

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	:	
	:	FINAL DECISION AND ORDER
EARL J. PHILLIPS,	:	LS05041414REB
RESPONDENT.	:	

Division of Enforcement Case No. 04 REB 183

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

Earl J. Phillips
c/o Mark A. Phillips
333 Bishops Way
Brookfield, WI 53006

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

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 decision of this matter, subject to the approval of the Real Estate 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. Earl J. Phillips (“Respondent”) (DOB 07/01/1920) is duly licensed as a Real Estate Broker in the state of Wisconsin (90-13834). The license was first granted on 06/15/1948. The license expired on 12/31/2004.
2. Respondent's most recent address on file with the Wisconsin Real Estate Board is 1700 West Bradley Road, Milwaukee, WI, 53217.
3. On or about September 30, 2002, C.S.I. made an offer to purchase a property, and Respondent received a check for \$5,000.00 in earnest money from C.S.I.
4. Respondent did not deposit the earnest money check into Respondent’s real estate trust account; Respondent deposited the earnest money check into Respondent’s business account. Subsequently, the earnest money was expended from Respondent’s business account.

5. Per Wis. Admin. Code § RL 18.031(1), “A broker shall deposit all real estate trust funds received by the broker or the broker... in a real estate trust account within 48 hours of receipt of the trust funds.”

7. Per Wis. Admin. Code § RL 18.02(6)(g), the term “real estate trust funds” includes “earnest money downpayments and other money received in connection with offers to purchase.”

8. Per Wis. Stat. § 452.14(3)(i), a licensee is subject to discipline if he or she has, “Demonstrated incompetency to act as a broker... in a manner which safeguards the interests of the public.”

9. Per Wis. Admin. Code § RL 18.14, “A broker who fails to comply with the rules in this chapter shall be considered to have demonstrated incompetency to act as a real estate broker in a manner as to safeguard the interests of the public, as specified in s. 452.14(3)...”

CONCLUSIONS OF LAW

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

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

3. By failing to deposit earnest money received in a real estate trust account, as required by Wis. Admin. Code § RL 18.031(1); and instead depositing and expending the earnest money as described in paragraphs 3-4, above, Respondent violated Wis. Stat. § 452.14(3)(i).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The license of EARL J. PHILLIPS to practice as a real estate broker in the State of Wisconsin and shall be, and hereby is, REVOKED.
2. Respondent shall pay partial costs of the Division of Enforcement in investigating this matter, in the amount of \$500.00.
3. All payments required by this Order shall be mailed 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

4. 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'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 fails to timely submit any payment of the forfeiture as set forth above, or fails to timely submit proof of completion of education as set forth above, the Respondent's license (90-13834) SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order, and with the suspension called for in this Order not to begin until the other terms of the Order have been complied with.

5. This Order is effective on the date of signing.

WISCONSIN REAL ESTATE BOARD

By:	Richard Kollmansberger	4-14-05
	A Member of the Board	Date