

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

JAMES M. COEN,
RESPONDENT.

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FINAL DECISION AND ORDER

0005611

Division of Legal Services and Compliance Case No. 16 REB 086

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

James M. Coen
741 Briar Lane
Beloit, WI 53511

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 James M. Coen (DOB 05/28/1959) is licensed by the State of Wisconsin as a real estate salesperson, having license number 55408-94, first issued on September 12, 2002 and current through December 14, 2018. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 741 Briar Lane, Beloit, Wisconsin 53511.

2. On September 24, 2016, Respondent entered into a listing agreement for 2036 Turtle Town Hall Road, Beloit, Wisconsin. The term of the contract was from September 25, 2016 through December 25, 2016.

3. According to tax records for Rock County, the actual address for 2036 Turtle Town Hall Road is 2036 Town Hall Road.

4. On September 27, 2016, Respondent added a new listing for 2036 Townhall [sic] Road to the Multiple Listing Service (MLS). The listing included the following statement: "3 bedroom ranch home on 1 acre lot... extra ½ acre lot with 4 car garage may purchase."

5. The same day, an offer to purchase both the subject property and the extra ½ acre lot was received.

6. Respondent did not have a listing agreement for the extra ½ acre lot, located at 2056 Town Hall Road, Beloit, Wisconsin.

7. On September 29, 2016, the seller rejected the offer.

8. On October 3, 2016, the seller emailed Respondent's supervising broker, G.M. wishing to terminate his listing agreement. The email stated, "I demand you remove yourself/company from the contractual relationship involving 2036 Town Hall Road."

9. On October 6, 2016, the seller of the subject property filed a complaint with the Department regarding this transaction. Division of Legal Services and Compliance Case No. 16 REB 086 was subsequently opened for investigation.

10. Neither Respondent nor his supervising broker responded to the seller's October 3, 2016 email that requested the termination of the listing contract for 2036 Town Hall Road. On October 18, 2016, Respondent withdrew the listing from MLS.

11. 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. 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, Respondent violated Wis. Stat. § 452.133(2)(a)1. by failing to place the client's interests ahead of the interests of the firm.

4. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § REEB 24.04(1) by advertising in a manner which is false, deceptive, or misleading.

5. As a result of the above violations, James M. Coen is subject to discipline pursuant to Wis. Stat. § 452.14(3)(L).

ORDER

1. The attached Stipulation is accepted.
2. Respondent James M. Coen is REPRIMANDED.
3. Within ninety (90) days from the date of this Order, Respondent shall pay one-third of the COSTS of this matter in the amount of \$387.
4. 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

5. In the event Respondent violates any term of this Order, Respondent's license (no. 55408-94), 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 the terms of the Order. The Board may, in addition and/or in the alternative, refer any violation of this Order to the Division of Legal Services and Compliance for further investigation and action.

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

WISCONSIN REAL ESTATE EXAMINING BOARD

by: Robert Welster EK
A Member of the Board

2-2-2018
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JAMES M. COEN,
RESPONDENT.

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:
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:
:

STIPULATION

0005611

Division of Legal Services and Compliance Case No. 16 REB 086

Respondent James M. Coen 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.

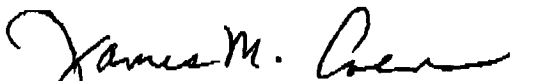
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

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.



James M. Coen, Respondent
741 Briar Lane
Beloit, WI 53511
License no. 55408-94

1-21-18
Date



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

1/23/18
Date