

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE REAL ESTATE EXAMINING BOARD

IN THE MATTER OF APPLICATION FOR :
A REAL ESTATE BROKER LICENSE : ORDER GRANTING
 : LIMITED LICENSE
 SHAWN NASH :
 APPLICANT :

0005014

DLSC Case No. 16 REB 078; DHA Case No. SPS-16-0055

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

SHAWN NASH
8368 S TUCKAWAY SHORES DRIVE
FRANKLIN, WI 53132

REAL ESTATE EXAMINING BOARD
1400 EAST WASHINGTON AVENUE
P.O. BOX 8935
MADISON, WI 53708-8935

PROCEDURAL HISTORY

On July 5, 2016, the Real Estate Examining Board (Board) denied SHAWN NASH'S (Applicant) application for a license to practice as a Real Estate Broker in the state of Wisconsin. On August 1, 2016, counsel for Applicant sent a letter requesting a hearing on the denial asserting, among other things, a mistake in law. Applicant asserted her history of criminal convictions is not substantially related to the practice of Real Estate.

On or about August 10, 2016, the Division of Legal Services and Compliance granted Applicant's request for a hearing, and a subsequent Notice of Hearing dated September 13, 2016, was sent to Applicant. Prior to the scheduled telephone prehearing conference, the parties in these matters agreed to the terms and conditions of the attached Stipulation as the final disposition of these matters.

FINDINGS OF FACT

1. SHAWN NASH (Applicant) has filed an application (# 564814) for a credential to practice as a Real Estate Broker in Wisconsin.
2. Information on file establishes that Applicant was granted a Real Estate Salesperson credential on July 19, 2004. During that application process, information on file established that Applicant was convicted of the following:

- a. On or about November 8, 1984 – Disorderly Conduct, a misdemeanor.
 - b. On or about November 25, 1985 – Retail Theft, a misdemeanor.
3. Additional information on file further establishes that Applicant was then convicted of the following:
 - a. On or about July 8, 2011 – Theft-False Representation > \$10,000, Party to a Crime, a Class G Felony.
 - i. The Applicant stated that she had a childcare business and had erroneously billed for that business. Applicant stated this was a mistake and she learned from the mistake.
 - ii. The complaint for this case states that the Wisconsin Department of Children and Families investigated Applicant’s childcare business. The complaint states that between the dates of April 2008, and February 2010, Applicant defrauded the state of Wisconsin out of more than \$340,000, by submitting attendance sheets for children that were not actually attending Applicant’s childcare business. The complaint states that the Applicant was a “silent partner” of the childcare business, and that the Applicant received two-thirds (2/3) of the revenues generated by the business.
 - iii. The complaint further states that the Applicant recruited mothers and listed them as fake employees, as they did little or no work at all for the business. The children of these fake employees were stated to have attended the childcare business on the attendance reports which the Applicant prepared and submitted for reimbursement from the State. However, the children did not actually attend the childcare business. The fake employee mothers would be given cash payments for their participation in the fraud.
 - iv. Applicant pled guilty to the above referenced charge on or about March 17, 2011. Applicant was sentenced to twenty (20) months of initial confinement in the state prison, followed by twenty (20) months of extended supervision. Applicant was also ordered to pay restitution in the amount of \$100,000 as well as court costs, fees and a five percent (5%) restitution surcharge and mandatory victim/witness surcharges.
 - v. Applicant was released from incarceration on or about March 5, 2013. Applicant was unable to pay the fines and filed for bankruptcy.
4. Additional information on file demonstrates that Applicant did not report her felony conviction to the Real Estate Examining Board.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Examining Board has jurisdiction over this matter, pursuant to Wis. Stat. §§ 452.03, 452.05(1)(a), and 452.14(3), and is authorized to enter into the attached Stipulation, pursuant to Wis. Stat. §§ 15.08(5)(c) and 227.44(5).
2. The facts and circumstances of the conviction(s) referenced above substantially relate to the practice of a Real Estate Broker.
3. Applicant did not report her felony conviction to the Real Estate Examining Board within forty-eight (48) hours of the entry of the judgment of conviction.
4. Applicant by her conduct is subject to action against her license pursuant to Wis. Stat. §§ 452.03 and 452.14(3), and Wis. Admin. Code ch. REEB 24.
5. Limitations upon Applicant's license are necessary to ensure that she is competent to transact the business of Real Estate in a manner which safeguards the interests of the public, pursuant to Wis. Stat. § 452.03.

