

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN  
BEFORE THE REAL ESTATE EXAMINING BOARD

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IN THE MATTER OF DISCIPLINARY :  
PROCEEDINGS AGAINST :  
 : FINAL DECISION AND ORDER  
TYLER J. SWEENEY, :  
RESPONDENT. : **ORDER 0007749**

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Division of Legal Services and Compliance Case Nos. 18 REB 031 and 19 REB 095

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

Tyler J. Sweeney  
Verona, WI 53593

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 Tyler J. Sweeney (Birth Year 1983) is licensed by the State of Wisconsin as a Real Estate Broker, having license number 56321-90, first issued on March 25, 2011 and current through December 14, 2022. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is located in Verona, Wisconsin.

18 REB 031

2. On March 19, 2018, Respondent was convicted of OWI (4<sup>th</sup>), a felony, in Dane County Circuit Court (Case No. 2017 CF 2190). His first three OWI convictions occurred before licensure.

3. Respondent was sentenced to seven months in jail, revocation of driver's license for 36 months, and an AODA assessment, among other things. Respondent still owes the court \$3,851 in this case.

4. On March 21, 2018, Respondent reported his conviction to the Department.

5. When Respondent renewed his license in December 2018, he answered "no" to the following question:

Since your last renewal *or* initial license (if this is your first renewal), do you have any pending charges, and/or have you violated any federal or state laws, or any local ordinances (does not include minor traffic violations that do not involve alcohol or drugs, such as speeding, running stoplights, and seat belt violations)?

6. On September 8, 2021, Respondent told the Department that he thought the above question referred only to new charges or convictions that had not already been reported to the Department. Since he had reported his conviction, he answered "no."

7. Respondent provided a letter to the Department dated February 6, 2019 from his AODA treatment provider, who wrote that Respondent had maintained sobriety for 1 year and 5 months, that he is stable, and that he is increasing his coping skills. He was still in treatment at the time.

8. According to the Wisconsin Circuit Court Access website, Respondent was also convicted of Operating While Revoked, a misdemeanor, on February 19, 2019, in Dane County Circuit Court (Case No. 2018 CT 304) and was sentenced to pay a fine and court costs. Respondent still owes the court \$579 in this case. There is no record of Respondent reporting this conviction to the Department. On September 8, 2021, Respondent admitted he did not report this conviction and stated that he did not know it was a misdemeanor offense that he was required to report.

19 REB 095

9. On September 19, 2019, the Department received a complaint from another licensee regarding Respondent's handling of a transaction when he was employed by eXp Realty LLC.

10. On May 23, 2019, Respondent, representing eXp Realty LLC, signed a listing contract with a seller ("Seller"). The term of this contract was from May 24 to June 24, 2019.

11. On July 26, 2019, Seller signed a new listing contract for July 26 to August 26, 2019. This second contract was signed by a different eXp Realty LLC agent. However, Respondent was still listed as the firm's recipient for delivery (Line 286) and Respondent's email address was listed as the email address for the firm (Line 302). The other agent's name and email address were listed as well, but Respondent's were listed first.

12. On July 30, 2019, Respondent received an offer to purchase Seller's property. Neither Respondent nor the other eXp Realty LLC agent replied to this offer.

13. On August 8, 2019, Respondent left eXp Realty LLC and began working for Sweeney Real Estate LLC, a Wisconsin Real Estate Business Entity with credential #936922-91.

14. Respondent did not sign a listing contract with Seller at Sweeney Real Estate, LLC.

15. On August 11, 2019, Respondent submitted an offer to purchase the property on behalf of Seller to the proposed buyer. Respondent's offer had a slightly higher purchase price and also listed Respondent as with Sweeney Real Estate instead of eXp Realty.

16. The buyer submitted a counter-offer on August 13, 2019 and Respondent countered back on August 14, 2019. Respondent's counter-offer was the same as the buyer's, except that it changed the firm name from eXp Realty to Sweeney Real Estate.

17. On August 13, 2019, Respondent drafted a listing contract for Seller and signed Seller's name to the document. In his response to the Department, Respondent stated that he did so because he thought the previous listing contract had expired and did not want the transaction to fall through. He states that Seller was a family friend and gave him consent to sign the document on their behalf, although no written documentation of this agency from Seller was submitted to the Department.

18. Respondent states that when he realized a new listing contract had been drafted already, he voided the document he prepared. The document was never submitted or sent to anyone and was not submitted to the Department by either Respondent or Complainant.

19. Seller signed a third listing contract on August 27, 2019, for August 26 to September 26, 2019. This contract was signed by the same eXp Realty LLC agent as the second contract. It also still listed Respondent as a contact person, although he no longer worked for eXp Realty LLC.

20. Department records indicate that the business entity license for Sweeney Real Estate LLC expired on December 14, 2012. According to the Multiple Listing Service (MLS), between April 21, 2020 and April 21, 2021, Respondent listed 5 properties under the firm name Sweeney Real Estate LLC.

21. On December 9, 2019, the Department sent an email to Respondent's email address of record requesting information relating to its investigation. Respondent did not respond to this email until February 10, 2020, when he contacted the Department by phone. He apologized for not responding sooner and explained that he was out of state with his mother, whose health was failing

22. In resolution of these matters, 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. § 452.12(5)(bm) by engaging in any of the activities covered by a business entity license that was not renewed.

