

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 LICENSE TO PRACTICE AS A	:	
REAL ESTATE SALESPERSON	:	
	:	FINAL DECISION AND ORDER
TIMOTHY L TOLBERT	:	
APPLICANT	:	

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

Timothy L Tolbert
6330 28th Avenue
Kenosha WI 53143

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

FINDINGS OF FACT

1. Timothy L. Tolbert (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 April 23, 2003 Applicant was convicted of violation of Wis. Stat. §) [possess controlled substances];
 - b. On or about November 11, 2003 Applicant was convicted of violation of Wis. Stats. §§ 961.41(1)(cm)lr and 961.41(1)(cm)lg [felony manufacture/deliver cocaine];
 - c. On or about November 11, 2003 Applicant was convicted of violation of Wis. Stat. §943.38(2) [felony forgery-utte
 - d. On or about November 11, 2003 Applicant was convicted of violation of Wis. Stat. §943.23(3) [felony drive or op vehicle w/o consent].
 - e. On or about November 11, 2003 Applicant was convicted of violation of Wis. Stat. § 943.41(5)(a) [credit card fraudulent use]

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 TIMOTHY L TOLBERT 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 (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

4. Applicant 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, applicant 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. Applicant must prove by a preponderance of the evidence an error in collection, testing or other fault in the chain of custody. Applicant shall be responsible for all costs associated with obtaining screens.

Treatment

5. 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.
6. If applicable, Applicant shall provide his treatment provider(s) with a copy of this Final Decision and Order.
7. 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

8. Applicant shall practice real estate only under the general supervision of a Wisconsin licensed real estate broker approved by the Department or Department Monitor.
9. Applicant shall not personally receive, hold or disburse "client funds", as that term is defined in Wis. Stats. § 452.13(1)(a) until otherwise ordered by the Department.

Reporting Requirements

10. Applicant shall provide a copy of this Final Decision and Order to supervisory personnel at all settings where Applicant works as a real estate salesperson and (if applicable) to her treatment provider.
11. 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 applicant'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.
12. Applicant shall comply with all terms of probation and/or parole imposed upon him, and make arrangements with his probation/parole officer to notify the Department Monitor **immediately** of any violation of probation/parole terms. In

addition, Applicant shall make arrangements for the submission of quarterly reports from his probation/parole office attesting to the status of his participation in probation/parole. Applicant shall provide the Board with current releases complying with state and federal laws, authorizing release and access to his probation and parole records.

13. 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.
14. 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

15. 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) 267-3817

Petitions for Modification

16. Applicant may petition the Department for modification of the terms of this Order after completion of two years of practice and compliance with all terms and conditions of this Order. Applicant's petition must include his/her history of employment from the effective date of this Order that states the dates and names of any employer, such employment in total equaling two years of practice. Any such petition shall be accompanied by a written recommendation from Applicant's current employer that includes, among other things, the dates of employment and scope of responsibility during such employment, and (if applicable) his/her treatment provider expressly supporting the specific modifications sought. A denial of such a petition for modification shall not be deemed a denial of license under Wis. Stats. §§ 227.01(3), or 227.42, or Wis. Admin. Code Ch. RL 1, and shall not be subject to any right to further hearing or appeal.

Costs of Compliance

17. Applicant shall be responsible for all costs and expenses incurred in conjunction with or associated with compliance with the terms of this Order.

Summary Suspension / Additional Discipline

18. Failure by Applicant to timely comply with the terms of this limitation and/or any further criminal conviction shall result in the revocation of Applicant's limited license without further notice or hearing or other proceeding. Any other violation of this Order may be the basis for a summary suspension under Wis. Admin. Code ch. RL 6 or separate disciplinary action under Wis. Stat. § 440.26(6).

Dated at Madison, Wisconsin this 18th day of November, 2008.

Celia M. Jackson

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 A	:	
LICENSE TO PRACTICE AS A	:	
REAL ESTATE SALESPERSON	:	
	:	STIPULATION
TIMOTHY TOLBERT	:	
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.

_____ Timothy L. Tolbert Applicant	_____ Date
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Dated this ____ day of _____, 2008

WISCONSIN DEPARTMENT OF REGULATION AND LICENSING

By: _____
Celia M. Jackson, Secretary