

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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Before The  
State Of Wisconsin  
REAL ESTATE BOARD

In the Matter of the Disciplinary Proceedings  
Against RANDALL KRYSINSKI AND MARKET  
MASTERS REALTY LLC, Respondents

FINAL DECISION AND ORDER

Order No. \_\_\_\_\_

**ORDER 0001405**

Division of Enforcement Case No. 08 REB 107

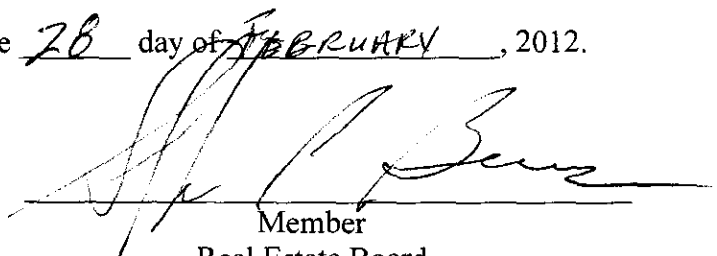
The State of Wisconsin, Real Estate Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, make the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Real Estate Board.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated at Madison, Wisconsin on the 28 day of FEBRUARY, 2012.

  
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Member  
Real Estate Board



Before The  
State Of Wisconsin  
**DIVISION OF HEARINGS AND APPEALS**

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In the Matter of the Disciplinary Proceedings  
Against **RANDALL KRYNSINSKI AND**  
**MARKET MASTERS REALTY LLC,**  
Respondents

PROPOSED DECISION AND ORDER  
DHA Case No. SPS-11-0063

**ORDER 0001405**

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**Division of Enforcement Case No. 08 REB 107**

The parties to this proceeding for purposes of Wis. Stat §§ 227.47(1) and 227.53 are:

Randall Krynsinski  
P.O. Box 71  
Hartland, WI 53029

Market Masters Realty, LLC  
13035 West Bluemound Road #104  
Brookfield, WI 53005

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

Department of Safety and Professional Services, Division of Enforcement, by

Attorney Sarah E. Norberg  
Department of Safety and Professional Services  
Division of Enforcement  
P. O. Box 8935  
Madison, WI 53708-8935

**PROCEDURAL HISTORY**

These proceedings were initiated following the filing of an Amended Complaint by the Department of Safety and Professional Services (Department), Division of Enforcement (Division) against Respondent Randall Krynsinski and Respondent Market Masters Realty, LLC (Market Masters), the latter of which Mr. Krynsinski is the sole proprietor. The Amended Complaint alleged that Respondents' licenses were subject to disciplinary action pursuant to

Wis. Stat. § 452.14(3) for the following violations: Respondents disclosed information to persons in connection with the sale of real property which constituted unlawful discrimination in housing, contrary to Wis. Stat. § 452.23(1); Respondents discriminated against persons in a manner unlawful under applicable law, contrary to Wis. Admin. Code § REEB 24.03(1);<sup>1</sup> Respondents violated the law, the circumstances of which substantially relate to the practices of a real estate broker, contrary to Wis. Admin. Code § REEB 24.17(1); Respondents were not knowledgeable regarding the law on real estate matters, contrary to Wis. Admin. Code § REEB 24.03(2)(c); and Respondent Market Masters violated Wis. Stat. § 452.03 by holding itself out as a real estate business entity without a license.

The parties submitted a Joint Stipulation of Facts on October 3, 2011. Pursuant to an October 10, 2011 scheduling order, the Division filed a Motion and Memorandum in Support of Division's Motion for Summary Judgment on October 28, 2011. Respondent filed a Brief in Opposition to Motion for Summary Judgment on November 28, 2011, and the Division filed its Reply Memorandum in Support of its Motion for Summary Judgment on December 12, 2012.

### **FINDINGS OF FACT**

The following Findings of Fact are taken from the parties' Joint Stipulation of Facts.

