

**FILED**

JUL 17 2014

BUREAU OF REAL ESTATE

By J. Jm

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BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Accusation of

JOHN DAMIAN HITTLER,

Respondent.

No. H-6082 SF

ORDER DENYING REINSTATEMENT OF LICENSE

On November 30, 1989, a Decision was rendered in Case No. H-6082 SF revoking the real estate salesperson license of Respondent effective December 26, 1989.

On March 25, 2013, 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 the petition of Respondent and the evidence submitted in support thereof. Respondent has failed to demonstrate to my satisfaction that Respondent has

1 undergone sufficient rehabilitation to warrant the reinstatement of Respondent's real estate  
2 salesperson license at this time.

3           The Bureau has developed criteria in Section 2911 of Title 10, California Code of  
4 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           Regulation 2911(n) Change in attitude from that which existed at the time of the  
7 conduct in question as evidenced by any or all of the following:

8           (1) Testimony of applicant.

9           (2) Evidence from family members, friends or other persons familiar with  
10 applicant's previous conduct and with his subsequent attitudes and behavioral  
11 patterns.

12           After Respondent's real estate salesperson license was revoked in 1989, an Order  
13 to Desist and Refrain was filed against Respondent in 1992, and again in 2002, for engaging in  
14 acts which require a real estate license under Business & Professions Code section 10131(b)  
15 (mortgage loan services) at a time when Respondent was not licensed by the Department in any  
16 capacity. Respondent also failed to provide truthful and accurate responses to questions on his  
17 petition application, including his failure to disclose a 2010 bankruptcy, and the fact that he was  
18 named as a defendant in four civil cases. When questioned as to why he failed to disclose these  
19 items, Respondent stated to the Bureau's investigator that "filling out forms and paperwork is not  
20 my strong suit"; that he probably did not read the application questions carefully; that he  
21 considered the civil cases to be "financial stuff" and not civil cases; and that the revocation of his  
22 real estate license was the fault of his then business partner and his principal in a transaction in  
23 which the Administrative Law Judge found that Respondent had engaged in fraud and dishonest  
24 dealing in the transaction. Respondent submitted no letters of recommendation with his petition.  
25 After the Bureau's investigator requested that Respondent submit recommendation letters,  
26 Respondent submitted three letters, none of which indicated any knowledge of the facts which  
27 led to the revocation of Respondent's real estate salesperson license.

1                   Given the violations found and the fact that Respondent has not established that  
2 Respondent has satisfied Regulations 2911(n), I am not satisfied that Respondent is sufficiently  
3 rehabilitated to receive a real estate salesperson license.

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

6                   This Order shall become effective at 12 o'clock noon on 8-5-14.

7                   IT IS SO ORDERED 7/15/2014

8                   Real Estate Commissioner  
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12                  NOTICE – Respondent may request reconsideration of this Order pursuant to Government Code  
13 section 11521. The time within which to request reconsideration expires on the effective date of  
14 this Order, or at the termination of a stay of not to exceed 30 days, which the Bureau may (but is  
15 not required to) grant for the purpose of filing an application for reconsideration.

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