

CLOSED SESSION

MOTION: Richard Marino moved, seconded by Robert Webster, to convene to closed session to deliberate on cases following hearing (s. 19.85(1)(a), Stats.); to consider licensure or certification of individuals (s. 19.85(1)(b), Stats.); to consider closing disciplinary investigations with administrative warnings (ss. 19.85 (1)(b), and 440.205, Stats.); to consider individual histories or disciplinary data (s. 19.85 (1)(f), Stats.); and to confer with legal counsel (s. 19.85(1)(g), Stats.). Thomas Richie, Chairperson, read the language of the motion. The vote of each member was ascertained by voice vote. Roll Call Vote: Robert Larson-yes; Richard Marino-yes; Thomas Richie-yes; and Robert Webster-yes. Motion carried unanimously.

The Board convened into Closed Session at 11:14 a.m.

(Jerry Lyons was out of the room for this vote.)

DIVISION OF LEGAL SERVICES AND COMPLIANCE (DLSC) MATTERS

Administrative Warnings

MOTION: Robert Webster moved, seconded by Richard Marino, to issue an Administrative Warning in the matter of the following cases:

1. 17 REB 074 – C.B.B., B.R.V., A.R.
2. 17 REB 119 – B.E.L.
3. 18 REB 025 – M.L.K.
4. 18 REB 113 – M.S., M.G.S., J.R.E.
5. 18 REB 114 – B.J.B., M.A.L., E.R.
6. 18 REB 114 – N.K.K., B.W.L., L.F.C.R.

Motion carried unanimously.

Case Closings

16 REB 106 – R.R., A.R.

MOTION: Robert Webster moved, seconded by Jerry Lyons, to close DLSC Case Number 16 REB 106, against R.R. and A.R., for No Violation. Motion carried unanimously.

17 REB 113 – D.B., R.M.S., H.R.

MOTION: Jerry Lyons moved, seconded by Robert Larson, to close DLSC Case Number 17 REB 113, against D.B., R.M.S., and H.R., for Prosecutorial Discretion (P1). Motion carried unanimously.

18 REB 022 – N.E.W.D.R.

MOTION: Jerry Lyons moved, seconded by Robert Larson, to close DLSC Case Number 18 REB 022, against N.E.W.D.R., for No Violation. Motion carried unanimously.

Stipulations, Final Decisions and Orders

16 REB 106 – Gizo Ujarmeli

MOTION: Robert Webster moved, seconded by Jerry Lyons, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Gizo Ujarmeli, DLSC Case Number 16 REB 106. Motion carried unanimously.

17 REB 063 – LaTanya Y. Ghee

MOTION: Robert Webster moved, seconded by Richard Marino, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against LaTanya Y. Ghee, DLSC Case Number 17 REB 063. Motion carried unanimously.

17 REB 103 – Tracey Jennerjohn and Jennerjohn Reality Auctioneering & Appraising, LLC

MOTION: Richard Marino moved, seconded by Jerry Lyons, to adopt the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Tracey Jennerjohn and Jennerjohn Reality Auctioneering & Appraising, LLC, DLSC Case Number 17 REB 103. Motion carried unanimously.

18 REB 031 – Tyler Sweeney

MOTION: Jerry Lyons moved, seconded by Robert Webster, to reject the Findings of Fact, Conclusions of Law and Order in the matter of disciplinary proceedings against Tyler Sweeney, 18 REB 031. Motion carried unanimously.

Monitoring Matters

Dean George – Requesting Full Licensure

MOTION: Jerry Lyons moved, seconded by Richard Marino, to deny the request of Dean George for full licensure. **Reason for Denial:** Failure to comply with Board order. Motion carried unanimously.

Jason San Miguel – Requesting Full Licensure

MOTION: Jerry Lyons moved, seconded by Robert Larson, to grant the request of Jason San Miguel for full licensure. Motion carried unanimously.

RECONVENE TO OPEN SESSION

MOTION: Richard Marino moved, seconded by Robert Webster, to reconvene into Open Session. Motion carried unanimously.

The Board reconvened into Open Session at 12:39 p.m.

VOTE ON ITEMS CONSIDERED OR DELIBERATED UPON IN CLOSED SESSION, IF VOTING IS APPROPRIATE

MOTION: Robert Webster moved, seconded by Richard Marino, to affirm all motions made and votes taken in Closed Session. Motion carried unanimously.

(Be advised that any recusals or abstentions reflected in the closed session motions stand for the purposes of the affirmation vote.)

ADJOURNMENT

MOTION: Robert Webster moved, seconded by Jerry Lyons, to adjourn the meeting. Motion carried unanimously.

The meeting adjourned at 12:42 p.m.

