

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF :
DISCIPLINARY PROCEEDINGS AGAINST :
 : FINAL DECISION AND ORDER
DEBRA L. HITCHCOCK-GALE, :
RESPONDENT. : ORDER 0000675

Division of Enforcement Case File Number 07 REB 211

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

Debra L. Hitchcock-Gale
28036 Overland Trailway
Webster, WI 54893

Wisconsin Real Estate Board
P.O. Box 8935
Madison, WI 53708-8935

Wisconsin 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. Respondent Debra L. Hitchcock-Gale is licensed in the state of Wisconsin as a Real Estate Broker, license number 90-55897. This license was first granted to her on 04/06/2010 and is current through 12/14/2012. Ms. Hitchcock-Gale was previously licensed in the state of Wisconsin as a Real Estate Salesperson, license number 94-59151. This license was first granted to her on 01/28/2004 and expired on 12/14/2010.

2. The most recent address on file with the Department for Debra L. Hitchcock-Gale is 28036 Overland Trailway, Webster, WI 54893.

3. On or about August 30, 2007, the Department received a complaint alleging that Debra L. Hitchcock-Gale violated many rules governing the practice of real estate. A case was subsequently

opened for investigation. The same complaint was filed with the Realtors Association of Northwestern Wisconsin in Eau Claire.

4. On or about May 15, 2007, the Ethics Hearing Panel of the Professional Standards Committee for the Realtors Association of Northwestern Wisconsin recommended disciplinary action for Debra Hitchcock-Gale. The committee decided that Ms. Hitchcock-Gale was in violation of Articles 12, 15 and 16 of the Code of Ethics and Standards of Practice as follows:

Article 12

Realtors shall be careful at all times to present a true picture in their advertising and representations to the public. Realtors shall also ensure that their professional status (e.g., broker, appraiser, property manager, etc.) or status as realtors is clearly identifiable in any such advertising. *(Amended 1/93)*

Article 15

Realtors shall not knowingly or recklessly make false or misleading statements about competitors, their businesses, or their business practices. *(Amended 1/92)*

Article 16

Realtors shall not engage in any practice or take any action inconsistent with exclusive representation or exclusive brokerage relationship agreements that other realtors have with clients. *(Amended 1/04)*

5. The Ethics Hearing Panel of the Professional Standards Committee reprimanded Ms. Hitchcock-Gale and recommended either completion of the online Code of Ethics training for new members within one year or a one thousand dollar (\$1,000.00) fine.

6. On November 8, 2007, the Board of Directors for the Realtors Association of Northwestern Wisconsin confirmed the findings of violations and recommended disciplinary action. A copy of the Committee's Decision and Findings of Fact is attached as **Exhibit 1** and is incorporated herein by reference.

7. In resolution of this matter, Respondent Debra L. Hitchcock-Gale 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, and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. By the conduct described in **Exhibit 1**, Respondent Debra L. Hitchcock-Gale has violated Wis. Admin. Code § RL 24.03(2)(b) by failing to protect the public against fraud, misrepresentation and unethical practices when she:

A. Sent e-mails with disparaging remarks to agents in Complainants' office;

B. Forged the sellers' names on an amendment to the listing contract and claimed that she had done so at the sellers' request even though the sellers stated that was not the truth;

C. Made representations that she was licensed in Minnesota and Wisconsin as an appraiser when this was not the truth; and

D. Engaged in action inconsistent with the exclusive brokerage relationship agreement Complainants had with a seller on an offer from one of Complainants' protected buyers.

3. Pursuant to Wis. Admin. Code § RL 24.01(3), by the violations described in paragraph 2 of the Conclusions of Law, Respondent Debra L. Hitchcock-Gale has demonstrated incompetency to act as a broker and salesperson in such manner as to safeguard the interests of the public under Wis. Stat. § 452.14(3)(i) and is therefore subject to discipline under Wis. Stat. § 452.14(3)(i).

