Wisconsin REALTORS® Association

DSPS Quarterly Report

March 21, 2016

In lieu of the Legal Hottips today, you are receiving the Department of Safety and Professional Services (DSPS) Report. The objective of this report is to keep you informed of the regulatory activities as to your license and practice as a real estate professional in Wisconsin. Additionally, at the end of the report you can read recent disciplinary actions taken by the Real Estate Examining Board (REEB).

The information is meant to serve as a summary of the event and changes impacting you at DSPS. For further information about any topic, feel free to contact Cori Lamont at coriL@wra.org.

WB Forms

The Contractual Forms Advisory Committee provides the REEB assistance in reviewing, modifying and creating the real estate (WB) forms Wisconsin licensees are required to use. The following forms are currently being revised or will be revised in the near future.

Currently waiting approval:

All of the following impending approved forms are anticipated to have the optional use date of May 1, 2016 and mandatory use date of July 1, 2016.

- WB-1 Residential Listing Contract – Exclusive Right to Sell
- WB-42 Amendment to Listing Contract

Currently being revised:

- WB-36 Buyer Agency/Tenant Representation Agreement

If you have any comments or suggestions relating to the WB forms or would like to participate in the WRA's forms committee, contact Debbi Conrad at dconrad@wra.org.

The WRA will be offering a number of resources to inform you of the specific changes made to the forms including but not limited to Legal Hottips, LegalTalks, *Legal Updates* and articles in *Wisconsin Real Estate Magazine*.

Rule Revisions

The following rules are currently being modified. A summary of the focus of the change is provided for your reference.

Currently being revised:

- REEB 15: Record Retention – the intent of the rule is to clearly permit the ability to retain documents electronically and digitally. (Effective date likely summer of 2016.)
- REEB 17: Licensure and Supervision of Employees – the objective of this rule change is to update the rule to reflect the changes made in 2015 Wis. Act 258, which modified

terminology in Wisconsin Statute Chapter 452 to reference the independent contractor relationship between a real estate company and its agents by changing terminology from employee/employer to firm. The statute also modernized the role of the supervising broker. (Effective date likely summer of 2016.)

To view current DSPS rule projects, visit dsps.wi.gov/Boards-Councils/Rulemaking/Pending-Rule-Projects.

Implementation of Legislative Changes
One of the WRA's top legislative priorities made a number of significant changes to Wisconsin Statute Chapter 452 that most directly impacts your daily real estate practice.

The DSPS and REEB will be reviewing the statutory changes and will be making necessary changes to rules, WB forms and DSPS forms due to the statutory changes. Again, we will keep you abreast of those changes as they occur.

Real Estate Curriculum and Examination Council

As the biennium begins to round the final corner and the December 14 renewal gets closer, surprisingly enough, the REEB is already looking to the next real estate biennium by approving the continuing education for real estate licensees.

Before the end of the summer, the Real Estate Curriculum and Examination Council will finalize their recommendations to the REEB for the continuing education requirements for the 2017-2018 biennium.

If you have suggestions for content for one or more of the six, three-hour courses, contact Jennifer Lindsley at JLindsely@wra.org or Cori Lamont at coriL@wra.org.

For more information as to the council, visit dsps.wi.gov/Boards-Councils/Board-Pages/Real-Estate-Curriculum-and-Examinations-Council-Main-Page.

REEB Discipline from Recent Months

Salesperson

Facts: Salesperson license was first issued in August 2012 and current through December 14, 2016. The business entity license Respondent was first issued in October 2009 and current through December 14, 2016. From December 15, 2012 to April 16, 2013, the salesperson's license was expired due to nonrenewal. From December 15, 2012 through March 25, 2014, the business entity license was expired due to nonrenewal. From December 15, 2012 to April 16, 2013, the salesperson practiced through the business entity license. During this time, the salesperson scheduled and attended showings and drafted one offers to purchase and one counter-offer. From December 15, 2012 to March 25, 2014, the business entity listed 93 properties while unlicensed.
Violation: The salesperson violated Wis. Stat. § 452.03 by engaging in the business of real estate and holding himself out as a real estate salesperson without a license. The business

entity license violated Wis. Stat. § 452.12(5)(b) by engaging in activities covered by its license while the license was expired due to nonrenewal.
Discipline: Within 90 days, the business entity shall pay forfeiture of $500.00 and the salesperson and business entity within 90 days shall each pay costs of one-half of $423.00.

