

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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FILE COPY

STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST : FINAL DECISION AND ORDER
: 93 REB 088
JANIS KARDAS, :
RESPONDENT. : LS9712033REB

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

Janis Kardis
W4996 Highway 86
Ogema, WI 54459

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

Wisconsin 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 Real Estate Board ("Board"). The Board has reviewed the stipulation and considers it acceptable.

Accordingly, the Board adopts the attached stipulation and makes the following:

FINDINGS OF FACT

1. Janis Kardas ("Kardas"), W4996 Highway 86, Ogema, WI 54459, is and was at all times relevant to the facts set forth herein, a real estate broker licensed to practice in the State of Wisconsin pursuant to license #38078, originally granted to her on July 1, 1986.

2. At all times relevant to the matters set forth herein, Kardas did business as High Point Realty, located in or near Ogema, Wisconsin.

3. On or about September 2, 1989, Kardas prepared a WB-13 Vacant Land Offer to Purchase for the signature of Tony Iacucci and Deborah Iacucci (together called herein "Iacucci") for the purchase of lands owned by the State Bank of Medford, herein referred as the "Bank".

4. The vacant land that Iacucci was offering to purchase was described in the offer as the following: "... property known as (Street Address) State Bank Medford 40 more or less in

the TWP of Ogema, County of Price, Wisconsin more particularly described as : SE 1/4 NE 1/4 Sect. 14 TWP 34 R1E". (Herein called the "property".)

5. At the time of drafting the Iacucci offer to purchase, Kardas had engaged in a listing of property with the Bank using a WB-1 Residential Listing Contract-Exclusive Right to Sell. This listing commenced on June 2, 1988 and contained a termination date of September 2, 1988. This termination date was extended to September 2, 1989.

6. The residential listing contract Kardas had with the Bank did not contain a legal description of any residential or vacant land.

7. At the time that Iacucci signed the offer to purchase, the property was zoned A-1 (agricultural).

8. The property is, in part, located in a wetland.

9. The property is located immediately adjacent to the Ogema sewer holding pond.

10. At the time Iacucci signed the offer to purchase, the property had no legal access to a public road.

11. At the time Iacucci signed the offer to purchase, the property had no legal access to a public road or public right-of-way by means of an easement for ingress and egress.

12. The offer to purchase drafted by Kardas failed to disclose whether or not the property was located in a wetland.

13. The offer to purchase drafted by Kardas failed to disclose the zoning of the property.

14. The offer to purchase drafted by Kardas failed to disclose the fact that the property was located immediately adjacent to the Ogema sewer holding pond.

15. The offer to purchase drafted by Kardas failed to disclose the lack of access to the forty acres from a public road.

16. The offer to purchase drafted by Kardas failed to disclose that the property lacked a legal easement for ingress and egress to and from a public road or right of way.

17. The Iacucci offer included a statement that "TIME IS OF THE ESSENCE" as to the date of closing.

18. The Iacucci offer stated the closing date as "on or before October 6, 1989, or such other time and place as may be agreed in writing."

19. The closing of the transaction between the Bank and Iacucci occurred on October 20, 1989.

20. Kardas did not prepare an amendment to the offer for the signature of the parties to reflect the change in closing date

21. The Iacucci offer included a contingency that the sale be made by installment land contract. The actual sale involved a Mortgage and Promissory Note. Kardas did not prepare an amendment to the offer for the signature of the parties to reflect the change in financing.

22. The Iacucci offer was "countered" by the Bank without the use of an approved counter-offer form and involved the seller's representative writing its "counter" on line #133 of the offer and the parties adding initials to the offer form. No counter-offer on an approved form was prepared by Kardas for the signature of the parties.

23. The fact that a portion of the property is located in a wetland is an adverse fact material to the transaction between the Bank and the Iacucci.

24. The fact that the property is located adjacent to a sewer holding pond is an adverse fact material to the transaction between the Bank and Iacucci.

25. The fact that the property has no legal access to a public road is an adverse fact material to the transaction between the Bank and Iacucci.

26. The fact that the property is not connected to a public road or public right-of-way by a legal easement for ingress and egress is an adverse fact material to the transaction between the Bank and Iacucci.

27. Iacucci listed the property for sale with real estate broker Ken Hoffman of Birchland Realty, Inc., Phillips, Wisconsin on or about November 8, 1991.

