

1 Department of Real Estate  
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**FILED**

**FEB 13 2019**

DEPARTMENT OF REAL ESTATE  
By *K. Knapp*

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8  
9 BEFORE THE DEPARTMENT OF REAL ESTATE  
10 STATE OF CALIFORNIA

11 \* \* \*

11 In the Matter of the Application of )  
12 KENNETH XAVIER CROSBY )  
13 Respondent )  
14 )

No. H-12321 SF

STIPULATION AND WAIVER

15 It is hereby stipulated by and between, KENNETH XAVIER CROSBY, (“Respondent”),  
16 and the Complainant, acting by and through Kyle T. Jones, Counsel for the Department of Real  
17 Estate (“Department”), as follows for the purpose of settling and disposing of the Statement of  
18 Issues filed on November 1, 2018, in this matter:

19 Respondent acknowledges that Respondent has received and read the Statement of Issues  
20 and the Statement to Respondent filed by the Department in connection with Respondent’s  
21 application for an individual real estate salesperson license. Respondent understands that the Real  
22 Estate Commissioner (“Commissioner”) may hold a hearing on the Statement of Issues for the  
23 purpose of requiring further proof of Respondent’s honesty and truthfulness and to prove other  
24 allegations therein, or that the Commissioner may in his discretion waive the hearing and grant  
25 Respondent a restricted real estate salesperson license based upon this Stipulation and Waiver.

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1 Respondent also understands that by filing the Statement of Issues in this matter the  
2 Commissioner is shifting the burden to Respondent to make a satisfactory showing that Respondent  
3 meets all the requirements for issuance of a real estate salesperson license. Respondent further  
4 understands that by entering into this Stipulation and Waiver Respondent will be stipulating that the  
5 Commissioner has found that Respondent has failed to make such a showing, thereby justifying the  
6 denial of the issuance to Respondent of a real estate salesperson license.

7 Respondent hereby admits that the allegations of the Statement of Issues filed against  
8 Respondent are true and correct and requests that the Commissioner in his discretion issue a  
9 restricted real estate salesperson license to Respondent under the authority of Sections 10156.5 and  
10 10166.051 of the Business and Professions Code ("Code").

11 Respondent is aware that by signing this Stipulation and Waiver, Respondent is waiving  
12 Respondent's right to a hearing and the opportunity to present evidence at the hearing if this  
13 Stipulation and Waiver is accepted by the Commissioner. However, Respondent is not waiving  
14 Respondent's right to a hearing and to further proceedings to obtain a restricted or unrestricted real  
15 estate salesperson license if this Stipulation and Waiver is not accepted by the Commissioner.

16 Respondent agrees that by signing this Stipulation and Waiver, the conditions, limitations  
17 and restrictions imposed on Respondent's restricted real estate salesperson license, identified  
18 below, may be removed only by filing a Petition for Removal of Restrictions ("Petition") with the  
19 Commissioner, and that Respondent's Petition must follow the procedures set forth in Government  
20 Code Section 11522.

21 Respondent further understands that the restricted real estate salesperson license issued to  
22 Respondent shall be subject to all of the provisions of Section 10156.7 of the Code and to the  
23 following limitations, conditions and restrictions imposed under authority of Section 10156.6 of the  
24 Code:

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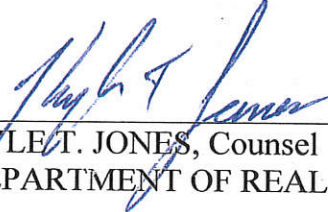
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- 1           1. The restricted real estate salesperson license shall not confer any property rights in the  
2           privileges to be exercised including the right to renewal, and the Commissioner may by  
3           appropriate order suspend the right to exercise any privileges granted under the  
4           restricted real estate salesperson license in the event of:
  - 5           a. Respondent's conviction (including a plea of nolo contendere) of a crime that  
6           bears a substantial relationship to Respondent's fitness or capacity to hold a real  
7           estate salesperson license; or
  - 8           b. The receipt of evidence that Respondent has violated provisions of the California  
9           Real Estate Law, the Subdivided Lands Law, Regulations of the Commissioner, or  
10          conditions attaching to the restricted real estate salesperson license.
- 11          2. Respondent shall not be eligible to petition for the issuance of an unrestricted real  
12          estate salesperson license nor the removal of any of the conditions, limitations or  
13          restrictions attaching to the restricted real estate salesperson license until two (2) years  
14          have elapsed from the date of issuance of the restricted real estate salesperson license  
15          to Respondent. Respondent shall not be eligible to apply for any unrestricted licenses  
16          until all restrictions attaching to the license have been removed.
- 17          3. With the application for a real estate salesperson license, Respondent shall submit a  
18          statement signed by the prospective employing broker on a form approved by the  
19          Department wherein the employing broker shall certify as follows:
  - 20          a. That the broker has read the Statement of Issues, which is the basis for the  
21          issuance of the restricted real estate salesperson license; and
  - 22          b. That the broker will carefully review all transaction documents prepared by the  
23          restricted real estate salesperson license holder and otherwise exercise close  
24          supervision over the restricted real estate salesperson license holder's performance  
25          of acts for which a real estate salesperson license is required.
- 26          4. Respondent shall notify the Commissioner in writing within 72 hours of any arrest by  
27          sending a certified letter to the Commissioner at the Department of Real Estate, Post

1 Office Box 137013, Sacramento, CA 95813-7013. The letter shall set forth the date of  
2 Respondent's arrest, the crime for which Respondent was arrested and the name and  
3 address of the arresting law enforcement agency. Respondent's failure to timely file  
4 written notice shall constitute an independent violation of the terms of the restricted real  
5 estate salesperson license and shall be grounds for the suspension or revocation of that  
6 real estate salesperson license.

7  
8 1/9/19  
9 DATED

  
KYLE T. JONES, Counsel  
DEPARTMENT OF REAL ESTATE

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11 Respondent has read this Stipulation and Waiver, and its terms are understood by  
12 Respondent and are agreeable and acceptable to Respondent. Respondent understands that  
13 Respondent is waiving rights given to Respondent by the Administrative Procedure Act (including  
14 but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and  
15 Respondent willingly, intelligently and voluntarily waives those rights, including the right of a  
16 hearing on the Statement of Issues at which Respondent would have the right to cross-examine  
17 witnesses against Respondent and to present evidence in defense and mitigation of the charges.

18  
19 12/21/18  
20 DATED

  
KENNETH XAVIER CROSBY  
Respondent

21 \* \* \*

22 I have read the Statement of Issues filed herein and the foregoing Stipulation and Waiver  
23 signed by Respondent. I am satisfied that the hearing for the purpose of requiring further proof as  
24 to the honesty and truthfulness of Respondent need not be called and that it will not be inimical to  
25 the public interest to issue a restricted real estate salesperson license to Respondent.

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