

## 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	:	
	:	FINAL DECISION AND ORDER
KATHERINE L. CAIN AND	:	
AVENUE REAL ESTATE LLC,	:	
RESPONDENTS.	:	<b>ORDER 0007819</b>

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Division of Legal Services and Compliance Case Nos. 18 REB 058 and 20 REB 092

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

Katherine L. Cain  
Plymouth, WI 53073

Avenue Real Estate LLC  
Plymouth, WI 53073

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 Katherine L. Cain (Birth Year 1987) is licensed by the State of Wisconsin as a real estate broker, having license number 56461-90, first issued on October 3, 2011 and current through December 14, 2022. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is in Plymouth, Wisconsin 53073.

2. Respondent Avenue Real Estate LLC is licensed by the State of Wisconsin as a real estate business entity, having license number 937675-91, first issued on February 3, 2015 and current through December 14, 2022. Respondent's most recent address on file with the Department is in Plymouth, Wisconsin 53073.

3. Respondent Katherine L. Cain is identified in Department records as the responsible licensee in charge of Respondent Avenue Real Estate LLC.

18 REB 058

4. On June 4, 2018, the Department received a complaint alleging that Respondents had provided inadequate services in a real estate transaction. The Division of Legal Services and Compliance (DLSC) subsequently opened Case Number 18 REB 058 for investigation.

5. In April 2018, Respondents represented the sellers in a real estate transaction.

6. On September 13, 2018, the Department mailed a letter to Respondents to request a copy of the complete transaction file from the real estate transaction.

7. On September 27, 2018, the Department received the transaction file from Respondents.

8. A review of the transaction file revealed the following errors:

- a. Addendum S (Lead Based Paint Disclosures and Acknowledgments) that accompanied each of the three Offers to Purchase was not dated by the Respondent or the sellers.
- b. Counter-Offer No. 2 was accepted by the sellers and signed on April 20 and 21, 2018, which was 15 days after the binding acceptance date.
- c. The Disclosure to Clients form was not signed by the sellers.
- d. The Offer to Purchase dated April 3, 2018 was missing the date with sellers' initials.
- e. The Offer to Purchase dated April 5, 2018 was missing sellers' initials and date.
- f. The Offer to Purchase dated April 8, 2018 was missing sellers' initials and date.

20 REB 092

9. On October 7, 2020, the Department received a complaint alleging errors by Respondents in handling real estate transactions in which Respondents represented different sellers. DLSC subsequently opened Case Number 20 REB 092 for investigation.

10. Respondents represented the sellers of a property located at 3705 N. 14<sup>th</sup> St. in Sheboygan, Wisconsin (N. 14<sup>th</sup> St. property).

11. A review of the transaction documents for the N. 14<sup>th</sup> St. property revealed the following errors:

- a. An Offer to Purchase dated July 26, 2020 was signed by Respondent Cain but was not dated as to when she presented the offer.
  - b. An Offer to Purchase dated July 31, 2020 was signed by Respondent Cain but was not dated as to when she presented the offer.
12. Respondents represented the sellers of a property located at N4439 Cedar Lane Rd. in Lyndon, Wisconsin (Cedar Lane Rd. property).
13. On June 18, 2020, Respondents presented an Offer to Purchase to the sellers and the sellers accepted this offer.
14. On or around June 26, 2020, Respondents agreed to show the Cedar Lane Rd. property to a different prospective buyer and that buyer submitted an Offer to Purchase the property.
15. On June 28, 2020, Respondents emailed the offer to the sellers. The sellers responded the next day and stated that they were rejecting the June 26, 2020 offer.
16. On July 8, 2020, Respondents modified the Multiple Listing Service (MLS) listing for the property from “active” to “contingent.”
17. 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 Katherine L. Cain 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 Respondent used the forms and prepared the addenda.
3. By the conduct described in the Findings of Fact, Respondents violated Wis. Admin. Code § REEB 24.03(2)(b) by failing to act to protect the public against fraud, misrepresentation and unethical practices.
4. By the conduct described in the Findings of Fact, Respondents violated Wis. Stat. § 452.133(1)(b) by failing to provide brokerage services with reasonable skill and care pursuant to Wis. Stat. § 452.133(4m)(a).
5. As a result of the above violations, Respondents are subject to discipline pursuant to Wis. Stat. § 452.14(3)(L) and (4m)(b).

## ORDER

1. The attached Stipulation is accepted.
2. Respondent Katherine L. Cain is REPRIMANDED.
3. Respondent Avenue Real Estate LLC is REPRIMANDED.
4. Respondent Katherine L. Cain's real estate broker license (no. 56461-90) is LIMITED as follows:
  - a. Within sixty (60) days of the date of this Order, Respondent shall successfully complete an education course on the topic of approved forms from a provider pre-approved by the Board or its designee, including taking and passing any exam(s) offered for the course.
  - b. Respondent 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.
  - c. The education completed pursuant to this Order may not be used to satisfy any other continuing education requirements with the Board.
5. Within ninety (90) days from the date of this Order, Respondent Katherine L. Cain shall pay one-half of the COSTS of this matter in the amount of \$1,733.
6. Within ninety (90) days from the date of this Order, Respondent Avenue Real Estate LLC shall pay one-half of the COSTS of this matter in the amount of \$1,733.
7. Requests for pre-approval, proof of successful course completion, and payment of costs (made payable to the Wisconsin Department of Safety and Professional Services) shall be sent by Respondents 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) 266-2112; Fax (608) 266-2264  
DSPSMonitoring@wisconsin.gov

This information may also be submitted online via DSPS' Monitoring Case Management System at: <https://dpsmonitoring.wi.gov/>

8. In the event Respondents violate any term of this Order, Respondents' credentials (numbers 56461-90 and 937675-91), or Respondents' right to renew their credentials, 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: Thomas J. Radtke  
A Member of the Board

3 February 2022  
Date

STATE OF WISCONSIN  
BEFORE THE REAL ESTATE EXAMINING BOARD

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IN THE MATTER OF DISCIPLINARY  
PROCEEDINGS AGAINST

KATHERINE L. CAIN AND  
AVENUE REAL ESTATE LLC,  
RESPONDENTS.

STIPULATION

**ORDER 0007819**

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Division of Legal Services and Compliance Case Nos. 18 REB 058 and 20 REB 092

Respondents Katherine L. Cain and Avenue Real Estate LLC 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.
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.

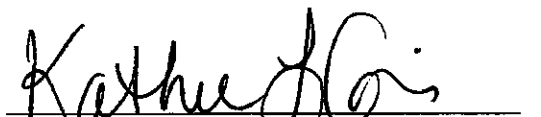
6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance and any member of the Board ever assigned as an advisor in this investigation may appear before the Board in open or closed session, without the presence of Respondents, for purposes 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.

  
Katherine L. Cain, Respondent  
Plymouth, WI 53073  
Credential No. 56461-90

12-21-21  
Date

  
Avenue Real Estate LLC, Respondent  
By: Katherine L. Cain, Responsible Licensee  
Plymouth, WI 53073  
Credential No. 937675-91

12-21-21  
Date

  
Megan Reed, Attorney  
Division of Legal Services and Compliance  
P.O. Box 7190  
Madison, WI 53707-7190

12/21/2021  
Date