

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
	:	
FRANK J. RONDON,	:	LS0810306REB
	:	
RESPONDENT.	:	

Division of Enforcement Case No.s 04 REB 023, 05 REB 070 and 05 REB 234

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

Frank J. Rondon
7649 Pershing Blvd.
Kenosha, WI 53142

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. Frank J. Rondon (“Rondon”), whose date of birth is February 3, 1944, is duly licensed as a Real Estate Broker in the state of Wisconsin (90-17156). Mr. Rondon’s most recent address of record on file with the Department of Regulation and Licensing (“Department”) is 7649 Pershing Blvd., Kenosha, WI 53142. The license was first granted on March 15, 1977, and is due to expire on December 14, 2008.

Failure to Disclose Adverse Material Facts

2. On January 5, 2004, R.B. and A.B. (second buyers) made an offer to purchase real property listed by Mr. Rondon. The offer was accepted, but subsequently was terminated following an inspection of the home.

3. The property had previously had an accepted offer, which had also been terminated following completion of a home inspection. A review of the two home inspections shows that the two home inspectors independently noted many of the same problems with the condition of the property. Some of the issues noted in the home inspection reports could not have been discovered by the second buyers through reasonably vigilant observation, and were not known by them, prior to the second home inspection.

4. A copy of the first home inspection was sent to Mr. Rondon by the first buyers’ agent. The first buyers terminated their offer following discovery that the basement had also been flooded. Mr. Rondon did not disclose any issues noted in the first inspection report to the second buyers.

5. Per Wis. Admin. Code § RL 24.07(2), “A licensee... shall disclose to each party, in writing and in a timely fashion, all material adverse facts that the licensee knows and that the party does not know or cannot discover through reasonably vigilant observation...”

6. Per Wis. Admin. Code § RL 24.01(3), “If a licensee violates rule in this chapter, the licensee has demonstrated incompetency to act as a broker... in such manner as to safeguard the interests of the public...”

7. Per Wis. Admin. Code § RL 452.14(3)(i), a licensee is subject to discipline if he or she has, “Demonstrated incompetency to act as a broker... in a manner which safeguards the interests of the public...”

Failure to Place Exact Agreement in Writing

8. On July 15, 2005, J.W. entered into an agreement to list her property with Mr. Rondon. The listing agreement contained the following language: “Broker agrees to use reasonable efforts to procure a purchaser for the Property, including *but not limited to* the following: MLS. Realtor.com ColdwellBanker.com WiHomes.com HomeStore.com AOL.com MSN.com RondonRealty.com.” (Lines 37-39, emphasis added.)

9. Subsequently, a dispute arose between J.W. and Mr. Rondon. J.W. believed that Mr. Rondon failed to take appropriate and expected steps to market her property. Mr. Rondon believed that J.W. should have understood that he was offering a limited, flat-fee service. In support of his position Mr. Rondon referred to his advertising materials.

10. Per Wis. Admin. Code § RL 24.08, “A licensee shall put in writing all listing contracts... expressing the *exact agreement of the parties*...” (emphasis added).

11. Per Wis. Stat. § 452.14(3)(k), a licensee is subject to discipline if he or she has, “Been guilty of any other conduct, whether of the same or a different character from that specified herein, which constitutes improper... dealing...”

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Board has jurisdiction to act in these matters pursuant to Wis. Stat. § 452.14.

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 failing to give written notice of adverse material facts to the second buyers, as set forth above in paragraphs 2-4 of the findings of fact, **Frank J. Rondon** has violated Wis. Admin. Code § RL 24.07(2), thereby subjecting himself to discipline per Wis. Admin. Code § RL 24.01 and Wis. Stat. § 452.14 (3) (i).

4. By failing to accurately express the terms of his reduced fee service in the listing agreement, as set forth above in paragraphs 8-9 of the Findings of Fact, **Frank J. Rondon** has engaged in improper dealing, and subjected himself to

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The license of **Frank J. Rondon** to practice as a real estate broker (#90-17156) in the State of Wisconsin shall be, and hereby is, **REPRIMANDED**.

IT IS FURTHER ORDERED THAT:

2. **Frank J. Rondon** shall pay costs in these matters in the amount of \$1,000.00, within one year of the date of signing of this Order.
3. **Frank J. Rondon** shall pay a forfeiture in the amount of \$1,000.00 within six (6) months of the date of signing of this Order.
4. All payments and submissions required by this Order shall be mailed, faxed, or otherwise 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

5. 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 (90-17156). 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 cause the Department Monitor to timely receive the results of an audit, as described above, Respondent's license (90-17156) 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.
6. Case numbers 04 REB 023 and 05 REB 234 are hereby closed formally.
7. Case number 05 REB 070 is hereby closed under prosecutorial discretion code P7.
8. This Order is effective on the date of signing.

By: Peter A. Sveum
A Member of the Board

10/30/08
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
FRANK J. RONDON,	:	
	:	LS# _____
	:	
RESPONDENT.	:	

Division of Enforcement Case No.s 04 REB 023, 05 REB 070 and 05 REB 234

It is hereby stipulated between Frank J. Rondon, Respondent; David A. Sayas, attorney for 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 pending investigations of Respondent's licensure by the Division of Enforcement (Case No.s 04 REB 023, 05 REB 070 and 05 REB 234). Respondent consents to the resolution of these investigations 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 her 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.

Frank J. Rondon, Respondent
7649 Pershing Blvd.
Kenosha, WI 53142

Date

David A. Sayas, Attorney for Respondent
11430 West Bluemound Rd. Suite 200
Wauwatosa, WI 53226

Date

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

Date