

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

ROY BURLINGAME and
FARM URBAN REALTY, INC.,
RESPONDENTS.

:
:
: FINAL DECISION AND ORDER
:
: **ORDER 0002311**
:

Division of Enforcement Case No. 10 REB 044

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

Roy Burlingame
W10000 Betty Lane
Black River Falls, WI 54615

Farm Urban Realty, Inc.
9 Main Street, Suite 102
Black River Falls, WI 54615

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 Roy Burlingame (dob 09/29/1965) is licensed in the State of Wisconsin as a Real Estate Broker, having license number 90-41838, first issued on 05/26/1987 and current through 12/14/2012. Respondent Burlingame's license was expired from 12/15/2004 until 02/14/2005 and from 12/15/2010 until 12/30/2010. Respondent Burlingame's most recent

address on file with the Wisconsin Department of Safety and Professional Services (Department) is W10000 Betty Lane, Black River Falls, WI 54615.

2. Respondent Farm Urban Realty, Inc. is licensed in the State of Wisconsin as a Real Estate Business Entity, having license number 91-836015, first issued on 07/20/2006 and current through 12/14/2012. Respondent Farm Urban Realty, Inc.'s license was expired from 12/15/2008 to 1/29/2009 and 12/15/2010 to 02/03/2011. Respondent Farm Urban Realty, Inc.'s most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 9 Main Street, Suite 102., Black River Falls, WI 54615.

3. At all times since its formation, Respondent Roy Burlingame has owned and been the responsible broker for Respondent Farm Urban Realty, Inc.

4. On or about April 14, 2010, the Department received a complaint from K.P., a former client of Respondents, alleging that Respondents had not returned his earnest money in a timely manner. Division of Enforcement case number 10 REB 044 was subsequently opened for investigation.

5. On or about October 12, 2007, an employee of Respondents drafted an Offer to Purchase for K.P.

6. Pursuant to that offer to purchase, K.P. submitted and Respondents held \$2,000 of earnest money.

7. On or about February 18, 2010, a Cancellation Agreement and Mutual Release for the Offer to Purchase was signed by K.P. and the seller.

8. On or about April 19, 2010, Respondent Burlingame issued a check in the amount of \$2,000 drawn on the account of Farm Urban Holdings, LLC, and not a trust account.

9. No trust account was ever registered by Respondents with the Department nor was a letter authorizing the Department to examine and audit a trust account ever provided to the Department although a trust account was opened on March 9, 2006.

10. Respondents never notified the Department that a trust account was closed, although the trust account was closed on or about February 26, 2010. The earnest money from K.P. was still in the custody of the Respondents.

11. Respondents conducted real estate business while their licenses were expired.

12. Respondent Burlingame currently conducts real estate business under the name BuyWisconsinLand.com, LLC, a Wisconsin limited liability company. BuyWisconsinLand.com, LLC is not licensed in the State of Wisconsin as a real estate business entity.

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 Roy Burlingame and Farm Urban Realty, Inc. violated Wis. Stat. § 452.03 by practicing real estate without a license.
3. By the conduct described in the Findings of Fact, Respondents violated Wis. Admin. Code § 18.035(1) by failing to notify the Department of opening a trust account.
4. By the conduct described in the Findings of Fact, Respondents violated Wis. Admin. Code § 18.036(1) by failing to furnish the Department with authorization to examine and audit all of the broker's real estate trust account records.
5. By the conduct described in the Findings of Fact, Respondents violated Wis. Admin. Code § 18.035(2) by not notifying the Department of the closure of the real estate trust account.
6. By the conduct described in the Findings of Fact, Respondents violated Wis. Admin. Code § 18.033(2) by closing a trust account when there were trust funds remaining.
7. By the conduct described in the Findings of Fact, Respondent Burlingame violated Wis. Stat. § 452.03 by practicing real estate through BuyWisconsinLand.com, LLC without having that entity licensed.
8. As a result of the above violations, Respondents Roy Burlingame and Farm Urban Realty, Inc. are subject to discipline pursuant to Wis. Stat. §§ 452.14(3)(h), (i), (L) and (4m).

ORDER

1. The attached Stipulation is accepted.
2. Respondent Roy Burlingame is REPRIMANDED.
3. Respondent Farm Urban Realty, Inc. is REPRIMANDED.
4. The Real Estate Broker license issued to Roy Burlingame (license number 90-41838) is LIMITED as follows:
 - a. Respondent will not hold client funds.
 - b. Respondent may petition the Board for the removal of this limitation after 1 year after the date of this Order. The Board in its discretion may impose additional conditions and limitations following the receipt of any such petition.

5. The Real Estate Broker license issued to Roy Burlingame (license number 90-41838) is further LIMITED as follows:

- a. Within 1 year of the date of this Order, Respondent shall successfully complete a total of 6 hours of education on the topics of trust accounts and ethics 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 successful completion of the 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 after Respondent satisfies the Board or its designee that he has successfully completed all of the ordered education.

6. Within 90 days from the date of this Order, Respondent Roy Burlingame shall pay a FORFEITURE in the amount of \$3,000 and COSTS of this matter in the amount of \$2300.

7. 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 Respondent 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
DSPSMonitoring@wisconsin.gov

8. 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 or fails to submit proof of successful completion of the ordered education as set forth above, Respondent's license (no. 90-41838) 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 and completion of the education.


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

WISCONSIN REAL ESTATE EXAMINING BOARD

by:


A Member of the Board

Date


2/21/13