

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDING AGAINST :
 :
 : FINAL DECISION AND ORDER
SALLY J. TOWNE & :
STAR TEAM INC., : LS05022413REB
RESPONDENTS. :

The parties to this action for the purposes of Wis. Stat. § 227.53 are:

Sally J. Towne
W7374 Crain Lane
Pembine, WI 54156

Star Team, Inc.
P.O. Box 187
Pembine, WI 54156

Division of Enforcement
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

Wisconsin Real Estate Board
Department of Regulation & Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

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 the attached Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Sally J. Towne (“Towne”), DOB 10/23/53, is duly licensed as a real estate broker in the state of Wisconsin having license #90-49893. This license was first granted to her on 06/23/99 and is current through 12/31/04.
2. Towne was granted a real estate salesperson license, license #94-48889, on 06/23/98. This license expired when it was not renewed on or before 12/31/00.
3. Towne’s most recent address on file with the Wisconsin Department of Regulation & Licensing (“the Department”) is W7374 Crain Lane, Pembine, WI 54156.

4. Star Team, Inc. ("Star Team") is a duly licensed real estate business entity in the state of Wisconsin having license #91-20057. This license was first granted to it on 06/23/78 and is current through 12/31/04.

5. Star Team's most recent address on file with the Department is P.O. Box 187, Pembine, WI 54156

6. At all times relevant to this action, Towne was working as a real estate broker/owner of Star Team.

7. At all times relevant to this action, Towne utilized a trust account with Bank North, located in Wausaukee, Wisconsin, designated as "Star Team Inc. IBRETA Trust Account." Towne is responsible for this trust account.

8. On or about August 21, 2003, Gene Kleinert, an auditor with the Department, began an audit of Star Team's real estate trust account bookkeeping records. On or about September 17, 2003, Kleinert completed his audit. During the audit, Kleinert discovered discrepancies in the real estate trust account as follows:

An overpayment of \$3000.00 was made to a seller on November 29, 2002, and a deposit to correct the overpayment was made on February 12, 2003;
Towne had more than \$300 in personal funds held in the trust account;
The journal was not maintained;
Bank reconciliation was not done correctly;
Trial balances were not performed;
Validations were not performed; and
The trust account was overdrawn on January 27-28, 2003.

A copy of form 344 completed by Kleinert and signed by Towne is attached as **Exhibit 1** and is hereby incorporated into this document.

9. Upon completion of the audit, Kleinert provided Towne with the appropriate forms and instructed Towne to continue using these forms to maintain the journal, bank reconciliation, trial balances, and validations. Kleinert instructed Towne to submit a copy of the September 2003 bank statement, bank reconciliation, journal and trial balance to him no later than October 15, 2003.

10. On October 8, 2003, Towne mailed the requested documents to Kleinert. These documents demonstrated that Towne was using the proper forms and keeping the proper records and demonstrated further that the trust account was balanced and in full compliance with the law.

11. Towne has never been the subject of a complaint or discipline prior to the present action.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Board has jurisdiction to act in this matter, pursuant to Wis. Stat. § 452.14, and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. By engaging in the conduct described above in paragraph 6, respondent Sally J. Towne has violated:

- a. Wisconsin Administrative Code § RL 18.09 by incorrectly disbursing trust account funds;
- b. Wisconsin Administrative Code § RL 18.10 by commingling personal funds in the trust account;
- c. Wisconsin Administrative Code § RL 18.13(1) by failing to maintain the required journal;
- d. Wisconsin Administrative Code § RL 18.13(3) by failing to do required monthly account reconciliations;
- e. Wisconsin Administrative Code § RL 18.13(4) by failing to do required monthly trial balances;

- f. Wisconsin Administrative Code § RL 18.13(5) by failing to do required monthly validations;
- g. Wisconsin Administrative Code § RL 24.15 by failing to maintain adequate funds in the trust account; and
- h. Wis. Stat. § 452.14(3)(i) by failing to comply with the rules in Wisconsin Administrative Code Chapter RL 18, thereby demonstrating incompetence to act as a real estate broker in a manner that safeguards the interests of the public. *See* Wisconsin Administrative Code § RL 18.14.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The attached Stipulation is hereby accepted.
2. Respondent Sally J. Towne, license #90-49893, be, and hereby is, REPRIMANDED.
3. Respondent Star Team Inc., license #91-20057, be, and hereby is, REPRIMANDED.

IT IS FURTHER ORDERED that:

4. Respondent Sally J. Towne shall, within 30 days of the date of this Order, pay a FORFEITURE of \$350.00.
5. Respondent Sally J. Towne shall, within 90 days of the date of this Order, pay COSTS of this matter in the amount of \$625.00.

Payment shall be made payable to the Wisconsin Department of Regulation and Licensing, and mailed to:

Department Monitor
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935
Madison, WI 53708-8935
Telephone (608) 267-3817
Fax (608) 266-2264

IT IS FURTHER ORDERED THAT:

6. Respondent Sally J. Towne shall, within six months of the date of this Order, successfully complete the following course modules 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, Wisconsin Administrative Code § RL 25.02(2)(c); and
 - b. The financial and office management module, Wisconsin Administrative Code § RL 25.02(2)(e)

and 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 Order 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.

7. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent Sally J. Towne's license. The Board, in its discretion, may in

the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondent Sally J. Towne fails to timely submit any payment of the forfeiture or the costs as set forth above, Respondent Sally J. Towne's license (#90-49893) SHALL BE SUSPENDED, without further notice or hearing, until Respondent Sally J. Towne has complied with the terms of this Order.

8. This Order is effective on the date of its signing

WISCONSIN REAL ESTATE BOARD

By: Richard Kollmansberger
A Member of the Board

2-24-05
Date