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IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :

FINAL DECISION AND ORDER

BRENDA J. ALEXANDER,
RESPONDENT. :

LS0906251REB
:

Division of Enforcement Case #06 REB 133

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

Brenda J. Alexander
N1390 Mill Pond Rd.
Campbellsport, WI 53010

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

PROCEDURAL HISTORY

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 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. Respondent Brenda J. Alexander, (d.o.b. 1/25/58), is and was at all times relevant to the facts set forth herein a real estate salesperson licensed in the State of Wisconsin pursuant to license #35785, originally granted on 7/10/91.
2. On 1/26/06, Respondent had a listing contract with S.S. to sell S.S.'s home. On that day, Respondent prepared and submitted to S.S., an Offer to Purchase for a couple who stated they were engaged to be married, for this home.
3. At the time, Respondent knew that her client, S.S., wanted to buy a condominium in a development in Fond du Lac, and that S.S. would need the proceeds from the sale of the home to buy the condominium. Respondent also knew that S.S. planned to attend an open house the following day, 1/27/06, for the purpose of making an offer on a condominium.
4. Following the presentation of the Offer to Purchase from the engaged couple to S.S., Respondent authored the following document, which was signed by Respondent and S.S.:

I, Brenda Alexander, agrees [*sic*] to purchase 419 Oak Spring in the event the buyers [*names of engaged couple*] are unable to close. This is to give a positive go ahead for S[S.] on her condo. Included in the purchase price are all appliances and the Toshiba big screen TV in the living room and corner hutch in family room. Purchase price will be \$223,500.00 and close by May 15th 2006. All is agreed upon by both Brenda and S[S.]. s/Brenda Alexander 1/26/06, s/ S[S.] 1/26/06. Witness s/ [K.S.]

5. On the next day, 1/27/06, Respondent accompanied S.S., to the open house for the condominium development in Fond du Lac, Wisconsin. At the open house, Respondent participated in the discussion between S.S. and two real estate salespersons representing the condominium sellers; Respondent presented one of the selling salespersons with her business card.

identifying her as a real estate salesperson. Respondent had not contracted to represent S.S. as a buyer's agent.

6. During the discussions with the condominium salespersons in Respondent's presence, S.S. stated that she needed to sell her house, and that this would have to be a contingency to any offer to purchase one of the condominium units. The condominium selling agents stated that including such a contingency would result in S.S. receiving a less favorable position on the waiting list for a condominium which faced the lake, a feature which S.S. strongly desired.
7. At that time, Respondent made statements to S.S. and the condominium salespersons to the effect that if S.S. did not sell her house to the proposed buyers, that she, Respondent, would buy it, as she had recently been approved for financing at 5.95%. Respondent said nothing about any contingency which might affect her own ability to buy S.S.'s home.
8. These statements clearly implied, to a lay person such as S.S., that there was no need for a contingency clause in this respect.
9. In reliance upon Respondent's statements, S.S. made an offer to purchase a condominium unit which was not contingent upon the sale of S.S.'s home.
10. Subsequently, Respondent discovered that the prospective buyers of S.S.'s home were not then qualified to buy, as one of them was not yet divorced. Respondent then provided S.S. with another written Offer to Purchase S.S.'s home herself, on a standard WB-11 form; this offer was itself contingent upon financing at a rate not to exceed 6.25%. In fact, Respondent was not able to secure financing at or below the stated rate (although she could have financed at a slightly higher rate, 6.525%), and Respondent then withdrew her offer to purchase S.S.'s home, thus leaving S.S. with no buyer for her home, and a legal obligation to purchase the condominium.
11. When asked by the Board's investigator about the circumstances surrounding Respondent's accompanying S.S. to the condominium open house, Respondent stated that she attended as a friend of S.S., and not as S.S.'s agent, and denied that she had ever made a non-contingent offer to purchase the home of S.S.

CONCLUSIONS OF LAW

- A. The Wisconsin Real Estate Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 425.14(3), and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).
- B. The conduct described above violated Wis. Stat. §§ 452.133(1)(c) and 452.14(3)(b), (c), (i), (k), and (L), and Wis. Adm. Code §§ RL 24.025(1), 24.07(2) and (3), and RL 24.08. The conduct described in paragraph 11, above, violated Wis. Stat. § 452.14(3)(a). Such conduct constitutes unprofessional conduct within the meaning of the Code and statutes.

ORDER

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

IT IS FURTHER ORDERED, that, Brenda J. Alexander is REPRIMANDED for her unprofessional conduct in this matter.

IT IS FURTHER ORDERED, that Respondent shall FORFEIT \$1,000, to be paid within 90 days of this Order.

IT IS FURTHER ORDERED, that Respondent shall pay COSTS in this matter in the amount of \$1,800, within 90 days of this order.

IT IS FURTHER ORDERED, that pursuant to Wis. Stat. § 227.51(3), and Wis. Adm. Code ch. RL 6, 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 Respondent's license. 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 full payment of the forfeiture or costs as set forth above, the Respondent's license SHALL BE SUSPENDED, without

further notice or hearing, until Respondent has paid them in full, together with any accrued interest.

Dated this June 24, 2009.

WISCONSIN REAL ESTATE BOARD, by:

Peter Sveum
a member of the board