

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF APPLICATION FOR	:	
REAL ESTATE TIMESHARE SALESPERSON’S	:	FINAL DECISION
LICENSE FOR	:	AND ORDER
	:	
JANEL A GIESE	:	LS 0506102REB
Applicant	:	

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

Janel A Giese
1155 Fern Lane
Grand Marsh WI 53936

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

FINDINGS OF FACT

1. Janel A. Giese (Applicant) has filed an application for a credential to practice as a real estate timeshare salesperson in Wisconsin.
2. Information received in the application process reflects that the Applicant was convicted on or about May 20, 2003 of violation of Wis. Stats. §§ 961.41(1)(d)1 [felony manufacture/deliver heroin] and 961.41(3g)(a)2 [possession of heroin – 2 counts]

CONCLUSIONS OF LAW

1. The Wisconsin Department of Regulation and Licensing has jurisdiction over this matter pursuant to Wis. Stat. § 452.05(1)(a).
2. The facts and circumstances of the convictions referenced above are substantially related to the practice of a real estate timeshare salesperson, and Applicant by that conduct is subject to action against her license pursuant to Wis. Stat. § 452.14(3)

ORDER

NOW, THEREFORE, IT IS ORDERED that Janel A. Giese is GRANTED a REAL ESTATE TIMESHARE SALESPERSON’S LICENSE subject to the following LIMITATIONS, TERMS AND CONDITIONS.

Sobriety

1. Applicant shall abstain from all personal use of alcohol and controlled substances as defined in § 961.01(4), Stats., except when prescribed, dispensed or administered by a practitioner for a legitimate medical condition. Applicant shall disclose Applicant’s drug and alcohol history and the existence and nature of this Order to the practitioner prior to the practitioner ordering the controlled substance. Applicant shall at the time the controlled substance is ordered immediately sign a release in compliance with state and federal laws authorizing the practitioner to discuss Applicant’s treatment with, and provide copies of treatment records to, treatment provider and the Department or Department Monitor.

2. Applicant shall refrain from the consumption of over-the-counter medications or other substances which may mask consumption of controlled substances or of alcohol, create false positive screening results, or interfere with Applicant's treatment and rehabilitation.

Treatment Required

3. Within thirty days from the date of this Order, Applicant shall enter into a program acceptable to the Department for the treatment for drug and alcohol abuse/dependency. To be acceptable, a treatment program shall be pre-approved by the Department. Applicant shall maintain participation through completion of treatment of the program and shall cooperate with and follow all treatment recommendations of her treatment providers.
4. Applicant shall provide her treatment providers with a copy of this Final Decision and Order.
5. Applicant's AODA treatment provider shall be responsible for coordinating Applicant's rehabilitation, drug monitoring and treatment program as required under the terms of this Order, and shall immediately report any relapse, violation of any of the terms and conditions of this Order, and any suspected unprofessional conduct, to the Department Monitor. If Applicant's AODA treatment provider becomes unable or unwilling to continue to serve as a treatment provider, Applicant shall immediately seek approval of a successor treatment provider by the Department or Department Monitor.
6. The rehabilitation program shall include individual and/or group therapy sessions at a frequency to be determined by treatment provider. The Department reserves the right to set minimum therapy/treatment requirements for Applicant. Therapy may end only upon a determination by the Department or Department Monitor pursuant to a petition by Applicant for modification.
7. Applicant's treatment providers shall submit formal written reports to Department Monitor on a quarterly basis, as directed by Department Monitor. These reports shall assess Applicant's progress, compliance and cooperation in the applicable program. The treatment providers shall report immediately to the Department Monitor any violation or suspected violation of this Order.

Releases

8. Applicant shall provide and keep on file with her Probation Agent, her treatment providers, all treatment facilities and personnel, laboratories and collections sites, current releases complying with state and federal laws. The releases shall allow the Department, its designee, and any employee of the Department of Regulation and Licensing, Division of Enforcement to: (a) obtain all urine, blood and hair specimen screen results and patient health care and treatment records and reports, and (b) discuss the progress of Applicant's treatment and/or rehabilitation. Copies of these releases shall immediately be filed with Department Monitor.

