

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 SALESPERSON CREDENTIAL :
:
BENJAMIN HAMMER, :
APPLICANT. :

ORDER GRANTING
LIMITED LICENSE

ORDER 0008647

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

Benjamin Hammer
Somerset, WI 54025

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 initial 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 March 7, 2023, Benjamin Hammer (DOB 08-18-1995) (Applicant) filed an application for a Real Estate Salesperson credential (#855514).
2. Information on file establishes that Applicant has the following conviction on his record:
 - A. On or about April 27, 2023 – Theft-Moveable Property <=\$2500, a misdemeanor conviction in Wisconsin.
 - i. Applicant removed weightlifting equipment from a gym without permission.
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. § 452.03(1) and is authorized to enter the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. Pursuant to Wis. Stat. § 452.03(1), the Board may grant a license only to a person who is competent to transact that business or occupation in a manner that safeguards the interests of the public, and only after satisfactory proof of the person's competence has been presented to the Board.
3. 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.
4. 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.*
5. The facts and circumstances of Applicant's conviction record substantially relate to the practice of a Real Estate Salesperson. The practice of real estate sales involves unsupervised access to private residences and property and presents the opportunity for theft.
6. Applicant's theft conviction calls into question his competency to practice real estate in a manner that safeguards the interests of the public.
7. At this time, due to the recency of Applicant's conviction, Applicant has failed to show competent evidence of sufficient rehabilitation and fitness to practice as a Real Estate Salesperson without limitations.
8. Applicant, by his conduct, is subject to limitations against his credential, pursuant to Wis. Stat. §§ 452.03(1) and 111.335(3)(a)1.

ORDER

1. The attached Stipulation is accepted.
2. Limitations upon Applicant's Real Estate Salesperson credential are necessary to ensure that he is competent to practice as a Real Estate Salesperson.
3. Applicant's ability to practice as a Real Estate Salesperson is granted subject to the following LIMITATIONS:
 - A. For a period of one (1) year from the date of this Order:
 - i. Applicant shall, at all times, practice as a Real Estate Salesperson under the supervision of a Wisconsin licensed Real Estate Broker pre-approved by the

Board. Pre-approval of any future real estate broker-supervisor shall be obtained through correspondence with the Department Monitor.

- ii. Applicant shall provide a copy of this Order to his current and any future pre-approved supervising Real Estate Broker. Applicant shall arrange for written reports from his pre-approved Real Estate Broker to be provided to the Department Monitor on a quarterly basis, as directed by the 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 real estate salesperson activities and whether he has practiced in compliance with all laws governing the practice of real estate sales.
 - iii. Applicant shall not be permitted unsupervised access to real property.
 - 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 violations of law pertaining to the practice of a Wisconsin licensed profession.
4. After one (1) year 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.
5. 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

This information may also be submitted online via DSPS' Monitoring Case Management System at: <https://dpsmonitoring.wi.gov>

6. 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.

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

WISCONSIN REAL ESTATE EXAMINING BOARD

By: *Liz Lauer* /SEN
A Member of the Board

07/13/2023

Date

RECEIVED

JUL 13 2023

DIV LEGAL SERVICES & COMPLIANCE
DEPT SAFETY & PROFESSIONAL SERVICES

STATE OF WISCONSIN
BEFORE THE REAL ESTATE EXAMINING BOARD

IN THE MATTER OF APPLICATION FOR A :
REAL ESTATE SALESPERSON CREDENTIAL :

BENJAMIN HAMMER,
APPLICANT. :


STIPULATION

ORDER 000847

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

1. Applicant filed an application for a Real Estate Salesperson credential #855514.
2. Information received by the Board reflects a basis for denial of the initial application.
3. Based upon the information of record, the Board agrees to issue, and Applicant agrees to accept, an Order granting a limited Real Estate Salesperson 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.


Benjamin Hammer
Somerset, WI 54025
Application No. 855514

June 6th, 2023

Date

Liz Lauer /SEN

07/13/2023

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

Date