

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN  
BEFORE THE REAL ESTATE EXAMINING BOARD

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

LACINDA G. GERKE-EDWARDS AND  
CINDY GERKE & ASSOCIATES, INC.  
REALTORS,  
RESPONDENTS.

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FINAL DECISION AND ORDER

0006111

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Division of Legal Services and Compliance Case No. 16 REB 098

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

Lacinda G. Gerke-Edwards  
447 Country Club Lane  
Onalaska, WI 54650-8793

Cindy Gerke & Associates, Inc. Realtors  
1283 County Road PH  
Onalaska, WI 54650-8519

Wisconsin Real Estate Examining Board  
P.O. Box 8366  
Madison, WI 53708-8366

Division of Legal Services and Compliance  
Department of Safety and Professional Services  
P.O. Box 7190  
Madison, WI 53707-7190

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 Wisconsin Real Estate Examining Board (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, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Lacinda G. Gerke-Edwards (DOB November 18, 1950) is licensed by the State of Wisconsin as a real estate broker, having license number 38366-90, first issued on July 22, 1986 and current through December 14, 2020. Respondent Gerke-Edwards' most recent

address on file with the Wisconsin Department of Safety and Professional Services (Department) is 447 County Club Lane, Onalaska, Wisconsin 54650-8793.

2. Respondent Cindy Gerke & Associates, Inc. Realtors is licensed by the State of Wisconsin as a real estate business entity, having license number 834616-91, first issued on October 27, 1994 and current through December 14, 2020. Respondent Cindy Gerke & Associates, Inc. Realtors' most recent address on file with the Department is 1283 County Road PH, Onalaska, Wisconsin 54650-8519.

3. Respondent Gerke-Edwards is identified in Department records as the owner of Respondent Cindy Gerke & Associates, Inc. Realtors.

4. On September 23, 1999, the Real Estate Board<sup>1</sup> reprimanded Respondent Gerke-Edwards for providing brokerage services to a customer without an agency agreement authorizing those brokerage services, and for failing to adequately supervise the activities of one of her brokers in violation of Wis. Admin. Code §§ RL<sup>2</sup> 17.08(1), 24.025(2), 24.08 and 24.17(3), and Wis. Stat. §§ 452.12(3)(a), 452.135(1), 452.14(3)(i) and 452.14(3)(L) (Order #LS9909231REB).

5. On August 24, 2006, the Real Estate Board reprimanded Respondents for failing to conduct timely bank reconciliations, trial balances and validations, and for permitting their trust account to accumulate an unaccounted for deficit of over \$7,400.00 in violation of Wis. Admin. Code §§ RL 18.13 and 18.031(1) (Order #LS0608245REB). Respondents' licenses were limited requiring them to employ a Certified Public Accountant to audit their trust account, on a random date, within 12 months of the Order.

6. On April 24, 2008, the Real Estate Board reprimanded Respondent Gerke-Edwards and assessed a \$1,000 forfeiture against her for failing to conduct timely bank reconciliations, trial balances and validations, and for permitting her trust account to accumulate an unaccounted for deficit of \$171.32 in violation of Wis. Admin. Code §§ RL 18.13 and 18.031(1) (Order #LS0804241REB). Respondent Gerke-Edwards' license was limited to require her to designate a licensed real estate broker, in good standing, to administer her trust account. Respondent Gerke-Edwards was ordered to report who the designee was to the Department within 30 days of the date of the Order, and was required to cause an audit of her trust account to be conducted with the results to be submitted to the Department by February 28, 2010.

7. On February 23, 2011, the Real Estate Board suspended Respondent Gerke-Edwards' limited license for violating Order #LS0804241REB as Respondent Gerke-Edwards had failed to submit an audit of her trust account and failed to report the designee assigned to administer her trust account.

8. On May 11, 2011, the Real Estate Board ordered the suspension of Respondent Gerke-Edwards' limited license be stayed for 30 days following the receipt of a Petition for Review filed by Respondent Gerke-Edwards' attorney (Order Granting Stay of Suspension #LS0804241REB). The Board further ordered Respondent Gerke-Edwards to cause a Certified

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<sup>1</sup> The Real Estate Board is now known as the Real Estate Examining Board.

