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STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	FINAL DECISION
	:	AND ORDER
JEFFREY L. SOWL,	:	LS0309254REB
D/B/A/ SUPERIOR PROPERTIES,	:	
RESPONDENT	:	

(Division of Enforcement Case No: 00 REB 291, 01 REB 065)

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

Jeffrey L. Sowl
P.O. Box 252
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. **Jeffrey L. Sowl**, (D.O. B. February 15, 1954) 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. Superior Properties does not have a separate real estate business entity license.
2. At all times relevant to this action, Jeffrey L. Sowl and Joseph Oberzut owned and operated a land development company, which was also doing business as "Superior Properties," and was located in the same office as the Superior Properties real estate company. The land development company was primarily engaged in the construction of roads and subdivision of land.
3. On December 5, 2000, and March 19, 2001, the Department received complaints from Douglas Griggs and Lawrence Whalen, who alleged that Sowl caused encroachment, trespass, and damages to their property, during the construction of a road on an adjacent parcel.
4. Sowl had sold the adjacent property, consisting of approximately 65 acres, to Michael Cariveau on or about July or August 2000.
5. The property which Cariveau purchased was handled by broker, Thomas Nelson, doing business as Tor Nelson Real Estate Company, La Pointe, Wisconsin.
6. At the time of the sale, Nelson did not have a WB-3 Vacant Land listing agreement with Cowitt. Sowl had assumed that Nelson had a listing agreement, but did not determine if there was an actual listing agreement. Sowl acted as a subagent for the seller.
7. Nelson had known the seller, Wilbur Cowitt, as a personal family friend for many years, and through Nelson's father, who had handled previous real estate sales for Cowitt.
8. The closing on the sale from Wilbur Cowitt to Michael Cariveau occurred shortly thereafter. The quitclaim deed from Cowitt, as the grantor, to Cariveau, as the grantee, was recorded on August 25, 2000.
9. The WB-13 Vacant Land Offer to Purchase, was drafted by Sowl on June 30, 2000, acting as a subagent for the seller. Although Sowl used the state-approved forms for sale of vacant land, Cowitt had his attorney in Wisconsin, re-draft the contract, deed and closing documents.
10. After the closing, Sowl and his partner, Joseph Oberzut, entered into an agreement with the buyer Michael Cariveau, to construct an access road on the property so that the property could be subdivided into lots and sold. The construction began on or about September 17, 2000, when the complainants first observed heavy equipment operators on the property.
11. Sowl was actively involved in the road construction project and flagged the property to delineate the property boundary line. Sowl instructed the heavy equipment operators to follow the fence line as they cleared the area for the road.
12. The Superior Properties crew proceeded to clear an area for a road, approximately 1560 feet long by roughly 12 feet wide, on what they thought to be the eastern boundary of the south side of Middle Road. Using a bulldozer, loader backhoe, dump truck and excavator, the crew cleared, stumped, widened and graded what had previously been a two foot grassy skiing and walking trail. In the process of the clearing, many trees were

uprooted and felled.

13. The equipment operators told the complainants that they were building a road and culvert from the existing highway, known as Middle Road, to a future housing development which Sowl and his partners were the process of developing.

14. On September 20, 2000, Beth Griggs contacted the La Pointe Town Hall Zoning Administrator to report the encroachment and to find out if Sowl had obtained the required road construction permits. Joseph McCarthy, the Zoning Administrator, indicated that no road construction permits were applied for or approved.

15. The next day, on September 21, 2000, the heavy equipment crew proceeded to clear the west portion of the development site, uprooting and felling trees on other adjacent parcels owned by James Szymanski, James P. Gardner and John J. Nelson, Sr.

16. On September 23, 2000, McCarthy contacted Sowl and told him to halt the project immediately until a survey was completed and the necessary permits were obtained.

17. Sowl assured McCarthy that all work would stop until the permits were issued. Sowl explained that he did not obtain a permit because he thought that the permitting requirement did not apply to his situation since he was not putting in a new road.

18. On September 25, 2000, Sowl submitted two road permit applications, which stated that the applicant for the permit was, "M. Cariveau and Partners." The address of the permit applicant was P.O. Box 252, La Pointe, Wisconsin, which is same address as the Superior Properties real estate office.

19. On October 10, 2000, McCarthy drove out to the Cariveau property to assign a road permit number and found another road was already roughed in, tree stumps were removed and fill and gravel added.

20. On October 13, 2000, McCarthy issued a written Notice of Violation to "M. Cariveau and Partners" of the zoning requirements and an order to Cease and Desist any and all road building. McCarthy stated in a cover letter to M. Cariveau and Partners that he would report the violation to the Zoning and Planning Committee. McCarthy stated in his letter that he was upset that the second road was completed after he had given a verbal cease and desist order to Sowl, and before the road permits were issued.

