


FILED

June 24, 2014

Bureau of Real Estate
P. O. Box 137007
Sacramento, CA 95813-7007

BUREAU OF REAL ESTATE

Telephone: (916) 263-8670

By 

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of

NO. H-6144 SAC

RICHARD JAY NJIRICH,

STIPULATION AND WAIVER

Business and Professions
Code Section 10100.4

Respondent.

RICHARD JAY NJIRICH ("Respondent") does hereby affirm that on May 28, 2013, he applied to the Bureau of Real Estate ("Bureau") for a real estate salesperson license and that to the best of his knowledge he satisfied all of the statutory requirements for the issuance of the license, including the payment of the fee therefore.

FACTUAL BASIS

A.

On or about August 16, 2007, in the Superior Court of the State of California, County of Tuolumne, Case Number CRM24842, Respondent was convicted of violating Section 23152(a) of the California Vehicle Code (driving under the influence), a misdemeanor which bears a substantial relationship under Section 2910, Title 10, of the California Code of Regulations ("Regulations") to the qualifications, functions or duties of a real estate licensee.

1 B.

2 On or about May 28, 2013, Respondent applied to the Bureau for a real estate
3 salesperson license. In response to Part D, Question 1 of said application, to wit: "HAVE YOU
4 EVER BEEN CONVICTED OF ANY VIOLATION OF THE LAW? ALL STATE AND FEDERAL
5 MISDEMEANOR AND FELONY CONVICTIONS, AND ALL MILITARY AND FOREIGN
6 CONVICTIONS, MUST BE DISCLOSED. CONVICTIONS EXPUNGED UNDER PENAL CODE
7 SECTION 1203.4 OR A SIMILAR STATUTE MUST STILL BE DISCLOSED," Respondent
8 concealed and failed to disclose the conviction described at Paragraph A, above, an act which bears a
9 substantial relationship under the Regulations to the qualifications, functions, or duties of a real
10 estate licensee.

11 GROUND FOR DENIAL

12 Respondent's criminal conviction as described at Paragraph A, above,
13 constitutes grounds under Sections 480(a)(1) and 10177(b) of the California Business and
14 Professions Code ("Code") for the denial of Respondent's application for an unrestricted real
15 estate license.

16 Respondent's failure to disclose the criminal conviction as described at
17 Paragraph A, above, constitutes grounds under Sections 10177(a), 480(a)(2), and 480(a)(3) of
18 the Code for the denial of Respondent's application for an unrestricted real estate license.

19 TERMS AND CONDITIONS

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

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

3 Respondent hereby admits the above Factual Basis is true and correct and
4 requests that the Commissioner issue a restricted real estate salesperson license to Respondent
5 under the authority of Sections 10100.4 and 10156.5 of the Code. Respondent understands that
6 any such restricted license will be issued subject to the provisions of and limitations of Sections
7 10156.6 and 10156.7 of the Code.

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

14 Respondent understands that this Stipulation and Waiver, which was executed
15 pursuant to the authority under Section 10100.4 and 10156.5 of the Code, is considered
16 discipline by the Bureau.

17 Respondent further understand that the following conditions, limitations and
18 restrictions will attach to a restricted real estate license issued by the Bureau pursuant hereto:

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

22 a. Respondent's conviction (including a plea of *nolo contendere*) of
23 a crime which bears a substantial relationship to Respondent's fitness or capacity as a real
24 estate licensee; or,

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

1 2. Respondent shall not be eligible to apply for the issuance of an
2 unrestricted real estate license nor the removal of any of the conditions, limitations or
3 restrictions attaching to the restricted real estate license until two years have elapsed from the
4 date of issuance of the restricted real estate license to Respondent.

5 3. Respondent shall notify the Commissioner in writing within 72 hours of
6 any arrest by sending a certified letter to the Commissioner at the Bureau of Real Estate, Post
7 Office Box 137007, Sacramento, CA 95813-7007. The letter shall set forth the date of
8 Respondent's arrest, the crime for which Respondent was arrested and the name and address of
9 the arresting law enforcement agency. Respondent's failure to timely file written notice shall
10 constitute an independent violation of the terms of the restricted license and shall be grounds
11 for the suspension or revocation of that license. With the application for license, or with the
12 application for transfer to a new employing broker, Respondent shall submit a statement signed
13 by the prospective employing broker on a form approved by the Bureau of Real Estate wherein
14 the employing broker shall certify as follows:

15 a. That broker has read the Statement of Issues 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
18 the restricted licensee and otherwise exercise close supervision over the licensee's performance
19 of acts for which a license is required.

20 Respondent has read the Stipulation and Waiver and its terms are understood by
21 Respondent and are agreeable and acceptable to Respondent. Respondent understands that
22 Respondent is waiving rights given to Respondent by the California Administrative Procedure
23 Act (including, but not limited to, California Government Code Sections 11504, 11506, 11508,
24 11509, and 11513), and willingly, intelligently, and voluntarily waives those rights, including,
25 but not limited to, the right to a hearing on a Statement of Issues at which she would have the
26 right to cross-examine witnesses against Respondent and to present evidence in defense and
27 mitigation of the charges.

Respondent may signify acceptance and approval of the terms and conditions of this Stipulation and Waiver by faxing a copy of the signature page, as actually signed by Respondent, to the Bureau at fax number (916) 263-3767. Respondent agrees, acknowledges and understands that by electronically sending to the Bureau a fax copy of Respondent's actual signature as it appears on the Stipulation and Waiver, that receipt of the faxed copy by the Bureau shall be as binding on Respondent as if the Bureau had received the original signed Stipulation and Waiver.

6/2/14
Dated


RICHARD JAY NJIRICH, 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 RICHARD JAY NJIRICH if Respondent has otherwise fulfilled 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 JUN 23 2014

REAL ESTATE COMMISSIONER


By: Jeffrey Mason
Chief Deputy Commissioner