ORDER

NOW, THEREFORE, IT IS ORDERED that SHAWN NASH is GRANTED A REAL ESTATE BROKER LICENSE subject to the following LIMITATIONS, TERMS, AND CONDITIONS:

Practice Limitations

1. Applicant shall, at all times, practice as a Real Estate Broker under the supervision of a Wisconsin licensed Real Estate Broker approved by the Board.
2. Applicant shall, prior to employment, notify her broker-employer of her history of arrests and convictions, and prior disciplinary matters, and shall provide a copy of this Order to her supervisor at all business entities where she works as a Real Estate Broker.
3. Applicant shall commit no new violations of law and shall report all law enforcement contacts leading to arrest, charge or conviction, including DWI/OWI and municipal/ordinance violations, to the Department of Safety and Professional Services Monitor (Department Monitor) within forty-eight (48) hours of any such event.
4. If the Applicant opens and/or maintains one or more real estate trust account(s), Applicant shall employ the services of a Board-approved Certified Public Accounting (CPA) Firm in good standing with the Department of Safety and Professional Services, to review and audit Applicant's trust account records on a quarterly basis for 12 consecutive months, beginning 30 days after the date of Applicant's employment as a Real Estate Broker.
 - a. The CPA firm shall review the trust account journal, the monthly bank statements, the monthly account reconciliations and monthly trial balances.
 - b. The CPA firm shall provide the Applicant with an Accountant's Summary of the trust account records including a certification indicating whether the records are in compliance with the applicable statutes and rules, including but not limited to Wis. Admin. Code ch. REEB 18.

- c. The CPA summary shall also include any comments, criticisms, or recommendations about the trust account records which may assist the Applicant in maintaining compliance with applicable statutes and rules, including but not limited to Wis. Admin. Code ch. REEB 18.
- d. The Applicant shall be solely responsible for the cost of employing the CPA firm.
- e. The Applicant shall furnish the Accountant's Summary to the Board or its designee, along with the trust account records reviewed by the CPA firm for the quarter, including, without limitation, the journal, bank statements, monthly account reconciliations and monthly trial balances according to the following schedule:

Date of Trust Account Records	Due Date for Accountant's Summary to Applicant	Deadline for Applicant to Submit Summary and Records to the Board
Month 1 – Month 3	Last Day of Month 4	7 th day of Month 5
Month 4 – Month 6	Last Day of Month 7	7 th day of Month 8
Month 7 – Month 9	Last Day of Month 10	7 th day of Month 11
Month 10 – Month 12	Last Day of Month 13	7 th day of Month 14

- 5. The Board or its designee shall review Applicant's trust account records and the Accountant Summaries provided pursuant to paragraph four (4) above. If Applicant's trust account records are not in compliance with all legal requirements, Applicant's license may be **SUSPENDED**, without further notice or hearing, until Applicant has complied with the terms of the Order. The Board may, in addition and/or in the alternative, impose additional limitations or conditions, such as continuing education, requiring a mentor, or any other term as deemed necessary by the Board to ensure the Applicant is competent to transact the business of Real Estate in a manner that safeguards the interest of the public.
 - a. If the Applicant does not open and/or maintain one or more real estate trust account(s), Applicant shall send a statement attesting to this fact on a quarterly basis in lieu of the audit summary and related documentation.

