

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
ISAAC S MYSZKA	:	LS0510201REB
Applicant	:	

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

Isaac S Myszka
W350N5323 Road B Apt 3
Okauchee WI 53069

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. Isaac S. Myszka (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 August 28, 1996 Applicant was convicted of violation of Wis. Stat. §346.62(2) [reckless driving].
 - b. On or about April 8, 1997 Applicant was convicted of violation of Wis. Stat. §346.93(1) [minor transporting intoxicants motor vehicle].
 - c. On or about April 22, 1997 Applicant was convicted of violation of TR §305 [violations of motor vehicle standards].
 - d. On or about April 8, 1998 Applicant was convicted of violation of NR §45.
 - e. On or about September 2, 1998 Applicant was convicted of violation of Wis. Stat. §943.50(1m) [retail theft].
 - f. On or about December 11, 1998 Applicant was convicted of violation of Wis. Stat. §125.07(4)(b) [underage drinking-possession].
 - g. On or about December 11, 1998 Applicant was convicted of violation of Wis. Stat. §346.93(1)[minor transporting intoxicants in motor vehicle].
 - h. On or about March 23, 1999 Applicant was convicted of violation of Wis. Stat. §346.935(3) [keep open intoxicants in driver].
 - i. On or about April 7, 1999 Applicant was convicted of violation of Wis. Stat. [possess stolen property].
 - j. On or about November 24, 1999 Applicant was convicted of violation of Wis. Stat. §343.44(1) [operate after revocation/suspension].

- k. On or about November 24, 1999 Applicant was convicted of violation of Wis. Stat. §343.44(1) [operate after revocation/suspension].
- l. On or about December 3, 1999 Applicant was convicted of violation of Wis. Stat. §943.01(1) [criminal damage to property].
- m. On or about December 21, 2001 Applicant was convicted of violation of Wis. Stat. §946.41(1) [resisting or obstructing officer].
- n. On or about July 12, 2002 Applicant was convicted of violation of Wis. Stat. §946.41(1) [resisting or obstructing an officer].
- o. On or about August 12, 2003 Applicant was convicted of violation of Wis. Stat. §343.18(1) [operate w/o carrying license].
- p. On or about August 14, 2003 Applicant was convicted of violation of Wis. Stat. §946.41(1) [resisting or obstructing an officer].
- q. On or about April 6, 2004 Applicant was convicted of violation of Wis. Stat. §343.05(3)(a) [operate w/o valid license].

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 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 Isaac S. Myszka is GRANTED a REAL ESTATE SALESPERSON'S LICENSE subject to the following LIMITATIONS, TERMS AND CONDITIONS.

SUSPENSION

- 1.. The license of Isaac S. Myszka to practice as a real estate salesperson in the State of Wisconsin is SUSPENDED for an INDEFINITE PERIOD OF TIME.

STAY OF SUSPENSION

2. The suspension is STAYED, conditioned upon Applicant maintaining compliance with the provisions of this Order.
3. The Department or Department Monitor may without hearing remove the stay upon receipt of information that Applicant is in substantial or repeated violation of any provision of this Order.
4. The Department may immediately re-impose this suspension upon its providing notice of the removal of the stay to Applicant either by:
 - (a) Mailing to Applicant's last-known address provided to the Department of Regulation and Licensing pursuant to Wis. Stat. § 440.11; or
 - (b) Actual notice to Applicant or Applicant's attorney.
- 5.. The Department or Department Monitor may reinstate the stay, if provided with sufficient information that Applicant is in compliance with the Order and that it is inappropriate for the suspension to remain in effect. Whether to reinstate the stay shall be wholly in the discretion of the Department.
6. If Applicant requests a hearing on the removal of the stay, a hearing shall be held using the procedures set forth in Wis. Admin. Code ch. RL 1. The hearing shall be scheduled and held in a timely manner. Requesting a hearing does not stay the suspension during the pendency of the hearing process.

CONDITION AND LIMITATIONS

Releases

7. Applicant shall provide and keep on file (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.

Sobriety

8. Applicant shall abstain from all personal use of alcohol.
9. Applicant shall abstain from all personal use of 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.
10. 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.
11. Applicant shall report all medications and drugs, over-the-counter or prescription, taken by Applicant to Treatment Provider within 24 hours of ingestion or administration, and shall identify the person or persons who prescribed, dispensed, administered or ordered said medications or drugs. If Applicant has not provided a release as required by C.9 above, within 24 hours of a request by Treatment Provider or the Department or Department Monitor, Applicant shall provide releases in compliance with state and federal laws. The releases shall authorize the person who prescribed, dispensed, administered or ordered the medication to discuss Applicant's treatment with, and provide copies of treatment records to, the requester.

Drug and Alcohol Screens

12. Applicant shall comply with any request by an employer 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 her or his 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 and error in collection, testing or other fault in the chain of custody. Applicant shall be responsible for all costs associated with obtaining screens.

Practice Limitations

13. Applicant shall practice only under the general supervision of a licensed real estate broker approved by the Department or Department Monitor.
14. 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 salesperson.
15. 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.
16. 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.

MISCELLANEOUS

Department Monitor

17. 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) 261-7904
department.monitor@drl.state.wi.us

Required Reporting

18. 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 Treatment Provider, treatment facility, Approved Program or collection sites to conform to the terms and conditions of this Order.

Petitions for Modification

19. 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, 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), Stats., and Applicant shall not have a right to any further hearings or proceedings on the denial.

Costs of Compliance

20. 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.

Additional Discipline

21. In addition to being a basis for removal of the stay of this suspension, violation of any term of this Order may be the basis for a separate disciplinary action under Wis. Stat. § 440.26(6).

Dated at Madison, Wisconsin this 20th day of October, 2005.

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