

# 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 THE DISCIPLINARY :  
PROCEEDINGS AGAINST :FINAL DECISION AND ORDER**  
:  
**ROBERT NICHOLSON. :**  
**BURNET REALTY INCORPORATED. : LS0804244REB**  
**RESPONDENTS. :**  
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[Division of Enforcement Case File #: **05 REB 066**]

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

Burnet Realty, Inc.  
1301 Coulee Road  
Hudson, WI 54016

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. Robert Nicholson, date of birth 11/28/47, is licensed in the State of Wisconsin as a real estate broker having license number 090-49779. This license was first granted on 03/19/99.
2. Mr. Nicholson’s last reported business address on file with the Department of Regulation and Licensing (“Department”) is: 1301 Coulee Road, Hudson, Wisconsin 54016.

3. At all times relevant to the facts stated below, the Respondent was employed as the Supervising Broker of Burnet Realty, Incorporated (091-833997), located at 1301 Coulee Road, Hudson, Wisconsin 54016. This license was first granted to the business entity on 07/31/90.

4. On or about March 9, 2005, the Department received a consumer complaint alleging that Todd T. Nielsen (license #094-52861; granted: 03/26/01) had engaged in unprofessional conduct while acting as a dual agent in a real estate residential property transaction. Mr. Nielsen is employed as a real estate salesperson with Burnet Realty, Inc. and supervised by Mr. Nicholson.

5. During the course of the transaction that is of issue in the consumer complaint, the Mr. Nielsen acted as a dual sales agent. Mr. Nielsen represented the builder and seller (Kingsborough Homes) in transactions for Hudson, Wisconsin lots located in a subdivision known as Knolls Ridge. Burnet Realty, Inc. marketed the homes and also acted as an agent for Kingsborough Homes. Mr. Nielsen also represented the Complainants, who were prospective buyers of lots located in the Knolls Ridge.

6. On or about February 28, 2004, Mr. Nielsen drafted the Residential Offer to Purchase on behalf of the Complainants for property located at 604 Knollwood Drive, Hudson, Wisconsin ("Property"). The Property was being built as a new home in the Knolls Ridge subdivision. The Residential Offer to Purchase listed the total purchase price as \$328,774.00. The total purchase price was to include the cost of: (1) the lot price of \$94,900.00<sup>[1]</sup>; (2) the house style which had a base price of \$175,000; and (3) refining features that the Complainants wanted inside of the Property. Closing for the Property was to take place on or around November 1, 2004.

7. During the course of the transaction, an error in pricing for the residential home purchase had been made by Mr. Nielsen. Mr. Nielsen admitted to changing the purchase price from \$328,774.00 to \$377,099.00 on the first page of the Residential Offer to Purchase without the knowledge and consent of the respective parties.

8. On or about April 8, 2004, the February 28, 2004 Residential Offer to Purchase Agreement was cancelled through the use of a Cancellation Agreement and Mutual Release form. The earnest money from the above-noted transaction was also returned to the Complainants.

9. During the course of this transaction, Mr. Nicholson and Burnet Realty, Inc. did not conduct a reasonable review of the documentation that was drafted and managed by Mr. Nielsen.

10. In resolution of this matter, Robert Nicholson and Burnet Realty, Inc. consent 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. Respondents, Robert Nicholson and Burnet Realty Incorporated, have violated:  
  
Wis. Stats. §§ 454.14(3)(i)(k) and Wis. Admin. Code §§ RL 17.08(1)(2) by failing to reasonably review all documents that had been drafted and managed by, employee and real estate salesperson, Todd T. Nielsen in the above-noted transaction. This conduct by Robert Nicholson and Burnet Realty, Incorporated constitutes unprofessional conduct.

### **ORDER**

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

IT IS FURTHER ORDERED, that Respondent, Robert Nicholson, license # 090-49779 be, and hereby is **REPRIMANDED**.

IT IS FURTHER ORDERED, that Respondent, Burnet Realty Incorporated, license # 091-833997 be, and hereby is **REPRIMANDED**.

IT IS FURTHER ORDERED, that the Department's Division of Enforcement reserves the right to inspect the documentation of any and all real estate agents employed by Burnet Realty Incorporated, per the Board's discretion. Inspections will make sure Burnet Realty Incorporated is in compliance with chapter 452 of the Wisconsin Statutes and RL chapters 11-26 of the Wisconsin Administrative Code.

IT IS FURTHER ORDERED that the Respondents, Robert Nicholson and Burnet Realty Incorporated shall pay jointly and severally to the Department of Regulation and Licensing **COSTS** of **FIVE HUNDRED DOLLARS (\$500.00)**.

IT IS FURTHER ORDERED that the Respondents, Robert Nicholson and Burnet Realty Incorporated shall pay jointly and severally to the Department of Regulation and Licensing a **FORFEITURE** of **FIVE HUNDRED DOLLARS (\$500.00)**.

IT IS FURTHER ORDERED, that a payment of **ONE THOUSAND DOLLARS (\$1,000.00)** shall be paid sixty (60) days from the signing and dating of this Order by a member of the Real Estate Board. Payment 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 the Respondents fail to pay the **ONE THOUSAND DOLLARS (\$1,000.00)** in costs and forfeiture within the time and in the manner as set forth above, then and in that event, and without further notice to the Respondents, Robert Nicholson, license #090-49779 and Burnet Realty, Incorporated, license #091-833997, 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 066** be, and hereby is, closed as to Robert Nicholson and Burnet Realty Incorporated.

## **WISCONSIN REAL ESTATE BOARD**

By: Peter Sveum, Board Chair

April 24, 2008

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[1] The lot reservation agreement for this transaction was dated February 9, 2004 and drafted by the Respondent.