**State of Wisconsin
Department of Safety & Professional Services**

AGENDA REQUEST FORM

1) Name and Title of Person Submitting the Request: Sharon Henes Administrative Rules Coordinator		2) Date When Request Submitted: 12 August 2019 Items will be considered late if submitted after 12:00 p.m. on the deadline date which is 8 business days before the meeting	
3) Name of Board, Committee, Council, Sections: Real Estate Examining Board			
4) Meeting Date: 22 August 2019	5) Attachments: <input type="checkbox"/> Yes <input type="checkbox"/> No	6) How should the item be titled on the agenda page? Legislative and Administrative Rule Matters 1. REEB 25 Relating to Obsolete References 2. REEB 24 Relating to Conduct and Ethical Practices 3. Legislation and Pending or Possible Rulemaking Projects	
7) Place Item in: <input type="checkbox"/> Open Session <input type="checkbox"/> Closed Session	8) Is an appearance before the Board being scheduled? <input type="checkbox"/> Yes <input type="checkbox"/> No	9) Name of Case Advisor(s), if required:	
10) Describe the issue and action that should be addressed:			
11) Authorization			
<i>Sharon Henes</i>		8/12/19	
Signature of person making this request		Date	
Supervisor (if required)		Date	
Executive Director signature (indicates approval to add post agenda deadline item to agenda)		Date	
Directions for including supporting documents: 1. This form should be attached to any documents submitted to the agenda. 2. Post Agenda Deadline items must be authorized by a Supervisor and the Policy Development Executive Director. 3. If necessary, provide original documents needing Board Chairperson signature to the Bureau Assistant prior to the start of a meeting.			

Chapter REEB 24

CONDUCT AND ETHICAL PRACTICES FOR REAL ESTATE LICENSEES

REEB 24.01 Authority and intent.
 REEB 24.02 Definitions.
 REEB 24.03 Competent services.
 REEB 24.04 Advertising.
 REEB 24.05 Disclosure of compensation and interests.
 REEB 24.06 Unauthorized practice of law.
 REEB 24.07 Inspection and disclosure duties.
 REEB 24.075 Tie-in arrangements.
 REEB 24.08 Agreements to be in writing.

REEB 24.085 False portrayal of interest, prohibited.
 REEB 24.09 Securing agency agreements.
 REEB 24.10 Net listing prohibited.
 REEB 24.12 Confidentiality of offers.
 REEB 24.13 Drafting and submission of written proposals.
 REEB 24.15 Adequate funds required.
 REEB 24.16 Availability of rules.
 REEB 24.17 Miscellaneous requirements.

Note: Chapter REB 15 as it existed on February 29, 1980 was repealed and a new chapter REB 15 was created effective March 1, 1980. Renumbered from chapter REB 15, effective March 1, 1983. Chapter RL 24 was renumbered chapter REEB 24 under s. 13.92 (4) (b) 1., Stats., Register November 2011 No. 671.

REEB 24.01 Authority and intent. (1) The rules in this chapter are adopted pursuant to ss. 227.11, 452.01, 452.07, 452.133, 452.138, 452.139 and 452.14, Stats.

(2) The intent of the board in adopting the rules in this chapter is to establish minimum standards of conduct for real estate licensees and to define that conduct which may result in board discipline pursuant to s. 452.14, Stats.

(3) If a licensee violates rules in this chapter, the licensee has demonstrated incompetency to act as a broker or salesperson in such manner as to safeguard the interests of the public under s. 452.14 (3) (i), Stats. However, the term “incompetency” is not limited in its meaning to violations of this chapter.

(4) If a licensee violates the rules set forth in s. REEB 24.075, the licensee has engaged in improper, fraudulent or dishonest dealing as used in s. 452.14 (3) (k), Stats. However, the terms “improper, fraudulent or dishonest dealing” are not limited in their meaning to violations of s. REEB 24.075.

History: Cr. Register, February, 1980, No. 290, eff. 3-1-80; renum. (3) to be (5), (3) renum. from REB 15.02 (2) and cr. (4), Register, December, 1980, No. 300, eff. 1-1-81; renum. from REB 15.01 and am. (2) to (4), Register, February, 1983, No. 326, eff. 3-1-83; am. (1) and (3), r. (5) (intro.) and (d), renum. (5) (a) to (c) to be RL 24.025, RL 24.03 (2) (b) and (c), Register, January, 1987, No. 373, eff. 2-1-87; correction in (4) made under s. 13.93 (2m) (b) 4., Stats., Register, May, 1988, No. 389; am. Register, April, 1995, No. 472, eff. 5-1-95; correction in (2), (4) made under s. 13.92 (4) (b) 6., 7., Stats., Register November 2011 No. 671; EmR1620: emerg. am. (3), eff. 7-1-16; CR 16-042: am. (3) Register February 2017 No. 734, eff. 3-1-17.

REEB 24.02 Definitions. (1) “Adverse fact” means any of the following:

(a) A condition or occurrence that is generally recognized by a competent licensee as doing any of the following:

1. Significantly and adversely affecting the value of the property.
2. Significantly reducing the structural integrity of improvements to real estate.
3. Presenting a significant health risk to occupants of the property.

(b) Information that indicates that a party to a transaction is not able to or does not intend to meet his or her obligations under a contract or agreement made concerning the transaction.

(3) “Brokerage service” means any service described under s. 452.01 (2), Stats., provided to a person by a firm and any licensees associated with the firm.

(4) “Builder” means any person engaged in the business of constructing homes without a buyer under contract or constructing homes under a contract with the buyer.

(5) “Buyer’s firm” means a firm who has an agency agreement with a buyer.

(7) “Commonly controlled corporation” means one of 2 or more corporations in which the same person or persons own stock in each of the corporations, possessing at least 80% of the total combined voting power of all classes of stock entitled to vote and at least 80% of the total number of shares of all other classes of stock of the corporations.

(10) “Effectively controlled” means having the power or authority to cause the transfer of an interest in real estate for oneself or another but does not include the authority conferred by a real estate listing contract.

