

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



### **Wisconsin Department of Safety and Professional Services Access to the Public Records of the Reports of Decisions**

This Reports of Decisions document was retrieved from the Wisconsin Department of Safety and Professional Services website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

#### **Please read this agreement prior to viewing the Decision:**

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Safety and Professional Services from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Safety and Professional Services data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Safety and Professional Services, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name* as it appears on the order.
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Safety and Professional Services is shown on the Department's Web Site under "License Lookup."

The status of an appeal may be found on court access websites at:

<http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscca>

- Records not open to public inspection by statute are not contained on this website.

**By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.**

**Correcting information on the DSPS website:** An individual who believes that information on the website is inaccurate may contact [DSPS@wisconsin.gov](mailto:DSPS@wisconsin.gov)

STATE OF WISCONSIN  
BEFORE THE REAL ESTATE EXAMINING BOARD

---

IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

ROGER W. MCDOWELL,  
RESPONDENT.

:  
:  
:  
:  
:

FINAL DECISION AND ORDER

**0005923**

---

Division of Legal Services and Compliance Case No. 17 REB 029

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

Roger W. McDowell  
W2524 N. Kinney Coulee Rd.  
Onalaska, WI 54650

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 Roger W. McDowell (DOB December 30, 1947) is licensed by the State of Wisconsin as a real estate salesperson, having license number 75783-94, first issued on January 24, 2012 and current through December 14, 2018. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is W2524 North Kinney Coulee Road, Onalaska, Wisconsin 54650.

2. On January 29, 2017, buyer DS, Respondent's client, observed an advertisement in a newspaper for an open house for a property with a list price of \$174,900.

3. When DS attended the open house, the seller's agent co-agent was handing out flyers indicating that the asking price was in fact \$245,000 and that an error had been made in the advertisement.

4. DS asked Respondent to prepare an Offer to Purchase for the property with an offer of \$150,000 based on the advertised price and possible settling of the property.

5. On January 30, 2017, Respondent prepared the Offer to Purchase with an offer price of \$150,000.

6. On January 31, 2017, DS and her husband signed the Offer to Purchase.

7. On February 1, 2017, Respondent presented the Offer to Purchase to the seller's agent.

8. On or about February 1, 2017, Respondent received a telephone call from seller's agent indicating that the offer had been rejected by the seller.

9. On or about February 3, 2017, in a text communication between himself and DS, Respondent stated:

"I will send the copy of your offer that was sent to [seller's agent co-agent] and he forwarded to [seller's agent]. She called me to tell me that the seller was not accepting the offer. I doubt if she actually formally presented the offer to the seller. She was telling me how good the home was and I indicated that you felt the house was settling. She then mentioned the south wall. She indicated that they had measured the settling when she last sold it and that it had not changed. The settling should have been listed by the realtor as a material adverse fact. If you have the newspaper ad and the flyer with the price, I do feel you have a case to argue. If our offer had been for the ad price, I feel you would have an even better possibility. ... A buyer does have the legal right to refuse an offer unless it is a full price offer. I am not sure what happens if the listing contract shows \$245,000 and there were amendments to the \$174,900. ... I think you have a case against GH (seller's agent's realty company) more so than the owner but I am not a lawyer."

10. Respondent ceased practicing real estate on November 18, 2017 and wishes to surrender his real estate salesperson license.

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. § 452.40(2) by providing advice or opinions concerning the legal rights or obligations of parties to a transaction.

4. 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 misrepresentation and unethical practices.

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

#### ORDER

1. The attached Stipulation is accepted.

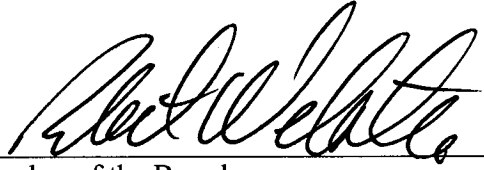
2. The VOLUNTARY SURRENDER of Respondent Roger W. McDowell's real estate salesperson license (number 75783-94) is ACCEPTED.

3. This surrender constitutes Respondent's permanent relinquishment of his real estate salesperson license and his right to practice real estate in the state of Wisconsin. The Board will not, at any time in the future, process or otherwise consider an application or attempt at renewal by Respondent of credentials necessary to practice real estate in the state of Wisconsin.

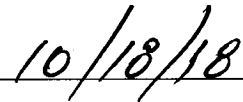
4. This Order is effective on the date of its signing.

#### 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

ROGER W. MCDOWELL,  
RESPONDENT.

:  
:  
:  
:  
:  
:

STIPULATION

**0005923**

---

Division of Legal Services and Compliance Case No. 17 REB 029

Respondent Roger W. McDowell 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.

Roger W. McDowell  
Roger W. McDowell, Respondent  
W2524 N. Kinney Coulee Rd.  
Onalaska, WI 54650  
License no. 75783-94

OCT. 4, 2018  
Date

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

10.4.18  
Date