

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

KEITH E. GAROT AND LANDMARK
REAL ESTATE & DEVELOPMENT, INC.,
RESPONDENTS.

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FINAL DECISION AND ORDER

0003285

Division of Legal Services and Compliance Case No. 13 REB 044

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

Keith E. Garot
320 Main Ave. Ste. 300
De Pere, WI 54115

Landmark Real Estate & Development, Inc.
320 Main Ave. Ste. 300
De Pere, WI 54115

Wisconsin Real Estate Examining Board
P.O. Box 8366
Madison, WI 53708-8366

Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190
Madison, WI 53707-7190

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 Keith E. Garot (dob April 18, 1952) is licensed in the State of Wisconsin as a real estate broker, having license number 12789-90, first issued on October 4, 1976 and current through December 14, 2014. Keith E. Garot's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 320 Main Ave. Ste. 300, De Pere, WI 54115.

2. Respondent Landmark Real Estate & Development, Inc. is licensed in the State of Wisconsin as a real estate business entity, having license number 834988-91, first issued on March 27, 1997 and current through December 14, 2014. Landmark Real Estate & Development, Inc.'s most recent address on file with the Department is 320 Main Ave. Ste. 300, De Pere, WI 54115.

3. Respondent Garot is identified in Department records as the responsible broker for Respondent Landmark Real Estate & Development, Inc.

4. Between 1997 and sometime prior to June 27, 2013, Respondents utilized a common real estate trust account at Associated Bank designated as Landmark Real Estate & Development, Inc. Real Estate Trust Account with account number ending in -23.

5. Respondents did not notify the Department within 10 days after closing the real estate trust account with account number ending in -23.

6. Between February 2012 and July 2013, Respondents utilized a common real estate trust account at Nicolet National Bank designated as Landmark Real Estate Inc. IBRETA Trust Account with account number ending in -17.

7. Respondents did not send the Department a form authorizing consent to examine and audit the trust account with account number ending in -17 until on or after June 27, 2013.

8. On June 27, 2013, an auditor with the Department audited Respondents' trust accounts. The audit revealed the following:

- a. A cash journal was not maintained.
- b. Ledgers were not maintained.
- c. Account reconciliations were incorrect.
- d. Trial balances were not prepared monthly.
- e. Validations were not completed monthly.
- f. Earnest money was not always held in trust and was, on at least one occasion, withdrawn before a sale closed.
- g. The account with account number ending in -17 was overdrawn.
- h. Respondent Garot did not actively manage the trust accounts, and Respondents failed to supervise the bookkeeper's activities.
- i. Respondents paid a monthly bill of \$150 for cleaning services directly out of the trust account.

9. In July 2013, Respondents transferred the funds in account number ending in -17 to a common real estate trust account at Johnson Bank designated as Landmark Real Estate & Development Inc. with account number ending in -73.

10. 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 adequately safeguard trust funds.

3. By the conduct described in the Findings of Fact, Keith E. Garot violated Wis. Stat. § 452.13(2)(c) and Wis. Admin. Code § REEB 18.031(1) by failing to deposit all real estate trust funds received by the broker or the broker's salesperson in a real estate trust account within 48 hours of receipt of the trust funds.

4. By the conduct described in the Findings of Fact, Keith E. Garot violated Wis. Admin. Code § REEB 18.035(1) by failing to provide the department with the required consent to examine and audit trust account form within ten days after opening a new trust account.

5. By the conduct described in the Findings of Fact, Keith E. Garot violated Wis. Stat. § 453.13(2)(b)2. and Wis. Admin. Code § REEB 18.035(2) by failing to notify the department no later than 10 days after closing a real estate trust account.

6. By the conduct described in the Findings of Fact, Keith E. Garot violated Wis. Admin. Code § REEB 18.13(1)–(5) by failing to:

- a. Maintain a cash journal;
- b. Maintain a ledger;
- c. Prepare a trial balance monthly; and
- d. Validate the account monthly.

7. By the conduct described in the Findings of Fact, Keith E. Garot violated Wis. Admin. Code § REEB 18.09(1) by improperly disbursing trust funds from his real estate trust account.

8. By the conduct described in the Findings of Fact, Landmark Real Estate & Development, Inc. violated Wis. Admin. Code § REEB 24.17(3) by aiding or abetting the above violations.

9. By the conduct described in the Findings of Fact, Keith E. Garot and Landmark Real Estate & Development, Inc. violated Wis. Admin. Code § REEB 17.08(1) by failing to supervise the activities of their employee.

10. As a result of the above violations, Keith E. Garot and Landmark Real Estate & Development, Inc. are subject to discipline pursuant to Wis. Stat. § 452.14(3)(i) and (L).

