

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

ADOLF E. PAVELEC AND
PAVELEC REALTY,
RESPONDENTS.

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:
:
:
:
:

FINAL DECISION AND ORDER

ORDER 0002497

Division of Legal Services and Compliance¹ Case No. 12 REB 084

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

Adolf E. Pavelec
537 N. Main St.
P.O. Box 70
Adams, WI 53910

Pavelec Realty
P.O. Box 70
Adams, WI 53910

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 Adolf E. Pavelec (dob October 13, 1935) is licensed in the State of Wisconsin as a Real Estate Broker, having license number 29902-90, first issued on April 10,

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

1968 and current through December 14, 2014. Respondent Pavelec's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 537 North Main Street, Post Office Box 70, Adams, Wisconsin 53910.

2. Respondent Pavelec Realty is licensed in the State of Wisconsin as a Real Estate Business Entity, having license number 13271-91, first issued on May 10, 1971 and current through December 14, 2014. Respondent Pavelec Realty's most recent address on file with the Department is Post Office Box 70, Adams, Wisconsin 53910.

3. At all times relevant to this matter, Respondent Pavelec was the owner and responsible broker of Respondent Pavelec Realty.

4. On July 18, 2012, the Department auditor performed an audit of Respondents' real estate trust account. The July 18, 2012 audit revealed the following violations:

- a. Reconciliations were not prepared from at least January 2010 through November 2011.
- b. Only one trial balance was prepared from at least January 2010 through July 18, 2012.
- c. Validations were not performed from at least January 2010 through July 18, 2012.
- d. Over \$5,100 in uncleared checks were carried on the books for 2-5 years.

5. In resolution of this matter, Respondents consent 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, Respondents violated Wis. Stat. § 452.133(1)(f) by failing to safeguard trust funds held by the broker.

3. By the conduct described in the Findings of Fact, Respondents violated Wis. Admin. Code § REEB 18.13(3)-(5) by failing to:

- a. reconcile the real estate trust account in writing each month;
- b. prepare or have prepared a trial balance of all open items in the real estate trust account; and
- c. review the reconciled account statement balance, the open ledger account listing, and the journal running balance to ensure all of these records are

valid and in agreement as of the date the account statement has been reconciled.

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

ORDER

1. The attached Stipulation is accepted.
2. Respondents Adolf E. Pavelec and Pavelec Realty are REPRIMANDED.
3. The Real Estate Broker license issued to Adolf E. Pavelec (license number 29902-90) is LIMITED as follows:
 - a. Within 90 days of the date of this Order, Respondent Pavelec shall successfully complete 6 hours of education on the topic of trust accounts and/or bookkeeping 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 ordered 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, 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 after satisfying the Board or its designee that Respondent has successfully completed all of the ordered education.
4. The Real Estate Broker license issued to Adolf E. Pavelec (license number 29902-90) is further LIMITED and the Real Estate Business Entity license issued to Pavelec Realty (license number 13271-91) is LIMITED as follows:
 - a. Respondents shall submit a monthly report for three months, beginning in the first month after the month in which this Order is effective, to the Department Monitor at the address listed below by the 15th day of each month. The monthly reports shall include:
 - i. A trial balance that itemizes, by owner's name, all rent money and security deposits Respondents are holding at the statement closing date;
 - ii. Bank statements for Respondents' real estate trust account;

- iii. A reconciliation in accordance with Wis. Admin. Code § REEB 18.13(3) that includes a numbered list of outstanding checks;
- iv. The check register showing all real estate trust account transactions for the period in chronological order, along with a daily running balance; and
- v. Accounting statements provided to all owners showing how much was collected and spent on each owner's behalf.

b. The reports shall be reviewed for accuracy by the Department Auditor. In the event that errors are found, the matter may be referred to the Division of Legal Services and Compliance and a new case against Respondents may be opened.

c. The Board or its designee may require Respondents to appear before it at any time, provided that written notice is given to Respondents at the most recent addresses on file with the Department at least 30 days before any scheduled meeting.

d. This limitation shall be removed upon proof satisfactory to the Board or its designee that Respondents have provided three complete and correct monthly reports and that the terms of the limitation have been satisfied.

5. Within 90 days from the date of this Order, Respondent Pavelec shall pay COSTS of this matter in the amount of \$272.00.

6. Within 90 days from the date of this Order, Respondent Pavelec Realty shall pay COSTS of this matter in the amount of \$272.00.

7. Payment of 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 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


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 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 costs as ordered or fail to submit the quarterly reports or proof of successful completion of the ordered education as set forth above, Respondents' licenses (nos. 29902-90 and 13271-91) 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 costs and completion of the education and submission of the quarterly reports.

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

WISCONSIN REAL ESTATE EXAMINING BOARD

by:


A Member of the Board

6-27-13
Date