

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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Before The  
State Of Wisconsin  
REAL ESTATE EXAMINING BOARD

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In the Matter of Disciplinary Proceedings Against  
Joseph L. Hazelwood, Respondent

FINAL DECISION AND ORDER

Order No. **ORDER 0007056**

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**Division of Legal Services and Compliance Case No. 17 REB 101 and 18 REB 006**

The State of Wisconsin, Real Estate Examining Board, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, make the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Real Estate Examining Board.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated at Madison, Wisconsin on the 29 day of October, 2020.

A handwritten signature in cursive script that reads "Thomas J. Rubin".

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Member  
Real Estate Examining Board



Before The  
State of Wisconsin  
DIVISION OF HEARINGS AND APPEALS

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In the Matter of Disciplinary Proceedings Against  
Joseph L. Hazelwood, Respondent

DHA Case No. SPS-19-0062  
DLSC Case Nos. 17 REB 101  
and 18 REB 006

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**PROPOSED DECISION AND ORDER**

The parties to this proceeding for purposes of Wis. Stat. §§ 227.47(1) and 227.53 are:

Joseph L. Hazelwood  
2924 North 58<sup>th</sup> Street, Unit D  
Milwaukee, WI 53210

Wisconsin Real Estate Examining Board  
P.O. Box 8366  
Madison, WI 53708-8366

Department of Safety and Professional Services, Division of Legal Services and  
Compliance, by

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

PROCEDURAL HISTORY

These proceedings were initiated when the Department of Safety and Professional Services (Department), Division of Legal Services and Compliance (Division), filed and served a formal Notice of Hearing and Complaint against Respondent Joseph L. Hazelwood (Respondent). The Complaint alleged that Respondent's license was subject to disciplinary action pursuant to Wis. Stat. § 452.14(3)(L) because Respondent violated Wis. Admin. Code § REEB 24.17(5) by failing to respond to the Department regarding multiple requests for information within 30 days of the date of the request.

The Division served Respondent on October 30, 2019, by sending a copy of the Notice of Hearing and Complaint to his address on file with the Department by both certified and regular mail, consistent with Wis. Admin. Code § SPS 2.08(1). Respondent failed to file an Answer to the Complaint, as required by Wis. Admin. Code § SPS 2.09(4), and failed to appear at the telephone prehearing conference held before the Division of Hearings and Appeals on December 10, 2019.

The Division moved for default, pursuant to Wis. Admin. Code § SPS 2.14 and Wis. Admin. Code § HA 1.07(3)(c). In light of Respondent's failure to file an Answer to the Complaint and failure to appear for the December 10, 2019 prehearing conference, Administrative Law Judge (ALJ) Sally Pederson found Respondent to be in default and issued a Notice of Default and Order on December 11, 2019. The Division timely filed a recommended proposed decision and order by January 17, 2020.

### FINDINGS OF FACT

#### Facts Related to the Alleged Violation

Findings of Facts 1-18 are set forth in the Division's Complaint against Respondent filed in this matter.

1. Respondent Joseph L. Hazelwood is licensed by the State of Wisconsin as a real estate broker, having license number 51916-90, first issued on December 1, 2003 and current through December 14, 2020.
2. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 2924 North 58<sup>th</sup> Street, Unit D, Milwaukee, Wisconsin 53210.
3. On October 17, 2017, the Department received a complaint regarding Respondent. Division of Legal Services and Compliance (Division) Case Number 17 REB 101 was subsequently opened for investigation.
4. On December 21, 2017, the Department sent a letter to Respondent, at his address of record, notifying him that a complaint had been received against his real estate broker license and requesting his response to Division Case Number 17 REB 101.
5. On January 27, 2018, the Department received another complaint regarding Respondent. Division Case Number 18 REB 006 was subsequently opened for investigation.
6. On January 29, 2018, the Department sent a letter to Respondent, at his address of record, notifying him that a complaint had been received against his real estate broker license and requesting his response to Division Case Number 18 REB 006.

