

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE REAL ESTATE EXAMINING BOARD

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

RYAN APITZ,
RESPONDENT.

:
:
:
:
:

FINAL DECISION AND ORDER

ORDER 0001976

Division of Enforcement Case No. 11 REB 047

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

Ryan Apitz
1304 Bartlein Court
P.O. Box 25
Menasha, WI 54952

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

Division of Enforcement
Department of Safety and Professional Services
P.O. Box 8935
Madison, WI 53708-8935

The parties in this matter agree to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Wisconsin Real Estate Examining Board (Board). The Board has reviewed this Stipulation and considers it acceptable.

Accordingly, the Board in this matter adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Ryan Apitz (dob 4/3/1980) is licensed in the State of Wisconsin as a real estate salesperson, having license number 94-55514, first issued on 10/3/2002 and current through 12/14/2012. Mr. Apitz's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 1304 Bartlein Court, P.O. Box 25, Menasha, WI 54952.

2. On or about 5/12/2011, Mr. Apitz notified the Department that he had been convicted of possessing drug paraphernalia and operating with a controlled substance.

3. Mr. Apitz provided a judgment of conviction showing that he was convicted in Winnebago County (case number 2009CM000995) of misdemeanor Possess Drug Paraphernalia on 5/5/2010 for an offense committed on 7/14/2009.

4. Mr Apitz also provided a judgment of conviction showing that he was convicted in Winnebago County (case number 2010CT000377) of misdemeanor Operate with Controlled Substance (4th) on 7/1/2010 for an offense committed on 7/14/2009. Mr. Apitz' sentence included 60 days in jail, a fine, participation in an alcohol assessment program and revocation of his driver's license for 24 months.

5. The Department's investigation revealed the following additional convictions:

- a. On 4/12/2012, Mr. Apitz was convicted in Winnebago County (case number 2011CF000555) of felony Possess with Intent – THC (>200-1000g) for an offense that occurred on 11/4/2010. Mr. Apitz' sentence included 12 months in jail, 3 years probation and requirements that he complete counseling, maintain absolute sobriety, and submit to random urinalysis.
- b. On 10/4/2011, Mr. Apitz was convicted in Outagamie County (case number 2011CT000792) of Operate w/o carrying license, a forfeiture, for an offense that occurred on 6/19/2011.
- c. On 8/16/2006, Mr. Apitz was convicted in Winnebago County (case number 2006CT000601) of misdemeanor Operating While Revoked (2nd) for an offense that occurred on 4/15/2006.
- d. On 7/25/2005, Mr. Apitz was convicted in Calumet County (case number 2005CT000098) of misdemeanor Operating While Under Influence (3rd) for an offense that occurred on 4/21/2005.
- e. On 12/5/2005, Mr. Apitz was convicted in Winnebago County (case number 2005CM001652) of misdemeanor possession of THC for an offense that occurred on 9/26/2005.
- f. On 4/27/2005, Mr. Apitz was convicted in Oneida County (case number 2005CF000048) of misdemeanor Possession of THC for an offense that occurred on 2/18/2005.
- g. On 10/15/2004, Mr. Apitz was convicted in Winnebago County (case number 2004CT001216) of misdemeanor Operating while Revoked for an offense that occurred on 8/11/2004.
- h. On 5/27/2004, Mr. Apitz was convicted in Winnebago County (case number 2004CT000093) of misdemeanor Operating While Intoxicated (2nd) for an offense that occurred on 12/23/2003.

6. Mr. Apitz did not report any of the convictions listed in paragraph 5 to the Department.

7. Since at least 10/14/2010, Mr. Apitz has attended AODA treatment. In a letter dated 5/16/2012, a licensed professional counselor and clinical substance abuse counselor working with Mr. Apitz stated, "Prognosis for continued sobriety at this point in his treatment is good due to his behavioral changes and the amount of effort he has put into his treatment program."

