

FILED

MAR 16 2021

DEPARTMENT OF REAL ESTATE

By S. Black

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

THOMAS ANDREW LEGAULT,

No. H-12211 SF

Respondent.

**ORDER DENYING REINSTATEMENT OF LICENSE
BUT GRANTING RIGHT TO A RESTRICTED LICENSE**

On October 5, 2018, in Case No. H-12211 SF, a Decision was rendered revoking the real estate broker license of Respondent effective November 16, 2018.

On March 16, 2018, 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.

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 Respondent's petition and the evidence submitted in support thereof.

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

4 Regulation 2911(1) The passage of not less than two years since the most recent
5 criminal conviction or act of the applicant that is a basis to deny the Department action sought.
6 (A longer period will be required if there is a history of acts or conduct substantially related to
7 the qualifications, functions or duties of a licensee of the Department.)

8 Petitioner has satisfied most of the requisite criteria for reinstatement; however,
9 the serious nature of the crime warrants a passage of more than two years since the conviction.

10 Respondent has failed to demonstrate to my satisfaction that Respondent has
11 undergone sufficient rehabilitation to warrant the reinstatement of Respondent's unrestricted real
12 estate broker license.

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

15 A restricted real estate broker license shall be issued to Respondent pursuant to
16 Section 10156.5 of the Business and Professions Code, if Respondent satisfies the following
17 conditions prior to and as a condition of obtaining a restricted real estate broker license within
18 twelve (12) months from the effective date of this Order:

19 1. Submits a completed application and pays the fee for a real estate broker
20 license within the 12 month period following the effective date of this Order; and

21 2. Submits proof that Respondent has completed the continuing education
22 requirements for renewal of the license sought. The continuing education courses must be
23 completed either (i) within the 12 month period preceding the filing of the completed
24 application, or (ii) within the 12 month period following the effective date of this Order.

25 The restricted license issued to Respondent shall be subject to all of the provisions
26 of Section 10156.7 of the Business and Professions Code and to the following limitations,
27 conditions and restrictions imposed under authority of Section 10156.6 of that Code:

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A. 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.

B. 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, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

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

D. Respondent shall notify the Commissioner in writing within 72 hours of any arrest by sending a certified letter to the Commissioner at the Department of Real Estate, Post Office Box 137007, Sacramento, CA 95813-7007. 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.

This Order shall become effective at 12 o'clock noon on APR 06 2021.

IT IS SO ORDERED 3.9.21

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER

