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STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	FINAL DECISION AND ORDER
SIMON M. MARGULIUS, AND	:	
BEST BUY REALTY, INC.	:	
RESPONDENTS.	:	ORDER 0000907

Division of Enforcement Case File Nos. 07 REB 249 and 10 REB 058

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

Simon M. Margulius
9220 North Port Court
Bayside, WI 53217

Best Buy Realty, Inc.
9220 North Port Court
Bayside, WI 53217

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

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. Simon M. Margulius (dob 03/14/50) is licensed in the State of Wisconsin as a Real Estate Broker, having license number 90-8421, first issued on January 1, 1973 and current through December 14, 2012.

2. Respondent Margulius' most recent address on file with the Department of Regulation and Licensing ("Department") is 9220 North Port Court, Bayside, Wisconsin 53217.

3. Respondent Margulius was previously disciplined in resolution of Division of Enforcement case file number 03 REB 257 for various violations of the statutes and regulations pertaining to the brokering of real estate. On August 24, 2006, the Board issued an Order in case number 03 REB 257 that enumerated five limitations to Respondent Margulius' real estate broker license. Pursuant to the August 24, 2006 Order, those limitations remain in effect indefinitely and are not altered in any way by this Final Decision and Order.

4. Robin H. Wallingford (dob 03/14/50) is licensed in the State of Wisconsin as a Real Estate Broker, having license number 90-53823, first issued on June 13, 2006 and current through December 14, 2012.

5. Respondent Wallingford's most recent address on file with the Department is 925 West Glen River Road, Glendale, Wisconsin 53217.

6. Best Buy Realty, Inc. is licensed in the State of Wisconsin as a Real Estate Business Entity, having license number 91-835728, first issued on May 6, 2004 and expired on December 15, 2008.

7. Respondent Best Buy Realty, Inc.'s most recent address on file with the Department is 9220 North Port Court, Bayside, Wisconsin 53217. Respondent Margulius is listed in Department records as the President of Best Buy Realty, Inc.

8. EZ Own Homes Realty LLC is licensed in the State of Wisconsin as a Real Estate Business Entity, having license number 91-936491, first issued on April 17, 2009 and expired on December 15, 2010.

9. Respondent EZ Own Homes Realty LLC's most recent address on file with the Department is 925 West Glen River Road, Glendale, Wisconsin 53217. Respondent Wallingford is listed in Department records as the licensee responsible for EZ Own Homes Realty LLC.

Division of Enforcement Case File No. 07 REB 249

10. On or about October 18, 2007, the Department received a complaint against Robin H. Wallingford, Simon M. Margulius and Best Buy Realty, Inc. The complaint alleged deceptive and fraudulent real estate practices. Division of Enforcement ("DOE") Case Number 07 REB 249 was subsequently opened for investigation.

11. On July 28, 2007, Respondent Wallingford offered Complainant Taylor \$22,000 for Taylor's property at 2821 West Concordia Avenue in Milwaukee, Wisconsin ("Concordia Ave. Property") on behalf of EZ Own Homes Realty LLC ("EZ Own Homes").¹

12. EZ Own Homes advertised "We'll buy your house NOW! NO HASSLES, NO FEES, NO COST, GUARANTEED!"

13. An Offer of Intent to Purchase Real Estate was executed on July 31, 2007.

- a. The Offer identifies Complainant Taylor as the seller of the Concordia Ave. Property.
- b. The Offer identifies "Accredited Asset Management Corp and/or assigns" as the buyer.
- c. The signature of Respondent Margulius appears on the line for Agent for Buyer. The address listed for the Agent for Buyer is a previous address on file with the Department for Respondent Margulius, although the city is incorrectly identified as Milwaukee.
- d. The Offer includes a purchase price of \$22,000.
- e. The Offer states that the "Buyer shall pay \$10 at acceptance" and "\$1,000 upon completion of all paperwork, and occupancy of the premises."
- f. The Offer states that the "Buyer shall pay the current monthly mortgage payment at the beginning of the month following occupancy of premises."
- g. The Offer states that the "Remaining principal balance shall be paid within 6 months after the downpayment has been paid."
- h. In fine print, the Offer states, "If this Offer of Intent to purchase is satisfactory to Seller, a Standard Purchase and Sale Agreement shall be prepared within fourteen (14) days upon acceptance and receipt of this Offer of Intent. When Offer of Intent is accepted by Seller, Seller agrees that no other offers shall be considered during the fourteen (14) days period. Upon approval by Seller, if no final Agreement is drawn, this Offer of Intent shall serve as a contract for closing. Closing shall be on or before 30 days upon acceptance of offer, plus any extensions necessary in order to complete paperwork. Closing is subject to the approval by Buyer of Owners Title Policy, city work orders (if any), mortgage balance and arrears (if applicable), and inspection of premises. In the event that these contingencies cannot be removed, this offer at option of purchaser becomes null and void."

