

FILED

AUG 02 2013

BUREAU OF REAL ESTATE

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Application of

DUSHAUN DONNEL FAIRLEY,

Respondent.

No. H-3803 SD

ORDER DENYING REMOVAL OF RESTRICTIONS

On May 8, 2008, a Decision was rendered denying Respondent's license application, but granting Respondent the right to a restricted real estate salesperson license. Said license was issued May 17, 2008, and Respondent has held the license since that time.

On January 23, 2012, Respondent petitioned for removal of restrictions from said real estate salesperson license.

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 removal of restrictions on Respondent's real estate salesperson license at this time.

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 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(j)—Discharge of, or bona fide efforts toward discharging debts
5 or monetary obligations to others

6 Respondent has 2009 unpaid small claims judgment of \$3,344 and there are seven
7 civil court judgments against Respondent.

8 Regulation 2911(n) (1) and (2) -- Change in attitude from that which existed at the
9 time of the conduct in question as evidenced by any or all of the following:

10 Testimony of applicant and others

11 Respondent failed to provide all requested letters of recommendation, and failed
12 to disclose in the Petition Application seven civil court judgments.


13 Given the violations found and the fact that Respondent has not established that
14 Respondent has complied with Regulations 2911(j), and (n)(1) and (2) , I am not satisfied that
15 Respondent is sufficiently rehabilitated to receive an unrestricted real estate salesperson license.

16 NOW, THEREFORE, IT IS ORDERED that Respondent's petition for removal of
17 restrictions on Respondent's real estate salesperson license is denied.

18 This Order shall become effective at 12 o'clock noon on **AUG 23 2013**

19 IT IS SO ORDERED

July 19, 2013

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21 Real Estate Commissioner
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23 **By: JEFFREY MASON**
24 **Chief Deputy Commissioner**
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