

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF THE APPLICATION :

FOR A REAL ESTATE SALESPERSON :

LICENSE OF :

: LS0401081REB

CHAD R. SZYMANSKI, :

APPLICANT :

FINAL DECISION AND ORDER

The parties to this action for the purposes of Wis. Stats. sec. 227.53 are:

Chad R. Szymanski
W8033 Jonathan Drive
Pardeeville, WI 53954

Department of Regulation and Licensing
Division of Enforcement
PO Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision of this matter, subject to the approval of the Department of Regulation and Licensing. The Secretary of the Department has reviewed this Stipulation, considers it acceptable, and adopts as its final decision and order in the matter the following:

FINDINGS OF FACT

1. On October 9, 2003, Chad R. Szymanski (D.O.B. 8/26/83) filed an application with the Department of Regulation and Licensing for a real estate salesperson license in the state of Wisconsin.
2. The application for a real estate salesperson's license required that Mr. Szymanski answer the following question:

"Have you **EVER** been convicted of a **MISDEMEANOR** or **DRIVING WHILE INTOXICATED (DWI)** in this or any other state, **OR** are criminal charges or DWI charges currently pending against you? If YES, complete and attach Form #2252 entitled "Convictions and Pending Charges."
3. Mr. Szymanski answered the question by checking the box marked "Yes" and completing Form #2252, indicating that he had a felony conviction for **Burglary – Building or Dwelling (Concealing Identity and Party to A Crime)** and two misdemeanor convictions for **Criminal Damage to Property (Party to a Crime)**. All convictions were in Columbia County, Wisconsin Circuit Court.
4. Information received from the Columbia County, Wisconsin Clerk of the Circuit Court's office confirmed that Mr. Szymanski had been convicted of the following offenses:
 - a. May 2, 2003 – Felony – Burglary – Building or Dwelling with the Charge Modifiers of Concealing Identity and Party to a Crime
May 2, 2003 – Misdemeanor – Criminal Damage to Property with the Charge Modifier of Party to a Crime
May 2, 2003 – Criminal damage to Property with the Charge Modifier of Party to a Crime
(Columbia County Circuit Court Case #2002CF000142).

A true and correct copy of the Criminal Complaint, Amended Criminal Complaint and Judgment of Sentence Withheld, Probation Ordered, Columbia County, Case No. 2002 CF000142 is attached as **State's Exhibit A**.

5. On October 27, 2003, the Department of Regulation and Licensing denied Mr. Szymanski's application for a real estate sales person license on the basis that he had been convicted of a felony, the circumstances of which substantially relate to the practice of real estate profession.
6. The Department of Regulation and Licensing notified Mr. Szymanski of this decision by a letter dated October 27, 2003. A true and correct copy of the letter of denial is attached as **State's Exhibit B**.
7. Mr. Szymanski made a timely request for a hearing on the denial of his application for licensure. A denial hearing was scheduled for February 19, 2004.
8. Prior to the hearing, the Department staff obtained additional information regarding the circumstances surrounding Mr. Szymanski's convictions. From this information it was determined that the convictions described in paragraph 5 above all stemmed from the same incident, and occurred when Mr. Szymanski was a high school student. Subsequent to the convictions, Mr. Szymanski has graduated from high school and has not been arrested or convicted of any new crimes. Mr. Szymanski has also been compliant with his probation and appears to be a good candidate for rehabilitation. Mr. Szymanski was encouraged to obtain his real estate license by a licensed real estate broker who is willing to hire Mr. Szymanski and serve as his professional mentor and supervisor.

CONCLUSIONS OF LAW

1. The Department of Regulation and Licensing has jurisdiction in this matter under sec. 452.05(a) and 452.09(e), Stats.
2. The circumstances of the convictions detailed above substantially relate to the practice of a real estate salesperson within the meaning of sec. 111.335. stats.