28. Hoffman inspected the property in the course of listing it and informed Iacucci that the sale of the property might be adversely affected by its location in a wetland, its location adjacent to a sewer holding pond and its lack of access to a public road.

29. On or about November 12, 1993 Iacucci sold the property for the amount of \$2,500.00 less a commission to Birchland Realty, Inc., of \$650.00. Iacucci had paid the Bank \$4,500.00 for the property.

30. At the time Kardas drafted the Iacucci offer to purchase, Kardas knew that the property had no legal access to a public road or right-of-way.

MITIGATION

31. During negotiation of this stipulated FINAL DECISION AND ORDER, Respondent Janis Kardas voluntarily paid \$3,000.00 to Tony Iacucci and Debora Iacucci. This

voluntary effort to fully compensate the Iacucci is a mitigating circumstance recognized by the Division of Enforcement and accounts for the division recommending a lesser amount of discipline in this matter. This recommendation is set forth below.

CONCLUSIONS OF LAW

1. The Real Estate Board has jurisdiction in the matter pursuant to section 452.14 of the Wisconsin Statutes.
2. The Wisconsin Real Estate Board is authorized to approve the attached Stipulation pursuant to section. 227.44(5) of the Wisconsin Statutes.
3. Respondent, Janis Kardis, has violated the following:
 - a. Section 452.14(3)(b) of the Wisconsin Statutes and Sections RL 24.07(1) and 24.07(2)(d) of the Wisconsin Administrative Code, by concealing from Iacucci, and failing to disclose to them, material facts relating to the property, thereby making a substantial misrepresentation with reference to a transaction injurious to a purchaser in which she acted as a broker.
 - b. Section 452.14(3)(i) of the Wisconsin Statutes and Sections RL 24.025, 24.03(2)(c), 24.07(1), 24.07(2)(d) and 24.08 of the Wisconsin Administrative Code, by her failure to disclose in writing to the purchasers, the above described adverse facts which were material to the transaction between the Bank and Iacucci.
 - c. Sections 452.14(3)(i) and 452.14(3)(m) of the Wisconsin Statutes and Sections RL 17.08(2) and 24.08 of the Wisconsin Administrative Code, by failing to place into writing the listing agreement with the Bank on an approved form entitled WB-3 Vacant Land Listing Contract, by failing to state in the listing the legal description of the property, by failing to draft amendments of the offer for the purpose of placing into writing the delayed closing date and the change in the financing from installment land contract to mortgage note and mortgage, by failing to draft a counter-offer on an approved form entitled WB-44 Counter-Offer, and by failing in her responsibility for the preparation and correctness of all entries on these real estate forms.

ORDER

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

IT IS FURTHER ORDERED, that real estate broker JANIS KARDAS, license #38078, is hereby REPRIMANDED.

IT IS FURTHER ORDERED, that Respondent JANIS KARDAS, within six months of the date of this Order, successfully complete all educational requirements for applicants for an original real estate salesperson and real estate broker's license, as set forth in Chapter RL 25 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 JANIS KARDAS, fails to comply with the required education as set forth above, or fails to verify the same to the Department of Regulation and Licensing as set forth above, then her real estate broker's license shall be suspended, without further notice, hearing or order of the board, until she has fully complied with all the terms of this Order, and her failure to complete this education and verify it as set forth above shall be considered a violation of this Order by the Board.

IT IS FURTHER ORDERED, that Respondent JANIS KARDAS pay partial COSTS of this matter in the amount of \$1,000.00 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 JANIS KARDAS fails to pay costs of \$1,000.00 within the time and in the manner as set forth above, then her real estate broker's license shall remain 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 Case LS9712033REB (Enforcement file 93 REB 088) is hereby closed.

Dated this 26 day of FEBRUARY, 1998.

WISCONSIN REAL ESTATE BOARD

By: _____


CH:kcb(1)KARDAS\FDO1.DOC

STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF THE DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	STIPULATION
	:	LS9712033REB
JANIS KARDAS,	:	Investigation file 93 REB 088
RESPONDENT.	:	

The parties in this matter agree and stipulate as follows:

1. This Stipulation is entered into for the purpose of resolving this matter known as investigative file 93 REB 088 and formal case file LS9712033REB. **JANIS KARDAS, Respondent** and her attorney, Janet L. Marvin, and the Division of Enforcement, Department of Regulation and Licensing, by its Attorney Charles J. Howden, consent to the resolution of this matter pursuant to the terms of this stipulation and the attached Final Decision and Order.

