

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN  
BEFORE THE REAL ESTATE EXAMINING BOARD

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IN THE MATTER OF :  
DISCIPLINARY PROCEEDINGS AGAINST :

RUSSELL L. SOMMERS and :  
HODAG PROPERTY MANAGEMENT LLC., :  
RESPONDENTS. :

FINAL DECISION AND ORDER

ORDER 0001217

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Division of Enforcement Case File Number 11 REB 038

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

Russell L. Sommers  
1415 Eagle Street  
Rhineland, WI 54501

Hodag Property Management LLC  
1415 Eagle Street  
Rhineland, WI 54501

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

Wisconsin Department of Safety and Professional Services  
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 Russell L. Sommers, date of birth, 10/25/74, is licensed in the state of Wisconsin as a Real Estate Broker, having license number 90-54574. This license was first granted to him on 05/15/2007 and is current through 12/14/2012.

2. Respondent Hodag Property Management LLC , Inc. is licensed in the state of Wisconsin as a Real Estate Business Entity, having license number 91-701781. This license was first

granted to the business entity on 05/15/2007 and is current through 12/14/2012. Respondent Sommers is the owner of Hodag Property Management LLC.

3. The most recent business address on file with the Department of Safety and Professional Services (Department) for Respondent Sommers and Hodag Property Management LLC is: 1415 Eagle Street, Rhinelander, WI 54501.

4. At all times relevant to this action, Respondent Sommers was listed as the managing broker of Respondent Hodag Property Management LLC. As the responsible licensee for Hodag Property Management LLC, Respondent Sommers was at all times relevant to this action responsible for compliance with Wisconsin Statutes Chapter 452 and the Wisconsin Administrative Code for Chapter RL 18.

5. At all times relevant to this action, Mr. Sommers utilized a trust account with Northwoods National Bank, located in Rhinelander, WI, designated as "Hodag Property Management-IBRETA Trust Account." Respondent Sommers is responsible for this trust account.

6. On April 19, 2011, an auditor with the Division of Enforcement (DOE) at the Department audited Respondent Hodag Property Management LLC's real estate trust account bookkeeping records. The audit was conducted on transactions completed from January 1, 2009 to April 1, 2011. The auditor found the following deficiencies in the real estate trust account:

a. Trust account funds in the amount of \$8,000.00 were improperly disbursed from the Hodag Property Management LLC IBRETA Trust Account to pay the Internal Revenue Service on January 8, 2009. Respondent Sommers returned all of the disbursed funds into the trust account as of June 6, 2011; and

b. Ledgers, trial balances, reconciliations, and validations were not being performed on a monthly basis.

7. In resolution of this matter, Respondents Russell L. Sommers and Hodag Property Management LLC, consent to the entry of the following Conclusions of Law and Order.

#### CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Examining 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. Russell L. Sommers has violated Wis. Admin. Code RL §§ 18.09(1)(a-g)(2) and Wis. Stat. §§ 452.14(3)(i)(k) by improperly disbursing funds from Hodag Property Management LLC's IBRETA Account.

3. Russell L. Sommers has violated Wis. Admin. Code § RL 18.13(4) by his failure to properly perform trial balances.

4. Russell L. Sommers has violated Wis. Admin. Code § RL 18.13(5) by his failure to ensure that the reconciled account statement balance, the open ledger account listing, and the journal running balance records are valid and in agreement as of the date the account statement had been reconciled.

5. Pursuant to Wis. Admin. Code § RL 18.14, by Russell L. Sommers' failure to comply with the rules of ch. RL 18, he has demonstrated incompetency to act as a broker in such manner as to safeguard the interests of the public and is therefore subject to discipline under Wis. Stat. § 452.14(3)(i).

