

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

PATRICK J. BUSHEK,
RESPONDENT.

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FINAL DECISION AND ORDER

0005922

Division of Legal Services and Compliance Case No. 17 REB 068

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

Patrick J. Bushek
5505 Dorsett Dr.
Madison, WI 53711

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 Patrick J. Bushek (DOB April 7, 1948) is licensed by the State of Wisconsin as a real estate salesperson, having license number 43157-94, first issued on April 18, 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 5505 Dorsett Drive, Madison, Wisconsin 53711.

2. On August 4, 2017, the Department received a complaint regarding a real estate transaction handled by Respondent. Division of Legal Services and Compliance Case No. 17 REB 068 was subsequently opened for investigation.

3. On May 16, 2017, Respondent drafted an Offer to Purchase (OTP) on behalf of the buyers of the subject property. The OTP included an inspection contingency with a right to cure.

4. On lines 421-424, the OTP states, "This contingency shall be deemed satisfied unless Buyer, within 7 days of acceptance, delivers to Seller a copy of the written inspection report(s) and a written notice listing the Defect(s) identified in those report(s) to which Buyer objects (Notice of Defects.). **"CAUTION: A proposed amendment is not a Notice of Defects and will not satisfy this notice requirement."** (emphasis in original)

5. On May 17, 2017, the sellers accepted the offer.

6. On May 24, 2017, at approximately 10:15 p.m., the buyers delivered to the sellers a WB-40 Amendment to Offer to Purchase (Amendment) drafted by Respondent attaching the home inspector's five-page Summary to his Report. Buyers demanded acceptance by 11:59 p.m. on that same day.

7. As noted in the OTP standard language, the Amendment was not a proper Notice of Defects.

8. 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. Admin. Code § REEB 16.06(8) by failing to use approved forms and prepare addenda in such a manner as to adequately accomplish the contractual instruction of the person for whom the licensee uses the forms and prepares the addenda.

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

ORDER

1. The attached Stipulation is accepted.

2. Respondent Patrick J. Bushek is REPRIMANDED.

3. The real estate salesperson license (number 43157-94) issued to Patrick J. Bushek is LIMITED as follows:

- a. Within 90 days from the date of this Order, Respondent shall successfully complete six hours of remedial education on the topics of contracts, approved forms, and/or 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(s).
- 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 Department, and also may not be used in future attempts to upgrade a credential in Wisconsin.
4. Within 90 days from the date of this Order, Respondent shall pay COSTS of this matter in the amount of \$325.00.
5. Requests for pre-approval, proof of successful course completion, and payment of 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
6. In the event Respondent violates any term of this Order, Respondent's license (number 43157-94), 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.
7. This Order is effective on the date of its signing.

WISCONSIN REAL ESTATE EXAMINING BOARD

by: Robert Webster *ek*
A Member of the Board

10/18/2018
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

PATRICK J. BUSHEK,
RESPONDENT.

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:
:
:
:

STIPULATION

0005922

Division of Legal Services and Compliance Case No. 17 REB 068

Respondent Patrick J. Bushek 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 Robert A. Mich, Jr.


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.

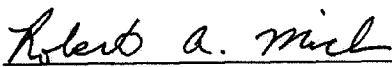
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



Patrick J. Bushek, Respondent
5505 Dorsett Drive
Madison, WI 53711
License no. 43157-94

7/10/2018

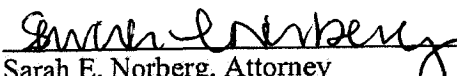
Date



Robert A. Mich, Jr., Attorney for Respondent
Kay & Andersen LLC
One Point Place, Suite 201
Madison, WI 53719

7/10/18

Date



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

7.10.18

Date