

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

MARK D. BALABAN,
RESPONDENT.

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FINAL DECISION AND ORDER

0005713

Division of Legal Services and Compliance Case No. 17 REB 015

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

Mark D. Balaban
410 Maple Leaf Court
Manitowoc, WI 54220

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 Mark D. Balaban (DOB 08/16/1958) is licensed by the State of Wisconsin as a real estate broker, having license number 48137-90, first issued on September 7, 1995 and current through December 14, 2018. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 410 Maple Leaf Court, Manitowoc, Wisconsin 54220.

2. On February 13, 2017, the Department received a complaint alleging Respondent was sending out anonymous unprofessional letters to other real estate agents in his area. The Division of Legal Services and Compliance subsequently opened Case No. 17 REB 015 for investigation.

3. On or about July 19, 2016, an agent at a local real estate company [Company A]¹ received the following anonymous letter:

Dear [Employee at Company A]²,

You can believe me or not it's up to you, a couple of months ago I was in the company of [Owner/Responsible Broker of Company A] and was able to hear things that she said about you.

"[Employee at Company A] is lazy load mouth bitch"

It really took me by surprise to hear that, the person who she was telling this to was also taken back by that comment. [Owner/Responsible Broker of Company A] said she is friends with [Unknown person] and that is why she hired [Employee at Company A] because of [Unknown person]'s connections.

I didn't sign this because I know [Owner/Responsible Broker of Company A] will deny what she said; you can do what you want to. I thought you should know!

4. On or about December 31, 2016, several members of the Manitowoc County Board of Realtors received an anonymous letter which stated:

To³; Realtors

It has come to my attention from a very good source (who works for [Company A]) told me to be careful when talking to people at [Company A]...your conversation is being recorded!

I'm just giving you heads up, you can believe or not. It's up to you!

Sincerely yours,

Concerned agent

5. In response to the complaint, Respondent admitted he sent the anonymous letters.

6. Based on the foregoing and in an effort to take responsibility for his actions, Respondent successfully completed a professional standards seminar given by the Wisconsin Realtors Association on April 6, 2017.

7. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

¹ Identifying names have been removed to protect the public.

² All grammatical errors are intentional and original.

³ All grammatical errors are intentional and original.

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 act 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 24.07(7) by knowingly giving false information about another licensee.

4. As a result of the above violations, Respondent Mark D. Balaban is subject to discipline pursuant to Wis. Stat. § 452.14(3)(L).

ORDER

1. The attached Stipulation is accepted.

2. Respondent Mark D. Balaban's real estate broker license (no. 48137-90) is **SUSPENDED** for four months beginning 15 calendar days from the date of this Order and the following is satisfied:

a. Respondent shall successfully complete a course in business ethics offered by a provider pre-approved by the Board's monitoring liaison, including taking and passing any exam(s) offered for the course.

b. Respondent 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 the Department, and also may not be used in future attempts to upgrade a credential in Wisconsin.

3. Within 90 days from the date of this Order, Mark D. Balaban shall pay a **FORFEITURE** in the amount of \$1,000 and one-half the **COSTS** of this matter in the amount of \$611.

4. Requests for pre-approval, proof of successful course completion and payment of the forfeiture and costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent by Respondent 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

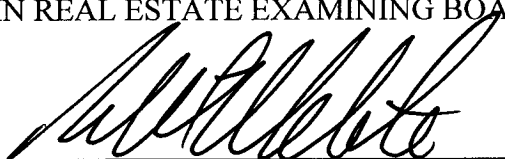
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

5. In the event Respondent violates any term of this Order, Respondent's license (no. 48137-90), or Respondent's right to renew his license, may, in the discretion of the Board or its designee, be further 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:


A Member of the Board


Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

MARK D. BALABAN,
RESPONDENT.

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STIPULATION

0005713

Division of Legal Services and Compliance Case No. 17 REB 015

Respondent Mark D. Balaban 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. Respondent is represented by Attorney Jay D. Koritzinsky.


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.

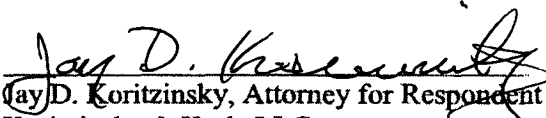
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondent, for purposes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


Mark D. Balaban, Respondent
410 Maple Leaf Ct.
Manitowoc, WI 54220
License no. 48137-90

3-22-2018
Date


Jay D. Koritzinsky, Attorney for Respondent
Koritzinsky & Karls LLC
414 D'Onofrio Dr., Ste. 300
Madison, WI 53719

3/26/18
Date


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

3/28/2018
Date