Facts: Salesperson license was first issued in September 1998 and current through December 14, 2016. In March 2013, the salesperson drafted a WB-13 Vacant Land Offer to Purchase on behalf of her client for the purchase of vacant land in Brookfield. In the offer to purchase, she did not disclose whom she represented as an agent in the transaction. The salesperson did not sign an agency agreement with her client and did not otherwise make agency disclosure to her client in writing. She did not provide her client with a full copy of the offer to purchase. Rather she drafted the offer at her office with her client's parents and other family members. She then discussed the terms of the offer with her client over the phone and emailed him only the signature page, which he signed. The salesperson also did not send her client a complete copy of the offer.
Violation: Wis. Admin. Code § REEB 24.07(8) by failing to state, in the offer, whom she represented as an agent in the transaction; Wis. Admin. Code § REEB 24.08 by failing to put in writing the commitments regarding the transaction, expressing the exact agreement of the parties; and Wis. Admin. Code § REEB 15.02(1) by failing to promptly provide an exact and complete copy of any document utilized in real estate practice to a person who signed the document.
Discipline: Within 90 days, successfully complete and pass examinations of six hours of education in the topic of contracts and six hours on ethics. Within 90 days, pay a forfeiture of $1,000 and costs of $500. Failure to comply with the order may result in license suspension.

Facts: Salesperson application was filed. The applicant also has held an auctioneer credential since March 1995. As an auctioneer, the applicant received three disciplinary actions relating to his credential, including a six-month suspension for his 1997 convictions for Disorderly Conduct and Criminal Trespass to Dwelling. In July 2007, his credential was reprimanded for failure to include required content in an advertisement including a statement that he was a "Registered Wisconsin Auctioneer," license number of the auctioneer responsible for the auction, statement of terms and conditions under which a registrant will accept payment by buyers at the auction, and a statement as to whether or not a buyer's fee will be charge. Lastly, he also received a July 2012 suspension for one year as well as a completion of education component relating to the auction of a couple's house where the applicant requested the relatives of the couple to bid on the house to get a higher bid. The auctioneer board granted a reinstatement of license in July 2015. Since April 9, 2015, the applicant has no new arrests or criminal convictions, complaints or discipline. The REEB denied the application. The applicant appealed.
Board determination: Granted license with the following limitations: practice at all times must be under the supervision of a broker approved by the REEB, supervising broker must oversee and be responsible for all advertisements, commit no new violations or crimes, report quarterly information specifically detailed in the order, and arrange for the supervising broker to provide quarterly written reports.

Broker

Facts: Broker's license was first issued in April 1972 and current through December 14, 2016. The licensed business entity was issued in March 1985 and current through December 14, 2016. The broker is identified at the DSPS as the responsible broker for the business entity. The broker utilizes a common real estate trust account at North Shore Bank designated as IBRETA with account number ending in -58. On May 27, 2014, a DSPS auditor audited the trust account. The audit revealed the following: the broker delegated the responsibility to document trust account transactions to his salesperson but failed to adequately supervise the salesperson's activities; monthly trial balances were not prepared and monthly validations were not performed; the broker had not returned earnest money to four clients after the transactions failed; on multiple occasions, the broker either failed to withdraw commission from the trust account within 24 hours after the transactions were consummated or withdrew more commission from the trust account than he should have.
Violation: Wis. Stat. § 452.133(l)(f) by failing to safeguard trust funds; Wis. Admin. Code § REEB 18.13(4) and (5) by failing to: a. prepare a monthly trial balance of all open items in the real estate trust account, and b. validate the real estate trust account monthly; Wis. Admin. Code § REEB 17.08(1) by failing to supervise the activities of a licensee employed by him; Wis. Admin. Code § REEB 18.09(3)(a) by failing to withdraw commissions he earned from the trust account within 24 hours after transactions were consummated or terminated, or after the commissions or fees were earned; and Wis. Admin. Code § REEB 24.17(3) by aiding or abetting the above violations.
Discipline: Within 90 days, the licensee shall successfully complete and pass examinations of six hours of education on the topic of trust accounts and six hours of education on the topic of supervising salespersons. Limitation shall be removed from respondent's license after satisfying. Within 90 days, the broker and business entity shall each pay costs in the amount of $156.83.

