

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

CHRIS H. MURPHY,
RESPONDENT.

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FINAL DECISION AND ORDER

ORDER 0006374

Division of Legal Services and Compliance Case Nos. 17 REB 034 and 17 REB 090

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

Chris H. Murphy
3301 Buchanan Road
Appleton, WI 54913

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 Chris H. Murphy (DOB 11/20/1968) is licensed by the State of Wisconsin as a real estate broker, having license number 52895-90, first issued on April 12, 2005 and current through December 14, 2020. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 3301 Buchanan Road, Appleton, Wisconsin 54913.

17 REB 034

2. On April 4, 2017, the Department received a complaint regarding Respondent's brokerage services for the subject property located at 1364 W. Mason Ridge Court, Appleton,

Wisconsin. The Division of Legal Services and Compliance (Division) subsequently opened Case Number 17 REB 034 for investigation.

3. On June 30, 2016, Complainant signed a WB-1 Residential Listing Contract (First Contract) with Respondent for the sale of Complainant's home at 1364 W. Mason Ridge Court, Appleton, Wisconsin for a term from June 30, 2016 through December 30, 2016.

4. On the First Contract's Listing Questionnaire Regarding Title Issues form, Complainant indicated that there was a credit lien on the property, but no mortgage information was listed on the Title Information form.

5. On or about September 23, 2016, Complainant and Respondent signed a second WB-1 Residential Listing Contract (Second Contract) for the sale of the subject property for a term from September 26, 2016 through September 26, 2017.

6. The Second Contract and its addenda and amendments contained the following errors:

- a. The file reference of pages 2-5, located in the bottom-right corners, indicated "Sample", while the file reference of the first page indicated "1364 W Mason Ridge". The first page of the contract indicated that it was page 1 of 6, but the remainder of the pages indicated that the contract was only five pages. Indicated different versions of this contract were created but only one incomplete document was maintained.
- b. Complainant's initials were erroneously omitted from line 129 of the WB-1.
- c. Complainant's spouse signed the Seller's Property Improvements form, the Seller's Estimated Costs form, the Inclusions/Exclusions form, and the Home Warranty; Complainant's signature was absent from each of these forms.
- d. The Title Issues form indicated that there was no credit lien on the property, and the Title Information form was not completed for this listing.
- e. The November 2, 2016 WB-42 to change the listing price was never signed by Respondent or Respondent's supervising broker.

7. On or about November 22, 2016, Complainant and Respondent signed a third WB-1 Residential Listing Contract (Third Contract) for the sale of the subject property for a term from November 22, 2016 through November 22, 2017.

8. The Third Contract contained the following errors:

- a. The Third Contract's Title Issue form indicated that there was either unrecorded contracts or persons claiming ownership rights or lien rights

on the property, but no explanation was provided at the bottom of the form. The Title Information form did not list any mortgage information.

- b. The electronic signature for Complainant's spouse misspelled her first name.

9. On or about November 28, 2016, Complainant and Respondent signed a fourth WB-1 Residential Listing Contract (Fourth Contract) for the sale of the subject property for a term from November 30, 2016 through November 30, 2017. On this Contract, the electronic signature for Complainant's spouse misspelled her first name.

10. On January 14, 2017, Respondent sent an email to Complainant indicating that she had shown the property to a prospective buyer prior to that date. The MLS history did not indicate that this showing occurred.

11. On August 10, 2017, Respondent drafted a Cancellation and Mutual Release (CAMR).

12. The CAMR stated that the Second Contract was canceled, but only if all parties executed the CAMR on or before August 13, 2017. Complainant never signed the CAMR and Complainant's spouse did not sign it until September 12, 2017.

17 REB 090

13. On September 20, 2017, the Department received a complaint regarding Respondent's brokerage services for the subject property located at 1033 Apple Bottom Court, Kaukauna, Wisconsin. Division of Legal Services and Compliance (Division) subsequently opened Case Number 17 REB 090 for investigation.

14. On or about April 15, 2017, Complainant and Respondent executed a WB-11 form for the purchase of a property.

15. The WB-11 form initially provided to the Department was hand-written, and the form's file reference indicated that it was a sample document.

