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STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST : FINAL DECISION AND ORDER
 : LS0310231REB
ROBERT F. GLENN, :
Respondent :

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

Robert F. Glenn
839 Oak Lane
Stratford, WI 54484

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. **Robert F. Glenn** ("Glenn"), date of birth 10/01/51, is licensed in the State of Wisconsin as a real estate salesperson having license #94-51800. This license was first granted to him on 06/06/00. Glenn’s most recent address on file with the Department of Regulation and Licensing is 839 Oak Lane, Stratford, WI 54484.

2. On March 20, 2001, while Glenn was employed as real estate salesperson with Williams Realty in Wausau, Wisconsin, he drafted a Vacant Land Offer to Purchase on behalf of Forrest and Patricia Kimmons. Glenn was the listing and selling broker for the property, which of a residential lot adjacent to a river. A true and correct copy of the WB-13 Vacant Land Offer to Purchase is attached herein as State's Exhibit 1.

3. Prior to the purchase of the lot, the Kimmons had informed Glenn that they required a buildable lot that would accommodate a wheelchair. Specifically, the Kimmons informed Glenn that that would need to build a ranch style one-level home, with a crawl space and an additional shed for storage.

4. The offer drafted by Glenn provided for three contingencies; 1) buyer being able to obtain a building permit, 2) seller to provide survey of the lot and; 3) sale of the buyer's home. The offer did not mention the buyer's need for wheelchair accessibility, a crawl space or separate storage shed.

5. Glenn drew up a preliminary sketch of the house which the Kimmons described, based upon their needs, and told them they he believed the design would be suitable for the lot and that they could obtain a building permit.

6. For the Kimmons' convenience, Glenn offered to attend the meeting of the local zoning committee to review and consider the Kimmon's variance petition for a building permit.

7. The Zoning Committee met on May 16, 2001, and voted to approve the variance after some discussion. Specifically, the committee members discussed with Glenn the fact that the elevation of the lot would have to be raised from 1166 feet to 1170 feet because the lot was in a flood plain.

8. Glenn was also informed at the Zoning Committee meeting that a crawl space could not be built unless it was designed by an engineer to be flood proof. There was no discussion at the meeting regarding the building of a storage shed on the property.

9. The Zoning Committee advised Glenn that all of the technicalities of the requirements of the structure would have to be dealt with at the time that the building permit was issued.

10. A tape of the zoning meeting confirms the discussion by the zoning committee and Glenn stated that "whatever it needs to be is what it will have to be." There is no discussion by Glenn regarding the Kimmons wheelchair accessibility issue or other specific needs for the property.

11. After the variance meeting, Glenn told the Kimmons that everything was fine and that they would be able to obtain a building permit. Based on Glenn's assurances, the Kimmons agreed to close on the purchase of the lot. The closing on the sale of the lot occurred on May 17, 2001, one day after the zoning meeting.

12. Prior to the closing on the lot, Glenn had listed and sold the Kimmon's existing home, thereby satisfying one of the contingencies.

13. After closing on the lot and beginning to prepare for construction, the Kimmons discovered that they would have to raise the elevation of the lot by four feet because of the flood plain. The increase in elevation would result in steeper slope or "hill-type" appearance of lot that would make the property inaccessible for a wheelchair.

14. The Kimmons were given estimates that the cost of the additional fill needed to bring the lot above the flood plain would be approximately \$10,000.00 to \$12, 000.00 dollars. The Kimmons also learned that they would have to petition for a variance in order to construct a storage shed on the lot and the crawl space would have to flood proofed. The Kimmons claimed that Glenn did not tell them about the details of the requirements for added fill, the crawl space or storage shed before they closed on the lot.

15. Glenn contends that he did not realize how much fill would be needed and that he believed that the fill could be contoured to avoid the "hill" effect. Glenn further maintained that the Kimmons knew about the requirements for a building permit before they closed because they had obtained a tape recording of the zoning committee meeting. He believed that the real reason that the Kimmons were objecting was because they could not afford to pay for flood plain insurance.

16. The zoning committee records indicate that the Kimmons received a copy of the meeting tape on June 15, 2001, several weeks after the closing.

17. As a result of the undisclosed building requirements, the Kimmons decided to purchase another home and listed the lot for re-sale. Glenn's broker agreed to re-list the lot at a reduced commission rate.

Respondent **Robert F. Glenn** has offered to resolve this formal disciplinary matter by the Voluntary Surrender of his real estate salesperson's license.

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 **Robert F. Glenn** has violated:

a. 452.133(c), Wis. Stats., which provides that a broker disclose to each party all material adverse facts that the broker knows and that the party does not know or cannot discover through reasonably vigilant observation, unless the disclosure of material adverse fact is prohibited by law.

b. RL 24.07(3), Wis. Admin. Code, which provides that a licensee, when engaging in real estate practice, who becomes aware of information suggesting the possibility of material adverse facts to the transaction, shall be practicing competently if the licensee discloses to the parties the information suggesting the possibility of material adverse facts to the transaction in writing and in a timely fashion, recommends the parties obtain expert assistance to inspect or investigate for possible material adverse facts to the transaction, and if directed by the parties, drafts appropriate inspection or investigation contingencies.

c. RL 24.08, Wis. Admin. Code, which provides that a licensee shall put in writing all listing contracts, guaranteed sales agreements, buyer agency agreements, offers to purchase, property management agreements, option contracts, financial obligations and any other commitments regarding transactions, expressing the exact agreement of the parties unless the writing is outside the scope of the

licensee's authority under ch. RL 16.

d. 452.14(3)(i), Wis. Stats., by demonstrating incompetency to act as a broker in a manner which safeguards the interests of the public.

ORDER

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

IT IS FURTHER ORDERED that the **Voluntary Surrender** of the Real Estate Salesperson license # 94-51800 of Respondent **Robert F. Glenn**, is hereby accepted.

IT IS FURTHER ORDERED that all rights and privileges heretofore granted to Respondent **Robert F. Glenn**, pursuant to the Real Estate Salesperson license # 94-51800 are terminated effective at 11:59 P.M. on the date of this Order.

IT IS FURTHER ORDERED that Respondent **Robert F. Glenn** shall not be allowed to submit reapply for a real estate salesperson license prior to eighteen (18) months from the effective date of this order. If a petition for re-licensure is submitted by the Respondent, he shall appear before the Board in support of his petition to answer any questions that the Board members may have in regard to the petition. The Board, in its discretion, may decide to deny the petition for re-licensure, or to limit or place conditions upon any license granted to the Respondent, or require the Respondent to take the pre-licensing course and license exam, as the Board deems appropriate. If the petition for re-licensure is granted, the Respondent shall be required to complete all continuing education requirements before he receives his license. The denial, in whole or in part, of any petition or license application of **Robert F. Glenn** for a credential authorized under Chapter 452 of the Wisconsin Statutes shall not constitute a denial of a license and shall not give rise to a contested case within the meaning of sections 227.01(3) and 227.42 of the Wisconsin Statutes

IT IS FURTHER ORDERED, that file 03 REB 031 be, and hereby is, closed.

Dated this 23rd day of October, 2003.

WISCONSIN REAL ESTATE BOARD

Richard Kollmansberger

A member of the Board