

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 RENEWAL
OF A REAL ESTATE SALESPERSON LICENSE

MARK DEILL
APPLICANT

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:
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:
:
:

ORDER GRANTING
LIMITED LICENSE

0005478

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

MARK DEILL
1630 DELAWARE BLVD.
MADISON, WI 53704

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

FINDINGS OF FACT

1. MARK DEILL (Applicant) has filed an application for renewal of his license (#59386-94) to practice as a Real Estate Salesperson in Wisconsin.
 - A. On or about February 16, 2004, Applicant was initially granted his Wisconsin Real Estate Salesperson license. Applicant's Salesperson license expired on or about December 31, 2004.
2. Information received in the application process reflects that the Applicant has the following violation and convictions:
 - A. On or about June 27, 1991 – Disorderly Conduct, a misdemeanor.
 - B. On or about October 29, 2007 – Disorderly Conduct, a misdemeanor.
 - C. On or about October 29, 2007 – Battery, a misdemeanor.
 - D. On or about October 29, 2007 – Battery, a misdemeanor.
 1. Applicant states he was celebrating the end of the teaching semester with coworkers when he became very intoxicated. The criminal complaint indicates Applicant approached a woman outside of the bar. The woman tried to tell the Applicant to leave her alone, so the Applicant punched her in the face. A witness saw the applicant hit the woman and attempted to intervene. The Applicant hit the individual who fell to the ground and lost consciousness. The Applicant pled guilty to one (1) count of Disorderly Conduct and two (2) counts of Battery. Applicant was

ordered to complete two (2) years of probation, pay a fine and pay restitution.

E. On or about January 19, 2011 – Criminal Damage to Property, a misdemeanor.

1. The Applicant states he was out at a bar with a friend, when he was unfairly ejected from a bar by the bouncer. Applicant states he reacted by throwing chair through the window and was arrested. Applicant paid for the cost of the window replacement and was ordered to pay a fine.

F. On or about March 9, 2015 – Operating While Intoxicated, an ordinance violation.

1. On May 2, 2014, Applicant states that he attended a retirement party, and after the party he made the regretful decision to drive home. Applicant was pulled over and failed the sobriety test. The police report indicates he had a BAC of .141. He was issued a citation and ordered to pay a fine. Applicant was released to a third party to be taken home.

G. On or about November 6, 2015 – Operating While Intoxicated 2nd Offense, a misdemeanor.

1. Also, on May 2, 2014, after being arrested for his OWI first offense, Applicant was released to a third party at 1:25 a.m. Applicant requested the third party stop at his vehicle as he wanted to retrieve some items. She parked her car and by the time she got back to the Applicant's car, Applicant had left in his vehicle. At approximately 1:45 a.m. the Applicant was pulled over again by another officer. The third party told the officer that she knew Applicant was in no condition to drive and she saw him driving erratically. Applicant was ordered to pay a fine, serve five (5) days in jail with huber release, his driver's license was revoked for 12 months, he was order to have an IID installed for an additional 12 months, and complete an AODA assessment. His assessment had the finding of alcohol dependency and recommended that he complete outpatient treatment.

3. Applicant has provided the Board with additional information which demonstrates that:

- A. Wisconsin Real Estate Broker, Anthony Haase (#54299-90), has invited Applicant to work as a Salesperson for his Real Estate Business Entity, Preferred Realty Group (937872-91). Mr. Haase is aware of Applicant's history of convictions and alcohol problems. Mr. Haase supports the approval of Applicant's renewal application, has expressed a willingness to comply with any limitations set by the Board, and agrees to carefully monitor Applicant's work and behavior to ensure the safety of the public.
- B. Applicant submitted a behavioral health and recovery AODA discharge summary dated October 6, 2015. The summary notes that Applicant completed all of his treatment plan goals, and he has developed a relapse prevention plan to help him move forward with sobriety. The prognosis given was "excellent."

- C. Applicant also submitted an AODA assessment dated September 5, 2017. Applicant reported that shortly after his OWI arrests, he was diagnosed with bladder cancer. Following the cancer diagnosis, Applicant reports discontinuing drinking completely. Applicant reports his last use of alcohol was in August 2014. The assessment diagnosed Applicant with Alcohol Use Disorder, Moderate, in sustained remission.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Examining Board has jurisdiction over this matter pursuant to Wis. Stat. §§ 452.05(1)(a) and 452.12(5), 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 violation and convictions referenced above substantially relate to the practice of a Real Estate Salesperson.
3. The Board has the right to deny the Applicant's application for renewal to protect the public health, safety, or welfare, pursuant to Wis. Stat. § 440.08(4).
4. Applicant, by his conduct, is subject to limitations against his license, pursuant to Wis. Stat. §§ 452.03, 452.14(3), and 440.08(4).
5. Limitations upon Applicant's license are necessary to ensure that he is competent to act in a manner which safeguards the interests of the public, pursuant to Wis. Stat. § 452.03.