7. On March 20, 2018, the Department sent a letter via certified mail to Respondent, at his address of record, requesting his response to the complaint in Division Case Number 18 REB 006. The certified letter was returned as "Unclaimed" on July 19, 2018.
8. On March 21, 2018, the Department sent a letter via certified mail to Respondent, at his address of record, requesting his response to the complaint in Division Case Number 17 REB 101.
9. On May 9, 2018, the Department sent a letter via certified mail to Respondent, at his address of record, requesting his response to the complaint in Division Case Number 18 REB 006. The certified letter was returned as "Unclaimed" on June 8, 2018.
10. On June 6, 2018, the Department sent a letter via certified mail to Respondent, at the address of 9073 N Silver Brook Lane, Milwaukee, Wisconsin 53223-2209, requesting his response to the complaint in Division Case Number 18 REB 006. This address was obtained from a Department search of public records. On August 10, 2018, the certified letter was returned as "Unclaimed."
11. On June 7, 2018, the Department sent a letter via certified mail to Respondent, at the address of 9073 N. Silver Brook Lane, Milwaukee, Wisconsin, requesting his response to the complaint in Division Case Number 17 REB 101. On August 13, 2018, the letter was returned to the Department marked "Unclaimed."
12. On April 24, 2019, a Department search of the Multiple Listing Service system indicated that Respondent's address was 9073 N. Silver Brook Lane, Brown Deer, WI.
13. On April 24, 2019, the Department emailed a letter to Respondent, at his email address of record, requesting his response to the complaints.
14. On April 24, 2019, Respondent called the Department and indicated his belief that he had sent the Department all of the necessary information and that the cases were closed. Respondent was informed that the Department had not received a response from him, that a response was still required from him, and that the cases remained open.
15. On April 24, 2019, following the phone call, the Department emailed Respondent, at his email address of record, to confirm the conversation and to request a response to the complaints.
16. On May 13, 2019, the Department emailed Respondent, at his email address of record, requesting his response to the complaint in Division Case Number 18 REB 006.
17. On May 15, 2019, the Department called Respondent, at his telephone number of record. The Department left a voicemail for Respondent requesting his response to the complaints.

18. Respondent has not provided responses to any of the Department's requests for information regarding Division Case Numbers 17 REB 001 and 18 REB 006.

#### Facts Related to Default

19. The Notice of Hearing and Complaint in this matter were served on Respondent on October 30, 2019, by both certified and regular mail. The Notice of Hearing informed Respondent: "[i]f you do not provide a proper Answer within 20 days, you will be found to be in default and a default judgment may be entered against you on the basis of the Complaint and other evidence. In addition, the Board may take disciplinary action against you and impose the costs of the investigation, prosecution and other costs ... without further notice or hearing."
20. Respondent did not file a written Answer.
21. Following the expiration of the 20-day time period to file an Answer, the ALJ scheduled a telephone prehearing conference for November 26, 2019 at 11:00 a.m. Notice of this prehearing conference was sent to both parties, with instructions that Respondent provide the ALJ with a telephone number no later than November 25, 2019, at which he could be reached for the prehearing conference. The Notice advised Respondent that failure to appear at a scheduled conference or hearing may result in default judgment being entered against him.
22. Respondent failed to provide the ALJ with a telephone number at which he could be reached for the prehearing conference.
23. At the prehearing conference on November 26, 2019, the Division provided a telephone number for Respondent, at which the ALJ reached Respondent. Respondent said that he was unable to participate in the prehearing conference on November 26, 2019 and requested that it be rescheduled. The ALJ granted his request, and Respondent and the Division agreed to reschedule the prehearing telephone conference to December 3, 2019 at 10:00 a.m. Respondent also agreed that notice of the rescheduled prehearing conference could be sent to him by electronic mail and confirmed his email address.
24. On November 26, 2019, the Notice of Rescheduled Prehearing Conference was emailed to Respondent at the email address he provided.
25. The ALJ attempted to convene the rescheduled prehearing conference with the parties on December 3, 2019 at 10:30 a.m. Respondent did not answer the telephone and did not return the call to the ALJ within 15 minutes as requested by the ALJ in a voice mail message she left for him. Because the prehearing telephone conference was held at 10:30 a.m., rather than at 10:00 a.m. as noticed, the ALJ again rescheduled the prehearing conference to December 10, 2019 at 1:30 p.m.

