

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



## Wisconsin Department of Regulation & Licensing Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Regulation & Licensing website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

### Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Regulation and Licensing from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Regulation and Licensing data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Regulation and Licensing, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name as it appears on the order.*
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Regulation and Licensing is shown on the Department's Web Site under "License Lookup." The status of an appeal may be found on court access websites at: <http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscqa>.
- Records not open to public inspection by statute are not contained on this website.

**By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.**

**Correcting information on the DRL website:** An individual who believes that information on the website is inaccurate may contact the webmaster at [web@drl.state.wi.gov](mailto:web@drl.state.wi.gov)

STATE OF WISCONSIN  
BEFORE THE REAL ESTATE BOARD

---

IN THE MATTER OF DISCIPLINARY :  
PROCEEDINGS AGAINST : **FINAL DECISION AND ORDER**  
:  
NICOLLE M. DAVIS, : LS0907141REB  
RESPONDENT. :

---

Division of Enforcement Case #07 REB 24

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

Nicolle M. Davis  
5808 Gables Pl.  
Eau Claire, WI 54701-8286

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 Nicolle M. Davis, (d.o.b. 8/01/69), was at all times relevant to the facts set forth herein a real estate broker licensed in the State of Wisconsin pursuant to license #52426, originally granted on 9/15/04. Her license expired on 12/15/08, but she has the right to renew the license by paying all required fees and demonstrating sufficient continuing education, until 12/15/13.
2. On June 26, 2006, Respondent drafted an Offer to Purchase a single family dwelling which belonged to the estate of the late Raymond Lolich, located at 17 East 4<sup>th</sup> Street, Washburn, WI. Respondent was acting as Buyer's Agent for Davis Properties LLC, which was wholly owned by her husband, Richard Davis. The Offer is addressed to a Ken Tody, who appears to be the husband of the Personal Representative of the estate, for \$30,000. There is no documentation in her file regarding the authority of Mr. Tody to act in this matter.
3. The property was ultimately sold on August 22, 2006, to Daniel Bundt for \$38,000, a transaction for only one document exists in Respondent's file, a "contract release" written on an Invoice form from Davis Properties, LLC, that says the following:

Sellers Name - Ken Tody  
Address - 1405 Woodbury Lane  
City - Ashland State - WI Zip - 54806  
"Contract Release"

Richard Davis (buyer) agrees to release, null and void an existing contract/option with Ken Tody (seller) in consideration of \$ \_\_\_\_\_

to be paid at the closing of the sale of the sellers home located at  
17 4<sup>th</sup> St E Washburn. [\$8,000 appears in a column to the right labeled TOTAL.]  
Seller hereby irrevocably instructs Closing Agents to pay the release fee directly  
to buyer at the above address at the time of closing  
Ken Tody 8-8-06

4. An accounting for the closing shows \$8,000 less earnest money and cash concessions was paid by Mr. Bundt to Davis Realty (not Davis Properties LLC or Mr. Davis) on August 22, 2006.

5. Respondent Nicolle Davis represents to the Board that

I was not compensated for this transaction. Richard Davis is my husband and sole owner of Davis Properties, LLC. In following with the Department of Regulation and Licensing recommendation when he started his business of buying and rehabilitating properties, if he is involved in five or more transactions, a licensed real estate broker must be involved, whether it's on the buying or selling end of the transaction. Our decision was that I would be the broker on such transactions versus paying commission to another agency.

Respondent further represents to the Board that she added that she prepared an Offer To Purchase for her husband for the property, and that "my role in the transaction was to facilitate the Offer to Purchase as a buyer's agent for Mr. Davis." Respondent did not provide a copy of any agency agreement for the transaction, although requested to submit her entire file by the Division.

6. Respondent further represents to the Board:

After looking at my files, I can see where some questions could arise from the transactions regarding the property involved in the Estate of Raymond Lulich. Mr. Davis responded to an advertisement in the local newspaper which Mr. Tody had placed advertising "House for Sale." Mr. Tody showed the property to Mr. Davis and they agreed on a purchase price. My role in the transaction was to facilitate the Offer to Purchase as a buyer's agent for Mr. Davis. Enclosed you will find the Contract Release of Mr. Davis's equitable interest executed between Mr. Davis and Mr. Tody which then put Mr. Bundt in contract with Mr. Tody. The Contract Release clearly states that the check be made payable to Davis Properties, LLC. Wisconsin Title, in error, made the check payable to Davis Realty which I wasn't even aware of until I received your letter. That check was deposited into Davis Properties, LLC business account at Associated Bank and it was not \$8,000. The actual check was for \$4,076.35. Another error on the check stub is that "Earnest Money Held by Realtor." Per Mr. Tody's request, Mr. Davis paid Mr. Tody directly \$300.00 for consideration of the Offer to Purchase.

7. Respondent did not terminate the buyer's contract to purchase with a Cancellation and Mutual Release form.

8. Respondent failed to document the payment of \$300 directly to seller as consideration in the Offer to Purchase.

9. During the investigation of this matter, Respondent failed to timely respond to requests from Division of Enforcement staff.

#### CONCLUSIONS OF LAW

A. The Wisconsin Real Estate Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 452.14(3), and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

B. The conduct described in paragraphs 2-9, above, violated Wis. Stat. § 452.14(3)(i) and (k), and Wis. Adm. Code § RL 24.08. 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 the right to renew the license of Nicolle M. Davis is SUSPENDED for sixty days, effective the date of this Order, commencing the date that she tenders payment for the renewal of her license, and continuing until she has paid the Costs as set forth below, and continuing until she has demonstrated satisfactory completion of the following continuing education, which shall be in addition to any continuing education required for the renewal of her license, and which shall have been pre-approved by the Board or its designee: six hours in the areas of law of agency (§ RL 25.02(2)(g)1.a.), business ethics (§ RL 25.02(2)(g)), and contracts (§ RL 25.02(2)(a)).

IT IS FURTHER ORDERED, that Respondent shall pay COSTS in this matter in the amount of \$700, before her license may be renewed, or by October 20, 2010, whichever is first.

Dated this July 12, 2009.

WISCONSIN REAL ESTATE BOARD, by:

Peter A Sveum  
a member of the board