

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

DAVID J. KLEVGARD,
RESPONDENT.

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FINAL DECISION AND ORDER

ORDER 0008127

Division of Legal Services and Compliance Case No. 20 REB 009

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

David J. Klevgard
Milwaukee, WI 53211

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 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 David J. Klevgard (Birth Year 1970) is licensed by the State of Wisconsin as a real estate broker, having license number 58516-90, first issued on November 6, 2018 and current through December 14, 2022. Respondent was also licensed as a real estate salesperson, having license number 75263-94, first issued on May 5, 2011 and expired as of December 15, 2018. Pursuant to Wis. Stat. § 440.08(3), Respondent retains the right to renew his real estate salesperson license until December 14, 2023. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is in Milwaukee, Wisconsin 53211.

2. In February 2020, the Department received two complaints alleging that Respondent improperly managed Complainants' rental properties and funds. The Division of Legal Services and Compliance (DLSC) subsequently opened Case Number 20 REB 009 for investigation.

3. In 2009, Respondent and business partner Paul E. Handle began operating a business named The Management Group, LLC (TMG), which provided rental property management. It was registered with the Department of Financial Institutions by Respondent in 2009 and administratively dissolved in March 2021.

4. According to Department records, TMG has never had a real estate business entity license, but "TMG Real Estate LLC" is registered with the Department as a trade name for Handle's firm, Handle Real Estate.

5. According to one Complainant (Complainant A), Respondent had not made rent deposits into Complainant A's account since September 30, 2019. Further, Complainant A alleged that Respondent had ignored requests to return security deposits, ignored requests for copies of leases, failed to pay for a new furnace provided in October 2019, and had failed to provide requested accounting reports for Complainant A's properties.

6. According to the second Complainant (Complainant B), Respondent failed to transfer rent payments to Complainant B for January and February 2020 and had failed to return security deposits to tenants. Complainant B stated that Respondent was holding \$5,500 in rent and \$2,700 in security deposits to which he was not entitled. Further, Complainant B alleged that Respondent had ignored requests to return keys, leases, and other documents.

7. On July 8, 2021, Respondent's attorney responded to the complaints. Respondent's attorney stated that Respondent was responsible for TMG's day-to-day operations, and that "several missteps and errors" and "accounting discrepancies" occurred under Respondent's management.

8. On September 21, 2021, Respondent's attorney stated that Respondent had returned all funds owed to Complainants A and B.

9. In resolution of this matter, Respondent consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The 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. § 452.133(1)(f) by failing to safeguard trust funds and other property held as required, pursuant to Wis. Stat. § 452.133(4m)(a).

3. By the conduct described in the Findings of Fact, Respondent violated Wis. Stat. § 452.133(1)(b) by failing to provide brokerage services with reasonable skill and care pursuant to Wis. Stat. § 452.133(4m)(a).

4. By the conduct described in the Findings of Fact, Respondent violated Wis. Admin. Code § REEB 24.03(2)(b) by failing to act to protect the public against fraud, misrepresentation and unethical practices.

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

ORDER

1. The attached Stipulation is accepted.
2. Respondent David J. Klevgard is REPRIMANDED.
3. Respondent David J. Klevgard's real estate broker license (no. 58516-90) is LIMITED as follows:
 - a. Respondent may not hold client funds, including funds from property management business.
 - b. Respondent shall at all times practice as a real estate licensee under the supervision of a Wisconsin licensed real estate broker approved by the Board or its designee. Approval shall be obtained through correspondence with the Department Monitor.
 - c. Respondent shall notify his approved supervising broker of his disciplinary history with the Board and shall provide a copy of this Order to his supervising broker prior to commencement of the supervision. Respondent shall furnish the Department Monitor with written acknowledgement from his supervising broker that a copy of this Order was provided.
 - d. Beginning 90 days from the date of this Order, and quarterly thereafter, Respondent shall arrange for written reports from his supervising broker to be provided to the Department Monitor. These reports shall assess Respondent's work performance during the previous quarter, and describe the circumstances of his employment, including the nature and extent of Respondent's sales activities and whether he has practiced in compliance with all laws governing the practice of real estate, including compliance with this Order.
 - e. Respondent may petition the Board for removal of the limitations in paragraphs (b), (c), and (d) after a period of one (1) year of practice in compliance with all terms and conditions of this Order. The Board may grant or deny the petition, in its discretion. A denial of such a petition for full licensure shall not be deemed a denial of license under Wis. Stat. §§ 227.01(3) or 227.42, or Wis. Admin. Code Ch. SPS 1, and shall not be subject to any right to further hearing or appeal.

5. Within ninety (90) days from the date of this Order, Respondent David J. Klevgard shall pay the COSTS of this matter in the amount of \$672, and a FORFEITURE in the amount of \$500, for a total of \$1,172.

6. All submissions, including payment of forfeiture and costs (made payable to the Wisconsin Department of Safety and Professional Services), shall be sent by Respondent to the Department Monitor at the address below:

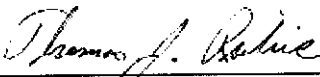
Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 266-2112; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

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

7. In the event Respondent violates any term of this Order, Respondent's licenses (numbers 58516-90 and 75263-94), or Respondent's right to renew his licenses, 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.

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

WISCONSIN REAL ESTATE EXAMINING BOARD

by: 
A Member of the Board

8/18/2022
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

DAVID J. KLEVGARD,
RESPONDENT.

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:

STIPULATION

ORDER 0008127

Division of Legal Services and Compliance Case No. 20 REB 009

Respondent David J. Klevgard 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. Respondent is represented by Attorney Joseph Scherwenka.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the 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. Respondent is further informed that should the Board adopt this Stipulation, the Board's Final Decision and Order will be reported as required by the National Practitioner Databank (NPDB) Guidebook and as otherwise required by any licensure compact or any other state or federal law.

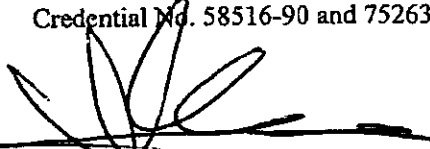
9. The Division of Legal Services and Compliance joins Respondent in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.



David J. Klevgard, Respondent
Milwaukee, WI 53211
Credential No. 58516-90 and 75263-94

6/15/22

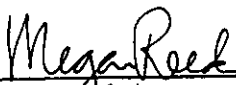
Date



Joseph Scherwenka, Attorney for Respondent
Scherwenka Law, LLC
12970 W. Bluemound Rd. #103
Elm Grove, WI 53122

6-15-22

Date



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

06/16/2022

Date