1. Mr. Krynski is licensed in Wisconsin as a real estate broker (license no. 90-2811).
2. Mr. Krynski's license has been limited since the Wisconsin Real Estate Board's entry of a Final Decision and Order on January 31, 2007.
3. Respondent Market Masters is licensed in Wisconsin as a real estate business entity (license no. 91-701706).
4. Market Masters' license was expired between December 15, 2008 and September 26, 2010 and December 15, 2010 and February 16, 2011.
5. On February 7, 2007, Mr. Krynski and Market Masters took a listing for Apple Valley Gardens Condominium Unit 205 in Menomonee Falls, Wisconsin (Unit 205).
6. Mr. Krynski obtained a copy of an Executive Summary, dated February 15, 2007, from the Apple Valley Gardens Condominium Association president which stated, "Quiet. Mature Residential Comm. Ages 18 or older. Association Reserves the Right of First Refusal on the sale or lease of all Residential Units and all Parking Units."
7. The Executive Summary was incorporated into the listing contract as Addendum C.

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<sup>1</sup> Chapter RL 24 was redesignated Chapter REEB 24 under Wis. Stat. § 13.92(4)(b)1., effective December 1, 2011. Because the relevant provisions have not changed since the change in designation from "RL" to "REEB," for ease of reference, this proposed decision uses the current designation.

8. On July 15, 2007, Mr. Krynski and Market Masters placed an advertisement, drafted by the owner of Unit 205, in the Milwaukee Journal Sentinel for the sale of Unit 205 that contained the phrase, "Adult Complex."

9. In response to an inquiry regarding the sale of Unit 205, Mr. Krynski stated that children were not allowed.

10. On or about July 31, 2008, the Department received a complaint against Mr. Krynski and Market Masters from the State of Wisconsin Department of Workforce Development (DWD).

11. The complaint from DWD was opened for investigation by the Department as Division of Enforcement Case No. 08 REB 107.

12. Following a hearing, DWD found that Mr. Krynski and Market Masters violated Wisconsin Open Housing Law by "discriminating in advertising and in brokering residential property . . . because of age and/or family status." *Metro Milwaukee Fair Housing Council v. Krynski, et al*, ERD Case No. CR200704558 at 4 (July 22, 2009).

13. The Wisconsin Statutes provide exemptions and exclusions to Wisconsin's Open Housing Laws that do not prohibit "discrimination based on age or family status with respect to housing for older persons." Wis. Stat. § 105.50 (5m).

14. Market Masters held itself out as a real estate broker while its license was expired between December 15, 2008 and September 26, 2010 and December 15, 2010 and February 16, 2011.

### **CONCLUSIONS OF LAW**

1. The Wisconsin Real Estate Examining Board has jurisdiction over this matter pursuant to Wis. Stat. § 452.14.

2. Respondents violated Wis. Stat. § 452.23(1) by disclosing information to persons in connection with the sale of real property which constitutes unlawful discrimination in housing.

3. Respondents violated Wis. Admin. Code § REEB 24.03(1) by discriminating against persons in a manner unlawful under applicable law.

4. Respondents violated Wis. Admin. Code § REEB 24.17(1) by violating a law the circumstances of which substantially relate to the practices of a real estate broker.

5. Respondents violated Wis. Admin. Code § REEB 24.03(2)(c) by not being knowledgeable regarding the law on real estate matters.

6. Respondent Market Masters violated Wis. Stat. § 452.03 by holding itself out as a real estate business entity without a license.

7. Respondents are subject to discipline under Wis. Stat. § 452.14(3) for the violations referenced above.

## **DISCUSSION**

### **Violations of Wisconsin Statute and Administrative Code**

Summary judgment is appropriate when there is no material fact in dispute and the moving party is entitled to judgment as a matter of law. *Casper v. American Intern. South Ins. Co.*, 336 Wis. 2d 267, 800 N.W.2d 880 ¶ 32 (2011); *see also* Wis. Stat. § 802.08(2) and Wis. Admin. Rule § HA 1.10(2). On a motion for summary judgment, the facts are construed in favor of the non-moving party. *DeHart v. Wis. Mut. Ins. Co.*, 302 Wis. 2d 564, ¶ 7, 734 N.W.2d 394.

