

1 Department of Real Estate
2 P.O. Box 137007
3 Sacramento, CA 95813-7007
4 Telephone: (916)576-8700

FILED
MAY 30 2023
DEPARTMENT OF REAL ESTATE
By J. Tarrant

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

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10 In the Matter of the Application of) DRE No. H-12642 SF
11)
12)
12 PAUL SPENCER MACKINNON,) **STIPULATION AND WAIVER**
13)
14)
14 Respondent)
15)

16 It is hereby stipulated by and between, PAUL SPENCER MACKINNON, (Respondent), his
17 attorney, Frank Buda, and the Complainant, acting by and through Richard Uno, Counsel for the
18 Department of Real Estate (Department), as follows for the purpose of settling and disposing of the
19 Statement of Issues filed on February 2, 2023, in this matter:

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

27 Respondent also understands that by filing the Statement of Issues in this matter the

1 Commissioner is shifting the burden to Respondent to make a satisfactory showing that Respondent
2 meets all the requirements for issuance of a real estate salesperson license. Respondent further
3 understands that by entering into this Stipulation and Waiver Respondent will be stipulating that the
4 Commissioner has found that Respondent has failed to make such a showing, thereby justifying the
5 denial of the issuance to Respondent of a 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 Sections 10156.5 and
9 10166.051 of the Business and Professions Code ("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 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 real
14 estate salesperson if this Stipulation and Waiver is not accepted by the Commissioner.

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

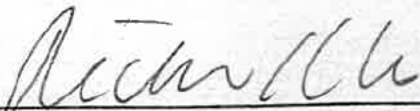
20 Respondent further understands that the restricted real estate salesperson license issued to
21 Respondent shall be subject to all of the provisions of Section 10156.7 of the Code and to the
22 following limitations, conditions and restrictions imposed under authority of Section 10156.6 of the
23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

- 24 1. The restricted real estate salesperson license shall not confer any property rights in the
25 privileges to be exercised including the right to renewal, and the Commissioner may by
26 appropriate order suspend the right to exercise any privileges granted under the
27 restricted real estate salesperson license in the event of:

- a. Respondent's conviction (including a plea of nolo contendere) of a crime that bears a substantial relationship to Respondent's fitness or capacity to hold a real estate license; or
 - b. The receipt of evidence that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Commissioner, or conditions attaching to the restricted real estate salesperson license.
2. Respondent shall not be eligible to petition for the issuance of an unrestricted real estate salesperson license nor the removal of any of the conditions, limitations or restrictions attaching to the restricted real estate salesperson license until four (4) years have elapsed from the date of issuance of the restricted real estate salesperson license to Respondent. Respondent shall not be eligible to apply for any unrestricted licenses until all restrictions attaching to the license have been removed.
3. With the application for a real estate salesperson license, or with the request to transfer to a new employing broker, Respondent shall submit a statement signed by the prospective employing broker on a form approved by the Department wherein the employing broker shall certify as follows:
 - a. That the broker has read the Statement of Issues, which is the basis for the issuance of the restricted real estate salesperson license; and
 - b. That the broker will carefully review all transaction documents prepared by the restricted real estate salesperson licensee and otherwise exercise close supervision over the restricted real estate salesperson's performance of acts for which an real estate salesperson license is required.
4. Respondent shall notify the Commissioner in writing within 72 hours of any arrest by sending a certified letter to the Commissioner at the Department of Real Estate, Post Office Box 137013, Sacramento, CA 95813-7013. 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

1 written notice shall constitute an independent violation of the terms of the restricted real
2 estate salesperson license and shall be grounds for the suspension or revocation of that
3 restricted real estate salesperson license.
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5
6 4/24/23
7 Dated

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Richard Uno, Counsel
Department of Real Estate

9 * * *

10 Respondent has read this Stipulation and Waiver, and its terms are understood by
11 Respondent and are agreeable and acceptable to Respondent. Respondent understands that
12 Respondent is waiving rights given to Respondent by the Administrative Procedure Act (including
13 but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and
14 Respondent willingly, intelligently and voluntarily waives those rights, including the right of a
15 hearing on the Statement of Issues at which Respondent would have the right to cross-examine
16 witnesses against Respondent and to present evidence in defense and mitigation of the charges.

17 Respondent can signify acceptance and approval of the terms and conditions of this
18 Stipulation and Waiver by emailing a copy of the signature page, as actually signed by Respondent,
19 to the Department at the following address: Richard.Uno@dre.ca.gov. Respondent agrees,
20 acknowledges and understands that by electronically sending to the Department an electronic copy
21 of Respondent's actual signature as it appears on the Stipulation and Waiver, that receipt of the
22 electronic copy by the Department shall be as binding on Respondent as if the Department had
23 received the original signed Stipulation and Waiver.

24 4.20.23
Dated

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PAUL SPENCER MACKINNON, Respondent

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

7-20-2023

Frank Buda

Frank Buda, attorney for Respondent

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 mortgage loan originator license endorsement. The restricted real estate salesperson license shall be limited, conditioned, and restricted as specified in the foregoing Stipulation and Waiver.

This Order is effective immediately.

IT IS SO ORDERED 5.24.23

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER

