

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

3 Telephone: (916) 263-8672

**FILED**

DEC 06 2018

DEPARTMENT OF REAL ESTATE

By K. Krapp

8 DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

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11 In the Matter of the Application of )  
12 JOSEPH LYNN GOURLEY, II, ) DRE No. H-6689 SAC  
13 )  
14 Respondent. ) STIPULATION AND WAIVER

15 It is hereby stipulated by and between JOSEPH LYNN GOURLEY, II ("Respondent") and  
16 Respondent's attorney, EDGARDO GONZALEZ, and the Complainant, acting by and through  
17 Kyle Jones, Counsel for the Department of Real Estate ("Department"), as follows for the purpose  
18 of settling and disposing of the Statement of Issues filed on May 25, 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 Department in connection with Respondent's application  
21 for a 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  
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1 to make a satisfactory showing that Respondent meets all the requirements for issuance of a real  
2 estate salesperson license. Respondent further understands that by entering into this Stipulation and  
3 Waiver, Respondent will be stipulating that the Commissioner has found that Respondent has failed  
4 to make such a showing, thereby justifying the denial of the issuance to Respondent of an  
5 unrestricted real estate salesperson license.

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

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

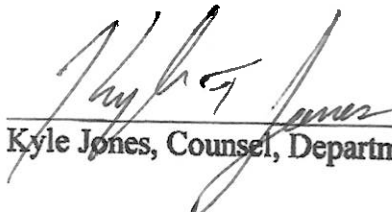
16 Respondent agrees that by signing this Stipulation and Waiver, the conditions, limitations, and  
17 restrictions imposed on Respondent's restricted license, identified below, may be removed only by  
18 filing a Petition for Removal of Restrictions ("Petition") with the Commissioner, and that  
19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

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 authority of Section 10156.6 of the Code:

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

11/2/18  
Dated

  
Kyle Jones, Counsel, Department of Real Estate

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Respondent has read this Stipulation and Waiver, has discussed it with Respondent's counsel, and its terms are understood by Respondent and are 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 Sections 11506, 11508, 11509, and 11513 of the Government Code), and Respondent willingly, intelligently, and voluntarily waives those rights, including the right of a hearing on the Statement of Issues at which Respondent would have the right to cross-examine witnesses against Respondent and to present evidence in defense and mitigation of the charges.

Respondent shall send a hard copy of the original signed Stipulation and Waiver to: Kyle Jones, Department of Real Estate, 1651 Exposition, Blvd., Sacramento, CA, 95815.

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

10-16-2018  
Dated

  
JOSEPH LYNN GOURLEY, II, Respondent

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

10/22/18  
Dated

  
EDGARDO GONZALEZ, Attorney for Respondent

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I have read the Statement of Issues filed herein and 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, 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 *November 29, 2018*.

DANIEL SANDRI  
ACTING REAL ESTATE COMMISSIONER

