

## 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

DOUGLAS E. NELSON AND  
NEW HOME STAR WISCONSIN, LLC,  
RESPONDENTS.

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FINAL DECISION AND ORDER

**ORDER 0007810**

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Division of Legal Services and Compliance Case No. 19 REB 012

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

Douglas E. Nelson  
Madison, WI 53704

New Home Star Wisconsin, LLC  
Elmhurst, IL 60126

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 Douglas E. Nelson (Birth Year 1963) is licensed by the State of Wisconsin as a real estate broker, having license number 39910-90, first issued on February 16, 1987, 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 Madison, Wisconsin.

2. Respondent New Home Star Wisconsin, LLC is licensed by the State of Wisconsin as a real estate business entity, having license number 937723-91, first issued on April 16, 2015 and current through December 14, 2022. Douglas E. Nelson is identified in Department records as the responsible licensee of New Home Star Wisconsin, LLC.

3. On January 24, 2019, the Department received a complaint from J.S., who alleged that Respondents would not return his \$4,000 down payment after J.S. cancelled a contract to have a home built. J.S. alleged he had cancelled the contract within the cancellation window. The Division of Legal Services (DLSC) subsequently opened Case Number 19 REB 012 for investigation.

4. On April 16, 2019, the Department emailed Respondents and requested a response to the complaint and a complete copy of the transaction file.

5. On April 24, 2019, Respondents provided a response to the complaint. Respondents also provided one document (the mortgage preapproval letter for J.S.) from the transaction file.

6. The Department also requested a response from Mark R. Keating (license number 84517-94). Keating is a real estate salesperson associated with Respondent New Home Star Wisconsin, LLC.

7. On April 22, 2019, Keating provided a written response to the Department and a complete copy of the transaction file.

8. In his response, Keating stated that in December 2018, he showed J.S. several model homes that were offered for sale by William Ryan Homes, a home building company that Keating represented in the sale of new homes and contracts for new construction homes.

9. On December 21, 2018, J.S. received a mortgage preapproval letter from a bank.

10. On December 30, 2018, Keating met with J.S. to review the paperwork for the purchase of a new construction home.

11. Keating stated that at the December 30, 2018 meeting, J.S. asked if he had seven days to back out of the agreement. Keating stated that he told J.S. that the only contingency for having the deposit returned was if he could not obtain mortgage preapproval. Keating stated that he told J.S. that since J.S. already had mortgage preapproval, that contingency had been met so there were no grounds to cancel the contract after signing.

12. On December 31, 2018, J.S. signed the purchase contract and wrote a check for the \$4,000 deposit.

13. J.S. stated in the complaint that on January 4, 2019, he informed Keating of financial issues he was having and asked to cancel the contract.

14. Keating stated that he had “countless conversations” with J.S. to try to save the deal and to reduce the price. On January 27, 2019, he met with J.S. again and J.S. confirmed that he wished to cancel the contract even though it meant forfeiting the \$4,000 deposit.

15. The transaction documents that Keating provided to the Department showed that no Board-approved forms were used. The purchase agreement is titled, “William Ryan Homes Wisconsin, Inc. Agreement for Purchase of New Home.” There are additional addenda included in the documents as well. None of these documents indicate the drafter.

16. The Agreement for Purchase at page 3, paragraph 4, provides that the Seller shall complete the home within 150 days of the start of construction, provided a number of things, including that the “Purchaser has demonstrated the ability to close with cash or Purchaser has obtained a *pre-approval or commitment* for a mortgage loan that satisfies all conditions of the Mortgage Rider attached hereto and has satisfied all conditions contained therein” (emphasis added).

17. Attached to the Agreement for Purchase is a document entitled “Commitment of Mortgage Contingency Rider, Addendum E.” There is no indication of who drafted the form, and it is not a Board-approved form.

18. This Mortgage Contingency Rider provides that the Agreement for Purchase is contingent on Purchaser obtaining a commitment for a mortgage, not a preapproval. The third paragraph of this document provides: “If Purchaser makes a good faith effort and does not change their financial or credit status represented at the time of purchase but is unable to obtain a *commitment for the mortgage loan* contemplated herein, Purchaser shall notify Seller in writing within the time specified above” (emphasis added).

19. The document goes on to state that if the Purchaser does notify the Seller, then Seller can either agree to financing on substantially the same terms or else secure a mortgage commitment on behalf of the Purchaser. But if the Seller does not do either of those things, then, “the Agreement shall be null and void and the payments delivered to Seller shall be returned to Purchaser.”

20. On July 20, 2021, Keating informed the Department that the forms used in this transaction were drafted by William Ryan Homes. He explained that he then filled in the customer information, purchase price, and other information.

