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AUG 09 2013

BUREAU OF REAL ESTATE

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

KIELY & KRUSE, INC.

Respondent.

No. H-3655 SD

ORDER DENYING REINSTATEMENT OF LICENSE

On March 22, 2008, a Decision was rendered revoking the real estate broker license of Respondent, but providing Respondent the right to apply for and be issued a restricted real estate broker license. Respondent was issued a restricted license on April 21, 2008.

Respondent was found to have made several audit violations as a result of a department audit.

On or about June 15, 2011, Respondent petitioned for reinstatement of said real estate broker license. The Attorney General of the State of California has been given notice of the filing of said petition.

I have considered the petition of Respondent and the evidence submitted in support thereof. Respondent has failed to demonstrate to my satisfaction that Respondent has undergone sufficient rehabilitation to warrant the reinstatement of Respondent's real estate broker license at this time.

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

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

8 Regulation 2911(a)-The passage of not less than two years since the most recent
9 activity of Respondent that is a basis to deny the departmental action sought

10 Subsequent audits by the department in 2011 and 2012 have disclosed further
11 audit violations by the Respondent.

12 Regulation 2911(k)-correction of business practices resulting in injury to others

13 Respondent has not provided proof that previous business practices of this nature
14 have been corrected.

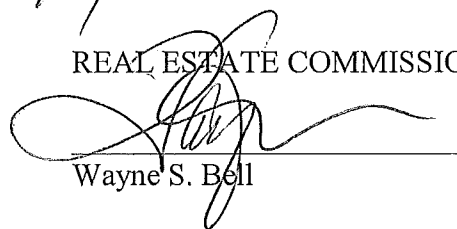
15 Given the violations found and the fact that Respondent has not established that
16 Respondent has complied with Regulation 2911 (a) and (k), I am not satisfied that Respondent is
17 sufficiently rehabilitated to receive an unrestricted real estate license.

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

20 This Order shall become effective at 12 o'clock noon on AUG 29 2013.

21 IT IS SO ORDERED 4/11/2013

22 REAL ESTATE COMMISSIONER

23 
24 Wayne S. Bell