

## 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

DAVID R. MASTERJOHN and  
MASTERJOHN REALTY, INC.,  
RESPONDENTS.

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:  
: FINAL DECISION AND ORDER  
: ORDER 0002154  
:  
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Division of Enforcement Case File No. 11 REB 053

The parties to this action for the purposes of Wis. Stat. sec. 227.53 are:

David R. Masterjohn  
P.O. Box 144  
Spooner, WI 54801

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

Real Estate Examining Board  
Post Office Box 8935  
Madison, Wisconsin 53708-8935

Department of Safety and Professional Services  
Division of Enforcement  
Post Office Box 8935  
Madison, Wisconsin 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 David R. 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 4/11/1990 and current through 12/14/2012. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is P.O. Box 144, Spooner, WI 54801.

2. David R. Masterjohn is identified in Department records as the owner of Masterjohn Realty, Inc. Masterjohn Realty, Inc. is duly licensed as a Real Estate Business Entity in the state of Wisconsin (license number 91-834311). That license was first granted on 9/22/1992, and is current until 12/14/2012. The last address Masterjohn Realty, Inc. reported to the Department is P.O. Box 144, Spooner, WI 54801.

3. On 5/25/2011, an auditor with the Department conducted an audit of the real estate trust account bookkeeping records of Masterjohn Realty, Inc. During that audit, the Department auditor found the following issues:

- a. Respondent Masterjohn had withdrawn at least \$5,941.50 from the trust account for personal use on or about March 2010, after already receiving checks from the title company for his commissions and did not return said funds to the trust account until May 2011.
- b. At least \$3,000.00 of rental payments collected by Respondents on behalf of a property owner was not deposited into the trust account within 48 hours. This money was not deposited to the trust account until May 2011.
- c. The Department audit revealed that Respondents' trust account was overdrawn on multiple occasions.
- d. Respondents were engaged in property management services without securing a written contract, and did not disburse property management service fees from the trust account on a regular monthly basis.
- e. Respondents held property management funds in an interest-bearing account without authorization by the property owner.
- f. Respondents failed to maintain a chronological cash journal, failed to maintain a ledger, and failed to perform monthly reconciliations, trial balances, and validations.

4. In resolution of this matter, David R. Masterjohn and Masterjohn Realty, Inc. consent to 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. By the conduct described in paragraph 3 of the Findings of Fact, David R. Masterjohn and Masterjohn Realty, Inc. have violated:

- a. Wis. Stat. § 452.133(1)(a) by failing to provide brokerage services honestly and fairly.
- b. Wis. Admin. Code § RL<sup>1</sup> 18.09(3)(b), by failing to disburse property management service fees on a regular monthly basis.
- c. Wis. Admin. Code § RL 18.13(1), by failing to maintain a cash journal of real estate trust funds received and disbursed.

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<sup>1</sup> Effective December 1, 2011, Wis. Admin. Code ch. RL 18 was renumbered ch. REEB 18.

- d. Wis. Admin. Code § RL 18.13(2), by failing to keep a ledger.
- e. Wis. Admin. Code § RL 18.13(3), by failing to reconcile the real estate trust account on a monthly basis.
- f. Wis. Admin. Code § RL 18.13(4), by failing to have a trial balance of all open items in the real estate trust account.
- g. Wis. Admin. Code § RL 18.13(5), by failing to review the reconciled account statement balance, open ledger account listing and the cash journal running balance to ensure that they are valid and in agreement as of the date the account statement has been reconciled.

3. As a result of the above violations, Respondents David R. Masterjohn and Masterjohn Realty, Inc. are subject to discipline pursuant to Wis. Stat. §§ 452.14(3)(h) and 452.14(3)(i).

4. By failing, within a reasonable time, to account for or remit any moneys coming into the broker's, salesperson's or time-share salesperson's possession which belong to another person, Respondents are subject to discipline pursuant to Wis. Stat. § 452.14(3)(h).

### **ORDER**

**NOW, THEREFORE, IT IS HEREBY ORDERED that:**

- 1. The attached Stipulation is hereby accepted.
- 2. The real estate broker license of Respondent David R. Masterjohn (license number 90-43784) is hereby **SUSPENDED** for a period of thirty (30) days, commencing ten (10) days following the effective date of this Order.
- 3. Respondent Masterjohn Realty, Inc. (license number 91-834311) is hereby **REPRIMANDED**.
- 4. The real estate broker license of Respondent David R. Masterjohn (license number 90-43784) is hereby **LIMITED** as follows:
  - a. Respondent shall, within one (1) year of the effective date of this Order, successfully complete the Trust Account Module of the thirty-six (36) hour pre-licensing broker's course, at his own expense, including taking and passing any exams offered for the module.
  - b. Respondent shall submit proof of completion in the form of verification from the institution providing the education to the Department Monitor's 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.
  - c. This Limitation shall be removed from Respondent's license after he has satisfied the Board or its designee that he has successfully completed all of the ordered education.

5. The real estate broker license of Respondent David R. Masterjohn (license number 90-43784) and is hereby further LIMITED as follows:

- a. Upon conclusion of the suspension period specified in paragraphs 2 of this Order, Respondent shall retain a Certified Public Accountant to perform quarterly audits (as defined at Wis. Admin. Code § ACCY 1.003(2)) of Respondent's trust account(s) for a period of one (1) year. Respondent shall provide a copy of each quarterly audit to the Department Monitor at the address stated below, within ten (10) days following completion of that quarter's report. The Department auditor shall review the quarterly reports to verify compliance with Wis. Admin. Code ch. REEB 18. The Department auditor may refer further instances of noncompliance with Wis. Admin. Code ch. REEB 18 to the Department's Division of Enforcement.
- b. This limitation shall remain in place for at least one (1) calendar year following conclusion of the suspension periods specified in paragraph 2 of this Order. This limitation shall only be lifted upon a successful petition to the Board for removal of this limitation.

6. Within ninety (90) days of the date of this Order, Respondent David R. Masterjohn shall pay a FORFEITURE in the amount of \$200.00 and COSTS of this matter in the amount of \$450.00.

7. Within ninety (90) days of the date of this Order, Respondent Masterjohn Realty, Inc. shall pay a FORFEITURE in the amount of \$200.00 and COSTS of this matter in the amount of \$450.00.

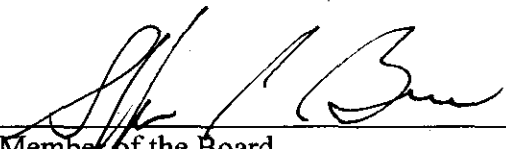
8. Payment of forfeiture and costs shall be made payable to the Wisconsin Department of Safety and Professional Services and sent to the Department Monitor at the address below:

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

9. 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 complete the required education, fail to timely submit the quarterly audit reports or fail to timely submit payment of the forfeiture and costs as ordered, 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 completion of the education, submission of the quarterly audit reports and payment of the forfeiture and costs.

10. 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