

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**
 :
TOM K. NIELSEN. : **LS0602238REB**
RESPONDENT. :
 :

[Division of Enforcement Case File #: **03 REB 017**]

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

Tom K. Nielsen
1857 River Ridge Road
Hudson, WI 54016

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

PROCEDURAL HISTORY

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. Tom K. Nielsen (“Respondent”), date of birth 03/08/43, is licensed in the State of Wisconsin as a real estate salesperson having license #94-37695. This license was first granted on 08/06/92.
2. Respondent’s last reported address on file with the Department of Regulation and Licensing (“Department”) is: 1857 River Ridge Road, Hudson, Wisconsin 54016.
3. At all times relevant to the facts stated below, the Respondent was employed as a real estate salesperson at Burnet Realty (D/B/A) Coldwell Banker Burnet (#91-833997), located at 1301 Coulee Road, Hudson, Wisconsin 54016. This license was first granted to the business entity on 07/31/90.
4. On or about January 27, 2003, the Department received a complaint alleging that the Respondent had engaged in unprofessional conduct while acting as an agent in a real estate residential property transaction.

5. On or about May 9, 2002, Complainant Tracie Happel and her husband, Carl Happel, entered into a listing agreement with the Respondent. The listing agreement was for the sale of residential property, located at 1608 Laurel Avenue, Hudson Wisconsin 54016.

6. On or about June 21, 2002, the Happels accepted an offer to purchase with earnest money of \$2,000.00 due 10 days after the acceptance. The proposed closing date in the transaction was scheduled for July 15, 2002.

7. On or about July 13, 2002, the Respondent informed the Happels that the prospective buyer was backing out of the June 21, 2002 offer to purchase deal. The Happels continued to have the Respondent market the above-noted property at a listing/asking price.

8. On or about July 20, 2002, the Happels' received an earnest money check in the amount of \$2,000.00. No other documentation was enclosed to explain the ramifications of accepting and cashing the check. Subsequently, the Happels deposited the check into their bank account.

9. While pursuing a civil action against the prospective buyer involved in the June 21, 2002 deal, the Happels' were informed that since they had signed a Cancellation Agreement and Mutual Release document releasing the prospective buyer from and all liability, they could not pursue a civil action against the prospective buyer. The Cancellation Agreement and Mutual Release document shows a date and signing on July 13, 2002 by the prospective buyer. The document is also dated and signed on July 13, 2002 by the Happels. The Happels contended that they were never shown or signed such a document.

10. On or about August 29, 2002, the Respondent admitted to a law enforcement officer of the Hudson Police Department that he signed the Happels' name without first attaining Power of Attorney authority.

11. In resolution of this matter, the Respondent consents to the entry of the following Conclusions of Law and Order.

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CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 452.14.
2. The Wisconsin Real Estate Board is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).
3. Respondent, Tom K. Nielsen has violated:

Wis. Stat. §§ 452.14(3)(i)(k)(L) and Wis. Admin. Code §§ RL 24.025; 24.03(2)(b) by improperly and fraudulently signing the names of clients in a real estate transaction without first attaining Power of Attorney authority.

ORDER

NOW THEREFORE, IT IS HEREBY ORDERED that the attached Stipulation is hereby accepted.

IT IS FURTHER ORDERED that Respondent, license # 094-37695 be, and hereby is **SUSPENDED** for a period of fourteen (14) calendar days commencing ten (10) days from the signing and dating of this Order. During that period, the Respondent shall not engage in the practice of real estate. Listings made prior to the date of suspension, and long-term

advertisements such as Yellow Pages listings, need not be cancelled.

IT IS FURTHER ORDERED that the Respondent, within six months of the dating and signing of this Order, successfully complete the following course: a business ethics class of the salesperson's course or an equivalent course on ethical real estate practices of at least four (4) hours. Proof of continuing education requirements must be submitted 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.

IT IS FURTHER ORDERED that Respondents pay to the Department of Regulation and Licensing **COSTS of TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00)**.

IT IS FURTHER ORDERED, that a down payment of **FIVE HUNDRED DOLLARS (\$500.00)** shall be submitted thirty (30) days from the date of this order and two more payments of **ONE THOUSAND DOLLARS (\$1,000.00)** will due ninety (90) days from the previous payment until the full **TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00)** is paid. Payments shall be made by **certified check or money order**, payable to the Wisconsin Department of Regulation and Licensing sent to:

**Department Monitor
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935
Madison, WI 53708-8935
Telephone (608) 261-7904
Fax (608) 266-2264**

IT IS FURTHER ORDERED that in the event Respondent fails to pay the **TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00)** costs within the time and in the manner as set forth above, then and in that event, and without further notice to the Respondent, his license #094-37695 shall be **SUSPENDED** without further hearing and without further Order of the Board, and said suspension shall continue until the full amount of said costs has been paid to the Department of Regulation and Licensing. Failure to pay the costs shall be considered a violation of this Order by the Board.

IT IS FURTHER ORDERED, that file **03 REB 017** be, and hereby is, closed as to Tom K. Nielsen.

WISCONSIN REAL ESTATE BOARD

By: Peter Sveum
A member of the Board

2/23/06
Date