

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE REAL ESTATE BOARD

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST  
**GARY J. LARSON,**  
RESPONDENT.

:  
:  
: **FINAL DECISION AND ORDER**  
: LS0804243REB  
:

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Division of Enforcement case file 05 REB 247

The parties to this action for the purpose of Wis. Stats. sec. 227.53 are:

Gary J. Larson  
5831 S. Lake St., P.O. Box 113  
Brule, WI 54820

Wisconsin Real Estate Board  
P.O. Box 8935  
Madison, WI 53708-8935

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 adopts the attached Stipulation in this matter and makes the following Findings of Fact, Conclusions of Law, and Order:

**FINDINGS OF FACT**

1. Gary J. Larson is licensed in the State of Wisconsin as a Real Estate Broker, having license #90-593. This license was first issued on July 21, 1972 and it expired on January 1, 1987. Mr. Larson was issued Real Estate Salesperson's license #94-56135 on February 4, 2003, which expired on January 1, 2007. Mr. Larson's Real Estate Broker's license was reissued on December 21, 2005 and it is currently active.

2. Mr. Larson's most recent address on file with the Department of Regulation and Licensing ("Department") is 5831 S. Lake St., P.O. Box 113, Brule, WI 54820.

3. Mr. Larson was employed by EGG of Superior Inc. dba Re/Max Twin Ports, supervised by owner-broker Roberta Germond, from at least January 5, 2005 through July 29, 2005.

With Regard to the Holsclaw Property

4. Mathew Larson, a Real Estate Salesperson, worked as a licensed assistant to Gary J. Larson from at least February 1, 2005 through July 29, 2005.

5. On February 2, 2005, Matthew Larson prepared a Listing Contract which was signed by Cory and Leah Holsclaw for their property at 66310 S. Cty A in Iron River, Wisconsin. The contract was to run from February 3, 2005 through June 3, 2005, and the property was to be listed for \$285,000.

6. After the words “Agent for Broker” on line 263 of the Listing Contract, Mathew typed “Matt Larson for Gary J. Larson”, but the listing contract was not signed by either Mathew Larson or Gary Larson.

7. Mathew Larson prepared two amendments to the Listing Contract, one to change the listing price to \$283,000 and one to change the expiration date of the listing contract to September 30, 2005. Neither of these amendments was signed by either Mathew Larson or Gary Larson.

8. On June 22, 2005, Mathew Larson drafted a Buyer Agency Agreement for Danny Ray Shaffer specific to property in the town of Iron River WI. Neither party signed this agreement.

9. On June 23, 2005, Mathew Larson drafted an Offer to Purchase for Danny Ray Shaffer on the Holsclaw property as a dual agent. Acceptance was due by June 27, 2005. The Offer to Purchase was not signed by Mathew Larson or by the buyer or seller. There is no writing on the Offer to Purchase to confirm that it was presented to the seller. There is no record that the \$1,000 earnest money that the contract says was presented with the offer was receipted.

10. Sometime in July of 2005, Mathew Larson contacted the Holsclaws and told them that the house was sold and that they had two weeks to move out. The Holsclaws immediately purchased another home and moved. Mathew Larson then called the Holsclaws and told them that the sale had fallen through and the buyer would not be able to purchase the property.

11. Mathew Larson admitted to Roberta Germond, the supervising owner-broker of Re/Max Twin Ports, that the buyer didn't sign and return the offer. Mathew Larson told Ms. Germond that the buyer had told him the IRS had confiscated his money and possessions. Mathew Larson told Mr. Holsclaw that Matt that the buyer had been arrested for murder and was going to jail.

12. In response to the Department's request for information about the Holsclaw transaction, Mathew Larson wrote the following:

*... in the case of Mr. Holsclaw, who at the time was one of my friends. I had never told him to move. I never had a signed contract. So why would I tell him to move? I did send the contract to the prospective buyers home but he never sent it back. As I called Mr. Holsclaw about this, he became upset because he was already in the process of moving into a Lake property on Long Lake that was given to him by an in-law. He moved because he had a free home on the lake. Pure and simple.*

13. The above statement from Mathew Larson was sent by the Department to Mr. Holslaw, who responded as follows:

*Matthew Larson told us that he had a signed purchase agreement and \$1000 earnest money, that he would deliver the document ASAP, that because the potential buyer had terminal cancer and paying cash, he requested the sale be completed in 10 days so it was less hassle for his girlfriend and her child. We did not have “free lake property” on Long Lake, we had to purchase my father's home on Long Lake, so in 10 days we had my dad out of the lake home that we had PURCHASED to this new home that we had PURCHASED for him; move my family (which we have 2 children and one was 9 months old at the time) out of 66310 S Cty Hwy A, to the lake home that we had PURCHASED all in 10 days; and at that time we were told that the “potential buyer” was on the run because he was up for murder and a bank robber ....*

14. Mathew Larson lied to the Holsclaws and to the Department.

15. In his response to the Department, Gary Larson included some court information on Daniel Raymond Shaffer regarding an arrest for attempted murder, but further investigation showed that the arrest had taken place in 2003 and a suspended sentence of five years prison with probation was imposed on March 30, 2004.

