

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE REAL ESTATE EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

PATRICK L TINKER,
RESPONDENT.

:
:
: FINAL DECISION AND ORDER
:
: ORDER 0001544

Division of Enforcement Case No. 10 REB 124

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

Patrick L. Tinker
4721 75 St.
Kenosha, WI 53142

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

Division of Enforcement
Department of Safety and Professional Services
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 Examining 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, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Patrick L. Tinker (dob 06/22/1984) is licensed in the State of Wisconsin as a Real Estate Salesperson, having license number 56128-94, first issued on 02/03/2003 and current through 12/14/2012. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 4721 75 St., Kenosha, WI 53142.

2. On August 16, 2006, Respondent listed a heavily fire-damaged residence located at 21112 – 119th St. in Bristol, Wisconsin for Donna and Douglas Clem.

3. At the closing of the sale, Respondent signed the Settlement Statement as Agent for the Sellers. Respondent has no written authority to sign Settlement Statement and Sellers did not give him authority to sign the statement.

4. Respondent then assisted Ms. Donna Clem with finding a new property to purchase with her proceeds of the sale which totaled \$36,000.

5. Respondent found a property and purchased it himself on September 27, 2006, with financing from another broker in the office, who was also a mortgage broker, Michael Granger. Mr. Granger also drafted the offers to purchase for \$229,900.

6. On September 29, 2006, two days later, Respondent sold the property under land contract to Ms. Clem for \$220,000. Ms. Clem believed Respondent was still acting as her broker and did not know that Respondent had actually purchased this property two days earlier. She believed that due to some credit issues, Respondent was assisting her in purchasing this property with the financing from Mr. Granger, and that she would somehow be a joint owner with Respondent and make her monthly mortgage payments through him. Respondent maintains that his broker-client relationship ended after the sale of Ms. Clem's residence and that she was made aware of the financing situation.

7. Respondent did not record the land contract until the attorney representing Ms. Clem had it recorded.

8. Respondent only applied a portion of the \$36,000 given to him by Ms. Clem to the mortgage on the property. Ms. Clem's mortgage payment to Respondent was not enough to cover Respondent's mortgage on the property. Respondent fell behind in payments, the bank would not accept partial payments of the amount Ms. Clem was making, and the property was foreclosed upon, leaving Ms. Clem with no home and no equity, even though she had been making her payments to Respondent.

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. By the conduct described in the Findings of Fact, Respondent violated Wis. Stat. § 452.133(1)(a) by not providing brokerage services honestly and fairly.

3. By the conduct described in the Findings of Fact, Respondent violated Wis. Stat. § 452.133(3)(b) and Wis. Admin. Code § RL 24.05(2) (now § REEB 24.05(2)) by not obtaining written consent before acting in a transaction on the broker's own behalf.

4. As a result of the above violations, Respondent is subject to discipline pursuant to Wis. Stats. §§ 452.14(3)(L) and 452.17(3).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:


1. The attached Stipulation is hereby accepted.
2. Respondent Patrick L. Tinker is hereby REPRIMANDED.
3. The license issued to Patrick L. Tinker (license number 56128-94) is hereby LIMITED as follows:
 - a. Respondent shall, within one year of the date of this Order, successfully complete 15 hours of ethics credits offered by a provider pre-approved by the Board's monitoring liaison, including taking and passing any exam offered for the courses:
 - b. Respondent shall submit proof of completion 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 have been or may be instituted by the Board, Wisconsin Department of Safety and Professional Services or similar authority in any state, and also may not be used in future attempts to upgrade a credential in any state.
 - c. This limitation shall be removed from Respondent's license and Respondent will be granted a full, unrestricted license after satisfying the Board or its designee that Respondent has successfully completed all of the ordered education.
4. Within 90 days of the date of this Order, Respondent shall pay a FORFEITURE in the amount of \$1000 and COSTS of this matter in the amount of \$1370.
5. Payment of forfeiture and costs shall be made payable to the Wisconsin Department of Safety and Professional Services and sent to the Department Monitor at the address below:

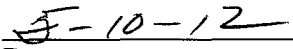
Department Monitor
Division of Enforcement
Department of Safety and Professional Services
P.O. Box 8935, Madison, WI 53708-8935
Telephone (608) 267-3817, Fax (608) 266-2264
6. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may 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 forfeiture and costs as ordered, Respondent's license (no. 56128-94) 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 forfeiture and costs.

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

WISCONSIN REAL ESTATE EXAMINING BOARD

by: 
A Member of the Board


Date