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FILED

JUN 25 2019

DEPT. OF REAL ESTATE

By R. P. P. P.

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Accusation of

KEVIN CHARLES CHURCHILL,

Respondent.

No. H-4105 SD

ORDER DENYING REINSTATEMENT OF LICENSE

On February 16, 2013, a Decision was rendered in Case No. H-4105 SD, revoking the real estate broker license of Respondent effective March 12, 2013, but granting Respondent the right to the issuance of a restricted real estate broker license. A restricted real estate broker license was issued to Respondent on March 12, 2013, and Respondent has held a restricted licensee since that time.

On June 23, 2017, Respondent petitioned for reinstatement of said real estate broker 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 the petition of Respondent and the evidence submitted in
2 support 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
7 ***2911. Criteria for Rehabilitation***

8 ***(a) (11) Correction of business practices resulting in injury to others or with the
potential to cause such injury.***

9 In the Decision for Case No. H-4105 SD, it was found that Respondent
10 demonstrated negligence or incompetence in performing an act for which he is required
11 to hold a real estate license, in violation of Business and Professions Code ("Code")
12 section 10177(g). On February 27, 2018, the Department of Real Estate completed an
13 audit examination finding Respondent in violation of trust fund handling rules (Code
14 section 10145), as well as use of unlicensed fictitious business names (Code section
10159.5) and receiving commissions without an agreement with a definite termination
15 date (Code section 10176(f)). Collectively, these violations represent continuing
16 negligence and incompetence, in violation of Code section 10177(g).

17 Respondent has failed to demonstrate to my satisfaction that Respondent has
18 undergone sufficient rehabilitation to warrant the reinstatement of Respondent's real estate
19 broker license at this time.

20 Given the violations found and the fact that Respondent has not established that
21 Respondent has satisfied Regulations 2911(a)(11), I am not satisfied that Respondent is
22 sufficiently rehabilitated to receive a real estate broker license.

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

This Order shall become effective at 12 o'clock noon on JUL 15 2019

IT IS SO ORDERED June 18, 2019

DANIEL J. SANDRI
ACTING REAL ESTATE COMMISSIONER

Daniel J. Sandri