

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

DEAN J. DVORAK,
RESPONDENT.

:
:
:
:
:

FINAL DECISION AND ORDER

ORDER 0002574

Division of Legal Services and Compliance Case No. 12 REB 125

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

Dean J. Dvorak
833 Indian Creek Dr.
Manitowoc, WI 54220

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 Dean J. Dvorak (dob March 1, 1969) is licensed in the State of Wisconsin as a Real Estate Broker, having license number 54431-90, first issued on February 27, 2007 and current through December 14, 2014. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 833 Indian Creek Drive, Manitowoc, Wisconsin 54220.

2. On November 12, 2012, the Department auditor performed an audit of Respondent's real estate trust account. The November 12, 2012 audit revealed the following violations:

- a. Failure to register two trust accounts in Respondent's name after taking over the business from another entity.
- b. Failure to produce bank statements.
- c. Failure to perform reconciliations.
- d. Failure to create trial balances.
- e. Failure to return earnest money.
- f. Failure to follow-up on an un-cashed check.
- g. Failure to timely deposit trust funds.
- h. Failure to reference pertinent information on deposits.
- i. Failure to enter a deposit in QuickBooks.
- j. Failure to correct a mistake deposit.

3. In resolution of this matter, Respondent 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 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, Respondent violated Wis. Stat. § 452.14(3)(h) by failing to account for money which belongs to another person.

4. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § REEB 18.031(1) by failing to deposit all real estate trust funds received in a real estate trust account within 48 hours of receipt.

5. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § REEB 18.035(2) by failing to notify the Department within 10 days after changes in trust accounts.

6. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § REEB 18.09 by failing to properly disburse trust funds.

7. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § REEB 18.13(1)-(5) by failing to:

- a. maintain a journal showing pertinent information;
- b. maintain a ledger showing the receipts and disbursements as they affect each particular transaction;
- c. reconcile the real estate trust account in writing each month;
- d. prepare or have prepared a trial balance of all open items in the real estate trust account; and
- e. 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.

8. By the conduct described in the Findings of Fact, Respondent demonstrated incompetency to act as a real estate broker in a manner as to safeguard public pursuant to Wis. Admin. Code § REEB 18.14 by failing to comply with the rules in Wis. Admin. Code Ch. REEB 18.

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

ORDER

1. The attached Stipulation is accepted.
2. The Real Estate Broker license of Respondent Dean J. Dvorak (license number 54431-90) is SUSPENDED for a period of 5 days beginning 15 days after the date of this Order.
3. The Real Estate Broker license of Respondent Dean J. Dvorak (license number 54431-90) is LIMITED as follows:
 - a. Within 90 days of the date of this Order, Respondent shall successfully complete 12 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 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 of Respondent Dean J. Dvorak (license number 54431-90) is further LIMITED in that Respondent shall submit a monthly report to the Department Monitor at the address listed below by the 15th day of each month. The report shall include:
 - a. A trial balance that itemizes all deposits Respondent is holding at the statement closing date;
 - b. Bank statements for Respondent's real estate trust account;
 - c. A reconciliation in accordance with Wis. Admin. Code § REEB 18.13(3) that includes a numbered list of outstanding checks; and
 - d. The check register showing all real estate trust account transactions for the period in chronological order, along with a daily running balance.
5. Respondent may petition the Board for removal of the monthly reporting limitation after Respondent has provided 12 complete and correct reports to the Department.
6. Within 90 days from the date of this Order, Respondent shall pay a FORFEITURE in the amount of \$1,000.00 and COSTS of this matter in the amount of \$226.00.
7. Proof of successful course completion, monthly reports, 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:

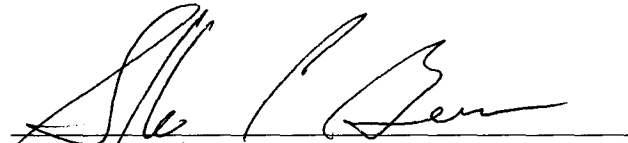
Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 8935, Madison, WI 53708-8935
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

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 monthly reports or proof of successful completion of the ordered education as set forth above, Respondent's license (no. 54431-90) 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 submission of monthly reports 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

8-22-13
Date