

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
:
TODD T. NIELSEN. :
RESPONDENT. :
:
:
:
LSLS0804245REB

[Division of Enforcement Case File #: **05 REB 066**]

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

Todd T. Nielsen
2420 Burl Oak Curve
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. Todd T. Nielsen, date of birth 01/30/65, is licensed in the State of Wisconsin as a real estate salesperson having license #94-52861. This license was first granted on 03/26/01.
2. Mr. Nielsen’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, Mr. Nielsen was employed as a real estate salesperson at Burnet Realty, Incorporated (#91-833997), 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 complaint alleging Mr. Nielsen had engaged in unprofessional conduct while acting as a dual agent in a real estate residential property transaction.

5. During the course of the transaction, 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, D/B/A, Coldwell Banker Burnet, 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 a Residential Offer to Purchase on behalf of the Complainant 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^[1]; (2) the house style which had a base price of \$175,000; and (3) the 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 Complainants real estate transaction, Mr. Nielsen advised the Complainants that the Residential Offer to Purchase drafted on February 28, 2004, would govern the entire construction of the Complainants' new home. Mr. Nielsen also advised the Complainants that they could manage and track all of the expenses associated with building the new home through project software called Buildtopia^[2]. Additionally, Mr. Nielsen advised the Complainants he would obtain the signature of the co-owner and general manager overseeing the Knolls Ridge subdivision lots.

8. On or about March 2, 2004, the first Residential Offer to Purchase with earnest money of \$2,000.00 was signed and accepted by the co-owner and general manager of the Knolls Ridge subdivision.

9. As construction on the Property was about to begin, Buildtopia software started to reflect a total purchase price statement of \$377,099.00. The total purchase price increase included \$230,000.00 as a base price for the house and \$96,000.00 lot price. The changes in cost were contrary and in direct conflict with the Residential Offer to Purchase Agreement for \$328,774.00 that was drafted by the Respondent on or about February 28, 2004.

10. During the course of the transaction, 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.

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

12. In resolution of this matter, the Respondent consents 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. Respondent, Todd T. Nielsen has violated:

Wis. Stats. §§ 452.133(1)(a)(b)(c); 454.14(3)(i)(k) and Wis. Admin. Code §§ RL 24.025(1); 24.03(2)(b); and 24.08 by changing the first page of the Residential Offer to Purchase Agreement without first notifying the parties to the transaction of the change and failing to reduce the change to writing. The conduct by the Respondent in the above-noted real estate transaction constitutes false and deceptive practice.

ORDER

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

IT IS FURTHER ORDERED that Respondent, license # 094-52861 be, and hereby is **SUSPENDED** for a period of forty-five (45) calendar days commencing ten (10) days from the signing and dating of this Order. During that period, the Respondent shall not engage in the practice of real estate. Listings made prior to the date of suspension, and long-term advertisements such as Yellow Pages listings, need not be cancelled.

IT IS FURTHER ORDERED that the Respondent, Todd T. Nielsen, within six months of the dating and signing of this Order, successfully complete the following courses: business ethics classes of the salesperson's course or an equivalent course on ethical real estate practices of at least four (8) hours. Proof of continuing education requirements must be submitted 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.

IT IS FURTHER ORDERED that the Respondent pay to the Department of Regulation and Licensing **COSTS of FIVE HUNDRED DOLLARS (\$500.00)**.

IT IS FURTHER ORDERED that the Respondent pay to the Department of Regulation and Licensing a **FORFEITURE of ONE THOUSAND DOLLARS (\$1,000.00)**.

IT IS FURTHER ORDERED, that a down payment of **FIVE HUNDRED DOLLARS (\$500.00)** shall be submitted thirty (30) days from the date of this order and two more payments of **FIVE HUNDRED DOLLARS (\$500.00)** will due every ninety (90) days from the previous payment until the full **ONE THOUSAND FIVE HUNDRED DOLLARS (\$1,500.00)** is paid. Payments shall be made by **certified check or money order**, payable to the Wisconsin Department of Regulation and Licensing 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 Respondent fails to pay the **ONE THOUSAND FIVE HUNDRED DOLLAR (\$1,500.00)** 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 Respondent, his license #094-52861 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 Todd T. Nielsen.

WISCONSIN REAL ESTATE BOARD

By Peter Sveum, Board Chair

4/24/08

[\[1\]](#) The lot reservation agreement for this transaction was dated February 9, 2004 and drafted by Mr. Nielsen.

[\[2\]](#) Buildtopia is project management software that Kingsborough Homes uses to allow customers to manage and track its expenses for homes that are being built by its company.