

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE REAL ESTATE EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY :
PROCEEDINGS AGAINST :
 : FINAL DECISION AND ORDER
TESSA Y. KENNEY AND :
ALLIANCE REALTY CENTER, :
RESPONDENTS. : **ORDER 0008382**

Division of Legal Services and Compliance Case No. 20 REB 091 and 21 REB 009

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

Tessa Y. Kenney
Madison, WI 53719

Alliance Realty Center
Madison, WI 53719

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 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 Tessa Y. Kenney (Birth Year 1985) is licensed by the State of Wisconsin as a real estate broker, having license number 56965-90, first issued on July 6, 2012 and expired as of December 15, 2022. Respondent's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is in Madison, Wisconsin 53719.

2. Respondent Alliance Realty Center is licensed by the State of Wisconsin as a real estate business entity, having license number 937572-91, first issued on July 7, 2014 and expired as of December 15, 2022. Respondent's most recent address on file with the Department is in Madison, Wisconsin 53719.

3. Respondent Tessa Y. Kenney is identified in Department records as the responsible licensee in charge of Respondent Alliance Realty Center.

20 REB 091

4. On October 7, 2020, the Department received a complaint alleging that Respondent Kenney attempted to improperly influence an appraiser to change an appraisal. The Division of Legal Services and Compliance (DLSC) subsequently opened Case Number 20 REB 091 for investigation.

5. In September 2020, Complainant was hired by a bank to perform an appraisal of a property in McFarland, Wisconsin. Respondents represented the seller of the property.

6. Complainant's appraisal valued the property at less than the agreed upon purchase price for the property.

7. On September 29, 2020, Respondent Kenney emailed the banker to object to the appraisal report. Respondent Kenney then forwarded this email to Complainant, adding, "Regarding the Spartan Properties – see below. There are a number of discrepancies...and we ask you to correct the appraisal immediately and re-submit with the appropriate value of both properties, as the deadline is tonight at midnight."

8. On September 30, 2020, Respondent Kenney emailed Complainant and stated:

We have been speaking with a number of prior clients, or opposing clients, and just a heads up, everyone so far has stated you have personal interest in the values being deemed lower than they should be. The reasons given to us is that it is because you own properties and that you are a broker, and therefore have a biased and personal opinion when evaluating properties, you don't own or didn't have access to.

9. On October 1, 2020, Respondent Kenney emailed Complainant to object to the comparables he used in the appraisal.

10. On October 1, 2020, Respondent Kenney again emailed Complainant and stated, "Regarding the items for Spartan I have sent over, please confirm receipt and make appropriate adjustments."

11. On October 2, 2020, Respondent Kenney emailed Complainant and stated "Please adust (sic) using the proper values, as you brought the comp in the appraisal and failed to use the proper values...it is your obligation to add value for the differences.... You have failed to do your job." Later in the email Respondent Kenney wrote, "By Monday morning, if you have failed to perform your obligations as an appraiser for the properties in which I am acting Broker, I will be forced to file complaints and take any legal means necessary...."

12. On October 2, 2020, Respondent Kenney again emailed Complainant and stated, "I will ask you one last time, to please focus on the problem at hand – The appraisal for Spartan properties needs to be updated."

21 REB 009

13. On January 12 and 15, 2021, the Department received complaints alleging that Respondents failed to return the earnest money for a property after a Cancellation and Mutual Release (CAMR) was signed by all parties. DLSC subsequently opened Case Number 21 REB 009 for investigation.

14. In 2020, Respondents represented the seller, Complainant B.K., for the sale of a property in McFarland, Wisconsin.

15. On August 21, 2020, Complainant J.P., a potential buyer, sent \$25,000 in earnest money to Respondents.

16. On December 10, 2020, the parties signed a CAMR and sent it to Respondent Kenney. The CAMR provided that the earnest money should be returned to Complainant J.P.

17. Complainant J.P. made several attempts to contact Respondents regarding the return of the earnest money, but Respondents failed to return the money.