<sup>2</sup> RL is now known as REEB.

Public Accountant to conduct an audit of all of her real estate trust accounts and to submit the audit and any supporting materials to the Department prior to the end of the 30 days.

9. On July 5, 2011, the Real Estate Board restored Respondent Gerke-Edwards' license to full and unrestricted status (Order Granting Full Reinstatement of Licensure #LS0804241REB).

10. On December 22, 2014, January 9, 2015, and January 16, 2015, the Department received complaints alleging that Respondents had advertised that the purchase of a lot within the Villa Farms (Villa Farms) subdivision included partial ownership of a 160-acre common area (outlot), but ownership of the outlot was never transferred to the Villa Farms lot owners. In addition, the complaints alleged that Respondent Gerke-Edwards failed to disclose her interest in Villa Farms and misrepresented the details of the outlot. The Division of Legal Services and Compliance subsequently opened Case No. 16 REB 098 for investigation.

11. In 2005, Respondent Gerke-Edwards was the exclusive real estate broker for Villa Farms. Respondent Gerke-Edwards distributed an ad for Villa Farms stating "160 Acres of Common Area Property Exclusively for Villa Farms Home Owners."

12. On or about March 4, 2005, Respondent Gerke-Edwards certified she inspected the Villa Farms subdivision on lines 56-58 on the Real Estate Condition Report-V.

13. On April 22, 2005, Respondents, on behalf of Buyers Ma.N. and Mi.N. (Buyers 1), completed a WB-13 Vacant Land Offer to Purchase. Respondent Gerke-Edwards did not identify her role in the transaction on line 1.

14. On August 11, 2005, Respondents, on behalf of Buyers 1, completed a WB-40 Amendment to Offer to Purchase, which was not completed on line 35.

15. On October 25, 2005, J.E., owner of the development company for Villa Farms, signed a "Declaration of Covenants, Conditions, and Restrictions to the Plats of Villa Farms North and Villa Farms South, Town of Holland, La Crosse County, Wisconsin." Under Article IV, Section 3, it states, "Title to Common Properties. Declarant shall convey marketable legal title to the Common Properties by way of an undivided one-twenty fifth (1/25) interest, as tenant in common, to the Owner of each Lot."

16. On October 28, 2005, Buyers 1, represented by Respondents, purchased lot 12 of Villa Farms.

17. On January 12, 2006, Attorney Kristine Gerke filed a document titled "Declaration of Covenants, Conditions, and Restrictions to the Plats of Villa Farms North and Villa Farms South" with the La Crosse County Register of Deeds. Article IV, Section 3 of the document states, "Title to Common Properties. Declarant shall convey marketable title to the Common Properties Association."

18. Respondent Gerke-Edwards married J.E. in 2010.

19. J.E. passed away in 2011.

20. On October 19, 2012, Respondents, on behalf of Buyers G.H. and D.H. (Buyers 2), completed a WB-13 Vacant Land Offer to Purchase.

21. On October 19, 2012, Buyers 2, represented by Respondents, purchased lot eight of Villa Farms.

22. Respondents represented to Buyers 2 that there was a 160 acre outlot for exclusive use by Villa Farms lot owners.

23. On August 15, 2013, Respondents, on behalf of Buyers 1, completed a WB-13 Vacant Land Offer to Purchase (Offer) for lots one and two of Villa Farms. On lines 535-536, the Offer does not indicate who drafted it, Mi.N. is not listed as a buyer on lines 3-4 even though Mi.N. signed the Offer on line 539, line 539 is missing the date next to Mi.N.'s signature and line 540 is missing Mi.N.'s printed name.

24. On September 19, 2013, Buyers 1, represented by Respondents, purchased two additional lots, lots one and two, of Villa Farms.

25. On October 1, 2014, Respondents, on behalf of Buyers D.C. and C.C. (Buyers 3), completed a WB-13 Vacant Land Offer to Purchase for lots six and seven of Villa Farms.

