

# 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 APPLICATION FOR :  
REAL ESTATE SALESPERSON'S LICENSE FOR : FINAL DECISION  
: AND ORDER  
MICHAEL S BETHIA : LS0512095REB  
APPLICANT :

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

FINDINGS OF FACT

1. Michael S. Bethia (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 July 23, 2003 Applicant was convicted of violation of Wis. Stat. § 346.63(1)(a) [OWI]
  - b. On or about March 14, 2005 Applicant was convicted of violation of Wis. Stat. §§ 346.6(1)(a) and 961.41(3g)(e) [operating while under influence (2<sup>nd</sup>) and possession of THC]

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 Michael S. Bethia 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), 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.
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.
3. The Department reserves the right to require participation by Applicant in a drug treatment program at a treatment facility (Treatment Provider) acceptable to the Department [\[1\]](#) should the Department Monitor in its discretion believe treatment is warranted on the basis of a report(s) received.

Releases

4. 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 Screens

5. Within fifteen (15) days of this Order, Applicant shall enroll and begin participation in a drug 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.
6. 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 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.
7. Applicant is responsible for obtaining urine screens at a frequency of not less 14 screens per year.
8. 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.
9. 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.
10. 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.
11. 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

12. Applicant shall practice only under the supervision of a licensed real estate broker.
13. 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.
14. 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 describe the Applicant's sales activities and verify that he is in compliance with the laws governing the practice of real estate and the terms of this Order.
15. 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.

#### DEPARTMENT MONITOR

16. 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) 261-7904

### Required Reporting

17. 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 Approved Program or collection sites to conform to the terms and conditions of this Order.
18. 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

19. If the Department or Department Monitor determines the Approved Program (or, if applicable, the Treatment Provider) 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

20. 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 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), Stats., and Applicant shall not have a right to any further hearings or proceedings on the denial.
21. 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

22. A violation of any term of this Order may be the basis for a summary suspension or separate disciplinary action under Wis. Stat. § 452.14.

Dated at Madison, Wisconsin this 9th day of December, 2005.

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

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[1] If so ordered,

- a. Applicant shall participate in, cooperate with and follow all treatment recommended by the Treatment Provider.
- b. Applicant shall provide Treatment Provider with a copy of this Final Decision and Order immediately.
- c. Applicant's Treatment Provider shall be responsible for coordinating Applicant's drug monitoring 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.
- d. Applicant's Treatment Provider shall submit formal written reports to Department Monitor on a quarterly basis, as directed by Department Monitor. Treatment Provider shall report immediately to Department Monitor any violation or suspected violation of this Order.
- e. 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.