

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 :
 : FINAL DECISION AND ORDER
KEVIN L. BIRR, :
RESPONDENT. : **ORDER 0007558**

Division of Legal Services and Compliance Case No. 18 REB 090

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

Kevin L. Birr
Kaukauna, WI 54130

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 Kevin L. Birr (Birth Year 1986) is licensed by the State of Wisconsin as a Real Estate Broker, having license number 58547-90, first issued on December 12, 2018 and current through December 14, 2022. Respondent was previously licensed by the State of Wisconsin as a Real Estate Salesperson, having license number 74297-94, first issued on April 15, 2010, and expired on December 15, 2020. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is located in Kaukauna, Wisconsin.

2. On August 29, 2018, the Department received a complaint against Respondent.

3. On November 1, 2018, the Department emailed Respondent at his email address of record and requested a detailed written response to the allegations, the entire file related to the transaction, and copies of his continuing education (CE) completion certificates for the biennium preceding his most recent renewal. Respondent did not respond.

4. On December 3, 2018, the Department sent a letter to Respondent at his address of record and requested a detailed written response and copies of his completed CE certificates.

5. On January 7, 2019, Respondent emailed his written response and copies of his CE certificates.

6. On July 9, July 24, and August 13, 2019, the Department sent letters to Respondent at his address of record and requested additional information regarding allegations in the complaint. Respondent did not respond.

7. On August 30, 2019, the Department emailed Respondent at his email address of record and requested the same information as above. Respondent did not respond.

8. A review of the transaction documents shows that it was never disclosed to a seller that Respondent was also a licensed real estate salesperson.

9. 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 Kevin L. Birr violated Wis. Admin. Code § REEB 24.17(5) by failing to respond to the Department regarding requests for information within 30 days of the date of the requests.

3. By the conduct described in the Findings of Fact, Respondent Kevin L. Birr violated Wis. Admin. Code § REEB 24.03(2) by failing to act to protect the public against misrepresentation, pursuant to § REEB 24.05(5)(b).

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

ORDER

1. The attached Stipulation is accepted.

2. Respondent Kevin L. Birr is REPRIMANDED.

3. Within 90 days of the date of this Order, Respondent Kevin L. Birr (license no. 58547-90) shall pay COSTS of this matter in the amount of \$799.

4. 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:

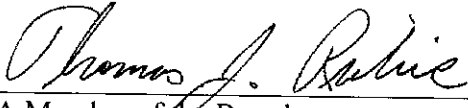
Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190
Madison, WI 53707-7190
Telephone (608) 266-2112; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

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

5. In the event Respondent violates any term of this Order, Respondent's license (no. 58547-90), 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.

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

WISCONSIN REAL ESTATE EXAMINING BOARD

by: 
A Member of the Board

19 August 2021
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

KEVIN L. BIRR,
RESPONDENT.

:
:
:
:
:

STIPULATION

ORDER 0007558

Division of Legal Services and Compliance Case No. 18 REB 090

Respondent Kevin L. Birr 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.

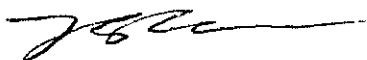
5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the Division of Legal Services and Compliance for further proceedings. In the event that the Stipulation is

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.



Kevin L. Birr, Respondent
Kaukauna, WI 54130
Credential No. 58547-90
Credential No. 74297-94

8-2-21

Date



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

8/4/2021

Date