

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF THE DISCIPLINARY :
 PROCEEDINGS AGAINST :
 :
 : FINAL DECISION AND ORDER
 : 99 REB 167
 :
 CARRIE J. HOLMAN, :
 RESPONDENT. :
 :
 : LS 0004273 REB

The parties to this action for the purpose of Wis. Stats. sec. 227.53 are:

Carrie J. Holman
1105 E Milwaukee St.
Janesville, WI 53545

Wisconsin Real Estate Board
P.O. Box 8935
Madison, WI 53708

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

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 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

1. **Carrie J. Holman** ("Holman"), date of birth 8/21/63, is licensed in the State of Wisconsin as a real estate salesperson having license # 94-44356. This license was first granted to her on 01/02/96.
2. Holman's most recent address on file with the Department of Regulation and Licensing is 1105 E. Milwaukee St., Janesville, WI 53545.

3. At all times relevant to the facts set forth below, Holman was a real estate salesperson for, Diane & Associates, Why USA, 20 S. Main, Ste. 30. Olde Towne Mall, Janesville, WI 53545.

4. On or about June 10, 1997, Holman entered into a Residential Listing Contract-Exclusive Right To Sell agreement with Alan Beach for the sale of his multi-family house located at 1215 Ravine St., Janesville, WI. The home consisted of 3 apartments, two 1 bedroom apartments and one 3 bedroom apartment. The list price was \$99,990.00 with a broker's commission of 6%. A copy of the Residential Listing Contract-Exclusive Right To Sell agreement is attached as **Exhibit 1** and is incorporated herein by reference.

5. On or about September 8, 1997, Holman prepared an amendment to the Residential Listing Contract-Exclusive Right To Sell agreement (Exhibit 1), changing the expiration date of the contract from September 10, 1997, to December 10, 1997. The amendment was signed by Alan Beach on or about September 10, 1997. A copy of the September 8, 1997, Amendment to Listing Contract is attached as **Exhibit 2** and is incorporated herein by reference.

6. By Amendment to Listing Contract dated September 25, 1997, the list price on the Residential Listing Contract-Exclusive Right To Sell agreement (Exhibit 1), was changed from \$99,990.00 to \$94,990.00. A copy of the September 25, 1997, Amendment To Listing Contract as prepared by Holman is attached as **Exhibit 3** and is incorporated herein by reference.

7. By Amendment to Listing Contract dated October 30, 1997, the list price on the Amendment to Listing Contract dated September 25, 1997, (Exhibit 3), was changed from \$94,990.00 to \$88,990.00. A copy of the October 30, 1997, Amendment To Listing Contract as prepared by Holman is attached as **Exhibit 4** and is incorporated herein by reference.

8. In early November 1997, Ms. Debra LaBelle, an agent for Century 21 Affiliated Blowers, Janesville WI, provided potential buyer, Ms. Sherri Wasson, a MLS Fact Sheet for the 1215 Ravine St., property as prepared by or at the direction of Holman. The list price is shown as \$88,990.00. The MLS fact sheet shows that the leases for apartment/units 2 and 3 were on a month to month basis, and that unit 1 was owner occupied. Unit 3 was shown to be currently vacant. A copy of the MLS fact sheet is attached as **Exhibit 5** and is incorporated herein by reference.

9. On or about November 6, 1997, Ms. LaBelle drafted a Residential Offer To Purchase for Ms. Wasson for the 1215 Ravine St. property. Relying at least in part on the MLS Fact Sheet (Exhibit 5), which indicated that the leases were on a month to month basis, Ms. Wasson offered \$84,000.00, for the property, with closing to take place on or before December 16, 1997. Ms. Wasson required quick closing and occupancy because of special circumstances relating to her mother who was to reside in one of these units. Ms. Holman was made aware of these circumstances. Ms. Wasson's intent was to terminate one of the month to month leases if necessary so that her mother could move in as soon as possible. Lines 27 and 28 of the Residential Offer to Purchase state: "Additional Provisions: Subject to review and approval of

tenants leases (3) and acceptance of leases by buyer". Addendum R To Offer To Purchase – Rental Properties, to the November 6, 1997, offer indicates on lines 10, 11 and 12 in regards to each apartment/unit. "1. Cont. upon lease, 2. Cont. upon lease, 3. Cont. upon lease". Lines 41 and 42 state; Additional provisions: "subject to review approval, and acceptance of tenants leases (3) by buyer". Although on the date of the offer to purchase Ms. Wasson was aware that all three apartment/units were rented she yet believed that they were rented on a month to month basis. A copy of the Residential Offer To Purchase is attached as **Exhibit 6** and is incorporated herein by reference. A copy of Addendum R To Offer To Purchase – Rental Properties is attached as **Exhibit 7** and is incorporated herein by reference.

10. On or about November 11, 1997, Holman drafted a Counter-Offer for the signature of Mr. Beach, with a purchase price of \$87,500.00 and closing date of December 31, 1997. Holman did not disclose in the Counter-Offer that the three apartments were now leased on a year to year basis thereby preventing Ms. Wasson from the immediate occupancy she required. By November 11, 1997, Holman knew, or should have known, that the three apartments were leased on a year to year basis and not monthly and should have so informed Ms. Wasson in writing in the Counter-Offer. Mr. Beach accepted this Counter-Offer on November 12, 1997. A copy of Mr. Beach's Counter-Offer with Acceptance of Counter Offer by Ms. Wasson is attached as **Exhibit 8** and is incorporated herein by reference.

