

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
VIRGINIA E. ECKMAN and LANA :
M. LAPHAM, :
 : LS0807151REB
RESPONDENTS. :
 :

Division of Enforcement Case No. 05 REB 246

The parties to this action for the purposes of Wis. Stat. § 227.53 are:

Virginia E. Eckman
1924 Garfield Avenue
Superior, WI 54880

Lana M. Lapham
1330 Tower Avenue
Superior, WI 54880

Division of Enforcement
Department of Regulation and Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

Real Estate Board
Department of Regulation & Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708-8935

PROCEDURAL HISTORY

A formal complaint has been issued in this matter. The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Real Estate Board (“Board”). The Board has reviewed the Stipulation agreement annexed to this Final Decision and Order, and considers it acceptable. Accordingly, the Board in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Respondent **Virginia E. Eckman** (“Eckman”), whose date of birth is September 13, 1950, and whose address of record with the Department of Regulation and Licensing (“Department”) is 1924 Garfield Avenue, Superior, WI 54880, holds a license as a Real Estate Broker in the state of Wisconsin (90-30146). Ms. Eckman was first granted the license on January 13, 1983, pursuant to Wis. Stat. Ch. 452; the license is scheduled to expire on December 14, 2008.

2. Respondent **Lana M. Lapham** (“Lapham”), whose address of record with the Department is 1330 Tower Avenue, holds a license as a Real Estate Salesperson in the state of Wisconsin (94-64170). Ms. Lapham was first granted the license on May 8, 2005, pursuant to Wis. Stat. Ch. 452; the license is scheduled to expire on December 14, 2008.

3. On July 30, 2005, Ms. Lapham drafted an offer to purchase real estate located at 7316 South Maranatha Road, Lake Nebagamon, WI (“property”), on behalf of buyers. Ms. Eckman acted in the transaction as the agent for the sellers. Parties to this transaction were located outside the state of Wisconsin.

4. On August 4, 2005, Ms. Lapham and Ms. Eckman communicated a counter-offer regarding the sales price for the property. The counter-offer was never reduced to writing by either Ms. Lapham or Ms. Eckman.

5. Per Wis. Admin. Code § 24.08, “A licensee shall put in writing all... offers to purchase... and any other commitments regarding transactions, expressing the exact agreement of the parties...”

6. Per Wis. Admin. Code § RL 24.01 (3), “If a licensee violates the rules in this chapter, the licensee has demonstrated incompetency to act as a broker (or) salesperson... in a manner as to safeguard the interests of the public under s. 452.14 (3) (i), Stats.”

7. Per Wis. Stat. § 452.14 (3), “...The board may revoke, suspend or limit any broker’s... license... or reprimand the holder of the license... if it finds that the holder of the license or registration has: (i) Demonstrated incompetency to act as a broker... in a manner which safeguards the interests of the public;”

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Board has jurisdiction to act in these matters pursuant to Wis. Stat. § 452.14.
2. The Wisconsin Real Estate Board has authority to enter into this stipulated resolution of this matter pursuant to Wis. Stat. § 227.44 (5).
3. By failing to reduce an agreement between the parties in writing, as set forth more fully above in paragraph 4 of the Findings of Fact, **Virginia E. Eckman** and **Lana M. Lapham** violated Wis. Admin. Code § RL 24.08, thereby subjecting themselves to discipline per Wis. Admin. Code § RL 24.01 and Wis. Stat. § 452.14 (3) (i).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. In lieu of a reprimand **Virginia E. Eckman** (90-30146) and **Lana M. Lapham** (94-64170) shall each successfully complete no less than four hours of remedial education, the subject of which shall be contracts. Education taken in fulfillment of the requirements of this order may not be counted towards Respondents' continuing education requirements. The specific course(s) taken by the Respondents is subject to the approval of the Board's monitoring liaison. Respondents shall submit the name of the course, together with a course description, to the Board's monitoring liaison at least 30 days prior to the date of the course.

IT IS FURTHER ORDERED THAT:

2. **Virginia E. Eckman** and **Lana M. Lapham**, shall each pay \$600.00 towards the total costs of \$1200.00 in this matter. In the event that either Ms. Eckman or Ms. Lapham fails to pay costs in this matter, then the other respondent shall be held jointly and severally liable for the payment of costs.
3. All payments required by this Order shall be mailed or delivered to:

Department Monitor
Department of Regulation and Licensing
Division of Enforcement
1400 East Washington Ave.
P.O. Box 8935
Madison, WI 53708-8935
Fax: (608) 266-2264
Telephone: (608) 267-3817

4. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondents' licenses. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondent fails to timely submit any payment as set forth above (if any), Respondents' licenses (90-30146 and 94-64170) SHALL BE SUSPENDED, without further notice or hearing, until Respondent has complied with the terms of this Order, and with the suspension called for in this Order not to begin until the other terms of the Order have been complied with.
5. This Order is effective on the date of signing.

WISCONSIN REAL ESTATE BOARD

By: Peter A. Sveum
A Member of the Board

10/30/08
Date

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 :
VIRGINIA E. ECKMAN and LANA :
M. LAPHAM, :
 :
RESPONDENTS. :

STIPULATION

LS# _____ REB

Division of Enforcement Case No. 05 REB 246

It is hereby stipulated between Virginia E. Eckman, Respondent; Lana M. Lapham, Respondent; and attorney Mark A. Herman, for the Department of Regulation and Licensing, Division of Enforcement, as follows:

1. This Stipulation is entered into as a result of a pending investigation of Respondents' licensures by the Division of Enforcement (Case No. 05 REB 246). Respondents consent to the resolution of this investigation by stipulation and without proceeding to hearing.

2. Respondents understand that by signing this Stipulation they voluntarily and knowingly waive their rights, including: the right to a hearing on the allegations against them, at which time the state has the burden of proving those allegations by a preponderance of the evidence; the right to confront and cross-examine the witnesses against them; the right to call witnesses on their behalf and to compel their attendance by subpoena; the right to testify themselves; 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 them under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, and the Wisconsin Administrative Code.

3. Respondents have been provided with the opportunity to obtain the advice of legal counsel prior to signing this stipulation.

4. Respondents agree to the adoption of the attached Final Decision and Order by the Real Estate Board. 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. Respondents waive all rights to any appeal of the Board's order, if adopted in the form as attached. This stipulation may be signed serially.

5. If the terms of this Stipulation are not acceptable to the Board, the parties shall not be bound by the contents of this Stipulation, and the matter shall be returned to the Division of Enforcement for further proceedings. In the event that this Stipulation is not accepted by the Board, the parties agree not to contend that the Board has been prejudiced or biased in any manner by consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Enforcement and any member of the Real Estate Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of the Respondents or their attorney, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with the Board's deliberations on the Stipulation. Additionally, any such Board advisor may vote on whether the Board should accept this Stipulation and issue the attached Final Decision and Order.

7. Respondents are informed that should the Board adopt this Stipulation, the Board's final decision and order is a public record and will be published in accordance with standard Department procedure.

8. The Division of Enforcement joins Respondents in recommending the Board adopt this Stipulation and issue

the attached Final Decision and Order.

Virginia E. Eckman, Respondent
1924 Garfield Avenue
Superior, WI 54880

Date

Lana M. Lapham, Respondent
1330 Tower Avenue
Superior, WI 54880

Date

Mark A. Herman, Attorney
Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
1400 East Washington Avenue
Madison, WI 53708-8935

Date