21. The complainants and other adjacent land owners contacted Sowl about the encroachment and damage to their property. Sowl verbally acknowledged responsibility for the problems and indicated that he had ordered a survey to be done, but that he did not have enough time to wait for the survey to be completed because the equipment was available on a rental basis.

22. On October 18, 2000, Oberzut sent a written letter of apology on behalf of Superior Properties to the affected landowners. In an effort to compensate the complainants, Michael Cariveau ultimately conveyed additional acreage to Douglas Griggs and Lawrence Whalen.

23. After the road construction was completed and the lots established, Cariveau listed the properties for sale with Sowl and Superior Properties.

24. Sowl was previously cited and fined by the Department of Natural Resources (DNR) in 1998 in connection with the development of another parcel of land in La Pointe, Wisconsin. The DNR found that Sowl improperly graded in excess of 10,000 square feet on the bank of a navigable waterway without a permit. The grading violation involved the removal of topsoil, trees and vegetative buffer along the shoreline of Lake Superior.

25. At the time of the investigation by the DNR, Sowl admitted that he had another development project on a lot located on the Chippewa Trail, which he had purchased on a land contract. The DNR checked the lot and determined that Sowl improperly filled a wetland and graded the lot without a permit.

26. Sowl was advised by the DNR agent not to proceed with the development on the Chippewa Trail until he obtained a permit. When the agent returned to the lot on June 18, 1998 to take pictures of the damaged area the agent observed that the grading work had been completed after Sowl had been advised not to proceed further without a permit.

27. The DNR ordered Sowl to restore the damaged area and levied a forfeiture in the amount of \$3,796.00 plus costs, against him for his violations.

MITIGATING CONDUCT

28. Sowl has agreed not to engage in any land development business activities, including but not limited to road or driveway construction, site clearing or other heavy equipment operation, thereby limiting his real estate business to the sale of existing residential property or vacant land.

29. Sowl and his partner have sold all of their heavy equipment, terminated their business partnership and closed the Superior Properties land development company.

30. Sowl has entered into a contractual agreement not to compete with a local road construction contractor and heavy equipment operator in La Pointe, Wisconsin.

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 **Jeffrey L. Sowl**, has violated:

a.) RL 24.025 (2) Wis. Admin. Code, which provides that a licensee may not provide brokerage services to a client or a customer without an agency agreement authorizing those brokerage services. A licensee who acts as a subagent may do so under the agency agreement of the principal agent and the subagent is not required to have a separate agreement.

b.) Sec. RL 24.17 (1) Wis. Admin. Code, which provides that licensee may not violate, or aid or

abet the violation of, any law the circumstances of which substantially relate to the practices of a real estate broker or salesperson.

c.) 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.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that Respondent **Jeffrey L. Sowl** (broker's lic.# 34502) is hereby REPRIMADNED AND LIMITED. The limitations on the license of **Jeffrey L. Sowl** are as follows:

1. Respondent **Jeffrey L. Sowl** shall refrain from any and all real property development activities, including but not limited to road or driveway construction, site clearing, flagging of boundaries, grading of land for subdivision, development or construction, while he has an active real estate license.
2. Respondent **Jeffrey L. Sowl** shall not be an owner or investor in whole or in part, of any real estate development business or affiliated company, while he has an active real estate license.
3. Respondent **Jeffrey L. Sowl** shall not enter into any contractual obligations with any client, customer or party in a real estate transaction, for any related real property development services.
4. Respondent **Jeffrey L. Sowl** may petition the Board for removal of the limitations placed upon his license after three (3) years from the date of this order. The respondent must appear personally before the Board to support his petition and to answer any questions in connection with the petition.

IT IS FURTHER ORDERED that Respondent **Jeffrey L. Sowl** shall pay a forfeiture in the amount of five hundred (\$500.00) dollars, within ninety (90) days of the 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 **Jeffrey L. Sowl** violates the conditions of his limited license as set forth above or fails to pay the forfeiture within the time and in the manner as set forth above, his real estate license shall be **SUMMARILY SUSPENDED** without further notice and hearing or Order of the Board, and said suspension shall continue until such time as compliance is gained with the terms of this Order. This Order shall become effective upon the date of its signing.

IT IS FURTHER ORDERED that file **00 REB 291** and **01 REB 065** shall be, and hereby is closed.

WISCONSIN REAL ESTATE BOARD

By: Richard Kollmansberger

9-25-03

A Member of the Board

Date