

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
MARK R. SONDAY :
 :
 :
 : LS0604276REB
RESPONDENT. :

Division of Enforcement Case No. 03 REB 145

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

Mark R. Sunday
4110 Alvarez Avenue
Madison, WI 52714

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. Mark R. Sunday ("Respondent") (DOB 12/08/1959) is duly licensed as a Real Estate Salesperson in the state of Wisconsin (94-54436). The license was first granted on 03/26/2002. The license expires on 12/31/2006.
2. Respondent's most recent address on file with the Wisconsin Real Estate Board is 4110 Alvarez Avenue, Madison, WI 53714.
3. On or about July 18, 2002, a criminal complaint in support of an arrest warrant calling for the arrest of Respondent was filed in the United States District Court for the Eastern District of New York ("Complaint"). The Complaint alleged that Respondent, while working for a printing company, gained access to information affecting the prices of publicly traded stocks, and shared that information with certain individuals prior to the information being generally made available to the public for the purpose of making illicit financial gains.
4. On or about May 28, 2003, Respondent pled guilty to one count of violation of 18 USC 371, Conspiracy to Commit Insider Trading.
5. On or about June 25, 2003, Respondent informed the Department of Regulation and Licensing of his submission of a guilty plea, including the nature of the offense and contact information for his attorney.
6. A review of Respondent's application for licensure does not show that Respondent submitted any false information to the Department of Regulation and Licensing.
7. Per Wis. Admin. Code § RL 24.17(1), "A licensee who has been convicted of a crime... shall send to the Department within 30 days after the judgment of conviction a copy of the complaint or other information which describes the nature of the crime..."
8. Per Wis. Admin. Code § RL 24.17(2), "The Board may discipline a licensee on the basis of a conviction of any crime, the circumstances of which substantially relate to the practice of real estate.

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. Mark R. Sunday, by participating in a conspiracy to use confidential information in order to gain an illicit profit, resulting in a conviction for violation of a crime, as described in paragraphs 3-4 of the Findings of Fact, above, violated Wis. Admin. Code § RL 24.17(2), thereby subjecting himself to discipline.
4. By informing the Department of Regulation and Licensing, in writing, of the conviction and the circumstances of the conviction, as described in paragraph 5 of the Findings of Fact, above, Mark R. Sunday complied with Wis. Admin. Code § RL 24.17(1).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The license of MARK R. SONDAY to practice as a real estate broker in the State of Wisconsin shall be, and hereby is, LIMITED for a period of two years, said limitation to begin on February 25, 2006. During the period of limitation Respondent shall be closely supervised by a licensed real estate broker in good standing, with the supervising broker being required to submit quarterly reports to the Board regarding Respondent's conduct. Respondent shall submit the name of the proposed supervisor to the Board, and the Board may demand that an alternative supervising broker be used for good cause.
2. MARK R. SONDAY, shall pay the costs of the Division of Enforcement in investigating this matter, in the amount of \$400.00 by April 1, 2006.

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 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 of the forfeiture as set forth above, or fails to timely submit proof of completion of education as set forth above, the Respondent's license (94-54436) 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.
5. This Order is effective on the date of signing.

WISCONSIN REAL ESTATE BOARD

By: Peter Sveum
A Member of the Board

04-27-2006
Date

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 :
MARK R. SONDAY :
 :
 :
RESPONDENT. :

STIPULATION

LS# _____

Division of Enforcement Case No. 03 REB 145

It is hereby stipulated between Mark R. Sunday, Respondent; Lester A. Pines, 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 pending investigations of Respondent's licensure by the Division of Enforcement (Case No. 03 REB 145). 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/her 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. 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/her 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 Respondent in recommending the Board adopt this Stipulation and issue the

attached Final Decision and Order.

Mark R. Sondag, Respondent
4110 Alvarez Avenue
Madison, WI 53714

Date

Lester A. Pines, Attorney for Respondent
Cullen, Weston, Pines & Bach
122 West Washington Avenue
Madison, WI 53703

Date

Mark A. Herman, Attorney
Division of Enforcement

Date

[03 REB 145: Costs \$400, Limitation]