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Examining Board has jurisdiction to act in this matter pursuant to Wis. Stat. § 452.14, and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. By the conduct described in the Findings of Fact, Respondent Ryan Apitz violated Wis. Admin. Code § RL (now REEB) 24.17(1) by violating laws the circumstances of which substantially relate to the practice of a real estate broker.

3. By the conduct described in the Findings of Fact, Respondent Ryan Apitz violated Wis. Admin. Code § RL (now SPS) 4.09 by failing to report his convictions within 48 hours after entry of the judgment of conviction.

4. As a result of the above violations, Respondent Ryan Apitz is subject to discipline pursuant to Wis. Stat. § 452.14(3)(i) and Wis. Admin. Code § REEB 24.17(2).

ORDER

NOW, THEREFORE, IT IS HEREBY ORDERED that:

1. The attached Stipulation is hereby accepted.
2. The real estate salesperson license issued to Respondent Ryan Apitz (license number 94-55514) is **SUSPENDED** for six months, starting 15 days after the date of this Order.
3. The real estate broker license issued to Respondent Ryan Apitz (license number 94-55514) is **LIMITED** as follows:
 - a. Respondent shall comply with all terms of his criminal sentences.
 - b. Respondent shall not drive in the practice of real estate without possession of a current driver's license.
 - c. Respondent shall provide a copy of this Order to the broker employer at any real estate company where he may be employed.
 - d. If Respondent is employed in real estate practice, Respondent shall arrange for his broker employer to file written reports every two months with the Department Monitor. The reports shall assess Respondent's work performance. Respondent shall arrange for agreement by his employer to immediately report to

the Department Monitor any conduct or condition of Respondent that may constitute a violation of this Order or a danger to the public.

e. On or before 30 days after the date of this Order, Respondent shall provide his counselor(s) releases complying with state and federal laws authorizing his counselor(s) to release reports regarding Respondent's treatment and/or progress to the Board, the Department Monitor or the Department Monitor's designee and permitting the counselor(s) to discuss the progress of Respondent's treatment with the Board, the Department Monitor or the Department Monitor's designee. Copies of these releases shall be filed simultaneously with the Department Monitor.

f. Respondent shall ensure that his counselor(s) provide a monthly written report to the Department Monitor at the address in paragraph 5 below. This report shall confirm Respondent's attendance at treatment sessions during the past month and shall assess Respondent's progress in drug and alcohol treatment. The counselor(s) shall report immediately to the Department Monitor any violation or suspected violation of this Order. Respondent shall provide a copy of this Order to his counselor(s).

g. During any period of time that Respondent is under court-ordered supervision, it is Respondent's responsibility to arrange for his probation officer to file written reports with the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall assess Respondent's compliance with the terms of probation.

h. While Respondent is under court-ordered supervision, Respondent shall arrange for his probation officer to immediately report to the Department Monitor any conduct of Respondent that may constitute a violation of this Order or a danger to the public.

i. Respondent shall participate in a minimum of one individual or group therapy session per week designed to help him maintain sobriety. Attendance at Affinity Health System group aftercare sessions or at meetings of Narcotics Anonymous, Alcoholics Anonymous or an equivalent program for recovering addicts shall meet the requirements of this paragraph.

j. This limitation shall remain in place for at least two years following the end of Respondent's six-month suspension. This limitation shall only be lifted upon a successful petition to the Board for removal of this limitation.


4. Respondent is responsible for compliance with all terms and conditions of this Order, including the timely submission of reports by others.

5. Reports required by this Order shall be sent to the Department Monitor at the address below:

Department Monitor
Division of Enforcement
Department of Safety and Professional Services
P.O. Box 8935, Madison, WI 53708-8935
Telephone (608) 267-3817, Fax (608) 266-2264

6. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent's license. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event the reports required in paragraph 3 above are not timely submitted, Respondent's license (no. 94-55514) may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until the reports have been submitted. This Order is effective on the date of its signing.

WISCONSIN REAL ESTATE EXAMINING BOARD

by: 
A Member of the Board

8-16-12
Date