16. Gary Larson provided misleading information the Department.

With Regard to the Johnson Property

17. On January 7, 2005, Wesley Johnson signed a listing contract for his property at 14351 Old Hwy 53 in Gordon, Wisconsin with Gary Larson. The listing price on the Listing Contract was \$69,000. An MLS listing sheet listed the asking price as \$65,000. No amendment to the listing price was ever signed by Mr. Johnson, and Mr. Larson reduced the listing price without his client's authority.

18. On June 15, 2005, Steven and Brenda Lindom apparently made an offer on the property. There is no signed Offer To Purchase, although a Disclosure of Agency agreement and a Property Condition report for the property were initialed by the Lindoms on that date. A typed but unsigned copy of an Offer to Purchase shows an offer of \$65,000 with a \$100 earnest money payment. The Lindoms' names are not on the contract, and lines 2 and 3 of the Offer To Purchase say "The buyer, 14351 Old Hwy 53, Gordon, WI offers to purchase the property known as 14351 Old Hwy 53 ..." The work file for the transaction contains the following handwritten note with the terms of an offer by the Lindoms. It reads

*Steven H. Lindon [sic]*

*Brenda J. Lindon*

*65000*

*Contingent on sale*

*123 2<sup>nd</sup> St Northwest*

*Chisholm, MN 55719*

*218 254-2817*

*Immediate Occupancy*

*\$1,000 down*

*14 days*

19. The Lindoms wrote a check dated July 1, 2005 to ReMax Twin Ports for \$100 for the earnest money.

20. The OTP does not contain a contingency for sale of the buyers' home, and the occupancy section on lines 34-36 of the OTP is not modified, but lines 180-183 state

"Early occupancy when downpayment made, loan verification from bank completed and listing on home completed. Early occupancy includes changing utilities over to the buyers name & paying insurance. \$900.00 to be paid directly to seller for payment toward purchase price on or before July 22, 2005."

21. Mr. Larson did not present the Lindoms' offer to Mr. Johnson but Mr. Larson told the Lindoms the offer was accepted and gave the Lindoms a key to the house (or he gave the Lindoms the combination to the lockbox), and based on the early occupancy clause, the Lindoms moved into Mr. Johnson's house.

22. In late July, Mr. Johnson discovered that someone was living in his house and he called ReMax Twin Ports to complain.

23. On July 15, 2005, the Lindoms met with Ms. Germond in her office and paid \$900 as the balance of the downpayment. At approximately the same time on July 15, 2005, Mr. Johnson and his wife met with Mr. Larson in a nearby parking lot and signed and accepted the OTP without changing the date because Mr. Larson told them they had to sign it in order to avoid a lawsuit. None of the various copies of the offer have any information on who presented it to the sellers or when it was presented. On July 22, 2005, Ms. Germond negotiated an amendment to the OTP whereby the Lindoms were permitted to stay in the house and pay rent until their home sold.

24. The supervising owner-broker of Re/Max Twin Ports, Roberta Germond, terminated Gary Larson on July 29, 2005, within days of becoming aware of the two transactions above.

#### With Regard to the Jarvi Property

25. Prior to 2005, Betty Jarvi had listed property at 11471 E. Waterfront Drive in Lake Nebagamon with another agent in the Re/Max Twin Ports office. Early in 2005, when she was living in California, Ms. Jarvi wanted to relist the

property with someone else in the same office and she chose Gary Larson.

26. Mr. Larson negotiated a Listing Contract with Ms. Jarvi on March 29, 2005, but he did not have her sign it, although she did sign an Agency Disclosure form. The prepared but unsigned Listing Contract ran from April 14, 2005 to June 14, 2005. Mr. Larson signed the Listing Contract as “Agent for Broker” and listed “Broker/Firm Name” as Re/Max Twin Ports.

