

1 Bureau of Real Estate  
2 P. O. Box 137007  
3 Sacramento, CA 95813-7007  
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**FILED**  
**JUL 30 2018**  
DEPARTMENT OF REAL ESTATE  
By B. Nicholas

9 **BUREAU OF REAL ESTATE**  
10 **STATE OF CALIFORNIA**

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12 *In the Matter of the Application of*

13 RUSTY MICHAEL OPZENTKOSKI,

14 Respondent.

H-3164 FR

**STIPULATION AND WAIVER**  
(Per Business and Professions Code § 10100.4)

15 It is hereby stipulated by and between RUSTY MICHAEL OPZENTKOSKI,  
16 (“Respondent”) acting by and through his counsel Paul Chan, and the Complainant, acting by and  
17 through Kyle T. Jones, counsel for the Bureau of Real Estate (“Bureau”), as follows for the purpose of  
18 settling and disposing of the Statement of Issues filed on March 15, 2018 in this matter:

19 Respondent acknowledges that Respondent has received and read the Statement of  
20 Issues and the Statement to Respondent filed by the Bureau in connection with Respondent’s  
21 application for a real estate salesperson license.

22 Respondent understands that the Real Estate Commissioner (“Commissioner”)  
23 may hold a hearing regarding the matters discussed above for the purpose of requiring further proof of  
24 Respondent’s honesty and truthfulness and to prove other allegations therein, or that the Commissioner  
25 may waive the hearing and grant Respondent a restricted real estate salesperson license based upon this  
26 Stipulation and Waiver. Respondent also understands that by entering into this Stipulation and  
27 Waiver, Respondent will be stipulating that the Commissioner has found that Respondent has failed to  
make a showing that Respondent meets all the requirements for issuance of a real estate salesperson

1 license thereby justifying the denial of the issuance to him of an unrestricted real estate salesperson  
2 license.

3 Respondent hereby admits the allegations of the Statement of Issues filed against  
4 Respondent are true and correct and requests that the Commissioner issue a restricted real estate  
5 salesperson license to Respondent under the authority of Section 10100.4 and 10156.5 of the Code.  
6 Respondent understands that any such restricted license will be issued subject to the provisions of and  
7 limitations of sections 10156.6 and 10156.7 of the Code.

8 Respondent is aware that by signing this Stipulation and Waiver, and if this Stipulation  
9 and Waiver is accepted by the Commissioner, Respondent is waiving his right to a hearing and the  
10 opportunity to present evidence at the hearing to establish his rehabilitation in order to obtain an  
11 unrestricted real estate salesperson license. Respondent is not waiving his right to a hearing and to  
12 further proceedings to obtain a restricted or unrestricted license if this Stipulation and Waiver is not  
13 accepted by the Commissioner.

14 Respondent agrees that by signing this Stipulation and Waiver, the conditions,  
15 limitations, and restrictions imposed on Respondent's restricted license, identified below, may be  
16 removed only by filing a Petition for Removal of Restrictions ("petition") with the Commissioner, and  
17 that Respondent's petition must follow the procedures set forth in Government Code Section 11522.  
18 Respondent understands that this Stipulation and Waiver, which was executed pursuant to  
19 the authority under Section 10100.4 and 10156.5 of the Code, is considered discipline by the Bureau.

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

23 1. The license shall not confer any property right in the privileges to be exercised  
24 and the Commissioner may by appropriate order suspend the right to exercise any privileges granted  
25 under this restricted license in the event of:

1                    a. Respondent's conviction (including a plea of nolo contendere) of a  
2 crime which bears a substantial relationship to Respondent's fitness or capacity as a real estate  
3 licensee; or

4                    b. The receipt of evidence that Respondent has violated provisions of the  
5 California Real Estate Law, the Subdivided Lands Law, Regulations of the Commissioner, or  
6 conditions attaching to this restricted license.

7                    2. Respondent shall not be eligible to petition for the issuance of an unrestricted  
8 real estate license nor the removal of any of the conditions, limitations, or restrictions attaching to the  
9 restricted real estate license until two (2) years have elapsed from the date of issuance of the restricted  
10 real estate license to Respondent. Respondent shall not be eligible to apply for any unrestricted licenses  
11 until all restrictions attaching to the license have been removed.

12                    3. With the application for license, or with the application for transfer to a new  
13 employing broker, Respondent shall submit a statement signed by the prospective employing broker on  
14 a form approved by the Bureau wherein the employing broker shall certify as follows:

15                    a. That broker has read the Stipulation and Waiver which is the basis for the  
16 issuance of the restricted license; and

17                    b. That broker will carefully review all transaction documents prepared by the  
18 restricted licensee and otherwise exercise close supervision over the licensee's performance of acts for  
19 which a license is required.

20                    4. Respondent shall notify the Commissioner in writing within 72 hours of any  
21 arrest by sending a certified letter to the Commissioner at the Bureau of Real Estate, Post Office Box  
22 187000, Sacramento, CA 95818-7000. The letter shall set forth the date of Respondent's arrest, the  
23 crime for which Respondent was arrested and the name and address of the arresting law enforcement  
24 agency. Respondent's failure to timely file written notice shall constitute an independent violation of  
25 the terms of the restricted license and shall be grounds for the suspension or revocation of that license.

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6/26/18  
Dated

  
KYLE JONES, Counsel  
Bureau of Real Estate

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Respondent has read the Stipulation and Waiver and its terms are understood by Respondent and agreeable and acceptable to Respondent. Respondent understands that Respondent is waiving rights given to Respondent by the California Administrative Procedure Act (including, but not limited to, California Government Code Sections 11504, 11506, 11508, 11509, and 11513), and willingly, intelligently, and voluntarily waives those rights, including, but not limited to, the right to a hearing on a Statement of Issues at which he would have the right to cross-examine witnesses against Respondent and to present evidence in defense and mitigation of the charges.

6/18/18  
Dated

  
RUSTY MICHAEL OPZENTKOSKI  
Respondent

*I have reviewed this Stipulation and Waiver as to form and content and have advised my client accordingly.*

6/18/18  
Dated

  
PAUL CHAN  
Attorney for Respondent

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

Therefore, IT IS HEREBY ORDERED that a restricted real estate salesperson license be issued to Respondent RUSTY MICHAEL OPZENTKOSKI, if Respondent has otherwise fulfilled

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all of the statutory requirements for licensure. The restricted license shall be limited, conditioned, and restricted as specified in the foregoing Stipulation and Waiver.

This Order is effective immediately.

IT IS SO ORDERED July 27, 2018 .

DANIEL J. SANDRI  
ACTING REAL ESTATE COMMISSIONER

*Daniel J. Sandri*