

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

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IN THE MATTER OF THE APPLICATION FOR :  
A REAL ESTATE SALESPERSONS LICENSE FOR :  
 : FINAL DECISION AND ORDER  
JOHN A VOGELSANG, :  
APPLICANT. : LS0512076REB

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

John A Vogelsang  
760 Fish Dr  
Wisconsin Dells WI 53965

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

FINDINGS OF FACT

1. John A. Vogelsang (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 July 19, 1995 Applicant was convicted of violation of Wis. Stat. § 161.41(1M)(H1) [intent to deliver]
  - b. On or about June 10, 1996, Applicant was convicted of violation of Wis. Stat. § 161.41(1)(h)1 [manufacture/deliver of THC (<=500g)].
  - c. On or about July 27, 2001 Applicant was convicted of violation of Ordinance No. 22-1-1(48) [theft of property].

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 John A. Vogelsang 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

3. Applicant shall provide and keep on file (if applicable) 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

4. 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 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

5. 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.
6. If treatment is required, Applicant shall provide his treatment providers with a copy of this Final Decision and Order.
7. 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 not personally receive, hold or disburse "client funds", as that term is defined in Wis. Stat. § 452.13(1)(a) [\[1\]](#) in his practice as a real estate salesperson.
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 at any time following one year after the effective date of this order. Any such petition shall be accompanied by a written recommendation from Applicant's employer (and if applicable his probation officer and 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 7<sup>th</sup> day of December, 2005.

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

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[\[1\]](#) 452.13 Trust accounts. (1) DEFINITIONS. In this section: (a) “Client funds” means all down payments, earnest money deposits or other money 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.