This matter is currently set for hearing before Administrative Law Judge Wayne R. Austin, on June 23, 1998. The parties agree, that if this Stipulation is approved by Board at its February 26, 1998 meeting, the June hearing will be canceled. In the event the Board does not approve this Stipulation, the June hearing will take place as scheduled or as rescheduled at the discretion of the Administrative Law Judge.

2. Respondent understands that by the signing of this Stipulation she voluntarily and knowingly waives her rights, including: the right to a hearing on the allegations against her, at which time the State has the burden of proving those allegations; the right to confront and cross-examine the witnesses against her; the right to call witnesses on her behalf and to compel their attendance by subpoena; the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision; the right to petition for rehearing; and all other applicable rights afforded to her under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.

3. Respondent has had the opportunity to consult with legal counsel regarding this matter and the legal implications of the stipulation. Respondent is represented in this matter by Attorney Janet L. Marvin.

4. Respondent voluntarily and knowingly waives the rights set forth in paragraph 2 above, on the condition that all of the provisions of this Stipulation are approved by the Board.


5. With respect to the attached Final Decision and Order, Respondent neither admits nor denies the facts as set forth in the Findings of Fact, however, she agrees that the Board may make the Findings of Fact and may reach the conclusions set forth in the Conclusions of Law and enter the Order attached hereto.

6. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation or the proposed Final Decision and Order. The matter shall then be returned to the Administrative Law Judge for continuation of the formal hearing process. In the event that the Stipulation is not accepted by the Board the parties agree not to contend that the members of the Board have been prejudiced or biased in any manner by the consideration of this attempted resolution.

7. If the Board accepts the terms of this Stipulation, the parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties.

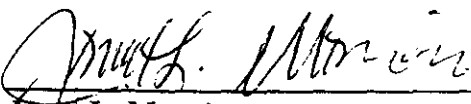
8. Respondent agrees that Complainant's Attorney, Charles J. Howden, may appear at any meeting with the Board with respect to the Stipulation and that his appearance is limited to statements in support of the Stipulation and to answer any questions the Board may have regarding the Stipulation. Respondent waives any right she may have to have notice of that meeting.

9. Respondent agrees that the board advisor assigned to this case may attend and participate in any meeting of the Board related to this Stipulation and may vote on whether or not to approve this Stipulation.



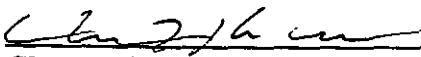
Janis Kardas,
Respondent

2/12/98
Date



Janet L. Marvin,
Attorney for Respondent
Park Mall, Suite 100
PO Box 29
Park Falls, WI 54552

2-16-98
Date



Charles J. Howden, Attorney
Division of Enforcement

2-18-98
Date

/Kardas stip

Department of Regulation & Licensing

State of Wisconsin

P.O. Box 8935, Madison, WI 53708-8935

(608)

TTY# (608) 267-2416, hearing or speech
TRS# 1-800-947-3529, impaired only

GUIDELINES FOR PAYMENT OF COSTS AND/OR FORFEITURES

On February 26, 1998, the Real Estate Board
took disciplinary action against your license. Part of the discipline was an assessment of costs and/or a
forfeiture.

The amount of the costs assessed is: \$1,000.00 Case #: LS9712033REB

The amount of the forfeiture is: _____ Case # _____

Please submit a check or a money order in the amount of \$ \$1,000.00

The costs and/or forfeitures are due: March 28, 1998

NAME: Janis Kardas LICENSE NUMBER: 38078

STREET ADDRESS: W4996 Highway 86

CITY: Ogema STATE: WI ZIP CODE: 54459

Check whether the payment is for costs or for a forfeiture or both:

COSTS FORFEITURE

Check whether the payment is for an individual license or an establishment license:

INDIVIDUAL ESTABLISHMENT

If a payment plan has been established, the amount due monthly is:

Make checks payable to:

DEPARTMENT OF REGULATION AND LICENSING
1400 E. WASHINGTON AVE., ROOM 141
P.O. BOX 8935
MADISON, WI 53708-8935

#2145 (Rev. 9/96)

Ch. 440.22, Stats.

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STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING
BEFORE THE REAL ESTATE BOARD

In the Matter of the Disciplinary Proceedings Against

Janis Kardas,

AFFIDAVIT OF MAILING

Respondent.