ORDER

1. The attached Stipulation is accepted.
2. Respondent Keith E. Garot is REPRIMANDED.
3. Respondent Landmark Real Estate & Development, Inc. is REPRIMANDED.
4. The real estate broker license issued to Keith E. Garot (license number 12789-90) is LIMITED as follows:
 - a. Within 30 days of the date of this Order, Respondent shall successfully complete 9 hours of education in all of the following topics: trust accounts, personnel and business ethics. The courses shall be 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.
5. The real estate broker license issued to Keith E. Garot (license number 12789-90) is further LIMITED as follows:
 - a. Following the first full calendar month after the date of this Order, Respondent Garot 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:
 - i. A cash journal in accordance with Wis. Admin. Code § REEB 18.13(1) showing all real estate trust account transactions for the period in chronological order, along with a daily running balance;

- ii. Ledgers in accordance with REEB 18.13(2) for all transactions involving earnest money either deposited or disbursed during the month;
- iii. The bank statement for the trust account for the month under review;
- iv. A reconciliation of the bank statement in accordance with Wis. Admin. Code § REEB 18.13(3) that includes a numbered list of outstanding checks; and
- v. A trial balance in accordance with Wis. Admin. Code § REEB 18.13(4) that itemizes all deposits on hand and identifies the transaction or parties to which each deposit pertains.

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

c. Respondent Garot may petition the Board for removal of this limitation after he has provided 6 complete and correct reports and has satisfied 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, Landmark Real Estate & Development, Inc. shall pay one-half of the COSTS of this matter in the amount of \$175.00.

7. Within 90 days from the date of this Order, Keith E. Garot shall pay one-half of the COSTS of this matter in the amount of \$175.00.

8. Proof of successful course completion, monthly reports 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 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

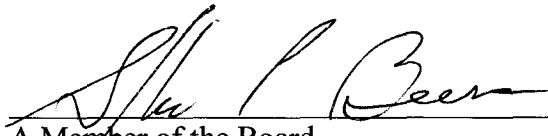
9. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondents' licenses. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondents fail to timely submit payment of the costs as ordered or fail to submit proof of successful completion of the ordered education or monthly reports as set forth above, Respondents' licenses (no. 12789-90 and no. 834988-91) 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, completion of the education and submission of the monthly reports.

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

WISCONSIN REAL ESTATE EXAMINING BOARD

by:


A Member of the Board

6-19-14
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

KEITH E. GAROT AND LANDMARK
REAL ESTATE & DEVELOPMENT, INC.,
RESPONDENTS.

STIPULATION

0003285

Division of Legal Services and Compliance Case No. 13 REB 044

Respondents Keith E. Garot and Landmark Real Estate & Development, Inc. and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

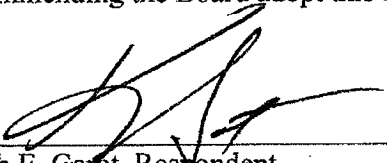
1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondents consent to the resolution of this investigation by Stipulation.
2. Respondents understand that by signing this Stipulation, Respondents voluntarily and knowingly waive the following rights:
 - the right to a hearing on the allegations against Respondents, at which time the State has the burden of proving those allegations by a preponderance of the evidence;
 - the right to confront and cross-examine the witnesses against Respondents;
 - the right to call witnesses on Respondents' behalf and to compel their attendance by subpoena;
 - the right to testify on Respondents' own behalf;
 - the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision;
 - the right to petition for rehearing; and
 - all other applicable rights afforded to Respondents under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.
3. Respondents are aware of Respondents' right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation.
4. Respondents agree to the adoption of the attached Final Decision and Order by the Wisconsin Real Estate Examining Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondents waive all rights to any appeal of the Board's order, if adopted in the form as attached.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondents, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with deliberations on the Stipulation. Additionally, any such advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

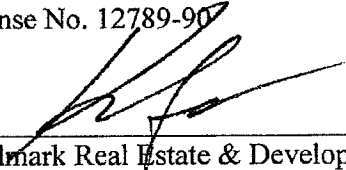
7. Respondents are informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

8. The Division of Legal Services and Compliance joins Respondents in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



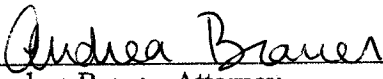
Keith E. Garot, Respondent
320 Main Ave., Suite 300
De Pere, WI 54115
License No. 12789-90

5-22-14
Date



Landmark Real Estate & Development, Inc., Respondent
By: Keith E. Garot
320 Main Ave., Suite 300
De Pere, WI 54115
License No. 834988-91

5-22-14
Date



Andrea Brauer, Attorney
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190

5/27/14
Date