DECISION AND ORDER

NOW, THEREFORE, IT IS ORDERED that Chad Szymanski be, and hereby is, granted a limited license as a real estate salesperson, upon the following limitations:

- A. Mr. Szymanski shall practice as a real estate salesperson under the direct supervision of a real estate broker who is in good standing, pre-approved by the Department or the Real Estate Board, and who agrees to comply with the following:

Supervision Program

- i. The employing broker shall personally supervise and mentor Mr. Szymanski for a maximum period of five (5) years, or a period that is concurrent with his court-ordered probation, whichever is less. The supervision program shall commence upon the first day of Mr. Szymanski's employment as a real estate salesperson.
- ii. The supervising broker shall hold individual meetings with Mr. Szymanski, on at least a bi-weekly basis (once every two weeks). These meetings shall continue in this manner, without interruption, during the period of his limited license. During each supervision meeting, the broker shall review the original, full and complete copy of each real estate document related to the listing, rental, purchase, sale, trade or other transfer of an interest in real estate or business assets, either drafted by Mr. Szymanski or received by him during the period before the most recent supervision meeting.
- iii. The supervising broker shall discuss each real estate transaction handled by Mr. Szymanski during his period of limited licensure, to ensure his compliance with the Wisconsin Statutes and Administrative Rules, and accepted real estate practice. The supervising broker shall advise Mr. Szymanski of any corrections or

improvements in his practice as necessary.

iv. The supervising broker shall prepare written monthly reports commencing thirty (30) days after the effective date of this decision, or the date of Mr. Szymanski's commencement of employment as a real estate salesperson, and shall continue for twenty-four (24) months. During the remaining period of his limited license, the supervising broker shall submit written quarterly reports. The reports shall be submitted to the Department Monitor in the Department of Regulation and Licensing, Division of Enforcement, who will coordinate and report on Mr. Szymanski's compliance with the terms of his supervision described above.

B. Required Reporting by Supervising Broker

In addition to the reports identified above, the supervising broker shall immediately notify the Department Monitor by facsimile or telephonic communication of any known or suspected arrests, criminal charges or judgments of convictions involving Mr. Szymanski, including any violation of the terms of his probation.

C. Required Reporting by Mr. Szymanski

Mr. Szymanski is responsible for compliance with all of the terms and conditions of this Final Decision. It is his responsibility to promptly notify the Department Monitor of any suspected violations of any of the terms and conditions of this decision, including any failures of the supervising broker to conform to the terms and conditions of his supervision. Mr. Szymanski also must arrange for his probation agent to submit semi-annual reports to the Department Monitor which indicate his compliance with the terms of probation. If Mr. Szymanski does not remain compliant with his probation or has any new arrests or convictions, the Real Estate Board, in its discretion, may impose additional restrictions upon his license or suspend or revoke his license.

D. Releases

Mr. Szymanski shall provide and keep on file with the Department current releases which comply with state and federal laws authorizing the release of all records and reports pertaining to Mr. Szymanski's probation, and permitting the Department to disclose and discuss the progress of Mr. Szymanski's supervision, probation and rehabilitation with the Real Estate Board or any member thereof, or with any employee of the Department of Regulation and Licensing, acting under the authority of the Board. Copies of these releases shall be filed simultaneously with the Department Monitor.

E. Petitions for Modifications of Terms

Mr. Szymanski may petition the Real Estate Board for modification of the terms of this limited license no earlier than three (3) years from the effective date of this decision, provided that he has been compliant with the terms of his supervision and this decision. Any such petition shall be accompanied by a written recommendation from Mr. Szymanski's supervising broker expressly supporting the specific modifications sought. The Real Estate Board, in its discretion, may require Mr. Szymanski to personally appear in support of his request for modification of his limited license. Denial of the petition in whole or in part shall not be considered a denial of a license within the meaning of sec. 227.01(3)(a), Stats., and Mr. Szymanski shall not have a right to any further hearings or proceedings on any denial in whole or in part of the petition for modification of the limited license.

F. Expenses of Supervision and Monitoring

Mr. Szymanski shall be responsible for all costs and expenses incurred in conjunction with the monitoring and supervision and any other expenses associated with compliance with the terms of this decision.

G. Change in Address or Work Status

Mr. Szymanski shall report to the Board any change of employment status, residence, address or telephone number within five (5) days of the date of a change. Mr. Szymanski may not change his approved supervising broker without

prior written permission of the Real Estate Board.

H. Department Monitor

The Department Monitor is the individual designated by the Board as its agent to coordinate compliance with the terms of this decision, including receiving and coordinating all reports and petitions, and requesting additional monitoring and surveillance. The Department Monitor may be reached as follows:

Department Monitor
Department of Regulation Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935
FAX (608) 266-2264
TEL. (608) 267-7139

I. Summary Suspension

In the event that Mr. Szymanski fails to timely comply with the terms and conditions set forth above his license shall be SUMMARILY SUSPENDED, without further notice or hearing, until such time as he has complied with the terms of this Order.

J. Effective Date

The effective date of this Final Decision and Order is the date signed below.

Dated this 9th day of June, 2004.

Donsia Strong Hill
Secretary