

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :
: FINAL DECISION AND ORDER
NEAL EWING, AND :
MAC EWEN MANAGEMENT INC., :
RESPONDENTS. : LS0706284REB
:

Division of Enforcement Case File # 06 REB 042

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

Neal Ewing
143 Woodview Lane
Green Bay, WI 54301

Mac Ewen Management Inc.
PO Box 1596
Green Bay, WI 54305

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 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. **Neal Ewing**, date of birth 06/04/49, is a licensed real estate broker in the State of Wisconsin having license # 90-49731, which was first granted on 02/03/99. Ewing's most recent address on file with the Department of Regulation and Licensing is 143 Woodview Lane, Green Bay, WI 54301.

2. **Mac Ewen Management Inc.** is a duly licensed real estate business entity in the State of Wisconsin having license # 91-833357, which was first granted to it on 05/20/86. Mac Ewen Management Inc.'s most recent address on file with the Department is P.O. Box 1596, 630 E Walnut St., Green Bay, WI 54301.

3. At all times relevant to the facts set forth below, Mr. Ewing was the real estate Broker/President of Mac Ewen Management Inc. Mac Ewen Management Inc. is a property management company with approximately 100 properties under management agreements.

4. On or about February 22, 2006, an auditor with the Department of Regulation and Licensing audited

Respondents' real estate trust account bookkeeping records. During the audit the auditor discovered the real estate trust account had inadequate funds on the following dates:

February 18, 2005
May 17, 2005
May 31, 2005
June 16, 2005
June 17, 2005 and
June 27, 2005

5. The Department auditor also discovered that as of January 31, 2006, several properties had a negative balance in the trust account, including one account for two properties which had a negative balance of \$31,338.18.

6. No account validation was being performed.

7. Mr. Ewing acknowledged the auditor's findings. Mr. Ewing explained that he had experienced difficulties maintaining a positive balance in one owner's account and that he had occasionally used funds from other accounts to cover necessary expenses for the one delinquent account.

8. The Department requested that Mr. Ewing supply the Department with its March 2006 financial statement for the Mac Ewen Management Inc. real estate trust account. The Financial statement showed that the trust account was in compliance with the trust account bookkeeping rules.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 452.14, and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. The conduct described above in paragraphs 4, 5, and 6 constitutes a violation of:

Wis. Admin. Code § RL 18.13(5) by failing to do the required monthly validation;

Wis. Admin. Code § RL 24.15 by issuing checks from the trust account which contained insufficient funds.

Wis. Admin. Code § RL 18.14 and Wis. Stat. § 452.14(3)(i) by demonstrating incompetency to act as a broker in a manner which safeguards the interests of the public.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The attached Stipulation is hereby accepted.

2. Respondent **Neal Ewing**, license #90-49731 be, and hereby is, **REPRIMANDED**.

3. Respondent **Mac Ewen Management Inc.** license #91-833357 be, and hereby is, **REPRIMANDED**.

IT IS FURTHER ORDERED that:

4. Respondent **Neal Ewing**, within 90 days of the date of this Order, **successfully complete the "Trust Accounts, Escrow, Closing Statement", and the "Financial and Office Management" modules of the brokers pre-licensing course** and submit proof of the same 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. If the education cannot be completed within 90 days, Mr. Ewing may provide an explanation for why it cannot be completed as ordered and apply to the Department monitor for an extension.

5. Respondents **Neal Ewing** and **Mac Ewen Management Inc.** shall jointly and severally, within 60 days of the date of this Order, **pay costs of this proceeding in the amount of \$900.00.**

6. Respondents **Neal Ewing** and **Mac Ewen Management Inc.** shall each, within 60 days of the date of this Order, **pay a forfeiture in the amount of \$500.00 (a total of \$1000).** Payment shall be made payable to the Wisconsin Department of Regulation and Licensing, and mailed 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

7. 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 Respondents' licenses. 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 Respondents fail to timely submit any payment as ordered, Respondents' licenses **SHALL BE SUSPENDED**, without further notice or hearing, until Respondents have complied with the terms of this Order.

8. This Order is effective on the date of its signing.

WISCONSIN REAL ESTATE BOARD

By: Peter A. Sveum
A Member of the Board

6/28/07
Date