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FILED

NOV 25 2013

BUREAU OF REAL ESTATE

By 

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of

RUSSELLE S. ARCIAGA,

Respondent.

No. H-9629 SF

ORDER DENYING REMOVAL OF RESTRICTIONS ON LICENSE

On March 27, 2007, a Decision was rendered herein denying Respondent's application for a real estate salesperson license, but granting Respondent the right to the issuance of a restricted real estate salesperson license. A restricted real estate salesperson license was issued to Respondent on April 6, 2007, and Respondent has operated as a restricted licensee since that time.

On February 10, 2012, Respondent petitioned for the removal of restrictions attaching to Respondent's real estate salesperson license.

The burden of proving rehabilitation rests with the petitioner (*Feinstein v. State Bar* (1952) 39 Cal. 2d 541). A petitioner is required to show greater proof of honesty and integrity than an applicant for first time licensure. The proof must be sufficient to overcome the prior adverse judgment on the applicant's character (*Tardiff v. State Bar* (1980) 27 Cal. 3d 395).

1 I have considered Respondent's petition and the evidence and arguments in
2 support thereof. Respondent has failed to demonstrate to my satisfaction that Respondent has
3 undergone sufficient rehabilitation to warrant the removal of the restrictions on Respondent's real
4 estate salesperson license at this time.

5 The Bureau has developed criteria in Section 2911 of Title 10, California Code of
6 Regulations ("Regulations") to assist in evaluating the rehabilitation of an applicant for issuance
7 or reinstatement of a license. Among the criteria relevant in this proceeding are:

8 Regulation 2911(j) Discharge of, or bona fide efforts toward discharging,
9 adjudicated debts or monetary obligations to others.

10 Respondent has two outstanding federal tax liens and one outstanding state tax
11 lien. A civil judgment was also entered against Respondent in December 2012 which remains
12 unsatisfied.

13 Regulation 2911(n) Change in attitude from that which existed at the time of the
14 conduct in question as evidenced by any or all of the following:

15 (1) Testimony of applicant.

16 (2) Evidence from family members, friends or other persons familiar with
17 applicant's previous conduct and with his subsequent attitudes and behavioral
18 patterns.

19 (3) Evidence from probation or parole officers or law enforcement officials
20 competent to testify as to applicant's social adjustments.

21 (4) Evidence from psychiatrists or other persons competent to testify with regard
22 to neuropsychiatric or emotional disturbances.

23 (5) Absence of subsequent felony or misdemeanor convictions that are reflective
24 of an inability to conform to societal rules when considered in light of the conduct
25 in question.

26 Respondent has provided no information concerning his rehabilitation other than
27 what he submitted with his petition in February 2012. He has failed to respond to requests from

