:

"This is written to explain and clarify the transaction between Todd and Debra Knopf and Lisa Byrne for Madeline Island property commonly known as "Bird House" in fact Lot Two, CSM 172. The property has been controlled by Janice Salzman through land contract with Lisa Byrne. Janice Salzman now vacates that land contract, and all legal interest returns to Lisa Byrne pursuant to her sale by land contract to Todd and Debra Knopf. Todd and Debra Knopf this date pay \$21,000.00 to Byrne toward that transaction, which money is to be used to effectuate the transfer from Salzman to Byrne. The land contract from Byrne to Knopfs would be delayed for no more than 21 days to enable Byrne to refinance the property at a more competitive rate, the benefit to assist both parties." A true and correct copy of the document is incorporated and attached as **State's Exhibit D**.

25. The Knopfs' tendered a downpayment to Byrne at the Superior Properties real estate company office in the amount of \$21,000.00 in the form of a bank money order. The money order was made payable to 'Superior Properties.' A true and correct copy of the Knopfs checking account statement is incorporated and attached herein as **State's Exhibit E**.
26. Byrne deposited the Knopfs earnest money into the trust account of Superior Properties.
27. Byrne prepared a Buyer's Closing Statement for the Knopfs with the Superior Properties computer "zip" forms. The name and address of the Superior Properties office is printed on the closing statement. A true and correct copy of the Buyer's Closing Statement is attached and incorporated herein as **State's Exhibit F**.
28. Byrne gave the Knopfs an amortization schedule for a two year loan due and payable in full by 2001. Byrne told the Knopfs that she would record the Land Contract at the Register of Deeds and give the Knopfs a copy of the recorded document as proof their ownership.
29. Byrne did not record the Land Contract to the Knopfs until March 23, 2000. The contract was not recorded because the property tax rate had changed and the tax assessment would have resulted in an increase for the buyers. A true and correct copy of the Buyer's Closing Statement is attached and incorporated herein as **State's Exhibit F**.
30. The Knopfs had the septic system pumped in April 2000. The day after the pumping, the Knopfs discovered a large sinkhole in the yard near the location of the septic tank. The service company came back to examine the system and told the Knopfs that the septic had failed and collapsed into the ground.
31. The Knopfs learned that Byrne and her husband had been warned about the condition of the septic tank by the pumping company. The neighbors also told the Knopfs that the septic system had been a problem since the time that it was damaged by a truck driving over the drain field which occurred when Byrne remodeled the property.
32. The Knopfs had the septic system inspected to determine the extent of the damage and learned that the system had failed some time ago and would not have passed an inspection related to the sale of the property.
33. After moving into the property, the Knopfs discovered other problems with the property. The driveway is built over the middle of the property line and there is an ongoing dispute with the neighbor regarding use of the driveway. The washing machine drained straight into the hillside and there was structural damage to the ceiling and floors in the home due to rain and snow melt.
34. The Knopfs contacted Byrne and asked her to contribute half of the costs for a new septic system since the true condition of the system had not been disclosed. Byrne refused to compensate the Knopfs and denied any responsibility for the disclosure.

## **CONCLUSIONS OF LAW**

1. The Wisconsin Real Estate Board has jurisdiction over this matter, pursuant to sec. 440.20, 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. By the conduct described herein, Respondent **Lisa A. Byrne** has violated:
  - a). Sec. RL 24.025 (2) Wis. Adm. Code by providing brokerage services to a client or a customer without an agency agreement, as shown in paragraphs 9 through 28.
  - b). 452.133(1)(c) Wis. Stats. and Sec. RL 24.07 (2) Wis. Adm. Code by failing to disclose to each party, in writing and in a timely fashion, all material adverse facts that the licensee knows and that the party does not know or cannot discover through a reasonably vigilant observation, as shown in paragraphs 19, 20, 21, 22 and 33.
  - c). Sec. RL 24.07(3) Wis. Adm. Code by failing to disclose to the parties information suggesting the possibility of material adverse facts to the transaction in writing and in a timely fashion, and failing to recommend that the parties obtain expert assistance to inspect or investigate for possible material adverse facts to the transaction, including those defects and conditions included with the report form under 709.03. Stats., as shown in paragraphs 19, 20, and 21;
  - d). 452.14(3)(i) Wis. Stats., by demonstrating incompetency to act as a broker or salesperson in a manner which safeguards the interests of the public as shown in paragraphs 9 through 33.

## **ORDER**

NOW, THEREFORE, IT IS HEREBY ORDERED that

1. Respondent **Lisa A. Byrne** (lic.# 49493), is hereby **REPRIMANDED**.
2. IT IS FURTHER ORDERED, that Respondent **Lisa A. Byrne**, 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. The Real Estate Brokerage module-section RL 25.03(3)(c) of the Wisconsin Administration Code;
  - b. The Listing Agreements module section RL 25.03(3)(d);

c. The Ethics Business Conduct module-section RL 25.03(3)(m) of the Wisconsin Administration Code.

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 standard continuing education requirements that are or may be instituted by the Board or the Department of Regulation and Licensing.

IT IS FURTHER ORDERED, that Respondent **Lisa A. Byrne** shall pay partial costs of this matter in the amount of \$1,850. 00 and a forfeiture in the amount of \$1,000.00, within six (6) months from the effective 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 **Lisa A. Byrne** fails to successfully complete the educational requirements and payment of costs and forfeiture within the time and in the manner as set forth above, then and in that event, and without further notice to the Respondent, her real estate license shall be **SUSPENDED** without further hearing and without further Order of the Board, and said suspension shall continue until such time as compliance is gained with the terms of this Order.

3. This Order shall become effective upon the date of its signing.

4. IT IS FURTHER ORDERED, that file **00 REB 236** is hereby closed.

WISCONSIN REAL ESTATE BOARD

By: Richard Hinsman

2-27-03

A Member of the Board

Date