

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF THE APPLICATION FOR :
A REAL ESTATE SALESPERSONS LICENSE FOR :
 : FINAL DECISION AND ORDER
JESSE C WITT, : LS0510071REB
APPLICANT. :

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

Jesse C Witt
1717 ½ Banks Ave
Superior WI 54880

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

FINDINGS OF FACT

1. Jesse C. Witt (Applicant) has filed an application for a credential to practice as a real estate salesperson in the State of Wisconsin.
2. Information received in the application process reflects that:
 - a. On or about September 27, 2001 Applicant was convicted of violation of Wis. Stat. § 23-4(a) [disorderly conduct]
 - b. On or about October 2, 2001, Applicant was convicted of violation of Wis. Stat. § 23-48(a) [concealed weapon]
 - c. On or about October 2, 2001 Applicant was convicted of violation of Wis. Stat. § 5-1 [underage drinking, 2nd]
 - d. On or about October 10, 2001 Applicant was convicted of violation of Wis. Stat. § 346.935(1) [drink open intoxicants in MV-Driver]
 - e. On or about October 30, 2001 Applicant was convicted of violation of Wis. Stat. § 5-1 [underage drinking]
 - f. On or about March 26, 2002 Applicant was convicted of violation of Wis. Stat. § 343.44(1)(a) [operating while suspended]
 - g. On or about May 13, 2003 Applicant was convicted of violation of Wis. Stat. § 343.44(1)(a) [operating while suspended]
 - h. On or about May 14, 2003 Applicant was convicted of violation of Wis. Stat. § 23-10 [urinating in public]
 - i. On or about June 17, 2003 Applicant was convicted of violation of Wis. Stat. § 343.44(1)(a) [operating while suspended]
 - j. On or about November 18, 2003 Applicant was convicted of violation of Wis. Stat. § 23.10 [urinating in public]
 - k. On or about March 31, 2004 Applicant was convicted of violation of Wis. Stat. § 27-1 [resisting/obstructing]
 - l. On or about May 3, 2004 Applicant was convicted of violation of Wis. Stat. § 961.41(3g)(e) [possession of TH]
 - m. On or about October 12, 2004 Applicant was convicted of violation of Mn. Stat. § 609.487S3 [fleeing a peace officer in a motor vehicle]; Mn. Stat. § 169A.20S1.1 [2nd degree DWI-alcohol]; Mn. Stat. § 169A.20S1(5) [4th degree DWI-alcohol]

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 substantially relate to the practice of a real estate salesperson. Applicant by his conduct is subject to action against his license pursuant to Wis. Stat. § 452.14(3).

ORDER

NOW, THEREFORE, IT IS ORDERED that Jesse C. Witt 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.

Releases

6. Applicant shall provide and keep on file with his Probation Agent (and if applicable all facilities and personnel, laboratories and collections sites and his Treatment Provider), 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.

Treatment

3. The Department reserves the right, based upon reports received, to require Applicant upon notification by the Department Monitor to enter into and maintain participation in a 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. If applicable, Applicant shall provide his treatment providers with a copy of this Final Decision and Order.
5. If treatment is required, 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.

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 and (if applicable) to his treatment provider.
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 7th day of October, 2005.

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