

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
EUGENE A. SAILER, :
RESPONDENT. :

0005056

Division of Legal Services and Compliance Case No. 15 REB 124

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

Eugene A. Sailer
3521 37th Street S
Wisconsin Rapids, WI 54494

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 Eugene A. Sailer (DOB January 12, 1961) is licensed by the State of Wisconsin as a real estate salesperson, having license number 48528-94, first issued on April 20, 1998 and current through December 14, 2016. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 3521 37th Street S, Wisconsin Rapids, Wisconsin 54494.

2. Respondent was employed as an independent contractor for an approved HomeSteps¹ listing broker (ZRI) and was responsible for handling real estate owned (REO) properties assigned to ZRI by HomeSteps from 2008-2013.

3. Respondent was to list, market and sell the HomeSteps REO properties, and also arrange for cleaning services, maintenance, and interior and exterior upkeep of the properties.

4. In 2014, an audit review conducted by HomeSteps revealed that four companies associated with Respondent were consistently winning bids for preservation and maintenance work.

5. Respondent admitted to HomeSteps that he had fabricated the four companies and submitted bids to HomeSteps on behalf of the companies for the preservation and maintenance work he completed himself.

6. Respondent also admitted that he falsified invoices for the work performed, submitted the invoices for payment to HomeSteps, and received payment for the work he performed.

7. In resolution of this matter, Respondent consents 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, Respondent violated Wis. Admin. Code § REEB 24.03(2)(b) by failing to protect the public against fraud, misrepresentation and unethical practices.

3. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § REEB 24.05(1)(b) by recommending or suggesting to a party to the transaction the services of an entity from which the licensee may receive compensation in which the licensee has an interest without disclosing to the party in writing the fact that he has an interest in the entity providing the services.

4. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § REEB 24.05(2) by acting as an agent in a real estate or business opportunity transaction on his own behalf without the prior written consent of all parties to the transaction.

5. As a result of the above violations, Respondent is subject to discipline pursuant to Wis. Stat. § 452.14(3)(i), (k) and (L).

¹ HomeSteps is the REO unit within Freddie Mac that is responsible for the disposition of the company's single family and 2-4 unit REO properties.

ORDER

1. The attached Stipulation is accepted.
2. Respondent Eugene A. Sailer's real estate salesperson license (number 48528-94) is **SUSPENDED** for a period of two years from the date of this Order.
3. Respondent Eugene A. Sailer's real estate salesperson license (number 48528-94) is **LIMITED** as follows:
 - a. Following the completion of the suspension period, Respondent may only resume practice as a real estate salesperson in the state of Wisconsin under the supervision of a Wisconsin licensed real estate broker preapproved by the Board or its designee (supervising broker).
 - b. At least one month before Respondent resumes practice as a real estate salesperson in the state of Wisconsin, Respondent shall notify the Department Monitor of his intent to resume practice as a real estate salesperson, and shall provide the Department Monitor with the name and contact information of his proposed supervising broker, and a letter from the broker confirming that he or she has read this Order and agrees to serve in this capacity. Respondent shall not resume practice as a real estate salesperson until and unless his supervising broker has been preapproved by the Board or its designee.
 - c. Beginning three months from the date Respondent resumes practice, and every three months thereafter, Respondent shall arrange for written reports from his supervising broker to be provided to the Department Monitor. These reports shall assess Respondent's work performance during the previous quarter, and describe the circumstances of his employment, including the nature and extent of Respondent's sales activities and whether he has practiced in compliance with all laws governing the practice of real estate.
 - d. Respondent shall report to the Department Monitor any change of employment status, residence, address or telephone number within five days of the date of a change.
 - e. After two years of practice in compliance with all terms and conditions of this Order, Respondent may petition the Board for the modification or termination of the above limitations. The Board may grant or deny the petition, in its discretion, or may modify this Order as it sees fit. A denial of such a petition for modification or termination shall not be deemed a denial of license under Wis. Stat. §§ 227.01(3) or 227.42, or Wis. Admin. Code Ch. SPS 1, and shall not be subject to any right to further hearing or appeal.
4. Within 90 days from the date of this Order, Respondent shall pay **COSTS** of this matter in the amount of \$462.

5. Payment of costs (made payable to the Wisconsin Department of Safety and Professional Services), requests for preapproval, submission of reports, and any other submissions required by this Order 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

6. In the event Respondent fails to timely submit payment of the costs as ordered or fails to submit any quarterly reports or other submissions required by this Order, Respondent's license (number 48528-94), or Respondent's right to renew his license, may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of the costs, submission of quarterly reports and any other submissions required by this Order.

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

WISCONSIN REAL ESTATE EXAMINING BOARD

by: Michael Mulleady
A Member of the Board

12/1/10
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

EUGENE A. SAILER,
RESPONDENT.

:
:
:
:
:

STIPULATION

0005056

Division of Legal Services and Compliance Case No. 15 REB 124

Respondent Eugene A. Sailer 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. Respondent consents to the resolution of this investigation by Stipulation.
2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives the following rights:
 - the right to a hearing on the allegations against Respondent, 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 Respondent;
 - the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena;
 - the right to testify on Respondent's 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 Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.
3. Respondent is aware of Respondent's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation.
4. Respondent agrees 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. Respondent waives 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.

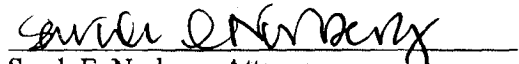
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes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

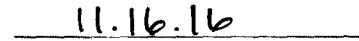
7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

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


Eugene A. Sailer, Respondent
3521 37th Street S
Wisconsin Rapids, WI 54494
License no. 48528-94


Date


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


Date