

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
CHRISTOPHER P. NASH and	:	
INTEGRITY GROUP LLC d/b/a	:	
CENTURY 21	:	LS0604274REB
	:	
RESPONDENTS.	:	

Division of Enforcement Case No. 03 REB 205

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

Christopher P. Nash
675 Marion Avenue
Jefferson, WI 53549

Integrity Group, LLC
d/b/a Century 21
238 South Main Street
Jefferson, WI 53549

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 (“Board”). The Board has reviewed the Stipulation agreement annexed to this Final Decision and Order, and considers it acceptable. Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Respondent Christopher P. Nash (“Nash”), whose date of birth is April 12, 1962, and whose last known address of record with the Department of Regulation and Licensing (“Department”) is 675 North Marion, Avenue, Jefferson, WI 53549, holds a license as a Real Estate Broker in the state of Wisconsin (90-40576). Mr. Nash was first granted the

license on April 28, 1987, pursuant to Wis. Stat. Ch. 452. Mr. Nash's license will expire on December 31, 2006. At all times relevant hereto, Mr. Nash was the president and broker of record for the Integrity Group, LLC ("Integrity Group").

2. Respondent Integrity Group, d/b/a Century 21, whose last known address of record with the Department is 238 South Main Street, Jefferson, WI 53549, holds a license as a Real Estate Business Entity in the state of Wisconsin (91-701094). Integrity Group was first granted the license on February 15, 2005. Integrity Group's license will expire on December 31, 2006.

3. Integrity Group purchased a Century 21 franchise located in Jefferson Wisconsin in 1995. At the time of purchase the Century 21 franchise employed a licensed real estate broker, Thomas Utecht. Mr. Utecht's license expired on December 31, 2002. Mr. Utecht was informed by the Department in April of 2003 that his application for renewal had been denied, due to delinquent taxes owed. On May 16, 2003, Mr. Utecht's license was formally placed in a non-active status. Mr. Utecht claimed not to be aware that his license was not in active status until July of 2003. Mr. Utecht's license was restored to active status on October 13, 2003. Mr. Utecht continued to practice real estate, and to hold himself out to the public as a licensed broker, throughout the period of May 16, 2003 to October 13, 2003.

4. Mr. Nash recalls being informed in 2003 that the Department had refused to issue Mr. Utecht a license due to tax issues. Mr. Nash believed that the problem was resolved by entering into a payment agreement with the Department of Revenue. Mr. Nash does not assert that he ever required Mr. Utecht to cease practicing as a real estate broker at any time, and continued to permit Mr. Utecht to work as a real estate agent through Integrity Group at all times relevant to this matter. Additionally, Integrity Group issued commission to Mr. Utecht for one or more real estate transactions where substantially all work requiring a license under Wis. Stat. §§ 452.03 and 452.01(2)(h) was performed by Mr. Utecht during the period where he did not have a valid real estate license.

5. Per Wis. Stat. § 452.14(3)(L), a licensee is subject to discipline if he or she has, "Violated any provision of this chapter;"

6. 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..."

7. 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 such a manner as to safeguard the interests of the public..."

8. Per Wis. Admin. Code § RL 24.01(3), "If a licensee violates rules in this chapter, the licensee has demonstrated incompetency to act as a broker... under s. 452.14(3)(i)..."

9. Per Wis. Admin. Code § RL 24.17(1), "Licensees may not violate, or aid and abet the violation of, any law the circumstances of which substantially relate to the practices of a real estate broker or salesperson..."

10. As a mitigating factor, it is noted that Mr. Utecht has stipulated to allegations that he practiced without a license, and submitted false or misleading information to the Department in this matter, which suggests that Mr. Utecht may have misled Respondents as well. However, that does not excuse Respondents entirely, given that Respondents were on notice of sufficient facts regarding Mr. Utecht such that they should have exercised due diligence and not permitted Mr. Utecht to continue to practice in Respondents' office without a license.

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 the conduct described in paragraphs 3-4 of the findings of fact, Respondents have aided and abetted the unlicensed practice of real estate by Mr. Utecht contrary to Wis. Stat. § 452.03, and, consequently, violated Wis. Admin. Code § RL 24.17, thereby subjected themselves to discipline per Wis. Stat. § 452.14(3)(i).

4. By the conduct described in paragraphs 4 of the findings of fact relating to the sharing of one or more commissions with Mr. Utecht, Respondents have committed one 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 licenses of CHRISTOPHER P. NASH (# 90-40576) and INTEGRITY GROUP, LLC (#91-701094) to practice as a real estate broker and Real Estate Entity in the State of Wisconsin and shall be, and hereby are, REPRIMANDED.
2. Respondents shall, by April 1, 2006, pay the costs of the Division of Enforcement in investigating this matter, in the amount of \$200.00.
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) 261-7904

5. 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 as set forth above (if any), or fails to timely submit proof of completion of education as set forth above (if any), the Respondents' licenses (90-40576 and 91-701094) 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.
6. This Order is effective on the date of signing.

WISCONSIN REAL ESTATE BOARD

By: Peter Sveum
A Member of the Board

4/27/06
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
CHRISTOPHER P. NASH and	:	
INTEGRITY GROUP, LLC d/b/a	:	
CENTURY 21	:	LS# _____
	:	
RESPONDENTS.	:	

Division of Enforcement Case No. 03 REB 205

It is hereby stipulated between Christopher P. Nash, Respondent; Integrity Group LLC, d/b/a Century 21, Respondent, by Christopher P. Nash; 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 205). 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, and the Wisconsin Administrative Code.
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.

Christopher P. Nash, Respondent
On his own behalf and on behalf of
Integrity Group, LLC, Respondent
238 South Main Street
Jefferson, WI 53549

Date

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

Date

[03 REB 205, Reprimand, Costs.]