

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

ROBERT D. HERGET,
RESPONDENT.

:
:
:
:
:

FINAL DECISION AND ORDER

ORDER 0002312.

Division of Legal Services and Compliance¹ Case No. 11 REB 085

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

Robert D. Herget
W262N2828 Coachman Dr.
Pewaukee, WI 53072

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 Robert D. Herget (dob 04/17/1965) is licensed in the State of Wisconsin as a Real Estate Broker, having license number 90-48167, first issued on October 3, 1995, and current through December 14, 2012. Respondent Herget's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is W262N2828 Coachman Dr., Pewaukee, WI 53072.

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

2. On or about October 25, 2011, the Department received a complaint alleging that Respondent Herget failed to return earnest money after a real estate transaction was cancelled. Division of Enforcement Case Number 11 REB 085 was subsequently opened for investigation.

3. The Department's investigation revealed that Respondent Herget was the listing broker for a property located in Geneva, WI (the subject property).

4. On September 8, 2009, the seller of the subject property accepted an Offer to Purchase and on or about September 16, 2009, the buyer made a \$500.00 earnest money deposit payable to Respondent Herget's real estate business entity.

5. On February 16, 2010, the buyer signed a WB-15 Cancellation Agreement and Mutual Release (the agreement) and on March 16, 2010, the seller also signed the agreement.

6. The agreement provided that:

- a. \$350.00 of the earnest money was to be paid to a land surveying company, and
- b. \$150.00 of the earnest money was to be paid to the buyer's attorney.

7. Respondent Herget claims he disbursed \$150.00 of the earnest money to the buyer's attorney after she filed a complaint with the Department.

8. Respondent Herget failed, within a reasonable time, to remit money which came into the broker's possession which belonged to another person.

9. During the course of the Department's investigation, Respondent Herget was asked to provide any ledger, journal, bank statements, cancelled checks or any other documents showing the earnest money disbursement. Respondent Herget failed to respond to this request.

10. In resolution of this matter, Respondent Herget consents to the entry of 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 the Findings of Fact, Respondent Herget is subject to discipline pursuant to Wis. Stat. §§ 452.14(3)(h) and 452.14(4m)(a) and (b).

ORDER

- 1. The attached Stipulation is accepted.
- 2. Respondent Herget is REPRIMANDED.

3. The Real Estate Broker license issued to Respondent Herget (license number 90-48167) is LIMITED as follows:

a. Within 90 days of the date of this Order, Respondent shall successfully complete 3 hours of education on the topic of trust accounts 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 education 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 or Department, and also may not be used in future attempts to upgrade a credential in Wisconsin.

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 Herget shall pay a FORFEITURE in the amount of \$100.00 and COSTS of this matter in the amount of \$760.00.

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 Respondent to the Department Monitor at the address below:

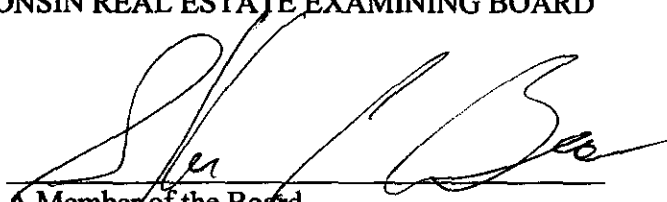
Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 8935, Madison, WI 53708-8935
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

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 or fails to submit proof of successful completion of the ordered education as set forth above, Respondent's license (no. 90-48167) 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.

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

WISCONSIN REAL ESTATE EXAMINING BOARD

by:


A Member of the Board

