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STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF THE DISCIPLINARY

PROCEEDINGS AGAINST :

LINDA L. COTTER and SUSAN K. KRAVICK,	FINAL DECISION AND ORDER
Respondents	LS0010261REB

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

Linda L. Cotter
N2733 County Rd. F
Montello, WI 53949

Susan K. Kravick
PO Box 185
Westfield, WI 53964

Kravick Realty Inc.
PO Box 185
Westfield, WI 53964

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. Linda L. Cotter ("Cotter"), date of birth 11/09/53, is licensed in the State of Wisconsin as a real estate salesperson, having license # 94-44641. Ms. Cotter's license was first granted to her on 2/21/96. Cotter's most recent address on file with the Department of Regulation and Licensing is N2733 County Rd. F, Montello WI

2. Cotter was at all times relevant to the facts set forth herein employed by Kravick Realty Inc., Coldwell Banker. Kravick Realty is a real business entity, having license # 91 834323. Kravick Realty's most recent business address on file with the Department of Regulation and Licensing is PO Box 185, Westfield, WI 53964

3. Cotter was at all times relevant to the facts set forth herein supervised by Susan K. Kravick, a licensed real estate broker, having license # 90 18287. Ms. Kravick's license was first granted to her on 5/20/77.

4. On April 21, 1998, Cotter drafted a Vacant Land Offer to Purchase ("Offer") on behalf of Theresa A. Klawitter. Cotter acted as the seller's agent. Klawitter's offered to purchase the listed parcel of land consisting of 128 acres, contingent upon the sellers agreement to sell an additional 40 acre parcel that was contiguous to the Klawitter's other property. A copy of the Offer is attached as **Exhibit 1**.

5. The buyer submitted an amendment to the Offer requesting that an extension of the acceptance of the Offer to April 28, 1998. A copy of the amendment is attached as **Exhibit 2**.

6. The seller's attorney, Donna C. Wissbaum, drafted a letter dated April 28, 1998, to the listing broker, Brad Salzwedel, informing him that the seller, John Duffy, had rejected the Klawitter's Offer. A copy of the letter is attached as **Exhibit 3**.

7. Attorney Wissbaum called Cotter on April 28, 1998, and informed her that the seller had rejected Klawitter's Offer. Later that day, Cotter drafted an Offer to Purchase on behalf of herself and her husband for the 40 acre parcel, which Klawitter had offered to purchase. A copy of the Cotter's Offer is attached as **Exhibit 4**.

8. Klawitter was first informed that the seller had rejected her Offer by Attorney Wissbaum. She then called Cotter and asked why her Offer had been rejected and what she could do about it. Cotter told Klawitter that she did not know the reason for the rejection but she would contact the seller and find out.

9. Cotter subsequently told Klawitter that she had talked to the seller and was informed that her Offer had been rejected because the seller had already agreed to sell all of his land to Anthony and Bonita Hoffman and Lawrence and Kathleen Becker.

10. Klawitter indicated that she wanted to submit a counter offer to the seller. Cotter told Klawitter that because all the land was to be sold to the other parties there was nothing more that she could do. Cotter did not inform Klawitter that several days earlier, on April 28, 1998, the same day that the seller rejected Klawitter's Offer, Cotter had submitted her own Offer to purchase some of the land that Klawitter had offered to purchase.

11. Susan K. Kravick, the supervising broker, was informed by Cotter that she and her husband had submitted an Offer for the same land that Klawitter had offered to purchase. Kravick reviewed the dates of the Offer and determined that there was no conflict with the Klawitter Offer. A copy of Kravick's letter is attached as **Exhibit 5**.

12. On April 1, 1998, the Beckers had entered into a rental agreement with the seller to rent the land through the year 2002. The Beckers were given the first right to buy and match all offers if the land was to be sold. A copy of the Rental Agreement and Right of First Refusal is attached as **Exhibit 6**.

13. The seller had also promised to sell his land to Anthony and Bonita Hoffman who had hunted there for many years. The Hoffmans and their son, Stanley Hoffman, planned to buy it together and had agreed to pay \$750.00 per acre. They were told by the seller that the Cotters had recently offered to pay \$1,250.00 per acre for the land.

