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MAR 07 2014

BUREAU OF REAL ESTATE

By *S. Jones*

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BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Accusation of

BARNEY JOE NG,

Respondent.

No. H-10752 SF

ORDER DENYING REINSTATEMENT OF LICENSE

On September 6, 2010, a Decision was rendered in Case No. H-10752 SF revoking the real estate broker license of Respondent effective September 30, 2010, 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 September 30, 2010, and Respondent has operated as a restricted licensee since that time.

On February 5, 2013, Respondent petitioned for reinstatement of said real estate broker license, and the Attorney General of the State of California has been given notice of the filing of said petition.

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

1 prior adverse judgment on the applicant's character (*Tardiff v. State Bar* (1980) 27 Cal. 3d 395).

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

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

9 Regulation 2911(a) The passage of not less than two years since the most recent  
10 criminal conviction or act of the applicant that is a basis to deny the departmental action sought.  
11 (A longer period will be required if there is a history of acts or conduct substantially related to  
12 the qualifications, functions or duties of a licensee of the department.)

13 On July 12, 2001, in case number H-7937 SF, an Accusation was filed against  
14 Respondent, as an individual real estate broker and the designated officer of Bar K Inc., a  
15 licensed real estate corporation, alleging violations of the Real Estate Law and Regulations; in  
16 particular, trust fund handling and record keeping violations, mortgage loan and trust deed  
17 document violations, and lack of broker supervision. Respondent entered into a Stipulation and  
18 Agreement in which his real estate broker license was suspended for 180 days, on terms and  
19 conditions.

20 On August 11, 2009, in case number H-10752 SF, an Accusation was filed against  
21 Respondent, as an individual real estate broker and the designated officer of Bar K Inc., again  
22 alleging violations of the Real Estate Law and Regulations; in particular, trust fund handling and  
23 record keeping violations, mortgage loan and trust deed document violations, and lack of broker  
24 supervision. As a result of a formal administrative hearing in this case, Respondent's real estate  
25 broker license was revoked, with the right to apply for and obtain a restricted salesperson license,  
26 which was ultimately issued to Respondent on September 30, 2010.

27 Regulation 2911(k) Correction of business practices resulting in injury to others

1 or with the potential to cause such injury.

2           Between January 1999 and June 2008 (the time period of the audits finding  
3 violations by Respondent), Respondent had a history of violations while acting as a real estate  
4 broker and corporate designated officer responsible for supervising and ensuring that all  
5 mortgage loan brokerage activity conducted on his watch complied with the Real Estate Law and  
6 Regulations. He failed in that duty. He now requests reinstatement of his real estate broker  
7 license, which, once again, would put Respondent in a position to carry on a mortgage loan  
8 brokerage business without supervision.

9           Since his real estate broker license was revoked in 2010, Respondent has worked  
10 as a restricted salesperson licensee under his daughter's real estate broker license. He has done  
11 little licensed activity since his revocation, and other than learning that he should not have  
12 trusted his brother and father, he has provided no information that he has any greater  
13 understanding of the responsibilities of a real estate broker to supervise other licensees and  
14 comply with the rules relating to trust fund handling and record keeping, and proper trust deed  
15 document handling in the mortgage loan brokerage business.

16           Given the violations found and the fact that Respondent has not established that  
17 Respondent has satisfied Regulations 2911(a) and (k), I am not satisfied that Respondent is  
18 sufficiently rehabilitated to receive a real estate broker license.

19           NOW, THEREFORE, IT IS ORDERED that Respondent's petition for  
20 reinstatement of Respondent's real estate broker license is denied.

21           This Order shall become effective at 12 o'clock noon on 3-25-14

22           IT IS SO ORDERED

23           Real Estate Commissioner

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26           By: JEFFREY MASON

27           Chief Deputy Commissioner