(12) “Material adverse fact” means an adverse fact that a party indicates is of such significance, or that is generally recognized by a competent licensee as being of such significance to a reasonable party, that it affects or would affect the party’s decision to enter into a contract or agreement concerning a transaction or affects or would affect the party’s decision about the terms of such a contract or agreement.

(13) “Party” means a person seeking to engage in a transaction.

(13m) “Principal firm” means a firm who engages a subagent to provide brokerage services in a transaction.

(14) “Qualified third party” means a federal, state or local governmental agency, or any person whom the broker, salesperson or a party to the real estate transaction reasonably believes has the expertise necessary to meet the industry standards of practice for the type of inspection or investigation that has been conducted by the third party in order to prepare the written report described in s. 452.23 (2) (b), Stats.

(15) “Secured lender” means an individual or organization originating a loan in a real estate or business opportunity transaction secured by real estate or by the assets of a business or a business opportunity.

(16) “Real estate practice” means engaging in conduct which requires a license under ch. 452, Stats.

(18) “Transaction” means the sale, exchange, purchase or rental of, or the granting or acceptance of an option to sell, exchange, purchase or rent, an interest in real estate, a business or a business opportunity.

(19) “Written proposal” means any written document provided by one party to another during the course of a transaction, including but not limited to notices, offers, counteroffers, options, exchanges, rental agreements, and amendments.

History: Cr. Register, February, 1980, No. 290, eff. 3-1-80; renum. (1) to be (5), renum. (2) to be REB 15.01 (3), cr. (1) to (4) and (6), Register, December, 1980, No. 300, eff. 1-1-81; renum. from REB 15.02, Register, February, 1983, No. 326, eff. 3-1-83; renum. (4) to (6) to be (7) to (9) under s. 13.93 (2m) (b) 1., Stats., Register, September, 1990, No. 417; renum. (1) to (3) to be (2), (4) and (6), cr. (1), (3) and (5), Register, September, 1990, No. 417, eff. 10-1-90; am. (1), Register, January, 1992, No. 433, eff. 2-1-92; am. (1), Register, July, 1993, No. 451, eff. 8-1-93; r. and recr. (1), renum. (2) to (4) to be (4), (5), (7), (6) and (7) to be (8) and (10), (8) to be (11) and am., (a) to be (17), r. (5), cr. (2), (3), (6), (9), (12) to (16), (18), Register, April, 1995, No. 472, eff. 5-1-95; am. (7), r. (11), Register, July, 1998, No. 511, eff. 8-1-98; correction in (3) made under s. 13.92 (4) (b) 7., Stats., Register November 2011 No. 671; CR 10-136: am. (2) to (5), r. (8), am. (13), cr. (13m), r. (17), cr. (19) Register

April 2012 No. 676, eff. 7-1-12; EmR1620: emerg. r. (2), am. (3), (5), (6), (9), (13m), eff. 7-1-16; CR 16-042: r. (2), am. (3), (5), renum. (6), (9) to REEB 11.02 (3m), (4m), am. (13m) February 2017 No. 734, eff. 3-1-17.

REEB 24.03 Competent services. (1) DISCRIMINATION PROHIBITED. Licensees may not discriminate against, nor deny equal services to, nor be a party to any plan or agreement to discriminate against any person in any manner unlawful under applicable federal, state or local fair housing law.

Note: The primary references for federal and state fair housing laws are the 1988 amendments to the Federal Housing Act (Title VII of the Civil Rights Act of 1968) and Chapter 106, Subchapter II, Stats.

(2) COMPETENCE REQUIRED. (a) Licensees shall not provide services which the licensee is not competent to provide unless the licensee engages the assistance of one who is competent. Any person engaged to provide such assistance shall be identified and that person's contribution shall be described.

(b) Licensees shall act to protect the public against fraud, misrepresentation and unethical practices.

(c) Licensees shall be knowledgeable regarding laws, public policies and current market conditions on real estate matters and assist, guide and advise the buying or selling public based upon these factors.

(d) Licensees are not required to have the technical knowledge, skills or training possessed by competent third party inspectors and investigators of real estate and related areas.

Note: Paragraph (d) recognizes that licensees are not required to have the knowledge, skills or training possessed by, for example, persons such as home inspectors, plumbers, electricians or land surveyors.

History: Cr. Register, February, 1980, No. 290, eff. 3-1-80; am. (1), Register, March, 1981, No. 303, eff. 4-1-81; renum. from REB 15.03, Register, February, 1983, No. 326, eff. 3-1-83; am. (1), renum. (2) to be (2) (a), (2) (b) and (c) renum. from RL 24.01 (5) (b) and (c) and am., Register, January, 1987, No. 373, eff. 2-1-87; am. (1), cr. (2) (d), Register, July, 1993, No. 451, eff. 8-1-93.

REEB 24.04 Advertising. (1) FALSE ADVERTISING. Licensees shall not advertise in a manner which is false, deceptive, or misleading.

(2) DISCLOSURE OF NAME. (a) Except for advertisements for the rental of real estate owned by the licensee, a licensee shall in all advertising disclose the firm name exactly as printed on the licensed individual broker or the licensed broker business entity's license or disclose a trade name previously filed with the department, as required by s. REEB 23.03, and in either case clearly indicate that the firm is a business concern and not a private party.

(b) Except for advertisements for the rental of real estate owned by the licensee, a licensee associated with a firm shall advertise under the supervision of and in the name of the firm.

(c) A licensee may advertise the occasional sale of real estate owned by the licensee or the solicitation of real estate for purchase by the licensee without complying with pars. (a) and (b), provided that the licensee clearly identifies himself, herself or itself as a real estate licensee in the advertisement.

