FILED

OCT 3 1 2013

BUREAU OF REAL ESTATE

J. Jin

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

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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

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

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

Regulation 2911(a) The passage of not less than two years since the most recent criminal conviction or act of the applicant that is a basis to deny the departmental action sought.

(A longer period will be required if there is a history of acts or conduct substantially related to the qualifications, functions or duties of a licensee of the department.)

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

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

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

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

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

- (1) Testimony of applicant.
- (3) Evidence from probation or parole officers or law enforcement officials competent to testify as to applicant's social adjustments.
- (4) Evidence from psychiatrists or other persons competent to testify with regard

to neuropsychiatric or emotional disturbances.

Respondent continues to deny the underlying allegations of the conviction, has failed to take personal responsibility for her acts which led to the conviction, and has provided no proof of changes in her relationships which existed at the time of the acts resulting in the conviction. Respondent has not demonstrated a change in attitude which existed at the time of the acts resulting in the conviction by her own testimony, or the testimony of others, as set out in subsections (1) through (4) above.

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

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

This Order shall become effective at 12 o'clock noon on _

IT IS SO ORDERED

10/25/2013

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Real Estate Commissioner

WAYNE S BELI