

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	:	
	:	FINAL DECISION AND ORDER
GLENA D. KOJIS AND KIVLEY, LLC,	:	
RESPONDENTS.	:	

0004302

Division of Legal Services and Compliance Case No. 14 REB 034

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

Glena D. Kojis
417 Nicholson Avenue
South Milwaukee, WI 53172

Kivley, LLC
1200 E. Capitol Drive, Suite 210
Milwaukee, WI 53211

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 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 Glena D. Kojis (dob August 10, 1950) is licensed in the State of Wisconsin as a Real Estate Broker, having license number 41782-90, first issued on May 26, 1987 and current through December 14, 2016. Glena D. Kojis' most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 417 Nicholson Avenue, South Milwaukee, Wisconsin 53172.

2. Respondent Kivley, LLC (DBA Re/Max Lakeside) is licensed in the State of Wisconsin as a Real Estate Business Entity, having license number 700328-91, first issued on April 3, 2000 and current through December 14, 2016. Kivley, LLC's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 1200 E. Capitol Drive, Suite 210, Milwaukee, Wisconsin 53211.

3. Respondent Kojis is a responsible broker for Respondent Kivley, LLC and manages Kivley, LLC's real estate trust account.

4. Respondents maintain a common real estate trust account at TCF National Bank designated as Kivley, LLC DBA: Re/Max Lakeside IBRETA Trust Account with account number ending in -69.

5. On February 21, 2014, an auditor with the Department audited Respondents' trust account. The audit revealed the following:

- a. Trial balances were not prepared monthly,
- b. Validations were not performed monthly,
- c. A \$500 earnest money deposit for a transaction which commenced on November 4, 2011 had not been returned,
- d. The account had a deficit of \$6,286.45 at the time of the audit largely because Respondents did not restore the account following withdrawals for transfer fees and returned transfer fees, and
- e. Interest was not being paid to the Department of Administration as required.

6. 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, Glenna D. Kojis violated Wis. Stat. § 452.133(1)(f) by failing to safeguard trust funds.

3. By the conduct described in the Findings of Fact, Glenna D. Kojis violated Wis. Stat. § 452.13(2)(e)1. and Wis. Admin. Code § REEB 18.031(3)(a) by failing to remit trust fund interest to the Department of Administration.

4. By the conduct described in the Findings of Fact, Glenna D. Kojis violated Wis. Admin. Code § REEB 18.10 by failing to deposit additional personal funds in her real estate trust

account within 10 business days following receipt of a statement or other notification from a depository institution that a service charge was made against the account for which insufficient personal funds were available in the account.

5. By the conduct described in the Findings of Fact, Glenna D. Kojis violated Wis. Admin. Code § REEB 18.13(4) by failing to prepare a monthly trial balance of all open items in the real estate trust account.

6. By the conduct described in the Findings of Fact, Glenna D. Kojis violated Wis. Admin. Code § REEB 18.13(5) by failing to validate the real estate trust account monthly.

7. By the conduct described in the Findings of Fact, Kivley, LLC violated Wis. Admin. Code § REEB 24.17(3) by aiding or abetting the above violations.

8. As a result of the above violations, Glenna D. Kojis and Kivley, LLC are subject to discipline pursuant to Wis. Stat. § 452.14(3)(h), (i), (L) and (4m).

ORDER

1. The attached Stipulation is accepted.
2. Respondent Glenna D. Kojis is REPRIMANDED.
3. Respondent Kivley, LLC is REPRIMANDED.
4. The Real Estate Broker license issued to Glenna D. Kojis (no. 41782-90) is LIMITED as follows:
 - a. Within 90 days of the date of this Order, Respondent Kojis shall successfully complete 6 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 Kojis 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 Kojis' license after satisfying the Board or its designee that Respondent Kojis has successfully completed all of the ordered education.
5. Within 90 days from the date of this Order, Glenna D. Kojis shall pay a FORFEITURE in the amount of \$500.00 and one-half of the COSTS of this matter in the amount of \$450.

6. Within 90 days from the date of this Order, Kivley, LLC shall pay one-half of the COSTS of this matter in the amount of \$450.

7. 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 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

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 proof of successful course completion and payment of the forfeiture and costs as ordered, Respondents' licenses (nos. 41782-90 and 700328-91) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondents have complied with proof of successful course completion and payment of the forfeiture and costs.

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

WISCONSIN REAL ESTATE EXAMINING BOARD

by:


A Member of the Board

10-15-15
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

GLENA D. KOJIS AND KIVLEY, LLC,
RESPONDENTS.

:
:
:
:
:

STIPULATION

0004302

Division of Legal Services and Compliance Case No. 14 REB 034

Respondent Glenna D. Kojis, and Respondent Kivley, LLC 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 have 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.

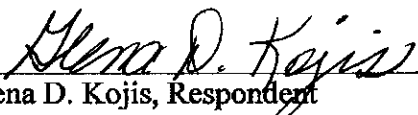
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

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.

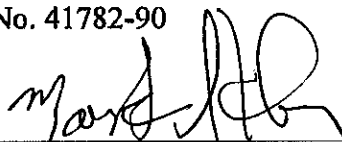
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondents, for purposes 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.

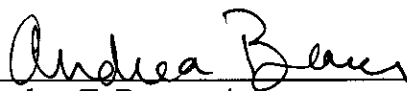
8. The Division of Legal Services and Compliance joins Respondents in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.


Glenna D. Kojis, Respondent
417 Nicholson Ave.
South Milwaukee, WI 53172
License No. 41782-90

9/28/15
Date


Kivley, LLC, Respondent *Mark S. Kivley "Owner"*
By: Authorized Representative
1200 E. Capitol Dr., Ste. 210
Milwaukee, WI 53211
License No. 700328-91

9/28/15
Date


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

10/2/15
Date