

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



Wisconsin Department of Regulation & Licensing Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Regulation & Licensing website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Regulation and Licensing from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Regulation and Licensing data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Regulation and Licensing, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name as it appears on the order.*
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Regulation and Licensing is shown on the Department's Web Site under "License Lookup." The status of an appeal may be found on court access websites at: <http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscqa>.
- Records not open to public inspection by statute are not contained on this website.

By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.

Correcting information on the DRL website: An individual who believes that information on the website is inaccurate may contact the webmaster at web@drl.state.wi.gov

STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST : **FINAL DECISION AND ORDER**
OLIVIA MARTINEZ, : LS0902191REB
RESPONDENT. :

Division of Enforcement case file 08 REB 008

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

Olivia Martinez
2519 Edgewood Drive
Beloit, WI 53511

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. Olivia Martinez is licensed in the State of Wisconsin as a Real Estate Broker having license # 94-54925, first issued on June 14, 2002.
2. Ms. Martinez’s most recent address on file with the Department of Regulation and Licensing (“Department”) is 2519 Edgewood Drive, Beloit, WI 53511.
3. On January 29, 2007, Ms. Martinez signed a Listing Contract for property at 10445 West County Road K in Beloit, WI with Ronald Cash.
4. Mr. Cash filled out a Real Estate Condition Report for the property by drawing a line through all the “no” answers and signing it. Ms. Martinez accepted this Condition Report even though she knew that at least one of the answers -- a “no” answer to Question C23: “I am aware that remodeling that may increase the property’s value was done” -- was false.
5. Ms. Martinez’s failure to have Mr. Cash complete the Condition Report accurately was a violation of her duty to diligently exercise reasonable skill and care in providing brokerage services to all parties, contrary to section 452.133 (1) (b), Wis. Stats.
6. In preparing an MLS listing for the property, Ms. Martinez included incorrect and inconsistent information.

Specifically,

- a. She stated that the house was “completely remodeled”, and even if the seller used that phrase, Ms. Martinez viewed the house and was aware that it was an exaggeration.
- b. She stated at one point in the listing that the house had 4 bedrooms and in another place that it had 5.
- c. She stated that the property had “new” bathrooms and new carpet throughout, when only one level was recarpeted and some work was done to the bathrooms; her statements were exaggerations.
- d. She stated at one point in the listing that the house had a detached 3+ car garage and in another place that it had “an additional new 2-car garage”.
- e. She incorrectly listed the property as having a new septic system and well, and even if the seller used that phrase, records in her own file included a septic system inspection report from Collins Sanitary LLC, which described it as approximately ten years old.

7. Ms. Martinez’s placement of incorrect and inconsistent information in the MLS listing was a violation of her duty to diligently exercise reasonable skill and care in providing brokerage services to all parties, contrary to section 452.133 (1) (b), Wis. Stats.

8. After closing, the buyer discovered that the house had a plywood foundation, which had not been disclosed by Ms. Martinez or anyone else involved in the sale. The seller, Ronald Cash, had intentionally covered the plywood foundation with concrete or stucco and had not mentioned this aspect of the house to Ms. Martinez. Ms. Martinez did not violate any rule by failing to disclose information of which she had no knowledge.

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 Olivia Martinez is subject to discipline for having violated section 452.133 (1) (b), Wis. Stats.

ORDER

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

IT IS FURTHER ORDERED that Olivia Martinez is hereby REPRIMANDED.

IT IS FURTHER ORDERED that Olivia Martinez pay the Department’s costs of this matter in the amount of **\$2,285** within 90 days of the date of this Order. Payment shall be made by certified check or money order, payable to the Wisconsin Department of Regulation and Licensing and sent to the Department Monitor:

Department of Regulation and Licensing,
PO Box 8935, Madison, WI 53708-8935.
Fax (608) 266-2264
Tel. (608) 267-3817

In the event Ms. Martinez fails to pay the costs within the time and in the manner as set forth above, her Real Estate Salesperson’s license shall be suspended without further notice, without further hearing, and without further Order of the Board, and said suspension shall continue until the full amount of said costs have been paid to the Department of Regulation and Licensing.

IT IS FURTHER ORDERED that file 08 REB 008 be closed.

Dated this 19th day of February, 2009.

WISCONSIN REAL ESTATE BOARD

By: Peter A. Sveum
Board Chair