

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



Wisconsin Department of Regulation & Licensing Access to the Public Records of the Reports of Decisions

This Reports of Decisions document was retrieved from the Wisconsin Department of Regulation & Licensing website. These records are open to public view under Wisconsin's Open Records law, sections 19.31-19.39 Wisconsin Statutes.

Please read this agreement prior to viewing the Decision:

- The Reports of Decisions is designed to contain copies of all orders issued by credentialing authorities within the Department of Regulation and Licensing from November, 1998 to the present. In addition, many but not all orders for the time period between 1977 and November, 1998 are posted. Not all orders issued by a credentialing authority constitute a formal disciplinary action.
- Reports of Decisions contains information as it exists at a specific point in time in the Department of Regulation and Licensing data base. Because this data base changes constantly, the Department is not responsible for subsequent entries that update, correct or delete data. The Department is not responsible for notifying prior requesters of updates, modifications, corrections or deletions. All users have the responsibility to determine whether information obtained from this site is still accurate, current and complete.
- There may be discrepancies between the online copies and the original document. Original documents should be consulted as the definitive representation of the order's content. Copies of original orders may be obtained by mailing requests to the Department of Regulation and Licensing, PO Box 8935, Madison, WI 53708-8935. The Department charges copying fees. *All requests must cite the case number, the date of the order, and respondent's name as it appears on the order.*
- Reported decisions may have an appeal pending, and discipline may be stayed during the appeal. Information about the current status of a credential issued by the Department of Regulation and Licensing is shown on the Department's Web Site under "License Lookup." The status of an appeal may be found on court access websites at: <http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscca>.
- Records not open to public inspection by statute are not contained on this website.

By viewing this document, you have read the above and agree to the use of the Reports of Decisions subject to the above terms, and that you understand the limitations of this on-line database.

Correcting information on the DRL website: An individual who believes that information on the website is inaccurate may contact the webmaster at web@drl.state.wi.gov

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
TOMMY DAVIS, : LS0511171REB
APPLICANT. :

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

Tommy Davis
15350 W Burleigh Road
Brookfield WI 53005

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

FINDINGS OF FACT

1. Tommy Davis (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 on or about August 2, 1996 Applicant was convicted of violation 21 USC §§ 841(a)(1), 21 USC § 846, and 18 USC § 2 [conspiracy to possess with intent to distribute in excess of five kilograms of cocaine]

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 Tommy Davis is GRANTED a REAL ESTATE SALESPERSON'S LICENSE, subject to the following LIMITATIONS, TERMS AND CONDITIONS:

SUSPENSION

1. The license of Tommy Davis to practice as a real estate salesperson in the State of Wisconsin is SUSPENDED for a period of FIVE (5) years.

STAY OF SUSPENSION

2. The suspension shall be STAYED, conditioned upon Applicant's compliance with the Conditions and Limitations of this Order as set forth below.
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 Sections C or D 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.

CONDITIONS AND LIMITATIONS

Treatment Required

7. Applicant shall immediately enter into and maintain participation in a drug and alcohol treatment program at a treatment facility (Treatment Provider) acceptable to the Department. Applicant shall participate in, cooperate with and follow all treatment recommended by Treatment Provider.
8. Applicant shall provide Treatment Provider with a copy of this Final Decision and Order immediately.
9. Applicant's 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 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.
10. 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.
11. 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 in the drug and alcohol treatment program. Treatment Provider shall report immediately to Department Monitor any violation or suspected violation of this Order.

Releases

12. 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.

AA/NA Meetings.

13. Applicant shall attend Narcotics Anonymous and/or Alcoholic Anonymous meetings or an equivalent program for recovering professionals, at the frequency recommended by his Treatment Provider. Attendance of Applicant at such meetings shall be verified and reported monthly to Treatment Provider. The Department reserves the right to set a

minimum attendance requirement for Applicant.

Sobriety

14. 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.
15. 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.
16. 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

17. Within thirty (30) 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.
18. 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.
 - c. For the first year of this Order the Approved Program shall require the testing of urine specimens at a frequency of not less than 42 times per year. The Department Monitor may, in the exercise of her or his discretion, increase the frequency of screens upon notification that the drug screens required as a condition of Applicant's probation have been reduced or eliminated, or upon notification that those screens are not conducted on a random basis.
 - d. After one year, the frequency of screens may be reduced only after receiving a petition for modification and upon a determination by the Department or Department Monitor.
 - e. 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.
19. 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, (c) furnish any specimen in a directly witnessed manner.
20. 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.
21. 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

22. Applicant shall practice only under the general supervision of a licensed real estate broker approved by the Department or Department Monitor and only in a work setting pre-approved by the Department or Department Monitor.
23. Applicant shall not personally receive, hold or disburse "client funds", as that term is defined in Wis. Stat. § 452.13(1)(a)[\[1\]](#).
24. 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.
25. It is Applicant 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.
26. 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

27. 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

28. 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.
29. 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.

Change of Treatment Provider or Approved Program by Department

30. If the Department or Department Monitor determines the Treatment Provider or Approved Program 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

31. 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 of Compliance

32. 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

33. In the event that Applicant fails to timely submit acceptable documentation of his 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).
34. 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. § 452.14.

Dated at Madison, Wisconsin this 17th day of November, 2005.

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

[\[1\]](#) “‘Client funds’ means all down payments, earnest money deposits or other money related to a conveyance of real estate that is received by a broker, salesperson or time-share salesperson on behalf of the broker's, salesperson's or time-share salesperson's principal or any other person. ‘Client funds’ does not include promissory notes.”