

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 :
REAL ESTATE BROKER CREDENTIAL : ORDER GRANTING
 : LIMITED LICENSE
JUSTIN A. HURD, :
APPLICANT. : **ORDER 0007322**

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

Justin A. Hurd
Waukesha WI 53189-9548

Real Estate Examining Board
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 resolution of this renewal application. The Real Estate Examining Board (Board) adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law, and Order.

FINDINGS OF FACT

1. On or about December 4, 2020, Justin Hurd (DOB xx-xx-1983) (Applicant) filed an application to renew his Wisconsin Real Estate Broker credential (#56558-90).
2. Information on file establishes that Applicant has the following convictions on his record:
 - A. On or about April 15, 2002 – Theft-Movable Property, a misdemeanor conviction.
 - B. On or about April 15, 2002 – Resisting or Obstructing an Officer, a misdemeanor conviction.
 - C. On or about November 2, 2002 – Operating While Intoxicated (OWI) 1st, an ordinance violation.
 - D. On or about September 14, 2014 – OWI 1st, an ordinance violation.
 - E. On or about February 8, 2021 – OWI 3rd [Modifiers: Alcohol Fine Enhancer].
 - i. Applicant indicates this arrest occurred after a networking event.

- ii. The police report indicates that an officer observed Applicant veer off into a ditch. Applicant admitted to drinking at a bar and having four to five (4-5) beers. Applicant failed the Standard Field Sobriety Test and blew a Preliminary Breath Test of .15. A blood test returned a Blood Alcohol Level of .213.
- iii. Applicant was ordered to pay a fine, costs, and complete an Alcohol and Other Drug Abuse (AODA) Assessment.
 1. On or about February 24, 2021, Applicant completed an AODA Assessment. The AODA Assessment found Alcohol Dependency.

3. In resolution of this matter, Applicant consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Real Estate Examining Board has jurisdiction over this matter pursuant to Wis. Stat. § 452.14(3) and is authorized to enter the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. Pursuant to Wis. Stat. § 440.08(4)(a), the Board may deny an application for renewal if it determines that the denial of an application for renewal of a credential is necessary to protect the public health, safety or welfare.

3. Pursuant to Wis. Stat. § 452.14(3)(p), the Board may limit the license of any licensee if it finds that the licensee has been convicted of an offense the circumstances of which substantially relate to real estate practice.

4. Pursuant to Wis. Stat. § 111.335(3)(a)1., it is not employment discrimination because of conviction record to refuse to license any individual if the individual has been convicted of any felony, misdemeanor, or other offense the circumstances of which substantially relate to the circumstances of the particular licensed activity.

5. The facts and circumstances of Applicant's conviction are substantially related to the practice of real estate. A substantial relationship occurs where "the tendencies and inclinations to behave a certain way in a particular context are likely to reappear later in a related context, based on the traits revealed." *County of Milwaukee v. Labor & Industry Review Comm 'n*, 139 Wis. 2d 805, 824 (1987). The crux of the inquiry is the circumstances which foster criminal activity, e.g., the opportunity for criminal behavior, the reaction to responsibility, or the character traits of the person. *Id.*

6. The facts and circumstances of Applicant's conviction record substantially relate to the practice of a Real Estate Broker. Applicant indicates his arrest for OWI 3rd occurred after a networking event. It is common practice for Real Estate Brokers to drive with clients in their vehicles while conducting their business.

7. Applicant's diagnosis of alcohol dependency and conviction history calls into question his fitness to practice real estate in a manner that is required to protect the public health, safety or welfare.

8. At this time, due to the recency of Applicant's alcohol-related conviction, Applicant has failed to show competent evidence of sufficient rehabilitation and fitness to practice as a Real Estate Broker without limitations.

9. Applicant, by his conduct, is subject to limitations against his credential, pursuant to Wis. Stat. §§ 440.08(4)(a), 452.14(3)(p), and 111.335(3)(a)1.

ORDER

1. The attached Stipulation is accepted.

2. Limitations upon Applicant's Real Estate Broker credential are necessary to ensure that he is fit and competent to safely practice as a Real Estate Broker.

3. Applicant's ability to practice as a Real Estate Broker is granted subject to the following LIMITATIONS:

A. For a period of at least two (2) years from the date of this Order:

- i. Applicant shall provide a copy of this Order to his current and any future employer. Applicant shall provide the Department of Safety and Professional Services Monitor (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 Monitor 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.
- ii. Applicant shall arrange for written reports from his broker-supervisor(s)/employer(s) to be provided to Department Monitor on a quarterly basis, as directed by Department Monitor. These reports shall assess Applicant's work performance and describe the circumstances of his employment, including the nature and extent of the Applicant's broker activities and whether he has practiced in compliance with all laws governing the practice of real estate as a broker.
- iii. Applicant shall abstain from all personal use of alcohol.
- iv. Applicant shall not drive current or prospective real estate clients in any motor vehicle that requires a Department of Transportation issued license.

