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AUG 19 2013

BUREAU OF REAL ESTATE

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BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of
CLAY EDWARD DUNCAN,
Respondent.

No. H-10093 SF

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

On March 29, 2008, a Decision revoking Respondent's real estate broker license was rendered. Said Decision was based on numerous audit violations.

On April 17, 2012, Respondent petitioned for reinstatement of Respondent's real estate broker license.

I have considered Respondent's petition and the evidence and arguments in support thereof. Respondent has failed to demonstrate to my satisfaction that Respondent has undergone sufficient rehabilitation to warrant the reinstatement of Respondent's real estate broker license, in that:

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

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

10 Respondent has not been licensed for five years. Correction of past business
11 practices cannot be determined until after Respondent is properly licensed.

12 Given the violations found and the fact that Respondent has not established that
13 Respondent has complied with Regulation 2911(k) I am not satisfied that Respondent is
14 sufficiently rehabilitated to receive a real estate broker license.

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

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

19 A restricted real estate broker license shall be issued to Respondent pursuant to
20 Code Section 10156.5 providing Respondent within twelve (12) months from the effective date
21 hereof:

22 (a) qualifies for, takes and passes the written examination required to obtain a real
23 estate broker license;

24 (b) makes application and pays the appropriate fee for said license;

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1. The restricted license issued to Respondent shall be subject to all of the provisions of Code Section 10156.7 and to the following limitations, conditions and restrictions imposed under authority of Code Section 10156.6. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction or plea of nolo contendere to a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee.

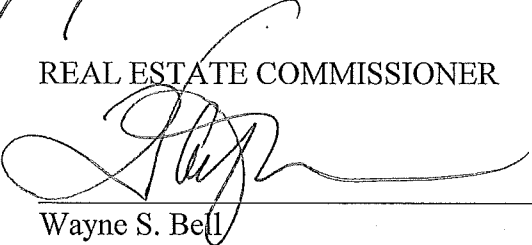
2. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that Respondent has violated provisions of the California Real Estate Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until two (2) years have elapsed from the effective date of this Decision.

This Order shall become effective at 12 o'clock noon on SEP 09 2013.

IT IS SO ORDERED 8/6/2013.

REAL ESTATE COMMISSIONER



Wayne S. Bell