

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



Wisconsin Department of Regulation & Licensing Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Regulation & Licensing website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Regulation and Licensing from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Regulation and Licensing data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Regulation and Licensing, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name as it appears on the order.*
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Regulation and Licensing is shown on the Department's Web Site under "License Lookup." The status of an appeal may be found on court access websites at: <http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscca>.
- Records not open to public inspection by statute are not contained on this website.

By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.

Correcting information on the DRL website: An individual who believes that information on the website is inaccurate may contact the webmaster at web@drl.state.wi.gov

STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
	:	
JOE F. GERMAIN.	:	LS0706285REB
RESPONDENT.	:	
	:	

[Division of Enforcement Case File #: 05 REB 220]

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

Joe F. Germain
Coldwell Bankers, Brenzier Realtors
1021 Regis Court
Eau Claire, WI 54701

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. Joe F. Germain (“Respondent”), date of birth 01/05/65, is licensed in the State of Wisconsin as a real estate broker having license #90-52518. This license was first granted on 11/08/04.
2. Respondent’s last reported business address on file with the Department of Regulation and Licensing (“Department”) is: 1021 Regis Court, Eau Claire, Wisconsin 54701.
3. At all times relevant to the facts stated below, the Respondent was employed as a real estate salesperson at Coldwell Bankers, Brenzier Realtors (#91-833888), located at 1021 Regis Court, Eau Claire, Wisconsin 54701. This license was first granted to the business entity on 09/20/89.
4. On or about September 15, 2005, 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. The case was

subsequently opened for investigation.

5. On or about July 22, 2005, Complainant Lynn Welch and her husband, James Welch, entered into a listing agreement with the Respondent. The listing agreement was for the sale of residential property, located at 310 Governor Street, Chippewa Wisconsin ("Property").

6. On or about August 6, 2005, an offer to purchase was made on the Property by prospective buyers. The proposed closing date in the transaction was scheduled for August 26, 2005.

7. On or about August 25, 2005, the Respondent went to the Property to have Mr. and Mrs. Welch sign the closing documents. During the meeting at the Property, the Respondent met with Mr. Welch but did not meet with Mrs. Welch.

8. During the August 25, 2005 meeting, the Closing Statement and Warranty Deed were signed outside of the presence of the Respondent. When the Closing Statement and Warranty Deed were returned to the Respondent, the documents contain both Mr. and Mrs. Welch's signatures. The Respondent notarized the Warranty Deed, attesting to the fact that both Mr. and Mrs. Welch were present and signed in the Warranty Deed in his presence. At no time during the August 25, 2005 meeting did the Respondent see or speak with Mrs. Welch.

9. The closing of the real estate transaction took place on August 26, 2005 as scheduled.

10. On or about August 30, 2005, the Respondent was informed by Mrs. Welch that she did not sign her name to the Closing Statement and Warranty Deed dated August 25, 2005. Results from the Department's investigation reveal that Mrs. Welch was not present in the home during any time that the documents were signed with her signature.

11. In a letter dated April 11, 2006, the Respondent provided a response that outlined mitigating circumstances surrounding the Welch transaction. A true and correct copy of the April 11, 2006 letter is attached as **Exhibit A** and is incorporated herein by reference.

12. To date, no criminal charges have been filed against any parties in the above-noted real estate transaction.

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

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, Joe F. Germain has violated:

Wis. Stat. §§ 452.14(3)(i)(k)(L) and Wis. Admin. Code §§ RL 24.03 (2)(b); 24.03(2)(b) by attesting and notarizing real estate documentation in which he did not witness one of the parties sign their name.

ORDER

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

IT IS FURTHER ORDERED that Respondent, license # 090-52518 be, and hereby is **SUSPENDED** for a period of eighteen (18) calendar days commencing on July 1, 2007. 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 broker'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 ONE THOUSAND DOLLARS (\$1,000.00)**.

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 one more payment of **FIVE HUNDRED DOLLARS (\$500.00)** will due sixty days from the previous payment until the full **ONE THOUSAND DOLLARS (\$1,000.00)** is paid. Payments shall be made by **certified check or money order**, payable to the Wisconsin Department of Regulation and Licensing and 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 **ONE THOUSAND DOLLARS (\$1,000.00)** 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 #090-52518 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 **05 REB 220** be, and hereby is, closed as to Joe F. Germain.

WISCONSIN REAL ESTATE BOARD

By: Peter A. Sveum
A member of the Board

6/28/07
Date