

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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IN THE MATTER OF THE APPLICATION :
FOR A LICENSE AS A REAL ESTATE :
SALESPERSON OF : FINAL DECISION AND ORDER
ILI J. SUBHAN, : LS 0604031 REB
APPLICANT. :

Division of Enforcement Case No. 06 REB 020

The parties to this action for the purpose of Wis. Stats. sec. 227.53 are:

ILI J. Subhan
1343 N. 63rd St.
Milwaukee, WI 53213

Department of Regulation and Licensing
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Department Secretary.

The Department Secretary has reviewed this Stipulation and considers it acceptable. Accordingly, the Department adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law, and Order:

FINDINGS OF FACT

- ILI J. Subhan was born on May 28, 1980. Mr. Subhan's address on file with the Department of Regulation and Licensing is 1343 N. 63rd St., Milwaukee, WI 53213.
- Mr. Subhan applied for a real estate salesperson's license on or about January 1, 2006. The Department denied this application on February 9, 2006, based on his conviction record. Mr. Subhan requested a hearing on the denial of his application for a license within the prescribed 45 days of receiving the denial.
- Mr. Subhan was convicted in Milwaukee, Wisconsin on March 11, 1999, of the felony crime of attempted robbery with threat of force based on a violation on November 21, 1998. Mr. Subhan was sentenced to 5 years probation, including drug evaluation and treatment.
- Mr. Subhan was convicted in Franklin, Wisconsin on May 7, 2003, of violating the city ordinance for obstructing an officer (false name), based on a violation on March 25, 2003. Mr. Subhan paid a forfeiture of \$286.
- Mr. Subhan was convicted in Milwaukee, Wisconsin on February 21, 2005 of the misdemeanor crime of criminal trespass to a dwelling based on a violation on September 14, 2004. A six-month jail term was imposed and stayed, and M. Subhan was sentenced to 2 years probation, including restitution, drug assessment and treatment, and random urine screens. M. Subhan's expected discharge date from probation is March 7, 2007.
- The application for a real estate salesperson's license requires that the applicant answer the following question:
Have you ever been convicted of a misdemeanor or a felony, or driving while intoxicated (DWI), in this or any other state, or are criminal charges or DWI charges currently pending against you?
Mr. Subhan truthfully answered "yes" to the question and supplied information regarding his two criminal convictions.

MITIGATING CIRCUMSTANCES

- Mr. Subhan's two criminal violations, attempted robbery with threat of force and criminal trespass to a dwelling, were committed when M. Subhan was intoxicated by cocaine. No-one was injured in the commission of these crimes.
- Mr. Subhan provided the Department with eight letters of recommendation, as follow:
 - A letter dated January 3, 2006 from Probation and Parole Agent Lyn Arreola, in which she says "Mr. Ili Subhan has been compliant with supervision", and "Mr. Ili Subhan completed his conditions of probation including court ordered treatment, no contact with the victim, no further law violations and is currently making monthly restitution payments."
 - A letter dated January 31, 2006 from Don D. Rosenberg, MS, LMFT, LCSW, CADCIH, CCSII, and licensed Psychologist.
 - A letter dated March 2, 2006 from Barbara J. Reinser, Executive Director of Enlight, in which she says "Ili is seen by both his peers and adults as a person who never misses an opportunity to volunteer and make a difference in the lives of others. What impresses me most about Ili is his persistence, work ethic and determination. Ili is a young adult who knows what he needs and what is important in his life."
 - A letter dated March 3, 2006 from Daniel Burrell, Ph.D., Dean of Liberal Arts and Sciences at Milwaukee Area Technical College (MATC), in which he says "He is bright and has attended the University of Wisconsin-Madison and Milwaukee. He currently attends Cardinal Stritch University where he is a senior with a grade point average of 3.5," and "Ili as a young man made poor choices that led to problems. In my dealings with him, I detect remorse for his previous actions and a desire to be a productive member of society."
 - A letter dated March 3, 2006 from Julia R. Rodrigues, M.Ed., instructor at Cardinal Stritch College, in which she says "It was a true pleasure working with Ili. He is a reliable team member, excellent communicator, a hard working and enthusiastic individual. I feel that he is highly capable to achieve success as a real estate agent."
 - A letter dated March 7, 2006 from Dr. Judy Rose, instructor at MATC.
 - A letter dated March 17, 2006 from Joseph R. Moore, III, instructor at MATC, in which he says "Ili is honest, dependable, trustworthy, and focused as to where he wants to go. I have seen Ili grow in his recovery from substance abuse. I am a witness that people can change because I have been drug free for 14 years and I see the same kind of determination and discipline in Ili."
 - A second letter from Don D. Rosenberg, MS, LMFT, LCSW, CADCIH, CCSII, and licensed Psychologist, dated May 9, 2006, in which he says "I have discussed M. Subhan's interest in a real estate career with him several times. Because of his diligence in school, his extroverted personality, his capability in communications, his care in personal appearance, and sobriety, I support him in this endeavor", and "[H]e has now achieved a year of sobriety at this time. He has excellent family support and good environmental support for recovery. I will continue long-term follow-up as well," and "I believe he presents no risk or minimal risk of malfeasance or risk to the public, no more than any other person, and that he will perform with excellence, enthusiasm, attention to detail, follow through, and responsibility."
- As a condition of probation, which will continue until March of 2007, Mr. Subhan is subject to random urine samples ordered by Ms. Arreola (above).
- Mr. Subhan currently volunteers under the supervision of Ms. Reinser (above) at Enlight, a youthful offender diversion program associated with the Waukesha County District Attorney's Office.
- Mr. Subhan testified that both Dr. Burrell and M. Moore (above) are strong male role models and mentors, which he did not have in his life before.
- Mr. Subhan's testimony that he would be dealing with his addiction forever demonstrated insight into his situation, and he plans to continue in counseling with Mr. Rosenberg (above).
- Mr. Subhan is currently enrolled in a Business Administration program at Cardinal Stritch College and has maintained a GPA of 3.4.

