

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
	:	
TOM PETKUS,	:	
	:	LS0708233REB
RESPONDENT.	:	

Division of Enforcement Case No. 06 REB 251

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

Tom Petkus
388 Woodside Drive
Cedarburg, WI 53012

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. Tom Petkus ("Petkus"), whose date of birth is August 10, 1943, is duly licensed as a Real Estate Salesperson in the state of Wisconsin (94-61939). Mr. Petkus' most recent address of record on file with the Department of Regulation and Licensing ("Department") is 388 Woodside Drive, Cedarburg, WI 53012. The license was first granted on November 10, 2004, and is due to expire on December 14, 2008.

2. Mr. Petkus acting as a volunteer bartender on August 4, 2006, for the Cedarburg Fire Department, and on various occasions before that date. On that date Mr. Petkus was the subject of a police investigation, where he was passed one or more marked \$20.00 bills. Upon being confronted by a police officer Mr. Petkus was found to be in possession of approximately \$300.00 in cash belonging to the Cedarburg Fire Department.

3. On August 5, 2006, Mr. Petkus paid \$900.00 to the Cedarburg Fire Department, which, by Mr. Petkus' estimate, was approximately double what he had stolen from the Cedarburg Fire Department in the past.

4. On October 3, 2006, Mr. Petkus was convicted of one count of Theft – Movable Property with a value of less than \$2,500. Mr. Petkus was not ordered to pay restitution. Mr. Petkus was sentenced to probation of 18 months.

5. On October 24, 2006, Mr. Petkus wrote a letter to the Department, informing the Department that, "earlier this month I pled no contest to the crime of misdemeanor theft at a place and in circumstances (volunteer bartender) not at all related to real estate."

6. Per Wis. Stat. § 452.14 (3) (i), a licensee is subject to discipline if he or she has, "Demonstrated incompetency to act as a ...salesperson... in a manner which safeguards the interests of the public."

7. Per Wis. Admin. Code § RL 24.01 (3), "If a licensee violates 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 under s. 452.14 (3) (i), Stats."

8. Per Wis. Admin. Code § RL 24.17 (1), "Licensees may not violate, or aid or abet the violation of, any law the circumstances of which substantially relate to the practices of a real estate broker or salesperson... 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 and the judgment of conviction in order that the department may determine whether the circumstances of the crime... are substantially related to the practice of a real estate broker or salesperson..."

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Board has jurisdiction to act in these matters pursuant to Wis. Stat. § 458.26.
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. Mr. Petkus has been convicted of a crime the circumstances of which are substantially related to the practices of a real estate broker or salesperson, contrary to Wis. Admin. Code § RL 24.17 (1), thereby subjecting himself to discipline pursuant to Wis. Admin. Code § RL 24.17 (2) and Wis. Stat. § 452.13 (3) (i).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The license of **TOM PETKUS** (#94-61939) to practice as a real estate salesperson in the State of Wisconsin and shall be, and hereby is, **REPRIMANDED** and **LIMITED AS FOLLOWS**: (a) Respondent may not receive or handle earnest money or other funds belonging to any other person for a period of no less than one year from the date of signing of this Order; and (b) Respondent shall be subject to direct supervision for a period of no less than one year from the date of the Order, shall give a copy of this Order to the Managing Broker of any Real Estate Entity which employs him, shall provide the name of a direct supervisor to the Department within 15 days of the date of signing of this Order, and the supervisor shall submit quarterly reports regarding Respondent's work performance to the Department so long as this Limitation shall remain in effect.
2. Respondent shall pay the costs of the Division of Enforcement in investigating this matter, in the amount of \$375.00 within ninety (90) days of the date of signing of this Order.
3. All payments and submissions 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 (#94-61939). 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 (if any), or fails to timely submit proof of completion of education as set forth above (if any), the Respondent's license (#94-61939) **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

8/23/07
Date

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
TOM PETKUS,	:	
	:	
	:	LS# _____
RESPONDENT.	:	

Division of Enforcement Case No. 06 REB 251

It is hereby stipulated between Tom Petkus, Respondent; and Mark A. Herman, attorney 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 251). 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.
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.

Tom Petkus, Respondent
388 Woodside Drive
Cedarburg, WI 53012

Date

Mark A. Herman, Attorney
Division of Enforcement

Date