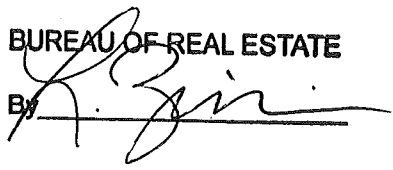


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FILED

NOV 25 2013

BUREAU OF REAL ESTATE

By 

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of

GARY THOMAS MC CAULEY,

Respondent.

No. H-8044 SF

ORDER DENYING REINSTATEMENT OF LICENSE

On June 24, 2002, a Decision was rendered in Case No. H-8044 revoking the real estate broker license of Respondent effective August 1, 2002, 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 August 1, 2002, and Respondent has operated as a restricted licensee since that time.

On November 8, 2012, 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.

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1 The burden of proving rehabilitation rests with the petitioner (*Feinstein v. State*
2 *Bar* (1952) 39 Cal. 2d 541). A petitioner is required to show greater proof of honesty and
3 integrity than an applicant for first time licensure. The proof must be sufficient to overcome the
4 prior adverse judgment on the applicant's character (*Tardiff v. State Bar* (1980) 27 Cal. 3d 395).

5 I have considered the petition of Respondent and the evidence submitted in
6 support thereof. Respondent has failed to demonstrate to my satisfaction that Respondent has
7 undergone sufficient rehabilitation to warrant the reinstatement of Respondent's real estate
8 broker license at this time.

9 The Bureau has developed criteria in Section 2911 of Title 10, California Code of
10 Regulations (Regulations) to assist in evaluating the rehabilitation of an applicant for
11 reinstatement of a license. Among the criteria relevant in this proceeding are:

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

14 The discipline imposed on Respondent's real estate broker license in 2002 was the
15 result of a Bureau audit which found violations of the California Business & Professions Code
16 and Regulations relating to trust fund handling and record keeping. After Respondent filed his
17 petition for reinstatement, the Bureau conducted an audit of Respondent's trust fund activities for
18 the period of January 1, 2012 through March 31, 2013. The Bureau's auditor found violations
19 which were similar to those found in the 2002 audit which led to the revocation of Respondent's
20 real estate broker license, including the failure to maintain adequate separate beneficiary records;
21 the inability to reconcile the separate beneficiary records to the control account; the failure to
22 maintain two control accounts (one for each trust account); and commingling broker funds with
23 trust funds. The findings of the 2013 audit demonstrate that Respondent has not corrected his
24 business practices which resulted in the revocation of his real estate broker license in 2002.

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

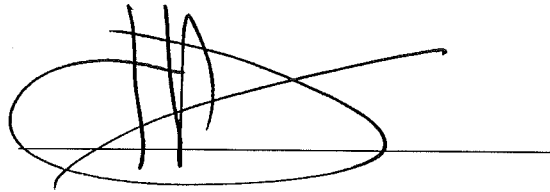
4 NOW, THEREFORE, IT IS ORDERED that Respondent's petition for
5 reinstatement of Respondent's real estate broker license is denied.

6 This Order shall become effective at 12 o'clock noon on DEC 16 2013.

7 IT IS SO ORDERED NOV 22 2013

8 Real Estate Commissioner

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A handwritten signature in black ink, appearing to be 'JM', is written over a horizontal line. The signature is stylized with a large loop and a crossbar.

By: JEFFREY MASON
Chief Deputy Commissioner