CONCLUSIONS OF LAW

- The Wisconsin Department of Regulation and Licensing has jurisdiction to act in this matter pursuant to Wis. Stat. secs. 452.03 and 452.05 (1) (a), and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. sec. 227.44(5).
- The circumstances of the convictions for attempted robbery with threat of force and criminal trespass to a dwelling constitute convictions that substantially relate to the practice of a real estate salesperson within the meaning of Wis. Stat. sec. 111.335(1)(c)(1). All three convictions detailed above constitute information which the department may consider to enable it to determine Mr. Subhan's competency to transact the business of a salesperson in a manner which safeguards the interests of the public, under Wis. Stat. secs. 452.03 and 452.09 (1) (c). The Department's initial denial of Mr. Subhan's application was not an abuse of discretion.
- In addition to the information considered in its initial denial of Mr. Subhan's application, the Department may consider other information, including evidence presented at hearing, in its decision whether to issue a license.

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

ILI J. Subhan is hereby granted a license as a real estate salesperson with the following limitations:

- Mr. Subhan shall practice as a real estate salesperson only as an employee of a licensed real estate business entity. The business entity shall designate a Supervising Broker who is a licensed real estate broker in good standing, with no prior discipline, who submits a statement to the Department Monitor that he or she has been designated Mr. Subhan's Supervising Broker, and that he she agrees to accept the responsibility of complying with this order. The Department Monitor is the individual who coordinates compliance with the terms of this order. The monitor may be reached at:

Department Monitor
Department of Regulation and Licensing
P.O. Box 8935
Madison, Wisconsin 53708-8935
FAX (608) 266-2264
Tel. (608) 261-7904
E-mail: department.monitor@drf.state.wi.us
- Mr. Subhan shall provide a complete copy of this Final Decision and Order to the Supervising Broker.
- The Supervising Broker shall prepare and submit written quarterly reports according to a schedule established by the Department Monitor describing Mr. Subhan's activities and progress in his employment. The reports shall specifically report any violation of this order, any arrest by any law enforcement agency in any jurisdiction, any use by Mr. Subhan of a controlled substance without medical authorization, or any violation by Mr. Subhan of the rules of professional conduct for Real Estate licensees.
- Mr. Subhan shall be held responsible for the submission of the quarterly reports to the Department Monitor by the Supervising Employer.
- Mr. Subhan shall provide a complete copy of this Final Decision and Order to his probation agent, and arrange for his probation agent to immediately notify the Department Monitor if Mr. Subhan violates the terms of his probation or this order.
- Mr. Subhan shall report any change of employment to the Department Monitor within five days of the change. If Mr. Subhan changes his employer, he shall provide a complete copy of this Final Decision and Order to the new business entity, and he shall be responsible for having the new business entity comply with this order.
- Mr. Subhan shall continue counseling with Don Rosenberg as directed by Mr. Rosenberg. While Mr. Subhan remains in counseling, Mr. Subhan shall be responsible for having Mr. Rosenberg file quarterly reports with the Department Monitor, with the first report due no later than 90 days after the date of this order. If Mr. Rosenberg recommends that Mr. Subhan terminate counseling and if Mr. Subhan chooses to terminate counseling, M. Rosenberg shall send a written recommendation to the Department Monitor, who will present it to the Real Estate Board for approval. Mr. Subhan may terminate counseling only after receiving the Board's approval.
- Within thirty days following his discharge from probation, Mr. Subhan shall enroll in, and begin participation in, a drug monitoring program approved by the Department ("Approved Program"). A list of Approved Programs is available from the Department Monitor. The Approved Program will establish protocols for contacting the Approved Program, for providing urine or other specimens, and for additional tests or examinations required to clarify or confirm a positive test result. Failure to comply with all requirements established by the Approved Program shall be considered a violation of this Order. If the Approved Program submits information to the Department Monitor that it has determined that M. Subhan submitted a specimen that tested positive for a controlled substance without medical authorization, or that M. Subhan tampered with a specimen, Mr. Subhan's license shall be subject to immediate suspension without further notice.
- If the Department receives a report from his Supervising Broker or from his probation agent or from an Approved Program stating that he has violated this order, violated his probation, been arrested by any law enforcement agency in any jurisdiction, used a controlled substance without medical authorization, or violated any rule of professional conduct for Real Estate licensees Mr. Subhan's license shall be subject to immediate suspension without further notice.
- If the Department receives credible evidence from any other source that Mr. Subhan has violated this order, violated his probation, been arrested by any law enforcement agency in any jurisdiction, used a controlled substance without medical authorization, or violated any rule of professional conduct for Real Estate licensees, Mr. Subhan's license shall be subject to immediate suspension without further notice, upon the presentation to the Real Estate Board of a signed petition and sworn affidavit from the Division of Enforcement alleging such facts. If Mr. Subhan's license is suspended based on such a petition and affidavit, M. Subhan shall have the right to request a hearing to challenge the suspension. The hearing shall be conducted as a Class 2 hearing under chapter RL 2 of the Wisconsin Administrative Code, and the burden shall be on the Division of Enforcement to prove its allegations, but the suspension shall remain in effect until the challenge is resolved.
- The limitations in this Order shall be indefinite until such time as the Real Estate Board removes or modifies them. After two years without further arrests, convictions, violations of his probation, violations of this order, use of a controlled substance without medical authorization, or violations of rules related to the practice of real estate, and with satisfactory quarterly employment reports, Mr. Subhan may petition the department for termination or modification of the limitations on his license.

