

WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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

Natalie R. Macik
1204 Kristi Lane #1
Tomah, WI 54660

Department of Regulation and Licensing
Division of Enforcement
PO Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final decision 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 Secretary in this matter adopts the attached Stipulation and makes the following:

FINDINGS OF FACT

- Natalie R. Macik was born on November 6, 1975. Ms. Macik's most current address on file with the Department of Regulation and Licensing ("Department") is: 1204 Kristi Lane #1, Tomah, Wisconsin 54660.
- Ms. Macik applied for a real estate salesperson's license on or about June 14, 2006. The Department denied Ms. Macik's application on July 26, 2006.
- Ms. Macik made a timely request for a hearing on the denial of her application for a license.
- The application for a real estate broker's license requires that the Ms. Macik answer question "A" under "STATEMENT OF ARREST OR CONVICTION" that states:
A. 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? IF YES, complete and attach Form #2252.
- Ms. Macik's response to question "A" was to check the box marked "Yes" and she included with her application Form #2252 and information which indicated the following:
On or about November 29, 1999, Ms. Macik was convicted of two misdemeanors in violation of Wis. Stat. §§ 940.19(1) and 947.01 (battery and disorderly conduct); and
On or about March 12, 2002, Ms. Macik was convicted of a felony in violation of Wis. Stat. § 961.41(1)(cm) (manufacture cocaine (~5g)).

MITIGATING CIRCUMSTANCES

On June 9, 2006, the Department received a letter from Ms. Macik's parole officer. Ms. Macik's parole officer indicated that Ms. Macik has undergone Alcohol and Other Drug Abuse Treatment care since being placed on probation on April 11, 2002. The parole officer related that Ms. Macik's AODA aftercare provider verified that she was in compliance with her treatment plan.

The Department also received letters from current and former employers in the real estate industry that have worked with Ms. Macik over the last two years. Ms. Macik's job duties were reported to be administrative in nature. All of Ms. Macik's employers described Ms. Macik as reliable, trustworthy, and knowledgeable. Ms. Macik's employers have also related to the Department that Ms. Macik's hard work in her employment duties is reflective of the changes that she has made in her life. Additionally, Ms. Macik's current employer, Cranberry Lake Realty, Inc. (license #091 835992; granted: 05/12/06) has agreed to employ Ms. Macik as a real estate salesperson.

CONCLUSIONS OF LAW

- The Department of Regulation and Licensing has jurisdiction over this matter, pursuant to Wis. Stat. § 227.42.
- The Department of Regulation and Licensing is authorized to enter into the Stipulation, pursuant to Wis. Stat. § 227.44(5).
- The conviction record detailed above constitutes convictions that substantially relate to the practice of real estate within the meaning of Wis. Stat. § 111.335(1)(c) and the Department's initial denial of Ms. Macik's application was not an abuse of discretion.
- The Department may consider other factors in the decision whether to issue a license, and it has the authority under Wis. Stats. §§ 452.05 (1)(a) and 452.14 (4m)(b) to issue a limited license to Ms. Macik.

ORDER

NOW, THEREFORE, IT IS ORDERED that:

Practice Limitations/Reporting Requirements

- Natalie R. Macik is granted a limited real estate salesperson's license for a period of not less than three years subject to the following terms and conditions:
 - The effective date of the license shall be the date upon which the Department Secretary dates and signs this Order.
 - Ms. Macik shall practice as a real estate salesperson only as an employee of an employer (Supervising Broker Employer) who is a Wisconsin licensed real estate broker or real estate entity who agrees to comply with issuing quarterly reports.
 - Ms. Macik shall file with the Department quarterly reports within five (5) days of the quarterly reports becoming due to the Department Monitor. The Department Monitor is the individual who coordinates compliance with the terms of this Order.
- Each report shall include:
 - The name, address and telephone number of Ms. Macik and name, address and telephone number of Ms. Macik's broker-employer.
 - A statement from Ms. Macik as to whether or not she has been convicted of a crime (including Driving While Intoxicated (DWI) or Operating While Intoxicated - OWI) during the term of the Order OR if criminal charges are pending.
 - A statement from Ms. Macik confirming her compliance with all the terms of her limited license and with the statutes and rules governing the practice of a real estate salesperson.
 - A statement from the broker-employer evaluating Ms. Macik's performance as a real estate salesperson and whether or not she has followed all guidelines and requirements of the broker-employer.
- Ms. Macik shall not personally receive, hold or disburse "client funds", as that term is defined in Wis. Stat. § 452.13(1)(a).

