

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	:	
	:	
GAIL A. MILLER	:	FINAL DECISION AND ORDER
RESPONDENT.	:	LS0502249REB

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

Gail A. Miller
5711 West Open Meadow
McFarland, WI 53558

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 these matters agree to the terms and conditions of the attached Stipulation as the final decision of the matter(s), subject to the approval of the Real Estate Board (Board). The Board has reviewed the Stipulation agreement annexed to this Final Decision and Order, and considers it acceptable. Accordingly, the Board adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Respondent Gail A. Miller (“Miller”), whose date of birth is April 3, 1952, whose address of record with the Department of Regulation and Licensing (“Department”) is 5711 West Open Meadow, McFarland, Wisconsin. Ms. Miller was granted a real estate salesperson’s license on November 11, 1994, pursuant to Wis. Stat. ch. 452 (#, and has held it at all times material to this complaint. The license is current through December 31, 2006.
2. On or about March 8, 2001, Ms. Miller began working for two customers, C.W. and D.W., as a buyer’s agent, without a written buyer agency agreement.
3. On or about March 9, 2001, Ms. Miller gave a copy of a written buyer agency agreement. However, neither C.W. nor D.W. signed the buyer agency agreement until the time of drafting an offer to purchase, on or about May 16, 2001. At that time, Ms. Miller back-dated the buyer agency agreement to March 8, 2001, in accordance with her understanding of the date on which she began working as a buyer’s agent.
4. Per Wis. Admin. Code § RL 24.08, “A licensee shall put in writing all... buyer agency agreements.
5. Per Wis. Stat. § 452.14(3)(i), a licensee is subject to discipline if he or she has demonstrated incompetency... to act as a salesperson.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Board has jurisdiction to act in these matters pursuant to Wis. Stats. § 452.14.

2. The Wisconsin Real Estate Board has authority to enter into this stipulated resolution of this matter pursuant to Wis. Stats. § 227.44(5).

3. Respondent Gail A. Miller, by her conduct as described in paragraph 2 above, did violate Wis. Admin. Code § RL 24.08.

4. Respondent Gail A. Miller, by her conduct as described in paragraphs 2-3, above, and, more specifically, by failing to act as a seller's subagent in the absence of a valid buyers agency agreement, and by attempting to back-date the buyers agency agreement, did demonstrate incompetency to act as a salesperson.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The license of GAIL A. MILLER to practice as a Real Estate Salesperson in the State of Wisconsin is hereby REPRIMANDED.

2. Respondent shall, by September 1, 2005, complete an educational course, the subject of which is agency or buyer agency. The course shall not be less than one business day in length, and shall not consist of less than six hours of classroom instruction.

3. Respondent shall, within ninety (90) days of the date of this Order, pay to the Department of Regulation and Licensing partial costs of this proceeding in the amount of \$600.00, pursuant to Wis. Stats. § 440.22(2).

4. All payments and evidence of completion of the education required by this Order, and request for removal of the limitation shall be mailed, faxed or delivered to:

Department Monitor
Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Ave.
P.O. Box 8935
Madison, WI 53708-8935
Fax: (608) 266-2264
Telephone: (608) 267-3817

5. This Order shall be effective on the date of its signing.

By: Richard Kollmansberger
A Member of the Board

2-24-05
Date