

# 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**  
:  
**JOHN B. COSTELLO.** : ORDER 00001102  
**RESPONDENT.** :

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[Division of Enforcement Case File #: **06 REB 094**]

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

John B. Costello  
109 S. Adams Street  
New Lisbon, WI 53950

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. John B. Costello, date of birth: 06/28/66, is licensed in the State of Wisconsin as a real estate salesperson, having license #94-59983. This license was first granted on 04/09/04.

2. Mr. Costello's last reported business address on file with the Department of Regulation and Licensing ("Department") is: 109 S. Adams Street, New Lisbon, Wisconsin 53950.

3. At all times relevant to the facts stated below, Mr. Costello was employed as a real estate salesperson at Lemonweir Valley Realty, LLC (#91-700753; granted: 08/21/03). The last reported business address on file with the Department for Lemonweir Valley Realty, LLC is: 109 S. Adams Street, New Lisbon, Wisconsin 53950.

4. As a licensed real estate salesperson, Mr. Costello was and is at all times relevant to this action responsible for compliance with Wisconsin Statutes, Chapter 452 and the Wisconsin Administrative Code for Real Estate Practice RL Chapter 24.

5. On or about April 7, 2006, the Department received a consumer complaint alleging Mr. Costello engaged in unprofessional conduct during a real estate transaction. Specifically, the Complainant alleges that she was told not to have a home inspection and ended up purchasing a home that had serious electrical defects. The complaint was opened for investigation.

6. On or about January 13, 2005, Mr. Costello drafted an Offer to Purchase ("Offer") on residential property located in Necedah, Wisconsin. The Complainant, an elderly woman, was not represented by a real estate agent and was the prospective buyer. The Listing Contract for the property was listed with Lemonweir Valley Realty, LLC and Mr. Costello acted as the Seller's agent. The Offer was accepted on January 20, 2005 with a closing date scheduled for May 31, 2005. All proper disclosures were made in this case with respect to representation of all parties.

7. Lines 298-305 of the Offer contain an Inspection Contingency. The box of the Inspection Contingency is checked in Line 298. Lines 299-300 are left blank. Line 301 provides the contingency shall be deemed satisfied unless the Buyer, within 5 days acceptance delivers to the Seller and to the listing broker, a copy of the written inspection report and a written notice listing the defect(s) identified in the inspection. Later in the Offer's Additional Provisions/Contingencies, Lines 317-320 of the Offer provide that an inspection is to be paid for by the Buyer and ordered no later than one week before closing.

8. A review of the Offer during the Department's investigation determines that the intent of all parties was for a home inspection to take place. The Department's review also reveals that the Offer contains inconsistent statements on when the inspection must take place.

9. During the summer of 2005, the Complainant encountered a number of defects with the property including, a leak from an outside faucet, breakers that tripped and the smell of sewer gas as a result of cracked sewer pipes. A general contractor in the area looked at the property and determined that there were a number of electrical problems with the property. The general contractor fixed the plumbing problems associated with the property.

10. On November 7, 2006, a Department consumer protection investigator visited the Complainant's property. Digital pictures were taken of several areas of the home, including the basement. The digital photos reveal many electrical wiring problems, which include approximately twenty-seven (27) electrical wires without wire covers and approximately four(4) areas of wires that were contained in boxes. At the time of the Department's inspection, the Complainant had not had any electrical repairs done to her home. In December 2006, the Complainant had electrical updates/repairs made to the property.

11. During the course of the real estate transaction, discussions took place between the Complainant and the Respondent regarding a number of issues. In particular, discussions took place regarding whether or not the Complainant should have a home inspection done on her home. The Respondent maintains that he verbally stated to the Complainant that it was her decision on whether or not to have a home inspection. The Complainant maintains that she was told not to have a home inspection. Ultimately, a home inspection was not conducted for the residential property in question.

12. In resolution of this matter, John B. Costello 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 John B. Costello has violated:

- Wis. Stat. § 452.14(3)(i) and Wis. Admin. Code § RL 24.03(2)(b) by failing to provide competent services by drafting an Offer to Purchase that contained inconsistencies with respect to a home inspection on the prospective residential property. The Offer to Purchase or Amendment should have contained a provision that clarified whether or not a home inspection would take place with respect to the sale of residential property in this case. The violations of law constitute negligent and unprofessional conduct.

### **ORDER**

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

IT IS FURTHER ORDERED that Respondent, John B. Costello (#94-59983) is **REPRIMANDED**.

IT IS FURTHER ORDERED that the Respondent, John B. Costello, within six months of the dating and signing of this Order, successfully complete the following courses: forms of at least three (3) 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, shall pay to the Department of Regulation and Licensing **COSTS of TWO HUNDRED FIFTY DOLLARS (\$250.00)**.

IT IS FURTHER ORDERED that the Respondent, shall pay to the Department of Regulation and Licensing a **FORFEITURE of TWO HUNDRED FIFTY DOLLARS (\$250.00)**.

IT IS FURTHER ORDERED, that a down payment of **TWO HUNDRED FIFTY(\$250.00)** shall be submitted within thirty (30) days from the date of this order and one more payment of **TWO HUNDRED FIFTY DOLLARS (\$250.00)** will be due within (30) days from the previous payment until the full **FIVE HUNDRED DOLLARS (\$500.00)** is paid. Payments shall be made by **certified check or money order**, payable to the Wisconsin Department of Regulation and Licensing and sent to:

**Department Monitor  
Division of Enforcement  
Department of Regulation and Licensing  
P.O. Box 8935  
Madison, WI 53708-8935  
Telephone (608) 267-3817  
Fax (608) 266-2264**

IT IS FURTHER ORDERED that in the event the Respondent, John B. Costello fails to adhere to the terms of this Order within the time and in the manner as set forth above, then and in that event, and without further notice to the Respondent, John B. Costello, license #94-59983, 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 **06 REB 094** be, and hereby is, closed as to John B. Costello.

**WISCONSIN REAL ESTATE BOARD**

By:   
Peter Sveum, Board Chair

4-29-10  
Date