4. Respondent Debra L. Hitchcock-Gale is also subject to discipline pursuant to Wis. Stat. § 452.14(3)(k) for being guilty of conduct which constitutes improper, fraudulent, or dishonest dealing.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The real estate broker license (number 90-55897) issued to Debra L. Hitchcock-Gale shall be **SUSPENDED** for a period of forty-five (45) calendar days, starting on the effective date of this Order. Ms. Hitchcock-Gale is required to abide by the following terms during the suspension period:

A. The Respondent shall not engage in the practice of real estate during the suspension period. The Respondent shall not engage in any supervisory duties in her office, in her home, or any other place. Listings made prior to the date of suspension and long-term advertisements such as Yellow Pages listings need not be cancelled.

B. Within twenty (20) days of the effective date of this Order, the Respondent is required to notify the Board and the Department Monitor, in writing, of the name, license number, and address of the real estate licensee, in good standing, who will be working with her current clients and/or responding to any inquiries pertaining to her current MLS listings and advertisements during the suspension period.

C. The Respondent is required to revise her current MLS listings to include a notice stating, "During [insert first day of suspension] until [insert final date of the suspension period], please contact [name and contact information of real estate licensee in good standing handling the Respondent's real estate duties]."

IT IS FURTHER ORDERED that:

2. The real estate broker license of Respondent Debra L. Hitchcock-Gale (number 90-55897) is hereby **LIMITED** as follows:

A. Debra L. Hitchcock-Gale, within six (6) months of the dating and signing of this Order, shall successfully complete a Wisconsin Realtors Association (WRA) course of at least three (3) hours on the topic of risk reduction, including passing the risk reduction examination and receiving a Certificate of Completion. The risk reduction course shall not be completed

online. The risk reduction course and examination shall be administered in a distance learning setting, which shall be proctored by the Respondent's local Board of Realtors.

B. Debra L. Hitchcock-Gale shall successfully complete the WRA course and examination as outlined above and submit a copy of the Certificate of Completion to the address stated below. The education limitation shall be lifted upon receipt of the Certificate of Completion by the Department Monitor. None of the education completed pursuant to this requirement may be used to satisfy any real estate continuing education requirements that are or may be instituted by the Board or the Department of Regulation and Licensing.

3. Respondent Debra L. Hitchcock-Gale shall pay a **FORFEITURE** of SEVEN HUNDRED DOLLARS (\$700.00) and **COSTS** in the amount of TWO THOUSAND EIGHT HUNDRED FIFTY DOLLARS (\$2,850.00). Payment of forfeitures and costs, which total THREE THOUSAND FIVE HUNDRED FIFTY DOLLARS (\$3,550.00), shall be paid within ninety (90) days of the date of this Order.

4. Proof of successful course completion and payment of forfeiture and costs (made payable to the Wisconsin Department of Regulation and Licensing) shall be mailed, faxed or delivered by the Respondent to the Department Monitor at this address:

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

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 (number 90-55897). 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 forfeiture or costs, or complete the required education, or notify the Board and Department Monitor of the real estate licensee in good standing who will be covering the Respondent's duties as ordered and as set forth above, the Respondent's license (number 90-55897) may, in the discretion of the board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with the education and notification requirements or payment of the costs or forfeiture.

6. This Order is effective on the day after its signing.

Dated this 17 day of FEBRUARY, 2011.

WISCONSIN REAL ESTATE BOARD

By: 



REALTORS[®] ASSOCIATION
OF
NORTHWESTERN WISCONSIN

1903 KEITH STREET
EAU CLAIRE, WISCONSIN 54701
WWW.RANWW.ORG

(715) 835-0923
(888) 221-0112
(715) 835-4621 Fax

November 9, 2007

Debra Hitchcock-Gale
CB Lakeside Realty
24608 State Road 35/70
Siren, WI 54872

Dear Debra:

The Board of Directors met on November 8, 2007 to consider the decision of the hearing panel on the ethics complaint filed by Debbie Rufsholm and Marcy Basten. It was the decision of the Board of Directors to confirm the finding of a violation of articles 12, 15 and 16 of the Code of Ethics and the discipline recommended by the hearing panel.

