

# 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 DISCIPLINARY	:	
PROCEEDINGS AGAINST	:	FINAL DECISION
	:	AND ORDER
CURTIS BROWN,	:	LS0611132REB
RESPONDENT.	:	

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Division of Enforcement Case No. 06REB066

The State of Wisconsin, Real Estate Board, 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, Real Estate Board.

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 22<sup>nd</sup> day of February, 2007.

Peter Sveum  
Member of the Board  
Real Estate Board

STATE OF WISCONSIN  
BEFORE THE REAL ESTATE BOARD

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IN THE MATTER OF THE DISCIPLINARY :

PROCEEDINGS AGAINST

:  
:  
:  
:

PROPOSED DECISION

AND ORDER

CURTIS BROWN,  
RESPONDENT.

Case No. LS0611132REB

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[DOE Case File #06REB066]

The parties to this action for purposes of §227.53, Wis. Stats., are:

Mr. Curtis D. Brown  
1726 W. State Street  
Milwaukee, WI 53233

Real Estate Board  
P.O. Box 8935  
Madison, WI 53708-8935

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

**PROCEDURAL HISTORY**

A hearing in the above-captioned matter was held on January 10, 2007, before Administrative Law Judge Jacquelynn B. Rothstein. The Division of Enforcement appeared by Attorney John N. Schweitzer. Mr. Brown did not appear.

Based on the entire record in this case, the undersigned administrative law judge recommends that the Real Estate Board adopt as its final decision in this matter the following Findings of Fact, Conclusions of Law, and Order.

**FINDINGS OF FACT**

1. On June 13, 2005, the Department of Regulation and Licensing issued Curtis D. Brown (DOB 8/4/82) a limited real estate salesperson license (# 94-64218). Mr. Brown's most recent address on file with the Department of Regulation and Licensing is 1726 W. State Street in Milwaukee, Wisconsin.
2. The limitations on Mr. Brown's real estate salesperson license include the following:

Abstain from all personal use of alcohol and controlled substances;  
Submit the results of a current AODA assessment to the Department Monitor within 60 days of the date of the Order;  
Practice under the supervision of a licensed real estate broker approved by the Department and work in a setting approved by the Department;  
Submit reports from supervisor on a quarterly basis;  
Enroll and begin participation in a drug and alcohol monitoring program within 30 days of the Order, the requirements of which include contact with the program on a daily basis and production of a urine specimen at a frequency of not less than once every other week;  
Report and change of employment status, residence address, or telephone number with five days of the change.

3. The alcohol and drug assessment Mr. Brown underwent concluded that he did not need therapy.
4. Pursuant to the limitations on his license, urine specimens were collected from Mr. Brown on the following dates: September 7, 2005; September 28, 2005; October 12, 2005; October 28, 2005; November 9, 2005; November 21, 2005; and December 1, 2005. All of the test results were negative for the presence of drugs or alcohol.
5. On or about December 14, 2005, the Monitor for the Department of Regulation and Licensing was notified that Mr. Brown had been suspended from the specimen testing program because he owed the testing facility, First Lab, \$105.00.
6. Pursuant to the limitations on this license, Mr. Brown subsequently returned to First Lab and provided urine specimens on the following dates: December 28, 2005; January 5, 2006; January 18, 2006; January 30, 2006; February 10, 2006; February 23, 2006; and March 8, 2006. Again, all of the test results were negative for the presence of drugs or alcohol.
7. On or about March 23, 2006, First Lab notified the Monitor at the Department of Regulation and Licensing that Mr. Brown had again been suspended for failure to pay for his laboratory testing.
8. Mr. Brown remains suspended from the testing program for failure to pay for his tests.

### **CONCLUSIONS OF LAW**

1. The Real Estate Board has jurisdiction in this matter pursuant to § 452.14, Wis. Stats.
2. By failing to file an Answer as required by § RL 2.09, Wis. Admin. Code, and by failing to appear at the hearing, Mr. Brown is in default under § RL 2.14, Wis. Admin. Code, and the Real Estate Board may make Findings and enter an Order on the basis of the Complaint and evidence presented at the hearing.
3. By failing to comply with the limitations on his license, Mr. Brown has acted contrary to s. 452.14 (L), Wis. Stats.

### **ORDER**

**NOW THEREFORE IT IS HEREBY ORDERED** that Curtis D. Brown's limited license to practice as a real estate salesperson is indefinitely suspended. Mr. Brown may petition for the reinstatement of his credential after furnishing satisfactory evidence that he is in compliance with the limitations on his license.

### **OPINION**

Section RL 2.14 of the Wisconsin Administrative Code provides that if a respondent fails to answer a complaint or fails to appear at a hearing, he or she is in default. If found to be in default, the disciplinary authority may make findings and enter an order on the basis of the complaint and other evidence against the respondent.

A Notice of Hearing and Complaint were sent to Mr. Brown both by certified mail and by regular U.S. mail at his last known address on file with the Wisconsin Department of Regulation and Licensing. However, Mr. Brown did not file an answer to the above-captioned complaint, nor did he appear at the scheduled hearing. As a result, Mr. Brown is in default and has effectively admitted all of the allegations contained in the complaint.

In brief, the evidence adduced at the hearing indicated that Mr. Brown had been compliant with the limitations on his license for approximately three months. Thereafter, he fell out of compliance because of an apparent inability to pay for the required specimen testing. Approximately a month later, Mr. Brown became compliant with the testing. But in March of 2006, Mr. Brown was again suspended from the testing program for failing to pay the necessary costs associated with the program. It should be noted, however, that all of Mr. Brown's test results were negative for the presence of alcohol and drugs. Additionally, follow-up contacts by Department of Regulation and Licensing staff after his non-compliance revealed that Mr. Brown was not engaged in the practice of real estate and was apparently employed in another area of the service

sector.

Because Mr. Brown has effectively admitted all of the allegations contained in the complaint, the question remains as to what the appropriate form of discipline is for him. An indefinite suspension has been recommended. It is well established that the objectives of professional discipline include the following: (1) to promote the rehabilitation of the licensee; (2) to protect the public; and (3) to deter other licensees from engaging in similar conduct. *State v. Aldrich*, 71 Wis. 2d 206, 209 (1976). Punishment of the licensee is not an appropriate consideration. *State v. McIntyre*. 41 Wis. 2d 481, 485 (1969).

There is nothing in the record to suggest that Mr. Brown is actively pursuing the practice of real estate. Instead, he has apparently chosen to pursue another line of employment and does not appear to have the necessary funding that would allow him to continue with his ongoing screenings as required by the limitations on his real estate salesperson license. By imposing an indefinite suspension on his license, he will be ineligible to practice as a real estate salesperson which is a sufficient means to protect the public and to deter others from engaging in similar conduct. Accordingly, an indefinite suspension is an appropriate measure for addressing Mr. Brown's noncompliance while simultaneously ensuring the safety of the public.

Dated at Madison, Wisconsin, this 11<sup>th</sup> day of January, 2007.

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Jacquelynn B. Rothstein  
Administrative Law Judge