21. On August 4, 2021, Respondent Nelson informed the Department that the forms used for transactions with William Ryan Homes were approved by outside counsel for William Ryan Homes. He further explained that all agents are required to complete an eight- to ten-week course on how to fill out the forms correctly and how to address customer concerns. He further stated that he reviews all purchase contracts to ensure they have all of the required information to move forward with building a home.

22. On December 15, 2020, the real estate business entity license of Respondent New Home Star Wisconsin, LLC expired. The license was renewed on July 21, 2021.

23. On August 10, 2021, Respondent Nelson informed the Department that while Respondent New Home Star Wisconsin, LLC's license was expired, the firm conducted thirty-six transactions.

24. 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 Nelson violated Wis. Stat. 452.132(1) by failing to supervise the brokerage service activities of each licensee associated with the firm.

3. By the conduct described in the Findings of Fact, Respondents violated Wis. Stat. § 452.12(5)(bm) by engaging in the practice of real estate when the firm's real estate license was expired.

4. By the conduct described in the Findings of Fact, Respondents violated Wis. Admin. Code § REEB 16.04(1) by failing to use approved forms or contractual forms, drafted by an attorney, that had the name of the drafter imprinted on the forms.

5. By the conduct described in the Findings of Fact and pursuant to Wis. Admin. Code § REEB 16.07, Respondents demonstrated, for purposes of Wis. Stat. § 452.14(3)(i), incompetency to act as a real estate licensee in a manner that safeguards the interests of the public.

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

#### ORDER

1. The attached Stipulation is accepted.

2. Respondent Douglas E. Nelson is REPRIMANDED.

3. Respondent New Home Star Wisconsin, LLC is REPRIMANDED.

4. Respondent Douglas E. Nelson's real estate broker's license (no. 39910-90) is LIMITED as follows:

a. Within ninety (90) days of the date of this Order, Respondent shall successfully complete an education course on the topic of forms offered by a provider pre-approved by the Board or its designee, including taking and passing any exam offered for this course.

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. The education completed pursuant to this requirement may not 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.

5. Within 90 days from the date of this Order, Respondent Douglas E. Nelson shall pay one-third the COSTS of this matter for a total of \$509.

6. Within 90 days from the date of this Order, Respondent New Home Star Wisconsin, LLC shall pay one-third the COSTS of this matter for a total of \$509.

7. All required requests for pre-approval, course certifications, and other submissions, including 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) 266-2112; Fax (608) 266-2264  
DSPSMonitoring@wisconsin.gov

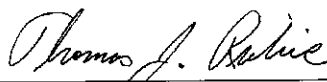
This information may also be submitted online via DSPS' Monitoring Case Management System at: <https://app.wi.gov/DSPSMonitoring>.

8. In the event Respondents violate any term of this Order, Respondents' licenses (nos. 39910-90 and 937723-91), or Respondents' right to renew their licenses, 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:

  
A Member of the Board

3 February 2022

Date

STATE OF WISCONSIN  
BEFORE THE REAL ESTATE EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

DOUGLAS E. NELSON AND  
NEW HOME STAR WISCONSIN, LLC,  
RESPONDENTS.

STIPULATION

**ORDER 0007818**

Division of Legal Services and Compliance Case No. 19 REB 012

Respondents Douglas E. Nelson and New Home Star Wisconsin, LLC and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

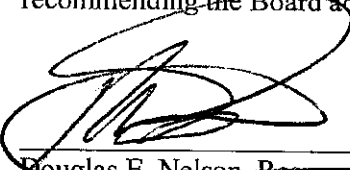
1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondents consent to the resolution of this investigation by Stipulation.
2. Respondents understand that by signing this Stipulation, Respondents voluntarily and knowingly waive 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.

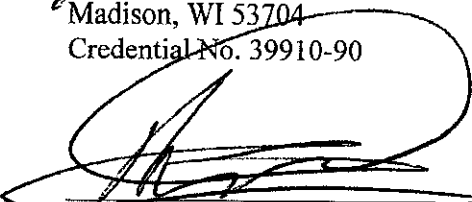
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondents, for purposes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

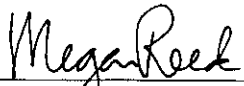
8. The Division of Legal Services and Compliance joins Respondents in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

  
Douglas E. Nelson, Respondent  
Madison, WI 53704  
Credential No. 39910-90

11-16-2021  
Date

  
New Home Star Wisconsin, LLC, Respondent  
By: Douglas E. Nelson, Responsible Licensee  
Elmhurst, IL 60126  
Credential No. 937723-91

11-16-2021  
Date

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

11/18/2021  
Date