Pursuant to the discipline imposed, you are to complete the online Code of Ethics training for **new** members within one year (of the hearing, September 11, 2007) or pay a fine of \$1000 to RANWW. Evidence of completion of the online training is to be submitted to our office.

This letter is to be construed as an official letter of reprimand advising of a lack of professional conduct as determined by a due process hearing of the Professional Standards Committee and affirmed by the Board of Directors. Future similar conduct could result in more severe sanction.

Sincerely,

Joan Englert
EXECUTIVE VICE PRESIDENT

CC: Joe Bell, broker

STATE'S
EXHIBIT



REALTORS[®] ASSOCIATION
OF
NORTHWESTERN WISCONSIN

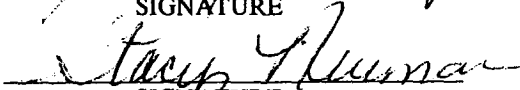
1903 KEITH STREET
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(715) 835-0923
(888) 221-0112
(715) 835-4621 Fax

Krag Blomberg, Panel Chairman
PRINTED/TYPED NAME


SIGNATURE

Stacy Neuman, Member
PRINTED/TYPE NAME


SIGNATURE

Char Weissmuller, Member
PRINTED/TYPE NAME


SIGNATURE

NOTICE: This decision is not final and is subject to certain rights of both the Complainant and the Respondent.

COMPLAINANT'S RIGHTS: Within twenty one (21) days of this notification the Complainant may request a rehearing by the original Hearing Panel. This request shall be directed to the Hearing Panel and the Hearing Panel shall consider the request. The granting of this request for rehearing will be based only upon the Complainant obtaining new evidence which could not have been discovered with reasonable diligence and produced at the original hearing. If no rehearing is requested, or within fifteen (15) days after denial of a petition for rehearing, the Complainant may file an appeal within fifteen (15) days of this notification with the President for a hearing before the Directors based only upon an allegation of procedural deficiencies or other lack of procedural due process that may have deprived the Complainant of a fair hearing. A transcript or summary of the hearing shall be presented to the Directors by the Chairperson of the Hearing Panel and the parties and their legal counsel may be heard to correct the summary or transcript. No evidence will be received and the appeal will be decided on the transcript or summary.

RESPONDENT'S RIGHTS: Within twenty one (21) days of this notification the Respondent may request a rehearing by the original Hearing Panel. This request shall be directed to the Hearing Panel and the Hearing Panel shall consider the request. The granting of this request for rehearing will be based only upon the Respondent obtaining new evidence which could not have been discovered with reasonable diligence and produced at the original hearing. If no rehearing is requested, or within fifteen (15) days after denial of a petition for rehearing, the Respondent may file an appeal within fifteen (15) days of this notification with the President for a hearing before the Directors with respect to the decision of the Hearing Panel as to why the recommendations of the Hearing Panel should or should not be followed. A transcript or summary of the hearing shall be presented to the Directors by the Chairperson of the Hearing Panel and the parties and their legal counsel may be heard to correct the summary or transcript. No evidence will be received and the appeal will be decided on the transcript or summary.

FINAL ACTION BY DIRECTORS: Both the Complainant and Respondent will be notified upon final action of the Directors.



REALTORS® ASSOCIATION OF NORTHWESTERN WISCONSIN

1903 KEITH STREET EAU CLAIRE, WISCONSIN 54701 WWW.RANWW.ORG

(715) 835-0923 (888) 221-0112 (715) 835-4621 Fax

ACTION OF THE BOARD OF DIRECTORS (ETHICS HEARING)

For use by the Board of Directors if no appeal has been filed to the Hearing Panel's decision.

The decision of the Hearing Panel in the matter of

Debbie Rufsholm & Marcy Basten vs Debra Hitchcock-Gale Complainants Respondent

dated September 11, 2007 (copy attached), came before the Board of Directors on November 8, 2007 and was considered by the Directors.

The decision of the Hearing Panel and its recommendation for disciplinary action, if any, in the above-referenced case is hereby (check one):

[X] adopted verbatim

___ adopted, but the recommendation for discipline is modified as follows:

Three horizontal lines for text input.

