

1 Department of Real Estate
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FILED

FEB 09 2022

DEPARTMENT OF REAL ESTATE
By B. Nicholas

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

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11 *In the Matter of the Application of*

12 MICHAEL JAMES WISCHMEYER,

13 Respondent.

H-7095 SAC

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

16 MICHAEL JAMES WISCHMEYER (Respondent), does hereby affirm that on
17 August 26, 2020, he applied to the Department of Real Estate (Department) for a real estate
18 salesperson license and that to the best of his knowledge he satisfied all of the statutory
19 requirements for the issuance of the license, including the payment of the fee therefore.

20 FACTUAL BASIS

21 Criminal Conviction

22 On or about September 1, 2015, in the State of Nevada, Justice Court of Tahoe
23 Township, County of Douglas, Case No. 15-CR+0472 Respondent was convicted of Section
24 205.300 of the Nevada Revised Statute (NRS) (embezzlement), a crime which bears a substantial
25 relationship under Section 2910, Chapter 6, Title 10, California Code of Regulations (Regulations)
26 to the qualifications, functions or duties of a real estate licensee.

27 Matters In Aggravation

1 On July 17, 1998, in the State of North Carolina, Superior Court, Wake County,
2 Case No. 97CR044147, Respondent was convicted of violating North Carolina General Statute
3 (GS) 20-138.1, subdivision (a) (driving while intoxicated).

4 On August 23, 2010, in the State of Nevada, Justice Court of Tahoe Township
5 County of Douglas, Case No. 10-CR-0239, Respondent was convicted of violating NRS 484.379
6 subdivisions (l)(a), (b), and (c) (driving under the influence).

7 Prior Applications

8 On October 2, 2015, Respondent applied for a real estate salesperson license. On or
9 about May 24, 2016, a Denial Letter was sent to Respondent. Respondent failed to request a
10 hearing within 60-days. Therefore his license application was denied per Section 485 of the Code.

11 On January 5, 2018, Respondent submitted an application for a real estate
12 salesperson license. On June 19, 2018, a Statement of Issues was filed, H-6696 SAC, seeking to
13 deny the salesperson application. Effective May 15, 2019, after an administrative hearing,
14 Respondent's real estate salesperson license was denied.

15 GROUND FOR DENIAL

16 Respondent's criminal conviction constitutes grounds under Sections 480(a) and
17 10177(b), of the Business and Professions Code (Code) for the denial of Respondent's application
18 for an unrestricted real estate license.

19 TERMS AND CONDITIONS

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

3 Respondent hereby admits the above Factual Basis is true and correct and requests
4 that the Commissioner issue a restricted real estate salesperson license to Respondent under the
5 authority of section 10100.4 and 10156.5 of the Code. I understand that any such restricted license
6 will be issued subject to the provisions of and limitations of sections 10156.6 and 10156.7 of the
7 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 order
11 to obtain an unrestricted real estate salesperson license. Respondent is not waiving his right to a
12 hearing and to further proceedings to obtain a restricted or unrestricted license if this Stipulation
13 and Waiver is not accepted by the Commissioner.

14 Respondent agrees that by signing this Stipulation and Waiver, the conditions,
15 limitations, and restrictions imposed on Respondent's restricted license, identified below, may be
16 removed only by filing a Petition for Removal of Restrictions (petition) with the Commissioner,
17 and that Respondent's petition must follow the procedures set forth in Government Code Section
18 11522. Respondent understands that this Stipulation and Waiver, which was executed pursuant to
19 the authority under section 10100.4 and 10156.5 of the Code, is considered discipline by the
20 Department.

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

24 1. The license shall not confer any property right in the privileges to be
25 exercised and the Commissioner may by appropriate order suspend the right to exercise any
26 privileges granted under this restricted license in the event of:
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1 a. Respondent's conviction (including a plea of nolo contendere) of a
2 crime which 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
5 the California Real Estate Law, the Subdivided Lands Law, Regulations of the Commissioner, or
6 conditions attaching to this restricted license.

7 2. Respondent shall not be eligible to petition for the issuance of an unrestricted
8 real estate license nor the removal of any of the conditions, limitations, or restrictions attaching to
9 the restricted real estate license until two (2) years have elapsed from the date of issuance of the
10 restricted real estate 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
13 employing 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 follows:

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

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

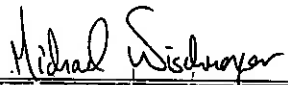
27 Respondent has read the Stipulation and Waiver and its terms are understood by

1 Respondent and agreeable and acceptable to Respondent. Respondent understands that Respondent
2 is waiving rights given to Respondent by the California Administrative Procedure Act (including,
3 but not limited to, California Government Code sections 11504, 11506, 11508, 11509, and 11513),
4 and willingly, intelligently, and voluntarily waives those rights, including, but not limited to, the
5 right to a hearing on a Statement of Issues at which he would have the right to cross-examine
6 witnesses against Respondent and to present evidence in defense and mitigation of the charges.

7 Respondent can signify acceptance and approval of the terms and conditions of this
8 Stipulation and Waiver by emailing a scanned copy of the signature page, as actually signed by
9 Respondent, to the Department counsel Truly Sughrue. Respondent agrees, acknowledges and
10 understands that by electronically sending the Department a scan of Respondent's actual signature
11 as it appears on the Stipulation and Waiver, that receipt of the scan by the Department shall be
12 binding on Respondent as if the Department had received the original signed Stipulation and
13 Waiver. Respondent shall also send a hard copy of the original signed Stipulation and Waiver to
14 Truly Sughrue, Department of Real Estate, P.O. Box 137007 Sacramento, CA 95813-7007.

15
16 12/15/2021

17 Dated

18 
19 MICHAEL JAMES WISCHMEYER, Respondent

20 I have read the foregoing Stipulation and Waiver signed by Respondent. I am
21 satisfied that the hearing for the purpose of requiring further proof as to the honesty and truthfulness
22 of Respondent need not be called and that it will not be inimical to the public interest to issue a
23 restricted real estate salesperson license to Respondent.

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

5 This Order is effective immediately.

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7 IT IS SO ORDERED 2.4.22

8 DOUGLAS R. McCAULEY
9 REAL ESTATE COMMISSIONER

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11 Douglas R. McCauley
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