

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF TH DISCIPLINAR :
PROCEEDINGS AGAINST :
 : FINAL DECISION AND ORDER
CHARLES D. BECKER, : LS0405275REB
& POST REALTY INC., :
RESPONDENTS :

Division of Enforcement Case No. 01 REB 001

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

Charles D. Becker
Post Realty Inc.
PO Box 107
Coloma, WI 54930

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

- Charles D. Becker** (“Becker”), date of birth 04/24/60, is licensed in the State of Wisconsin as a real estate broker having license # 90-46607. This license was first granted to him on 12/16/92. Becker’s most recent address on file with the Department of Regulation and Licensing is PO Box 107, Coloma, WI 54930. Becker is the President of Post Realty Inc. license #91 833263, located at PO Box 107, Coloma, WI 54930.
- In October 1997, Becker hired Coreen M. Diaz (Diaz) to perform bookkeeping duties for Post Realty. Diaz was not a licensed real estate agent. Some of the duties that Diaz performed while at Post Realty was making deposits to the real estate trust account, and maintaining trust account records. Diaz was also responsible for Post Realty’s property management accounts, and collecting rent monies. Diaz’s employment with Post Realty was terminated in October 1999.
- On or about May 8, 2000, Diaz was convicted in Circuit Court Branch 3 Portage County of Felony Theft. The theft was from Post Realty’s real estate trust account and from their property management account. Diaz was placed on 10 years probation for this violation and ordered to make restitution (amount to be determined) in the amount of not less than \$100.00 a month. A copy of the Criminal Complaint, Circuit Court File No. 00-CF-13 is attached as **Exhibit 1** and is incorporated herein by reference. A copy of the Judgment of Conviction dated July 12, 2000, is attached as **Exhibit 2** and is incorporated herein by reference.

4. The theft occurred between 1998 and October 1999. Diaz admitted that she prepared two checks in the amount of \$4,500.00 from the trust account and cashed them at her credit union. Becker suspects that Diaz also took money from Post Realty's property management account. Diaz had been taking receipts, books and boxes of records from Post Realty since November 1998. Seven boxes of records were returned to Post Realty, but did not include any trust account journal, monthly reconciliations, monthly trail balances, or monthly validations.

5. Becker's wife, Mary Becker, attempted to recreate the journal, corresponding monthly reconciliation's, and trial balances for the period of September 1997, through August 2000. A copy of the summary that Mary Becker prepared for Post Realty's trust account is attached as **Exhibit 3** and is incorporated herein by reference.

6. On or about September 12, 2000, auditors with the Department of Regulation and Licensing conducted an audit of Post Realty's trust account records that were available including the summary prepared by Mary Becker. During the audit that included the fall of 1997 through the fall of 2000, the auditors discovered the following discrepancies:

- a. Non-client journal records were not completed correctly, entries were not in chronological sequence, checks were issued out of sequence, and several disbursements could not be tracked to specific properties. Copies of Post Realty's rental account bank statements are attached as **Exhibit 4** and is incorporated herein by reference.
- b. Non-client accounts had no ledgers;
- c. Non-client account reconciliations were not performed (Exhibit 4);
- d. Non-client account trial balances were not performed;
- e. Non-client account validations were not performed;
- f. Non-client and client accounts had several deposits that were not made timely (Exhibit 3);
- g. Improper disbursements from client funds account (Exhibit 3);
- h. Non-client account contained funds for owners for which there was either not an agreement or the agreement was expired; and
- i. Several times between January 2000, and August 2000, the account had a negative balance (Exhibit 4).

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. Respondents **Charles D. Becker, & Post Realty Inc.** have violated:
 - a. Section RL 18.13(1) of the Wisconsin Administrative Code by failing to have journal entries in chronological sequence, by issuing checks out of sequence, and by failing to link disbursements to specific properties,
 - b. Section RL 18.13(2) of the Wisconsin Administrative Code by failing to maintain a ledger,
 - c. Section RL 18.13(3) of the Wisconsin Administrative Code by failing to perform required monthly account reconciliation,
 - d. Section RL 18.13(4) of the Wisconsin Administrative Code by failing to do the required monthly trial balances,

- e. Section RL 18.13(5) of the Wisconsin Administrative Code by failing to do the require monthly validations,
- f. Section RL 18.031 of the Wisconsin Administrative Code by failing to deposit all real estate trust funds into a trust account within 48 hours after receipt of the trust funds,
- g. Section RL 18.09 of the Wisconsin Administrative Code by improper disbursement of trust funds.
- h. Section RL 24.08 of the Wisconsin Administrative Code by failing to have all property management agreements in writing,
- i. Sections RL 17.08(1), and RL 17.08(2) of the Wis. Admin. Code and section 452.14(3)(i) of the Wis. Stats. by failing to adequately supervise employee Coreen Diaz.

ORDER

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

IT IS FURTHER ORDERED that Respondent **Charles D. Becker**, license #90-46607, be, and hereby is, **REPRIMANDED**

IT IS FURTHER ORDERED, that Respondent **Post Realty Inc.**, license #91-833263, is hereby **REPRIMANDED**.

IT IS FURTHER ORDERED that Respondent **Charles D. Becker**, 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 education 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 Administrative Code.

and 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 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 Respondent **Charles D. Becker** fails to successfully complete the education requirements within the time and in the manner as set forth above, then and in that event, and without further notice to the Respondent **Charles D. Becker**, 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 Respondent **Charles D. Becker** pay a **FORFEITURE** of **\$350.00** 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 **Charles D. Becker** fails to pay the \$350.00 forfeiture within the time and in the manner as set forth above, then and in that event, and without further notice to the Respondent **Charles D. Becker**, 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 forfeiture has been paid to the Department of Regulation and Licensing. His failure to pay the forfeiture shall be considered a violation of this Order by the Board.

IT IS FURTHER ORDERED that Respondent **Charles D. Becker** pay **COSTS** of this matter in the amount of **\$300.00** 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 **Charles D. Becker** fails to pay the \$300.00 in costs within the time and in the manner as set for the above, then and in that event, and without further notice to the Respondent **Charles D. Becker**, 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. 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 001 be, and hereby is, closed.

Dated this 27th day of May, 2004.

WISCONSIN REAL ESTATE BOARD

Richard Kollmansberger
A Member of the Board