

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

MICHAEL S. HOPPENS AND
HOPPENS REALTY, INC.,
RESPONDENTS.

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:
:

FINAL DECISION AND ORDER

0003323

Division of Legal Services and Compliance Case No. 13 REB 015

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

Michael S. Hoppens
1129 Riders Club Rd.
Onalaska, WI 54650

Hoppens Realty, Inc.
1129 Riders Club Rd.
Onalaska, WI 54650

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 Michael S. Hoppens (dob November 12, 1955) is licensed in the State of Wisconsin as a real estate broker, having license number 39069-90, first issued on November 18, 1986 and current through December 14, 2014. Michael S. Hoppens' most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 1129 Riders Club Road, Onalaska, WI 54650.

2. Respondent Hoppens Realty, Inc. is licensed in the State of Wisconsin as a real estate business entity, having license number 833699-91, first issued on June 17, 1988 and current through December 14, 2014. Hoppens Realty, Inc.'s most recent address on file with the Department is 1129 Riders Club Road, Onalaska, WI 54650.

3. Respondent Hoppens is identified in Department records as the responsible broker for Respondent Hoppens Realty, Inc.

4. Respondents utilize a common real estate trust account at M&I Bank designated as Hoppens Realty Inc. IBRETA Trust Account with account number ending in -09.

5. On or about January 11, 2006, an auditor with the Department audited Respondents' real estate trust account with account number ending in -09. The audit revealed that Respondents failed to keep a trial balance or validate the account as required.

6. On December 3, 2009, in Order LS0912034REB, the Board reprimanded Respondents for the trust account violations and assessed a forfeiture as well as the costs of the Department's investigation. The Board also ordered Respondent Hoppens to complete 8 hours of education on the topic of real estate trust accounts.

7. Respondent Hoppens failed to timely complete the ordered education.

8. On February 26, 2013, an auditor with the Department audited Respondents' trust account with account number ending in -09. The audit revealed the following:

- a. A cash journal was not maintained.
- b. Ledgers either were not properly maintained.
- c. Bank reconciliations were not performed.
- d. Trial balances were not prepared.
- e. Validations were not completed.
- f. Respondent Hoppens stated he had kept trust account records on his computer, which crashed in 2011. He did not make backup copies of any computerized bookkeeping records.
- g. Respondent Hoppens hired bookkeepers to document trust account transactions but failed to supervise the bookkeepers' activities.

9. 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, Michael S. Hoppens violated Wis. Stat. § 452.133(1)(f) by failing to adequately safeguard trust funds.

3. By the conduct described in the Findings of Fact, Michael S. Hoppens violated Wis. Admin. Code §§ REEB 15.04 and 18.13(6)(f) by failing to retain for at least 3 years exact and complete copies of all trust account records.

4. By the conduct described in the Findings of Fact, Michael S. Hoppens violated Wis. Admin. Code § REEB 18.13(6)(c) by failing to make a backup copy of cash journals and ledgers on any day on which entries were made in the computerized bookkeeping system.

5. By the conduct described in the Findings of Fact, Michael S. Hoppens violated Wis. Admin. Code § REEB 18.13(1)–(5) by failing to:

- a. Maintain a cash journal;
- b. Maintain a ledger;
- c. Reconcile the real estate trust account monthly;
- d. Prepare a trial balance monthly; and
- e. Validate the account monthly.

6. By the conduct described in the Findings of Fact, Michael S. Hoppens violated Wis. Admin. Code § REEB 17.08(1) by failing to supervise the activities of his employee.

7. By the conduct described in the Findings of Fact, Michael S. Hoppens violated Wis. Admin. Code § REEB 24.17(3) by violating a disciplinary order of the Board.

8. By the conduct described in the Findings of Fact, Hoppens Realty, Inc. violated Wis. Admin. Code § REEB 24.17(1) by aiding or abetting the above violations.

9. As a result of the above violations, Michael S. Hoppens and Hoppens Realty, Inc. are subject to discipline pursuant to Wis. Stat. § 452.14(3)(i) and (L).

ORDER

1. The attached Stipulation is accepted.
2. Respondent Hoppens Realty, Inc. is REPRIMANDED.

3. Within 90 days from the date of this Order, Hoppens Realty, Inc. shall pay a FORFEITURE in the amount of \$1,000 and one-half of the COSTS of this matter in the amount of \$188.00.

4. The real estate broker license issued to Michael S. Hoppens (license number 39069-90) is SUSPENDED, beginning on June 29, 2014, for either (a) 15 days or (b) until Respondent completes the education ordered in Order LS0912034REB, whichever is longer.

5. The real estate broker license issued to Michael S. Hoppens (license number 39069-90) is LIMITED as follows:

1. Within 30 days of the date of this Order, Respondent shall successfully complete 8 hours of education on the topic of trust accounts. The course(s) shall be offered by a provider pre-approved by the Board's monitoring liaison, including taking and passing any exam offered for the courses.

2. 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.

3. 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.

6. The real estate broker license issued to Michael S. Hoppens (license number 39069-90) is further LIMITED as follows:

a. Following the first full calendar month after the date of this Order, Respondent Hoppens 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 Wis. Admin. Code § REEB 18.13(2) for all transactions involving earnest money either deposited or disbursed during the month;
- iii. The bank statement 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 Hoppens to appear before it at any time, provided that written notice is given to Respondent Hoppens at his most recent address on file with the Department at least 30 days before any scheduled meeting.
 - c. Respondent Hoppens 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.

7. Within 90 days from the date of this Order, Michael S. Hoppens shall pay a FORFEITURE in the amount of \$1,000 and one-half of the COSTS of this matter in the amount of \$188.00.

8. Payment of forfeitures and costs, monthly monitoring reports and proof of successful course completion shall be made payable to the Wisconsin Department of Safety and Professional Services and 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 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 monthly reports or payment of the forfeitures and costs or completion of the education as ordered, Respondents' licenses (no. 39069-90 and no. 833699-91) 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 forfeitures and costs, submission of monthly reports and completion of education as ordered.

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

WISCONSIN REAL ESTATE EXAMINING BOARD

by: Stephen Beers
A Member of the Board

7/16/14
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

MICHAEL S. HOPPENS AND
HOPPENS REALTY, INC.,
RESPONDENTS.

STIPULATION

0003323

Division of Legal Services and Compliance Case No. 13 REB 015

Respondents Michael S. Hoppens and Hoppens Realty, Inc. and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

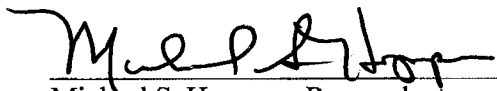
1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondents consent to the resolution of this investigation by Stipulation.
2. Respondents understand that by signing this Stipulation, Respondents voluntarily and knowingly waive 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.

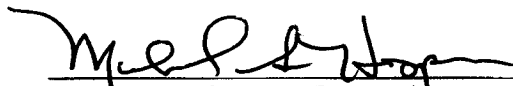
7. Respondents are informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

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.



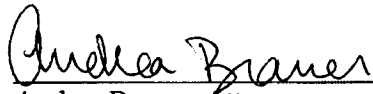
Michael S. Hoppens, Respondent
1129 Riders Club Rd.
Onalaska, WI 54650
License No. 39069-90

7-7-14
Date



Hoppens Realty, Inc., Respondent
By: Michael S. Hoppens
1129 Riders Club Rd.
Onalaska, WI 54650
License No. 833699-91

7-7-14
Date



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

7/14/14
Date