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IN THE MATTER OF THE DISCIPLINARY

PROCEEDINGS AGAINST

**NANCY K. DROESSLER,
RESPONDENT.**

FINAL DECISION AND ORDER

00 REB 019

LS0005245REB

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

*Nancy K. Droessler
3707 Droessler court
Kieler, WI 53812*

*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. **NANCY K. DROESSLER** ("Droessler"), date of birth July 14, 1948, is licensed in the State of Wisconsin as a real estate broker having license # 90-46177. This license was first granted to her on August 10, 1992. The most current address on record at the Department of Regulation and Licensing for Droessler is 3707 Droessler Court, Kieler, Wisconsin 53812.
2. At all times material hereto, Droessler was employed as a real estate broker by Dominic Goodmann Real Estate, Ltd, (Dominic-Goodmann) of Dubuque, Iowa.
3. On or about June 4, 1999, Droessler, acting as a broker employed by Dominic-Goodmann, drafted a listing contract for the marketing of property owned by Daniel T. Doyle and Stacy Doyle. This property is located at 1296 Sinsinawa Road, in the Township of Hazel Green, Grant County, Wisconsin and consists of the personal residence of the Doyles and approximately 57 acres.
4. At line 237 of the listing contract under the heading of *ADDITIONAL PROVISIONS:*, Droessler wrote in, at the Doyles' request: "This sale is subject to seller finding suitable housing."
5. Also on June 4, 1999, Droessler completed for the signature of the Doyles a NOTICE TO CLIENTS

AND CUSTOMERS, wherein the Doyles were given notice that Dominic-Goodmann and Droessler were working both as a **seller's agent** and as a **buyer's agent**. The form also states that the Doyles consent to the dual representation.

6. On or about June 23, 1999, Droessler completed an offer to purchase form for the signatures of Richard J. Zach and Kathleen S. Zach wherein the Zachs offered to purchase the Doyle property. A copy of this document is attached hereto as **Exhibit A** and is incorporated herein by this reference. This offer states that Droessler is working as a "dual agent". At the time Droessler completed the offer for the Zachs neither she nor Dominic-Goodmann had a buyer agency contract with the Zachs.

7. The Zach offer contained a financing contingency that states: "This offer is contingent upon Buyer being able to obtain financing from stocks + bonds first mortgage loan commitment as described below, by July 23, 1999." The offer does not state the amount of financing, the interest rate and terms, the length of the loan term, the monthly or yearly payments, the due date or any other specific terms of the loan.

8. The Zach offer was countered by the Doyles by counter-offer dated June 29, 1999 and drafted by Droessler. A copy of this counter is attached as **Exhibit B** and is incorporated herein by this reference. This counter states, in part, that "Seller will have 40 days beyond date of loan approval on sale of buyers home located at 663 Maryville Hgts, Dr, Hazel Green, WI to find suitable housing."

9. The Zachs did not accept the Doyle counter.

10. The Zachs countered the Doyles with a July 2, 1999 counter-offer drafted by Droessler. A copy of this document is attached as **Exhibit C** and is incorporated herein by this reference.

11. The Doyles accepted the Zach offer.

12. The accepted Zach offer does not provide for a contingency of finding suitable housing. Instead, the accepted counter states: "Buyer agrees to give seller 40 days beyond date of loan approval on the sale of Buyers home located at 663 Maryville Hgts Dr., Hazel Green, WI 53811." The intent of this language, according to Droessler, was to provide to the Zachs 40 days within which to obtain suitable housing and if they failed to do so, the transaction would not close.

13. Subsequent to July 2, 1999 the Doyles decided that they did not want to sell the property and they did not find "suitable housing".

14. On or about August 29, 1999 the Zachs requested return of the \$2,000.00 earnest money being held by Dominic Goodmann.

15. On or about August 30, 1999 Droessler and Dominic-Goodmann returned the earnest money to Zachs. At no time did Droessler or Dominic-Goodmann draft a written disbursement agreement for the signature of the Doyles and the Zachs, as is required by the terms of the offer to purchase, lines 252-262.

16. Subsequent to August 30, 1999 the Zachs demanded of the Doyles that the transaction proceed to closing. The Doyles refused to do so. The Zachs threatened legal action against the Doyles and the Doyles, on advice of counsel, compensated the Zachs approximately \$5,000.00 in settlement of the dispute over the contract.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Board has jurisdiction to act in this matter pursuant to section 452.14 of the Wisconsin Statutes.

2. The Wisconsin Real Estate Board is authorized to enter into the attached Stipulation pursuant to section 227.44(5) of the Wisconsin Statutes.

3. Respondent **NANCY K. DROESSLER** has violated:

a. Sections RL 24.025(2) and 24.08 of the Wisconsin Administrative Code and sections 452.135(1), 452.137(1) and 452.14(3)(i) of the Wisconsin Statutes by providing real estate brokerage services as a "buyer broker" to Zachs without a written and signed agency agreement authorizing those services.

b. Section RL 24.08 of the Wisconsin Administrative code and sections 452.133(1)(b) and 452.14(3)(i) of the Wisconsin Statutes by drafting terms of a financing contingency and of a contingency relating to purchase of "suitable housing" so indefinite that the purchase contract between the Doyles and the Zachs is illusory and unenforceable. See *Nodolf v. Nelson*, 103 Wis.2d 656 (1981).

c. Section 452.14(3)(i) of the Wisconsin Statutes by disbursing earnest money without a written and signed disbursement agreement and in a manner contrary to the terms of the offer to purchase that Droessler drafted on behalf of the parties.

ORDER

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

IT IS FURTHER ORDERED, that the real estate license of Respondent **NANCY K. DROESSLER**, license # 90-46177, is hereby **REPRIMANDED**.

IT IS FURTHER ORDERED, that Respondent **NANCY K DROESSLER**, within six months of the date of this Order, successfully complete the 36 hour real estate broker's preclicensing course, as set forth in Chapter RL 25.02(2) 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, Wisconsin 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 **NANCY K DROESSLER**, 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 **NANCY K DROESSLER**, 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 **NANCY K DROESSLER** pay partial **COSTS** of this matter in the amount of \$300.00 within thirty (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 **NANCY K DROESSLER** fails to pay costs of \$300.00 within the time and in the manner as set forth above, then her real estate license shall be suspended, without further notice, hearing or 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 00 REB 019 be, and hereby is closed as to Nancy K. Droessler and not as to any other respondent.

Dated this 24th day of May, 2000.

WISCONSIN REAL ESTATE BOARD

By:

James R. Imhoff, Jr.

A member of the Board