26. On October 1, 2014, Buyers 3, represented by Respondents, purchased lots six and seven of Villa Farms.

27. Respondents represented to Buyers 3 that there was a 160 acre outlot for exclusive use by Villa Farms lot owners.

28. In 2014, Buyers 1 discovered that the development company, now controlled by Respondent Gerke-Edwards, was still the sole owner of the outlot, and that the outlot is approximately 123 acres, of which approximately 105 acres are accessible to all Villa Farms members.

29. In a deposition on August 24, 2015, Respondent Gerke-Edwards testified she received the outlot acreage directly from J.E., she did not attempt to verify the information in any way, and she never looked into ownership of the outlot.

30. In resolution of this matter, Respondents consent to the entry of the following Conclusions of Law and Order.

#### CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Examining 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. By the conduct described in the Findings of Fact, Respondent Gerke-Edwards violated Wis. Stat. § 452.133(1)(b) by failing to provide brokerage services with reasonable skill and care.

3. By the conduct described in the Findings of Fact, Respondent Gerke-Edwards violated Wis. Admin. Code § REEB 16.06(8) by failing to use approved forms and prepare addenda in such a manner as to adequately accomplish the contractual instruction of the person for whom the licensee uses the forms and prepares the addenda.

4. By the conduct described in the Findings of Fact, Respondent Gerke-Edwards violated Wis. Admin. Code § REEB 24.03(2)(b) by failing to protect the public against fraud, misrepresentation and unethical practices.

5. By the conduct described in the Findings of Fact, Respondent Gerke-Edwards violated Wis. Admin. Code § REEB 24.04(1) by advertising in a manner which is false, deceptive, or misleading.

6. By the conduct described in the Findings of Fact, Respondent Gerke-Edwards violated Wis. Admin. Code § REEB 24.07(1) by failing to conduct a reasonably competent and diligent inspection of the property.

7. By the conduct described in the Findings of Fact, Respondent Cindy Gerke & Associates, Inc. Realtors violated Wis. Admin. Code § REEB 24.17(3) by aiding or abetting the above violations.

8. As a result of the above violations, Respondents are subject to discipline pursuant to Wis. Stat. § 452.14(3)(L) and (4m)(a) and (b).

#### ORDER

1. The attached Stipulation is accepted.
2. Respondent Lacinda G. Gerke-Edwards is REPRIMANDED.
3. Respondent Cindy Gerke & Associates, Inc. Realtors is REPRIMANDED.
4. The real estate broker license (number 38366-90) issued to Lacinda G. Gerke-Edwards is LIMITED as follows:
  - a. Within 90 days of the date of this Order, Respondent Gerke-Edwards shall successfully complete nine hours of education on the topics of Approved Forms, Business Ethics and Consumer Protection offered by a provider pre-approved by the Board's monitoring liaison, including taking and passing any exam(s) offered for the course(s).
  - b. Respondent Gerke-Edwards shall submit proof of successful completion of the ordered education in the form of verification from the institution providing the education to the Department Monitor at the address stated below. None of the education completed pursuant to this requirement may be used to satisfy any continuing education requirements that have been or may be instituted by the Board or Department, and also may not be used in future attempts to upgrade a credential in Wisconsin.

5. Within 90 days from the date of this Order, Respondent Gerke-Edwards shall pay a FORFEITURE in the amount of \$1,000.00 and one-half the COSTS of this matter in the amount of \$873.00.

6. Within 90 days from the date of this Order, Respondent Cindy Gerke & Associates, Inc. Realtors shall pay one-half the COSTS of this matter in the amount of \$873.00.

7. Payment of forfeiture and costs (made payable to the Wisconsin Department of Safety and Professional Services), requests for pre-approval and proof of successful course completion shall be sent to the Department Monitor at the address below:

Department Monitor  
Division of Legal Services and Compliance  
Department of Safety and Professional Services  
P.O. Box 7190, Madison, WI 53707-7190  
Telephone (608) 267-3817; Fax (608) 266-2264  
DSPSMonitoring@wisconsin.gov

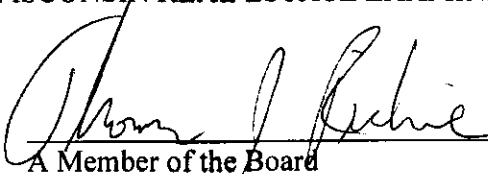
You may also submit this information online via DSPS' Monitoring Case Management System at: <https://app.wi.gov/DSPSMonitoring>.