(3) ADVERTISING WITHOUT AUTHORITY PROHIBITED. Licensees shall not advertise property without the consent of the owner.

(4) ADVERTISED PRICE. Licensees shall not advertise property at a price other than that agreed upon with the owner; however, the price may be stated as a range or in general terms if it reflects the agreed upon price.

History: Cr. Register, February, 1980, No. 290, eff. 3-1-80; am. (4), Register, March, 1981, No. 303, eff. 4-1-81; renum. from REB 15.04 and am. (2), Register, February, 1983, No. 326, eff. 3-1-83; renum. (2) to be (2) (a) and am., cr. (2) (b) and (c), Register, January, 1987, No. 373, eff. 2-1-87; am. (2) (c), Register, April, 1995, No. 472, eff. 5-1-95; correction in (2) (a) made under s. 13.92 (4) (b) 7., Stats., Register November 2011 No. 671; EmR1620: emerg. am. (2) (a), (b), (3), (4), eff. 7-1-16; CR 16-042: am. (2) (a), (b), (3), (4) Register February 2017 No. 734, eff. 3-1-17.

REEB 24.05 Disclosure of compensation and interests. (1) COMPENSATION. (a) A licensee acting as an agent in a real estate or business opportunity transaction may not accept any fee or compensation related to the transaction from any person, other than the licensee's client, principal firm, or firm the licensee is associated with without prior written consent from all parties to the transaction.

(b) A licensee acting as an agent in a real estate or business opportunity transaction may not recommend or suggest to a party to the transaction the services of another individual or entity from which the licensee may receive compensation for a referral or in which the licensee has an interest, unless the licensee, prior to or at the time of the referral, discloses to the party in writing the fact that he or she may receive compensation for the referral or that he or she has an interest in the individual or entity providing the services. This paragraph does not apply when the licensee makes a referral to another licensee for real estate services under s. 452.19, Stats.

(2) DISCLOSURE OF INTEREST. A licensee acting as an agent in a real estate or business opportunity transaction may not act in the transaction on the licensee's own behalf, on behalf of the licensee's firm, on behalf of any member of the licensee's immediate family or any combination of members of the licensee's immediate family, or on behalf of any other organization or business entity in which the licensee has an interest without the prior written consent of all parties to the transaction. For the purpose of this subsection, a licensee shall obtain the written consent in the offer to purchase, option, lease or other transaction contract.

(4) DISCLOSURE TO SELLER. A listing firm may not pay any compensation or incentive to a licensee who is acting as a buyer in a transaction without prior written consent from the seller.

(5) DISCLOSURE OF LICENSURE. (a) A licensee acting as a principal in a real estate or business opportunity transaction shall disclose his, her, or its license status and intent to act in the transaction as a principal at the earliest of all of the following:

1. The first contact with the other party or an agent representing the other party where information regarding the other party or the transaction is being exchanged.

2. A showing of the property.

3. Any other negotiation with the seller or the listing firm.

(b) The disclosure under this subsection shall be made in writing to the other party in a transaction or to an agent representing the other party.

History: Cr. Register, February, 1980, No. 290, eff. 3-1-80; renum. (3) and (4) to be (4) and (5), cr. (3), Register, December, 1980, No. 300, eff. 1-1-81; am. (5), Register, March, 1981, No. 303, eff. 4-1-81; renum. from REB 15.05, Register, February, 1983, No. 326, eff. 3-1-83; am. (1) and (5), Register, June, 1988, No. 390, eff. 7-1-88; r. and recr. Register, July, 1993, No. 451, eff. 8-1-93; am. (1), (2), (3), (5), Register, April, 1995, No. 472, eff. 5-1-95; renum. (5) to be (5) (a) (intro.), cr. (5) (a) 1. to 3., and (b), Register, January, 2001, No. 541, eff. 2-1-01; CR 10-136: am. (title), (1) (title), renum. (1) to be (1) (a) and am., am. (2), r. (3) (title), renum. (3) to be (1) (b) and am., r. and recr. (4), am. (5) (b) Register April 2012 No. 676, eff. 7-1-12; EmR1620: emerg. am. (1) (a), (2), (4), (5) (a) 3., eff. 7-1-16; CR 16-042: am. (1) (a), (2), (4), (5) (a) 3. Register February 2017 No. 734, eff. 3-1-17.

REEB 24.06 Unauthorized practice of law.

(1) UNAUTHORIZED PRACTICE OF LAW PROHIBITED. Licensees shall not engage in activities that constitute the unauthorized practice of law.

(2) LEGAL COUNSEL NOT TO BE DISCOURAGED. Licensees shall not discourage any person from retaining an attorney.

History: Cr. Register, February, 1980, No. 290, eff. 3-1-80; renum. from REB 15.06, Register, February, 1983, No. 326, eff. 3-1-83.

REEB 24.07 Inspection and disclosure duties.

(1) INSPECTION OF REAL ESTATE. (a) *General requirement.* A licensee, when engaging in real estate practice which involves real estate improved with a structure, shall conduct a reasonably competent and diligent inspection of accessible areas of the structure and immediately surrounding areas of the property to detect observable, material adverse facts. A licensee, when engaging in real estate practice which involves vacant land, shall, if the vacant land is accessible, conduct a reasonably competent and diligent inspection of the vacant land to detect observable material adverse facts.

