

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

DAVID MASTERJOHN and
MASTERJOHN REALTY, INC.,
RESPONDENTS.

:
:
: FINAL DECISION AND ORDER
:
: ORDER 0002151
:

Division of Legal Services and Compliance¹ Case No. 11 REB 115

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

David Masterjohn
P.O. Box 144
Spooner, WI 54801-0144

Masterjohn Realty, Inc.
P.O. Box 144
Spooner, WI 54801-0144

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

Division of Legal Services and Compliance
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 David Masterjohn (dob 12/15/1953) is licensed in the State of Wisconsin as a Real Estate Broker, having license number 90-43784, first issued on 04/11/1990 and current through 12/14/2012. Respondent's most recent address on file with the Wisconsin

¹ The Division of Legal Services and Compliance was formerly known as the Division of Enforcement.

Department of Safety and Professional Services (Department) is P.O. Box 144, Spooner, WI 54801-0144.

2. Respondent Masterjohn Realty, Inc. is licensed in the State of Wisconsin as a Real Estate Entity, having license number 91-834311, first issued on 09/22/1992 and current through 12/14/2012. Respondent's most recent address on file with the Department is P.O. Box 144, Spooner, WI 54801-0144.

3. On or about November 28, 2011, the Department received a complaint regarding the sale of two vacant lots.

4. Respondent Masterjohn drafted the Vacant Land Offer to Purchase for Lot 6 dated September 16, 2011.

5. The seller of Lot 6 was Respondent Masterjohn's daughter. Seller was represented by Respondent Masterjohn's son, Michael Masterjohn, who was also employed by Respondent Masterjohn Realty, Inc.

6. Respondent Masterjohn did not disclose in writing his relationship to the seller.

7. Respondents did not obtain written consent to the multiple representation relationship from parties.

8. Respondent gave the buyers a map with bold lines representing what the buyers believed to be the lot lines of Lot 6.

9. Nothing in the offer states that the map was approximate and that a survey should be done to determine lot lines.

10. The lot lines provided by Respondent were inaccurate resulting in a legal dispute between the buyers of lot 7 and the buyers of lot 6.

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)(b) by failing to provide brokerage services with reasonable skill and care.

3. By the conduct described in the Findings of Fact, Respondent violated Wis. Stat. § 452.134(2) by failing to have the multiple representation relationship authorized in writing by all of Respondent's clients in the multiple representation relationship.

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

ORDER

1. The attached Stipulation is accepted.
2. Respondent David Masterjohn is REPRIMANDED.
3. Respondent Masterjohn Realty, Inc. is REPRIMANDED.
4. The Real Estate Broker license issued to Respondent David Masterjohn (license number 90-43784) is LIMITED as follows:
 - a. Within one year of the date of this Order, Respondent shall successfully complete 6 hours of education, 3 on the topic of ethics and 3 on the topic of contracts, 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 of education in the form of verification from the institution providing the education to the Department Monitor at 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 or Department.
 - 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.
5. Within 90 days from the date of this Order, Respondent Masterjohn shall pay COSTS of this matter in the amount of \$670.
6. Proof of successful course completion and payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent by Respondent to the Department Monitor at the address below:


Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 8935, Madison, WI 53708-8935
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov
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 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 costs as ordered or fail to submit proof of successful completion of the ordered education as set forth above, Respondents' licenses (nos. 90-43784 and 91-834311) may, in the discretion of the Board or its designee, be

SUSPENDED, without further notice or hearing, until Respondents have complied with payment of costs and completion of the education.

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

WISCONSIN REAL ESTATE EXAMINING BOARD

by:


A Member of the Board

11-15-12
Date