

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

STEPHEN BODENSCHATZ and
PINWOOD REALTY INC.,
RESPONDENTS.

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FINAL DECISION AND ORDER

ORDER 0001548

Division of Enforcement Case No. 11 REB 108

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

Stephen Bodenschatz
8555N Deerfoot Road
Hayward, WI 54843

Pinewood Realty Inc.
15437 W. Cty Rd. B
Hayward, WI 54843

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 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 Stephen Bodenschatz (dob 3/3/1949) is licensed in the State of Wisconsin as a real estate broker, having license number 90-2217, first issued on 4/11/1974 and current through 12/14/2012. Mr. Bodenschatz's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 8555N Deerfoot Road, Hayward, WI 54843.

2. Respondent Pinewood Realty Inc. is licensed in the State of Wisconsin as a real estate business entity, having license number 91-834270, first issued on 6/8/1992 and current through 12/14/2012. Pinewood Realty Inc.'s most recent address on file with the Department is 15437 W. Cty Rd. B, Hayward, WI 54843. Respondent Stephen Bodenschatz is the responsible broker for Respondent Pinewood Realty Inc.

3. Respondent Pinewood Realty Inc. operated with an expired license between 12/20/2010 and 05/06/2011. During that time period, at least two earnest money deposits were made to Respondents' trust account and Respondents were involved in two closings.

4. On 5/17/2011, the Department auditor conducted an audit of Respondents that revealed the following violations:

- a. Mr. Bodenschatz could not provide assurance that Respondents' trust account was fully funded and could not account for all of the money in the trust account.
- b. Three checks that had been written from the trust account in 2000 and 2001 were still outstanding.
- c. A proper and correct trial balance and validation had not been performed for at least 18 months prior to the audit.
- d. Respondents had not notified the department that they had moved the trust account to another bank.

5. By 1/19/2012, Respondents' bookkeeper, working with an outside accountant, had set up a bookkeeping system that conforms to the requirements of the statutes and administrative rules.

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, Respondents Stephen Bodenschatz and Pinewood Realty Inc. violated:

- a. Wis. Stat. § 452.03 and Wis. Stat. § 452.12(5)(b) by engaging in the business of a broker through Pinewood Realty Inc. while Pinewood Realty Inc.'s real estate business entity license was expired.
- b. Wis. Stat. § 452.133(1)(f) by failing to safeguard trust funds and other property held by Respondents.
- c. Wis. Admin. Code §§ RL (now REEB) 18.13(3), (4) and (5) by failing to: reconcile the real estate trust account each month; prepare a trial balance of all

open items; and ensure all records are valid and in agreement as of the date the account statement has been reconciled.

- d. Wis. Stat. § 452.13(2)(b) and Wis. Admin. Code §§ RL (now REEB) 18.035(2) and 18.036(1) by failing to provide the Department with information and audit authorization for a real estate trust account.

3. As a result of the above violations, Respondents Stephen Bodenschatz and Pinewood Realty Inc. are subject to discipline pursuant to Wis. Stat. §§ 452.14(3)(i) and (L).

4. By the conduct described in the Findings of Fact, Stephen Bodenschatz and Pinewood Realty Inc. are also subject to discipline pursuant to § 452.14(3)(h) for failing, within a reasonable time, to remit money that belongs to another person.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The attached Stipulation is hereby accepted.
2. Respondents Stephen Bodenschatz and Pinewood Realty Inc. are hereby REPRIMANDED.
3. The real estate broker license issued to Respondent Stephen Bodenschatz (license number 90-2217) is hereby LIMITED as follows:
 - a. Within one year of the date of this Order, Respondent shall successfully complete eight (8) hours of education relating to bookkeeping and/or trust accounts offered by a provider pre-approved by the Board's monitoring liaison, including taking and passing any exam offered for the course(s).
 - b. Respondent shall submit proof of completion in the form of verification from the institution providing the education to the address stated in paragraph 5 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 120 days of the date of this Order, Respondent Stephen Bodenschatz shall pay a FORFEITURE in the amount of \$100 and COSTS of this matter in the amount of \$400. Within 120 days of the date of this Order, Respondent Pinewood Realty Inc. shall pay a FORFEITURE in the amount of \$100 and COSTS of this matter in the amount of \$400.

5. Proof of successful course completion and payment of forfeiture and costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent by Respondents 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 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 Respondents fail to timely submit payment of the forfeiture and costs as ordered or fail to submit proof of successful completion of the ordered education as set forth above, Respondents' licenses (nos. 90-2217 and 91-834270) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondents have complied with payment of the forfeiture and costs and completion of the education.

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

WISCONSIN REAL ESTATE EXAMINING BOARD

by:


A Member of the Board

5-18-12
Date