

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

FILED

MAR 06 2017

BUREAU OF REAL ESTATE

By B. Nicholas

In the Matter of the Application of

MARCUS SCHAIBLE,

) CalBRE No. H-11989 SF

) OAH No. 2016080332

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Respondent.

DECISION

The Proposed Decision dated January 26, 2017, of the Administrative Law Judge of the Office of Administrative Hearings, is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

The application for a real estate salesperson license is denied, but the right to a restricted real estate salesperson license is granted to Respondent.

Pursuant to Government Code section 11521, the Bureau of Real Estate may order reconsideration of this Decision on petition of any party. The Bureau's power to order reconsideration of this Decision shall expire 30 days after mailing of this Decision, or on the effective date of this Decision, whichever occurs first. The right to reinstatement of a revoked real estate license or to the reduction of a penalty is controlled by Section 11522 of the Government Code. A copy of Sections 11521 and 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

If and when a petition for removal of restrictions is filed, all competent evidence of rehabilitation presented by the Respondent will be considered by the Real Estate Commissioner.

This Decision shall become effective at 12 o'clock noon on

MAR 27 2017

IT IS SO ORDERED

3/1/17

WAYNE S BELL
REAL ESTATE COMMISSIONER

A handwritten signature in cursive script, appearing to read "Daniel J. Sandri", written over a horizontal line.

By: DANIEL J. SANDRI
Chief Deputy Commissioner

BEFORE THE
BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of:

MARCUS DOYLE SCHAIBLE,

Respondent.

Case No. H-11989 SF

OAH No. 2016080332

PROPOSED DECISION

Administrative Law Judge Adrienne J. Miller, State of California, Office of Administrative Hearings, heard this matter on December 13, 2016, in Oakland, California.

Megan Olsen, Real Estate Counsel, represented complainant Robin S. Tanner, a Supervising Special Investigator of the State of California.

Respondent Marcus Doyle Schaible was present and represented by Jonathan Turner, Attorney at Law.

The record was held open until January 3, 2017, for respondent to submit additional documentary evidence. Complainant was allowed until January 5, 2017, to file any objections. On December 29, 2016, the following documents were received, marked as exhibits, and admitted as evidence as follows: Dismissal Order pursuant to Penal Code section 1203.4 for Alameda County Case No. 262542, marked as Exhibit M; Dismissal Order pursuant to Penal Code Section 1203.4 for Alameda County Case No. 336906, marked as Exhibit N; and reference letter from Michelle "Mikki" Cardoza, marked as Exhibit O. On December 29, 2016, complainant submitted a letter stating that complainant did not have any objections to respondent's additional documents. The record closed and the matter was submitted as of December 29, 2016.

FACTUAL FINDINGS

1. Complainant Robin S. Tanner filed the Statement of Issues in her official capacity as a Supervising Special Investigator of the State of California.
2. On January 21, 2015, Marcus Doyle Schaible (respondent) submitted to the Bureau of Real Estate (bureau) an application for a real estate salesperson license (2015

application). Previously respondent filed an application for a real estate salesperson license on December 28, 2012 (2012 application). On April 14, 2014, the bureau filed a Statement of Issues seeking to deny the 2012 application for violation of Business and Professions Code sections 480, subdivision (c), 480, subdivision (a), 10177, subdivision (a), and 10177(b). Respondent withdrew his application and on June 10, 2014, the Statement of Issues was dismissed. The bureau denied respondent's 2015 application and he appealed.

Criminal Convictions

3. On January 12, 2009, in the Superior Court of California, County of Humboldt, case number CR084123S, respondent was convicted on his plea of nolo contendere of a violation of Penal Code section 240 (assault), a misdemeanor.¹ Imposition of sentence was suspended and respondent was placed on probation for three years. Conditions of probation included paying a fine of \$480, paying restitution of \$100, attending Alcoholic Anonymous (AA) twice a week for three months, and staying away from the victim or annoying, harassing, threatening or battering the victim.

The facts and circumstances of this conviction are that on April 19, 2008, respondent was the owner of a bar and the employer of the victim. After work the victim remained in the bar with a friend and respondent. The victim was not drinking but respondent was under the influence of alcohol when he inappropriately touched the victim's vagina through her clothes, while he was offering to show her a tattoo on his neck. The victim left the bar feeling humiliated and embarrassed and notified the police of the unpermitted and unsolicited touching. The victim also reported that respondent previously had made inappropriate remarks about her breasts while she was at work. The victim subsequently quit her job with respondent.