### ORDER

1. Russell L. Sommers is hereby REPRIMANDED.
2. The Real Estate Business Entity, Hodag Property Management LLC is hereby REPRIMANDED.
3. The license of Russell L. Sommers to practice as a Real Estate Broker shall be and is hereby LIMITED as follows:
  - a. Respondent Russell L. Sommers shall, within six (6) months of the effective date of this Order, take and successfully complete the Trust Accounts, Escrow, and Closing Statement course module under Wis. Admin. Code § 25.02(2)(c) and Financial and Office Management course module under Wis. Admin. Code § 25.02(2)(e) from the 36 hour pre-licensing real estate broker's course from an institution approved by the Real Estate Board or its designee.
  - b. Respondent shall submit a written request for pre-approval of the institution providing the education to the Department Monitor within thirty (30) days of the date of this Order. The courses shall not be completed online or in any other distance learning setting.
  - c. Respondent shall, within thirty (30) days of the completion of the courses, submit evidence of his successful completion of the required education and any examination required to successfully complete the Trust Accounts, Escrow, and Closing Statement and Financial and Office Management course modules to the Department Monitor.
  - d. The education completed pursuant to this requirement shall not be used to satisfy any real estate continuing education requirements that are or may be instituted by the Board or the Department of Safety and Professional Services.
4. The license of Hodag Property Management LLC to practice as a Real Estate Business Entity shall be and is hereby LIMITED as follows:
  - a. Respondent, Hodag Property Management LLC shall employ the services of a CPA firm approved by the Board or its designee, to review and audit Respondent's trust account records on a quarterly basis (every ninety (90) days) for one year. Respondent shall be responsible for providing the report of each audit to the Department Monitor within thirty (30) days of the audit. The first report shall contain an audit of the ninety (90) days immediately following the effective date of this Order.
  - b. The CPA firm shall review the trust account journal, the monthly bank statements, the monthly account reconciliations, and monthly trial balances.
  - c. The CPA firm shall provide Respondent with an Accountant's Summary of the trust account records, including a certification indicating whether the records are in compliance with Wis. Admin. Code ch. RL 18. The Accountant's Summary shall also include any

comments, criticisms or recommendations about the trust account records which may assist the Respondent in maintaining compliance with ch. RL 18.

d. Respondent shall submit the Accountant's Summary to the Department Monitor with each quarterly report, along with the trust account records reviewed by the CPA firm for the quarter, including, without limitation, the journal, bank statements, monthly account reconciliations and monthly trial balances.

e. Respondent shall be responsible for the cost of employing the CPA firm.

f. The Board or its designee shall review Respondent's trust account records and the Accountant Summaries provided pursuant to this limitation. If Respondent's trust account records submitted to the Department Monitor are not in compliance with Wis. Admin. Code ch. RL 18, the Real Estate Broker license number 90-54574 issued to Respondent Russell L. Sommers and the Real Estate Business Entity License number 91-701781 issued to Respondent Hodag Property Management LLC may be subject to further disciplinary action approved by the Board.

5. Within 90 days, Respondent Russell L. Sommers shall pay COSTS of this proceeding in the amount of THREE HUNDRED DOLLARS (\$300.00) and a FORFEITURE of FIVE HUNDRED DOLLARS (\$500.00).

6. Within 90 days, Respondent Hodag Property Management LLC, Inc. shall pay COSTS of this proceeding in the amount of THREE HUNDRED DOLLARS (\$300.00) and a FORFEITURE OF (\$500.00).

7. Requests, notifications, and payment of costs shall be sent to:


Department Monitor  
Division of Enforcement  
Department of Safety and Professional Services  
P.O. Box 8935, Madison, WI 53708-8935  
Telephone (608) 266-9763, Fax (608) 266-2264

8. 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 Respondents' licenses. 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 Russell L. Sommers or Respondent Hodag Property Management LLC fail to timely submit payment of the costs or Russell L. Sommers fails to complete the required education as ordered and as set forth above, Russell L. Sommers license (number 90-54574) to practice as a Real Estate Broker in the state of Wisconsin and Hodag Property Management license (number 91-54574) to practice as a Real Estate Business Entity in the state of Wisconsin may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Russell L. Sommers and Hodag Property Management have complied with the required education and payment of the costs.

9. This Order is effective on the date of its signing.

Dated this 16 day of November, 2011.

WISCONSIN REAL ESTATE EXAMINING BOARD

By:   
A Member of the Wisconsin Real Estate Examining Board