

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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**STATE OF WISCONSIN**

**BEFORE THE REAL ESTATE BOARD**

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**IN THE MATTER OF THE DISCIPLINARY**

**PROCEEDINGS AGAINST:**

**SHARON L. KRUK**

**FINAL DECISION AND ORDER**

**RESPONDENT**

**LS0101252REB**

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

Sharon L. Kruk

4218 Cherrywood Lane

Brown Deer, WI 53209

Wisconsin Real Estate Board

P.O. Box 8935

Madison, WI 53708-8935

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. Sharon L. Kruk ("Kruk"), date of birth 02/18/64, is licensed in the State of Wisconsin as a real estate salesperson having license # 94-43765. This license was first granted to her on 07/24/95. Kruk's most recent address on file with the Department of Regulation and Licensing is, 4218 W. Cherrywood Lane, Brown Deer, WI 53209.
2. At all times relevant to the facts set forth below Kruk was a real estate salesperson for First Choice Realty Of Wisconsin, 10344 N. Cedarburg Rd., Mequon, WI 53092.
3. Around August 1999, Madeline C. Rollins, acting as personal representative, listed for sale property located at 8743 W. Brentwood Ave. Milwaukee, WI. The listing broker was Kim Dunn, an employee of Prudential Preferred Properties, N80W14808 Appleton Ave., Menomonee Falls, WI. The listed price was \$89,900.00.
4. On or about November 1, 1999, Kruk prepared a Disclosure Of Real Estate Agency document informing prospective buyer, Ms. Pamela Zamiatowski, that First Choice Realty Of Wisconsin and Sharon Kruk were working as "Owner's Agent". Ms. Zamiatowski acknowledged receipt of this disclosure by signing the form on November 1, 1999. A copy of the Disclosure Of Real Estate Agency form is attached as **Exhibit 1** and is incorporated herein by

reference.

5. On or about November 1, 1999, Kruk drafted a Residential Offer to Purchase on behalf of Ms. Zamiatowski for the 8743 W. Brentwood Ave. property. The offered price was \$88,000.00 with closing to occur no later than December 15, 1999. The offer was subject to a finance contingency in the amount of \$79,200.00 to be satisfied within 44 days of acceptance. Earnest money in the amount of \$1,000.00 was to be paid within 2 days of acceptance. A copy of the November 1, 1999, Residential Offer to Purchase with Addenda A and S is attached as **Exhibit 2** and is incorporated herein by reference.

6. On November 2, 1999, Rollins countered the Offer (Exhibit 2) with a selling price of \$89,900.00. The Counter-Offer also changed the length of time to meet the financing contingency to 35 days. Kruk discussed the merits of the Counter-Offer with Ms. Zamiatowski over the telephone on November 3, 1999, and told her that she had until November 6, 1999, to make up her mind. On November 4, 1999, while out of town on a trip, Kruk made several unsuccessful attempts to contact Ms. Zamiatowski to further discuss the Counter-Offer via the telephone and through use of a fax machine at the hotel where she was staying. On November 5, 1999, Kruk eventually contacted Ms. Zamiatowski telephonically, who then verbally agreed to the Rollins' Counter-Offer. Because of the many difficulties Kruk had in contacting Ms. Zamiatowski on November 4, 1999, Kruk informed Ms. Zamiatowski that with her approval she could sign Zamiatowski's name for acceptance of the Counter-Offer and fax it to the listing broker immediately. At that time Zamiatowski did not yet physically have a copy of the Counter-Offer. Kruk alleges that Ms. Zamiatowski gave her permission to sign her name. Ms. Zamiatowski denies giving Kruk such permission. Kruk signed Ms. Zamiatowski name and placed what she purports to be her initials next to the signature and faxed the agreement to Prudential Preferred Properties. On or about November 6, 1999, Ms. Zamiatowski, in compliance with the terms of the Offer (Exhibit 2), mailed check # 2708 for \$1,000.00 as earnest money to Prudential Preferred Properties. A copy of the Counter-Offer and Acceptance of Counter-Offer is attached as **Exhibit 3** and is incorporated herein by reference. A copy of Ms. Zamiatowski's earnest money check # 2708 is attached as **Exhibit 4** and is incorporated herein by reference.