14. A WB-11 Residential Offer to Purchase was drafted and executed on August 9, 2007.

- a. The Offer identifies Complainant Taylor as the seller of the Concordia Ave. Property.

¹ A 2007 Best Buy Realty, Inc. advertisement identifies that "EZ Own Homes is a registered trade name of Best Buy Realty Inc."

- b. The Offer identifies K&M Property Solutions LLC as the buyer. Eri Margulius, Respondent Margulius' son, executed the Offer on behalf of K&M Property Solutions LLC.
- c. Respondent Margulius' initials appear in the body of the offer at line 44.
- d. The Offer includes a "purchase price of the existing mortgage payoff balance plus one thousand dollars and no/cents (\$1000.00)."
- e. Additional Provisions/Contingencies in the Offer include "Seller agrees to assign and Buyer agrees to pay 'subject to' the existing mortgage, pursuant to Seller's unverified representations which has an outstanding mortgage payoff balance, excluding any escrow refund, of approximately sixteen thousand six hundred dollars and no/cents (\$16,600.00). Payments to be made directly to mortgage holder."
- f. The Offer identifies "Earnest Money of \$10.00 accompanies this Offer and earnest money of \$1000.00 will be paid upon occupancy of premises, if applicable, and verification of mortgage information & proof of merchantable title in the form of owner's title insurance policy in which liens have been removed (not including mortgages or liens which will be paid out of the purchase price)."
- g. The Offer incorporates an Addendum A that includes the following sections: Management Agreement, Conveyance, Property Condition and Sellers Obligations.
- h. The Offer does not contain any financing contingency, inspection contingency, indication of who the drafter was or was representing, or notation of receipt of earnest money.
- i. Acceptance occurred on August 9, 2007.

15. The closing of the sale of the Concordia Ave. Property occurred on August 9, 2007 at EZ Own Homes with Respondents Margulius and Wallingford.

16. A Warranty Deed was drafted by Respondent Margulius for the Concordia Ave. Property. The deed was made between Complainant Taylor and K&M Property Solutions LLC, executed by Taylor and notarized by Respondent Wallingford on August 9, 2007.

17. City of Milwaukee records show a conveyance for the Concordia Ave. Property in August 2007 to K&M Property Solutions with a sale price of \$22,000.

18. On August 9, 2007, Complainant Taylor executed a Notice to Clients and Customers in which Respondent Margulius is identified as the Owner's Agent.

19. On August 9, 2007, Complainant Taylor executed a Disclosure of Information on Lead-Based Paint and/or Lead-Based Paint Hazards in which Respondent Margulius is identified as the Seller's Agent.

20. Complainant Taylor executed an Affidavit of Property Condition for the Concordia Ave. Property.

21. Complainant Taylor was paid a total of \$1,010 for the sale of the Concordia Ave. Property. Her mortgage has not been paid off by K&M Property Solutions LLC.

22. Respondent Margulius was served with a subpoena for documents related to the sale of the Concordia Ave. Property but has not provided the Department with any such documents to date.

Division of Enforcement Case File No. 10 REB 058

23. On or about April 28, 2010, the Department received a complaint against Robin H. Wallingford, Simon M. Margulius and EZ Own Homes. The complaint alleged deceptive and fraudulent real estate practices. DOE Case Number 10 REB 058 was subsequently opened for investigation.

24. On November 18, 2009, Complainant Lafi contacted EZ Own Homes and spoke to Respondent Wallingford about selling Lafi's property at 3143 North 29th Street in Milwaukee, Wisconsin ("29th St. Property"). Respondent Wallingford stated EZ Own Homes would pay off Complainant Lafi's mortgages and record the property in its name.

25. A WB-11 Residential Offer to Purchase was drafted and executed on November 19, 2009.

- a. The Offer identifies Complainant Lafi as the seller of the 29th St. Property.
- b. The Offer identifies EZ Own Homes, LLC and/or assigns as the buyer. Respondent Margulius executed the Offer on behalf of EZ Own Homes.
- c. The Offer does not contain any indication of who the drafter was, although the Offer identifies the unnamed drafter as the agent of buyer.
- d. Additional Provisions/Contingencies in the Offer include "Seller agrees to assign and Buyer agrees to pay 'subject to' the existing mortgage payoffs, pursuant to seller's representation, while not verified, which have an outstanding payoff balance (including principal, interest, unpaid late charges, corporate advances, prepaymnet [sic] penalties, and any and all frees [sic], per diem, excluding any escrow refunds of approximately, \$27,000. Seller to vacate premises on or before Dec. 1, 2009."
- e. The Offer indicates "Buyer responsible for 2009 taxes/water & sewer from Dec. 2009."
- f. The Offer incorporates an Addendum A which is a notice that EZ Own Homes intends to sell the 29th St. Property to an "End Out Purchaser."
- g. The Offer does not contain any financing contingency, inspection contingency, or closing date.
- h. Acceptance occurred on November 19, 2009.

