

## 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  
ROY A. BURLINGAME AND :  
FARM URBAN REALTY INC., :  
RESPONDENTS. :

0005051

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Division of Legal Services and Compliance Case No. 15 REB 083

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

Roy A. Burlingame  
2809 E. Hamilton Ave., Suite 114  
Eau Claire, WI 54701

Farm Urban Realty Inc.  
2809 E. Hamilton Ave., Suite 114  
Eau Claire, WI 54701

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 Roy A. Burlingame (DOB 09/29/1965) is licensed by the State of Wisconsin as a real estate broker, having license number 41838-90, first issued on May 26, 1987 and current through December 14, 2016. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 2809 E. Hamilton Avenue, Suite 114, Eau Claire, Wisconsin 54701.

2. Respondent Farm Urban Realty Inc. is licensed by the State of Wisconsin as a real estate business entity, having license number 836015-91, first issued on July 20, 2006 and current through December 14, 2016. Respondent's most recent address on file with the Department is 2809 E. Hamilton Avenue, Suite 114, Eau Claire, Wisconsin 54701.

3. Respondent Burlingame is the responsible broker for Respondent Farm Urban Realty Inc.

4. On February 19, 2015, the buyers signed an Agreement of Purchase and Sale, drafted by the seller's attorney, for a property listed by Respondents. The buyers timely submitted \$2,500 in earnest money for the transaction.

5. According to paragraph 15 of the Agreement of Purchase and Sale, "the seller agrees and covenants that upon and following the execution of this Agreement and until Closing of the purchase contemplated herein, the seller shall not, without the prior written consent of the buyer, cut timber..."

6. On March 8, 2015, the buyers went to the property and found a 20 foot deep hole and that trees had been cleared. The buyers contacted Respondents to inquire what happened. Respondents notified the buyers that they tested for frac sand and to do so cleared approximately a 25 foot half circle.

7. Respondents admitted they did not contact the buyers regarding the frac sand testing prior to the buyers' phone call on March 8, 2015.

8. The sellers signed the closing documents and special warranty deed on March 10, 2015, although the sellers did not sign the Agreement of Purchase and Sale until March 11, 2015.

9. The property closed on March 12, 2015.

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, Roy A. Burlingame violated Wis. Stat. § 452.133(1)(b) by failing to provide brokerage services with reasonable skill and care.

3. By the conduct described in the Findings of Fact, Roy A. Burlingame violated Wis. Admin. Code § REEB 24.07(3) by acting incompetently for failing to disclose in writing in a timely fashion information suggesting the possibility of material adverse facts to the transaction.

4. By the conduct described in the Findings of Fact, Farm Urban Realty Inc. violated Wis. Admin. Code § REEB 24.17(3) by aiding or abetting the above violations.

5. As a result of the above violations, Roy A. Burlingame and Farm Urban 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 Roy A. Burlingame is REPRIMANDED.

3. Respondent Farm Urban Realty Inc. is REPRIMANDED.

4. Within ninety (90) days from the date of this Order, Respondent Roy A. Burlingame shall pay one-half of the COSTS of this matter in the amount of \$475.

5. Within ninety (90) days from the date of this Order, Respondent Farm Urban Realty Inc. shall pay one-half of the COSTS of this matter in the amount of \$475.

6. Payment of costs shall be made payable to the Wisconsin Department of Safety and Professional Services and 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

7. In the event Respondents fail to timely submit payment of the costs as ordered, Respondents' licenses (nos. 41838-90 and 836015-91), 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 payment of the costs.

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

WISCONSIN REAL ESTATE EXAMINING BOARD

by: Michael Mullendy  
A Member of the Board

12/1/16  
Date

STATE OF WISCONSIN  
BEFORE THE REAL ESTATE EXAMINING BOARD

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IN THE MATTER OF DISCIPLINARY :  
PROCEEDINGS AGAINST :  
 : STIPULATION  
ROY A. BURLINGAME AND :  
FARM URBAN REALTY INC., :  
RESPONDENTS. : 0005051

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Division of Legal Services and Compliance Case No. 15 REB 083

Respondents Roy A. Burlingame and Farm Urban 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 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.

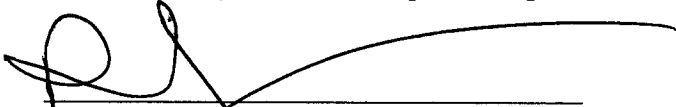
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

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.

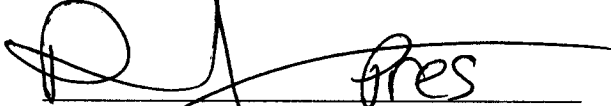
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondents, for purposes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

  
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Roy A. Burlingame, Respondent  
2809 E. Hamilton Ave., Ste. 114  
Eau Claire, WI 54701  
License no. 41838-90

11-18-16  
Date

  
\_\_\_\_\_  
Farm Urban Realty Inc., Respondent  
By: Roy A. Burlingame  
2809 E. Hamilton Ave., Ste. 114  
Eau Claire, WI 54701  
License no. 836015-91

11-18-16  
Date

  
\_\_\_\_\_  
Renee M. Patton, Attorney  
Division of Legal Services and Compliance  
P.O. Box 7190  
Madison, WI 53707-7190

11/21/2016  
Date