Dated at Madison, Wisconsin this 26th day of July, 2006.

Celia M. Jackson, Secretary
Department of Regulation and Licensing

STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF THE APPLICATION :
FOR A LICENSE AS A REAL ESTATE :
SALESPERSON OF : STIPULATION
ILI J. SUBHAN, : LS 0604031 REB
APPLICANT. :
:

- It is hereby stipulated between Ili J. Subhan, applicant, Rob DeBauche, attorney for Mr. Subhan, and John Nicholas Schweitzer, attorney for the Department of Regulation and Licensing, Division of Enforcement, as follows:
1. This Stipulation is entered into as a result of the license denial of Ili J. Subhan ("Applicant") by the Division of Enforcement (DOE case number 06 REB 020).
 2. Applicant has obtained the assistance of legal counsel prior to signing this Stipulation, and is represented by Attorney Rob DeBauche of Hal Harlowe and Associates.
 3. Applicant requested a hearing on the denial, and a hearing was held before an Administrative Law Judge on May 11, 2006. Testimony and other evidence were presented, but the hearing was adjourned prior to closing argument. Applicant understands that by signing this Stipulation he voluntarily and knowingly withdraws his request for his appeal of the Department's denial of his application for a license to be resolved by hearing, and Applicant consents to the resolution of this matter without the entry of a proposed decision by the Administrative Law Judge.
 4. Applicant agrees to the adoption of the attached Final Decision and Order by the Department of Regulation and Licensing (Department). The Division of Enforcement joins Applicant in recommending that the Department Secretary or Designee adopt this Stipulation and issue the attached Final Decision and Order.
 5. The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Applicant waives all rights to any appeal of the Department's order, if adopted in the form as attached.
 6. If the terms of this Stipulation are not acceptable to the Department Secretary or Designee, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the assigned Administrative Law Judge for further proceedings. In the event that the Stipulation is not accepted by the Department Secretary or Designee, the parties agree not to contend that the Department Secretary or Designee has been prejudiced or biased in any manner by the consideration of this attempted resolution.
 7. The parties to this Stipulation agree that the attorney or other agent for the Division may appear before the Department Secretary or Designee, without the presence of the Applicant or his attorney, for the purposes of speaking in support of this agreement and answering questions that the Department Secretary may have in connection with the Secretary's or Designee's deliberations on the stipulation.
 8. Applicant is informed that, should the Department Secretary or Designee adopt this Stipulation, the Department's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

_____, 2006
Ili J. Subhan, Applicant Date

_____, 2006
Rob DeBauche, Attorney for Mr. Subhan Date
Hal Harlowe & Associates
519 N. Pinckney St.
Madison, WI 53703-1473

_____, 2006
John Nicholas Schweitzer, Attorney Date
Division of Enforcement