

# WISCONSIN DEPARTMENT OF REGULATION & LICENSING



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

Mark D. Husby  
400 N. Richmond Street  
Apt. 412  
Appleton, WI 54911

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**

1. Mark D. Husby was born on February 25, 1969. Mr. Husby's most recent address on file with the Department of Regulation and Licensing ("Department") is: 400 N. Richmond Street, Apt. 412, Appleton, Wisconsin 54911.
2. Mr. Husby applied for a real estate salesperson's license on or about April 23, 2008. The Department denied Mr. Husby's application on May 15, 2008.
3. Mr. Husby made a timely request for hearing on the denial of his application for a license.
4. The application for a real estate salesperson's license requires that the applicant 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? **LVYES, complete and attach Form #252.**
5. Mr. Husby's response to question "A" was to check the box marked "Yes" and he included with his application Form #2252 and information which indicated the following:

Mr. Husby was found guilty of Credit Card-Fraudulent Use in violation of Wisconsin Statute 943.41(5)(a) on August 6, 2007. The conviction is a Class A misdemeanor. Sentence was withheld and Mr. Husby was placed on probation for a period of one year. The court ordered the following special conditions: (1) pay \$20.00 court costs; \$412.43 restitution, \$41.24 other, and \$60.00 victim witness surcharge, (2) 20 hours of community service, (3) abide by all rules and conditions of the agent, and (4) may not change residence or employment without prior approval of the agent.

**MITIGATING CIRCUMSTANCES**

A criminal information bureau background check finds that Mr. Husby did not have any criminal history prior to his August 6, 2007 conviction. According to Mr. Husby's probation agent, Mr. Husby did not need to receive more than minimum supervision. Mr. Husby remained compliant with his probation and qualified to be released from his probation at the end of May 2008. Mr. Husby has satisfied all of his special court ordered conditions, has not engaged in any known rule violations, and has maintained consistent employment.

**CONCLUSIONS OF LAW**

1. The Department of Regulation and Licensing has jurisdiction over this matter, pursuant to Wis. Stat. § 227.42.
2. The Department of Regulation and Licensing is authorized to enter into the Stipulation, pursuant to Wis. Stat. § 227.44(5).
3. The conviction record detailed above constitutes convictions that substantially relate to the practice of real estate within the meaning of Wis. Stat. § 111.3351(k) and the Department's initial denial of Mr. Husby's application was not an abuse of discretion.
4. The Department may consider other factors in the decision whether to issue a license, and it has the authority under Wis. Stat. §§ 452.05 (1)(a) and 452.14 (4m)(b) to issue a limited license to Mr. Husby.

**ORDER**

NOW, THEREFORE, IT IS ORDERED that:

1. Mark D. Husby is granted a limited real estate salesperson's license for a period of not more than two years subject to the following terms and conditions:
  - a. The effective date of the license shall be the date upon which the Department Secretary dates and signs this Order.
  - b. Mr. Husby 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.
  - c. Mr. Husby shall file with the Department quarterly reports within 5 days before or after the following days according to a schedule specified by the Department Monitor.

2. Each report shall include:
  - a. The name, address and telephone number of applicant and name, address and telephone number of the applicant's broker-employer.
  - b. A statement from Mr. Husby as to whether or not he 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.
  - c. A statement from Mr. Husby confirming his compliance with all the terms of his limited license and with the statutes and rules governing the practice of a real estate salesperson.
  - d. A statement from the broker-employer evaluating Mr. Husby's performance as a real estate salesperson and whether or not he has followed all guidelines and requirements of the broker-employer.

3. Mr. Husby shall comply with all terms of probation imposed upon him and immediately notify the Department of any violation of probation terms.
4. Mr. Husby shall immediately provide evidence to the Department from the Department of Corrections after successfully paying off the remaining balance of his restitution.
5. Mr. Husby 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.

6. Mr. Husby 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 applicant in the preparation and submission to the Department of the required reports.
7. Mr. Husby shall provide a complete copy of the Department's Final Decision and Order to his broker-employer and arrange for his broker-employer to immediately notify the Department Monitor if the applicant violates the terms of the Order.
8. 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. Mr. Husby may petition the Department for the issuance of a real estate salesperson's license without limitations following the three year limitation period.
9. Failure by Mr. Husby to timely comply with the terms of this limitation shall result in the revocation of his limited real estate salesperson's license without further notice or hearing or other proceedings.
10. Any further criminal conviction (including DWI or OWI) shall result in the revocation of Mr. Husby's limited real estate salesperson's license without further notice or hearing or other proceedings.
11. Mr. Husby shall immediately notify the Department in writing of any changes in employment and personal information as it relates to the limitations of his real estate salesperson's license.
12. 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) 267-3817 (phone)

(608) 266-2264 (fax)

13. This Order shall become effective upon the date of its signing.

Dated this 9th day of September, 2008.

WISCONSIN DEPARTMENT OF REGULATION AND LICENSING

By: Celia M. Jackson, Secretary