

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 : FINAL DECISION AND ORDER
RICHARD W. MARLOW & :
HARDY-MARLOW INC., : LS0306262REB
RESPONDENTS :

Division of Enforcement Case No. 02 REB 172

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

Richard W. Marlow
Hardy-Marlow Inc.
PO Box 45
Waukesha, WI 53187

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:

1. **RICHARD W. MARLOW** ("Marlow"), date of birth 09/25/44, is licensed in the State of Wisconsin as a real estate broker having license # 90-9894. This license was first granted to him on 06/25/69. Marlow's most recent address on file with the Department of Regulation and Licensing is PO Box 45, Waukesha, WI 53187.

2. Marlow is the president of **HARDY-MARLOW INC.**, located at PO Box 45, Waukesha, WI 53187, License # 91- 31708. This license was first granted on 04/05/84.

3. On or about July 24, 2002, and August 26, 2002, the Department of Regulation and Licensing, conducted an audit of Marlow-Hardy's real estate trust account.

4. The Department Auditor found that written trust account reconciliations and trial balances were not performed in writing for all months in which there was account activity from the time period beginning November 2000 through July 2002, as detailed in form 344. A true and accurate copy of the form 344 is attached and incorporated herein as **Exhibit 1**.

5. It did not appear, based upon a review of the audit findings, that the failure to perform the required reconciliations and trial balances of the trust account resulted in a loss of any real estate trust funds.

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 **Hardy-Marlow, Inc.** has violated:

- a. Sections RL 18.13(3), RL 18.13(4) and RL 18.13(5) of the Wisconsin Administrative Code by failing to perform required monthly account reconciliations, trial balances, and validations.

4. Respondent **Richard W. Marlow** has violated:

- a. Sec. RL 18.14 which provides that a broker who fails to comply with the rules in trust account rules shall be considered to have demonstrated incompetency to act as a real estate broker in a manner as to safeguard the interests of the public, as specified in s.452.14(3), Stats.

ORDER

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

IT IS FURTHER ORDERED, that Respondent **Hardy-Marlow Inc.**, license # 91-31708, is hereby **REPRIMANDED**.

IT IS FURTHER ORDERED, that Respondent **Richard W. Marlow**, license #90-9894, be, and hereby is, **REPRIMANDED**.

IT IS FURTHER ORDERED, that Respondent **Richard W. Marlow**, within six months of the date of this Order, successfully complete the following course module 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 Trust Accounts, Escrow, Closing Statement module-section RL 25.02(2)(c), of the Wisconsin Administration Code.

Respondent shall submit proof of same to the Real Estate Board, P.O. Box 8935, Madison, WI 53708-8935, in the form of verification from the institution providing the education. None of the education completed pursuant to this requirement may be used to satisfy any standard continuing education requirements that may be instituted by the Board or the Department of Regulation and Licensing.

IT IS FURTHER ORDERED that Respondent **Richard W. Marlow** pay a forfeiture of **\$350.00** and partial costs of **\$300.00**, within thirty (30) days of the date of this Order. 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 **Richard W. Marlow** fails to complete the continuing education and pay the forfeiture and costs within the time set forth above, his real estate license shall be summarily suspended without further hearing or order of the Board, and the suspension shall continue until he has fulfilled the requirements of this Order.

IT IS FURTHER ORDERED, that file 02 REB 172 be, and hereby is, closed.

Dated this 26th day of June, 2003.

WISCONSIN REAL ESTATE BOARD

Richard Kollmansberger

A member of the Board