

1 Bureau of Real Estate
1651 Exposition Blvd, P.O. Box 137007
2 Sacramento, CA 95813-7007

3 Telephone: (916) 263-8672

FILED

MAR 27 2018

BUREAU OF REAL ESTATE

By B. Nicholas

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

10 * * *

11 In the Matter of the Application of

12 MARK ALAN GILKEY,

13 Respondent.
14

CalBRE No. H-6645 SAC

STIPULATION AND WAIVER

15 It is hereby stipulated by and between MARK ALAN GILKEY ("Respondent") and the
16 Complainant, acting by and through John Barron, Counsel for the Bureau of Real Estate
17 ("Bureau"), as follows for the purpose of settling and disposing of the Statement of Issues filed on
18 February 06, 2018 in this matter:

19 Respondent acknowledges that Respondent has received and read the Statement of Issues and
20 the Statement to Respondent filed by the Bureau in connection with Respondent's application for a
21 real estate salesperson license. Respondent understands that the Real Estate Commissioner
22 ("Commissioner") may hold a hearing on this Statement of Issues for the purpose of requiring
23 further proof of Respondent's honesty and truthfulness and to prove other allegations therein, or
24 that he may in his discretion waive the hearing and grant Respondent a restricted real estate
25 salesperson license based upon this Stipulation and Waiver. Respondent also understands that by
26 filing the Statement of Issues in this matter the Commissioner is shifting the burden to Respondent
27 to make a satisfactory showing that Respondent meets all the requirements for issuance of a real

1 estate salesperson license. Respondent further understands that by entering into this Stipulation and
2 Waiver, Respondent will be stipulating that the Commissioner has found that Respondent has failed
3 to make such a showing, thereby justifying the denial of the issuance to Respondent of an
4 unrestricted real estate salesperson license.

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

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

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

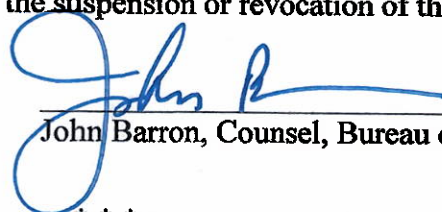
19 Respondent further understands that the restricted license issued to Respondent shall be
20 subject to all of the provisions of Section 10156.7 of the Code and to the following limitations,
21 conditions and restrictions imposed under authority of Section 10156.6 of the Code:

- 22 1. The restricted license shall not confer any property right in the privileges to be exercised
23 including the right of renewal, and the Commissioner may by appropriate order suspend
24 the right to exercise any privileges granted under the restricted license in the event of:
 - 25 a. Respondent's conviction (including a plea of nolo contendere) of a crime which
26 bears a substantial relationship to Respondent's fitness or capacity as a real estate
27 licensee; or

- 1 b. The receipt of evidence that Respondent has violated provisions of the California
2 Real Estate Law, the Subdivided Lands Law, Regulations of the Commissioner, or
3 conditions attaching to the restricted license.
- 4 2. Respondent shall not be eligible to petition for the issuance of an unrestricted real estate
5 license nor the removal of any of the conditions, limitations, or restrictions attaching to
6 the restricted license until four (4) years have elapsed from the date of issuance of the
7 restricted license to Respondent. Respondent shall not be eligible to apply for any
8 unrestricted licenses until all restrictions attaching to the license have been removed.
- 9 3. With the application for license, or with the application for transfer to a new employing
10 broker, Respondent shall submit a statement signed by the prospective employing broker
11 on a form approved by the Bureau wherein the employing broker shall certify as follows:
- 12 a. That the broker has read the Statement of Issues which is the basis for the issuance
13 of the restricted license; and
- 14 b. That the broker will carefully review all transaction documents prepared by the
15 restricted licensee and otherwise exercise close supervision over the licensee's
16 performance of acts for which a license is required.
- 17 4. Respondent shall notify the Commissioner in writing within 72 hours of any arrest by
18 sending a certified letter to the Commissioner at the Bureau of Real Estate, Post Office
19 Box 137013, Sacramento, CA 95813-7013. The letter shall set forth the date of
20 Respondent's arrest, the crime for which Respondent was arrested and the name and
21 address of the arresting law enforcement agency. Respondent's failure to timely file
22 written notice shall constitute an independent violation of the terms of the restricted
23 license and shall be grounds for the suspension or revocation of that license.

24 3/1/18

25 Dated

26 

27 John Barron, Counsel, Bureau of Real Estate

1 Respondent has read this Stipulation and Waiver, has discussed it with Respondent's counsel,
2 and its terms are understood by Respondent and are agreeable and acceptable to Respondent.
3 Respondent understands that Respondent is waiving rights given to Respondent by the California
4 Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509, and
5 11513 of the Government Code), and Respondent willingly, intelligently, and voluntarily waives
6 those rights, including the right of a hearing on the Statement of Issues at which Respondent would
7 have the right to cross-examine witnesses against Respondent and to present evidence in defense
8 and mitigation of the charges.

9 Respondent shall send a hard copy of the original signed Stipulation and Waiver to: John
10 Barron, Bureau of Real Estate, 1651 Exposition, Blvd., Sacramento, CA, 95815.

11 In the event of time constraints before an administrative hearing, Respondent can signify
12 acceptance and approval of the terms and conditions of this Stipulation and Waiver by emailing a
13 scanned copy of the signature page, as actually signed by Respondent, to the Bureau counsel
14 assigned to this case. Respondent agrees, acknowledges and understands that by electronically
15 sending the Bureau a scan of Respondent's actual signature as it appears on the Stipulation and
16 Waiver, that receipt of the scan by the Bureau shall be binding on Respondent as if the Bureau had
17 received the original signed Stipulation and Waiver.

18
19 02/23/2018

20 Dated

21 
22 MARK ALAN GILKEY, Respondent

23 * * *

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

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

5 This Order is effective immediately.

6 IT IS SO ORDERED *March 26, 2018* .

7 WAYNE S BELL
8 REAL ESTATE COMMISSIONER

9 By: *Daniel J. Sandri*
10 DANIEL J. SANDRI
11 Chief Deputy Commissioner