8. In the event Respondents violate any term of this Order, Respondents' licenses (numbers 38366-90 and 834616-91), or Respondents' right to renew their licenses, may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Respondents have complied with the terms of the Order. The Board may, in addition and/or in the alternative, refer any violation of this Order to the Division of Legal Services and Compliance for further investigation and action.

9. This Order is effective on the date of its signing.

WISCONSIN REAL ESTATE EXAMINING BOARD

by:

  
A Member of the Board

3/21/19  
Date

STATE OF WISCONSIN  
BEFORE THE REAL ESTATE EXAMINING BOARD

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

LACINDA G. GERKE-EDWARDS AND  
CINDY GERKE & ASSOCIATES, INC.  
REALTORS,  
RESPONDENTS.

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STIPULATION

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Division of Legal Services and Compliance Case No. 16 REB 098

Respondents Lacinda G. Gerke-Edwards and Cindy Gerke & Associates, Inc. Realtors and the Division of Legal Services and Compliance, Department of Safety and Professional Services, stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondents consent to the resolution of this investigation by Stipulation.
2. Respondents understand that by signing this Stipulation, Respondents voluntarily and knowingly waive the following rights:
  - the right to a hearing on the allegations against Respondents, 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 Respondents;
  - the right to call witnesses on Respondents' behalf and to compel their attendance by subpoena;
  - the right to testify on Respondents' own behalf;
  - 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 Respondents under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.
3. Respondents are aware of Respondents' right to seek legal representation and have been provided an opportunity to obtain legal counsel before signing this Stipulation. Respondents are represented by Attorney Robert Sayas.
4. Respondents agree to the adoption of the attached Final Decision and Order by the Wisconsin Real Estate Examining Board (Board). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance



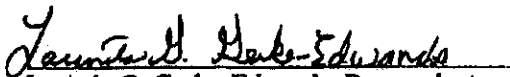
or consent of the parties. Respondents waive all rights to any appeal of the Board's order, if adopted in the form as attached.

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 then be returned to the Division of Legal Services and Compliance for further proceedings. In the event that the 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 the consideration of this attempted resolution.

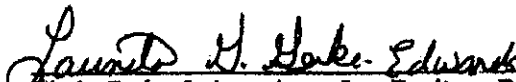
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondents, for purposes of speaking in support of this agreement and answering questions that any member of the Board may have in connection with deliberations on the Stipulation. Additionally, any such 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.

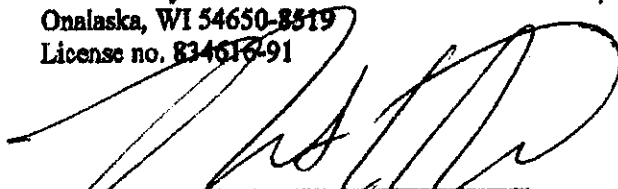
8. The Division of Legal Services and Compliance joins Respondents in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.

  
Lacinda G. Gerke-Edwards, Respondent  
447 Country Club Lane  
Onalaska, WI 54650-8793  
License no. 38366-90

3/11/2019  
Date


  
Cindy Gerke & Associates, Inc. Realtors, Respondent  
By: Lacinda G. Gerke-Edwards  
1283 County Road PH  
Onalaska, WI 54650-8519  
License no. 834616-91

3/11/2019  
Date

  
Robert Sayas, Attorney for Respondents  
Sayas, Schmucki, Rondini & Plum SC  
11430 W. Bluemound Road, Suite 200

3/11/2019  
Date

Wauwatosa, WI 53226

  
Sarah E. Norberg, Attorney  
Division of Legal Services and Compliance  
P.O. Box 7190  
Madison, WI 53707-7190

3.11.19  
Date