

## WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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The status of an appeal may be found on court access websites at:

<http://ccap.courts.state.wi.us/InternetCourtAccess> and <http://www.courts.state.wi.us/wscca>

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STATE OF WISCONSIN  
BEFORE THE REAL ESTATE EXAMING BOARD

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IN THE MATTER OF APPLICATION FOR A	:	
REAL ESTATE SALESPERSON LICENSE	:	
	:	ORDER GRANTING
	:	LIMITED LICENSE
MATTHEW GARCIA,	:	
APPLICANT.	:	<b>ORDER 0008937</b>

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

Matthew Garcia  
Madison, WI 53704

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 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 June 30, 2023, Matthew Garcia DOB 03/30/91 (Applicant) filed an application (number IA-110055) for a Wisconsin Real Estate Salesperson License.
2. Information received in the application process reflects that Applicant has the following conviction:
  - A. On or about July 14, 2023 – OWI 2<sup>nd</sup>, a misdemeanor conviction.
3. Information received in the application process also reflects that Applicant was found to have suspected Alcohol Dependency.
4. 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), “[t]he 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. Applicant's conviction history calls into question his current competency to transact the business of real estate sales in a manner that protects the public.

6. The facts and circumstances of Applicant's conviction record substantially relate to the practice of a Real Estate Salesperson as it is common practice for Real Estate Salespersons to drive with clients in their vehicles while conducting their business.

7. At this time, 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 license, pursuant to Wis. Stat. §§ 111.335(3)(a)1. and 452.03(1).

#### ORDER

1. The attached Stipulation is accepted.

2. Limitations upon Applicant's Real Estate Salesperson credential are necessary to ensure that he is fit and competent to safely 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 at least 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 with whom he has had no personal or familial relationship and that is pre-approved by the Board. Pre-approval shall be obtained through correspondence with the Department of Safety and Professional Services Monitor (Department Monitor).
- 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 sales activities and whether he has practiced in compliance with all laws governing the practice of real estate as a salesperson.
- iii. Applicant shall not consume alcohol while conducting or engaged in the practice of real estate.
- 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.

4. After one (1) year 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. 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. Any requests, petitions, reports and other information required by this Order shall be mailed, e-mailed 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  
DSPSMonitoring@wisconsin.gov

You may also submit this information online via DSPS' Monitoring Case management System at: <https://dspsmonitoring.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. Applicant shall be responsible for all costs and expenses associated with compliance with the terms of this Order.

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

WISCONSIN REAL ESTATE EXAMINING BOARD

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

12/27/2023  
Date

STATE OF WISCONSIN  
BEFORE THE REAL ESTATE EXAMINING BOARD

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IN THE MATTER OF APPLICATION FOR A	:	
REAL ESTATE SALESPERSON LICENSE	:	
	:	
MATTHEW GARCIA,	:	STIPULATION
APPLICANT.	:	<b>ORDER 0008937</b>

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

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

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Matthew Garcia  
Madison, WI 53704  
Application no. IA-110055

*Liz Lauer* /SEN

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

\_\_\_\_\_  
Date

\_\_\_\_\_  
12/27/2023  
Date

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

  
Matthew Garcia  
Madison, WI 53704  
Application no: 1A-110055

12/21/23  
Date

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

Date