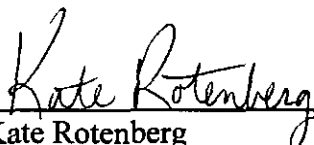
STATE OF WISCONSIN)
)
COUNTY OF DANE)

I, Kate Rotenberg, having been duly sworn on oath, state the following to be true and correct based on my personal knowledge:

1. I am employed by the Wisconsin Department of Regulation and Licensing.

2. On March 2, 1998, I served the Final Decision and Order dated February 26, 1998, and Guidelines for Payment of Costs and/or Forfeitures, LS9712033REB, upon the Respondent Janis Kardas' attorney by enclosing true and accurate copies of the above-described documents in an envelope properly stamped and addressed to the above-named Respondent's attorney and placing the envelope in the State of Wisconsin mail system to be mailed by the United States Post Office by certified mail. The certified mail receipt number on the envelope is P 221 158 800.

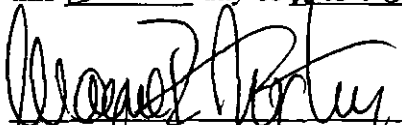
Janet L. Marvin, Attorney
Park Mall, Suite 100
P.O. Box 29
Park Falls WI 54552



Kate Rotenberg
Department of Regulation and Licensing
Office of Legal Counsel

Subscribed and sworn to before me

this 2nd day of March, 1998.



Notary Public, State of Wisconsin
My commission is permanent.

NOTICE OF RIGHTS OF APPEAL

TO: JANET L MARVIN ATTY

You have been issued a Final Decision and Order. For purposes of service the date of mailing of this Final Decision and Order is 3/2/98 Your rights to request a rehearing and/or judicial review are summarized below and set forth fully in the statutes reprinted on the reverse side.

A. REHEARING.

Any person aggrieved by this order may file a written petition for rehearing within 20 days after service of this order, as provided in section 227.49 of the Wisconsin Statutes. The 20 day period commences on the day of personal service or the date of mailing of this decision. The date of mailing of this Final Decision is shown above.

A petition for rehearing should name as respondent and be filed with the party identified below.

A petition for rehearing shall specify in detail the grounds for relief sought and supporting authorities. Rehearing will be granted only on the basis of some material error of law, material error of fact, or new evidence sufficiently strong to reverse or modify the Order which could not have been previously discovered by due diligence. The agency may order a rehearing or enter an order disposing of the petition without a hearing. If the agency does not enter an order disposing of the petition within 30 days of the filing of the petition, the petition shall be deemed to have been denied at the end of the 30 day period.

A petition for rehearing is not a prerequisite for judicial review.

B. JUDICIAL REVIEW.

Any person aggrieved by this decision may petition for judicial review as specified in section 227.53, Wisconsin Statutes (copy on reverse side). The petition for judicial review must be filed in circuit court where the petitioner resides, except if the petitioner is a non-resident of the state, the proceedings shall be in the circuit court for Dane County. The petition should name as the respondent the Department, Board, Examining Board, or Affiliated Credentialing Board which issued the Final Decision and Order. A copy of the petition for judicial review must also be served upon the respondent at the address listed below.

A petition for judicial review must be served personally or by certified mail on the respondent and filed with the court within 30 days after service of the Final Decision and Order if there is no petition for rehearing, or within 30 days after service of the order finally disposing of a petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing. Courts have held that the right to judicial review of administrative agency decisions is dependent upon strict compliance with the requirements of sec. 227.53 (1) (a), Stats. This statute requires, among other things, that a petition for review be served upon the agency and be filed with the clerk of the circuit court within the applicable thirty day period.

The 30 day period for serving and filing a petition for judicial review commences on the day after personal service or mailing of the Final Decision and Order by the agency, or, if a petition for rehearing has been timely filed, the day after personal service or mailing of a final decision or disposition by the agency of the petition for rehearing, or the day after the final disposition by operation of the law of a petition for rehearing. The date of mailing of this Final Decision and Order is shown above.

The petition shall state the nature of the petitioner's interest, the facts showing that the petitioner is a person aggrieved by the decision, and the grounds specified in section 227.57, Wisconsin Statutes, upon which the petitioner contends that the decision should be reversed or modified. The petition shall be entitled in the name of the person serving it as Petitioner and the Respondent as described below.

SERVE PETITION FOR REHEARING OR JUDICIAL REVIEW ON:

STATE OF WISCONSIN REAL ESTATE BOARD

1400 East Washington Avenue

P.O. Box 8935

Madison WI 53708-8935