11. Each of the three Residential Leases were for a term of 12 months not month to month as listed on the MLS fact sheet provided to Ms. Wasson and as otherwise believed when she submitted her offer to purchase (**Exhibit 6**). The Residential Lease for apartment/unit 1 was for a term beginning August 1, 1997, and continued to August 1, 1998; the Residential Lease for apartment/unit 2 was for a term beginning September 1, 1997, and continued to September 1, 1998; the Residential Lease for apartment/unit 3 was for a term beginning September 1, 1997, and continued to September 1, 1998. A Copy of the Residential Lease for apartment/unit 1 is attached as **Exhibit 9** and is incorporated herein by reference. A copy of the Residential Lease for apartment/unit 2 is attached as **Exhibit 10** and is incorporated herein by reference. A Copy of the Residential Lease for apartment/unit 3 is attached as **Exhibit 11** and is incorporated herein by reference.

12. On or about November 18, 1997, Ms. LaBelle received copies of the three leases, as per the Residential Offer To Purchase (**Exhibit 6**), and faxed them to Ms. Wasson. Upon review Ms. Wasson realized that the leases were year to year and not month to month, and that the immediate occupancy she required for her mother would not be possible. Ms. Wasson then withdrew her Residential Offer To Purchase and the transaction failed to close.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Board has jurisdiction to act in this matter pursuant to sec. 452.14, Wis. Stats.

2. The Wisconsin Real Estate Board is authorized to enter into the attached Stipulation pursuant to sec. 227.44(5), Wis. Stats.

3. Respondent **Carrie J. Holman** has violated:

a. Sections RL 24.025 (1), and RL 24.07(2) of the Wisconsin Administrative Code and sections 452.133(1)(b), 452.133(1)(c), and 452.14(3)(i) of the Wisconsin Statutes by failing to disclose to Ms. Wasson, in writing and in a timely fashion, in the Beach Counter - Offer she prepared (Exhibit 8), the material adverse fact that the existing Residential Leases for the 1215 Ravine St. property were each for the term of 12 months and not month to month resulting in no immediate vacancies as required by Wasson.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED, that the attached Stipulation is hereby accepted.

IT IS FURTHER ORDERED, that Respondent **Carrie J. Holman**, license # 94-44356, be, and hereby is, issued a **Private Letter of Warning**.

IT IS FURTHER ORDERED, that Respondent **Carrie J. Holman**, within six months of the date of this Order, successfully complete the following course module from the 72 hour pre-licensing real estate salesperson's course at an educational institution approved by the Department of Regulation and Licensing:

a. The Business Ethics module-section RL 25.03(3)(m), of the Wisconsin Administrative Code,

and submit proof of the same in the form of verification from the institution providing the education to the Real Estate Board, P.O. Box 8935, Madison, WI 53708-8935. None of the education completed pursuant to this requirement may be used to satisfy any continuing education requirements that are or may be instituted by the Board or the Department of Regulation and Licensing.

IT IS FURTHER ORDERED, that in the event Respondent **Carrie J. Holman** fails to successfully complete the educational requirements within the time and in the manner as set forth above, then and in that event, and without further notice to the Respondent **Carrie J. Holman** her real estate license shall be suspended without further hearing and without further Order of the Board, and said suspension shall continue until further order of the Board.

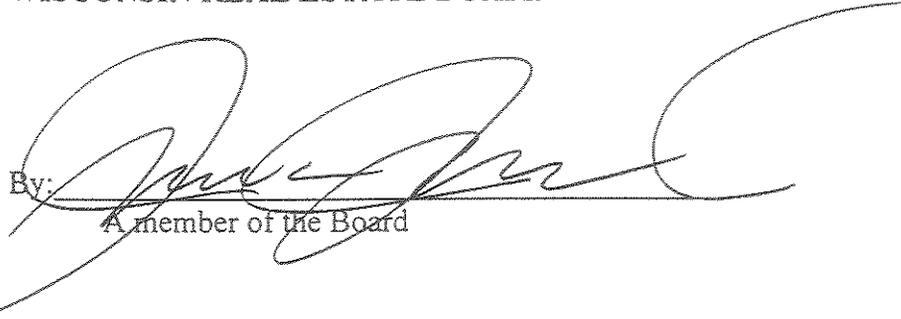
IT IS FURTHER ORDERED, that Respondent **Carrie J. Holman**, pay partial costs of this matter in the amount of \$200.00, within 30 days of the date of this Order by making payment of the same to the Department of Regulation and Licensing, P.O. Box 8935, Madison, WI 53708-8935.

IT IS FURTHER ORDERED, that in the event Respondent **Carrie J. Holman** fails to pay the \$200.00 partial costs within the time and manner as set forth above, then and in that event, and without further notice to the Respondent **Carrie J. Holman**, her real estate license shall be suspended without further hearing and without further Order of the Board, and said suspension shall continue until the full amount of said costs have been paid to the Department of Regulation and Licensing and her failure to pay the costs shall be considered a violation of this Order by the Board.

IT IS FURTHER ORDERED, that file 99 REB 167 be, and hereby is, closed.

Dated this 27 day of APRIL, 2000.

WISCONSIN REAL ESTATE BOARD

By: 
A member of the Board