

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF THE APPLICATION	:	
FOR LICENSE OF	:	FINAL DECISION
	:	AND ORDER
TERRELL BELL,	:	LS0304292REB
APPLICANT.	:	

The State of Wisconsin, Department of Regulation and Licensing, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Department of Regulation and Licensing.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 31st day of July, 2003.

Donsia Strong Hill, Secretary
Department of Regulation and Licensing

STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF REGULATION & LICENSING

IN THE MATTER OF
THE APPLICATION FOR A LICENSE OF

TERRELL BELL,

Applicant

PROPOSED DECISION

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

Terrell Bell
5747 North 92nd Street
Milwaukee, WI 53225

Department of Regulation & Licensing
Division of Enforcement
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708

Department of Regulation & Licensing
1400 East Washington Avenue
P.O. Box 8935
Madison, WI 53708

A Class I hearing was conducted in the above-captioned matter on May 22, 2003, at 1400 East Washington Avenue, Madison, Wisconsin. Applicant Terrell Bell appeared in person without counsel. The Division of Enforcement appeared by Attorney Claudia Berry Miran.

Based upon the entire record in this case, the administrative law judge recommends that the department of Regulation & Licensing adopt as its final decision in the matter the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. Terrell Bell, applicant herein, filed his application for a license to practice as a real estate salesperson by application dated January 20, 2003. On his application, Mr. Bell indicated three convictions of possession of Controlled Substances and one conviction of Theft to a Person.

2. By letter dated February 26, 2003, the Department of Regulation & Licensing (department) denied the application. The letter of denial cites as the basis for the denial five felony convictions. Mr. Bell timely filed his request for a hearing on the denial of his application.

3. On June 30, 1995, Mr. Bell was convicted in Milwaukee Circuit Court for possession with Intent to Manufacture or Deliver Cocaine, 5 grams or less.

4. On November 1, 1996, Mr. Bell was convicted of Driving While License Revoked or Suspended, in violation of § 343.44, Stats.

5. On November 3, 1997, Mr. Terrell was convicted of Possession of Controlled Substance – Marijuana, in violation of § 961.14(4)(t), Stats.

6. On June 7, 1999, Mr. Bell was convicted in Milwaukee County Circuit Court of Theft of Person, in violation of § 943.20(3), Stats.

7. On January 9, 2002, Mr. Bell was convicted in Sheboygan County Circuit Court of Possession of Cocaine, in violation of § 961.41(3g)(c).

8. Following his last conviction on January 9, 2002, Mr. Bell was sentenced to one year in prison. He was released on parole on October 15, 2002, and will be released from parole on October 18, 2003.

9. Following his release from prison, and after some effort, Mr. Bell enrolled at Milwaukee Area Technical School (MATC) for studies in Human Services. He currently attends MATC full time.

10. While accompanying his fiancé to negotiate the purchase of her home, Mr. Bell became acquainted with Bill Wyman, real estate broker with Coldwell Banker, Brookfield Wisconsin. Mr. Wyman offered a position with Coldwell Banker after Mr. Bell Passed the real estate examination and became licensed. Mr. Wyman tutored Mr. Bell, and Coldwell Banker financed his participation in a real estate licensure preparation course. Mr. Bell passed the course and subsequently passed the examination for licensure as a real estate salesperson.

11. Mr. Bill Wyman; Ms. Valentina Barbatelli, Sales Manager for Coldwell Banker Residential Brokerage; Ms. Geneva E. McKinley, Mr. Bell's former attorney; and Mr. Mark Heerey, Mr. Bell's parole officer, each support Mr. Bell's application for a license.

CONCLUSIONS OF LAW

1. The Department has jurisdiction in this matter under § 452.05, Stats.

2. The circumstances of Mr. Bell's criminal convictions are substantially related to the circumstances of the practice of a real estate salesperson for the purposes of § 11.335(1)(c), Stats.

3. A preponderance of the evidence in this matter establishes that Mr. Bell's reformation has proceeded to a point where the grant of an appropriately limited license is not contrary to the public health, safety or welfare.

ORDER

NOW, THEREFORE, IT IS ORDERED that Terrell Bell be issued a license to practice as a real estate salesperson in Wisconsin.

IT IS FURTHER ORDERED that the license issued to Terrell Bell shall be limited as follows:

(a) Mr. Bell may practice as a real estate salesperson only as an employee of Coldwell Banker Residential Brokerage, 6000 North Port Washington Road, Glendale, WI 53217, or such other real estate firm as may be approved in advance by the department.

(b) Mr. Bell shall arrange for submission to the department of quarterly formal written reports prepared by his employer setting forth Mr. Bell's activities and progress in his employment.

(c) Should Mr. Bell violate the requirements of his parole, or should he be arrested for or convicted of any future criminal act, the department may summarily suspend the license, or may impose such further reasonable limitations as may be deemed by the department to be appropriate.

IT IS FURTHER ORDERED that Mr. Bell may after a period of one year from the date of the department's order adopting the terms of this Proposed Decision petition for termination of one or more of the limitations on his license. It shall be within the sole discretion of the department whether to grant any such petition.

