

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE REAL ESTATE EXAMING BOARD

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

STEPHEN J. MCKENZIE, :
APPLICANT. :

ORDER GRANTING
LIMITED LICENSE

ORDER 0007651

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

Stephen J. McKenzie
Menomonee Falls, WI 53051

Wisconsin 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 Wisconsin 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 April 12, 2021, Stephen J. McKenzie (DOB xx-xx-1962) (Applicant) filed an application to renew his Wisconsin Real Estate Broker license (no. 33986-90).

2. Information received in the application process reflects that Applicant has the following convictions:

- A. On or about July 1, 2020 – Knowingly Violate a Domestic Abuse Order, a misdemeanor conviction.
 - i. Applicant was ordered to pay a fine, costs, forfeit his firearm and have no contact with the victim.
 - ii. Applicant was also ordered to complete a Mental Health evaluation and an Alcohol and Other Drug Abuse (AODA) Assessment.
- B. On or about February 4, 2021 – Knowingly Violate a Domestic Abuse Order, a misdemeanor conviction.

C. On or about February 4, 2021 – Violate No Contact Court Order, a misdemeanor conviction.

i. Applicant was ordered to pay a fine, costs and serve eighteen (18) months probation.

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. 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 to the extent they are indicative of Applicant's medical conditions.

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

ORDER

1. The attached Stipulation is accepted.

2. Limitations upon Applicant's Real Estate Broker credential are necessary to protect the public health, safety or welfare.

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 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 the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall describe the circumstances of his employment and assess Applicant's work performance, including the nature and extent of the Applicant's real estate activities and whether he has practiced in compliance with all laws governing the practice of real estate as a broker.
- iii. Applicant shall arrange for written reports from any and all of his mental health treaters to be provided to the Department Monitor on a quarterly basis, as directed by the Department Monitor. These reports shall describe his attendance at therapy appointments, medication management and overall fitness to practice.
- iv. 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.
- v. 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.

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 two (2) years 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 the 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://dpsmonitoring.wi.gov>

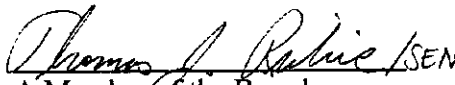
7. In the event Applicant violates any term of this Order, Applicant's license, or Applicant's right to renew his license, may, in the discretion of the Board or its designee, be SUSPENDED, without further notice or hearing. The Board or its designee may terminate the suspension if provided with sufficient 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, screening, 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.

WISCONSIN REAL ESTATE EXAMINING BOARD

By:


A Member of the Board

10/27/2021

Date

STATE OF WISCONSIN
BEFORE THE REAL ESTATE EXAMINING BOARD

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

STEPHEN J. MCKENZIE,
APPLICANT.

STIPULATION

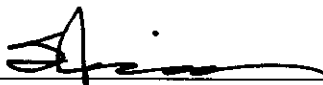
ORDER 0007651

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

1. Applicant filed an application to renew a Real Estate Broker license.
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 a renewal of the Real Estate Broker license, 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.

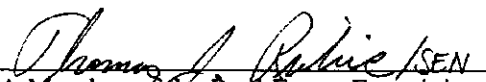
8. Applicant is informed that the Order Granting Limited License is a public record and will be published in accordance with standard procedure.



Stephen J. McKenzie
Menomonee Falls, WI 53051
License No. 33986-90

10/21/21

Date



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

10/27/2021

Date