

## 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/wscga>

- 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 :  
 : FINAL DECISION AND ORDER  
LYN M. HERRIOT AND :  
YELLOW HOUSE REALTY, LLC, :  
RESPONDENTS. : **ORDER 0006954**

---

Division of Legal Services and Compliance Case No. 18 REB 044

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

Lyn M. Herriot  
Ripon, WI 54971

Yellow House Realty, LLC  
Ripon, WI 54971

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 Lyn M. Herriot (Birth Year 1954) is licensed by the State of Wisconsin as a real estate broker, having license number 41395-90, first issued on May 15, 1987 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 Ripon, Wisconsin 54971.

2. Respondent Yellow House Realty, LLC is licensed by the State of Wisconsin as a real estate business entity, having license number 700411-91, first issued on January 9, 2001 and

current through December 14, 2020. Respondent's most recent address on file with the Department is in Ripon, Wisconsin 54971.

3. Respondent Lyn M. Herriot is identified in Department records as the responsible licensee in charge of Respondent Yellow House Realty, LLC.

4. Respondents maintain a real estate trust account at Horicon Bank in Horicon, Wisconsin, with account number ending in -14.

5. On May 9, 2018, a Department auditor conducted an audit of Respondents' trust account. The audit revealed the following:

- a. Respondents had not performed a correct trust account reconciliation since 2009;
- b. Respondents' QuickBooks trust account reconciliation report showed two uncleared deposits from before the 2009 audit, as well as four others dating from 2012-2016;
- c. Respondents' QuickBooks trust account reconciliation report also showed eleven uncleared checks, dating back to 2007. These checks contained the following errors:
  - i. Check # 5474 was recorded twice in 2007. This error had never been corrected;
  - ii. Check # 5724 was recorded as a credit (inflow) to the trust account, instead of an outflow; and was shown as outstanding since 2013; and
  - iii. Two checks (Check # 1587 and 1617) that were shown as uncleared had actually cleared in August 2017 and March 2018, respectively.
- d. Respondents were unable to produce trial balance reports; and
- e. Respondents' April 30, 2018 trial balance report, printed from QuickBooks by the Department auditor, showed 27 open transactions. The information provided to the Department auditor indicated that there should have only been 16.

6. On January 25, 2019, the Department mailed a letter to Respondents to request their response to the audit findings.

7. On February 19, 2019, the Department received a response from Certified Public Accountant Dean C. Rogers on behalf of Respondents. Rogers' letter indicated that he assisted Respondents' bookkeeper with correcting their trust account records.

8. On August 27, 2019, the Department emailed Respondents to request their last three months (May, June, and July 2019) of reconciliations and bank statements for their trust account.

9. On August 27, 2019, Respondents emailed the requested documents to the Department. A review of these materials revealed that each month had been reconciled, all earned money could be accounted for, and there were no outstanding checks.

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 Yellow House Realty, LLC and Respondent Lyn M. Herriot violated Wis. Admin. Code § REEB 18.13(3) by failing to reconcile the real estate trust account or accounts in writing each month.

3. By the conduct described in the Findings of Fact, Respondent Yellow House Realty, LLC and Respondent Lyn M. Herriot violated Wis. Admin. Code § REEB 18.13(4) by failing to prepare a written trial balance of all open items in the real estate trust account.

4. By the conduct described in the Findings of Fact, Respondent Yellow House Realty, LLC and Respondent Lyn M. Herriot violated Wis. Admin. Code § REEB 18.13(5) by failing to validate the account statement balance.

5. By the conduct described in the Findings of Fact, Respondent Yellow House Realty, LLC has demonstrated incompetency to act as a licensee per Wis. Admin. Code § REEB 18.14 by failing to comply with Wis. Admin. Code ch. REEB 18.

6. By the conduct described in the Findings of Fact, Respondent Lyn M. Herriot violated Wis. Admin. Code § REEB 24.03(2)(a) by providing services which she was not competent to provide.

