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**FILED**

JUN 09 2012

DEPARTMENT OF REAL ESTATE

By L. J. [Signature]

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Accusation of

TRINIE ANN MONTIJO,

Respondent.

No. H-5187 SAC

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

On July 7, 2010, in Case No. H-5187 SAC, an Order Denying Reconsideration as to Respondent TRINIE ANN MONTIJO was rendered by the Commissioner which revoked the real estate broker license of Respondent TRINIE ANN MONTIJO effective June 24, 2010.

On May 26, 2011, 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 Respondent's petition and the evidence and arguments in  
2 support thereof. Respondent has failed to demonstrate to my satisfaction that Respondent has  
3 undergone sufficient rehabilitation to warrant the reinstatement of Respondent's unrestricted real  
4 estate broker license.

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. Respondent has successfully met most of the criteria, however, among  
8 the criteria relevant in this proceeding is Regulation 2911(k), correction of business practices  
9 resulting in injury to others or with the potential to cause such injury.

10 Respondent's real estate broker license was revoked effective June 24, 2010 in  
11 case number H-5187 SAC. The grounds for revocation included Respondent's failure to correct  
12 her practices concerning trust fund handling and record keeping. In an earlier disciplinary case  
13 (H-4618 SAC), respondent's real estate broker license was suspended, by stipulation, for  
14 violations relating to trust fund handling and recordkeeping. One of the conditions of the  
15 suspended license was that the Department would conduct a follow-up audit to determine that  
16 Respondent's trust fund handling and record keeping practices had been corrected. The follow-  
17 up audit found further similar violations, and resulted in the revocation of Respondent's real  
18 estate broker license on June 24, 2010. As a result of the violations found in the follow-up audit,  
19 Respondent has not demonstrated that it would be in the public interest to allow her to operate as  
20 an unsupervised real estate broker.

21 I am satisfied, however, that it would not be against the public interest to issue a  
22 restricted real estate salesperson license to Respondent.

23 A restricted real estate salesperson license shall be issued to Respondent pursuant  
24 to Section 10156.5 of the Business and Professions Code, if Respondent satisfies the following  
25 conditions prior to and as a condition of obtaining a restricted real estate salesperson license  
26 within twelve (12) months from the date of this Order:  
27

- 1           1.   Submittal of a completed application and payment of the fee for a real estate  
2           salesperson license.

3           The restricted license issued to Respondent shall be subject to all of the  
4           provisions of Section 10156.7 of the Code and to the following limitations,  
5           conditions and restrictions imposed under authority of Section 10156.6 of  
6           the Code:

- 7           A.   The restricted license issued to Respondent may be suspended prior to  
8           hearing by Order of the Commissioner in the event of Respondent's  
9           conviction or plea of nolo contendere to a crime which is substantially  
10          related to Respondent's fitness or capacity as a real estate licensee.
- 11          B.   The restricted license issued to Respondent may be suspended prior to  
12          hearing by Order of the Commissioner on evidence satisfactory to the  
13          Commissioner that Respondent has violated provisions of the  
14          California Real Estate Law, the Subdivided Lands Law, Regulations of  
15          the Real Estate Commissioner or conditions attaching to the restricted  
16          license.
- 17          C.   Respondent shall not be eligible to apply for the issuance of an  
18          unrestricted real estate license nor the removal of any of the  
19          limitations, conditions or restrictions of a restricted license until two  
20          (2) years have elapsed from the date of the issuance of the restricted  
21          license to Respondent.
- 22          D.   Respondent shall submit with any application for license under an  
23          employing broker, or any application for transfer to a new employing  
24          broker, a statement signed by the prospective employing real estate  
25          broker on a form approved by the Department which shall certify:
- 26                1.   That the employing broker has read the Decision of the  
27                Commissioner which granted the right to a restricted license; and

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