

# 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  
:  
RICHARD D. BARBOUR, : LS0808211REB  
:  
RESPONDENT. :

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Division of Enforcement Case No. 04 REB 072

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

Richard D. Barbour  
N2882 State Road 16  
La Crosse, WI 54601

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. Richard D. Barbour (“Barbour”), whose date of birth is May 11, 1953, is duly licensed as a Real Estate Broker in the state of Wisconsin (90-30010). Mr. Barbour’s most recent address of record on file with the Department of Regulation and Licensing (“Department”) is N2882 State Road 16, La Crosse, WI 54601. The license was first granted on November 9, 1979, and is due to expire on December 15, 2008.

2. Mr. Barbour’s license expired at the end of the 2003-2004 biennium. Mr. Barbour’s license could not be renewed due to an outstanding issue with the Wisconsin Department of Revenue (DOR). Mr. Barbour continued to practice under his license as a matter of right until August 3, 2005, when his license was formally placed in “Revenue Hold” status. At that point Mr. Barbour no longer had the right to practice under his expired license, per Wis. Stat. § 227.51(2). Mr. Barbour did not resolve his dispute with DOR until December 14, 2006. At that time his license was returned to active status.

3. From August 3, 2005, until December 14, 2006, Mr. Barbour continued to practice as a real estate broker. During that period Mr. Barbour was engaged wholly or in part in the business of selling real estate, such that a pattern of sales was established within the meaning of Wis. Stat. § 452.01(2)(b). Specifically, Mr. Barbour identified himself as a developer, and sold three or more lots as an owner/developer. Mr. Barbour did not sell properties owned by other persons.

4. Per Wis. Stat. § 452.03, “No person may engage in or follow the business or occupation of... a broker... without a license...”

5. Per Wis. Stat. § 452.12(1), “A license granted by the department entitles the holder to act as a broker... until the applicable renewal date...”

6. Per Wis. Stat. § 452.14 (3)(L), a licensee is subject to discipline if he or she has, “Violated any provision of this chapter...”

## 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. By practicing real estate without a license, contrary to Wis. Stat. § 452.03, Mr. Barbour subjected himself to discipline per Wis. Stat. § 452.14(3)(L).

## ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED:

1. The license of **Richard D. Barbour** to practice as a Real Estate Broker in the State of Wisconsin (# 90-30010) shall be, and hereby is, **REPRIMANDED**.
2. Respondent shall pay the costs of the Division of Enforcement in investigating this matter, in the amount of \$2,250.00 within one (1) year of the date of signing of this Order.
3. All payments and reports 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 (#90-30010). 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 any report as set forth above (if any), the Respondent's license (#90-30010) SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order.
  
5. This Order is effective on the date of signing.

WISCONSIN REAL ESTATE BOARD

By: Peter Sveum  
A Member of the Board

8/21/08  
Date

IN THE MATTER OF THE DISCIPLINARY :  
PROCEEDINGS AGAINST :  
:  
RICHARD D. BARBOUR, :  
:  
:  
RESPONDENT. :

STIPULATION

LS# \_\_\_\_\_

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Division of Enforcement Case No. 04 REB 072

It is hereby stipulated between Richard D. Barbour, 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. 04 REB 072). 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 seek 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.

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**RICHARD D. BARBOUR**, Respondent  
N2882 State Road 16  
La Crosse, WI 54601

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Date

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Mark A. Herman, Attorney  
Division of Enforcement  
P.O. Box 8935  
Madison, WI 53708-8935

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Date