(b) *Listing firm.* When listing real estate and prior to execution of the listing contract, a licensee shall inspect the real estate as required by sub. (1), and shall make inquiries of the seller on the condition of the structure, mechanical systems and other relevant

aspects of the property as applicable. The licensee shall request that the seller provide a written response to the licensee's inquiry.

(c) *Other licensees.* Licensees, other than listing firms, shall inspect the real estate as required by sub. (1) prior to or during the showing of the property, unless the licensee is not given access for a showing.

(d) *Specific conduct regarding inspections.* A reasonably competent and diligent inspection of real estate improved with a structure does not require the operation of mechanical equipment; the opening of panels, doors or covers for access to mechanical systems; or the moving of furniture, boxes or other property; nor does it require a licensee to observe areas of the property for which entry presents an unreasonable risk of injury or areas accessible only by ladder, by crawling or other equivalent means of access. A licensee is not required to retain third party inspectors or investigators to complete a reasonably competent and diligent inspection. A reasonably competent and diligent inspection of vacant land does not require an observation of the entire property, but shall include, if given access, an observation of the property from at least one point on or adjacent to the property.

(2) **DISCLOSURE OF MATERIAL ADVERSE FACTS.** A licensee may not exaggerate or misrepresent facts in the practice of real estate. A licensee, when engaging in real estate practice, shall disclose to each party, in writing and in a timely fashion, all material adverse facts that the licensee knows and that the party does not know or cannot discover through a reasonably vigilant observation, unless the disclosure of the material adverse fact is prohibited by law. This provision is not limited to the condition of the property, but includes other material adverse facts in the transaction.

Note: Certain "material adverse facts", as defined in s. REEB 24.02 (12), may not be disclosed by law. For example, unless specifically authorized by a seller, a licensee may not disclose to a potential buyer the actual minimum sales price the seller will accept. See s. 452.133 (1) (d), Stats.

(3) **DISCLOSURE OF INFORMATION SUGGESTING MATERIAL ADVERSE FACTS.** A licensee, when engaging in real estate practice, who becomes aware of information suggesting the possibility of material adverse facts to the transaction, shall be practicing competently if the licensee discloses to the parties the information suggesting the possibility of material adverse facts to the transaction in writing and in a timely fashion, recommends the parties obtain expert assistance to inspect or investigate for possible material adverse facts to the transaction, and, if directed by the parties, drafts appropriate inspection or investigation contingencies. This provision is not limited to the condition of the property, but includes other material adverse facts to the transaction, including but not limited to defects and conditions included within the report form under ss. 703.33 and 709.03, Stats. A licensee is not required to retain third party inspectors or investigators to perform investigations of information suggesting the possibility of a material adverse fact to the transaction.

(4) **DISCLOSURE OF SIDE AGREEMENTS.** A licensee, when engaging in real estate practice, who becomes aware of the fact that a party to the transaction has not disclosed that party's entire agreement regarding the transaction to that party's secured lender, shall disclose this fact, in writing and in a timely manner, to the party's secured lender.

(5) **RELIANCE UPON THIRD PARTY INSPECTIONS AND INVESTIGATIONS.** If a licensee or a party in a transaction engages the services of a qualified third party to conduct a property inspection or investigation of material facts, the licensee may rely on the results of the inspection or investigation providing the licensee obtains a written report of the inspection or investigation and delivers a copy of the report to all interested parties in a timely manner.

(6) **INCONSISTENCIES.** If a licensee's reasonably competent and diligent inspection reveals facts materially inconsistent with or materially contradictory to the seller's statements provided under sub. (1) (a), or the inspection or investigation report of a third party, the inconsistency shall be disclosed in writing and in a timely manner to the parties.

(7) **FALSE INFORMATION.** Licensees shall not knowingly give false information about another licensee or property listed with another licensee.

(8) **DISCLOSURE OF AGENCY.** (a) *General requirements.* 1. A firm may not negotiate on behalf of a party who is not the firm's client unless the firm provides to the party a copy of the disclosure to customers required under s. 452.135 (1), Stats. If the brokerage services are related to real estate primarily intended for use as a residential property containing one to 4 dwelling units, the firm shall request the party's signed acknowledgement that the party has received a copy of the written disclosure statement.

1g. A firm may not negotiate on behalf of a client unless the firm gives the client a copy of the disclosure required under s. 452.135 (2), Stats.

1r. If a client enters into an agency agreement with a firm to receive brokerage services related to real estate primarily intended for use as a residential property containing one to 4 dwelling units, and the disclosure to clients is not incorporated into the agency agreement, the firm shall request the client's signed acknowledgement that the client has received a copy of the written disclosure statement required in s. 452.135 (2), Stats.

2. Licensees acting as agents of potential buyers of real estate that is used or intended to be used principally for one to 4 family residential purposes, who are negotiating directly with the seller or who are aware that the owner of the real estate has granted a listing firm the exclusive right to sell, shall notify the seller or the listing firm, as applicable, of the licensee's buyer agency relationship at the earlier of all of the following:

a. The first contact with the seller or the listing firm where information regarding the seller or transaction is being exchanged.

b. A showing of the property.

c. Any other negotiation with the seller or the listing firm.

3. When the nature of a licensee's representation of a client or customer changes such that it makes the initial disclosure that was provided under s. 452.135, Stats., incomplete, misleading, or inaccurate, the licensee shall provide the customer or client with a new disclosure, as required in s. 452.135, Stats.