18. On January 4, 2021, Complainant J.P. filed a lawsuit against Respondents for failure to return the earnest money.

19. In March 2021, Respondents returned the earnest money, and the lawsuit against Respondents was dismissed.

20. Respondent Kenney failed to respond to the following attempts made by the Department to request a response to the complaint:

- a. On June 17, 2021, a Department investigator sent an email to Respondent Kenney at her email address of record with the Department.
- b. On June 25, 2021, a Department investigator sent an email to Respondent Kenney at her email address of record with the Department.
- c. On July 7, 2021, a Department investigator mailed a letter to Respondent Kenney at her address of record with the Department.
- d. On September 20, 2021, a Department investigator mailed a letter to Respondent Kenney at her most recent address listed in a LexisNexis public records search.
- e. On October 8, 2021, a Department investigator sent an email to Respondent Kenney at her email address of record with the Department. The email was returned as undeliverable.

21. On October 8, 2021, a Department investigator sent an email to Respondent Kenney at an alternate email address that she had provided when submitting an unrelated complaint to the Department.

22. On October 8, 2021, Respondent Kenney responded to the complaint. Respondent Kenney stated she returned the earnest money as soon as she realized that there were no legal allegations against either party to the transaction. Respondent Kenney also stated that she had moved out of the state and is no longer practicing real estate in Wisconsin.

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

CONCLUSIONS OF LAW

1. The 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. Pursuant to Wis. Stat. § 440.08(3), Respondent Tessa Y. Kenney retains the right to renew her real estate broker's license until December 14, 2027.

3. Pursuant to Wis. Stat. § 440.08(3), Respondent Alliance Realty Center retains the right to renew its real estate business entity license until December 14, 2027.

4. By the conduct described in the Findings of Fact, Respondents violated Wis. Stat. § 452.133(1)(a) by failing to provide brokerage services honestly and fairly, pursuant to Wis. Stat. § 452.133(4m)(a).

5. By the conduct described in the Findings of Fact, Respondents violated Wis. Admin. Code § REEB 24.17(5) by failing to respond to the Department regarding any request for information within 30 days of the date of the request.

6. 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.

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

ORDER

1. The attached Stipulation is accepted.

2. The VOLUNTARY SURRENDER by Respondent Tessa Y. Kenney of her real estate broker's license (no. 56965-90) or her right to renew her license is hereby accepted.

3. The VOLUNTARY SURRENDER by Respondent Alliance Realty Center of its real estate business entity license (no. 937572-91) or its right to renew its license is hereby accepted.

4. In the event Respondent Tessa Y. Kenney petitions the Department for reinstatement of her credential or applies for another credential in the state of Wisconsin under Wis. Stat. chs. 440 through 480, Respondent shall pay the COSTS of this matter in the amount of

\$2,274, before any petition or application for a credential will be considered by the applicable Board or Department.

5. In the event Respondents Tessa Y. Kenney or Alliance Realty Center petitions the Department for reinstatement of their credentials, the Department may enter an order denying such application without further notice or hearing. Whether to grant a license and whether to impose any limitations or restrictions on any license granted shall be in the sole discretion of the Department and such decision is not reviewable.

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

WISCONSIN REAL ESTATE EXAMINING BOARD

by: Thomas J. Rulise
A Member of the Board

2/2/23
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

TESSA Y. KENNEY AND
ALLIANCE REALTY CENTER,
RESPONDENTS.

STIPULATION

ORDER 0008382

Division of Legal Services and Compliance Case No. 20 REB 091 and 21 REB 009

Respondents Tessa Y. Kenney and Alliance Realty Center and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

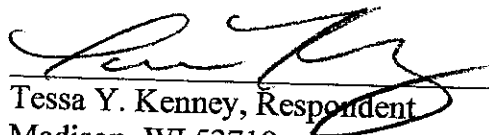
1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondents consent to the resolution of this investigation by Stipulation.
2. Respondents understand that by signing this Stipulation, Respondents voluntarily and knowingly waive 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 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.

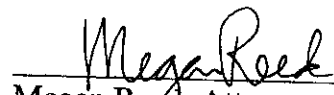
8. The Division of Legal Services and Compliance joins Respondents in recommending the Board adopt this Stipulation and issue the attached Final Decision and Order.


Tessa Y. Kenney, Respondent
Madison, WI 53719
Credential No. 56965-90

1/17/23
Date


Alliance Realty Center, Respondent
By: Tessa Y. Kenney, Responsible Licensee
Madison, WI 53719
Credential No. 937572-91

1/17/23
Date


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

01/18/2023
Date