

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

:

:

:

STEVEN S. SIMONOVICH
RESPONDENT.

:

LS0305222REB

:

FINAL DECISION AND ORDER

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

Steven S. Simonovich
12322 87th Ave.
Pleasant Prairie, WI 53158

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.
- Steven S. Simonovich ("Simonovich"), date of birth 11/10/75, is licensed in the State of

Wisconsin as a real estate salesperson having license # 94-50511. This license was first granted to him on 07/02/99. Simonovich's most recent address on file with the Department of Regulation and Licensing is, 12322 87th Ave., Pleasant Prairie, WI 53158.

2. Simonovich has been employed as a real estate salesperson with Sparks White Investments LLC d/b/a Keller Williams Realty (KWR), since November 2, 2000. Immediately prior to his employment with KWR, Simonovich was employed as a real estate salesperson with Property Partners Realty, Inc., (PPRI), from July 2, 1999, through November 2, 2000.

3. At all times relevant to the facts set forth below Lauren S. Stockdale-Sparks was the real estate Broker /President of KWR.

4. On or about May 9, 2000, the United States Department of Housing and Urban Development (HUD) issued Simonovich a letter of "limited denial of participation" (LDP); this LDP was to remain in effect for a period of one year. This LDP was based upon Simonovich having engaged in irregularities in his performance in a HUD program and his having made false certifications in connections with a HUD program. The LDP prohibited Simonovich from directly or indirectly participating in all programs under the jurisdiction of the U.S. Department of Housing and Urban Development's Assistant Secretary for Housing. A copy of the LDP is attached hereto as **Exhibit 1** and is incorporated herein by reference.

5. On or about June 28, 2001, the Real Estate Board issued a decision in case number 00 REB 147, wherein the Real Estate Board ordered Simonovich to pay a forfeiture, costs, complete the 72 hour pre-licensing real estate salesperson course and limited his license for a period of one year. The discipline imposed was a result of Simonovich receiving the LDP thereby violating section 452.14(3)(i) and section 452.14(3)(k) of the Wisconsin Statutes. A copy of the Final Decision and Order for case file number 00 REB 147 is attached as **Exhibit 2** and is incorporated hereto by reference.

6. On or about October 5, 2000, Simonovich entered into a Residential Listing Contract-Exclusive Right To Sell with Daniel J. Sikich (Sikich) for property located at 7423 15th Ave. Kenosha, WI. The listing price was \$79,900.00. A copy of the Residential Listing Contract-Exclusive Right To Sell is attached as **Exhibit 3** and is incorporated herein by reference.

7. On or about November 5, 2000, Mary L. Dixon, (Dixon) a licensee also with KWR, entered into a Buyer Agency Agreement with Georgette Porter (Porter). Under this agreement, Dixon was authorized to act as Porter's Buyer's Agent at the terms set forth in the Agreement. One of those terms included "FHA". See the Buyer's Agency Agreement attached hereto as **Exhibit 4** and incorporated herein by reference

8. On or about November 5, 2000, Dixon drafted a Residential Offer to Purchase on behalf of Porter for the 7423 15th Ave. property. The offered price was \$75,000.00. The offer was subject to a finance contingency, which required the buyer to obtain a FHA loan in the amount of not less than \$71,250.00. Closing was to take place no later than December 21, 2000. A copy of the November 5, 2000, Residential Offer to Purchase with Addenda A and S is attached as **Exhibit 5** and is incorporated herein by reference.

9. "FHA" is also known as the Federal Housing Administration. It is an insuring entity established by legislation, which is administered by the Assistant Secretary for housing, who is responsible for HUD's various mortgage insurance programs. See generally 12 U.S.C. 1701, et. seq.

10. On November 7, 2000, Sikich countered the Offer (Exhibit 4) with a selling price of \$77,000.00. The Counter-Offer also changed the length of time to meet the financing contingency to 15 days. This Counter Offer was accepted by Porter on November 8, 2000. A copy of the Counter-Offer and Acceptance of Counter-Offer is attached as **Exhibit 6** and is incorporated herein by reference.

11. Shortly before the closing date of December 21, 2000, Porter was notified by Dixon and Sparks, that the closing date needed to be extended and that she could not get her FHA loan from Universal Mortgage, and would have to go to another mortgage company (Platinum Mortgage) in order to obtain a conventional loan. The reason Sparks and Dixon gave Porter for the transfer was that the listing broker "had made some mistakes and could not sell FHA". KWR was made aware of this problem with financing after Universal Mortgage reviewed the LDP list issued by HUD, saw that Simonovich was a restricted person on the LDP list, and was unable, therefore, to insure through FHA.

12. An Amendment To Offer To Purchase dated January 4, 2001 reads; "The seller is aware Buyer will not be obtaining a FHA loan for this purchase - and Seller will not need to complete the scrape and paint on garage door and basement and garage windows". This Amendment was signed by Porter and Sikich on January 4, 2001. A copy of the Amendment To Offer To Purchase is attached as **Exhibit 7** and is incorporated herein by reference.

13. Sparks and Dixon arranged for Porter to change her FHA loan from Universal Mortgage to a conventional loan from Platinum Mortgage and the transaction closed on January 31, 2001.

14. According to HUD's long-standing policy, Simonovich should have recused himself from the transaction he entered into with Porter so that Porter could have applied for an FHA insured mortgage loan as she had intended. A copy of HUD's letter describing this policy is attached as **Exhibit 8** 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. Respondent **Steven S. Simonovich** has violated:

a. Wis. Adm. Code secs. RL 24.025(1), RL 24.03(2)(b), and RL 24.03(2)(c), and Wis. Stats. secs. 452.133(1)(a), 452.133 (1)(b), 452.133 (1)(g), 452.14(3)(L) and 452.14(3)(i) by preventing a buyer from closing on a property using a FHA loan because of the limited denial of participation from HUD imposed on the Respondent.

ORDER

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

IT IS FURTHER ORDERED, that Respondent **Steven S. Simonovich**, license #94-31049, be, and hereby is, **REPRIMANDED**.

IT IS FURTHER ORDERED, that Respondent **Steven S. Simonovich**, pay **partial costs** in this matter in

the amount of **\$500.00.**

IT IS FURTHER ORDERED, that Respondent **Steven S. Simonovich**, pay a **forfeiture** in this matter in the amount of **\$500.00.**

IT IS FURTHER ORDERED, that Respondent **Steven S. Simonovich** shall submit \$200.00 within thirty (30) days from the date of this order and payments of \$200.00 will be due on the first of every consecutive month thereafter until the full \$1,000.00 is paid. Payment shall be made by **certified check or money order**, payable to the Wisconsin Department of Regulation and Licensing and sent to: **Department Monitor, Division of Enforcement, Department of Regulation and Licensing , PO Box 8935, Madison, WI 53708-8935.**

IT IS FURTHER ORDERED, that in the event Respondent **Steven S. Simonovich** fails to submit payments within the time and manner as set forth above, then and in that event, and without further notice to the Respondent **Steven S. Simonovich**, his real estate salesperson's 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 costs shall be considered a violation of this Order by the Board.

IT IS FURTHER ORDERED, that file 01 REB 106 be, and hereby is, closed.

Dated this 22nd day of May, 2003.

WISCONSIN REAL ESTATE BOARD

By: Richard Kollmansberger

A member of the Board