

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
DAVID R. WAGNER D/B/A :
WAGNER PROPERTY MANAGEMENT, : LS0309252REB
RESPONDENT. :

Division of Enforcement Case No. 99 REB 327

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

David R. Wagner
PO Box 173
Menomonie, WI 54751

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 Wisconsin Real Estate Board ("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. **David R. Wagner d/b/a Wagner Property Management** ("Wagner"), date of birth 01/20/50, is licensed in the State of Wisconsin as a real estate broker having license # 90-44396. This license was first granted to him on 12/18/90. Wagner's most recent address on file with the Department of Regulation and Licensing is PO Box 173, Menomonie, WI 54751.

2. On or about June 18-19, 2003, an auditor with the Department of Regulation and Licensing, concluded an audit of Wagner's real estate trust account and bookkeeping records. During the audit the auditor discovered that Wagner had sold his real estate management company to Jay Williamson in late 2002, and it was during the sale process that Wagner determined that his real estate management account was short by approximately \$17,000.00. Wagner could not determine the reason for the shortage. Wagner stated that at the time the transaction closed, Wagner credited Williamson the \$17,000.00.

3. During the Department's audit the auditor found the following bookkeeping discrepancies:

- a. Bank reconciliations were attempted but incomplete;
- b. Trial balances were not performed; and
- c. Validations were not performed.

These discrepancies in the real estate trust account were detailed in Form 344, which was completed by the Department auditor and signed by Wagner on June 19, 2003. A copy of Form 344 is attached as **Exhibit 1** and is hereby incorporated into this document.

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 **David R. Wagner d/b/a Wagner Property Management** 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 do required monthly account reconciliations, trial balances and validations.

ORDER

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

IT IS FURTHER ORDERED, that **David R. Wagner** will successfully complete all education requirements from the 36 hour pre-licensing real estate broker's course pursuant to §RL 25.02, Wis. Adm. Code at an educational institution approved by the Department of Regulation and Licensing. Upon successful completion, **David R. Wagner** shall submit proof of the 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 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 **David R. Wagner** fails to successfully complete the educational requirements in the manner as set forth above, then and in that event, and without further notice to the Respondent **David R. Wagner**, 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 the real estate broker's license of **David R. Wagner** (#90-44396), will be SUSPENDED effective from the date this Order is signed and until he provides to the Department proof of completion of all said educational requirements for a real estate broker's license.

IT IS FURTHER ORDERED, that Respondent **David R. Wagner** pay a **FORFEITURE of \$400.00**, within 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 **David R. Wagner** fails to pay the \$400.00 forfeiture within the time and in the manner as set forth above, then and in that event, and without further notice to the Respondent **David R. Wagner** his real estate license shall continue under suspension without further hearing and without further Order of the Board, and said suspension shall continue until the full amount of said forfeiture have been paid to the Department of Regulation and Licensing and his failure to pay the forfeiture shall be considered a violation of this Order by the Board.

IT IS FURTHER ORDERED, that Respondent **David R. Wagner** pay partial **COSTS** of this matter in the amount of **\$600.00** within 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 **David R. Wagner** fails to pay the \$600.00 in costs within the time and in the manner as set forth above, then and in that event, and without further notice to the Respondent **David R. Wagner** 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 by the Board.

IT IS FURTHER ORDERED, that file 99 REB 327 be, and hereby is, closed.

Dated this 25th day of September, 2003.

Richard Kollmansberger

A member of the Board