14. The Hoffmans could not match the Cotters' offer and chose not to make an offer for the 40 acre parcel. On April 28, 1998, Cotter drafted an Offer to Purchase for the Hoffmans to buy the remaining 100 acres. During the drafting of the Hoffmans' Offer, Cotter discovered that the seller had disclosed the terms of her Offer on the 40 acre parcel to the Hoffmans.

15. Cotter spoke to her broker, Susan K. Kravick, about whether she should proceed to draft the Hoffmans' Offer because it contained negative amortization for the seller. A copy of the offer is attached as **Exhibit 7**.

16. Susan Kravick voided the Hoffmans' Offer and Cotter redrafted the offer with revised payment terms. The seller accepted the Hoffmans' offer on May 8, 1998. A copy of the revised offer is attached as **Exhibit 8**.

17. The Beckers did not make an offer to purchase the land. On May 15, 1998, the Beckers signed a Release of First Right of Refusal. A copy of the Release is attached as **Exhibit 9**.

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 **Linda L. Cotter** has violated:

- a). Sec. RL 24.05 (2) Wis. Adm. Code by acting as an agent in a real estate business transaction on the licensee's own behalf or on behalf of the licensee's immediate family without the prior written consent of all parties to the transaction.
- b). Sec. RL 24.13 (1) Wis. Adm. Code by failing to draft or submit any offer to purchase, exchange or option agreement to the owner unless the terms of the offer would be contrary to the specific instructions of the owner.
- c). Sec. RL 24.13 (2)(b) Wis. Adm. Code by failing to present promptly all offers and withholding an offer from presentation pending the seller's action on an offer previously presented.
- d). Sec. RL 24.13 (3)(a) by failing to present all written proposals in an objective and unbiased manner to their principals and to inform their principals of the advantages and disadvantages of all submitted written proposals.
- e). Sec. RL 24.025 (1) Wis. Adm. Code by failing to treat all parties to the transaction fairly.
- f). Sec. RL 24.13 (4) Wis. Adm. Code by failing to promptly notify the buyer whether the seller had accepted, rejected or countered her written offer to purchase and failing to immediately provide a written statement concerning the date and time when an offer has been rejected.
- g). Sec. RL 24.03 (2)(b) Wis. Adm. Code by failing to act to protect the public against fraud, misrepresentation, and unethical practices.

4. Respondent **Susan K. Kravick** has violated:

- a). Sec. 452.12 (3)(a), which provides that each broker, is responsible for the acts of any broker or salesperson supervised by the broker.

ORDER

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

IT IS FURTHER ORDERED, that **Linda L. Cotter's, license No. 94 44641** be, and hereby is, **Reprimanded**.

IT IS FURTHER ORDERED that **Linda L. Cotter** shall be **suspended** for a period of forty-five (**45**) days beginning on November 16, 2000.

IT IS FURTHER ORDERED, that Respondent **Linda L. Cotter**, within six months of the date of this Order, successfully complete the following course modules from the 36 hour Broker's licensing course at an educational institution approved by the Department of Regulation and Licensing:

- a. The four hour Approved Forms module section RL 25.03 (3) of the Wisconsin Administration Code
- b. The two hour Real Estate Contracts module section RL 25.03 (3) of the Wisconsin Administration Code.
- c. The four hour Ethical Real Estate Practices module section RL 25.03. (3) 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 Respondent **Linda L. Cotter** shall pay partial costs of **\$350.00** and a forfeiture in the amount of **\$400.00**, 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 **Linda L. Cotter** fails to successfully complete the educational requirements within the time and in the manner as set forth above and pay the costs set forth herein, her real estate license shall be suspended without further notice and 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 **Susan K. Kravick's license No. 90 18287** be, and hereby is, **Reprimanded**.

IT IS FURTHER ORDERED, that Respondent **Susan K. Kravick** shall pay partial costs of **\$350. 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 **Susan K. Kravick** fails to pay the costs set forth herein, her real estate license shall be suspended without further notice and hearing and without further Order of the Board, and said suspension shall continue until further order of the Board.

IT IS FURTHER ORDERED, that file 99 REB 278 is hereby closed.

Dated this 26th day of October, 2000.

WISCONSIN REAL ESTATE BOARD

James Imhoff, Jr

A member of the Board