

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN  
BEFORE THE REAL ESTATE EXAMINING BOARD

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IN THE MATTER OF DISCIPLINARY :  
PROCEEDINGS AGAINST :  
 : FINAL DECISION AND ORDER  
JONATHAN R. MICHALS AND :  
JON MICHALS REALTY, LLC, :  
RESPONDENTS. :

**0004561**

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Division of Legal Services and Compliance Case No. 14 REB 121

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

Jonathan R. Michals  
7380 South Clement Avenue  
Oak Creek, WI 53154

Jon Michals Realty, LLC  
7380 South Clement Avenue  
Oak Creek, WI 53154

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 Jonathan R. Michals (DOB June 29, 1977) is licensed by the State of Wisconsin as a Real Estate Broker, having license number 54071-90, first issued on October 13, 2006 and current through December 14, 2016. Respondent Michals' most recent address on file with the Wisconsin Department of Safety and Professional Services is 7380 South Clement Avenue, Oak Creek, Wisconsin 53154.

2. Respondent Jon Michals Realty, LLC is licensed by the State of Wisconsin as a Real Estate Business Entity, having license number 701589-91, first issued on October 13, 2006 and current through December 14, 2016. Respondent Jon Michals Realty, LLC's most recent address on file with the Wisconsin Department of Safety and Professional Services is 7380 South Clement Avenue, Oak Creek, Wisconsin 53154.

3. Respondents maintain a common real estate trust account at North Shore Bank designated IBRETA Client Trust Fund Account Jon Michals Realty LLC Trust with account number ending in -17.

4. In 2014, Respondents were chosen for a routine trust account audit.

5. On April 15, 2014, an auditor with the Department sent a Pre-Audit Questionnaire to Respondents requesting they identify their trust account and provide general information about the trust account.

6. On April 22, 2014, Respondent Michals submitted a completed Pre-Audit Questionnaire to the Department auditor via email.

7. On May 8, 2014, the Department auditor emailed Respondent Michals proposing they meet for the audit on May 30, 2014.

8. On May 13, 2014, Respondent Michals emailed the Department auditor stating he would not be available on May 30, 2014.

9. On September 9, 2014, the Department auditor emailed Respondent Michals to propose an audit on September 23, 2014.

10. Respondent Michals did not respond to the Department auditor's email.

11. On September 12 and 17, 2014, the Department auditor left Respondent Michals voicemails requesting he call to discuss the proposed September 23, 2014 audit date.

12. Respondent Michals did not respond to the Department auditor's voicemails.

13. On September 23, 2014, the Department auditor made an unscheduled visit to Respondents' address of record but found nobody present at the office.

14. On October 9, 2014, the Department auditor filed a complaint against Respondents, and Division of Legal Services and Compliance Case Number 14 REB 121 was opened for investigation.

15. After Respondents were contacted regarding Case Number 14 REB 121, they responded timely to the Department's requests for information.

16. The Department auditor audited Respondents' trust account. The audit and follow-up investigation revealed the following:

- a. Respondent Michals had not been disbursing money directly from the trust account to his clients. Instead, he first transferred the money from the trust account to his personal business account and then transferred the money from his personal business account to his clients.
- b. Respondents' ledgers identified money disbursed from the personal business account rather than money disbursed from the trust account.
- c. On one (1) occasion, Respondent Michals had transferred \$2,000 in earnest money to his personal business account on July 5, 2012, although the transaction did not actually close until July 16, 2012.
- d. The first entry in Respondents' cash journal was dated January 1, 2012 and showed an "opening balance" of \$0. However, the trust account was opened in 2006 and the balance on January 1, 2012 was actually \$3.94.

17. 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, Jonathan R. Michals violated Wis. Admin. Code § REEB 24.17(5) by failing to respond to the Department regarding a request for information within thirty (30) days of the date of the request.
3. By the conduct described in the Findings of Fact, Jonathan R. Michals violated Wis. Admin. Code § REEB 18.09(1) by failing to properly disburse trust funds from his real estate trust account.
4. By the conduct described in the Findings of Fact, Jonathan R. Michals violated Wis. Admin. Code § REEB 18.13(2) by failing to maintain a record including the receipts and the disbursements as they affected each particular transaction and, when funds were disbursed, failing to include in the ledgers at least the date, payee, number of the check, share draft or draft and amount.
5. By the conduct described in the Findings of Fact, Jonathan R. Michals violated Wis. Stat. § 452.133(1)(f) by failing to safeguard trust funds held by him as required by rules promulgated by the department.
6. By the conduct described in the Findings of Fact, Jon Michals Realty, LLC violated Wis. Admin. Code § REEB 24.17(3) by aiding or abetting the above violations.

