

1 Department of Real Estate
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FILED

OCT 28 2019

DEPARTMENT OF REAL ESTATE
By B. Nicholas

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

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12 *In the Matter of the Application of*

13 THEODORE ALBERS,

14 Respondent.

H-3268 FR

STIPULATION AND WAIVER

(Per Business and Professions Code § 10100.4)

15 THEODORE ALBERS, ("Respondent") does hereby affirm that on June 14, 2018,
16 he applied to the Department of Real Estate ("Department") for a real estate salesperson license and
17 that to the best of his knowledge he satisfied all of the statutory requirements for the issuance of the
18 license, including the payment of the fee therefore.

19 **GROUND FOR DENIAL**

20 Respondent's criminal convictions constitute grounds under Sections 480(a) and 10177(b)
21 of the Code for the denial of Respondent's application for an unrestricted real estate license.

22 **FACTUAL BASIS**

23 On or about January 14, 2014, in the Superior Court of the State of California, County of
24 Tulare, Case No. VCM291201, Respondent was convicted of violating Section 23152(b) (driving
25 under the influence over .08%) of the California Vehicle Code, a misdemeanor.

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1 On or about March 13, 2012, in the Superior Court of the State of California, County of
2 Tulare, Case No. TCM263250, Respondent was convicted of violating Sections 23152(b) (driving
3 under the influence over .08%) and 20002(a) (hit and run) of the California Vehicle Code, both
4 misdemeanors.

5
6 TERMS AND CONDITIONS

7 Respondent understands that the Real Estate Commissioner ("Commissioner") may
8 hold a hearing regarding the matters discussed above for the purpose of requiring further proof of
9 Respondent's honesty and truthfulness and to prove other allegations therein, or that the
10 Commissioner may waive the hearing and grant Respondent a restricted real estate salesperson
11 license based upon this Stipulation and Waiver. Respondent also understands that by entering into
12 this Stipulation and Waiver, Respondent will be stipulating that the Commissioner has found that
13 Respondent has failed to make a showing that Respondent meets all the requirements for issuance
14 of a real estate salesperson license thereby justifying the denial of the issuance to his of an
15 unrestricted real estate salesperson license.

16 Respondent hereby admits the above Factual Basis is true and correct and requests
17 that the Commissioner issue a restricted real estate salesperson license to Respondent under the
18 authority of section 10100.4 and 10156.5 of the Code. I understand that any such restricted license
19 will be issued subject to the provisions of and limitations of sections 10156.6 and 10156.7 of the
20 Code.

21 Respondent is aware that by signing this Stipulation and Waiver, and if this
22 Stipulation and Waiver is accepted by the Commissioner, Respondent is waiving her right to a
23 hearing and the opportunity to present evidence at the hearing to establish his rehabilitation in order
24 to obtain an unrestricted real estate salesperson license. Respondent is not waiving his right to a
25 hearing and to further proceedings to obtain a restricted or unrestricted license if this Stipulation
26 and Waiver is not accepted by the Commissioner.

1 Respondent agrees that by signing this Stipulation and Waiver, the conditions,
2 limitations, and restrictions imposed on Respondent's restricted license, identified below, may be
3 removed only by filing a Petition for Removal of Restrictions ("petition") with the Commissioner,
4 and that Respondent's petition must follow the procedures set forth in Government Code Section
5 11522. Respondent understands that this Stipulation and Waiver, which was executed pursuant to
6 the authority under section 10100.4 and 10156.5 of the Code, is considered discipline by the
7 Department.

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

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

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

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

20 2. Respondent shall not be eligible to petition for the issuance of an unrestricted
21 real estate license nor the removal of any of the conditions, limitations, or restrictions attaching to
22 the restricted real estate license until four (4) years have elapsed from the date of issuance of the
23 restricted real estate license to Respondent. Respondent shall not be eligible to apply for any
24 unrestricted licenses until all restrictions attaching to the license have been removed.

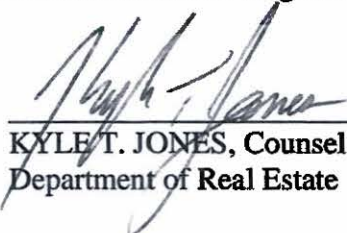
25 3. With the application for license, or with the application for transfer to a new
26 employing broker, Respondent shall submit a statement signed by the prospective employing broker
27 on a form approved by the Department wherein the employing broker shall certify as follows:

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

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

6 4. Respondent shall notify the Commissioner in writing within 72 hours of any
7 arrest by sending a certified letter to the Commissioner at the Department of Real Estate, Post
8 Office Box 137007, Sacramento, CA 95813-7007. The letter shall set forth the date of
9 Respondent's arrest, the crime for which Respondent was arrested and the name and address of the
10 arresting law enforcement agency. Respondent's failure to timely file written notice shall constitute
11 an independent violation of the terms of the restricted license and shall be grounds for the
12 suspension or revocation of that license.

13 9/30/2019
14 Dated


KYLE T. JONES, Counsel
Department of Real Estate

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

23 9-19-19
24 Dated


THEODORE ALBERS, Respondent

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26 I have read the foregoing Stipulation and Waiver signed by Respondent. I am
27 satisfied that the hearing for the purpose of requiring further proof as to the honesty and

1 truthfulness of Respondent need not be called and that it will not be inimical to the public interest
2 to issue a restricted real estate salesperson license to Respondent.

3 Therefore, IT IS HEREBY ORDERED that a restricted real estate salesperson
4 license be issued to Respondent, THEODORE ALBERS, if Respondent has otherwise fulfilled all
5 of the statutory requirements for licensure. The restricted license shall be limited, conditioned, and
6 restricted as specified in the foregoing Stipulation and Waiver.

7 This Order is effective immediately.

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9 IT IS SO ORDERED October 21, 2019.

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11 DANIEL J. SANDRI
12 ACTING REAL ESTATE COMMISSIONER

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