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JAN 09 2017

BUREAU OF REAL ESTATE

By S. Black

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of

OMAR GALINDO,

No. H-5750 SAC

Respondent.

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

On December 6, 2012, in Case No. H-5750 SAC, a Decision was rendered revoking the real estate salesperson license of Respondent effective December 27, 2012.

On May 10, 2016, 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.

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1 The Bureau has developed criteria in Section 2911 of Title 10, California Code of
2 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,
5 adjudicated debts or monetary obligations to others.

6 Respondent owes approximately \$10,000.00 to the Franchise Tax Board and
7 \$35,000.00 to the IRS, respectively. Respondent has only been making payments to the
8 Franchise Tax Board and is in the beginning stages of setting up a payment plan with the IRS.

9 Regulation 2911(k) Correction of business practices resulting in injury to others
10 or with the potential to cause such injury.

11 Respondent has not acted in a fiduciary capacity since the revocation of his sales
12 person license to demonstrate his correction of business practices.

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

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

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

22 1. Submits a completed application and pays the fee for a real estate
23 salesperson license within the 12 month period following the effective date of this Order; and

24 2. Submits proof that Respondent has completed the continuing education
25 requirements for renewal of the license sought. The continuing education courses must be
26 completed either (i) within the 12 month period preceding the filing of the completed
27 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 two (2) years have elapsed from the date of the issuance of the
16 restricted 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 Bureau of Real Estate
20 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.

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1 E. Respondent shall notify the Commissioner in writing within 72 hours of
2 any arrest by sending a certified letter to the Commissioner at the Bureau of Real Estate, Post
3 Office Box 137007, Sacramento, CA 95813-7007. The letter shall set forth the date of
4 Respondent's arrest, the crime for which Respondent was arrested and the name and address of
5 the arresting law enforcement agency. Respondent's failure to timely file written notice shall
6 constitute an independent violation of the terms of the restricted license and shall be grounds for
7 the suspension or revocation of that license.

8 This Order shall become effective at 12 o'clock noon on JAN 31 2017

9 IT IS SO ORDERED

12/26/2016

10 WAYNE S. BELL
11 REAL ESTATE COMMISSIONER

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