

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 SALESPERSON'S LICENSE FOR :	:	FINAL DECISION
	:	AND ORDER
TODD J VIALE	:	LS0509151REB
Applicant	:	

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

Todd J. Vitale
4814 Farwell Street Apt 4
McFarland WI 53558

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

Based upon the Stipulation and information of record herein, the Department adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

1. Todd J. Vitale (Applicant) has filed an application for a credential to practice as a real estate salesperson in Wisconsin.
2. Information received in the application process reflects that:
 - a. On or about June 20, 1996 Applicant was convicted of violation of Wis. Stat. §346.63(1)(a) [operating while intoxicated].
 - b. On or about December 16, 1996 Applicant was convicted of violation of Wis. Stat. §943.50(1m) [retail theft <=\$1000].
 - c. On or about May 20, 1997 Applicant was convicted of violation of Wis. Stat. §943.50(1m) [retail theft <=\$1000].
 - d. On or about June 26, 1998 Applicant was convicted of violation of Wis. Stat. §39.22(1) [underage person poss/cons alcohol (2nd)].
 - e. On or about July 8, 1998 Applicant was convicted of violation of Wis. Stat. §947.01 [disorderly conduct].
 - f. On or about July 8, 1998 Applicant was convicted of violation of Wis. Stat. §346.63(1)(a) [operating while intoxicated (3rd)].
 - g. On or about July 30, 1998 Applicant was convicted of violation of Wis. Stat. §947.01 [disorderly conduct].
 - h. On or about December 18, 1998 Applicant was convicted of violation of Wis. Stat. §§ 346.63(1)(a) and 343.44(1) [operating while intoxicated (3rd); operating after suspension (2nd)].
 - i. On or about April 6, 2000 Applicant was convicted of violation of Wis. Stat. §343.44(1) [operating after suspension (3rd)].
 - j. On or about July 7, 2001 Applicant was issued a citation of violation of IL Stat. §IVC 625 ILCS 5/11-50(a) [driving under influence of drugs].
 - k. On or about January 28, 2002 Applicant was convicted of violation of Wis. Stat. §346.935(2) [possess open intoxicant].

MV-passenger].

l. On or about July 26, 2002 Applicant was convicted of violation of Wis. Stat. §§ 346.04(3) and 346.63(1)(a); [vehicle operator flee/elude officer, operating while intoxicated (5th)].

m. On or about July 26, 2002 Applicant was convicted of violation of Wis. Stat. §947.01 [disorderly conduct].

n. On or about August 1, 2003 Applicant was convicted of violation of Wis. Stat. §32.03 [disorderly conduct].

3. Applicant has submitted evidence of rehabilitation, including evidence of his compliance with probationary terms, AODA counseling and an extended period of documented sobriety.

CONCLUSIONS OF LAW

1. The Wisconsin Department of Regulation and Licensing has jurisdiction over this matter pursuant to Wis. Stat. § 452.05(1)(a) and authority to enter into a stipulated resolution of this matter pursuant to Wis. Stat. § 227.44(5).

2. The facts and circumstances of the convictions referenced above are substantially relate to the practice of a real estate salesperson, and Applicant by that conduct is subject to disciplinary action against his license pursuant to Wis. Stat. § 452.14(3).

ORDER

NOW, THEREFORE, IT IS ORDERED that Todd J. Vitale is GRANTED a REAL ESTATE 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), Stat., except when prescribed, dispensed or administered by a health care 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. Applicant shall maintain participation in his current program of treatment for drug and alcohol abuse/dependency through completion and discharge from treatment. Applicant shall cooperate with and follow all treatment recommendations of his treatment providers. Upon discharge, Respondent shall submit a copy of his discharge summary to the Department Monitor.
4. Applicant shall provide his treatment providers with a copy of this Final Decision and Order.
5. Applicant's treatment provider 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

6. Applicant shall provide and keep on file with his Probation Agent, Treatment Provider, 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 rehabilitation. Copies of these releases shall immediately be filed with Department Monitor.

Drug and Alcohol Screens

7. Applicant shall comply with any request by an employer or his probation officer for a screen for alcohol or controlled substances. In addition, the Department reserves the right to request one or more screens for alcohol or controlled substances, should the Department Monitor in its discretion believe a screen is warranted on the basis of a report received. Upon notification the need for a screen, applicant shall comply with obtaining a screen within five [5] hours of notification. All screens shall be performed according to standard department procedures, and 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. Applicant shall be responsible for all costs associated with obtaining screens.

Reporting Requirements

8. Applicant shall provide a copy of this Final Decision and Order to supervisory personnel at all settings where Applicant works as a real estate salesperson.
9. It is Applicant's responsibility to arrange for written reports from his real estate supervisor(s) to be provided to Department Monitor on a quarterly basis, as directed by Department Monitor. These reports shall assess Applicant's work performance.
10. 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.
11. Applicant shall comply with all terms of probation and/or parole imposed upon him, and make arrangements with his 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 his probation/parole office attesting to the status of his 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.
12. 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

DEPARTMENT MONITOR

13. 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) (608) 261-7904
department.monitor@drl.state.wi.us

Petitions for Modification

14. Applicant may petition the Department for modification of the terms of this Order after one year from the effective date of this order. Any such petition shall be accompanied by a written recommendation from Applicant's employer, probation officer and (if applicable) his 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), Stat., and Applicant shall not have a right to any further hearings or proceedings on the denial.

Costs

15. 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

16. A violation of any 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 15th day of September, 2005.

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