___ remanded to the Hearing Panel for further consideration of the discipline recommended.

___ remanded to the Professional Standards Committee for a new hearing by a different Hearing Panel based on perceived procedural deficiency(ies)

Reasons(s) for rejection/Directors' concerns with Hearing Panel's decision and/or recommendation(s):

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The action of the Board of Directors was adopted on November 8, 2007 by resolution.

For the Board of Directors:

Joan Englert, Executive Vice President (Print)

[Handwritten signature of Joan Englert] (Signature)



**DECISION OF ETHICS HEARING PANEL
OF THE PROFESSIONAL STANDARDS COMMITTEE**

Filed May 15, 2007

Debbie Rufsholm, and Marcy Basten vs *Debra Hitchcock-Gale*
Complainants Respondent

FINDINGS OF FACT: The basis for our decision is the conclusion of the Hearing Panel as to the following facts:

SEE ATTACHED

CONCLUSIONS OF HEARING PANEL:

We, the members of the Hearing Panel in the stated case, find Respondent *Debra Hitchcock-Gale* (not in violation) (~~in violation~~) of Article 1 of the Code of Ethics.

We, the members of the Hearing Panel in the stated case, find Respondent *Debra Hitchcock-Gale* (not in violation) (~~in violation~~) of Article 2 of the Code of Ethics.

We, the members of the Hearing Panel in the stated case, find Respondent *Debra Hitchcock-Gale* (~~not in violation~~) (in violation) of Article 12 of the Code of Ethics

We, the members of the Hearing Panel in the stated case, find Respondent *Debra Hitchcock-Gale* (not in violation) (~~in violation~~) of Article 13 of the Code of Ethics.

We, the members of the Hearing Panel in the stated case, find Respondent *Debra Hitchcock-Gale* (~~not in violation~~) (in violation) of Article 15 of the Code of Ethics.

We, the members of the Hearing Panel in the stated case, find Respondent *Debra Hitchcock-Gale* (~~not in violation~~) (in violation) of Article 16 of the Code of Ethics.

RECOMMENDATION FOR DISCIPLINARY ACTION: We recommend to the Board of Directors the following action:

1. Respondent to complete online Code of Ethics training for new members within one year or pay a fine of \$1000 to RANWW. Evidence of completion of the training to be submitted to RANWW.
2. Letter of reprimand to be issued to Respondent. Letter to remain on file for one year.

The decision, findings of fact, and recommendation(s) preceding were rendered by an ethics Hearing Panel comprised of the following members whose signatures are on following page. The hearing took place on September 11, 2007

E-11 Rev 1/2004

FINDINGS OF FACT

Respondent Hitchcock-Gale had been associated with the Complainants, Rufsholm and Basten, at ERA Parkside until March of this year. After leaving the Complainants' office, the Respondent joined CB Lakeside.

Complainants testified the Respondent removed "For Sale" signs on properties she had listed while associated with their firm and subsequently listed with CB Lakeside. Respondent admitted taking the signs off the property, however, she testified that she did so as a courtesy to both the seller and the Complainants, since there had been instances when the Complainants did not remove "For Sale" signs on properties after they expired. The panel was unable to connect this action to one of the cited articles of the Code of Ethics.

Complainants testified that the Respondent removed listing data and files from their office and removed keys from electronic lockboxes. Respondent testified she did not remove information from Complainants' office but had left it in Complainants' trash and that the only information she removed from the Complainants' office belonged to her. Respondent also testified she had not removed keys from electronic lockboxes. There was no clear, strong and convincing evidence presented to the panel that the Respondent had removed files or keys.

Complainants testified that the sellers of properties contacted them to cancel their listings shortly after the Respondent left their office. Some of those listings were subsequently listed by the Respondent at CB Lakeside. The Respondent testified she did not solicit the listings and had two witnesses who testified that they were not contacted by the Respondent. One witness testified she learned the Respondent had changed offices through the newspaper ad and a second witness testified he first learned of the change through conversation with the Respondent's husband, a good friend. The Respondent also submitted an affidavit from another seller that further supported her statement. There was no clear, strong and convincing evidence presented to the panel that the Respondent had solicited the listings.

