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FILED

NOV 28 2023

DEPT. OF REAL ESTATE
By R. Posada

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

STANLEY DURAN GENTRY,

Respondent.

No. H-02362 SD & H-04618 SD

ORDER DENYING REINSTATEMENT OF LICENSE
BUT GRANTING RIGHT TO A RESTRICTED LICENSE

On April 1, 1998, in Case No. H-02362 SD, a Decision was rendered revoking the real estate broker license of Respondent, but granting the right to apply for a restricted real estate broker license, effective May 4, 1998.

On August 29, 2014, in Case No. H-04618 SD, a Decision was rendered revoking the restricted real estate broker license of Respondent, effective September 29, 2014.

On May 19, 2023, 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 Respondent's petition and the evidence submitted in support
3 thereof.

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

7
8 ***2911. Criteria for Rehabilitation (Denial)***

9 *(a) (1) The time that has elapsed since commission of the acts(s) or offense(s):*
10 *(A) The passage of less than two years after the most recent criminal conviction*
11 *or act of the applicant that is a cause of action in the Bureau's Statement of Issues*
12 *against the applicant is inadequate to demonstrate rehabilitation.*

13 *(B) Notwithstanding subdivision (a)(1)(A), above, the two year period may be*
14 *increased based upon consideration of the following:*

15 *(i) The nature and severity of the crime(s) and/or act(s) committed by the*
16 *Applicant.*

17 *(ii) The applicant's history of criminal convictions and/or license discipline*
18 *that are "substantially related" to the qualifications, functions, or duties of a real*
19 *estate licensee. However, no rehabilitation shall be required where the sole*
20 *proven basis or bases for denial of an application is an expunged conviction as*
21 *described in Business and Professions Code Section 480(c).*

22 Respondent's audit violations, as set forth in Case No. H-02362 SD coupled with
23 his criminal conviction, as set forth in Case No. H-04618 SD, demonstrate the
24 history of a criminal conviction and license discipline that are both substantially
25 related to the duties of a real estate licensee.

26 *(a)(3) Expungement of criminal convictions.*

27 Respondent has offered no evidence that his February 21, 2014 conviction for
violation of 18 USC § 1343 has been expunged.

(a)(11) Correction of business practices resulting in injury to others or with the
potential to cause such injury.

There is no evidence of subsequent work in the real estate industry which could
demonstrate that Respondent has corrected the business practices which led to
discipline in Case Nos. H-02362 SD and H-04618 SD.

Respondent has failed to demonstrate to my satisfaction that Respondent has

1 undergone sufficient rehabilitation to warrant the reinstatement of Respondent's unrestricted real
2 estate broker license.

3 I am satisfied, however, that it will not be against the public interest to issue a
4 restricted real estate broker license to Respondent.

5 A restricted real estate broker license shall be issued to Respondent pursuant to
6 Section 10156.5 of the Business and Professions Code, if Respondent satisfies the following
7 conditions prior to and as a condition of obtaining a restricted real estate broker license within
8 twelve (12) months from the effective date of this Order:

9 1. Respondent shall qualify for, take and pass the real estate broker license
10 examination.

11 2. Submittal of a completed application and payment of the fee for a real
12 estate broker license.

13 The restricted license issued to Respondent shall be subject to all of the provisions
14 of Section 10156.7 of the Business and Professions Code and to the following limitations,
15 conditions and restrictions imposed under authority of Section 10156.6 of that Code:

16 A. The restricted license issued to Respondent may be suspended prior to
17 hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction or
18 plea of nolo contendere to a crime which is substantially related to Respondent's fitness or
19 capacity as a real estate licensee.

20 B. The restricted license issued to Respondent may be suspended prior to
21 hearing by Order of the Real Estate Commissioner on evidence satisfactory to the
22 Commissioner that Respondent has violated provisions of the California Real Estate Law, the
23 Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to
24 the restricted license.

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

3 D. Respondent shall notify the Commissioner in writing within 72 hours of
4 any arrest by sending a certified letter to the Commissioner at the Department of Real Estate, Post
5 Office Box 137007, Sacramento, CA 95813-7007. The letter shall set forth the date of
6 Respondent's arrest, the crime for which Respondent was arrested and the name and address of
7 the arresting law enforcement agency. Respondent's failure to timely file written notice shall
8 constitute an independent violation of the terms of the restricted license and shall be grounds for
9 the suspension or revocation of that license.

DEC 18 2023

10 This Order shall become effective at 12 o'clock noon on _____.

11 IT IS SO ORDERED 11/14/2023

12
13 DOUGLAS R. McCAULEY
14 REAL ESTATE COMMISSIONER

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16 By: Marcus L. McCarther
17 Chief Deputy Real Estate Commissioner
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