

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
JAMES B. HALDEMAN, AND	:	
RE/MAX HOMES & HILLS REALTY INC.,	:	
RESPONDENTS.	:	LS0508253REB

Division of Enforcement Case File # 04 REB 255

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

James B. Haldeman
RR 4, Box 291
Black River Falls, WI 54615

Re/Max Homes and Hills Realty Inc.
19 Main St.
Black River Falls, WI 54615

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 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. **James B. Haldeman**, date of birth 12/14/50, is a licensed real estate broker in the State of Wisconsin having license # 90-45374, which was first granted on 12/27/91. Haldeman's most recent address on file with the Department of Regulation and Licensing is RR 4 Box 291, Black River Falls, WI 54615.

2. **Re/Max Homes & Hills Realty Inc.** is a duly licensed real estate business entity in the State of Wisconsin having license # 91-834919, which was first granted to it on 10/10/96. Re/Max Homes & Hills Realty Inc.'s most recent address on file with the Department is 19 Main Street, Black River Falls, WI 54615.

3. At all times relevant to the facts set forth below, Respondent James B. Haldeman was the real estate Broker/President of Re/Max Homes & Hills Realty Inc., located at 19 Main St., Black River Falls, WI 54615.

4. On or about March 9, 2004, and March 24, 2004, an auditor with the Department of Regulation and Licensing audited Respondents' real estate trust account bookkeeping records. During the audit the auditor discovered discrepancies in the real estate trust account as follows:

disbursement records were not completed correctly;
the Journal was not adequately maintained;
ledger was not adequately maintained;
account reconciliation was not completed correctly;
trial balances were not performed;
validations were not performed; and
there were insufficient funds in the trust account.

5. On or about March 15, 2005, the Department auditor reviewed Respondents' bookkeeping records pertaining to November 2004, December 2004, and January 2005. The auditor discovered discrepancies in the real estate trust account records as follows:

For the month of November 2004, the reconciled bank statement and trial balance are in agreement, but there is a \$500.00 discrepancy between them and the journal. The journal shows \$500.00 more than the reconciled bank statement and trial balance.

For the month of December 2004, the reconciled bank statement and trial balance are in agreement, but there is a \$500.00 discrepancy between them and the journal. The journal shows \$500.00 more than the reconciled bank statement and trial balance.

For the month of January 2005, the reconciled bank statement and trial balance are in agreement, but there is a \$500.00 discrepancy between them and the journal. This time, however, the journal shows \$500.00 *less* than the reconciled bank statement and trial balance, resulting in a \$1,000.00 difference than the previous month.

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 above in paragraphs 4 and 5 constitutes a violation of:

Wis. Admin. Code § RL 18.13(1) by failing to adequately maintain a required journal;

Wis. Admin. Code § RL 18.13(2) by failing to adequately maintain a required ledger;

Wis. Admin. Code § RL 18.13(3) by failing to perform account reconciliations;

Wis. Admin. Code § RL 18.13(4) by failing to do the required monthly trial balances;

Wis. Admin. Code § RL 18.13(5) by failing to do the required monthly validation;

Wis. Admin. Code § RL 24.15 by issuing checks from the trust account which contained insufficient funds; and

Wis. Admin. Code § RL 18.14 and Wis. Stat. § 452.14(3)(i) by demonstrating incompetency to act as a broker in a manner which safeguards the interests of the public.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The attached Stipulation is hereby accepted.

2. Respondent **James B. Haldeman**, license #90-45374 be, and hereby is, **REPRIMANDED**.

3. Respondent **Re/Max Homes & Hills Realty Inc.**, license #91-834919 be, and hereby is, **REPRIMANDED**.

IT IS FURTHER ORDERED that:

4 Respondent **James B. Haldeman**, within 30 days of the date of this Order, **successfully complete a Trust Account, Escrow, Closing Statement broker's course**, and submit proof of the same in the form of verification from the institution providing the education to the address stated below. 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.

5. Respondent **James B. Haldeman** shall, within 60 days of the date of this Order, **pay costs of this proceeding in the amount of \$1,600.00**.

6. Respondent **James B. Haldeman** shall, within 60 days of the date of this Order, **pay a forfeiture in the amount of \$250.00**. 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) 261-7904

7. Respondent **James B. Haldeman** shall employ the services of a CPA firm in good standing with the Department to review and audit Respondent's trust account records on a quarterly basis for 12 consecutive months, beginning with August 2005, according to the schedule listed below. The CPA firm shall review the trust account journal, the monthly bank statements, the monthly account reconciliations and monthly trial balances. The CPA firm shall provide Respondent with an Accountant's Summary of the trust account records, including a certification indicating whether the records are in compliance with Wis. Admin. Code RL 18. The Accountant's Summary shall also include any comments, criticisms or recommendations about the trust account records which may assist the Respondent in maintaining compliance with Wis. Admin. Code RL 18. The Respondent shall be solely responsible for the cost of employing the CPA firm. The Respondent shall furnish the Accountant's Summary to the Department, along with the trust account records reviewed by the CPA firm for the quarter, including, without limitation, the journal, bank statements, monthly account reconciliations and monthly trial balances, according to the following schedule:

Date of Trust Account Records	Due Date for Accountant's Summary to Respondent	Deadline for Respondent to Submit Summary and Records to Department
August 2005 - October 2005	November 31, 2005	December 8, 2005
November 2005-January 2006	February 28, 2006	March 8, 2006
February 2006 - April 2006	May 31, 2006	June 8, 2006
May 2006 - July 2006	August 31, 2006	September 8, 2006

8. The Department shall review Respondents' trust account records and the Accountant Summaries provided pursuant to paragraph 7 above. If Respondents' trust account records submitted to the Department pursuant to paragraph 7 are not in compliance with Wis. Admin. Code RL 18, then the real estate broker's license #90-45374 issued to Respondent **James B. Haldeman**, shall be subject to further disciplinary action approved by the Board.

9. 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 **James B. Haldeman'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 **James B. Haldeman** fails to timely submit any payment or trust account records and Accountant's Summary as ordered, or fails to complete the education as ordered, Respondent **James B. Haldeman's** license SHALL BE SUSPENDED, without further notice or hearing, until Respondent **James B. Haldeman** has complied with the terms of this Order. [\[smg1\]](#)

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

WISCONSIN REAL ESTATE BOARD

By: Richard Kollmansberger
A Member of the Board

August 25, 2005
Date

[\[smg1\]](#) This section should be the standard summary suspension provision: **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.** Where the terms of discipline consist of a forfeiture, costs or continuing education, alternative "self-effectuating" language should be utilized. E.g.: **In the event Respondent fails to timely submit any payment of the forfeiture as set forth above, the Respondent's license(#1550) SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.**