

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**
MARK D. BROWN and : **LS-0506142-REB**
M D BROWN REAL ESTATE INC., :
RESPONDENTS. :

Division of Enforcement Case No. 02 REB 074

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

Mark D. Brown
d/b/a/ M D Brown Real Estate Inc.
3429 Midway St.
Eau Claire, WI 54703

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

1. **Mark D. Brown**, date of birth 01/04/61, is licensed in the State of Wisconsin as a real estate broker having license # 90-39306. This license was first granted to him on 12/22/86 and is current through 12/31/06. Brown's most recent address with the Department of Regulation and Licensing is 3429 Midway St., Eau Claire, WI 54703.

2. **M D Brown Real Estate Inc.** was licensed as a real estate business entity having license #91-935407. This license was granted on 06/07/01 and it expired on 12/31/04.

3. Mark D. Brown also owns Equity Appraisal Company.

4. On or about October 26, 2004, an auditor with the Department of Regulation and Licensing audited Mr. Brown's real estate trust account bookkeeping records. During the audit the auditor discovered discrepancies in the real estate trust account as follows:

Earnest money was not deposited into the trust account;

A broker's commission was paid to Equity Appraisal Company instead of to Mark D Brown Real Estate Inc., which was an improper disbursement;

Non-trust funds were going into a trust account and non-trust funds were being paid out of a trust account, which was commingling;

The journal was not properly maintained;
The ledger was not properly maintained;
Bank reconciliations were not completed in writing;
Trial balances were not performed in writing; and
Validations were not performed.

5. In lieu of other discipline, Mark D. Brown has offered to surrender his real estate broker's license and to accept limitations on any salesperson's license issued to him.

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. The conduct described in paragraph 4 above constitutes a violation of Wis. Adm. Code §§ RL 18.031(3), RL 18.09(1)(b), RL 18.10, RL 18.13(1), RL 18.13(2), RL 18.13(3), RL 18.13(4), and RL 18.13(5) and Wis. Stat. § 452.14(3)(failing to deposit earnest money, improper disbursement, commingling funds, by failing to adequately maintain a required journal ledger, by failing to perform bank reconciliations in writing and by failing to do the required monthly trial balances and validation

ORDER

1. IT IS ORDERED that the voluntary surrender of real estate broker's license #90-39306 by Respondent Mark Brown is hereby accepted.

2. IT IS FURTHER ORDERED that Mark D. Brown pay the costs of this matter in the amount of \$2,537.62 within 30 days of this order. Payment should be made and sent to

Department Monitor
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935
Madison, WI 537087-8935
Telephone (608) 261-7904
Fax (608) 262-2264

3. IT IS FURTHER ORDERED that after full payment of the costs, Mark D. Brown may apply to the Department of Regulation and Licensing for a real estate salesperson's license. The Real Estate Board agrees not to object to or otherwise oppose such an application from Mr. Brown, but the parties stipulate that any such real estate salesperson's license shall be LIMITED as follows:

- a. Mr. Brown shall not perform any real estate bookkeeping or real estate trust account duties while licensed as a real estate salesperson. Mr. Brown may not take possession of nor be responsible for any real estate trust funds as Wisconsin law defines those funds.
- b. Prior to commencement of his employment as a real estate salesperson, Mr. Brown shall give a full and complete copy of this Final Decision and Order to his supervising broker. Upon any change in supervising broker, Mr. Brown shall immediately give a copy of the Final Decision and Order to the new supervising broker.
- c. Upon obtaining employment as a licensed real estate salesperson with a licensed real estate broker, Mr. Brown shall immediately provide the Board with the broker-employer's name and address and telephone number. Any change of supervising broker shall be noticed to the Real Estate Board within 10 days of the change.
- d. Any violation of these limitations shall constitute conduct such that the public health, safety or welfare imperatively requires emergency suspension of Mr. Brown's license under section RL 6.06 of the Wisconsin Administrative Code, and the Real Estate Board may summarily suspend Mr. Brown's license.

e. These limitations shall continue in full force and effect until further order of the Board.

4. IT IS FURTHER ORDERED that the complaint against **M D Brown Real Estate Inc.** in file 02 REB 074 be closed without further action.

Dated this 25day of August, 2005.

WISCONSIN REAL ESTATE BOARD

By: Richard Kollmansberger
A member of the Board