

FILED

OCT 31 2013

BUREAU OF REAL ESTATE

By 

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

LINDA DALE MILLER,

Respondent.

No. H-11194 SF

ORDER DENYING REINSTATEMENT OF LICENSE

On January 13, 2012, a Decision was rendered in Case No. H-11194 SF revoking the real estate salesperson license of Respondent effective February 3, 2012.

On April 23, 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(a) The passage of not less than two years since the most recent
7 criminal conviction or act of the applicant that is a basis to deny the departmental action sought.
8 (A longer period will be required if there is a history of acts or conduct substantially related to
9 the qualifications, functions or duties of a licensee of the department.)

10 Notwithstanding the fact that Respondent completed the terms of her probation
11 early, and that her conviction has been expunged, the conviction for embezzlement occurred on
12 March 15, 2011, just two and one half years ago. The nature of the conviction (theft), and the
13 underlying facts of the conviction, require a longer time for Respondent to demonstrate that she
14 is rehabilitated.

15 Regulation 2911(i) Completion of, or sustained enrollment in, formal educational
16 or vocational training courses for economic self-improvement.

17 Respondent has provided no information that she has completed, or is enrolled in,
18 formal educational or vocational training courses for economic self-improvement.

19 Regulation 2911(m) New and different social and business relationships from
20 those which existed at the time of the conduct that is the basis for denial of the departmental
21 action sought.

22 Regulation 2911(n) Change in attitude from that which existed at the time of the
23 conduct in question as evidenced by any or all of the following:

24 (1) Testimony of applicant.

25 (3) Evidence from probation or parole officers or law enforcement officials
26 competent to testify as to applicant's social adjustments.

27 (4) Evidence from psychiatrists or other persons competent to testify with regard

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