As shown below, the facts necessary for determining the issues in this case are not in dispute, and summary judgment is appropriate.

#### **Violations of Wis. Stat. § 452.23(1) and Wis. Admin. Code §§ REEB 24.17(1) and 24.03(1).**

Wisconsin Stat. § 452.23(1) states that “[a] broker or salesperson may not disclose to any person in connection with the sale, exchange, purchase or rental of real property information, the disclosure of which constitutes unlawful discrimination in housing under s. 106.50 [the Open Housing Law] . . .”

Wisconsin Admin. Code § REEB 24.17(1) provides that “[l]icensees may not violate, or aid or abet the violation of, any law the circumstances of which substantially relate to the practices of a real estate broker or salesperson.”

Wisconsin Admin. Code § REEB 24.03(1) states that “[l]icensees may not discriminate against, nor deny equal services to, nor be a party to any plan or agreement to discriminate against any person in any manner unlawful under applicable federal, state or local fair housing law.”

The parties agree that the DWD, the agency charged with determining housing discrimination cases, expressly concluded that Respondents violated Wisconsin Open Housing Law, Wis. Stat. § 106.50, by “discriminating in advertising and in brokering residential property...because of age and/or family status.” *Metro Milwaukee Fair Housing Council v. Krynski, et al*, ERD Case No. CR200704558 at 4 (July 22, 2009). Neither party appears to dispute that if such a violation is established, it would also constitute a violation of Wis. Stat. § 452.23(1), Wis. Admin. Code § REEB 24.17(1) and Wis. Admin. Code § REEB 24.03(1). What the parties dispute, however, is whether DWD’s legal determination that Respondents violated Wis. Stat. § 106.50 is conclusive in this matter, or whether that issue must be determined independently by this tribunal.

Respondents assert that DWD's decision was faulty and should not be relied upon in this case, which is a separate licensing administrative procedure. Specifically, Respondents argue that the hearing examiner in the DWD proceeding failed to consider whether Respondents fell within an exception contained in subsection (5m) of Wis. Stat. § 106.50 related to "housing for older persons."

The Division asserts that DWD's finding of a violation of Wis. Stat. § 106.50 is conclusive of that issue in this proceeding and that such a violation also establishes a violation of Wis. Stat. § 452.23(1), which forbids "disclosure in connection with a sale, exchange, purchase or rental of real property in a manner which constitutes unlawful discrimination in housing under Wis. Stat. § 106.50;" of Wis. Admin. Code § REEB 24.03(1), which forbids discrimination against persons in a manner unlawful under applicable law; and of Wis. Admin. Code § REEB 24.17(1), which forbids violating a law the circumstances of which substantially relate to the practices of a real estate broker. The Division notes that Respondents did not appeal DWD's determination and that the DWD decision therefore stands.

In support of its position that DWD's finding of an Open Housing Law violation is determinative of that issue here, the Division relies on a prior Final Decision by the Real Estate Board, *In the Matter of Disciplinary Proceeding Against Linda A. Leaf, J.D.*, Case No. LS9503161REB (April 25, 1996), in which findings by the Wisconsin Supreme Court in a disciplinary proceeding involving Ms. Leaf's law license were adopted by the Real Estate Board in a proceeding involving her real estate broker's license. Based on the violations found by the Supreme Court, the Board concluded that Ms. Leaf violated laws that substantially relate to the practice of a real estate broker, contrary to Wis. Admin. Code § REEB 24.17. Although it appears that the Board's adoption of another forum's disciplinary findings is premised on grounds of issue or claim preclusion (formerly referred to as collateral estoppel and res judicata, respectively),<sup>2</sup> neither the Board in that case nor the Division in this case mention or analyze either doctrine.

It is the practice of the Division of Hearings and Appeals to follow principles of law set forth in Final Decisions of the agency or board whose cases it hears. Although there may be some distinction between adopting the factual and legal conclusions of the Wisconsin Supreme Court versus adopting the conclusions of the DWD, the *Leaf* case is sufficiently similar to this case that it can be relied upon for the conclusion that DWD's decision is controlling on the issue of whether Respondents violated the Open Housing Law.