(b) *Agency agreements.* 1. Firms and the licensees associated with the firm shall explain to their clients the responsibilities of listing agents, buyer's agents, and subagents before entering into an agency agreement.

2. No firm or licensees associated with the firm may permit other firms to act as subagents in a transaction unless the firm's client has authorized the use of a subagent in the agency agreement.

(c) *Written proposals.* Licensees shall state, in the offer to purchase, the lease, the option to purchase, or the exchange agreement, whom the licensee represents as an agent in a transaction.

(d) *Subagency arrangements.* 1. A listing firm shall provide a disclosure statement to a customer as required in s. 452.135 (1), Stats., to the buyer if negotiations are being conducted directly with the buyer and not through a buyer's firm.

2. A buyer's firm shall provide a disclosure statement to a customer as required in s. 452.135 (1), Stats., to a seller if negotiations are being conducted directly with the seller and not through a seller's firm.

3. A subagent shall provide a disclosure statement to a customer as required in s. 452.135 (1), Stats., with whom he or she is working but not to the principal firm's client.

4. A principal firm is not required to provide a disclosure statement to a customer as required in s. 452.135 (1), Stats., to a customer of their subagents.

(e) *Agency agreements for lease and property management contracts.* 1. A licensee who is entering into agency agreements for lease or property management contracts shall provide to his or

her clients the disclosure statement as required in s. 452.135 (2), Stats.

2. A licensee shall provide to prospective tenants a disclosure statement as required in s. 452.135 (1), Stats., when negotiating the terms of a lease on behalf of the client.

History: Cr. Register, February, 1980, No. 290, eff. 3-1-80; emerg. r. (2), eff. 10-14-80; cr. (3), Register, December, 1980, No. 300, eff. 1-1-81; r. (2), Register, March, 1981, No. 303, eff. 4-1-81; renum. from REB 15.07, Register, February, 1983, No. 326, eff. 3-1-83; cr. (2), Register, January, 1987, No. 373, eff. 2-1-87; am. (1), r. and recr. (2), cr. (4), Register, June, 1988, No. 390, eff. 7-1-88; am. (1), cr. (1) (a) to (c) and (4) (d), r. and recr. (2), Register, September, 1990, No. 417, eff. 10-1-90; r. and recr. (1), renum. (2), (3), (4) to be (5), (6), (7), cr. (2), (3), (4), Register, July, 1993, No. 451, eff. 8-1-93; am. (1) (a), (d), (2), (3), (5), renum. (1) (a), (b) to be (1) (b), (c) and am., (6) to be (7), r. (1) (c), (7), r. and recr. (4), cr. (6), (8), Register, April, 1995, No. 472, eff. 5-1-95; am. (8) (a) 2. (intro.), a. and c., Register, January, 2001, No. 541, eff. 2-1-01; CR-136: r. and recr. (8) (a) 1., cr. (8) (a) 1g., Ir., am. (8) (a) 2. (intro.), 3., r. (8) (a) 4., am. (8) (b) (title), 1., 2., (c), r. and recr. (8) (d), (e) Register April 2012 No. 676, eff. 7-1-12; EmR1620: emerg. am. (1) (b) (title), (c), (3), (8) (a) 1. to 1r., 2. (intro.), a., c., (b), (d), (e), eff. 7-1-16; CR 16-042: am. (1) (b) (title), (c), (3), (8) (a) 1. to 1r., 2. (intro.), a., c., (b), (d), (e) Register February 2017 No. 734, eff. 3-1-17.

REEB 24.075 Tie-in arrangements. Licensees shall not:

(1) Condition the sale of real estate owned by the licensee or whose sale is effectively controlled by the licensee to a buyer upon the buyer's agreement to purchase another parcel or real estate.

(2) Condition the sale of real estate owned by the licensee or whose sale is effectively controlled by the licensee upon the buyer's agreement to list the real estate or other real estate owned by the buyer with the licensee.

Note: The following are 2 common examples of activities which would violate this subsection: (1) requiring a builder to list a speculation home with the licensee; and (2) requiring a buyer to list a present home with the licensee.

(3) Condition the sale of vacant real estate owned by the licensee or whose sale is effectively controlled by the licensee upon the buyer's agreement to employ one or more specific builders to make improvements on the real estate unless:

(a) The builder owns a bona fide interest in the real estate; and there is full disclosure as specified in s. REEB 24.05 (1) (b).

(b) The builder and the licensee or the builder and the owner of the real estate are the same person or are commonly controlled corporations and whose business is selling improved property and not vacant land; and there is full disclosure as in s. REEB 24.05 (1) (b).

(c) The agreement is a bona fide effort to maintain development quality or architectural uniformity and no consideration passes from contractor to licensee for soliciting this agreement.

History: Cr. Register, December, 1980, No. 300, eff. 1-1-81; renum. from REB 15.075 and am. (3) (a) and (b), Register, February, 1983, No. 326, eff. 3-1-83; correction in (3) (a), (b) made under s. 13.92 (4) (b) 7., Stats., Register November 2011 No. 671; correction in (3) (a), (b) made under s. 13.92 (4) (b) 7. Stats., Register April 2012 No. 676.

REEB 24.08 Agreements to be in writing. A licensee shall 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 unless the writing is completed by the parties or their attorneys or the writing is outside the scope of the licensee's authority under ch. REEB 16.