On May 28, 2009, a Petition to Revoke respondent's conditional probation was filed in the Superior Court of California, County of Humboldt because he failed to appear for a status review in his case to provide proof of attendance of AA classes. On February 11, 2011, the court reinstated probation and modified probation to include that AA meetings were no longer required and probation was extended through January 12, 2013.

Respondent completed all requirements of his conviction. On October 6, 2016, this conviction was dismissed pursuant to Penal Code section 1203.4.

4. On January 12, 2009, in the Superior Court of California, County of Humboldt, case number CR085293S, respondent was convicted on his plea of nolo contendere of a violation of Vehicle Code section 14601.5, subdivision (a) (driving with a suspended or revoked license), a misdemeanor. Imposition of sentence was suspended and respondent was placed on probation for one year. Conditions of probation included paying a

¹ Complainant's Statement of Issues states that respondent was convicted of Penal Code section 242 (battery), but the evidence indicated that respondent was convicted of Penal Code section 240 (assault).

fine of \$1,334.40, paying restitution of \$100, and not driving without a valid driver's license and insurance.

The facts and circumstances of this conviction are that on August 6, 2008, respondent drove a motor vehicle at a time when his driving privilege was suspended or revoked as a result of a driving under the influence conviction dated June 19, 2007.

Respondent testified that he completed all requirements of his conviction. On October 6, 2016, this conviction was dismissed pursuant to Penal Code section 1203.4.

5. On June 19, 2007, in the Superior Court of California, County of Humboldt, case number CR072839S, respondent was convicted on his plea of guilty of a violation of Vehicle Code section 23152, subdivision (a), with one prior (driving under the influence of alcohol or drugs) (DUI), a misdemeanor. Imposition of sentence was suspended and respondent was placed on probation for three years. Conditions of the sentence included paying a fine of \$2,473, paying a restitution fine of \$100, enrolling in and completing the multiple offender alcohol program, attending a victims' panel through Mothers against Drunk Driving (MADD), and serving 10 days in the county jail to be completed through the Sheriff's Work Alternative Program.

The facts and circumstances of this conviction are that on April 2, 2007, respondent was driving his vehicle without its lights on and was driving while under the influence of alcohol.

On July 1, 2008, a Petition to Revoke respondent's probation was filed in the Superior Court of California, County of Humboldt, because he failed to obey all laws when he was arrested on April 19, 2008 for committing a battery/assault on the victim in Finding 3. On January 12, 2009, the court found that respondent violated his probation. Respondent's probation was revoked and reinstated under all original terms and conditions.

Respondent completed all requirements of his conviction. On October 6, 2016, this conviction was dismissed pursuant to Penal Code section 1203.4.

6. On July 31, 2000, in the Superior Court of California, County of Humboldt, case number CR003201S, respondent was convicted on his plea of nolo contendere of a violation of Vehicle Code section 23152, subdivision (b) (driving with a blood alcohol level at or above .08 percent) (DUI), a misdemeanor. Imposition of sentence was suspended and respondent was placed on probation for three years. Conditions of probation included paying a fine of \$1,996, paying restitution of \$100, enrolling in and completing a Department of Motor Vehicles (DMV) alcohol program, attending a victims' panel through MADD, and not driving unless validly licensed and insured.

The facts and circumstances of this conviction are that on June 24, 2000, respondent drove his vehicle the wrong way on a one-way street while under the influence of alcohol. Respondent's blood alcohol level was 0.123 percent.

Respondent completed all requirements of his conviction. On October 6, 2016, this conviction was dismissed pursuant to Penal Code section 1203.4.

7. On May 22, 2000, in the Superior Court of California, County of Alameda, case number 336906, respondent was convicted on his plea of nolo contendere of a violation of Penal Code sections 242 (battery) and 415 (disturbing the peace), misdemeanors. Imposition of sentence was suspended and respondent was placed on probation for three years. Conditions of probation included paying a fine of \$100, and serving 15 days in jail, to be completed on weekends.

The facts and circumstances of this conviction are that sometime in 2000, while respondent was shopping and trying on clothes in a department store he became involved in a verbal and physical confrontation with another shopper over the use of the same dressing room. Respondent had removed the other patron's clothing from the dressing room without knowing that the dressing room was already in use, and when the patron returned they engaged in an altercation, which resulted in respondent being arrested for disturbing the peace and battery.