27. Line 49 of the Listing Contract says: “COMMISSION: Broker’s commission shall be 8.000%.” In addition there is an amendment drafted and signed by Mr. Larson on April 18, 2005 (but not signed by the seller), the entire text of which says: “Clarification of Line 49 of listing contract, the brokers commission is 8% as originally written in said contract.” Lines 47 and 48 of the Disclosure of Real Estate Agency form read

“CONFIDENTIAL INFORMATION: This is a net-net listing, funds to seller at closing not to be less than \$177,200.00. Documentation of these figures is a attached addenda Line 248 of listing contract.”

Line 248 of the Listing Contract reads

“ADDENDA: The attached Estimated Net Proceeds Sheet is/are made part of this listing.”

A pre-printed “Estimated Net Proceeds Sheet” with handwritten entries shows a selling price of \$198,000; total selling costs (including the 8% commission) of \$17,709; and net proceeds of \$189,291. A handwritten note at the bottom says

“Net Net lease [sic] of not less than \$177,200.”

The result of these calculations is that if Mr. Larson gave the seller the net amount of \$177,200 and kept the difference of \$12,091, he would have received an 8% commission plus an additional 6%.

28. Obtaining or even writing a net listing is a violation of section RL 24.10 of the Wisconsin Administrative Code.

29. On July 21, 2005, Mr. Larson drafted an Offer to Purchase for the Jarvi property for Pauline Lausen for \$190,000. Earnest money of \$500 was to be paid within three days of acceptance, with acceptance due by July 25, 2005. The offer was contingent on a land contract and the terms of the contract are set forth in the offer. This OTP was not presented to the seller and the seller did not accept the offer in writing.

30. When Mr. Larson left ReMax Twin Ports on July 29, 2005 he took the file for the Jarvi transaction with him.

31. After Mr. Larson was fired from ReMax Twin Ports he called Ms. Jarvi in California and told her that he had left ReMax Twin Ports, but that they would find a way to “go around RE/MAX Twin Ports and get the property closed.”

32. After leaving ReMax Twin Ports, Gary Larson became associated with Messina & Associates, another Superior brokerage.

33. On August 14, 2005, Mr. Larson prepared a Buyer Agency Agreement for Pauline Lausen and Edward Shaul, and it identifies Gary Larson as an agent of Messina & Associates.

34. In response to an investigative request from the Department, Messina & Associates stated that they had no file on the Jarvi transaction.

35. Mr. Larson contacted Wisconsin Title in Superior to set up a closing and he gave the buyer’s earnest money to Wisconsin Title’s closing agent.

36. Ms. Germond engaged an attorney and objected to the sale going forward.

37. After extensive further negotiations and amendments, the transaction finally closed on September 2, 2005, with a commission for Mr. Larson paid through ReMax Twin Ports.

38. Mr. Larson has one prior disciplinary action. His Real Estate Broker’s license was suspended by the Real Estate Board for one month in 1977.

## CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Board has jurisdiction to act in this matter pursuant to section 452.14 (3) of the Wisconsin Statutes and is authorized to enter into the attached Stipulation pursuant to sec. 227.44(5), Wis. Stats.

2. Respondent Gary J. Larson is subject to discipline for violating

- sec. 452.14 (3) (i), Wis. Stats., which requires licensees to practice competently;
- section 24.025 (2) of the Wisconsin Administrative Code, which requires an agency agreement (signed by the parties) before providing services;
- sec. 24.08, Wis. Admin. Code, which requires that all listing contracts, guaranteed sales agreements, buyer agency agreements, offers to purchase, property management agreements, option contracts, financial obligations and any other commitments regarding transactions must be put in writing (and signed by the parties);
- sec. RL 24. 025 (1), Wis. Admin. Code and sec. 452.133 (1) and (2), Wis. Stats., which requires licensees to represent the interests of their client as an agent and to represent the interests of all parties to a transaction.
- sec. 452.14 (3) (a), Wis. Stats., which prohibits making a material misstatement in ... any information furnished to the board or department;
- sec. 452.14 (3) (k), Wis. Stats., which prohibits improper, fraudulent or dishonest dealing.
- sec. RL 24.10, Wis. Admin. Code, which prohibits net listings.

## ORDER

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

IT IS FURTHER ORDERED that the Voluntary Surrender of the Real Estate Broker's license issued to Gary J. Larson is hereby accepted.

IT IS FURTHER ORDERED that if Gary J. Larson ever seeks to renew his license or reapply for any real estate credential, then he shall pay the Department's costs of this matter in the amount of **\$1,781.48** before any such renewal or application may be considered.

IT IS FURTHER ORDERED that file 05 REB 247 be closed as to Gary Larson.

Dated this 24<sup>th</sup> day of April, 2008.

**WISCONSIN REAL ESTATE BOARD**

By: Peter A. Sveum, Chair