

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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STATE OF WISCONSIN  
BEFORE THE REAL ESTATE BOARD

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IN THE MATTER OF THE APPLICATION:

FOR A LICENSE TO PRACTICE AS A	:	FINAL DECISION
REAL ESTATE SALESPERSON OF :	AND ORDER	
	:	LS0507111REB
ERVIE L. HANKINS,	:	
APPLICANT.	:	

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Division of Enforcement Case No. 05REB122

The State of Wisconsin, Department of Regulation and Licensing, having considered the above-captioned matter and having reviewed the record and the Proposed Decision of the Administrative Law Judge, makes the following:

ORDER

NOW, THEREFORE, it is hereby ordered that the Proposed Decision annexed hereto, filed by the Administrative Law Judge, shall be and hereby is made and ordered the Final Decision of the State of Wisconsin, Department of Regulation and Licensing.

The rights of a party aggrieved by this Decision to petition the department for rehearing and the petition for judicial review are set forth on the attached "Notice of Appeal Information."

Dated this 27th day of March, 2006.

Secretary Celia M. Jackson  
Department of Regulation and Licensing

1. Ervie L. Hankins (Applicant) was born on March 5, 1954. His latest address on file with the Department of Regulation and Licensing (“Department”) is 3204 N. 24<sup>th</sup> St., Milwaukee, WI 53206.
2. Mr. Hankins applied for a real estate salesperson’s license on or about April 12, 2005.
3. The Department denied Mr. Hankins’ license application on the bases that he was convicted of crimes, the circumstances of which substantially related to the practice of real estate.
4. Information obtained in the application process revealed that Mr. Hankins has been convicted of the following crimes:
  - 12/20/1973 misdemeanor-possession of narcotic drug, party to the crime;
  - 12/21/1977 retail theft;
  - 03/21/1979 felony-burglary, party to the crime

12/16/1981 misdemeanor-endangering safety by conduct regardless of life;

11/16/1981 felony-burglary, party to the crime;

12/23/1981 felony first degree sexual assault, felony robbery; and

01/12/1988 felony-possession of a firearm by a felon.

02/27/1990 felony-conspiracy to possess with intent to distribute cocaine, possession of cocaine with intent to distribute, and attempt to possess with intent to distribute cocaine.

5. On or about 02/22/2005, Mr. Hankins was paroled after serving 15 years in federal prison and was placed under federal supervision for four years.

6. There have been no reported criminal convictions since Mr. Hankins began parole.

7. Mr. Hankins filed a timely request for hearing on the denial of his application for a license within 45 days of receiving the notice of denial.

### CONCLUSIONS OF LAW

1. The Department of Regulation and Licensing has jurisdiction in this matter under Wis. Stat. § 458.03.

2. The circumstances of the convictions detailed above substantially relate to the practice of a real estate salesperson within the meaning of Wis. Stat. § 111.225 (1)(c)(1).

### ORDER

NOW, THEREFORE, IT IS ORDERED that the denial of the application of Ervie L. Hankins for licensure as a real estate salesperson be, and hereby is, AFFIRMED.

### OPINION

The only issue in these proceedings is whether the Department was justified in denying Mr. Hankins' application for a license to practice as a real estate salesperson on the basis of his criminal conviction record.

There can be little question but that the circumstances of Mr. Hankins' extensive conviction record are substantially related to the practice of a real estate salesperson. Robbery, burglary and theft are criminal acts of dishonesty that are inconsistent with the character and traits of a real estate professional. Added to this list are convictions for endangerment, sexual assault and drug dealing.

A real estate salesperson is entrusted with the duty to represent the interests of the property owner and the public. They have access to the homes and property of others and can enter such property with the owners are not present. Real estate sales involve significant financial and legal transactions. The ability to conduct oneself in a manner where the property of others is not at risk of theft or misappropriation is critical to the real estate profession. The practice of real estate can be stressful and confrontational. In the practice of their profession, licensed real estate professionals may deal with vulnerable individuals on a one-on-one basis. For these reasons, the licensing authority needs to take into account prior convictions, particularly those involving personal endangerment and sexual assault, which represent a threat to public safety. Accordingly, the initial decision of the Department to deny the application on the basis that Mr. Hankins's criminal convictions were substantially related to the practice of a real estate salesperson was justified.

The question at hearing becomes whether Mr. Hankins has submitted sufficient information from which the Department can determine that he can practice in a manner that safeguards the interests of the public. Mr. Hankins has made laudable progress since the beginning of his last incarceration. He completed an in-house program of drug and alcohol counseling, and he has remained compliant with parole requirements for monitoring and treatment. He has obtained two associate degrees: Culinary Science and Business Administration. Since being paroled, he has been employed as a public transit worker, working with disabled passengers. He obtained a city license necessary for this position and has the support of his employer. Mr. Hankins has taken the real estate course and has passed the licensing examination. Yet, has Mr. Hankins carried his

burden to warrant the issuance of a license?

A significant factor in determining whether to grant licensure is the passage of time that the applicant has been conviction-free. Mr. Hankins at hearing could only demonstrate seven months of reintegration into society. It simply is too soon to tell whether Mr. Hankins is sufficiently rehabilitated for the grant of a real estate license. While employment and re-entry into the workforce are important considerations in the rehabilitation process, the convicted person's interest must be weighed against the interests of society. The concern is that society should not have to bear an unreasonable risk that a convicted person, being placed in an employment situation offering temptations or opportunities for criminal activity similar to those for which he had been previously convicted, will commit another crime. This concern is based on the well-documented phenomenon or recidivism.

Prior to the granting of a license, the licensing authority must have reliable proof that the applicant with a conviction record has been successfully rehabilitated. Unfortunately, there is inadequate evidence in the record to establish whether Mr. Hankins should be licensed at this time. Mr. Hankins is clearly on the right track towards building a record of rehabilitation in favor of a license. This Administrative Law Judge would encourage him to consider reapplication following successful completion of his parole in 2009.

Dated this 21<sup>st</sup> day of February, 2006

Colleen M. Baird  
Administrative Law Judge