Drug and Alcohol Screens

9. Within fifteen (15) days of this Order, Applicant shall enroll and begin participation in a drug and alcohol monitoring program which is approved by the Department ("Approved Program"). A list of Approved Programs pursuant to Wis. Adm. Code § RL 7.11 is available from the Department Monitor.
10. At the time Applicant enrolls in an Approved Program, Applicant shall review all of the rules and procedures made available by the Approved Program. Failure to comply with all requirements for participation in drug and alcohol monitoring established by the Approved Program is a violation of this Order. The requirements shall include:
 - (a.) Contact with the Approved Program as directed on a daily basis, including vacations, weekends and holidays.
 - (b.) Production of a urine specimen at a collection site designated by the Approved Program within five (5) hours of notification of a test.
11. Applicant is responsible for obtaining urine screens at a frequency of not less than once every week. The frequency of may be reduced only upon a determination by the Department or Department Monitor pursuant to Applicant submitting a petition for modification of the terms of this Order. .
12. If any urine, blood or hair specimen is positive or suspected positive for any controlled substances or alcohol, Applicant shall promptly submit to additional tests or examinations as the treatment provider or the Department or Department Monitor shall determine to be appropriate to clarify or confirm the positive or suspected positive test results.
13. In addition to any requirement of the Approved Program, the Department or Department Monitor may require Applicant to: (a) submit additional urine specimens, (b) submit blood, hair or breath specimens, or (c) furnish any specimen in a directly witnessed manner.
14. All confirmed positive test results shall be presumed to be valid. Applicant must prove by a preponderance of the evidence an error in collection, testing or other fault in the chain of custody.
15. The Approved Program shall submit information and reports to Department Monitor in compliance with the

requirements of Wis. Adm. Code § RL 7.11. The Approved Program shall immediately report to treatment provider all specimens suspected to have been tampered with or which are positive or suspected positive for controlled substances or alcohol.

Practice Limitations

16. Applicant shall practice only under the general supervision of a licensed real estate broker approved by the Department or Department Monitor.
17. Applicant shall provide a copy of this Final Decision and Order immediately to supervisory personnel at all settings where Applicant works or applies to work as a real estate timeshares salesperson.
18. It is Applicant's responsibility to arrange for written reports from supervisors to be provided to Department Monitor on a quarterly basis, as directed by Department Monitor. These reports shall assess Applicant's work performance.
19. Applicant shall report to the Department any change of employment status, residence, address or telephone number within five (5) days of the date of a change.

DEPARTMENT MONITOR

20. The Department Monitor is the individual designated by the department as its agent to coordinate compliance with the terms of this Order. Any requests, petitions, reports and other information required by this Order shall be mailed, e-mailed, faxed or delivered to:

DEPARTMENT MONITOR
Department of Regulation and Licensing Division of Enforcement
1400 East Washington Ave., P.O. Box 8935
Madison, WI 53708-8935
Fax: (608) 266-2264 Telephone: (608) 267-3817
department.monitor@drl.state.wi.us

Required Reporting

21. Applicant is responsible for compliance with all of the terms and conditions of this Order, including the timely submission of reports by others. Applicant shall promptly notify Department Monitor of any suspected violations of any of the terms and conditions of this Order by Applicant and any failures of the Approved Program or collection sites to conform to the terms and conditions of this Order.
22. Applicant shall comply with all terms of probation and/or parole imposed upon her, and make arrangements with her probation/parole officer to notify the Department Monitor **immediately** of any violation of probation/parole terms. In addition, Applicant shall make arrangements for the submission of quarterly reports from her probation/parole office attesting to the status of her participation in probation/parole. Applicant shall provide the Board with current releases complying with state and federal laws, authorizing release and access to her probation and parole records.

Change of treatment provider or Approved Program by Department

23. If the Department or Department Monitor determines the Approved Program (or, if applicable, the treatment provider) has performed inadequately or has failed to satisfy the terms and conditions of this Order, the Department or Department Monitor may direct that Applicant continue treatment and rehabilitation under the direction of another treatment provider or Approved Program.

Petitions for Modification

24. Applicant may petition the Department for modification of the terms of this Order at any time following one year from the effective date of this Order. Any such petition shall be accompanied by a written recommendation from Applicant's treatment provider expressly supporting the specific modifications sought. Denial of a petition in whole or in part shall not be considered a denial of a license within the meaning of §227.01(3)(a), Stats., and Applicant shall not have a right to any further hearings or proceedings on the denial.

Costs

25. Applicant shall be responsible for all costs and expenses incurred in conjunction with the monitoring, screening, supervision and any other expenses associated with compliance with the terms of this Order. Being dropped from a program for non-payment is a violation of this Order.

Summary Suspension / Additional Discipline

26. In the event that Applicant fails to timely submit acceptable documentation of her compliance with the requirements for entry into a Treatment Program or a Monitoring Program, her license SHALL BE SUSPENDED, without further notice or hearing, until Applicant has complied with these requirements as set forth in this Order. A violation of any other term of this Order may be the basis for a summary suspension under Wis. Admin. Code RL Ch. 6 or separate disciplinary action under Wis. Stat. §440.26(6).

Dated at Madison, Wisconsin this 10th day of June, 2005.

Steven M. Gloe
On behalf of the Department of
Regulation and Licensing