- v. Applicant must have and maintain a valid driver's license when driving for purposes of conducting real estate business.
 - vi. Applicant shall report to the Board any change of employment status, residence, address or telephone number within five (5) days of the date of change.
 - vii. 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 forty-eight (48) hours of any such event, including any convictions resulting from pending charges.
- B. Applicant shall participate in and successfully complete the Waukesha County Alcohol Treatment Court program, or another Board-approved equivalent program for recovering professionals. Applicant shall provide proof of participation on a quarterly basis to the Department Monitor, as directed by the Department Monitor. Applicant shall also provide proof of successful completion within thirty (30) days of completion of the program.

4. Applicant may petition the Board on an annual basis for modification of the terms of this Order, however no such petition for modification shall occur earlier than one (1) year from the date of this Order. Denial of a petition in whole or in part shall not be considered a denial of a license within the meaning of Wis. Stat. § 227.01(3)(a), and Applicant shall not have a right to any further hearings or proceedings on the denial.

5. After two (2) consecutive years of successful compliance with this Order, Applicant may petition the Board for full, unrestricted license. The Board may grant or deny any petition, in its discretion, or may modify this Order as it sees fit.

6. Any requests, petitions, reports and other information required by this Order shall be mailed, e-mailed, faxed or delivered to:

Department Monitor
Division of Legal Services and Compliance
Department of Safety and Professional Services
P.O. Box 7190, Madison, WI 53707-7190
Telephone (608) 267-3817; Fax (608) 266-2264
DSPSMonitoring@wisconsin.gov

You may also submit this information online via DSPS' Monitoring Case management System at: <https://dspsmonitoring.wi.gov>

7. In the event Applicant violates any term of this Order, Applicant's license, or Applicant's right to renew his license, may, in the discretion of the Board or its designee, be

SUSPENDED, without further notice or hearing. The Board or its designee may terminate the suspension if provided with sufficient information that Applicant is in compliance with the Order and that it is appropriate for the suspension to be terminated. Whether to terminate the suspension shall be wholly in the discretion of the Board or its designee. 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.

8. Applicant shall be responsible for all costs and expenses incurred in conjunction with the monitoring, supervision, and any other expenses associated with compliance with the terms of this Order. Being dropped from a program for non-payment is a violation of this Order.

9. This Order is effective on the date of its signing.

REAL ESTATE EXAMINING BOARD

By: Thomas J. Rabin SEN
A Member of the Board

04/20/2021
Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE EXAMINING BOARD

IN THE MATTER OF APPLICATION FOR :
RENEWAL OF :
REAL ESTATE BROKER CREDENTIAL :

JUSTIN A. HURD, :
APPLICANT. :

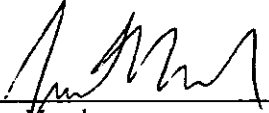
STIPULATION

ORDER 0007322

It is stipulated between Applicant and the Real Estate Examining Board (Board) as follows:

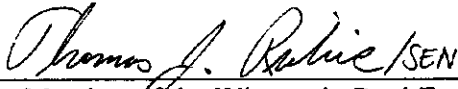
1. Applicant filed an application to renew a Real Estate Broker credential #56558-90.
2. Information received by the Board reflects a basis for denial of the renewal application.
3. Based upon the information of record, the Board agrees to issue, and Applicant agrees to accept, an Order granting renewal of a limited Real Estate Broker credential, subject to the terms and conditions set forth in the attached Order adopting the Stipulation.
4. Applicant understands that by signing this Stipulation, Applicant voluntarily and knowingly waives the following rights:
 - the right to request a hearing related to the denial of the application;
 - the right to confront and cross-examine the witnesses against Applicant;
 - the right to call witnesses on Applicant's behalf and to compel their attendance by subpoena;
 - the right to testify on Applicant's own behalf;
 - the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision;
 - the right to petition for rehearing; and
 - all other applicable rights afforded to Applicant under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.
5. Applicant is aware of Applicant's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation.
6. Applicant agrees to the adoption of the attached Order Granting Limited License by the Board. The parties to the Stipulation consent to the entry of the attached Order Granting Limited License without further notice, appearance, or consent of the parties.
7. Applicant waives all rights to any appeal of the Board's Order, as adopted in the form as attached.

8. Applicant is informed that the Order Granting Limited License is a public record and will be published in accordance with standard procedure.



Justin A. Murd
Waukesha WI 53189-9548
License No. 56558-90

4/12/21
Date



A Member of the Wisconsin Real Estate
Examining Board
Department of Safety and Professional Services
P.O. Box 8935
Madison, WI 53708-8935

04/20/2021
Date