Facts: Broker's license was first issued in January 2010 and current through December 14, 2016. The business entity license was first issued in March 2009 and current through December 14, 2016. The broker is identified at the DSPS as the responsible broker for the business entity. On September 13, 2013, October 20, 2014, and November 20, 2014, the DSPS requested information regarding the complaints from the broker by both mail and email at the addresses in the DSPS records at the time. The broker and business entity failed to respond to the DSPS' requests. On November 17, 2015, the broker Webb emailed the DSPS indicating he had not received the previous requests because they were sent to his prior business address and email. The broker and business entity updated their addresses with the DSPS. On November 18, 2015, the broker stated that while the business entity license was expired, he handled two listings for friends. Neither listing resulted in an offer to purchase.
Violation: The broker and business entity violated Wis. Admin. Code § REEB 24.17(5) by failing to respond to regarding any request for information within 30 days of the date of the request; violated Wis. Stat. § 440.11(1) by failing to notify the department of their new addresses within 30 days of the change; Wis. Stat. § 452.03 by engaging in the business of a broker without a license.
Discipline: The business entity shall pay forfeiture in the amount of $250. The broker and business entity shall each pay costs of $810.

Facts: Broker’s license was first issued in October 1983 and expired on December 15, 2014. On October 17, 2014, the broker was convicted of 47 felonies involving improper securities sales in Eau Claire County Circuit Court as follows:
a. 10 felony convictions of selling securities without registration.
b. 14 felony convictions of offering or selling a security without registration.
c. Nine felony convictions of making false statements regarding a security sale.
d. 14 felony convictions of making misleading statements or omissions in connection with securities trading.
Respondent was sentenced to 73 years in state prison and 49 years of extended supervision, however, all sentences are concurrent with counts 1 and 5, thus, the broker has a sentence length of four years in state prison and two years of extended supervision. The broker failed to notify the REEB in writing of the convictions within 48 hours after entry of the judgment of conviction.
Violation: Wis. Admin. Code § REEB 24.17(1) by violating any law the circumstances, which substantially relate to the practices of a real estate broker; Wis. Admin. Code § REEB 24.17(1) by failing to send to the board within 48 hours after the judgment of conviction a copy of the complaint or other information which describes the nature of the crime and the judgment of conviction; Wis. Stat. § 454.14(3)(p) by being convicted of a felony that is a bar to licensure under Wis. Stat. § 452.25(1)(a).
Discipline: The broker voluntarily surrendered his real estate license and its permanent relinquishment.

Facts: Broker’s license was first issued in April 2000 and current through December 14, 2016. The broker is also the person identified under a licensed business entity. On February 7, 2005, the licensed business entity registered in IBRETA account with the DSPS held at the State Bank of La Crosse ending with the account number -747. On February 26, 2013, the DSPS auditor contacted the licensed business entity to inform it that it had been chosen for a routine trust account audit and requesting the entity to complete a Pre-Audit Questionnaire. On March 31, 2013, the DSPS auditor emailed the broker stating the audit had been scheduled for April 8, 2013. On April 5, 2013, the broker emailed the DSPS auditor stating he would need to reschedule the audit. He also returned the Pre-Audit Questionnaire, on which he reported approximately 25 earnest or escrow transactions had been deposited into the trust account in the last 12 months.

On June 7, 2013, the DSPS auditor emailed the respondent stating he would stop at the office in the next two weeks to review the trust account records. The email included a list of trust account records that should be available for review at that time. On June 10, 13 and 14, 2013, the broker and the DSPS auditor corresponded by email to discuss when the requested trust account records would be prepared. On July 28, 2013, the DSPS auditor visited the broker’s office but was unable to meet with the broker or obtain copies of the requested trust account records because the broker was not present and had not prepared the requested trust account records.