Even in the absence of the *Leaf* decision, however, the doctrine of issue preclusion supports this tribunal's adoption of DWD's finding that Respondents violated the Open Housing Law. Issue preclusion is "designed to limit the relitigation of issues that have been actually litigated in a previous action." *Lindas v. Cady*, 183 Wis. 2d 547, 558, 515 N.W.2d 458 (1994). Unlike claim preclusion, an identity of parties is not required. *Id.* Formalistic applications of issue preclusion have given way to a looser, equities-based application of the doctrine. *Id.* at 558-59. The more modern approach to issue preclusion requires courts to conduct a "fundamental fairness" analysis

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<sup>2</sup> See *Sopha v. Owens-Corning Fiberglas Corp.*, 230 Wis. 2d 212, 232 n. 25, 601 N.W.2d 627 (1999).

under which an array of factors is considered in deciding whether issue preclusion is equitable in a particular case. *Id.* at 559. Those factors include the following:

(1) could the party against whom preclusion is sought, as a matter of law, have obtained judicial review of the judgment; (2) is the question one of law that involves two distinct claims or intervening contextual shifts in the law; (3) do significant differences in the quality or extensiveness of proceedings between the two courts warrant relitigation of the issue; (4) have the burdens of persuasion shifted such that the party seeking preclusion had a lower burden of persuasion in the first trial than in the second; or (5) are matters of public policy and individual circumstances involved that would render the application of collateral estoppel [issue preclusion] to be fundamentally unfair, including inadequate opportunity or incentive to obtain a full and fair adjudication in the initial action.

*Id.* at 561 (citation omitted). Historically, there has been some debate in appellate court precedent as to whether claim or issue preclusion applies to administrative proceedings. *See e.g., Duel v. State Farm Mutual Automobile Insurance Co.*, 240 Wis. 161, 181, 1 N.W.2d 887 (1942) (“The extent of the power of an administrative body or agency to reconsider its own findings or orders has nothing to do with res judicata; the latter doctrine applies solely to courts.”) However, more recent precedents have acknowledged, “Under certain circumstances, Wisconsin recognizes unreviewed agency decisions as final judgments for purposes of claim preclusion. *See Lindas v. Cady*, 183 Wis. 2d 547, 552-54, 515 N.W.2d 458 (1994) (discussing issue preclusion).” *Barber v. Weber*, 292 Wis. 2d 426, 715 N.W.2d 683 (Ct. App. 2006). As stated in *Barber*: “[The rules are not] restricted to cases where the prior adjudication was by a court, as opposed to an administrative agency: ‘When an administrative agency is acting in a judicial capacity and resolves disputed issues of fact properly before it which the parties have had an adequate opportunity to litigate, the courts have not hesitated to apply res judicata [or collateral estoppel]. . . .’”

*Id.* at 433-34 (citations omitted). Although research has not uncovered any published Wisconsin case involving application of issue preclusion where one administrative agency adopts another administrative agency’s determinations, there does not appear to be any basis for precluding such application, given that even courts have considered themselves bound, under certain circumstances, by an administrative agency’s determinations. Therefore, application of issue preclusion is appropriate here. Analyzing the five factors set forth by the Supreme Court in *Lindas*, above, leads to the conclusion that Respondents are precluded in this proceeding from relitigating the issue of whether they violated the Open Housing Law.

First, Respondents could have obtained judicial review of the judgment and apparently failed to do so. Second, the fundamental issue is the same in both the DWD and this proceeding: whether Respondents violated the Open Housing Law. If so, as stated above, that violation establishes a violation of Wis. Stat. § 452.23(1), Wis. Admin. Code § REEB 24.17(1) and Wis. Admin. Code § REEB 24.03(1). Third, there are no differences in the quality or extensiveness of proceedings between this proceeding and the proceeding before DWD. Fourth, the burden of proof is the same in both agencies, a preponderance of the evidence. *See* Wis. Stat. §



106.50(6)(f)5 and Wis. Stat. § 440.20(3). Finally, there are no matters of public policy and individual circumstances involved that would render the application of issue preclusion to be fundamentally unfair and there is no indication that Respondents did not have an adequate opportunity or incentive to obtain a full and fair adjudication in the initial action.

