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FILED

APR 17 2024

DEPARTMENT OF REAL ESTATE
By J. Taggart

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

DAVID MICHAEL BUSSACCO,

Respondent.

No. H-3390 FR

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

On July 8, 2022, in Case No. H-3390 FR, a Decision was rendered revoking the real estate salesperson license of Respondent effective September 9, 2022.

On October 5, 2023, 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).

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

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

4 **Regulation 2911(1) The passage of not less than two years since the most**
5 **recent criminal conviction or act of the applicant that is a basis to deny the Department**
6 **action sought. (A longer period will be required if there is a history of acts or conduct**
7 **substantially related to the qualifications, functions or duties of a licensee of the**
8 **Department.)**

9 Insufficient time has passed for the Respondent to demonstrate sufficient
10 rehabilitation for a plenary license.

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

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

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

- 20 1. Submits a completed application and pays the fee for a real estate
21 salesperson license within the 12 month period following the effective date of this Order; and
- 22 2. Submits proof that Respondent has completed the continuing education
23 requirements for renewal of the license sought. The continuing education courses must be
24 completed either (i) within the 12 month period preceding the filing of the completed
25 application, or (ii) within the 12 month period following the effective date of this Order.

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

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

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

13 C. Respondent shall not be eligible to apply for the issuance of an
14 unrestricted real estate license nor the removal of any of the limitations, conditions or restrictions
15 of a restricted license until one (1) year has elapsed from the date of the issuance of the restricted
16 license to Respondent.

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

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

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

26 E. Respondent shall notify the Commissioner in writing within 72 hours of
27 any arrest by sending a certified letter to the Commissioner at the Department of Real Estate,

1 Post Office Box 137007, Sacramento, CA 95813-7007. The letter shall set forth the date of
2 Respondent's arrest, the crime for which Respondent was arrested and the name and address of
3 the arresting law enforcement agency. Respondent's failure to timely file written notice shall
4 constitute an independent violation of the terms of the restricted license and shall be grounds for
5 the suspension or revocation of that license.

6 This Order shall become effective at 12 o'clock noon on MAY 07 2024

7 IT IS SO ORDERED 4/16/2024

8 CHIKA SUNQUIST
9 REAL ESTATE COMMISSIONER

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11 _____
12 By: Marcus L. McCarther
13 Chief Deputy Real Estate Commissioner
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