Respondent completed all requirements of his conviction. On December 1, 2016, this conviction was dismissed pursuant to Penal Code section 1203.4.

8. On April 24, 1991, in the Superior Court of California, County of Alameda, case number 262542, respondent was convicted on his plea of guilty of a violation of Vehicle Code section 12500, subdivision (a) (driving without a license), a misdemeanor. Imposition of sentence was suspended and respondent was placed on probation for 18 months. Conditions of probation included paying a fine of \$325, and serving 60 days in county jail.

The evidence did not establish the facts and circumstances regarding this conviction.

Respondent completed all requirements of his conviction. On December 1, 2016, this conviction was dismissed pursuant to Penal Code section 1203.4.

Professional License Revocation

9. On October 18, 2005, the Department of Alcoholic Beverage Control (ABC) issued an on-sale general public premises license type 48 to respondent. On November 1, 2007, the ABC ordered respondent's on-sale general public premises license be revoked. The ABC's License Query System summary as of July 25, 2016, states that respondent's license was suspended from November 1, 2007 to December 5, 2005.² The license was suspended for 730 days; however the actual suspension was for 35 days. There was no evidence regarding the specific grounds for the revocation; however the ABC noted that

² The suspension dates appear to be incorrect and reversed. The correct suspension dates must have been from December 5, 2005 to November 1, 2007.

respondent's license disciplinary history included permitting an obviously intoxicated person to remain within the premises, and noise violations.

Application Omissions

10. Question 34 of the 2015 application for licensure asks the applicant: "HAVE YOU EVER HAD A DENIED, SUSPENDED, RESTRICTED OR REVOKED BUSINESS OR PROFESSIONAL LICENSE (INCLUDING REAL ESTATE), IN CALIFORNIA OR ANY OTHER STATE." Respondent answered "No." Respondent failed to disclose the license discipline described in Finding 9.

11. Question 3 in Part D of the 2012 application for licensure asks the applicant: "HAVE YOU EVER HAD A DENIED, SUSPENDED, RESTRICTED OR REVOKED BUSINESS OR PROFESSIONAL LICENSE (INCLUDING REAL ESTATE), IN CALIFORNIA OR ANY OTHER STATE." Respondent answered "No." Respondent failed to disclose the license discipline described in Finding 9.

12. The 2012 application for licensure asks the applicant to reveal whether he has "ever been convicted of a misdemeanor or felony." Respondent checked the box "yes" next to this question, and signed the application under a certification that the information provided was true and correct under penalty of perjury. Respondent disclosed the convictions set forth in Findings 3, 5, and 6, but he failed to disclose the convictions set forth in Findings 4, 7, and 8. Respondent did disclose all of his convictions on the 2015 application.

Respondent's Evidence

13. Respondent is a 46-year-old man who recently married on June 18, 2016.

14. Respondent graduated from Castro Valley High School in 1989. In 1989, respondent attended the Sierra Academy of Aeronautics to study airplane mechanics. After graduation from the Sierra Academy of Aeronautics, respondent became a car mechanic and worked as a mechanic until 1998. In 1998, respondent decided to attend Humboldt State University as a full-time student. In 2003, respondent graduated from Humboldt State University with a B.A. degree in communications.

15. In 2005, respondent bought a bar in Eureka, California. Respondent initially believed the bar business would be profitable and he would enjoy meeting people and organizing band performances at his bar. Unfortunately the bar business introduced him to excessive drinking and disreputable people. In 2011, respondent dissolved his bar business, and sold his on-sale liquor license.

16. Since 2003, respondent has been buying apartment buildings in the Eureka area and currently owns and manages nine apartment buildings.

17. Respondent has had a history of alcohol abuse for 20 years, and most of his convictions occurred while he was the owner of his bar.

18. Respondent testified credibly and sincerely that he has had problems with alcohol abuse in the past and that being the owner of a bar contributed to his alcohol abuse problems. Since selling his bar business and completing all of his alcohol educational programs, pursuant to his two DUI convictions in 2000 and 2007, respondent has learned that drinking and driving is never appropriate. Respondent admits that he was selfish and irresponsible for putting his life and others in danger while driving under the influence of alcohol. Respondent has learned that alcohol is destructive and he no longer drinks to excess. Respondent contends that his drinking problems are in the past, and he is not an alcoholic. Respondent drinks a glass of wine or one beer with dinner now and is not interested in getting drunk.