With regard to the final factor, Respondents claim that the hearing examiner failed to consider the housing for older persons exception to the Open Housing Law, Wis. Stat. § 106.50(5m). However, the record does not demonstrate that the DWD administrative law judge failed to consider an exception raised by Respondents. Moreover, Respondents misconstrue the exception. Wis. Stat. § 106.50(5m) provides, in relevant part:

- a.
  - 1. Nothing in this section prohibits discrimination based on age or family status with respect to housing for older persons.
  - 1e. Under this paragraph, housing under sub. (1m) (m) 3. may qualify as housing for older persons only if the owner of the housing maintains records containing written verification that all of the following factors apply to the housing:
    - b. At least 80% of the dwelling units under sub. (1m) (m) 3. are occupied by at least one person 55 years of age or older.
    - c. Policies are published and procedures are adhered to that demonstrate an intent by the owner or manager to provide housing under sub. (1m) (m) 3. for persons 55 years of age or older. The owner or manager may document compliance with this subd. 1e. c. by maintaining records containing written verification of the ages of the occupants of the housing.

Respondents misconstrue this provision to mean that “By law, housing choices restricting occupants to 18 years of age and older are available and permissible.” *Respondents’ Brief in Opposition to Notice of Motion and Motion for Summary Judgment* at 4. In so stating, Respondents appear to be unaware of the specific requirements above for the housing for older persons exception, and also that there is a very specific definition of “housing for older persons” contained in Wis. Stat. § 106.50 (1m)(m), which provides:

- (m) "Housing for older persons" means any of the following:
  - 1. Housing provided under any state or federal program that the secretary determines is specifically designed and operated to assist elderly persons, as defined in the state or federal program.
  - 2. Housing solely intended for, and solely occupied by, persons 62 years of age or older.
  - 3. Housing primarily intended and primarily operated for occupancy by at least one person 55 years of age or older per dwelling unit.

Thus, the exception contained in Wis. Stat. § 106.50(5m) does not allow for restriction of housing to those 18 years or older, as Respondents contend and as occurred in this case. (See Findings of Fact 6-9). Rather, the exception has very specific requirements, which include, at a minimum, that the housing is used or intended exclusively or primarily for those who are “older persons,” meaning at least 55 or 62 years of age. Respondents’ interpretation of the exception

would swallow the general rule contained in Wis. Stat. § 106.5 that discrimination based on age or family status is generally prohibited.

I also note that even if Respondents were correct that they raised the issue of housing for older persons exception and DWD failed to adequately consider it, based on the facts as stipulated by the parties here, Respondents would not have prevailed on that issue. Further, to the extent Respondents rely on the “good faith” provision of Wis. Stat. § 106.50(5m)(g), that provision is likewise unavailing. Wisconsin Stat. § 106.50(5m)(g) states:

(g) A person may not be held personally liable for monetary damages for a violation of sub. (2), (2m) or (2r) if the person reasonably relied, in good faith, on the application of the exemption under this subsection relating to housing for older persons. For purposes of this paragraph, a person may show reasonable reliance, in good faith, on the application of the exemption under this subsection relating to housing for older persons only if the person shows all of the following:

1. That he or she has no actual knowledge that the housing is not or will not be eligible for the exemption.

2. That the owner of the housing has stated formally, in writing, that the housing complies with the requirements for the exemption.

As pointed out by the Division, application of that provision in Respondents’ favor would only preclude monetary damages; it would not preclude the finding of a violation. Moreover, there is no indication that there was any “good faith” reliance on representations that this exemption applied, much less that the “owner of the housing ha[d] stated formally in writing that the housing complies with the requirements for the exception,” as Wis. Stat. § 106.50(5m)(g) requires. Rather, Respondents were explicitly told by the condominium association that the property could be rented to any adult 18 or over, which does not come close to qualifying it for the housing for older persons exemption.