History: Cr. Register, February, 1980, No. 290, eff. 3-1-80; renum. from REB 15.08, Register, February, 1983, No. 326, eff. 3-1-83; am. Register, January, 1987, No. 373, eff. 2-1-87; am. Register, June, 1988, No. 390, eff. 7-1-88; am. 24.08, Register, July, 1993, No. 451, eff. 8-1-93; correction made under s. 13.92 (4) (b) 7., Stats., Register November 2011 No. 671.

REEB 24.085 False portrayal of interest, prohibited. No licensee shall draft or use any document which the licensee knows falsely portrays an interest in real estate.

History: Cr. Register, December, 1980, No. 300, eff. 1-1-81; renum. from REB 15.085, Register, February, 1983, No. 326, eff. 3-1-83.

REEB 24.09 Securing agency agreements. Licensees may not mislead a potential client regarding the benefits which might be realized through the use of the licensee's services.

A licensee also may not mislead a potential client regarding the market value of real estate or a business opportunity to be leased, rented, purchased, optioned, or sold under an agency agreement.

History: Cr. Register, February, 1980, No. 290, eff. 3-1-80; renum. from REB 15.09, Register, February, 1983, No. 326, eff. 3-1-83; r. and recr. Register, April, 1995, No. 472, eff. 5-1-95; CR 10-136: am. Register April 2012 No. 676, eff. 7-1-12.

REEB 24.10 Net listing prohibited. Licensees shall not obtain, negotiate or attempt to obtain or negotiate any listing contract providing for a stipulated net price to the owner with the excess over the stipulated net price to be received by the firm as commission.

History: Cr. Register, February, 1980, No. 290, eff. 3-1-80; renum. from REB 15.10, Register, February, 1983, No. 326, eff. 3-1-83; EmR1620: emerg. am., eff. 7-1-16; CR 16-042: am. Register February 2017 No. 734, eff. 3-1-17.

REEB 24.12 Confidentiality of offers. (1) Except as provided in sub. (2), a licensee acting as a principal or an agent in a real estate or business opportunity transaction shall not disclose any of the terms of one prospective buyer's offer to purchase, exchange agreement or option contract proposal to any other prospective buyer or to any person with the intent that this information be disclosed to any other prospective buyer. Licensees shall encourage all prospective buyers to submit their best offers. A licensee may, but is not required to, disclose information known by the licensee regarding the existence of other offers on the property, the fact that a seller has accepted an offer, that the offer is subject to contingencies and that the offer is subject to a clause requiring removal of certain contingencies upon the occurrence of an event such as receipt, acceptance or conditional acceptance of another offer.

(2) As used in this subsection, "right of first refusal" means the right of a person to have the first opportunity to purchase or lease real property. "Right of first refusal" does not mean a so-called "bump clause" which is a contingency provision in a purchase agreement that requires the prospective buyer to remove certain contingencies in the buyer's purchase agreement or to relinquish the buyer's primary status to a secondary offer. If a licensee is providing brokerage services in a transaction and the licensee has knowledge that the property is subject to a right of first refusal, the licensee shall disclose the right of first refusal, in writing and in a timely manner, to all persons seeking to acquire an interest subject to the right of first refusal. After disclosure of the right of first refusal to a party seeking to acquire an interest in the property, the licensee may deliver a copy of that party's subsequent offer to purchase, exchange agreement, option contract or lease proposal to the party holding the right of first refusal.

History: Cr. Register, February, 1980, No. 290, eff. 3-1-80; am. Register, March, 1981, No. 303, eff. 4-1-81; renum. from REB 15.12, Register, February, 1983, No. 326, eff. 3-1-83; am. Register, July, 1993, No. 451, eff. 8-1-93; renum. RL 24.12 to be (1), cr. (2), Register, January, 2001, No. 541, eff. 2-1-01.

REEB 24.13 Drafting and submission of written proposals. (1) REFUSAL PROHIBITED. Licensees shall not refuse to draft or submit any written proposal unless the terms of the written proposal would be contrary to specific instructions of the other party.

(2) WITHHOLDING WRITTEN PROPOSALS PROHIBITED. (a) Listing firms shall permit access to listed property for showing purposes, to all buyers and persons assisting or advising buyers, without unreasonable delay, unless the buyer's or other person's access is contrary to specific written instructions of the seller.

(b) Licensees shall promptly present all written proposals received to the licensee's client or customer. Licensees shall not withhold any written proposal from presentation pending the party's action on a written proposal previously presented.

(3) FAIR PRESENTATION OF WRITTEN PROPOSALS. (a) Licensees shall present all written proposals in an objective and unbiased manner to their clients and customers. Licensees shall inform their clients and customers of the advantages and disadvantages of all submitted written proposals.

(b) A listing licensed individual broker acting as a sole proprietor or licensee associated with a listing firm may not submit his or her own personal written proposal or offer to purchase a property which the firm has listed if the licensee has knowledge of the terms of any pending offer, except that a firm may arrange for a guaranteed sale at the time of listing.

(4) **NOTIFICATION OF ACTION ON WRITTEN PROPOSAL.** Licensees shall promptly inform their clients and customers whether the other party has accepted, rejected, or countered their written proposal. A licensee shall immediately provide a written statement to the other party's firm that includes the date and time when the written proposal was presented when such a statement is requested by the other party or the other party's firm. A licensee shall immediately provide a written statement to the other party's firm that includes the date and time when the written proposal was rejected or had expired without acceptance when such a statement is requested by the other party or the other party's firm.