On August 6, 2013, the division contacted the broker on behalf of the board, requesting an explanation as to why he did not cooperate with the department's auditor. The broker did not respond to the August 6, 2013 request for information. On October 27, 2014, the division contacted the broker to request that he mail the division copies of trust account records. The broker did not respond to the division's October 27, 2014 request for information. On November 25, 2014, a Monroe County Deputy personally served the broker with a subpoena on behalf of the division. The subpoena required the broker to either attend an audit on December 8, 2014, or mail the division copies of account records by at least December 8, 2014. The broker did not attend the December 8, 2014 audit. The broker did not mail copies of trust account records to the division.

The Complaint and Notice of Hearing in this matter were served on the broker on July 27, 2015, by both certified and regular mail, consistent with Wis. Admin. Code § SPS 2.08. The Notice of Hearing stated the broker was required to file an answer to the complaint within 20 days and further stated if no response was given they would be in default, and a default judgment would be entered, and the REEB could take disciplinary action against them. The broker failed to respond, did not attend any pre-trail hearings or any other hearings associated with the investigation.
Violation: Wis. Admin. Code § REEB 15.04 by failing to make trust account records and other documents available for inspection and copying by the board, and violated Wis. Admin. Code § REEB 24.17(5) by failing to respond to the department within 30 days of a request for information. As a result of these violations, the respondent is subject to discipline pursuant to Wis. Stat. § 452.14(3)(L).
Discipline: Broker's license was revoked. Within 90 days, the broker shall pay all recoverable costs in this matter in an amount to be established.

Facts: Broker's license was issued in June 1977 and current through December 14, 2016. The broker maintains four common real estate trust accounts with North Shore Bank. In 2014, the broker was chosen for a DSPS trust account audit. On March 25, 2014, the broker submitted a Pre-Audit Questionnaire, on which he identified his four common real estate trust accounts. At that time, DSPS records identified the broker as maintaining six common real estate trust accounts, all of which had different account numbers than those he identified in the Pre-Audit Questionnaire.

The broker did not register the four rust accounts he currently maintains within 10) days after opening the accounts and did not submit a form authorizing the DSPS to examine and audit the accounts within 10 days after opening the accounts. The broker did not notify the DSPS within 10 days after he closed the six trust accounts he previously maintained. On April 29, 2014, an auditor with the DSPS audited the broker's trust accounts. The audit revealed the following about the broker's trust account at North Shore Bank designated as the broker's trust account with account number ending in -55. A cash journal was not maintained. Ledgers were not maintained. Monthly trial balances were not performed. Accounts were not validated monthly. The broker delegated responsibility to document trust account transactions to his salesperson but failed to adequately supervise the salesperson's activities. The broker improperly held over $300 in personal funds in the trust account continuously for over five years. The broker did not direct the depository institution to remit trust account interest, minus service charges, to the Department of Administration. On three separate occasions, the broker retained portions of his clients' earnest money, claiming he retained the money pursuant to side agreements for additional services, which were not reduced to writing. The broker deposited in the trust account $850 in proceeds from the sale of a grand piano. He mistakenly believed the proceeds needed to be held in trust because the grand piano was located in a house he had listed. In fact, the proceeds did not constitute client funds and should not have been deposited in the trust account.

Violation: Wis. Stat. § 452.133(1)(f) by failing to safeguard trust funds; Wis. Stat. § 452.13(2)(b)1. by failing to register with the DSPS the name and address of the depository institution and the number of the interest-bearing common trust account; Wis. Admin. Code §

REEB 18.035(1) by failing to, no later than ten (10) days after opening a real estate trust account, provide the DSPS with the name and number of the account, the name of depository institution and information concerning whether the account is for client funds or for real estate trust funds other than client funds; Wis. Admin. Code § REEB 18.035(2) by failing to notify the DSPS no later than ten (10) days after closing a real estate trust account; Wis. Admin. Code § REEB 18.13(1), (2), (4), and (5) by failing to: maintain a cash journal; maintain ledgers; prepare a written trial balance each month, and validate account statements each month; Wis. Admin. Code § REEB 18.10 by commingling over $300 of personal funds in a real estate trust account; Wis. Admin. Code § REEB 17.08(1) by failing to supervise the activities of a licensee employed by him; Wis. Stat. § 452.1 3(2)(e)l. by failing to direct the depository institution to remit to the Department of Administration (DOA) the total interest or dividends, minus service charges or fees, earned on the average daily balance in an interest-bearing common trust account; Wis. Admin. Code § REEB 18.031(3)(a) by failing to make the DOA the beneficial owner of the interest accruing to the trust account, minus any service charges; and Wis. Admin. Code § REEB 24.08 by failing to put in writing all commitments regarding transactions.
Discipline: Within 90 days, the broker shall successfully complete and pass the examinations for six hours of education on the topic of trust accounts and six hours of education on the topic of business ethics. The broker license is limited in the following ways: submit a monthly report to the DSPS each month with specific information detailed in the order. Within 90 days, the broker shall pay costs of $700.