Complainants testified the Respondent used the MLS photos of properties that had been listed by the Respondent while she was associated with them on those same properties when she listed them with CB Lakeside. The Respondent testified that when she was notified by the MLS office that this was a violation of the MLS Rules and Regulations, she replaced those photos with new pictures. Although this may have been a violation of the MLS Rules and Regulations, the panel was unable to connect this action to one of the cited articles of the Code of Ethics.

Complainants testified that Respondent had offered referral fees to unlicensed people. Respondent testified she had not offered any fees to unlicensed people. There was no clear, strong and convincing evidence presented to the panel that the Respondent had offered referral fees to unlicensed people.

Complainants introduced copies of emails with disparaging remarks sent by the Respondent to agents in Complainants' office. The panel reviewed the emails and concluded that Article 15 was violated.

Complainant testified that 10 lockboxes that had been signed for by the Respondent while she was associated with Complainants' firm were missing from their inventory. Respondent testified that her signature on the receipt for the lockboxes did not constitute acknowledgement the boxes were actually received and introduced correspondence from the Association office that supported that statement. The panel was unable to relate the missing lockboxes to any of the cited articles of the Code of Ethics.

Complainants testified that one of their sellers came into their office after the Respondent was no longer associated with them. The Complainants testified that those sellers brought in an amendment to the listing contract that had been mailed to them months ago by the Respondent for their signature, but they had not signed and returned it – they returned it the day they came into the office. The Complainants testified that they found an amendment in the listing file with a signature on it that did not match other signatures for the seller. Respondent testified she had signed the sellers' names on the amendment at their phone request but had not noted that on the form. She testified she had attached a post-it note that disclosed she had signed the amendment at the sellers' request. She further testified that the sellers had signed and returned the amendment a few days later and she had placed it in the file, but she did not remove the amendment she had signed for them. The Respondent acknowledged that she should not have signed the amendment with the sellers' names, however, the panel was unable to relate her forgery to any of the cited articles of the Code of Ethics.

Complainants testified that the Respondent made representations that she was licensed in Minnesota and Wisconsin and she also was licensed as an appraiser. The Complainants presented printouts from the Department of Regulation and Licensing and the Minnesota Department of Commerce showing the Respondent's Minnesota license expired in 2004 and she had no appraisal license. Respondent testified she should have stated that she was in the process of reinstating her Minnesota license and had completed the coursework and passed the test for becoming an appraiser but was not licensed because she had not completed the required hours under an appraiser's supervision. The panel found these statements did not present a true picture to the public and violated article 12 of the Code of Ethics.

Complainants testified that an offer from one of their protected buyers was written by another broker on a property that was currently listed by CB Lakeside. The agent writing the offer delivered it to CB Lakeside in error. The offer had a contingency in it stating that the offer was to be presented to the seller by the agent drafting the offer (not the Complainants), which was done. Seller requested the Respondent and the Respondent's broker to review the offer. The Respondent's broker testified that he declined to review it. Respondent testified that she reviewed the offer to find any blanks that were not completed or typos. She also contacted the agent writing the offer to find out if the buyer had a property to sell. The seller of the property attended the hearing and testified that

the Respondent had not solicited his listing. He further testified that he did not trust the Complainants and wanted someone else's opinion on the offer. The hearing panel determined that the Respondent violated Article 16 of the Code of Ethics by engaging in action inconsistent with the exclusive brokerage relationship agreement the Complainants had with the seller. The panel found no clear, convincing proof that the Respondent had engaged in any activity that constituted the unauthorized practice of law and found no violation of Article 13 of the Code of Ethics.

Complainants offered testimony that office policy had been violated in some of the Respondent's advertising, however, the panel was unable to relate those office policy violations to the articles of the Code of Ethics cited. Additionally, the panel found that some of the evidence presented by the Respondent was more than 180 days old (from the time the complaint was filed) and could not be used in making a decision.