19. After respondent's last conviction in 2009, and selling his bar in 2011, respondent returned to his parents' home to think about his future and started studying for his real estate salesperson license. Respondent returned to his previous occupation as a car mechanic while living with his parents. Respondent took the real estate exam in 2012, and passed.

20. When respondent first applied for his license in 2012, he did not have any professional help in filling out the application and was told by a clerk at the bureau, where he filed his first application, that the bureau would do its own investigation about his criminal convictions. Respondent relied on this information and filled out the application using his memory only, and did not list all of his convictions. In hindsight respondent stated that he should have requested a live scan report prior to filling out the application. When respondent applied in 2015, he had received a live scan report and listed all of his convictions. However, in both applications respondent did not list the revocation/suspension of his on-sale liquor license with the ABC. Respondent testified credibly that he did not realize the on-sale liquor license is considered a professional license similar to a real estate salesperson license, and therefore did not list it when asked if he ever had any discipline regarding a professional license. Respondent now understands that an on-sale liquor license is considered a professional license.

21. Respondent takes full responsibility for all of his criminal behavior and is very contrite. Respondent has changed his attitude about life, he has changed his work environment, his friends, and he is now in a loving and supportive marriage.

22. Respondent has not had any criminal convictions since 2009.

23. Respondent volunteers in his community for both the Mateel Community Center, and the Kinetic Sculpture Races. Respondent has helped with fundraising events for the Mateel Community Center over the last two years and has been a participant and volunteer for the Kinetic Sculpture Race, which is a fund-raising event for the local community.

24. Respondent provided nine character letters from family and friends and one letter from a broker interested in hiring him as a real estate salesperson if he were to receive his license.

25. The first letter, dated September 28, 2016, is from respondent's parents who describe respondent as a financially responsible person who has helped support his brother and his parents when they were in financial trouble. They also state that respondent has an out-going personality and has good communication skills.

The second letter, dated September 25, 2016, is from respondent's wife, Tina Tvedt. Tvedt is the Executive Director of Redwoods Rural Health Center. She is also President of the Garberville Rotary, on the board of Community Health Alliance, Family Community Health Partnership, and the Redwood AIDS Information Network and Support (RAINS). Tvedt states that she and respondent are actively involved with various local businesses and non-profit organizations. Tvedt describes respondent as "a kind and generous man who puts the needs of others before his own." Tvedt states that respondent is "a man of integrity and follows through on his commitments. She states that respondent is "responsible and [does not] drink and drive or commit any other illegal acts." She believes that respondent would act "in an ethical and professional manner" if he was granted a real estate license, and that he would "make a wonderful realtor because he is very responsive to the needs of other's and has considerable personal experience in the real estate business."

The third letter, dated October 1, 2016, is from Emma Breacain, the Executive Director of the Humboldt Literacy Project, a nonprofit that teaches illiterate adults to read and Vice President of the Northern California Literacy Coalition. Breacain has been respondent's friend and colleague since 2005. Breacain states that respondent is "an all around good person to have on your team, a person I am glad to have in my community and call my friend, a person [I would] do business with."

The fourth letter is from Randy Cantua, a Farmers Insurance Agent and member of the Garberville/Redway Area Chamber of Commerce. Cantua has known respondent for three years and employed respondent from January 2014 to February 2015. Cantua states that respondent is "punctual, trustworthy and a capable employee." Cantua further states:

... [respondent] had a fiduciary duty to handle my clients' payments in a proper manner, which he always did. He also handled private and confidential information with the utmost care. I personally found [respondent] to be friendly, outgoing and personable. I feel that it is unfortunate that his past is preventing him from choosing a new career path. It is my sincere belief that he should be given the chance to fulfill his dreams.

The fifth letter is from Garth Epling, owner of Emerald Technologies and board president of Mateel Community Center, a local non-profit, and a member of the Garberville Rotary Club. Epling has known respondent for two years and states that respondent has volunteered for the Mateel Community Center, and that respondent has "earned the trust and respect of many of our staff and has helped our organization greatly with his time and energy." Epling describes respondent as having:

... great aptitude for problem solving, and in my opinion is a person of good character that I'm happy [he] has chosen to live and work in our area. In a small town a person is quickly judged on their actions; judging from [respondent's] actions he is a person of good moral character.