16. The WB-11 form received by the Department on June 7, 2018 in response to the complaint, was a typed version. The last page of this WB-11 was hand-written and appeared to be copied from the hand-written version of the WB-11 that the Department received earlier as a part of the complaint. This is supported by that fact that while the file reference of the first 8 pages of the typed WB-11 indicated "1033 Apple Blossom", the file reference of the last page indicated "Offer Sample", which is the file reference indicated on every page of the hand-written WB-11. The WB-11 provided to the Department by Respondent did not include all 9 pages.

17. On April 15, 2017, Respondent completed the WB-36 form. Complainant's printed name, telephone number, and a date were listed on lines 224 and 226, but her signature was absent from the signature line. Complainant signed the contract where Respondent's signature should have been, and Respondent did not sign the contract.

18. On the April 17, 2017 RANW Addendum TR, Respondent listed herself as the seller's agent. Respondent later admitted to a Department investigator that she did not represent the seller.

19. On the June 16, 2017 WB-41 form, Respondent's partner's printed name was absent from line 34, and Respondent did not complete line 41, the time stamp for notice. A completed WB-41 with receiving party's acknowledgment was not maintained by Respondent.

20. On November 27, 2017, the Department mailed a letter to Respondent at her address of record with the Department to notify her of the complaint and request a response. USPS returned this mailing to the Department as "Return to Sender" on December 8, 2017.

21. On December 8, 2017, the Department mailed a letter to Respondent, at her updated address of record with the Department, to notify her of the complaint and request a response. The Department did not receive a response to this letter.

22. On December 29, 2017, the Department emailed Respondent's supervising broker to request updated contact information for Respondent. Respondent's supervising broker replied on the same day and courtesy copied Respondent with the reply.

23. On January 10, 2018, Respondent contacted the Department. Respondent asserted that she had not received any correspondence from the Department, however, the December 8, 2017 letter had been sent to Respondent's updated mailing address.

24. 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. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § REEB 15.04(1) by failing to retain for at least 2 years exact and complete copies of all documents prepared or received in connection with any transaction.

5. By the conduct described in the Findings of Facts, Respondent violated Wis. Admin. Code § REEB 24.17(5) by failing to respond to a request for information from the Department within 30 days of the date of the request.

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

ORDER

1. The attached Stipulation is accepted.
2. Respondent Chris H. Murphy is REPRIMANDED.
3. Respondent Chris H. Murphy's real estate broker license (no. 52895-90) is LIMITED as follows:
 - a. Within sixty (60) days of the date of this Order, Respondent shall successfully complete a course on the topic of forms and business practices.
 - 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.
 - c. The education completed pursuant to this Order may not be used to satisfy any other education requirements with the Board.
4. Within ninety (90) days from the date of this Order, Respondent shall pay a FORFEITURE in the amount of \$1,000, and pay one-half the COSTS of Case Nos. 17 REB 034 and 17 REB 090 in the amount of \$2,273.
5. 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

This information may also be submitted online via DSPS' Monitoring Case Management System at: <https://app.wi.gov/DSPSMonitoring>.

6. In the event Respondent violates any term of this Order, Respondent's license (number 52895-90), or Respondent's right to renew her 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:

Jon Riché
A Member of the Board

8-22-19
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

CHRIS H. MURPHY,
RESPONDENT.

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STIPULATION

ORDER 0006374

Division of Legal Services and Compliance Case Nos. 17 REB 034 and 17 REB 090

Respondent Chris H. Murphy 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.

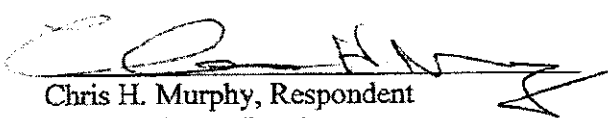
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division of

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.

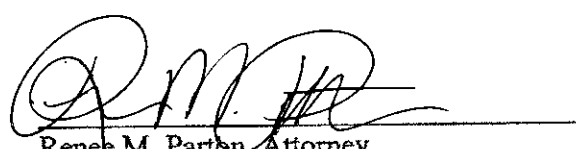
7. Respondent is informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

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.



Chris H. Murphy, Respondent
3301 Buchanan Road
Appleton, WI 54913
Credential No. 52895-90

8-16-19
Date



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

8/19/2019
Date