

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE REAL ESTATE EXAMINING BOARD

IN THE MATTER OF THE APPLICATION
FOR TIMESHARE SALESPERSON
REGISTRATION

ANDREW A. SMEJKAL,
APPLICANT

ORDER GRANTING LIMITED REGISTRATION
AS A TIMESHARE SALESPERSON

ORDER 0002050

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

ANDREW A. SMEJKAL
606 Main Street.
Friendship, WI 53934

Department Monitor, Division of Enforcement
Department of Safety and Professional Services
1400 East Washington Ave.
Madison, WI 53707

Real Estate Examining Board
Department of Safety and Professional Services
1400 East Washington Ave.
Madison, WI 53707

FINDINGS OF FACT

ANDREW A. SMEJKAL (Applicant) has filed an application for a credential to practice as Timeshare Salesperson in the State of Wisconsin.

1. Information received in the application process reflects convictions for offenses that substantially relate to the practice of a timeshare salesperson, including but not limited to disorderly conduct and felony Operating While under the Influence (OWI, 7th, 8th or 9th) contrary to Wis. Stat. §346.63(1)(a).
2. That you are currently on probation or parole for the felony OWI charges.
3. These convictions constitute adequate grounds for disciplinary action or denial of a Timeshare Salesperson credential.

CONCLUSIONS OF LAW

1. The Real Estate Examining Board has jurisdiction over this matter pursuant to Wis. Stats. § 452.03 and § 442.05(1) (a).
2. The facts and circumstances of the above-referenced conviction substantially relate to the practice of real estate.
3. That given the totality of the circumstances as reflected in the application file, including the current charge for which the Applicant is on probation or parole, limitations upon the credential of the Applicant is necessary to ensure that he is competent to act in a manner which safeguards the interests of the public.
4. Applicant, by his conduct, is subject to action against his credential pursuant to Wis. Stats. §452.14(3).

ORDER

NOW THEREFORE, IT IS ORDERED that, ANDREW A. SMEJKAL, is GRANTED a REGISTRATION AS A TIMESHARE SALESPERSON, subject to the following LIMITATIONS, TERMS AND CONDITIONS:

Practice Limitations

1. Applicant shall at all time practice as a timeshare salesperson under the supervision of a Wisconsin credential real estate broker approved by the Board. Approval shall be obtained through correspondence with the Department Monitor.
2. Applicant shall not be eligible for licensure as a real estate broker until he has been successfully discharged from probation/parole and has demonstrated a minimum of two years of successful practice as a timeshare salesperson or real estate salesperson under the general supervision of a Wisconsin credential real estate broker approved by the Board.

Reporting Requirements

3. Applicant shall notify his broker/employer of his history of convictions prior to employment, and shall provide a copy of this Order to supervisory personnel at all settings where Applicant works as a Timeshare Salesperson.
4. Applicant shall arrange for written reports from his real estate supervisor(s) to be provided to the Department Monitor as directed by the Department Monitor, for a minimum of twenty-four (24) months. If at any time applicant is not engaged in the practice of real estate, he shall provide written notice to the Department Monitor so that the reporting schedule may be adjusted. These reports shall describe the applicant's sales activities and verify that he is practicing in compliance with the laws governing the practice of real estate and the terms of this Order.
5. Applicant shall comply with all terms and conditions of his probation/parole imposed upon him and shall make arrangements with his probation agent to **immediately** notify the Department Monitor of any violation of probation/parole terms. Applicant shall provide the Board with current releases complying with state and federal laws, authorizing release and access to his probation and parole records.
6. Applicant shall arrange for submission of quarterly reports, commencing November 30, 2012 and every three months thereafter, as directed by the Department Monitor, from his probation/parole officer attesting to the status of his participation in probation/parole.
7. 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.
8. Applicant shall be 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.

Department Monitor

9. The Department Monitor is the individual designated by the Board 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 Safety and Professional Services
Division of Enforcement
1400 E. Washington Ave., P.O. Box 8935
Madison, WI 53708-8935
Fax: (608) 266-2264
Telephone: (608) 267-3817

Petitions for Modification

10. Applicant may petition the Board for modification of the terms of this Order after completion of probation and practice in compliance with all terms and conditions of this Order. Applicant's petition must include his history of employment from the effective date of this Order and state 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, as well, 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.

Cost of Compliance

11. 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

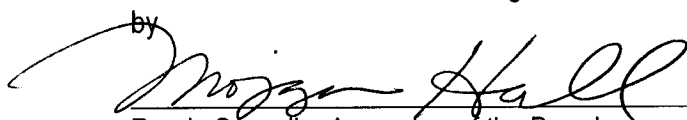
12. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Applicant's credential. The Board in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order.

This Order is effective upon the date signed below.

Dated this 19th day of September, 2012

Wisconsin Real Estate Examining Board

by

 for
Randy Savaglio, A member of the Board