

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF
DISCIPLINARY PROCEEDINGS AGAINST

GLEN E. BERHOW,
RESPONDENT.

FINAL DECISION AND ORDER

ORDER 0000580

Division of Enforcement Case No. 09 REB 029

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

Glen E. Berhow
2215 Cedar Springs Road APT 1606
Dallas, TX 75201-1863

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

1. Glen E. Berhow is licensed in the State of Wisconsin as a Real Estate Broker having license #90-5140, first issued on January 21, 2003. This license was expired from January 1, 2007 through June 8, 2007 and is current through December 14, 2010.

2. Mr. Berhow's most recent address on file with the Department of Regulation and Licensing ("Department") is 2215 Cedar Springs Road APT 1606, Dallas, TX 75201-1863.
3. On or about February 28, 2010, the Department received a complaint from Kenneth Jossart regarding real estate dealings with Mr. Berhow.
4. Beginning in 2004 and continuing through 2007, Mr. Berhow provided real estate brokerage services to Mr. Jossart and his property management company, Lou's Properties LLC. The services included acquisitions, leases and sales as follows:
 - a. 2985 South Ridge Road – an acquisition in 2004, for which the purchase price was \$5,900,000. Mr. Berhow was paid a 3% commission.
 - b. 2985 South Ridge Road – a sale in 2005, for which the sale price was \$6,950,000. Mr. Berhow was paid a 3% commission.
 - c. Theda Care "Build to Suit" – an acquisition in 2005, for which the purchase price was \$3,300,000. Mr. Berhow acquired non-recourse financing for the closed bid deal and was paid a 3% commission.
 - d. McDonald's Co-Brand / Omro Travel Center – a lease in 2005, which was a 10-year "Build to Suit" with (4) 5 year options. Mr. Berhow was paid a \$10,000 commission.
 - e. Omro Travel Center – a land contract in 2007, for which the price was \$1,231,000. Mr. Berhow was paid a commission of \$50,000.
5. In early 2007, Mr. Berhow began negotiating on Mr. Jossart's behalf for the purchase of a commercial property located on 11800 Park Place in Milwaukee. However, Mr. Berhow was left out of the final negotiations for the sale of the property and did not receive a commission when the sale closed for \$7,350,000.
6. During each of the transactions listed in subparagraphs 4(a)-(e) and paragraph 5 above, Mr. Berhow provided brokerage services to Mr. Jossart without a written, signed agency agreement or listing agreements.
7. Prior to the expiration of his real estate license on December 31, 2006, Mr. Berhow completed the continuing education courses required for renewal. Due to an unintentional oversight, Mr. Berhow failed to renew his license prior to expiration. Mr. Berhow did not renew his real estate broker's license until June 8, 2007.
8. From January 1, 2007 through June 8, 2007, Mr. Berhow's real estate license was expired. During this time, Mr. Berhow continued to act as a real estate broker, providing brokerage services to Mr. Jossart for the sale of property at 11800 Park Place in Milwaukee.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 452.14(3) and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).
2. Respondent Glen E. Berhow has violated Wis. Admin. Code §§ RL 24.025(2) and RL 24.08 by failing to have written agency or listing agreements as described in paragraphs 4-6 of the Findings of Fact. By violating these rules, Respondent has demonstrated incompetency to act as a broker pursuant to Wis. Admin. Code § RL 24.01(3).
3. Respondent Glen E. Berhow has violated Wis. Stat. § 452.12(5)(b) by engaging in activities covered by his real estate broker's license during the time his license was expired as described in paragraph 7 of the Findings of Fact.
4. As a result of the violations listed in paragraphs 2-3 above, Glen E. Berhow is subject to discipline pursuant to Wis. Stat. §§ 452.14(3)(i), (L) and (4m).

ORDER

NOW, THEREFORE, IT IS ORDERED that:

1. The Real Estate Broker's license of Glen E. Berhow (license #90-5140) is hereby **REPRIMANDED**.

IT IS FURTHER ORDERED that:

2. The Real Estate Broker's license of Glen E. Berhow (license #90-5140) is hereby **LIMITED** is as follows:
 - a. Respondent shall, within six (6) months of the date of this Order, successfully complete six (6) hours of Continuing Education by choosing two (2) of the following 3-hour courses:
 - i. Contracts;
 - ii. Ethics;
 - iii. Buyer Agency.All courses must be pre-approved by the Department Monitor Liaison.
 - b. Respondent shall submit proof of successful completion of the courses 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:

3. Respondent Glen E. Berhow shall pay a **FORFEITURE** of TWO HUNDRED AND FIFTY DOLLARS (\$250.00) and **COSTS** of SEVEN HUNDRED FORTY DOLLARS (\$740.00) for a **TOTAL** of NINE HUNDRED AND NINETY DOLLARS (\$990.00).
4. An initial payment of three hundred and thirty dollars (\$330.00) shall be submitted within 60 days from the date of this order. Additional payments of three hundred and thirty dollars (\$330.00) shall be submitted every 90 days following the initial payment until the full amount due is paid in full. Payment of the costs and forfeiture shall be made 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) 261-7904, Fax (608) 266-2264

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. 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 payment of the costs and forfeiture or fails to comply with the ordered continuing education as set forth above, the Respondent's license (#90-5140) may, in the discretion of the board or its designee, be **SUSPENDED**, without further notice or hearing, until Respondent has complied with payment of the costs and forfeiture and completion of the continuing education.
6. The attached Stipulation is hereby accepted.
7. This Order is effective on the date of its signing.

Dated this 9 day of December, 2010.

WISCONSIN REAL ESTATE BOARD

By: Steph P. Beers