

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 DISCIPLINARY
PROCEEDINGS AGAINST

HARVEY J. GOLDSTEIN,
RESPONDENT.

:
:
:
:
:

DLSC CASE NO. 15 REB 002

0003769

ORDER OF SUMMARY SUSPENSION

The Petition for Summary Suspension of February 16, 2015 was noticed to be presented at 10:30 AM or as soon thereafter as the matter could be heard, on February 26, 2015. At that time, Attorney Andrea E. Brauer appeared for the Petitioner, Department of Safety and Professional Services, Division of Legal Services and Compliance.

The Wisconsin Real Estate Examining Board (Board), having considered the sworn February 16, 2015 Petition for Summary Suspension; the Affidavits of Timothy Klingman and Investigator Bill Searls, court documents from the United States District Court for the Eastern District of Wisconsin Case Number 14-CR-163, the Wisconsin Supreme Court decision in *Office of Lawyer Regulation v. Goldstein (In re Goldstein)* and prior Board final decision and orders issued to Respondent as evidence; the February 24, 2015 *Respondent's Response to Petitioner's Petition for Summary Suspension*; the February 16, 2015 Affidavit of Service of Notice of Presentation and Petition for Summary Suspension of Beth Cramton certifying that a true and accurate copy of the Notice of Presentation of Petition for Summary Suspension, Petition for Summary Suspension, Affidavits of Timothy Klingman and Investigator Bill Searls, court documents from the United States District Court for the Eastern District of Wisconsin Case Number 14-CR-163, the Wisconsin Supreme Court decision in *Office of Lawyer Regulation v. Goldstein (In re Goldstein)* and prior Board final decision and orders issued to Respondent were sent by electronic mail and U.S. regular mail to Respondent on February 16, 2015; and having heard the arguments of counsel, hereby makes the following:

FINDINGS OF FACT

1. Respondent Harvey J. Goldstein (dob February 25, 1953) is licensed in the State of Wisconsin as a Real Estate Salesperson, having license number 69459-94, first issued on February 15, 2007 and current through December 14, 2016. Harvey J. Goldstein's most recent address on file with the Wisconsin Department of Safety and Professional Services (Department) is 2980 S. Logan Ave., Milwaukee, WI 53207.

2. On April 14, 2010, the Wisconsin Supreme Court ordered a two-year suspension of Respondent's license to practice law and required Respondent to pay \$3,066 in restitution as well as the costs of the disciplinary proceeding (*In the Matter of Disciplinary Proceedings*

Against Harvey J. Goldstein, Attorney at Law: Office of Lawyer Regulation v. Goldstein, 2010 WI 26, 323 Wis. 2d 706, 782 N.W.2d 388). The Court concluded that Respondent committed 21 counts of misconduct, as follows:

- a. six counts involving conversion of probate funds from three estates while acting as a special administrator and, in one case, a personal representative;
- b. six counts involving trust account and other violations, including the comingling of trust account funds with funds received from Respondent's wife and Respondent's personal business venture;
- c. eight counts involving violations of recordkeeping regulations and personal use of trust account funds, and;
- d. one count of using trust account funds for personal purposes, including real estate ventures.

3. On May 10, 2012, the Board found, based upon the Wisconsin Supreme Court decision, that Respondent violated Wis. Admin. Code § RL (now REEB) 24.17(1) by violating laws the circumstances of which substantially related to the practice of real estate (*In the Matter of Disciplinary Proceedings Against Harvey J. Goldstein*, Order 0001543 (May 10, 2012)).

4. The Board's May 10, 2012 Final Decision and Order reprimanded Respondent and limited Respondent's license to: (1) prohibit Respondent from applying for a broker license, (2) prohibit Respondent from maintaining a client trust account, (3) require Respondent to submit quarterly monitoring reports from his supervisor, and (4) require Respondent to complete 9 hours of education in the topics of ethics, trust accounts and real estate offers.

5. On October 27, 2014, the Board removed the above noted limitations and reinstated Respondent's license in full (*In the Matter of Disciplinary Proceedings Against Harvey J. Goldstein*, Order 0001543 (Oct. 27, 2014)).

6. On December 1, 2014, Respondent plead guilty to making a materially false, fictitious or fraudulent statement or representation to a federal agent in violation of 18 U.S.C. § 1001(a)(2), a felony offense (United States District Court for the Eastern District of Wisconsin Case No. 14-CR-163).