The remaining letters are from associates that respondent volunteers with on the Kinetic Sculpture Races and all describe respondent as an honest person, with good intentions and willingness to help others.

26. The ninth letter, which is not dated, is from Michelle "Mikki" Cardoza, owner and broker for MikkiMoves Real Estate, Inc. Ms. Cardoza has known respondent for 15 years. She met respondent in 2002 when she was his realtor for his various investment purchases. Ms. Cardoza states that she would like respondent to work at MikkiMoves Real Estate and she feels that respondent "will bring an enthusiasm to the business, and be able to be tenacious with his dealings, while participating as a team player." Ms. Cardoza states:

I have seen [respondent] persevere through these tough times to focus on good things. He was recently married, shares openly, and has stayed in touch about pursuing his real estate license. He has been inquisitive and honest about the difficulty he has been having in obtaining his license.

I see him working well as a team player, as I see him do every year with his Kinetic sculpture race participation, where as a team, a Kinetic Sculpture is built to race for 3 days on land, sand and sea.

I am impressed by [respondent's] desire to complete what he has started and stay focused on what he wants to get done. I find his personal perseverance commendable, and am excited to see where his path will take him. I think his experiences will bode well for helping others stay focused on their own needs as he guides others through a real estate process in a team like fashion.

LEGAL CONCLUSIONS

First Cause for Denial

1. Business and Professions Code section 480, subdivision (a), authorizes the denial of a license if the applicant has been convicted of a crime that is substantially related to the qualifications, functions or duties of the licensed business or profession. Business and Professions Code section 10177, subdivision (b), which is specific to real estate licenses, authorizes the denial of a license if the applicant has been convicted of a crime that is substantially related to the qualifications, functions or duties of a licensee of the Bureau of Real Estate.

2. California Code of Regulations, title 10, section 2910, sets forth the criteria for determining whether a crime is substantially related to the qualifications, functions or duties of a real estate licensee. California Code of Regulations, title 10, section 2910, subdivision (a)(8), provides that a crime is substantially related if it involves doing an unlawful act with the intent or threat of doing substantial injury to the person or property of another. In addition, subdivision (a)(10), provides that a crime is substantially related if it involves "[c]onduct which demonstrates a pattern of repeated and willful disregard of the law. Subdivision (a)(11), provides that "[t]wo or more convictions involving the consumption or use of alcohol or drugs when at least one of the convictions involve driving and the use or consumption of alcohol or drugs" satisfy the substantial relationship criteria. Under these regulations, respondent's convictions for two DUI's, one driving on a suspended license, one driving without a license and the two convictions for assault and battery and disturbing the peace are deemed substantially related to the qualifications, functions or duties of a real estate licensee. By reason of the matters set forth in Findings 3 through 8, the convictions constitute cause to deny respondent a real estate salesperson license pursuant to Business and Professions Code section 480, subdivision (a), and 10177, subdivision (b).

Second Cause for Denial

3. Business and Professions Code sections 480, subdivision (d), 10177, subdivision (a), and 10177, subdivision (j), together provide that an application for a real estate license may be denied where an applicant has attempted to procure a real estate license by making a false statement of fact in his application or engaged in conduct that constitutes fraud or dishonest dealing. Respondent failed to reveal, in both of his 2012 and 2015 applications, the ABC license discipline set forth in Factual Finding 9. In addition, respondent omitted four convictions in his 2012 application: one for driving when privilege suspended for a prior DUI, battery and disturbing the peace, and driving without a license. Real estate salespersons are fiduciaries and it is very important that they be honest persons and held to the highest standards of integrity. More specifically, it is essential that real estate licensees understand and appreciate the significance of completing and signing an official document under penalty of perjury. Cause for denial therefore exists by reason of the matters set forth in Findings 10 through 12.

Third Cause for Denial

4. Business and Professions Code sections 480, subdivision (a), and 10177, subdivision (f), together provide that an application for a real estate license may be denied where an applicant had a license issued by another agency of this state, denied, revoked or suspended for acts, that if done by a real estate licensee, would be grounds for the suspension or revocation of real estate license. Business and Professions Code section 480, subdivision (a), and 10177, subdivision (g), provide that an application may be denied if the applicant demonstrated negligence or incompetence in performing an act for which he is required to hold a license. Respondent's on-sale liquor license was subjected to disciplinary action by ABC due to permitting an intoxicated person to remain on his bar's premises and for violating noise restrictions. Cause for denial therefore exists by reason of the matters set forth in Finding 9.

