

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

BRANDON MORTENSON,
RESPONDENTS.

:
:
: FINAL DECISION AND ORDER

:
: **ORDER 0006680**

Division of Legal Services and Compliance Case No. 17 REB 098

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

Brandon Mortenson
Oregon, WI 53575

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 Branden Mortenson (DOB xx/xx/1973) is licensed by the State of Wisconsin as a real estate salesperson, having license number 61737-94, first issued on October 14, 2004 and current through December 14, 2020. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is in Oregon, Wisconsin 53575.

2. On October 11, 2017, the Department received a complaint from C.O. who alleged she was notified, after closing on a property, of open City of Madison code violations on the property that were not disclosed by Respondent or his clients, the sellers, during the real estate transaction. Division of Legal Services and Compliance (DLSC) case number 17 REB 098 was subsequently opened for investigation.

3. On April 10, 2017, a notice was mailed to the sellers that detailed the code violations that needed to be addressed. These items needed to be addressed and completed by August 1, 2017.

4. Respondent was informed by the sellers during a pre-listing walk through of the property in May 2017 that the City of Madison inspected the property and had a few items that were to be corrected. Respondent claims that the sellers wanted to take care of the repairs prior to listing so when he was contacted by the sellers to list the property approximately one week later, he "had no reason to believe the seller hadn't taken care of the items, and did not deem it necessary to call the City to check [the seller's] work."

5. On May 25, 2017, the sellers completed the Real Estate Condition Report. Under Property Condition Statements - C21, it states, "I am aware of federal, state or local regulations requiring repairs, alterations or corrections of an existing condition. *This might include, but is not limited to, orders to correct building code violations.*" The Sellers marked "No."

6. On August 14, 2017, C.O. and her husband closed on the property.

7. On September 7, 2017, C.O. received a Reissued Official Notice from the City of Madison outlining several City of Madison code violations regarding the property.

8. A housing inspector supervisor for the City of Madison provided email exchanges between the inspector and the sellers on May 22, 2017, July 17, 2017, and August 21, 2017 which indicated that the work was not completed as required by the City of Madison.

9. Department records indicate Respondent's real estate salesperson license expired on December 15, 2016 and was renewed on February 7, 2017. Respondent listed one (1) property on January 24, 2017 while his license was expired.

10. In resolution of this matter, Respondents consent 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. § 452.03(1) by engaging in the practice of real estate while his real estate salesperson license was expired between December 15, 2017 and February 7, 2017.

3. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § REEB 24.07(1)(b) by failing, before executing the listing contract to inspect and make inquiries of the seller on the condition of the structure, mechanical systems and other relevant aspects of the property as applicable.

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

ORDER

1. The attached Stipulation is accepted.
2. Respondent Brandon Mortenson is REPRIMANDED.
3. The real estate salesperson license (number 61737-94) issued to Brandon Mortenson is LIMITED as follows:
 - a. Within 90 days from the date of this Order, Respondent shall successfully complete three hours of remedial education on the topic of business ethics – disclosures 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 the COSTS of this matter in the amount of \$678.
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

8. In the event Respondent violates any term of this Order, Respondent’s license (number 61737-94), 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.

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

WISCONSIN REAL ESTATE EXAMINING BOARD

by: *Richard M. Peir*
A Member of the Board

2/20/2021
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

BRANDON M. MORTENSON,
RESPONDENT.

:
:
:
:
:

STIPULATION

ORDER 0006680

Division of Legal Services and Compliance Case No. 17 REB 098

Respondent Brandon M. Mortenson 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.

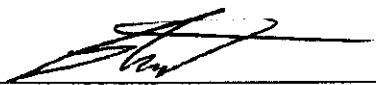
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division

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.

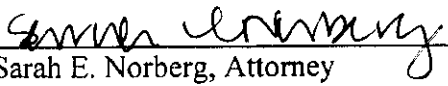
8. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



Brandon M. Mortenson, Respondent
Oregon, WI 53575
License no. 61737-94

01/06/2020

Date



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

1.7.2020

Date