Facts: The business entity license was first issued in October 2009 and current through December 14, 2016. A salesperson associated with the business entity had an expired license from December 15, 2012 to April 16, 2013, due to non-renewal. The business entity license was expired from December 15, 2012 to April 25, 2013, due to non-renewal. The salesperson practiced from December 15, 2012 to April 16, 2013, scheduled and attended showings and drafted one offer to purchase and one counter-offer. During the term of its expired license, the business entity listed 93 homes for sale.
Violation: Wis. Stat. § 452.03 by engaging in the business of real estate and holding himself out as a real estate salesperson without a license and Wis. Stat. § 452.12(5)(b) by engaging in activities covered by its license while the business entity license was expired due to nonrenewal.
Discipline: The business entity shall pay $500 forfeiture. Within 90 days, both the salesperson and the licensed business entity shall each pay costs of $423.

Facts: Broker's license was first issued in February 1979 and current through December 14, 2016. The associated business entity license was issued in June 1992 and current through December 14, 2016. The entity maintains a common real estate trust account at Integrity First Bank account ending with -64. A June 2014 audit revealed Ledgers were not maintained; monthly trial balances were not performed; accounts were not validated monthly; two commission checks had remained in the account for over 24 hours after the transactions were completed and the commissions were earned; the trust account still contained money from transactions that originated in 2004, although the broker stated on the pre-audit questionnaire that she was holding no money for transactions more the six months old. Rather than recording the date money was received in the computerized journal, the broker recorded the date that a transaction file was opened. The broker could not locate or provide information on two missing trust account checks. The trust account was constructively overdrawn from approximately January 2012 through April

2013. The broker overcorrected the shortage and as a result commingled over $300 of personal funds in the trust account from May 2013 until the audit date.
Violation: The broker violated Wis. Stat. § 452.133(1)(f) by failing to safeguard trust funds; Wis. Admin. Code § REEB 18.09(3)(a) by failing to withdraw commissions she earned from the trust account within twenty-four (24) hours after the transactions were consummated or terminated, or after the commissions or fees were earned; Wis. Admin. Code § REEB 18.10 by commingling personal funds in the trust account; and Wis. Admin. Code § REEB 18.13(3) through (5) by failing to: reconcile real estate trust accounts in writing each month; preparing a written trail balance each month; and validating trust account statements each month. The business entity violated Wis. Admin. Code § REEB 24.17(3) by aiding or abetting the above violations.
Discipline: Both the broker license and business entity license are limited in the following way: shall not utilize more than one real estate trust account. If they choose to utilize a real estate trust account, they must contract with an Account Manager to manage the account. The Account Manager must be either: a. a licensed broker pre-approved by the REEB, or b. a Wisconsin Certified Public Accountant in good standing with the Wisconsin Accounting Examining Board. Within at least 30 days, the broker shall inform the REEB whether they wish to utilize a real estate trust account. If the broker chooses to have a trust account, the order requires very specific steps that must be followed. Each year, the broker must submit regular statements and reports with specific information detailed in the order. After five years of practice in compliance with all terms and conditions of the order, the broker may petition the REEB for modification or termination of the above limitations. Within 90 days, both the broker and licensed business entity must each pay costs of $370.

