

FILED

August 13, 2014

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

BUREAU OF REAL ESTATE

4 Telephone: (916)263-8683

By 

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

11
12 *In the Matter of the Application of*

No. H-11722 SF

13
14 MARK ALEXANDER GILYARD,

**STIPULATION
AND WAIVER**

15 Respondent.
16 _____

17 It is hereby stipulated by and between MARK ALEXANDER GILYARD (hereinafter
18 "Respondent"), and his attorney Edgardo Gonzalez, and the Complainant, acting by and through
19 John Van Driel, Counsel for the Bureau of Real Estate, as follows for the purpose of settling and
20 disposing of the Statement of Issues filed on June 19, 2014 in this matter:

21 Respondent acknowledges that he has received and read the Statement of Issues and the
22 Statement to Respondent filed by the Bureau of Real Estate in connection with Respondent's
23 application for a real estate salesperson license. Respondent understands that the Real Estate
24 Commissioner may hold a hearing on this Statement of Issues for the purpose of requiring further
25 proof of Respondent's honesty and truthfulness and to prove these allegations therein, or that he
26 may in his discretion waive the hearing and grant Respondent a restricted real estate salesperson
27 license based upon this Stipulation and Waiver. Respondent also understands that by filing the

1 Statement of Issues in this matter the Real Estate Commissioner is shifting the burden to
2 Respondent to make a satisfactory showing that Respondent meets all the requirements for issuance
3 of a real estate salesperson license. Respondent further understands that by entering into this
4 stipulation and waiver, Respondent will be stipulating that the Real Estate Commissioner has found
5 that Respondent has failed to make such a showing, thereby justifying the denial of the issuance to
6 Respondent of an unrestricted real estate salesperson license.

7 Respondent hereby admits that the allegations of the Statement of Issues filed against
8 Respondent are true and correct and requests that the Real Estate Commissioner in his discretion
9 issue a restricted real estate salesperson license to Respondent under the authority of Section
10 10156.5 of the Business and Professions Code.

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

17 Respondent further understands that the following conditions, limitations, and restrictions will
18 attach to a restricted license issued by the Bureau of Real Estate pursuant hereto:

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

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

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

3. Respondent shall notify the Commissioner in writing within 72 hours of any arrest by sending a certified letter to the Commissioner at the Bureau of Real Estate, Post Office Box 137000, Sacramento, CA 95813-7007. The letter shall set forth the date of Respondent's arrest, the crime for which Respondent was arrested and the name and address of the arresting law enforcement agency. Respondent's failure to timely file written notice shall constitute an independent violation of the terms of the restricted license and shall be grounds for the suspension or revocation of that license.

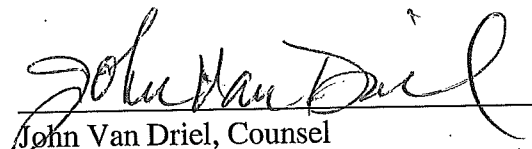
4. With the application for license, or with the application for transfer to a new employing broker, Respondent shall submit a statement signed by the prospective employing broker on a form approved by the Bureau of Real Estate wherein the employing broker shall certify as follows:

a. That broker has read the Statement of Issues which is the basis for the issuance of the restricted license; and

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

8-13-14

Dated



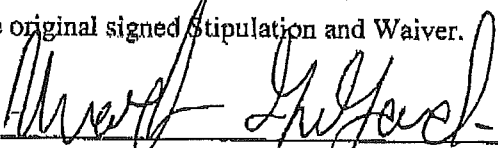
John Van Driel, Counsel
Bureau of Real Estate

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I have read the Stipulation and Waiver and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive those rights, including the right of a hearing on the Statement of Issues at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.


Respondent can 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 his 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.

8/12/2014
Dated


MARK ALEXANDER GILYARD, Respondent

I have reviewed this Stipulation and Agreement as to form and content and have advised my client accordingly.

8/12/14
Dated


Edgardo Gonzalez
Attorney for Respondent

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

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

10 This Order is effective immediately.

11 IT IS SO ORDERED AUGUST 13, 2014.

12 Real Estate Commissioner

13 

14 By: JEFFREY MASON
15 Chief Deputy Commissioner

FILED

JUN 19 2014

BUREAU OF REAL ESTATE

By S. B. K.

1 JOHN VAN DRIEL, Counsel (SBN 84056)
2 Bureau of Real Estate
3 P. O. Box 137007
4 Sacramento, CA 95813-7007
5 Telephone: (916) 263-8683
6
7

8 BEFORE THE BUREAU OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of

12 MARK ALEXANDER GILYARD,

13 Respondent.

) No. H-11722 SF

) STATEMENT OF ISSUES
)
)

14
15 The Complainant, Robin Tanner, a Deputy Real Estate Commissioner of the
16 State of California, for Statement of Issues against MARK ALEXANDER GILYARD
17 (hereinafter "Respondent"), is informed and alleges as follows:

18 1

19 Complainant makes this Statement of Issues in her official capacity.

20 2

21 Respondent made application to the Bureau of Real Estate of the State of
22 California for a real estate salesperson license on or about June 28, 2013.

23 3

24 On or about December 9, 2008, in the Marin County Superior Court, case number
25 SC160682B, Respondent was convicted of two counts of Health & Safety Code section
26 11379(A) (sale of a controlled substance -ecstasy), felonies which bear a substantial relationship
27

1 under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or
2 duties of a real estate licensee.

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4 4

5 The crimes of which Respondent was convicted, as alleged in paragraph 3,
6 constitute cause for denial of Respondent's application for a real estate license under Sections
7 480(a) and 10177(b) of the California Business and Professions Code.

8 WHEREFORE, the Complainant prays that the above-entitled matter be set for
9 hearing and, upon proof of the charges contained herein, that the Commissioner refuse to
10 authorize the issuance of, and deny the issuance of, a real estate salesperson license to
11 Respondent, and for such other and further relief as may be proper under other provisions of law.

12 
13 Robin Tanner
14 Deputy Real Estate Commissioner

15 Dated at Oakland, California,
16 this 16th day of June, 2014.

17 DISCOVERY DEMAND

18 Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the Bureau hereby
19 makes demand for discovery pursuant to the guidelines set forth in the *Administrative Procedure*
20 *Act*. Failure to provide Discovery to the Bureau may result in the exclusion of witnesses and
21 documents at the hearing or other sanctions that the Office of Administrative Hearings deems
22 appropriate.
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