7. By the conduct described in the Findings of Fact, Respondent Yellow House Realty, LLC violated Wis. Admin. Code § REEB 24.17(3) by aiding and abetting the above violations.

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

#### ORDER

1. The attached Stipulation is accepted.
2. Respondent Lyn M. Herriot is REPRIMANDED.

3. Respondent Yellow House Realty, LLC is REPRIMANDED.
4. Respondent Lyn M. Herriot's real estate broker license (no. 41395-90) is LIMITED as follows:
  - a. Within ninety (90) days of the date of this Order, Respondent shall successfully complete one remedial education course on the topic of financial and office management from 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.
  - c. The education completed pursuant to this Order may not be used to satisfy any other continuing education requirements with the Board.
5. Within ninety (90) days from the date of this Order, Respondent Lyn M. Herriot shall pay one-half of the COSTS of this matter in the amount of \$564.00.
6. Within ninety (90) days from the date of this Order, Respondent Yellow House Realty, LLC shall pay one-half of the COSTS of this matter in the amount of \$564.00.
7. 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 by Respondents 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](mailto:DSPSMonitoring@wisconsin.gov)

You may also submit this information online via DSPS' Monitoring Case Management System at: <https://dspsmonitoring.wi.gov>

8. In the event Respondents violate any term of this Order, Respondents' credentials (numbers 41395-90 and 700411-91), or Respondents' right to renew their credentials, may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondents have 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: Thomas J. Rebie  
A Member of the Board

20 August 2020  
Date

STATE OF WISCONSIN  
BEFORE THE REAL ESTATE EXAMINING BOARD

---

IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

LYN M. HERRIOT AND  
YELLOW HOUSE REALTY, LLC,  
RESPONDENTS.

:  
:  
:  
:  
:  
:  
:

STIPULATION

**ORDER 0006954**

---

Division of Legal Services and Compliance Case No. 18 REB 044

Respondents Lyn M. Herriot and Yellow House Realty, LLC 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. Respondents consent to the resolution of this investigation by Stipulation.

2. Respondents understand that by signing this Stipulation, Respondents voluntarily and knowingly waive the following rights:

- the right to a hearing on the allegations against Respondents, 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 Respondents;
- the right to call witnesses on Respondents' behalf and to compel their attendance by subpoena;
- the right to testify on Respondents' 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 Respondents under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Respondents are aware of Respondents' right to seek legal representation and have been provided an opportunity to obtain legal counsel before signing this Stipulation.

4. Respondents agree 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. Respondents waive all rights to any appeal of the Board's order, if adopted in the form as attached.

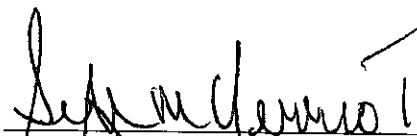
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division


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.

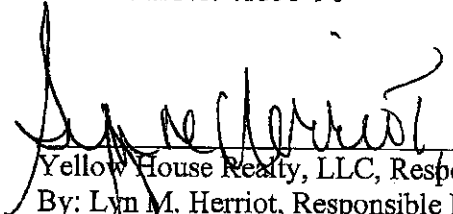
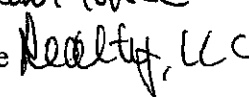
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondents, for purposes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

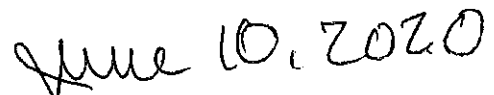
7. Respondents are informed that should the Board adopt this Stipulation, the Board's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

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

  
\_\_\_\_\_  
Lyn M. Herriot, Respondent  
Ripon, WI 54971  
Credential No. 41395-90

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Yellow House Realty, LLC, Respondent  
By: Lyn M. Herriot, Responsible Licensee   
Ripon, WI 54971  
Credential No. 700411-91

  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Zachary Hetfield, Attorney  
Division of Legal Services and Compliance  
P.O. Box 7190  
Madison, WI 53707-7190

06/11/2020  
\_\_\_\_\_  
Date