Facts: Broker's license was first issued in February 1997 and current through December 14, 2016. The business entity license was first issued in January 2006 and current through December 14, 2016. The broker was the responsible broker for the licensed business entity. There was a common real estate trust account with the Peoples State Bank ending with account number -93. A September 2014 DSPS audit revealed: there were no cash journals, no ledgers, no account reconciliations prepared monthly, trial balances showed four transactions in the negative, validations were not completed monthly, failed to withdraw commission within 24 hours after the consummation, termination or earning of commission, and co-mingling of $3,000 personal funds in the account.
Violation: The broker violated Wis. Stat. § 452.133(1)(f) by failing to safeguard trust funds; Wis. Admin. Code § REEB 18.13(1) through (5) by failing to maintain a cash journal, maintain ledger, reconciling a trust account in writing each month, preparing a written trial balance each month, validate the trust account each month; Wis. Admin. Code § REEB 18.09(3)(a) by failing to withdraw commissions he earned from the trust account within 24 hours after transactions were consummated or terminated, or after the commissions or fees were earned; and Wis. Admin. Code § REEB 18.10 by commingling personal funds in the trust account. The business entity violated Wis. Admin. Code § REEB 24.17(3) by aiding or abetting the above violations.
Discipline: The broker and business entity licenses are reprimanded. Within 90 days of the date of this order, the broker shall successfully complete six hours of education in the topic of trust accounts. The broker must follow the first full calendar month after the date of this order and submit a monthly report to the DSPS by the 15th day of each month with specific information required. The REEB may require the broker to appear before it at any time, provided that written notice is given at least 30 days before any scheduled meeting. The broker may petition for the REEB to lift the limitations once the broker has shown and submitted accurate reports for six months. Within 90 days of the order, the broker and licensed business entity shall each pay costs of $96.62.

Facts: Broker's license was first issued January 2010 and is current through December 14, 2016. Business entity license was first issued February 2009 and current through December 14, 2016. The business entity was expired from December 15, 2012 through September 26, 2013. The broker was the broker responsible for the entity. The REEB requested information regarding complaints against the broker and entity in September 2013, October 2014 and November 2014. The broker failed to respond to the requests. In November, the broker emailed the DSPS indicated that he had not received the previous requests because they were sent to his prior business address. The broker updated his address with the DSPS. The day after his first communication, the broker informed the DSPS that while the business entity was expired, the broker handed two listings for friends, neither resulting in an offer to purchase.
Violation: Both the business entity and the broker violated Wis. Admin. Code § REEB 24.17(5) by failing to respond to the DSPS regarding request for information within 30 days of the request; both violated Wis. Stat. § 440.11(1) failing to notify the DSPS of the new address within 30 days of the change in writing. The business entity violated Wis. Stat. § 452.03 by engaging in the business of a broker without a license.
Discipline: The business entity license is ordered within 90 days of the order to pay a forfeiture of $250 and both the business entity and broker shall pay costs in the amount of $810.

Facts: Broker's license was first issued February 1987 and current through December 14, 2016. The business entity license was first issued in October 1994 and current through December 14, 2016. The broker is the responsible broker for the licensed business entity. In February 2006, the broker acted as a broker for the purchase of a commercial property in Indianapolis, Indiana, as the principal investors in the purchase. To cover the interest in the investment, the business entity charged the tenants in common owners an acquisition fee in the transaction. In October 2013, the broker was found to have violated Wisconsin law and received unjust enrichment in Federal Bankruptcy Court. The court determined: the broker provided brokerage services as defined in Wis. Stat. 452.01(2)(h); violated Wis. Stat. 452.133 by failing to obtain express consent for an acquisition fee he received from the tenant in common; was not entitled to retain part of the his acquisition fee that was attributed to TP; and owed TP $345,276.
Violation: The broker violated Wis. Stat. § 452.133(1)(b) by failing to provide brokerage services with reasonable skill and care. The broker violated Wis. Admin. Code § REEB 24.08 by failing to put in writing all financial obligations and any other commitments regarding the transactions, expressing the exact agreement of the parties as well as Wis. Admin. Code § REEB 24.17(1) and (3) by the conduct of the Findings of Facts. The broker and the business entity violated Wis. Stat. § 452.133(3)(a) by accepting any fee or compensation related to the transaction from any person other than the broker's client without the written consent of all parties to the transaction. The broker and the business entity violated Wis. Stat. § 452.133(3)(b) by acting in a transaction on the broker's own behalf in which the broker has an interest without written consent of all the parties to the transaction.
Discipline: The broker and business entity license are limited as follows: within six months of the order, the broker must complete and pass the examinations for nine hours of education on the topics of contracts, consumer protection and business ethics. Within 90 days of the order, the broker and business entity shall by forfeiture in the amount of $1,000 and costs of $1,600.