ORDER

NOW, THEREFORE, IT IS ORDERED that

1. The attached Stipulation is accepted.
2. The Board RESCINDS the Corrected Notice of Denial dated June 1, 2017.
3. Applicant, MARK DEILL'S application to renew his REAL ESTATE SALESPERSON LICENSE (#59386-94) is GRANTED, subject to the following LIMITATIONS, TERMS, AND CONDITIONS:

Practice Limitations

4. Applicant shall, at all times, practice as a Real Estate Salesperson under the direct supervision of a Wisconsin licensed Real Estate Broker, who holds an unencumbered Broker's license, and is pre-approved by the Board.
 - a. The Board grants approval for Wisconsin Real Estate Broker, Anthony Haase (#54299-90) as the supervisory Broker for Applicant.
 - b. If the Applicant wishes to change supervising broker, approval shall be obtained through correspondence with the Department of Safety and Professional Services Monitor (Department Monitor).
 - c. The Board, in its discretion, may approve or deny a supervisor for reasons relating to the proposed Broker's practice, history of discipline, or other reasons which would render the broker an ineffective supervisor for Applicant.

5. Applicant shall notify his broker-employer of his history of arrests and convictions prior to employment. Applicant shall show a copy of this Order to his current and any future employer. Applicant shall provide the Department Monitor with written acknowledgement from each employer that a copy of this Order has been received. Such acknowledgement shall be provided to the Department Monitoring within fourteen (14) days of beginning new employment and/or within fourteen (14) days of the date of this Order for employment current as of the date of this Order.
6. 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 Monitor within 48 hours of any such event, including any conviction resulting from pending charges.

Reporting Requirements

7. Applicant shall file with the Board quarterly reports at the direction of the Department Monitor commencing ninety (90) days after Applicant commences any employment. Each report shall include the following:
 - a. The name, address and telephone number of Applicant, and name, address and telephone number of his employer;
 - b. A statement from the Applicant as to whether he 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. 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 his broker supervisor(s) to be provided to Department Monitor on a quarterly basis, at the direction of the Department Monitor commencing ninety (90) days after Applicant commences employment.
 - a. In addition to filling out the Monitoring Work Report Form, these reports shall assess:
 - i. Applicant's work performance,
 - ii. Describe the circumstances of Applicant's employment, including the nature and extent of the Applicant's sales activities,
 - iii. Discuss Applicant's credibility and reliability,
 - iv. Assess whether Applicant is competent to act in a manner which safeguards the interests of the public, and
 - v. Any other information requested by the Board.
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 department 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 of Limitations or Termination of Order

11. Applicant may petition the Board, on an annual basis, for modification or termination of the terms of this Order after completion of at least two (2) years of active practice of real estate under Applicant's salesperson license. Applicant's practice must be in compliance with all terms and conditions of this Order.
 - a. "Practice in compliance" includes the submission of work reports, the content of which are satisfactory to the Board.
12. Applicant's petition must include his history of employment from the effective date of this Order that states the dates and names of any employer, such employment in total equaling two (2) years 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.
13. 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

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

Suspension/Additional Discipline

15. In the event 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 20 day of October, 2017

By: Robert Webster Ek
Member of the Real Estate Examining Board

STATE OF WISCONSIN
BEFORE THE REAL ESTATE EXAMINING BOARD

IN THE MATTER OF APPLICATION FOR
RENEWAL OF A REAL ESTATE
SALESPERSON LICENSE

MARK DEILL
APPLICANT

STIPULATION

0005478

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 renewal of his Real Estate Salesperson license. Information received by the Board reflects a basis for denial of the application for renewal. Based upon the information of record, the Board agrees to issue and the Applicant agrees to accept an Order Granting a Limited License to practice as a Real Estate Salesperson subject to the terms and conditions set forth in the attached Order.

Dated this 20 day of October, 2017


Mark Deill, Applicant

STATE OF WISCONSIN
REAL ESTATE EXAMINING BOARD

Dated this 20 day of October, 2017

By: Robert Webster ex
Member of the Real Estate Examining Board