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DEPARTMENT OF REAL ESTATE

By S. Black

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

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In the Matter of the Accusation of

DIANA RAINERI,

No. H-3130 FR

Respondent.

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

On August 13, 2018, a Decision was rendered in Case No. H-3130 FR, revoking the real estate salesperson license of Respondent effective September 6, 2018, but granting Respondent the right to the issuance of a restricted real estate salesperson license. Respondent failed to submit her application for a restricted salesperson license within the timeframe ordered by the Stipulation and Agreement and the license is currently revoked.

On September 24, 2019, Respondent petitioned for reinstatement of said real estate salesperson 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 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 submitted in support
2 thereof.

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

6 Regulation 2911(11) Correction of business practices resulting in injury to others
7 or with the potential to cause such injury.

8 Respondent has not been able to demonstrate corrected or change of business
9 practices due to her license being revoked.

10 Respondent has failed to demonstrate to my satisfaction that Respondent has
11 undergone sufficient rehabilitation to warrant the reinstatement of Respondent's unrestricted real
12 estate salesperson license.

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

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

19 1. Submits a completed application and pays the fee for a real estate
20 salesperson license within the 12 month period following the effective date of this Order; and

21 2. Submits proof that Respondent has completed the continuing education
22 requirements for renewal of the license sought. The continuing education courses must be
23 completed either (i) within the 12 month period preceding the filing of the completed
24 application, or (ii) within the 12 month period following the effective date of this Order.

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

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

5 B. The restricted license issued to Respondent may be suspended prior to
6 hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner
7 that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands
8 Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted
9 license.

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

14 D. Respondent shall submit with any application for license under an
15 employing broker, or any application for transfer to a new employing broker, a statement signed
16 by the prospective employing real estate broker on a form approved by the Department of Real
17 Estate which shall certify:

18 1. That the employing broker has read the Decision of the Commissioner
19 which granted the right to a restricted license; and

20 2. That the employing broker will exercise close supervision over the
21 performance by the restricted licensee relating to activities for which a real estate license is
22 required.

23 E. Respondent shall notify the Commissioner in writing within 72 hours of
24 any arrest by sending a certified letter to the Commissioner at the Department of Real Estate,
25 Post Office Box 137007, Sacramento, CA 95813-7007. The letter shall set forth the date of
26 Respondent's arrest, the crime for which Respondent was arrested and the name and address of
27 the arresting law enforcement agency. Respondent's failure to timely file written notice shall

1 constitute an independent violation of the terms of the restricted license and shall be grounds for
2 the suspension or revocation of that license.

3 This Order shall become effective at 12 o'clock noon on JUL 30 2020

4 IT IS SO ORDERED

July 26, 20

5 DOUGLAS R. McCAULEY
6 REAL ESTATE COMMISSIONER

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8 Douglas R. McCauley
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