Accordingly, the Division has shown that there are no disputed issues of material fact and they are entitled to judgment as a matter of law on the issues of whether Respondents violated Wis. Stat. § 452.23(1) and Wis. Admin. Code §§ REEB 24.17(1) and 24.03(1).

**Violation of Wis. Admin. Code § REEB 24.03(2)(c).**

Wisconsin Admin. Code § REEB 24.03(2)(c) provides:

**(2) COMPETENCE REQUIRED.**

...

(c) Licensees shall be knowledgeable regarding laws, public policies and current market conditions on real estate matters and assist, guide and advise the buying or selling public based upon these factors.

The Division asserts that “the circumstances of DWD’s finding that Respondents discriminated in brokering residential property reveal that Respondents were not knowledgeable regarding law on real estate matters.” *The Division of Enforcement’s Notice of Motion and*

*Motion for Summary Judgment* at 5. The Division does not state which “circumstances” demonstrate that Respondents were not knowledgeable regarding real estate law. To the extent the Division is asserting that anytime someone violates a real estate law, that person also violates the competency requirements of § REEB 24.03(2)(c), that position is rejected. The mere fact that an individual fails to follow a law does not mean that he or she is not knowledgeable with respect to that law. However, the Division is correct that the circumstances of the DWD proceeding, as reflected in the decision in that case, demonstrate Respondents’ fundamental lack of knowledge with respect to the law in real estate matters, in particular, regarding laws related to discrimination in housing. The DWD decision reflects the same misunderstanding on Respondents’ part as that which they advance in their brief in this proceeding, namely, that housing discrimination against children (or against people with children) is permissible, and in fact, necessary, whenever the sellers’ by-laws contain such a restriction, and that no other requirements are necessary to invoke the housing for older persons exception to the Open Housing Law. An example of this misunderstanding is demonstrated in a portion of the DWD decision quoting a letter from Respondents’ co-defendant, Ronald Sonntag, describing their perspective of the DWD hearing:

Unfortunately, when Randy Krynski or I tried to explain reasons why we ran the ad that we did and that we were given bylaws and rules from the Apple Valley Condo Association that we were required to follow in describing the condos as adults only, our comments or statements regarding such were objected to. . . or determined by yourself as being irrelevant or not pertinent. It did not seem to matter whatsoever that to sell the condo, we were obligated by the Association and its bylaws to tell people that it was for adults only and that children under 18 were not allowed.

*Metro Milwaukee Fair Housing Council v. Krynski, et al*, ERD Case No. CR200704558, at 3

In response, the DWD administrative law judge stated in the decision:

Mr. Krynski had no legal defense in this case. He neither disputed the essential facts of the complaint, nor had any legally recognized argument that his actions were not illegal. . . . [H]e refused to accept the basic concept that his obligations under the law to pre[ce]dent over any bylaws or rules, and that he has a responsibility as a broker not to engage in, or assist anyone else in engaging in, a violation of the law. The law provides no excuses and the undersigned has no authority to consider “mitigating circumstances.” When Mr. Sonntag came to him with [Mr. Krynski] with his request, he should have said, “[D]o you know that what you are asking is illegal?”

*Id.* at 6.

As stated above, this same lack of understanding of the Open Housing Law is demonstrated in Respondents’ brief in this case. Although a real estate broker may not need to know every nuance of the laws related to real estate to comply with § REEB 24.03(2)(c), Respondents’ lack

of understanding regarding the Open Housing Law is significant and their conduct establishes a violation the competence provisions set forth in § REEB 24.03(2)(c).

Accordingly, I conclude that, based on the undisputed material facts in this case, the Division is entitled to judgment as a matter of law on the issue of whether Respondents violated § REEB 24.03(2)(c)

### **Violation of Wis. Stat. § 452.03.**

Wisconsin Stat. § 452.03 provides:

**Brokers and salespersons licensed.** No person may engage in or follow the business or occupation of, or advertise or hold himself or herself out as, or act temporarily or otherwise as a broker or salesperson without a license. The board may grant a license only to a person who is competent to transact such businesses in a manner that safeguards the interests of the public, and only after satisfactory proof of the person's competence has been presented to the board.