Reporting Requirements

- 6. Applicant shall file with the Board quarterly reports beginning 90 days after Applicant commences employment, and shall include the following:
 - a. The name, address and telephone number of the Applicant, and name, address, and telephone number of her employer;
 - b. A statement from the Applicant as to whether she has had any law enforcement contacts leading to arrest, charge, or conviction (including DWI/OWI and municipal/ordinance violations) during the term of the Order;
 - c. A statement as to whether any disciplinary action has been taken against any credential held by the Applicant in Wisconsin or any other licensing jurisdiction;

- d. An attestation that Applicant is complying with the statutes and administrative code rules relating to real estate.
7. Applicant shall report to the Department Monitor any change of employment status, residence, address or telephone number within five (5) days of the date of a change.
8. Applicant shall arrange for written reports from her supervisor(s) to be provided to the Department Monitor on a quarterly basis, starting 90 days after Applicant begins employment. These reports shall assess Applicant's work performance and describe the circumstances of her employment, including the nature and extent of the Applicant's sales activities and whether she has practiced in compliance with all laws governing the practice of real estate sales.
9. 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.
10. 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 or other information required by this Order shall be mailed, faxed, or delivered to:

DEPARTMENT MONITOR
Department of Safety and Professional Services
Division of Legal Services & Compliance
1400 East Washington Ave., P.O. Box 7190
Madison, WI 53707-7190
Fax: (608) 266-2264
Telephone: (608) 267-3817
dspsmonitoring@wi.gov

Petitions for Modification

11. Applicant may petition the Board for termination of the audit requirements of paragraphs four (4) and five (5) above after completion of one (1) year of practice in compliance with all of the terms for the trust account audits. "Practice in compliance" includes the submission of the audit documentation, the content of which are satisfactory to the Board. Any such petition shall be accompanied by a written recommendation from the CPA Firm that performed the quarterly audits that includes, a certification that the trust account audits demonstrated that Applicant was in compliance with the statutes and rules. A denial of such a petition for modification shall not be deemed a denial of license under Wis. Stat. §§ 227.01(3), or 227.42, or Wis. Admin. Code ch. SPS 1, and shall not be subject to any right to further hearing or appeal. If the Applicant does not open and/or maintain any real estate trust account(s), the Applicant may petition the Board for termination of the audit requirements after one (1) year of submission of attestations as specified in paragraph 5.a.
12. The remaining terms of this Order shall be in effect for at least two (2) years, unless, after one (1) year, the Applicant petitions the Board for modification or termination of the remaining terms of the Order, and the Board finds that Applicant's one (1) year of practice in

compliance with all terms and conditions of this Order has adequately demonstrated Applicant's ability to practice real estate in a manner that safeguards the interests of the public. "Practice in compliance" includes the submission of work reports, the content of which are satisfactory to the Board. Any such petition must include her history of employment from the effective date of this Order that states the dates and names of any employer, and the total hours of active Real Estate 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. A denial of such a petition for modification shall not be deemed a denial of license under Wis. Stat. §§ 227.01(3), or 227.42, or Wis. Admin. Code ch. SPS 1, and shall not be subject to any right to further hearing or appeal.

Costs

13. Applicant shall be responsible for all costs and expenses associated with compliance with the terms of this Order.

Summary Suspension/Additional Discipline

14. In the event that Applicant violates any term of this Order, Applicant's license may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing, until Applicant has complied with the terms of the Order. The Board may, in addition and/or in the alternative, refer any violation of this Order to the Division of Legal Services and Compliance for further investigation and action.

Dated at Madison, Wisconsin this 8th day of November, 2016

Michael Mulleady
Michael Mulleady, Chairperson
Real Estate Examining Board

STATE OF WISCONSIN
BEFORE THE REAL ESTATE EXAMINING BOARD

IN THE MATTER OF APPLICATION FOR :
A REAL ESTATE BROKER LICENSE :

SHAWN NASH :
APPLICANT :

STIPULATION

0005014

It is hereby stipulated between the above-referenced Applicant and the State of Wisconsin Real Estate Examining Board (Board) as follows:

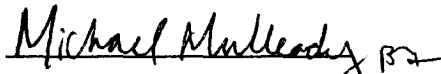
The Applicant has filed an application for a Real Estate Broker license. Information received by the Board reflects a basis for denial of the application for a credential. Based upon the information of record, the Board agrees to issue and the Applicant agrees to accept a Limited License as a Real Estate Broker subject to the terms and conditions set forth in the attached Order.

Dated this 3rd day of Nov, 2016


Shawn Nash, Applicant

STATE OF WISCONSIN
REAL ESTATE EXAMINING BOARD

Dated this 8th day of November, 2016

By: 
Michael Mulleady, Chairperson
Real Estate Examining Board