26. The Notice of Rescheduled Prehearing Conference was sent by email to Respondent on December 3, 2019.
27. On December 10, 2019 at 1:30 p.m., the ALJ again attempted to reach Respondent by telephone for the second rescheduled prehearing conference. Respondent did not answer the telephone. The ALJ left a voicemail message for Respondent instructing him to contact the ALJ at her telephone number in 10 minutes, failing which the ALJ would reconvene the prehearing conference without Respondent. Respondent did not contact the ALJ at the telephone number provided by the ALJ. The ALJ reconvened the prehearing conference with the Division and without Respondent.
28. Based on Respondent's failure to file an Answer to the Complaint and failure to appear at the rescheduled prehearing conference, the Division moved for default, pursuant to Wis. Admin. Code §§ SPS 2.14 and HA 1.07(3)(c).
29. On December 11, 2019, the ALJ issued a Notice of Default and Order finding Respondent in default and requiring the Division to file and serve, no later than January 17, 2020, a recommended proposed decision and order.
30. The Division timely filed its recommended proposed decision and order.

#### DISCUSSION AND CONCLUSIONS OF LAW

##### Jurisdictional Authority

Pursuant to Wis. Admin. Code § SPS 2.10(2), the undersigned ALJ has authority to preside over this disciplinary proceeding in accordance with Wis. Stat. § 227.46(1).

##### Default

Respondent is in default for failing to file an Answer to the Complaint and failing to appear at the December 10, 2019 prehearing telephone conference. Accordingly, an order may be entered against Respondent on the basis of the Complaint and other evidence. *See* Wis. Admin. Code §§ SPS 2.14 and HA 1.07(3).

##### Violation

Chapter 452 of the Wisconsin Statutes governs the practice of real estate in Wisconsin, including the licensing of brokers. Under Wis. Stat. § 452.14(3)(L), the Wisconsin Real Estate Examining Board (Board) "may revoke, suspend, or limit the license of any licensee, or reprimand the licensee, if it finds that the licensee has ... [v]iolated any provision of this chapter or any rule promulgated under this chapter."

Pursuant to Wis. Admin. Code § REEB 24.17(5), licensees “shall respond to the department and the board regarding any request for information within 30 days of the date of the request.”

Here, the undisputed facts establish that the Department received two complaints against Respondent. The Department attempted to contact Respondent numerous times for information regarding the complaints. The Department sent requests for information to Respondent via U.S. mail on December 21, 2017, and on January 29, March 20, March 21, May 9, June 6 and June 7, 2018. In addition, the Department sent requests for information to Respondent via email on April 24 and May 13, 2019. The Department also attempted to contact Respondent via telephone on May 15, 2019. Respondent did not provide responses to any of the Department’s multiple requests for information.

Respondent has made no argument contrary to the undisputed facts set forth herein. Accordingly, I conclude that Respondent violated Wis. Admin. Code § REEB 24.17(5). As a result of the violation, Respondent is subject to discipline pursuant to Wis. Stat. § 452.14(3)(L).

#### Appropriate Discipline

The three purposes of discipline are: (1) to promote the rehabilitation of the credential holder; (2) to protect the public from other instances of misconduct; and (3) to deter other credential holders from engaging in similar conduct. *State v. Aldrich*, 71 Wis. 2d 206, 237 N.W.2d 689 (1976).

The Division recommends Respondent’s real estate broker license be revoked. The recommended discipline is consistent with the purposes articulated in *Aldrich* and with case law. “Protection of the public is the purpose of requiring a license.” *State ex rel. Green v. Clark*, 235 Wis. 628, 631, 294 N.W. 25 (1940). When a license is granted to an individual, Wisconsin is assuring the public that the licensed individual is competent in his or her profession. *Stringez v. Dep’t of Regulation & Licensing Dentistry Examining Bd.*, 103 Wis. 2d 281, 287, 307 N.W.2d 664 (1981). It follows that, if the State cannot assure the public of the licensee’s competence to practice the profession, then license revocation is appropriate. *Gilbert v. State Medical Examining Bd.*, 119 Wis. 2d 168, 189–90, 349 N.W.2d 68 (1984).