7. On or about December 13, 1999, realizing that she was not going to have the full amount of cash required (about \$8,379.00) to close the transaction on December 15, 1999, Ms. Zamiatowski requested that Kruk ask for an extension of the closing date. In compliance, Kruk drafted an Amendment/Notice Relating to Offer to Purchase changing the closing date from December 15, 1999, to January 7, 2000. Line 8 of the Amendment reads: "Earnest Money shall be changed from \$1,000.00 to \$2,000.00". Ms. Zamiatowski signed this Amendment on December 13, 1999, and Ms. Rollins signed the Amendment on December 27, 1999. A copy of the Amendment/Notice Relating to Offer to Purchase is attached as **Exhibit 5** and is incorporated herein by reference. A copy of Ms. Zamiatowski's earnest money check # 2744 dated December 14, 1999, for \$1,000.00 additional earnest money is attached as **Exhibit 6** and is incorporated herein by reference.

8. On or about January 7, 2000, still unable to raise the funds required for closing, Ms. Zamiatowski sought another extension. In this regard, Kruk drafted an Amendment To Offer To Purchase changing the closing date from January 6, 2000, to January 31, 2000. Lines 9-12 of the Amendment read: "Buyer to pay taxes from January 31, 2000. Seller not responsible for paying from the first of the year up to the day of closing - for taxes - Buyer's responsibility". Line 14 reads: "Earnest Money to be increased by \$1,000.00. Lines 16-18 read: "Buyer agrees that if this transaction does not close on January 31, 2000 - The Seller has the right to keep the \$3,000.00 earnest money". Ms. Zamiatowski signed this Amendment on January 7, 2000, and Ms. Rollins signed the Amendment on January 8, 2000. A copy of Amendment To Offer To Purchase is attached as **Exhibit 7** and is incorporated herein by reference. A copy of Ms. Zamiatowski's earnest money check # 2760 dated January 6, 2000, for \$1,000.00 is attached as **Exhibit 8** and is incorporated herein by reference.

9. Ms. Zamiatowski failed to secure the necessary cash funds by January 31, 2000, so as to meet the terms of the contract and the transaction failed to close. The earnest money was disbursed to the seller per the advice of counsel.

### **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 **Sharon L. Kruk** has violated:
  - a. Wis. Adm. Code secs. RL 16.06(8), RL 24.025(1), RL 24.025(2) and RL 24.17(1) and Wis. Stats. secs. 452.133(1)(b), 452.133(2)(a), 452.14(i) and 706.03(1m) by signing Ms. Zamiatowski name to the Counter-Offer (Exhibit 3) without proper authorization and without proper identification as being an agent authorized to so sign.

## ORDER

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

IT IS FURTHER ORDERED, that Respondent **Sharon L. Kruk**, license # 94-43765, be, and hereby is, **REPRIMANDED**.

IT IS FURTHER ORDERED, that Respondent **Sharon L. Kruk**, within six months of the date of this Order, successfully complete the following course modules 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 Real Estate Brokerage module-section RL 25.03(3)(c), of the Wisconsin Administration Code;
- b. The Real Estate Contracts module-section RL 25.03(3)(h), of the Wisconsin Administration Code, and
- c. The Business Ethics module-section RL 25.03(3)(m), of the Wisconsin Administration 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 **Sharon L. Kruk** 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 **Sharon L. Kruk**, 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 **Sharon L. Kruk**, pay partial costs of this matter in the amount of \$250.00, 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 **Sharon L. Kruk** fails to pay the \$250.00 partial costs within the time and manner as set forth above, then and in that event, and without further notice to the Respondent **Sharon L. Kruk**, her real estate salesperson's 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 partial 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 068 is hereby closed.

Dated this 25<sup>th</sup> day of January, 2001.

### WISCONSIN REAL ESTATE BOARD

James Imhoff, Jr.

A member of the Board