(5) **NEGOTIATION THROUGH FIRM.** A licensee may not negotiate a sale or lease of real estate directly with a party if the licensee knows that the party has an unexpired written contract in connection with the real estate which grants to another licensee an exclusive right to sell, lease, or negotiate. All negotiations shall be conducted with the firm holding the exclusive right to sell, lease, or negotiate, and not with the party, except with the consent of the firm or where the absence of the firm, or other similar circumstances, reasonably compels direct negotiation with the party. A listing firm has no duty to investigate whether a buyer has granted a buyer's agent an exclusive right to negotiate.

Note: The Department of Safety and Professional Services' approved form, WB-36, does not grant the buyer's agent an exclusive right to negotiate.

History: Cr. Register, February, 1980, No. 290, eff. 3-1-80; cr. (5), Register, March, 1981, No. 303, eff. 4-1-81; renum. from REB 15.13, Register, February, 1983, No. 326, eff. 3-1-83; renum. (3) to be (3) (a), cr. (3) (b), am. (4), Register, January, 1987, No. 373, eff. 2-1-87; am. (3) (a), Register, June, 1988, No. 390, eff. 7-1-88; am. (3) (b), r. and recr. (2), Register, July, 1993, No. 451, eff. 8-1-93; am. (3) (b) and (5), Register, January, 2001, No. 541, eff. 2-1-01; CR 10-136: am. (title), (1), (2) (title), (b), (3) (title), (a), (4), (5) Register April 2012 No. 676, eff. 7-1-12; EmR1620: emerg. am. (2) (a), (3) (b), (4), (5), eff. 7-1-16; CR 16-042: am. (2) (a), (3) (b), (4), (5) Register February 2017 No. 734, eff. 3-1-17.

REEB 24.15 Adequate funds required. Licensees shall not issue checks upon business or trust accounts which contain insufficient funds.

History: Cr. Register, February, 1980, No. 290, eff. 3-1-80; renum. from REB 15.15, Register, February, 1983, No. 326, eff. 3-1-83.

REEB 24.16 Availability of rules. Firms shall have the

rules of the department readily available in all offices for the use of all licensees.

History: Cr. Register, February, 1980, No. 290, eff. 3-1-80; renum. from REB 15.16, Register, February, 1983, No. 326, eff. 3-1-83; am. Register, January, 1987, No. 373, eff. 2-1-87; correction made under s. 13.92 (4) (b) 6., Stats., Register November 2011 No. 671; CR 10-136: am. Register April 2012 No. 676, eff. 7-1-12; EmR1620: emerg. am., eff. 7-1-16; CR 16-042: am. Register February 2017 No. 734, eff. 3-1-17.

REEB 24.17 Miscellaneous requirements. (1) VIOLATIONS OF LAW. Licensees may not violate, or aid or abet the violation of, any law the circumstances of which substantially relate to the practices of a real estate licensee. A licensee who has been convicted of a crime shall 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 in order that the board may determine whether the circumstances of the crime of which the licensee was convicted are substantially related to the practice of a real estate licensee, pursuant to s. 111.335 (3) (a), Stats.

(2) **CONVICTION.** The board may discipline a licensee on the basis of a conviction of any crime, the circumstances of which substantially relate to the practice of real estate. A certified copy of a judgment of a court of record showing such conviction, within this state or without, shall be presumptive evidence of conviction.

(2m) **FELONY CONVICTION.** The board may revoke a license or registration on the basis of a conviction of a felony that is a bar to licensure or registration under s. 452.25 (1) (a), Stats.

(3) **VIOLATION OF STATUTES, ADMINISTRATIVE CODE AND BOARD ORDERS.** Licensees shall not violate any provisions or terms or conditions of, or aid or abet the violation of ch. 452, Stats., chs. REEB 11 to 25 or any order of, the board.

(4) **IMPAIRED PRACTICE.** Licensees shall not render services while the ability of the licensee to competently perform duties is impaired by mental or emotional disorder, drugs or alcohol.

(5) **DUTY TO COOPERATE WITH THE BOARD AND THE DEPARTMENT.** Licensees and applicants shall respond to the department and the board regarding any request for information within 30 days of the date of the request.

History: Cr. Register, February, 1980, No. 290, eff. 3-1-80; am. (2), Register, December, 1980, No. 300, eff. 1-1-81; renum. from REB 15.17 and am. (2), Register, February, 1983, No. 326, eff. 3-1-83; am. (1), Register, January, 1986, No. 373, eff. 2-1-87; renum. (2) and (3) to be (3) and (4), cr. (2), Register, June, 1988, No. 390, eff. 7-1-88; am. (3), Register, July, 1998, No. 511, eff. 8-1-98; correction in (1), (3) made under s. 13.92 (4) (b) 6., 7., Stats., Register November 2011 No. 671; CR 10-136: am. (1), cr. (5) Register April 2012 No. 676, eff. 7-1-12; CR 15-051: cr. (2m) Register January 2016 No. 721, eff. 2-1-16; correction in (3) made under s. 13.92 (4) (b) 7., Stats., Register January 2014 No. 721; EmR1620: emerg. am. (1), eff. 7-1-16; CR 16-042: am. (1) Register February 2017 No. 734, eff. 3-1-17; correction in (1) made under s. 13.92 (4) (b) 7., Stats., Register December 2018 No. 756; CR 18-051: am. (3) Register July 2019 No. 763, eff. 8-1-19.