OPINION

As set forth in the Findings of Fact, between 1995 and 2002, Mr. Bell had three drug possession convictions, a theft conviction and a conviction for driving after license revocation. In the notice of hearing provided to Mr. Bell, it was stated that he was also convicted of Battery and Party to a Crime in June, 1997. It was in fact Mr. Bell's cousin, Kinta Bell who was convicted; charges against Terrell Bell were dropped. The Notice also indicates that on June 7, 1999, Mr. Bell was convicted of felony theft of movable property. Mr. Bell testified that the charge was reduced at trial to Theft of Person. His attorney at the time, Geneva E. McKinley confirmed that fact in her letter of March 31, 2003 (Exh. 4), though the Judgment of Conviction still reflects the original charge.

There can be little question that Mr. Bell's conduct during the period in question was inconsistent with the honesty and integrity required of one practicing as a real estate salesperson. Consequently, it may be said that the circumstances of those convictions are substantially related to the circumstances of the practice of real estate. If so, then the department was justified in refusing to grant Mr. Bell's application.

It would appear, however, that Mr. Bell has accomplished a remarkable transformation in the months since his

release from prison. He has reestablished his relationship with his church and, through the church, has worked with young people with drug and other problems. He has enrolled in Milwaukee Area Technical College in a human services curriculum to further his ability to provide services to the youth in his community. He attends school full time, four evenings each week. While assisting his fiancé (now his wife) in her search for a home, he became acquainted with Bill Wyman, a broker with Coldwell Banker realtors in Milwaukee. Mr. Wyman was sufficiently impressed with Mr. Bell's intelligence and demeanor that he offered to tutor him in real estate, to underwrite his real estate educational program, and to employ him when licensed as a salesperson. Mr. Bell agreed, and attended the real estate course in addition to his studies at MATC. He passed the course, and has also passed the salesperson licensing examination.

In testifying to his rehabilitation at hearing, Mr. Bell commented in part as follows:

I had a couple incarcerations, and in this last incarceration a judge from Sheboygan County, he sentenced me -- when he sentenced me, he looked at me and he told me that he wanted me to take this time out to think about the rest of my life and my children and which was my fiancé, which is my wife now, and take this time to consider what do I want to do with my life, because I was at a turning point in my life. I was 24 years old when he sentenced me the last time. And I decided to stop blaming society and my upbringing and things like that for my mistakes and my wrongdoings and take full responsibility for -- for my actions. And that's the reason why I didn't come here to argue about some of this stuff that's clearly not mine, but basically he -- he had given me a chance, like one last chance, and I wanted to seize the opportunity to take full advantage of that one last chance.

As stated in the Findings, a number of people have filed letters recommending that Mr. Bell be permitted to practice as a real estate salesperson. Mark Heerey, Mr. Bell's parole officer, wrote in part as follows:

I don't have any concerns with Mr. Bell being issued a real estate license. I believe Mr. Bell has worked hard since his release to turn his life around. This responsibility of being issued a license will support the rewards of hard work.

His former attorney, Geneva McKinley, comments as follows:

During my last case with Mr. Bell, it was apparent that he had decided to become a productive citizen of this community, again. . . . When he informed me of his interest in real estate, I believed it to be a perfect profession for Mr. Bell. I believe this because he is an articulate, well-groomed and outgoing individual. Mr. Bell should be given the opportunity to turn his life around and excel in a profession that he is obviously interested in.

Valentina Barbatelli, Sales Manager at Coldwell Banker states:

Mr. Bell impressed me as a very personable young man who wanted to work hard and get ahead in the real estate business. I heard about his involvement with his church and the work he has been doing with troubled youth. This impressed me. . . . I would be very pleased to have him as part of this office and further to have the opportunity to guide him to success.

Finally, Bill Wyman, the broker with Coldwell Banker who is Mr. Bell's benefactor, wrote in these glowing terms:

Terrell accepted my offer and came into our office here in Glendale morning, noon and night to study and ask questions throughout the office. All while still maintaining another job. . . . Terrell

took his real estate test, passed it and has literally been at my side these past months while I list, sell and show homes. His knowledge of the market areas, calm manner and professional relationship with my buyers and sellers is outstanding and my clients think the world of this fine young man.

I consider myself a good judge of character and have worked with literally hundreds of people who needed that "second chance" at life. Twenty years with the United Nations prior to becoming a real estate professional provided me with a different if not unique perspective and outlook on life and taught me skills in assisting others to move forward with their own lives. I know what I see in Terrell is real. I know that he has the talent and the desire to become a strong member of his communityYoung people make mistakes. Young people also grow up to become respected members of their community.

When one subtracts the three drug possession convictions, there is little left on which to base a denial of the license requested. The only other conviction of note is the conviction for theft, the circumstances of which apparently involved a dispute between friends over an old girlfriend rather than premeditated illegal activity (Transcript, p.15). On balance, it seems clear that imposition of reasonable limitations on the license will suffice to protect the public health, safety and welfare. It is recommended that those limitations include control over Mr. Bell's employment setting, a requirement that his employer file quarterly reports with the department on Mr. Bell's conduct in his employment, and a provision permitting the summary suspension of the license should Mr. Bell engage in further illegal activity.

The undersigned joins with Mr. Bell's references in recommending that he be given this chance.

Dated this 9th day of July, 2003.

Respectfully submitted,

Wayne R. Austin

Administrative Law Judge