Facts: Broker's license was first issued in March 2005 and current through December 14, 2016. The business entity license was first issued in January 2005 and current through December 14, 2016. At all times relevant to the matter, the broker was a co-owner and responsible broker for

the business entity. On June 27, 2013, the REEB entered a final order against the broker and the business entity. The broker was reprimanded for demonstrated incompetency to act as a broker in a manner to safeguard the public. Both the entity and the broker were ordered to pay forfeiture and costs. In addition, the broker's license was limited and required him to complete 12 hours of continuing education and submit monthly reports to the REEB for six months. On January 2, 2014, the REEB suspended the broker's license for failure to comply with the order. On June 9, the broker asserts he was never notified of his license suspension. Between January 2, 2014, and June 8, 2014, the broker, through the business entity, listed 11 properties with the local MLS while his license was suspended. The business entity asserts that no one was aware of the violations.
Violation: The broker violated Wis. Stat. § 452.03 by engaging in the practice of real estate without a license. The business entity, by the finding of facts, violated Wis. Admin. Code § REEB 24.17(3) by aiding ad abetting the violation of the broker.
Discipline: The broker license is suspended for 30 days. The suspension begins March 4, 2016, and ends on April 2, 2016. The broker may resume practice on April 3, 2016. Within 90 days of the order, the broker shall pay a forfeiture of $1,000 and costs of $368. The business entity shall pay a forfeiture of $500 and costs of $368 within 90 days of the order.

Facts: The broker license was first issued in November 1993 and current through December 14, 2016. The business entity license was issued November 1996 and current through December 14, 2016. In November 2014, the business entity registered with the DSPS a common real estate trust account held at BMO Harris Bank of Milwaukee with account number ending in -45. On the form registered to the account, a BMO representative certified that the account balance was $41,926 two days before the registration with the DSPS was filed. The DSPS audit in March 2015 revealed that the business entity did not timely register the account the DSPS and did not instruct BMO Harris to treat the account as an IBRETA and send account interest to the Department of Administration until late in 2014. On several occasions, BMO Harris charged fees to the account for a total of $74 and because the broker did not deposit additional personal funds in the account to offset the fees causing the account to be constructively overdrawn for at least two years prior to the audit date. The broker had not been preparing a written monthly trial balance. The broker voluntarily brought the trust account into compliance with IBRETA requirements upon learning of non-compliance.
Violation: The broker violated Wis. Stat. § 452.13(2)(b)1. by failing until the November date to register the account with the DSPS; Wis. Admin. Code § REEB 18.035(1) providing the DSPS with the name and address of the account, etc. more than 10 days after opening the account; Wis. Stat. § 452.13(2)(e) by failing to direct the depository institution to annually, before February 1 to remit to DOA the interest; Wis. Stat. 452.133(1)(f) and Wis. Admin. Code § REEB 18.10(2) by failing to deposit $74 of additional personal funds in the account within 10 business days following notification as to service charges against the account and Wis. Admin. Code § REEB 18.13(4) by failing to prepare a month trial balance. The business entity violated Wis. Admin. Code § REEB 24.17(3) by aiding and abetting.

Discipline: Within 90 days, the broker shall complete and pass examinations as to six hours of education on the topic of trust accounts. Within 90 days, the broker and business entity shall each pay a forfeiture of $1,000 and costs of $185.
Facts: Broker's license was first issued in October 2006 and current through December 14, 2016. The business entity license was first issued in October 2006 and is current through December 14, 2016. The broker and entity maintain a common real estate trust account at North Shore Bank account ending in -17. In 2014, the trust account was routinely audited by DSPS. On April 15, 2014, the auditor sent a pre-audit questionnaire. On April 22, 2014, the broker submitted a completed questionnaire to the auditor. On May 8, 2014, the auditor

