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IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST : **FINAL DECISION AND ORDER**
:
JOHN F. REDEL, : LS0912035REB
RESPONDENT. :

Division of Enforcement Cases 06 REB 135/222

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

John F. Redel
W1141 Wolf Way
Mukwonago WI 53149

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 decision of this matter, subject to the approval of the 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. Respondent John F. Redel, (d.o.b. 9/21/47), is and was at all times relevant to the facts set forth herein a real estate broker licensed in the State of Wisconsin pursuant to license #48441, originally granted on 5/3/96; he was previously licensed as a real estate sales salesperson since 1989.

06 REB 222

2. On 5/2/01, Respondent received a listing of several lakefront properties near Mukwonago, Wisconsin, from a couple who were divorcing. Respondent subsequently arranged to purchase one of these the properties through a third party (a relative by marriage of Respondent's), and did not disclose to the husband that the named buyer was not, in fact, the true ultimate buyer. As part of the scheme to buy the property, Respondent created a letter which purported to be from the third party, and signed it with a signature purporting to be that of the third party, and submitted it to the husband.

3. Respondent represents to the Board that he did so at the specific request of the wife and her father (a licensed salesperson, affiliated with Respondent), who informed Respondent that the husband was being unreasonable about the price and that the failure to sell the property was holding up the divorce. Respondent represents to the Board that the salesperson represented to him that this type of plan had been approved by a prominent Wisconsin attorney. The Board finds that reliance upon such a representation was unreasonable.

4. On 9/13/01, before there was any accepted offer, Respondent drafted a counter-offer for two other prospective

purchasers, Mr. and Mrs. H., for a price which was \$25,000 higher than the purchase price which had been offered by Respondent, through the straw buyer. Respondent did not ensure the submission of the counter-offer to both of his clients. Respondent represents that he gave the offer to the wife's father, a licensed real estate salesperson affiliated with Respondent, who had handled many communications about other real estate transactions between Respondent and both the husband and wife in the past; Respondent expected the salesperson to transmit the counteroffer to both clients. The Board specifically finds that Respondent's reliance upon this past pattern or practice was unreasonable, in light of the pending divorce action and the known estrangement of the husband and wife, in light of the pending plan to purchase the home through a straw buyer, and in light of the fact that some other offers to purchase other properties owned by the couple were submitted directly to the parties' attorneys.

5. The initial plan was to enable the wife, to repurchase the property from the straw buyer, at the sale price, all without the prior knowledge of the husband. However, after the offer was accepted, the wife determined that she did not want the property (which was adjacent to her own residence), and Respondent kept it for himself, and lived in it as his home, paying the wife the share she would otherwise have received from the straw buyer.

06 REB 135

6. On 5/19/06, Respondent sold his home, in which he had lived in for approximately four years. As part of the process, on 2/9/06, Respondent filled out the standard disclosure form on which he checked "No" to the following standard question: "I am aware of current or previous termite, power-post beetle or carpenter ant infestations."

7. In fact, Respondent had retained a professional service for the express purpose of exterminating carpenter ants and mice, on two occasions in 2004, and retained the company for ongoing pest control through the date of sale in 2006. Respondent represents to the Board that he inadvertently failed to notice the words "or previous" on the form, and that he believed that the ants were fully controlled at the time and that there was no current infestation; this was the basis for his answer on the form.

8. Respondent represents to the Board that, since 10/29/09, and in contemplation of this Final Decision & Order, Respondent has ceased all activities as a real estate broker and has done no act requiring a license under Wis. Stat. ch. 454, which requires a license as either a real estate broker or a real estate salesperson.

CONCLUSIONS OF LAW

A. The Wisconsin Real Estate Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 425.14(3), and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

B. The conduct described in paragraphs 2, 3, and 5, above, violated Wis. Stat. §§ 452.133(1)(a), (e), and (g), and (3)(b), and 452.14(b), (d), (i), (k), and (L), and Wis. Adm. Code §§ RL 24.05(2), 24.085, 24.13(1), (2)(b), and (3). The conduct described in paragraph 6, above, violated Wis. Stat. §§ 452.133(1)(a) and (c), and 452.14(3)(b), and Wis. Adm. Code § RL 24.07(1)(a) and (2). Such conduct constitutes unprofessional conduct within the meaning of the Code and statutes.

ORDER

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

IT IS FURTHER ORDERED, that the license to act as a real estate broker of John F. Redel is SUSPENDED for six months, effective on 10/29/09. Respondent shall not engage in any conduct which requires a Wisconsin license as a real estate broker or sales person during the period of suspension, nor shall he be in any real estate brokerage or sales office, except as a *bona fide* customer, during the period of suspension. At the expiration of six months, Respondent's license shall be restored by staff, without further order of the Board, provided that the Forfeiture and Costs are paid in full.

IT IS FURTHER ORDERED, that Respondent shall FORFEIT \$3,500, to be paid before Respondent's license is reinstated.

IT IS FURTHER ORDERED, that Respondent's license is LIMITED in the following respects:

1. Respondent shall refrain from engaging in unprofessional conduct; shall appear before the Board or its officers or agents at such times and places as may be designated by the Board (or Department) from time to time; shall fully disclose to the Board or its officers or agents the nature of Respondent's practice and conduct; shall fully comply with the limits placed on his practice and conduct by the Board; and shall cooperate with the Board.
2. Respondent shall function only as a real estate salesperson, and his scope of practice is limited to that of a salesperson.
3. Respondent's supervising broker shall certify to the Board that he has read the Final Decision and Order, and is willing to supervise Respondent and make the required reports to the Board, during the period this Order is in effect.
4. The supervising broker shall submit quarterly reports to the Board, through the Department Monitor, evaluating Respondent's work, with particular attention to the ethical duties of a licensee.
5. After three years of satisfactory work reports, Respondent may petition the Board for modification or removal of this limitation. It is entirely within the discretion of the Board to remove or modify this limitation, and denial of such a petition in whole or in part shall not entitle Respondent to a hearing.

IT IS FURTHER ORDERED, that Respondent shall pay COSTS in this matter in the amount of \$4,700, before Respondent's license is reinstated.

IT IS FURTHER ORDERED, that pursuant to Wis. Stat. § 227.51(3), and Wis. Adm. Code ch. RL 6, 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. 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.

Dated this December 3, 2009.

WISCONSIN REAL ESTATE BOARD, by:

Peter A. Sveum
a member of the board