

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 :
 :
 : FINDINGS AND ORDER
CANDICE J. MUELLER, BETH A. :
COLAIZY and COLAIZY, LLC :
 :
 : LS0602236REB
RESPONDENTS. :

Division of Enforcement Case No. 03 REB 285

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

Candice J. Mueller
P.O. Box 717
Osceola, WI 54020

Beth A. Colaizy
P.O. Box 717
Osceola, WI 54020

Colaizy, LLC
P.O. Box 717
Osceola, WI 54020

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. Candice J. Mueller (“Mueller”) (DOB 10/05/1975) is duly licensed as a Real Estate Salesperson in the state of Wisconsin (94-53968). The license was first granted on 12/21/2001. The license expires on 12/31/2006. Mueller's most recent address on file with the Wisconsin Real Estate Board is P.O. Box 717, Osceola, WI 54020.

2. Beth A. Colaizy (“Colaizy”) (DOB 10/10/1949) is duly licensed as a Real Estate Broker in the state of Wisconsin (90-47741). The license was first granted on 12/22/1994. The license expires on 12/31/2006. Colaizy's most recent address on file with the Wisconsin Real Estate Board is P.O. Box 717, Osceola, WI 54020.

3. Colaizy, LLC (“CLLC”) is duly licensed as a Real Estate Business Entity in the state of Wisconsin (91-700276). The license was first granted on 09/20/1999. The license expires on 12/31/2006. CLLC's most recent address on file with the Wisconsin Real Estate Board is P.O. Box 717, Osceola, WI 54020.

4. On December 23, 2003, Colaizy sent a letter to the Department of Regulation and Licensing (“Department”) advising the Department that Mueller had inadvertently been practicing with an expired license as of December 31, 2002. Subsequently, Colaizy provided information to the Department showing that Mueller had received commissions on more than 15 occasions while practicing with an expired license.

5. In a letter to the Department dated November 16, 2005, Mueller admitted the allegations, noting that the failure to renew her license was not intentional.

6. Per Wis. Stat. § 452.03, “No person may engage in or follow the business or occupation of... a broker or salesperson without a license.”

7. Per Wis. Stat. § 452.19, “No licensed broker may pay a fee or a commission or any part thereof for performing any act specified in this chapter... to any person who is not licensed or registered under this chapter...”

8. Per Wis. Admin. Code § RL 17.07, “A broker-employer shall... at the beginning of each biennial licensure period, determine that each licensee employed by the broker is properly licensed. A broker-employer may not employ an unlicensed person... to engage in real estate practice for the broker-employer.”

9. As noted above in paragraph 3, the failure to ensure that Mueller was licensed was self-reported by the Colaizy and CLLC, and all respondents fully and timely cooperated in this matter at all times.

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. Candice J. Mueller, by engaging in the practice of real estate as a real estate salesperson, as described in paragraphs 4-5 of the Findings of Fact, above, violated Wis. Stat. § 452.03, thereby subjecting herself to discipline per Wis. Stat. § 452.14(3)(L).

4. Beth A. Colaizy and Colaizy, LLC, by failing to ensure that Candice J. Mueller was properly licensed at the beginning of the biennial period, as described above in paragraph 4 of the Findings of Fact, violated Wis. Admin. Code § RL 17.07, thereby demonstrating incompetency to act as a broker, thereby subjecting themselves to discipline per Wis. Stat. § 452.14(3)(i).

5. Beth A. Colaizy and Colaizy, LLC, by paying commissions to Candice J. Mueller during a period when she was not licensed, as described above in paragraph 4 of the Findings of Fact, committed fifteen or more violations of Wis. Stat. § 452.19, thereby subjecting themselves to discipline per Wis. Stat. § 452.14(3)(L).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The license of BETH A. COLAIZY to practice as a real estate broker in the State of Wisconsin, the license of COLAIZY, LLC to practice as a real estate agency in the State of Wisconsin, and the license of CANDICE J. MUELLER to practice as a real estate sales person in the State of Wisconsin, shall be, and hereby are, REPRIMANDED.
2. Respondents BETH A. COLAIZY and CANDICE J. MUELLER, shall EACH pay HALF of the costs of the Division of Enforcement in investigating this matter, which total \$300.00, by April 1, 2006. All respondents shall be held jointly and severally liable for the payment of the costs of the Division of Enforcement.
3. All payments, proof of education or other submissions required by or arising out of 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) 261-7904

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 Respondents' licenses. 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 Respondents fail 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 Respondents' licenses (94-53968, 91-700276, and 90-47741) SHALL BE SUSPENDED, without further notice or hearing, until Respondents have 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: Peter Sveum
A Member of the Board

2@306
Date

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 :
CANDICE J. MUELLER, BETH A. :
COLAIZY and COLAIZY, LLC :
 :
RESPONDENTS. :

STIPULATION

LS# _____

Division of Enforcement Case No. 03 REB 285

It is hereby stipulated between Candice J. Mueller, Respondent; Beth A. Colaizy, Respondent; and Colaizy, LLC, Respondent, by Beth A. Colaizy; and attorney Mark A. Herman, for the Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a pending investigation of Respondents' licensures by the Division of Enforcement (Case No. 03 REB 285). Respondents consent to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

2. Respondents understand that by signing this Stipulation they voluntarily and knowingly waive their rights, including: the right to a hearing on the allegations against them, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against them; the right to call witnesses on their behalf and to compel their attendance by subpoena; the right to testify themselves; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to them under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and any other provisions of state or federal law.

3. Respondents have been provided with the opportunity to obtain the advice of legal counsel prior to signing this stipulation.

4. Respondents agree to the adoption of the attached Final Decision and Order by the Real Estate Board. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondents waive all rights to any appeal of the Board's order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Real Estate Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of the Respondents or their attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with the Board's deliberations on the Stipulation. Additionally, any such Board advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondents are informed that should the Board adopt this Stipulation, the Board's final decision and order is a public record and will be published in accordance with standard Department procedure.

8. The Division of Enforcement joins Respondents in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

Candice J. Mueller, Respondent
P.O. Box 717
Osceola, WI 54020

Date

Beth A. Colaizy, Respondent
On her own behalf and on behalf of
Colaizy, LLC, Respondent
P.O. Box 717
Osceola, WI 54020

Date

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

Date