7. In the December 1, 2014 plea agreement, Respondent admitted the following:

- a. On December 15, 2010, a fire severely damaged a commercial building, including the building and the equipment therein.
- b. Following the fire, Respondent submitted proof of loss statements to the insurance company insuring the business property.
- c. Respondent received insurance proceeds totaling approximately \$44,250.

d. On August 15, 2013, a special agent employed by the United States Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) interviewed Respondent and advised Respondent he was investigating an arson to the commercial building.

e. Respondent told the ATF special agent the fire was caused by accidental means and he did not have any advance notice that the fire was intentionally set.

f. In fact, Respondent knew the arson occurred and planned with others to submit false proof of loss statements for the purpose of later collecting an insurance payout.

g. Respondent agreed he lied to the ATF special agent about his involvement in the arson for profit scheme.

8. Respondent has not yet been sentenced in United States District Court for the Eastern District of Wisconsin Case No. 14-CR-163.

9. Respondent currently works as a Licensed Assistant for North Shore Homes, Inc., a Wisconsin licensed Real Estate Business Entity.

10. As a Licensed Assistant, Respondent refers potential customers to real estate salespersons and/or real estate brokers with North Shore Homes, Inc. and attends events to seek potential buyers, sellers and listings.

11. Respondent is required to hold a Real Estate Salesperson license to maintain his position as a Licensed Assistant.

12. The public health, safety or welfare imperatively requires emergency suspension of the Respondent's license.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Examining Board has jurisdiction over this matter pursuant to Wis. Stat. § 452.14 and has authority to summarily suspend the Real Estate Salesperson license issued to Respondent Harvey J. Goldstein (license number 69459-94), pursuant to Wis. Stat. §§ 227.51(3) and Wis. Admin. Code ch. SPS 6.

2. As evidenced by the February 16, 2015 Affidavit of Service of Notice of Presentation and Petition for Summary Suspension of Beth Cramton, notice has been given under Wis. Admin. Code § SPS 6.05.

3. Based on the affidavits of Timothy Klingman and Investigator Bill Searls, court documents from the United States District Court for the Eastern District of Wisconsin Case Number 14-CR-163, the Wisconsin Supreme Court decision in *Office of Lawyer Regulation v. Goldstein (In re Goldstein)* and prior Board final decision and orders issued to Respondent, there is probable cause to believe that it is necessary to suspend the license issued to Respondent

Harvey J. Goldstein immediately to protect the public health, safety or welfare, based upon the following conduct by the Respondent:

a. Respondent Harvey J. Goldstein by engaging in the conduct set out in paragraphs 6, 7 and 8, above, has violated Wis. Admin. Code § REEB 24.17(1) by violating any law the circumstances of which substantially relate to the practices of a real estate salesperson and is subject to discipline pursuant to Wis. Stat. § 452.14(3)(k), (L) and (p).

4. It is imperatively required and necessary to suspend the Real Estate Salesperson license issued to Respondent Harvey J. Goldstein (license number 69459-94) immediately to protect the public health, safety and welfare.

ORDER

1. The Real Estate Salesperson license issued to Respondent Harvey J. Goldstein (license number 69459-94) is summarily suspended until the effective date of a final decision and order issued in the disciplinary proceeding against Respondent Harvey J. Goldstein, unless otherwise ordered by the Board.

2. The formal complaint to be filed with the Division of Hearings and Appeals, alleging that Respondent has committed unprofessional conduct, is approved for filing.

Respondent Harvey J. Goldstein is hereby notified of his right, pursuant to Wis. Admin. Code § SPS 6.09, to request a hearing to show cause why this summary suspension order should not be continued and is further notified that any request for a hearing to show cause should be filed with the Wisconsin Real Estate Examining Board, P.O. Box 8366, Madison, Wisconsin 53708-8366.

In the event that Respondent Harvey J. Goldstein requests a hearing to show cause why the summary suspension should not be continued, that hearing shall be scheduled to be heard on a date within 20 days of receipt by the Board of Respondent's request for hearing, unless Respondent requests or agrees to a later time for the hearing.

WISCONSIN REAL ESTATE EXAMINING BOARD

By: Michael Mullenbarger
A Member of the Board

2/27/15
Date