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FILED

APR 11 2013

DEPARTMENT OF REAL ESTATE
BY: *R. H. [Signature]*

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

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In the Matter of the Accusation of
CARLOS ANGEL PADILLA,
Respondent.

No. H-2473 FR

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

On February 16, 2011, a Decision was rendered revoking Respondent's real estate salesperson license. In 2002, Respondent was convicted of violating Vehicle Code Section 23152(a) (driving under the influence), in September, 2005, Respondent was convicted of violating Penal Code Section 415 (disturbing the peace), in July, 2008, Respondent was convicted of violating Penal Code Section 647(f) (drunk in public), and in August, 2009, Respondent was convicted of violating Vehicle Code Section 23152(a) (driving under the influence). Respondent failed to disclose the 2005, 2008 and 2009 matters in his license renewal application.

On April 18, 2012, Respondent petitioned for reinstatement of Respondent's real estate salesperson license.

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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 reinstatement of Respondent's real estate
4 salesperson license, in that:

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

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

13 Regulation 2911(a) - passage of not less than two years since the most recent
14 criminal conviction or act that is a basis to deny the department action sought (A longer period
15 will be required if there is a history of acts or conduct substantially related to the qualifications,
16 functions or duties of a licensee)

17 Additional time is needed for Respondent to show substantial rehabilitation given
18 Respondent's history of substantially related convictions and acts.

19 Regulation 2911(j) - discharge of, or bona fide efforts toward discharging,
20 adjudicated debts or monetary obligations

21 Respondent has failed to provide such proof for an unpaid tax obligation.

22 Given the violations found and the fact that Respondent has not established that
23 Respondent has complied with Regulations 2911(a) and (j), I am not satisfied that Respondent is
24 sufficiently rehabilitated to receive a real estate salesperson license.

25 NOW, THEREFORE, IT IS ORDERED that Respondent's petition for
26 reinstatement of Respondent's real estate salesperson license is denied.

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1 I am satisfied, however, that it will not be against the public interest to issue a
2 restricted real estate salesperson license to Respondent.

3 A restricted real estate salesperson license shall be issued to Respondent pursuant
4 to Code Section 10156.5 if Respondent within twelve (12) months from the date hereof
5 providing Respondent:

6 (a) submits a completed application and pays the appropriate fee for a real estate
7 salesperson license within the 12 month period following the date of this Order; and

8 (b) submits proof that Respondent has completed the continuing education
9 requirements for renewal of the license sought. The continuing education courses must be
10 completed either (i) within the 12 month period preceding the filing of the completed application,
11 or (ii) within the 12 month period following the date of this Order.

12 1. The restricted license issued to Respondent shall be subject to all of the
13 provisions of Code Section 10156.7 and to the following limitations, conditions and restrictions
14 imposed under authority of Code Section 10156.6. The restricted license issued to Respondent
15 may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of
16 Respondent's conviction or plea of nolo contendere to a crime which is substantially related to
17 Respondent's fitness or capacity as a real estate licensee.

18 2. The restricted license issued to Respondent may be suspended prior to hearing
19 by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that
20 Respondent has violated provisions of the California Real Estate Law, Regulations of the Real
21 Estate Commissioner or conditions attaching to the restricted license.

22 3. Respondent shall not be eligible to apply for the issuance of an unrestricted
23 real estate license nor for the removal of any of the conditions, limitations or restrictions of a
24 restricted license until two (2) years have elapsed from the effective date of this Decision.

25 4. Respondent shall submit with any application for license under an employing
26 broker, or any application for transfer to a new employing broker, a statement signed by the
27 prospective employing real estate broker on a form approved by the Department of Real Estate

1 which shall certify:

2 (a) That the employing broker has read the Decision of the Commissioner which
3 granted the right to a restricted license; and


4 (b) That the employing broker will exercise close supervision over the
5 performance by the restricted licensee relating to activities for which a real estate license is
6 required.

7 5. Respondent shall notify the Commissioner in writing within 72 hours of any
8 arrest by sending a certified letter to the Commissioner at the Department of Real Estate, Post
9 Office Box 187000, Sacramento, CA 95818-70-00. The letter shall set forth the date of
10 Respondent's arrest, the crime for which Respondent was arrested and the name and address of
11 the arresting law enforcement agency. Respondent's failure to timely file written notice shall
12 constitute an independent violation of the terms of the restricted license and shall be grounds for
13 the suspension or revocation of that license.

14 This Order shall become effective at 12 o'clock noon on MAY - 1 2013

15 IT IS SO ORDERED 2/28/2013

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17 Real Estate Commissioner

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