3. By the conduct described in the Findings of Fact, Respondent violated Wis. Stat. § 452.133(1)(a) by failing to provide brokerage services honestly and fairly.

4. By the conduct described in the Findings of Fact, Respondent violated Wis. Stat. § 452.14(3)(a) by making a material misstatement in the application for a license, or in any information furnished to the board or department.

5. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § REEB 24.08 by failing to put in writing all listing contracts, guaranteed sales agreements, buyer agency agreements, offers to purchase, property management agreements, option contracts, financial obligations and any other commitments regarding transactions, expressing the exact agreement of the parties.

6. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § REEB 24.17(1) by violating a law the circumstances of which substantially relate to the practices of a real estate licensee and by failing to notify the Board within 48 hours of his conviction of a crime.

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

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

## ORDER

1. The attached Stipulation is accepted.

2. Respondent Tyler Sweeney is REPRIMANDED.

3. The real estate broker license issued to Tyler Sweeney (no. 56321-90) is LIMITED as follows:

### Practice Limitations

a. Respondent shall, within thirty (30) days of the date of this order, retain the services of a Wisconsin licensed Real Estate Broker ("Mentor Broker") who

will review five (5) transaction files of Respondent's per month. If Respondent did not complete five (5) transactions in a month, then the Mentor Broker will review all of Respondent's transaction files for that month. The Mentor Broker retained by Respondent must be approved by the Board. Approval shall be obtained through correspondence with the Department of Safety and Professional Services Monitor (Department Monitor).

b. Respondent shall arrange for written reports from the Mentor Broker to be provided to the Department Monitor on a quarterly basis, from the date of this Order. These reports shall provide an assessment of Respondent's work in the transactions that were reviewed and his compliance with all laws governing the practice of real estate, including the Code of Ethics.

c. If Respondent seeks to become employed by an individual broker or firm, Respondent shall provide a copy of this Order to his employer prior to employment. Respondent shall provide the Department Monitor with written acknowledgement from each employer, if any, that a copy of this Order has been received. Such acknowledgement shall be provided to the Department Monitoring within fourteen (14) days of beginning new employment and/or within fourteen (14) days of the date of this Order for employment current as of the date of this Order.

d. Respondent shall not consume alcohol or illicit substances while conducting or engaged in the practice of real estate.

e. Respondent shall not drive current or prospective real estate clients in any motor vehicle that requires a Department of Transportation issued license.

#### Education

f. Within ninety (90) days of the date of this Order, Respondent shall successfully complete two education courses on the topic of business ethics and real estate forms offered by a provider pre-approved by the Board's monitoring liaison, including taking and passing any exam offered for these courses.

g. 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.

#### Other

h. Respondent shall comply with all court orders in Dane County Case Nos. 17 CF 2190 and 18 CT 304, including the payment of fines and court costs.

i. Respondent shall commit no new violations of law and shall report all law enforcement contacts leading to arrest, charge, or conviction, including DWI/OWI and municipal/ordinance violations, to the Department Monitor within forty-eight (48) hours of any such event, including any convictions resulting from pending charges.

j. Respondent is responsible for compliance with all of the terms and conditions of this Order, including the timely submission of reports by others. Respondent shall promptly notify the Department Monitor of any suspected violations of any of the terms and conditions of this Order.

Petitions for Modification

k. Respondent may petition the Board for modification or termination of these limitations after completion of two years of practice in compliance with all terms and conditions of this Order. "Practice in compliance" includes satisfaction of all court orders in 17 CF 2190 and 18 CT 304, including the payment of all fines and costs. Respondent's petition must include his history of employment from the effective date of this Order that states the dates and names of any employer, such employment in total equaling two years of practice. Any such petition shall be accompanied by a written recommendation from Respondent's current employer that includes, among other things, the dates of employment and scope of responsibility during such employment.

l. The Board may grant or deny any petition, in its discretion, or may modify this Order as it sees fit. Denial of a petition in whole or in part shall not be considered a denial of a license within the meaning of Wis. Stat. § 227.01(3)(a), and Respondent shall not have a right to any further hearings or proceedings on the denial.

4. Within (90) days from the date of this Order, Respondent shall pay COSTS of these matters in the amount of \$3,785.

5. All required requests for pre-approval, course certifications, and other submissions, including the 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 the Department's Monitoring Case Management System at


<https://dspsmonitoring.wi.gov>

6. In the event Respondent violates any term of this Order, Respondent's license (no. 56321-90), 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.

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

WISCONSIN REAL ESTATE EXAMINING BOARD

by:

  
A Member of the Board

9 December 2021  
Date



STATE OF WISCONSIN  
BEFORE THE REAL ESTATE EXAMINING BOARD

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IN THE MATTER OF DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	
	:	STIPULATION
TYLER J. SWEENEY,	:	
RESPONDENT.	:	<b>ORDER 0007749</b>

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Division of Legal Services and Compliance Case Nos. 18 REB 031 and 19 REB 095

Respondent Tyler J. Sweeney 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.

Authentisign  
  
Tyler J. Sweeney, Respondent  
Verona, WI 53593  
Credential No. 56321-90

10/19/2021  
\_\_\_\_\_  
Date

  
Megan Reed, Attorney  
Division of Legal Services and Compliance  
P.O. Box 7190  
Madison, WI 53707-7190

10/20/2021  
\_\_\_\_\_  
Date