5. In California Code of Regulations, title 10, section 2911, the Department has established criteria to be considered when evaluating an applicant's rehabilitation from the act or crime that led to denial. The first criterion is passage of time; specifically, whether more than two years have passed since the last conviction. (Cal. Code Regs., tit. 10, section 2911, subd. (c).) Respondent's last two convictions, one for assault and the other for driving on a suspended license are eight years old and meet the passage of time criteria. In other important respects, respondent has satisfied the criteria. Respondent has successfully completed probation for all of his convictions and has paid all of his fines imposed in connection with his criminal convictions (Cal. Code Regs., tit. 10, subds. (e) and (g)) and he has had all of his convictions expunged (Cal. Code Regs., tit. 10, subd. (c).)

6. Respondent bears the burden to prove that he is rehabilitated and that he will conduct himself in an honest and law-abiding manner if licensed as a real estate salesperson. Respondent is sorry for his past actions and appears to be aware of the danger he has put himself in as well as innocent people by his two convictions for DUI, his conviction for driving on a suspended license, his conviction for driving without a license, and his three convictions for assault and battery and disturbing the peace. Respondent has demonstrated that he has changed his drinking behavior since his last conviction in 2009, which was the main cause for most of convictions.

Respondent's candor regarding the omission of the four convictions due to his belief that the bureau would do its own investigation and his reliance on a bureau employee that he did not have to be accurate, was sincere and believable, as set forth in Factual Finding 20. The evidence shows that respondent withdrew his first application once he understood he did not provide an accurate list of all of his convictions and prior to submitting his second application in 2015, he did a diligent search of his full criminal record with live scan and listed all his convictions in his 2015 application.

Respondent was believable when he stated that he did not realize the ABC discipline regarding his on-sale liquor license was considered a discipline of a professional license at

the time that he applied for his real estate salesperson license. He now understands that an on-sale liquor license is a professional license and he should have stated that his on-sale liquor license had been revoked and then suspended for a period of time as set forth in Factual Findings 9 and 20.

There was sufficient evidence that respondent has changed his lifestyle and his attitude about his responsibility to obey laws and accept the consequences of his actions. Respondent has changed his lifestyle, his friends, and is in a committed and loving marriage. It would not be against the public interest to grant respondent a restricted salesperson license.

ORDER

The application of respondent Marcus Doyle Schaible for a real estate salesperson license is denied, provided, however, a restricted real estate salesperson license shall be issued to him pursuant to Business and Professions Code section 10156.6. The restricted license issued to respondent shall be subject to all of the provisions of Business and Professions Code section 10156.7 and to the following limitations, conditions and restrictions imposed under authority of section 10156.6 of that Code:

1. The license shall not confer any property right in the privileges to be exercised, and the Real Estate Commissioner may by appropriate order suspend the right to exercise any privileges granted under this restricted license in the event of:
 - (a) The conviction of respondent (including a plea of nolo contendere) of a crime which is substantially related to respondent's fitness or capacity as a real estate licensee; or
 - (b) The receipt of evidence that respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to this restricted license.
2. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license or for the removal of any of the conditions, limitations or restrictions attaching to the restricted license until two years have elapsed from the date of issuance of the restricted license to respondent.
3. With the application for license, or with the application for transfer to a new employing broker, respondent shall submit a statement signed by the prospective employing real estate broker on a form RE 552 (Rev 4/88) approved by the Bureau of Real Estate which shall certify as follows:
 - (a) That the employing broker has read the Decision which is the basis for the issuance of the restricted license; and

(b) That the employing broker will carefully review all the transaction documents prepared by the restricted licensee and otherwise exercise close supervision over the licensee's performance of acts for which a license is required.

4. Respondent shall notify the Commissioner in writing within 72 hours of any arrest by sending a certified letter to the Commissioner at the Bureau of Real Estate, Post Office Box 187000, Sacramento, CA 95818-7000. The letter shall set forth the date of respondent's arrest, the crime for which respondent was arrested and the name and address of the arresting law enforcement agency. Respondent's failure to timely file written notice shall constitute an independent violation of the terms of the restricted license and shall be grounds for the suspension or revocation of that license.

DATED: January 26, 2017

DocuSigned by:

Adrienne J. Miller

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ADRIENNE J. MILLER

Administrative Law Judge

Office of Administrative Hearings