7. As a result of the above violations, Jonathan R. Michals and Jon Michals Realty, LLC are subject to discipline pursuant to Wis. Stat. § 452.14(3)(i) and (L) and Wis. Stat. § 452.14(4m)(a) and (b).

ORDER

1. The attached Stipulation is accepted.
2. Respondent Jonathan R. Michals is REPRIMANDED.
3. Respondent Jon Michals Realty, LLC is REPRIMANDED.
4. The Real Estate Broker license issued to Jonathan R. Michals (license number 54071-90) is LIMITED as follows:
  - a. Within ninety (90) days of the date of this Order, Jonathan R. Michals shall successfully complete six (6) hours of education on the topic of trust accounts and six (6) hours of education on the topic of business ethics. These course(s) shall be offered by a provider pre-approved by the Board's monitoring liaison, and Jonathan R. Michals shall take and pass any exam offered for the course(s).
  - b. Jonathan R. Michals 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 Jonathan R. Michals' license after satisfying the Board or its designee that Jonathan R. Michals has successfully completed all of the ordered education.
5. Within ninety (90) days from the date of this Order, Jonathan R. Michals shall pay a FORFEITURE of \$500 and one-half of the COSTS of this matter in the amount of \$550.
6. Within ninety (90) days from the date of this Order, Jon Michals Realty, LLC shall pay a FORFEITURE of \$500 and one-half of the COSTS of this matter in the amount of \$550.
7. Proof of successful course completion and payment of forfeitures and costs, made payable to the Wisconsin Department of Safety and Professional Services, shall be sent to the Department Monitor at the address below:

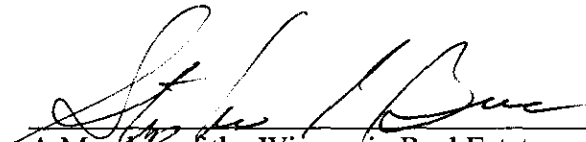
Department Monitor  
Division of Legal Services and Compliance  
Department of Safety and Professional Services  
P.O. Box 7190, Madison, WI 53707-7190  
Telephone (608) 267-3817; Fax (608) 266-2264  
DSPSMonitoring@wisconsin.gov

8. In the event Respondents fail to timely submit proof of successful completion of the ordered education as set forth above or fail to submit payment of the forfeitures and costs as ordered, Respondents' licenses (54071-90 and 701589-91), or Respondents' right to renew their licenses, may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondents have complied with completion of the education and payment of the forfeitures and costs.

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

WISCONSIN REAL ESTATE EXAMINING BOARD

by:

  
A Member of the Wisconsin Real Estate  
Examining Board

7-18-16  
Date

STATE OF WISCONSIN  
BEFORE THE REAL ESTATE EXAMINING BOARD

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

JONATHAN R. MICHALS AND  
JON MICHALS REALTY, LLC,  
RESPONDENTS.

STIPULATION

0004561

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Division of Legal Services and Compliance Case No. 14 REB 121

Respondents Jonathan R. Michals and Jon Michals Realty, 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.

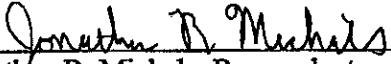
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division.

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.

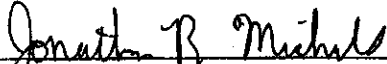
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondents, for purposes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

  
Jonathan R. Michals, Respondent  
7380 S. Clement Ave.  
Oak Creek, WI 53154  
License no. 54071-90

2-2-2016  
Date

  
Jon Michals Realty, LLC, Respondent  
By: Jonathan R. Michals  
7380 S. Clement Ave.  
Oak Creek, WI 53154  
License no. 701589-91

2-2-2016  
Date

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

2/2/16  
Date