

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
STEVEN P. SHEA, DARREN R.	:	AS TO STEVEN P. SHEA
KITTLESON and PRIMIERY REALTY,	:	
	:	LS0702225REB
RESPONDENTS.	:	
	:	

Division of Enforcement Case No. 06 REB 030

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

Steven P. Shea
1653 Norman Way
Madison, WI 53705

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 **Steven P. Shea** (“Shea”), whose date of birth is November 27, 1951, and whose address of record with the Department of Regulation and Licensing (“Department”) is 1653 Norman Way, Madison, WI, 53705, holds a license as a Real Estate Salesperson in the state of Wisconsin (#94-9501). Mr. Shea was first granted the license on March 15, 1977, pursuant to Wis. Stat. Ch. 452; the license is scheduled to expire on December 31, 2006.

2. On August 19, 2005, Mr. Shea entered into a residential listing contract with P.M. and E.M., who were spouses and owners of a home, for the sale of their home. The home was located in the City of Madison, WI. The term of the listing contract was from August 20, 2005 to December 20, 2005.

3. No less than three weeks passed from the date of the contract to the date that a “for-sale” sign was posted in front of the home. Mr. Shea later found that his personalized signs had run out, and so no sign was posted for that period.

4. Subsequently, the home was featured on the broker’s local cable television advertising show. Mr. Shea asked P.M. and E.M. to tape the show for him, because he did not subscribe to cable television. Upon viewing the show, P.M. and E.M. noted that the show incorrectly stated that their home was located in Oregon, Wisconsin. P.M. and E.M. informed Mr. Shea of this problem. However, when P.M. and E.M. viewed the show again three weeks later, they found that the error had not been corrected. They again contacted Mr. Shea, who then ensured that the error was corrected.

5. Mr. Shea received an offer to purchase the home. Upon reviewing the offer, P.M. and E.M. insisted upon more favorable terms, including a higher purchase price, against the advice of Mr. Shea. Mr. Shea assisted P.M. and E.M. in drafting a counter-offer on December 4, 2005 (counter-offer #1). Upon contacting the agent for the potential buyer, Mr. Shea obtained information that made him concerned that the counter-offer would be rejected, and did not transmit counter-offer #1 to the potential buyer in writing. Instead, Mr. Shea contacted P.M., and asked him to sign a revised counter-offer (counter-offer #2), with a lower purchase price. P.M. agreed and signed counter-offer #2 on December 5, 2005. On December 5, 2005, Mr. Shea faxed a copy of counter-offer #2 to E.M., but she did not sign it or otherwise indicate an agreement to counter-offer #2 to any person. Mr. Shea forwarded both counter-offer #1 and counter-offer #2 to the potential buyer on December 6, 2005.

6. Per Wis. Stat. § 452.133(1)(b), a licensee shall, “Diligently exercise reasonable skill and care in providing brokerage services to all parties.”

7. Per Wis. Admin. Code § RL 24.03(2)(c), “Licensees shall be knowledgeable regarding laws public policies and current market conditions on real estate matters and assist, guide and advise the buying or selling public based upon these factors.”

8. Per Wis. Admin. Code § RL 24.01(3), “If a licensee violates the rules in this chapter, the licensee has demonstrated incompetency to act as a... salesperson... in such manner as to safeguard the interests of the public, as specified in s. 452.14(3)(i), Stats.”

9. Per Wis. Stat. § 452.14(3), “...The board may revoke, suspend or limit any broker’s... license... or reprimand the holder of the license... if it finds that the holder of the license or registration has: (i) Demonstrated incompetency to act as a broker... in a manner which safeguards the interests of the public; (or) ... (L) Violated any provision of this chapter;...”

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 failing to diligently exercise reasonable skill and care in timely remedying mistakes made regarding signage and advertising of the home of P.M. and E.M., as described above in paragraphs three (3) and four (4) of the Findings of Fact, **Steven P. Shea** violated Wis. Stat. § 452.133(1)(b), thereby subjecting himself to discipline per Wis. Stat. § 452.14(3)(L).

4. By forwarding a revised counter-offer to a potential buyer, when E.M. had not agreed to the revised terms, as described above in paragraph five (5) of the Findings of Fact, **Steven P. Shea**, violated Wis. Admin. Code § RL 24.03(2)(c), thereby subjecting himself to discipline per Wis. Admin. Code § RL 24.01(3) and Wis. Stat. § 452.14(3)(i).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The license of **Steven P. Shea**, to practice as a real estate salesperson (#94-9501) in the State of Wisconsin shall be, and hereby is, REPRIMANDED.

IT IS FURTHER ORDERED THAT:

2. **Steven P. Shea** shall pay costs in this matter in the amount of \$700.00, which shall be paid within one hundred and twenty (120) days of the date of signing of this Order.
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

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 (#94-9501). 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 Respondent's license (#94-9501) SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.
5. Case Number 06 REB 030 is hereby closed formally as to Respondent **Steven P. Shea**, and closed for Insufficient Evidence as to all other Respondents.
6. This Order is effective on the date of signing.

WISCONSIN REAL ESTATE BOARD

By: Peter Sveum
— A Member of the Board

2/22/07
Date

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 :
STEVEN P. SHEA, DARREN R. :
KITTLESON and PRIMER REALTY, :
 :
RESPONDENTS. :

STIPULATION
AS TO STEVEN P. SHEA
LS# _____ REB

Division of Enforcement Case No. 06 REB 030

It is hereby stipulated between **Steven P. Shea**, Respondent; 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 030). 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, and the Wisconsin Administrative Code.

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 Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

Steven P. Shea, Respondent
1653 Norman Way
Madison, WI 53705

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