452.13 Trust accounts. (1) DEFINITIONS. In this section:

(a) "Client funds" means all down payments, earnest money deposits or other money related to a conveyance of real estate that is received by a broker, salesperson or time-share salesperson on behalf of the broker's, salesperson's or time-share salesperson's principal or any other person. "Client funds" does not include promissory notes.

- Ms. Macik shall not perform real estate activities under a different broker-employer without permission, in advance, from the Department of Regulation and Licensing, and unless the new broker-employer agrees, in writing, that the terms of this limitation will be complied with and that the new broker-employer will cooperate with the Ms. Macik in the preparation and submission to the Department of the required reports.

Ms. Macik shall provide a complete copy of the Department's Final Decision and Order to her broker-employer and arrange for his broker-employer to immediately notify the Department Monitor if the Ms. Macik violates the terms of the Order.

Substance

- Ms. Macik 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. Ms. Macik shall disclose her drug and alcohol history and the existence and nature of this Order to the practitioner prior to the practitioner ordering the controlled substance. Ms. Macik 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 Ms. Macik's treatment with, and provide copies of treatment records to, Treatment Provider and the Department or Department Monitor.
- Ms. Macik 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 Ms. Macik's treatment and rehabilitation.

Releases

- Ms. Macik shall provide and keep on file with all facilities and personnel, laboratories and collection sites and (if applicable) treatment provider(s) 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 these results and records with relevant personnel. Copies of these releases shall immediately be filed with Department Monitor.

Drug and Alcohol Screens

- Ms. Macik shall comply with any request by an employer for a screen for alcohol or controlled substances. In addition, the Department reserves the right to request one or more screens for alcohol or controlled substances, should the Department Monitor in its discretion believe a screen is warranted on the basis of a report received. Upon notification the need for a screen, Ms. Macik shall comply with obtaining a screen within five (5) hours of notification. All screens shall be performed according to standard Department procedures, and all confirmed positive test results shall be presumed to be valid. Ms. Macik must prove by a preponderance of the evidence an error in collection, testing or other fault in the chain of custody. Ms. Macik shall be responsible for all costs associated with obtaining screens.

Treatment

- The Department reserves the right, based upon reports received, to require Ms. Macik upon notification by the Department Monitor to enter into and maintain participation in a Department-approved program of treatment for drug and alcohol abuse/dependency through completion and discharge from treatment. Ms. Macik shall cooperate with and follow all treatment recommendations of his treatment provider. Upon discharge, Respondent shall submit a copy of his discharge summary to the Department Monitor.
- If treatment is required, Ms. Macik shall provide his treatment provider with a copy of this Final Decision and Order.
- If treatment is required, Ms. Macik's treatment provider shall submit formal written reports to Department Monitor on a quarterly basis, as directed by Department Monitor. These reports shall assess Ms. Macik's progress, compliance and cooperation in the applicable program. The treatment provider shall report immediately to the Department Monitor any violation or suspected violation of this Order.

Compliance

- The limitations contained in this Order, in whole or in part, may be removed only upon a showing of successful compliance with all of the terms of this Order and in no event earlier than three years from the date of the signing of this Order by the Department Secretary.
- Failure by Ms. Macik to timely comply with the terms of this limitation shall result in the revocation of her limited real estate salesperson's license without further notice or hearing or other proceedings.
- Any further criminal conviction (including DWI or OWI) shall result in the revocation of Ms. Macik's limited real estate salesperson's license without further notice or hearing or other proceedings.
- Ms. Macik shall immediately notify the Department in writing of any changes in employment and personal information as it relates to the limitations of her real estate salesperson's license.
- Any reports or documentation that needs to be received by the Department to show compliance with the terms of this Order shall be addressed to:

Department of Regulation and Licensing
Department Monitor
Division of Enforcement
P.O. Box 8935
Madison, WI 53708-8935
(608) 261-7904 (phone)

Contr: (608) 266-2264 (fax)

- Ms. Macik 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.

Summary Suspension/Additional Discipline

- The Department may conduct proceedings for a summary suspension under Wis. Admin. ch. RL 6 or separate disciplinary action under Wis. Stat. § 452.14 for violations of this Order.
- This Order shall become effective upon the date of its signing.

Dated this 23rd day of January, 2007

WISCONSIN DEPARTMENT OF REGULATION AND LICENSING

By: Celia M. Jackson, Secretary