26. A Warranty Deed was drafted by Respondent Margulius for the 29th St. Property. The deed was made between Complainant Lafi and EZ Own Homes, executed by Lafi and

notarized by Respondent Wallingford on November 19, 2009. The deed was recorded on July 28, 2010 as a homestead property.

27. Complainant Lafi also executed a Letter of Authorization and Power of Attorney on November 19, 2009 authorizing Respondent Margulius and/or EZ Own Homes to act as her agent with regard to the 29th St. Property. Respondent Wallingford notarized both documents.

28. On November 24, 2009, Respondent Wallingford authored a note that states, "Received keys from Venita Lafi. Keys for 3143 N. 29th St. Taxes will be refunded when city of Milwaukee sends out checks to homeowner. Buyer responsible for taxes for 12/1/09 to end of year."

29. In February 2010, Complainant Lafi filed a complaint with the Wisconsin Department of Financial Institutions alleging that despite the fact Respondents and EZ Own Homes had rented out the 29th St. Property, they had not paid her mortgages or transferred title of the property from her name. In response, Respondent Margulius represented that Complainant's mortgages would not be paid until the 29th St. Property was sold and failure to record the warranty deed executed in November 2009 was an oversight and would be corrected.

30. The Department was recently notified that Wells Fargo has commenced foreclosure proceedings against the 29th St. Property due to the mortgages not having been paid.

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. By the conduct described in Findings of Fact 10-21 and 23-29, Simon M. Margulius and Best Buy Realty, Inc. violated:

- a. Wis. Stat. § 452.133(1);
- b. Wis. Stat. § 452.133(3)(b) and Wis. Admin. Code § RL 24.05(2);
- c. Wis. Stat. § 452.135(1)(2)(a);
- d. Wis. Stat. § 452.14(3);
- e. Wis. Admin. Code § RL 15.04;
- f. Wis. Admin. Code § RL 24.03(2)(b); and
- g. Wis. Admin. Code § RL 24.04(1).

3. Simon M. Margulius and Best Buy Realty, Inc. are subject to discipline under Wis. Stat. § 452.14(3) for the violations referenced above.

ORDER

NOW, THEREFORE, IT IS ORDERED that:

1. The attached Stipulation is hereby accepted;
2. The Real Estate Broker license of Respondent **Simon M. Margulius**, license number 90-8421, and the Real Estate Business Entity license of Respondent **Best Buy Realty, Inc.**, license number 91-835728, are hereby **SUSPENDED** for a period of six (6) months beginning fifteen (15) days after the date of this Order.
3. The Real Estate Broker licenses of Respondents **Simon M. Margulius**, license number 90-8421, are **LIMITED** as follows:
 - a. Simon M. Margulius shall, within one (1) year of the date of this Order, successfully complete ten (10) hours of real estate broker education in the area of ethics and forms as pre-approved by the Board's monitoring liaison, at his own expense, including taking and passing any exams offered for the courses.
 - b. Simon M. Margulius shall submit proof of completion in the form of verification from the institution providing the education to the Department Monitor's address stated below. None of the education completed pursuant to this requirement may be used to satisfy any continuing education requirements that have been or may be instituted by the Board, Wisconsin Department of Regulation and Licensing or similar authority in any state.
 - c. This Limitation shall be removed from Respondent's license after he has satisfied the Board or its designee that he has successfully completed all of the ordered education.
4. **Simon M. Margulius** shall, within one (1) year of the date of this Order, pay a **FOREITURE** in the amount of **\$2,500.00**.
5. Proof of successful course completion and payment of forfeiture (made payable to the Wisconsin Department of Regulation and Licensing) shall be sent to the Department Monitor at the address below:

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

6. Respondent Simon M. Margulius shall immediately provide a copy of this Final Decision and Order and any subsequent order(s) to his broker employers at any real estate company where he is employed or becomes employed.

7. 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 the 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 forfeiture as ordered or fails to comply with the ordered education as set forth above, Simon M. Margulius' license, number 90-8421, may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with the payment of the forfeiture and completion of the education.

8. This Order is effective on the date it is signed.

Dated this 23 day of June, 2011.

WISCONSIN REAL ESTATE BOARD

By: _____

A member of the Board