

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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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
TERRY P MCLEAN : LS _____
APPLICANT. :

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

Terry P McLean
6635 N 54th St
Milwaukee WI 53223

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

FINDINGS OF FACT

1. Terry P. McLean (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 13, 1998 Applicant was convicted of an ordinance violation for disorderly conduct;
 - b. On or about August 30, 2001 Applicant was convicted of violation of Wis. Stat. § 941.23 [carrying a concealed weapon];
 - c. On or about May 14, 2002 Applicant was convicted of violation of Wis. Stat. § 961.41(3g) (e) [possession of THC];
 - e. On or about November 4, 2002 Applicant was convicted of violation of Wis. Stat. § 947.01 [disorderly conduct];
 - f. On or about March 25, 2003 Applicant was convicted of violation of Wis. Stat. § 961.41(1m)(h)3 [possess w/intent- (1,000 grams-2,500 grams)];

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 Terry P. McLean 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 with all facilities and personnel, laboratories and collections sites and his Treatment Provider (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. 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.
5. 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.
6. Applicant is responsible for obtaining a minimum of 14 urine screens per year. The frequency may be reduced only upon a determination by the Department or Department Monitor pursuant to Applicant submitting a petition for modification of the terms of this Order.
7. 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.
8. 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, or (c) furnish any specimen in a directly witnessed manner.
9. 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.
10. The Approved Program shall submit information and reports to the Department Monitor in compliance with the requirements of Wis. Admin. 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.
11. Applicant shall comply with any request by an employer for a screen for alcohol or controlled substances. 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.

Treatment

12. 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.
13. 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.

Practice Limitations

14. Applicant shall practice only under the general supervision of a Wisconsin licensed real estate broker approved by the Department or Department Monitor. Approval shall be obtained prior to engaging in real estate practice.

Reporting Requirements

15. Applicant shall provide a copy of this Final Decision and Order to his supervising broker at all settings where Applicant works as a real estate salesperson and (if applicable) to his treatment provider.
16. 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 describe the Respondent'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.

17. 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.
18. 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

19. 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

Petitions for Modification

20. Applicant may petition the Department for modification of the terms of this Order after two years from the effective date of this order. Any such petition shall be accompanied by a written recommendation from Applicant's employer, 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), Stat., and Applicant shall not have a right to any further hearings or proceedings on the denial.

Costs

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.

Summary Suspension / Additional Discipline

22. The Department may in the exercise of its discretion revoke or suspend Applicant's limited license without further notice or hearing or other proceeding for any failure by Applicant to timely comply with the terms of this Order and/or any further criminal conviction. Violations of this Order may in the alternative be the basis for a summary suspension under Wis. Admin. Code § RL Ch. 6 or separate disciplinary action under Wis. Stat. § 452.14.

Dated at Madison, Wisconsin this 3rd day of January, 2006.

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

STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF APPLICATION FOR	:	
REAL ESTATE SALESPERSON LICENSE FOR	:	
	:	STIPULATION
TERRY P MCLEAN	:	
Applicant	:	

It is hereby stipulated between the above-referenced Applicant and the State of Wisconsin Department of Regulation and Licensing as follows:

The Applicant has filed an application for a real estate salesperson license. Information received by the Department reflects a basis for denial of the application for a credential. Based upon the information of record herein, the Department agrees to issue and the Applicant agrees to accept an Order issuing a limited real estate salesperson license subject to the terms and conditions set forth in the attached Order Adopting Stipulation.

Dated this ____ day of _____, 2006

Terry P McLean

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING

Dated this ____ day of _____, 2006.

By: _____
Steven M. Gloe