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STATE OF WISCONSIN
BEFORE THE REAL ESTATE BOARD

IN THE MATTER OF THE DISCIPLINARY :
PROCEEDINGS AGAINST :
 : FINAL DECISION AND ORDER
ASHLEY M. FRAGNITO, :
RESPONDENT. : ORDER 0000585

Division of Enforcement Case No. 07 REB 260

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

Ashley M. Fragnito
1221 Oriole Court
Sun Prairie, WI 53590

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 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. Respondent Ashley M. Fragnito is licensed in the State of Wisconsin as a Real Estate Broker, having license # 90-55066. This license was first granted to her on 3/25/2008 and is current through 12/14/2010. Ms. Fragnito was previously licensed as a real estate salesperson, having license # 94-56843. This license was first granted to her on 5/8/2003 and expired on 12/14/2008. The most recent address on file with the Department of Regulation and Licensing for Ms. Fragnito is 1221 Oriole Ct., Sun Prairie, WI 53590.

2. From on or about 2/3/2005 until on about 3/31/2008, Ms. Fragnito was employed by Win Win Partners LLC (Real Estate Business Entity License # 91-935475). The broker-employer of record for Win Win Partners LLC is Darren R. Kittleson (Real Estate Broker license # 90-50461). Win-Win Partners LLC operates under the name "Keller Williams Realty."
3. The Department of Regulation and Licensing received a complaint on or about 10/30/2007 against Ms. Fragnito regarding two real estate transactions.

94503 Larson Road, McFarland, WI

4. On or about 9/20/2007, Ms. Fragnito wrote an offer to purchase on a listing regarding property located at 94503 Larson Road (Larson Property). The owner of the property signed a listing agreement with First Weber Group. Steve Annan was the agent in charge of the listing.
5. Ms. Fragnito wrote the offer to purchase on behalf of "Rene Finn or assigns." Ms. Finn is Ms. Fragnito's mother. The relationship was not disclosed in writing on the offer to purchase.
6. The offer to purchase did not specify important financing terms on line 151 and line 152. Entries located on both lines describing monetary amounts are completed "TBA." The Real Estate Board has deemed this an unacceptable practice.
7. On or about 9/21/2007, Mr. Annan wrote a counteroffer on behalf of the seller. The counteroffer includes, among other additional terms, a statement that "buyer agent is related to buyer." The additional terms also include statements regarding the commission to be earned: "First Weber commission to be 2.5%" and "Keller Williams commission to be 2.5%." The Real Estate Board has deemed the offer to purchase and subsequent counteroffers an improper venue for negotiating a commission split.
8. On or about 9/25/2007, the owner accepted a counteroffer written by Ms. Fragnito.
9. On or about 10/1/2007, Ms. Fragnito wrote an earnest money check to the First Weber Trust Account for \$1,000. The memo states "for Rene Finn 4503 Larson St."
10. Subsequent to the acceptance of the offer, Ms. Finn and Ms. Fragnito applied for financing from Dominion Mortgage Corp., but they were not able to obtain financing either individually or together.
11. As a result, Ms. Fragnito was unable to close on the property and the sale was not completed. Ms. Fragnito sent the owner a cancelation and mutual release and offered her earnest money.

5104 Glen Road, McFarland, WI

12. On or about 9/25/2007, Ms. Fragnito wrote an offer to purchase on a listing regarding property located at 5104 Glen Road, McFarland, WI (Glen Property). The owner of the property signed a listing agreement with First Weber Group. Steve Annan was the agent in charge of the listing.
13. Ms. Fragnito wrote the offer to purchase on behalf of "Ashley Fragnito or assigns." Ms. Fragnito failed to disclose that she was planning to assign the property to an investor yet to be determined.
14. The offer to purchase did not specify important financing terms on line 151 and line 152. Entries located on both lines describing monetary amounts are completed "TBA." The Real Estate Board has deemed this an unacceptable practice.
15. On or about 9/25/2007, Mr. Annan wrote a counteroffer on behalf of the seller. The counteroffer includes, among other additional terms, a statement that "Lines 151 through 152 shall read: The financing selected shall be in an amount of not less than \$53,000.00 for a term of not less than 30 years, amortized over not less than 30 years. Initial monthly payments of 343.76 principal and interest shall not exceed \$." This counteroffer was accepted by Ms. Fragnito on or about 9/27/2007.
16. On or about 10/1/2007, Ms. Fragnito wrote an earnest money check to the First Weber Trust Account for \$1,000. The memo states "for Rene Finn 5104 Glen Rd."
17. Subsequent to the acceptance of the offer, Ms. Finn and Ms. Fragnito applied for financing from Dominion Mortgage Corp., but they were not able to obtain financing either individually or together.
18. On or about 10/19/2007, Ms. Fragnito wrote an offer to purchase for the Glen Property on behalf of Mitchell Bram.
19. On or about 10/22/2007, the seller accepted the offer. An addendum to the offer stated "\$1,000 (One Thousand) Earnest money from Ashley Fragnito to be credited to Mitch Bram at closing on Oct. 22, 2007." The sale subsequently closed.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 452.14, and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).
2. Respondent Ashley M. Fragnito has violated the following:

- a. Wis Stat. § 452.133(1)(b) by failing to provide brokerage services with reasonable care as described in paragraphs 4-19 of the Findings of Fact.
 - b. Wis Stat. § 452.133(3)(b) by acting in a transaction on behalf of herself and her mother without the written consent of all parties to the transaction as described in paragraph 4-19 of the Findings of Fact.
3. As a result of these violations, Ashley M. Fragnito is subject to discipline under Wis. Stat. §452.14(3).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The real estate broker license of **Ashley M. Fragnito** (# 90-55066) is hereby **REPRIMANDED**.

IT IS FURTHER ORDERED that:

2. The real estate broker license of **Ashley M. Fragnito** is **LIMITED** as follows:
 - a. Ashley M. Fragnito shall, within six (6) months after this Order is signed, successfully complete four (4) hours of continuing education relating to the drafting of contracts and four (4) hours of continuing education relating to business ethics. All courses must be pre-approved by the Department Monitor Liaison.
 - b. Ms. Fragnito shall submit proof of the same in the form of verification from the institution providing the education to the address stated below. 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:

3. Respondent **Ashley M. Fragnito** shall, within 120 days, pay **COSTS** in the amount of **ONE HUNDRED AND FIFTY DOLLARS (\$150.00)**.
4. Payment of the costs shall be made payable to the Wisconsin Department of Regulation and Licensing and sent to:

Department Monitor
Division of Enforcement
Department of Regulation and Licensing
P.O. Box 8935, Madison, WI 53708-8935
Telephone (608) 261-7904, Fax (608) 266-2264

5. 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 payment of the forfeiture and costs and proof of successful completion of continuing education as set forth above, the Respondent's license (# 90-55066) may, in the discretion of the board or its designee, be SUSPENDED, without further notice or hearing, until Respondent has complied with payment of the costs and continuing education requirements.
6. The attached stipulation is hereby accepted.
7. This Order is effective on the date of its signing.
8. File 07 REB 260 is hereby closed as to Ashley M. Fragnito.

Dated this 9 day of December, 2010.

WISCONSIN REAL ESTATE BOARD

By: 