

1 Bureau of Real Estate
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FILED

APR 03 2018

BUREAU OF REAL ESTATE

By B. Nicholas

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

11 * * *

12 *In the Matter of the Application of*

13 STEVEN JOHN MCKIRGAN,

14 Respondent.

H-6621 SAC

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

17 STEVEN JOHN MCKIRGAN, ("Respondent") does hereby affirm that on February
18 2, 2017, he applied to the Bureau of Real Estate ("Bureau") for a real estate salesperson license and
19 that to the best of his knowledge he satisfied all of the statutory requirements for the issuance of the
20 license, including the payment of the fee therefore.

21 **FACTUAL BASIS**

22 On or about December 9, 2014, through a default decision based on Respondent's
23 failure to comply with a citation, Respondent's Class B General Contractor's was revoked by the
24 California Contractors State License Board ("CSLB"). The citation included a \$1,700 civil penalty
25 and \$3,240 in restitution to the complaining consumer.

26 On or about September 15, 1998, in the Superior Court of the State of California,
27 County of Sacramento, Case No. 98M03786, Respondent was convicted of violating Section 242
(battery) of the California Penal Code, a misdemeanor. Respondent failed to disclose this conviction
on his application for a real estate license.

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1 Respondent is aware that by signing this Stipulation and Waiver, and if this
2 Stipulation and Waiver is accepted by the Commissioner, Respondent is waiving his right to a
3 hearing and the opportunity to present evidence at the hearing to establish his rehabilitation in order
4 to obtain an unrestricted real estate salesperson license. Respondent is not waiving his right to a
5 hearing and to further proceedings to obtain a restricted or unrestricted license if this Stipulation and
6 Waiver is not accepted by the Commissioner.

7 Respondent agrees that by signing this Stipulation and Waiver, the conditions,
8 limitations, and restrictions imposed on Respondent's restricted license, identified below, may be
9 removed only by filing a Petition for Removal of Restrictions ("petition") with the Commissioner,
10 and that Respondent's petition must follow the procedures set forth in Government Code Section
11 11522. Respondent understands that this Stipulation and Waiver, which was executed pursuant to
12 the authority under section 10100.4 and 10156.5 of the Code, is considered discipline by the
13 Bureau.

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

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

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

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

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

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

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

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

14 4. Respondent shall notify the Commissioner in writing within 72 hours of any
15 arrest by sending a certified letter to the Commissioner at the Bureau of Real Estate, Post Office Box
16 187000, Sacramento, CA 95818-7000. The letter shall set forth the date of Respondent's arrest, the
17 crime for which Respondent was arrested and the name and address of the arresting law enforcement
18 agency. Respondent's failure to timely file written notice shall constitute an independent violation of
19 the terms of the restricted license and shall be grounds for the suspension or revocation of that
20 license.

21 5. Within ninety (90) days of the effective date of this Order, Respondent shall
22 provide evidence to the Bureau that Respondent has paid the \$1,700 citation imposed by the CSLB
23 and the \$3,240 in restitution owed to the complaining consumer. Respondent's failure to pay the
24 citation and restitution shall constitute an independent violation of the terms of the restricted license
25 and shall be grounds for the immediate suspension or revocation of that license.

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Dated

3/2/2018


Kyle Jones, Counsel
Bureau of Real Estate

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.

Dated

2/27/2018


STEVEN JOHN MCKIRGAN, 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 STEVEN JOHN MCKIRGAN, 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 March 29, 2018

WAYNE S. BELL
REAL ESTATE COMMISSIONER


By: DANIEL J. SANDRI
Chief Deputy Commissioner