Respondent’s refusal to respond to the Department’s numerous requests for information renders the Board unable to assure the public that Respondent is competent to practice. Respondent’s repeated refusal to respond shows his disrespect for the law, the public welfare, and the licensing authority governing his profession. Accordingly, revocation of Respondent’s license is appropriate and necessary.

Promoting rehabilitation is one of the purposes of discipline; however, rehabilitation is not plausible in this case as Respondent refuses to submit to the authority of the Board which granted his license. The Department offered Respondent numerous opportunities to respond to the complaints filed against him. Having obtained no information from Respondent, the Board cannot ascertain what, if any, rehabilitative measures might be effective.



Revocation in this case will also serve to deter other licensees from believing they might escape disciplinary action by merely ignoring the Board's attempts to investigate a complaint. To allow licensees to impede the Board's investigations by failing to respond would undermine the purpose of the licensing statutes.

In summary, based upon the facts of this case, as well as the factors set forth in *Aldrich*, I find that revocation of Respondent's real estate broker license is warranted.

### Costs

The Board is vested with discretion concerning whether to assess all or part of the costs of this proceeding against Respondent. *See* Wis. Stat. § 440.22(2). In exercising such discretion, the Board must look at aggravating and mitigating facts of the case; it may not assess costs against a licensee based solely on a "rigid rule or invocation of an omnipresent policy," such as preventing those costs from being passed on to others. *Noesen v. State Department of Regulation & Licensing, Pharmacy Examining Board*, 2008 WI App 52, ¶¶ 30-32, 311 Wis. 2d. 237, 751 N.W.2d 385.

In previous orders, the Board has considered many factors when determining if all or part of the costs should be assessed against a respondent. *See In the Matter of Disciplinary Proceedings against Elizabeth Buenzli-Fritz* (LS0802183 CHI) (Aug. 14, 2008). It is within the Board's discretion as to which, if any, of these factors to consider, whether other factors should be considered, and how much weight to give any factors considered.

The following facts are particularly relevant in the instant case. First, the Division proved the violation. This is not a case where the Division wasted resources or incurred additional costs by alleging multiple counts and failing to prove those allegations. Second, Respondent's violation is serious. Respondent did not cooperate with the Department's investigation or with these proceedings, despite being given multiple opportunities to do so. As a result, the Division sought, and was granted, revocation of Respondent's real estate broker license, the most severe form of discipline available. Third, Respondent made no argument concerning whether costs should be assessed against him. Finally, the Department is a program revenue agency whose operating costs are funded by the revenue received from credential holders. As such, fairness weighs heavily in favor of requiring Respondent to pay the costs of this proceeding, which resulted in significant discipline, rather than spreading the costs among all Wisconsin real estate brokers.

Based on the foregoing, all costs of this proceeding should be assessed against Respondent in an amount to be determined, pursuant to Wis. Admin. Code § SPS 2.18.

### ORDER

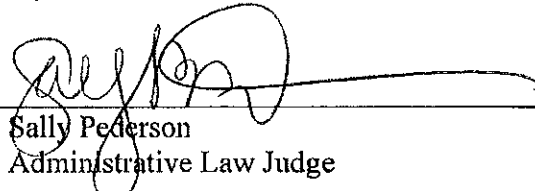
Accordingly, it is hereby ORDERED that Respondent Joseph L. Hazelwood's real estate broker license (number 51916-90) is REVOKED, effective on the date the final decision is signed by the Board.

IT IS FURTHER ORDERED that, should Respondent ever apply for a credential with the Department in the future, Respondent shall pay all recoverable costs in this matter in an amount to be established, pursuant to Wis. Admin. Code § SPS 2.18, prior to the Department's consideration of any such application.

Dated at Madison, Wisconsin on the 13 of February, 2020.

STATE OF WISCONSIN  
DIVISION OF HEARINGS AND APPEALS  
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By: \_\_\_\_\_

  
Sally Pederson  
Administrative Law Judge