

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
DON ARIC J. PATENAUDE :
 : LS0604275REB
RESPONDENT. :

Division of Enforcement Case No. 06 REB 026

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

Don Aric J. Patenaude
5333 Hainzr's Way
Oconto, WI 54153

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 attached Stipulation and considers it acceptable. Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Don Aric J. Patenaude (“Aric Patenaude”), who was born on July 17, 1976, and whose address of record with the Department of Regulation and Licensing (“Department”) is 5333 Hainzr’s Way, Oconto, WI 54153, is duly licensed as a Real Estate Broker in the state of Wisconsin (90-53257). The license was first granted on October 13, 2005. The license expires on December 31, 2006. Respondent also is duly licensed as a Real Estate Salesperson in the state of Wisconsin (94-65367). The license was first granted on October 7, 2005. The license expires on December 31, 2006. Respondent does business as “River Ridge Realty.”

2. On March 25, 2004, the Board revoked the Real Estate Broker’s license of H. P. On August 18, 2005, the Division of Enforcement filed an injunction action against H.P., seeking to enjoin H.P. from the practice of real estate without a license. On March 27, 2006, an administrative injunction was issued against H.P., finding that H.P. had continued to practice real estate after revocation of H.P.’s license.

3. In August of 2005 M.C. contacted H.P. because M.C. was interested in acquiring a home. H.P. told M.C. that she would keep M.C. on file. In January of 2006 H.P. contacted M.C., stating that a house was going up for sale. Aric Patenaude held a listing agreement for the property. On February 5, 2006, H.P. showed the property to M.C. Also present during the showing was Aric Patenaude. On February 7, 2006, H.P. again showed the property to M.C. Aric Patenaude was not present during this showing. On February 8, 2006, H.P. presented M.C. with an offer to purchase. The offer to purchase was type-written, and does not contain the name of the licensee who presented the offer, or who drafted the document.

4. On March 29, 2006, M.C. contacted A.H., a real estate licensee. At that time M.C. learned that H.P. was not licensed as a real estate salesperson or broker.

5. Per Wis. Admin. Code § RL 24.01(3), “If a licensee violates the rules of this chapter, the licensee has demonstrated incompetency to act as a broker... in such manner as to as safeguard the interests of the public under s. 452.14(3)(i), Stats. However, the term ‘incompetency’ is not limited in its meaning to violations of this chapter.”

6. 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...”

7. Per Wis. Stat. § 452.03, “No person may engage in or follow the business or occupation of, or advertise or hold himself or herself out as, or act temporarily or otherwise as a broker or salesperson 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 paragraph three (3) of the findings of fact, above, **Don Aric Patenaude** has demonstrated incompetency to act as a broker or salesperson in a manner that safeguards the interests of the public, in violation of Wis. Stat. § 452.14(3)(i).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The offer of **Don Aric Patenaude** to: (a) VOLUNTARILY SURRENDER his real estate salesperson's license (#94-65367), and to not exercise his right to renew same until May 15, 2007 is hereby accepted; and (b) VOLUNTARILY SURRENDER his real estate broker's license (#90-53257), and to not exercise his right to renew same until at least two years after the exercise of his right to renew his real estate salesperson's license (#94-65367) is hereby accepted.

IT IS FURTHER ORDERED that:

2. By May 15, 2006, Respondent shall mail or deliver all indicia of licensure and evidence of winding up his business River Ridge Realty 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

3. Case number 06 REB 026 is hereby closed.
4. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and well-being and may result in a summary suspension of Respondent **Don Aric Patenaude's** licenses (#90-53257 and 94-65367). The Real Estate Board in its sole discretion may in the alternative impose additional conditions and limitations or other additional disciplinary actions in the event of a violation of any of the terms of this Order. In the event that Respondent **Don Aric Patenaude** fails to timely submit any payment costs or proof of education as set forth above, his licenses (#90-53257 and 94-65367) SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.

5. This Order shall be effective May 15, 2006.

WISCONSIN REAL ESTATE BOARD

By: Peter Sveum
A Member of the Board

4/27/06
Date

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 :
DON ARIC J. PATENAUDE :
 :
RESPONDENT. :

STIPULATION

LS# _____

Division of Enforcement Case No. 06 REB 026

It is hereby stipulated between Don Aric J. Patenaude, Respondent; Jon D. Anderson, Respondent's attorney; 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 Respondent's licensure by the Division of Enforcement (Case No. 06 REB 026). Respondent consents to the resolution of this investigation by stipulation and without the issuance of a formal complaint.

2. Respondent understands that by signing this Stipulation he voluntarily and knowingly waives his rights, including: the right to a hearing on the allegations against him, 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 him; the right to call witnesses on his behalf and to compel their attendance by subpoena; the right to testify himself; 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 him under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and any other provisions of state or federal law. Respondent neither admits nor denies the allegations of this case, but does not wish to invest time or financial resources in defending this matter, and admits that there is evidence from which the Real Estate Board can make the findings of fact and conclusions of law in the attached Order.

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

4. Respondent agrees 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. Respondent waives 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 Respondent or his 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. Respondent is 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.

Don Aric J. Patenaude, Respondent
5333 Hainzr's Way
Oconto, WI 54153

Date

Jon D. Anderson, Respondent's Attorney
Law Offices of Jon D. Anderson, LLC
414 East Walnut Street, #201
Green Bay, WI 54301-5020

Date

Mark A. Herman, Attorney
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

Date

[06 REB 026: Limitation, \$900 Costs.]