requested a meeting for the audit on May 30, 2014. On May 13, 2014, the broker indicated he would not be available on the requested date. On September 9, 2014, the auditor proposed an audit date of September 23, 2014. The broker did not respond. The auditor reached out again on September 12 and 17, 2014, as to the September 23, 2014 date. The broker did not respond. The auditor made an unscheduled visit to the broker's office and found no one present. On October 9, 2014, the auditor filed a complaint against the broker. The broker responded in a timely manner after being contacted about the complaint. The audited account revealed the broker had not been disbursing money directly from the trust account to his clients. Rather, he first transferred the money from the trust account to his personal business account and then transferred the money. His ledgers identified money disbursed from his personal business account. On one occasion, he transferred $2,000 in earnest money to his personal business account on July 5, 2012, although the transaction did not close until July 16, 2012. The first entry in the trust account dated January 1, 2012, showed an opening balance of $0. However, the trust account was opened in 2006 and the balance was actually $3.94 on January 1, 2012.
Violation: The broker violated: Wis. Admin. Code § REEB 24.17(5) by failing to respond to the DSPS regarding a request for information within 30 days of the date of the request; Wis. Admin. Code § REEB 18.09(1) by failing to properly disburse trust funds from his real estate account; and Wis. Admin. Code § REEB 18.13(2) by failing to maintain a record including the receipts and disbursements. The business entity violated Wis. Admin. Code § REEB 24.17(3) by aiding and abetting.
Discipline: Within 90 days, the broker must complete and pass the examinations for education relating to six hours of trust accounts and six hours of business ethics. Within 90 days, both the business entity and the broker shall each pay a forfeiture of $500 and costs of $550.

Facts: Broker's license was first issued in March 2006 and current through December 14, 2016. The broker was the supervising broker for a licensed business entity until he left in March 2008. The broker did not report to the DSPS the termination of his association with business entity or his start date. The broker was the supervising broker for the licensed entity from 2005 to 2008. The broker began as a supervising broker for another licensed business entity in March 2011 and continued until July 2013. The broker also did not report to the DSPS his start and end dates with this business entity.
Violation: Wis. Admin. Code § REEB 17.05 by failing to notify the DSPS of transfer from one broker to another and Wis. Admin. Code § REEB 17.06 failing to provide written notification to the DSPS of his termination.
Discipline: Within 90 days, the broker must pay costs of $1,425.00.

Facts: Broker's license was first issued in March 1979 and current through December 14, 2016. On June 24, 2015, the Wisconsin Supreme Court found the broker to have committed misconduct in violation of Wisconsin Supreme Court rules in her role as an attorney. The Division of Legal Services and Compliance alleges circumstances of the violations substantially relate to the practices of a broker. The broker does not admit and also does not contest any violations alleged in the division's report. The broker stated she has retired and wished to resolve the DSPS case.
Violation: Wis. Admin. Code § REEB 24.17(1) relating to circumstances of which substantially relate to the practices of a real state broker.
Discipline: The broker voluntarily surrendered her license, thus permanently relinquishing her license.

Facts: The applicant filed for a broker's license. During the application process the application showed violations and convictions for the following: on or about February 5, 2007 operating while intoxicated, 1st, an ordinance violation; on or about December 2, 2009 – operating while intoxicated, 2nd, a misdemeanor; since his last renewal in 2012 on or about January 5, 2015 – operating with prohibited alcohol concentration (PAC), 3rd, misdemeanor.
Board determination: Granted a broker license with the following limitations: at all ties, practice as broker under the supervision of a licensed broker; notify his broker of history of arrests and convictions, commit no new violations, shall not drive current or prospective buyers in a motor vehicle, report quarterly to the DSPS with specific information listed in the Order; arrange for written reports from his supervisor(s). The applicant may petition after two years for modification of the terms.

For more information as to any disciplinary action taken by the REEB, visit dsps.wi.gov/Other-Services/Lookup-Orders-Disciplinary. If you agree to the terms, you then can select by looking at the Real Estate Examining Board's disciplinary actions. The above disciplinary information is from November 2015 through March 21, 2016.

Cori M. Lamont,
Director of Regulatory Affairs, Wisconsin REALTORS® Association
4801 Forest Run Road, Madison, WI 53704
tel: 608-241-2047 | fax: 608-241-5168 | www.wra.org
