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FILED

AUG 23 2017

BUREAU OF REAL ESTATE

By R. POSADA

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BEFORE THE BUREAU OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Application of

ROY CARSON THORNTON,

Respondent.

No. H-28333 LA

ORDER DENYING REMOVAL OF RESTRICTIONS ON LICENSE

On December 20, 1999, 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 December 29, 1999, and Respondent has held a restricted license since that time.

On September 8, 2016, 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).

I have considered Respondent's petition and the evidence submitted in support

1 thereof.

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

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

7 (1) Testimony of applicant.

8 In response to Question 3 of his Enforcement Petition Application: to wit "Have  
9 you ever been convicted of any violation of law?" Respondent marked "no" and  
10 failed to disclose the conviction described in subsection 5 below.

11  
12 On May 16, 2016, Respondent submitted a Salesperson Renewal Application for  
13 his restricted license. In response to Question 13 of the application: to wit  
14 "Within the six-year period prior to filing this application, have you ever been  
15 convicted (see paragraph on page 1) of any violation of the law at the  
16 misdemeanor or felony level?" Respondent marked "no" and failed to disclose  
17 the conviction described in subsection 5 below.

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

22 Respondent submitted letters of recommendation with his Enforcement Petition  
23 Application. However, none of these letters expressed any knowledge of the  
24 conviction described in subsection 5 below. Nor did they provide evidence of any  
25 change in attitude subsequent to his most recent conviction.

26  
27 (5) Absence of subsequent felony or misdemeanor convictions that are reflective

1 of an inability to conform to societal rules when considered in light of the conduct  
2 in question.

3  
4 On November 2, 2011, in the Superior Court of California, County of Los  
5 Angeles, Respondent was convicted for violating Vehicle Code Section 23152(b)  
6 (driving with a blood alcohol level of .08% or higher), a misdemeanor.

7  
8 In Harrington vs. Dept. of Real Estate, 214 Cal. App. 3d 394, at 406, the court  
9 stated that the lack of candor in completing a license application is itself sufficient to sustain a  
10 finding that the applicant did not yet appreciate the need to speak honestly about and to  
11 accept responsibility for one's actions. Honesty and integrity are qualities which bear on the  
12 fitness, qualifications, functions and duties of a real estate licensee. That principal is set forth in  
13 Golde vs. Fox, 98 C.A. 3d, 167.

14  
15 Respondent has failed to demonstrate to my satisfaction that Respondent has  
16 undergone sufficient rehabilitation to warrant the removal of the restrictions on Respondent's real  
17 estate salesperson license at this time.

18 Given the fact that Respondent has not established that Respondent has complied  
19 with Regulations 2911 (n)(1), (2) and (5), I am not satisfied that Respondent is sufficiently  
20 rehabilitated to receive an unrestricted salesperson license.

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1                    NOW, THEREFORE, IT IS ORDERED that Respondent's petition for removal of  
2 restrictions on Respondent's real estate salesperson license is denied.

**SEP 12 2017**

3                    This Order shall become effective at 12 o'clock noon on \_\_\_\_\_.

4                    DATED 8/18/17

5                    WAYNE S. BELL  
6                    REAL ESTATE COMMISSIONER

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8                    

9                    By: DANIEL J. SANDRI  
10                    Chief Deputy Commissioner

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