The parties stipulated as follows: “Market Masters held itself out as a real estate broker while its license was expired between December 15, 2008 and September 26, 2010 and December 15, 2010 and February 16, 2011.” These facts clearly establish a violation of Wis. Stat. § 452.03. Respondents’ argument that the facts related to the Open Housing Law violation occurred in 2007 is irrelevant. The facts as stipulated establish a violation, even if the conduct forming the basis of the violation was different from, and occurred at a time different than, the conduct forming the basis for the Open Housing Law violation.

### **Appropriate Discipline**

The Division requests that Respondents’ licenses be suspended for a period of 30 days and that Respondent Krysinski be ordered to complete twelve hours of remedial real estate broker education in the areas of Business Ethics and Consumer Protection.

The three purposes of discipline are: (1) to promote the rehabilitation of the licensee; (2) to protect the public from other instances of misconduct; and (3) to deter other licensees from engaging in similar conduct. *State v. Aldrich*, 71 Wis. 2d 206 (1976).

Considering the entire record in this case, I conclude that given the seriousness of the Respondents’ conduct and Respondents’ misunderstanding of Wisconsin’s Open Housing Law, a short period of suspension combined with training will advance the three purposes of discipline set forth above. I therefore adopt the Division’s recommendation.

### Costs

The Division requests that Respondent be ordered to pay the full costs of its investigation and of these proceedings. The decision as to whether the full costs of the proceeding should be assessed against the licensee is based on the consideration of several factors, including:

1. The number of counts charged, contested, and proven;
2. The nature and seriousness of the misconduct;
3. The level of discipline sought by the parties;
4. The respondents cooperation with the disciplinary process;
5. Prior discipline, if any;
6. The fact that the Department of [Safety and Professional Services] is a "program revenue" agency, whose operating costs are funded by the revenue received from licenses, and the fairness of imposing the costs of disciplining a few members of the profession on the vast majority of the licensees who have not engaged in misconduct;
7. Any other relevant circumstances.

For many of the same reasons delineated in the *Buenzli-Fritz* decision, Respondents should be assessed the full amount of recoverable costs. Five counts were alleged and proven; discrimination in housing and holding oneself out to be a broker in real estate are serious violations; Mr. Krynski's license has been operating on a limited license due to a prior Final Decision and Order in January 31, 2007 by the Wisconsin Real Estate Board; and fairness dictates imposing the costs of disciplining Respondents upon them and not on fellow members of the real estate profession who have not engaged in such conduct.

If the Board assesses costs against Respondents, these amount of costs will be determined pursuant Wis. Admin. Code § SPS 2.18.

### ORDER

For the reasons set forth above, IT IS ORDERED that:

- (1) the licenses of the Respondents are suspended for 30 days;
- (2) Respondent Krynski shall complete twelve hours of remedial real estate broker education in the areas of Business Ethics and Consumer Protection.

IT IS FURTHER ORDERED that:

Respondents shall pay all recoverable costs in this matter in an amount to be established pursuant to Wis. Admin. Code § SPS 2.18. After the amount is established payment shall be made by certified check or money order payable to the Wisconsin Department of Safety and Professional Services and sent to:

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

IT IS FURTHER ORDERED that the above-captioned matter be and hereby is closed as to Respondents Randall Krynski and Market Masters Realty, LLC.

Dated at Madison, Wisconsin on January 17, 2012.

STATE OF WISCONSIN  
DIVISION OF HEARINGS AND APPEALS  
5005 University Avenue, Suite 201  
Madison, Wisconsin 53705  
Telephone: (608) 266-7709  
FAX: (608) 264-9885

By: 

Jennifer E. Nashold  
Administrative Law Judge

G:/DOCS/DRLDecision/KrysiRanProposedDecision,jen