

FILED

FEB 18 2021

DEPARTMENT OF REAL ESTATE
By S. Black

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

ELIJAH AIZENBERG,

Respondent.

No. H-6650 SAC

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

On September 10, 2018, in Case No. H-6650 SAC, a Decision was rendered revoking the real estate salesperson license of Respondent effective October 2, 2018.

On November 7, 2019, 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.

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(1) The passage of not less than two years since the most recent
5 criminal conviction or act of the applicant that is a basis to deny the Department action sought.
6 (A longer period will be required if there is a history of acts or conduct substantially related to
7 the qualifications, functions or duties of a licensee of the Department.)

8 While the criminal acts that lead to Petitioner's conviction occurred over 10 years
9 ago, the date of his final sentencing was 3 only three years ago. Given the nature of the
10 conviction, the amount of time that has passed since the date of conviction is insufficient to
11 prove rehabilitation.

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

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

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

- 21 1. Respondent shall qualify for, take and pass the real estate salesperson
22 license examination.
- 23 2. Submittal of a completed application and payment of the fee for a real
24 estate salesperson license.

25 The restricted license issued to Respondent shall be subject to all of the provisions
26 of Section 10156.7 of the Business and Professions Code and to the following limitations,
27 conditions and restrictions imposed under authority of Section 10156.6 of that Code:

1 A. The restricted license issued to Respondent may be suspended prior to
2 hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction or
3 plea of nolo contendere to a crime which is substantially related to Respondent's fitness or
4 capacity as a real estate licensee.

5 B. The restricted license issued to Respondent may be suspended prior to
6 hearing by Order of the Real Estate Commissioner on evidence satisfactory to the
7 Commissioner that Respondent has violated provisions of the California Real Estate Law, the
8 Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to
9 the restricted license.

10 C. Respondent shall not be eligible to apply for the issuance of an
11 unrestricted real estate license nor the removal of any of the limitations, conditions or
12 restrictions of a restricted license until four (4) years have elapsed from the date of the issuance
13 of the restricted license to Respondent.

14 D. Respondent shall submit with any application for license under an
15 employing broker, or any application for transfer to a new employing broker, a statement signed
16 by the prospective employing real estate broker on a form approved by the Department of Real
17 Estate which shall certify:

18 1. That the employing broker has read the Decision of the Commissioner
19 which granted the right to a restricted license; and

20 2. That the employing broker will exercise close supervision over the
21 performance by the restricted licensee relating to activities for which a real estate license is
22 required.

23 E. Respondent shall notify the Commissioner in writing within 72 hours of
24 any arrest by sending a certified letter to the Commissioner at the Department of Real Estate, Post
25 Office Box 137007, Sacramento, CA 95813-7007. The letter shall set forth the date of
26 Respondent's arrest, the crime for which Respondent was arrested and the name and address of
27 the arresting law enforcement agency. Respondent's failure to timely file written notice shall

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constitute an independent violation of the terms of the restricted license and shall be grounds for the suspension or revocation of that license.

This Order shall become effective at 12 o'clock noon on MAR 11 2021

IT IS SO ORDERED (- 28.2)

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER

