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FILED

OCT 26 2018

DEPT. OF REAL ESTATE

By R. Posada

BEFORE THE DEPARTMENT¹ OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of
DANIEL ALAN WEINSTEIN,
Respondent.

CASE NO. H-27854 LA

STIPULATION AND AGREEMENT

AND

DECISION AFTER RECONSIDERATION

On May 12, 1999, a Decision was rendered by the California Department of Real Estate ("Department") revoking the real estate broker license of DANIEL ALAN WEINSTEIN ("Respondent"). On March 27, 2018, Respondent petitioned for reinstatement of said real estate broker license. On August 24, 2018, an Order Denying Reinstatement of License was

¹ Between July 1, 2013 and July 1, 2018, the Department of Real Estate operated as the Bureau of Real Estate, under the Department of Consumer Affairs.

1 filed by the Department. An Order Granting Reconsideration was filed by the Department on
2 September 20, 2018.

3 The parties wish to settle this matter without further proceedings.

4 IT IS HEREBY STIPULATED by and between Respondent and Respondent's
5 attorney, Seth E. Wiener, and the Department, acting by and through James A. Demus, as
6 follows for the purpose of settling and disposing of the Petition for Reinstatement.
7

8 1. It is understood by the parties that the Real Estate Commissioner may adopt
9 the Stipulation and Agreement ("Stipulation") as his decision in this matter, thereby imposing
10 the penalty and sanctions on Respondent's real estate license as set forth in the below "Decision
11 and Order". In the event the Commissioner in his discretion does not adopt the Stipulation, the
12 Stipulation shall be void and of no effect; the Commissioner will review the evidence in the
13 case, and will issue his Decision after Reconsideration in this matter.
14

15 2. By reason of the foregoing and solely for the purpose of settlement of the
16 Petition for Reinstatement without further administrative proceedings, it is stipulated and agreed
17 that the following shall be adopted as the Commissioner's Decision:
18

19 ORDER

20 WHEREFORE, THE FOLLOWING ORDER is hereby made:

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

25 1. Respondent shall qualify for, take and pass the real estate broker license
26 examination.
27

1 2. Submittal of a completed application and payment of the fee for a real
2 estate broker license.

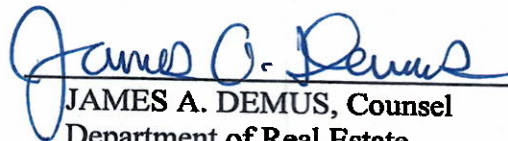
3 The restricted license issued to Respondent shall be subject to all of the
4 provisions of Section 10156.7 of the Business and Professions Code and to the following
5 limitations, conditions and restrictions imposed under authority of Section 10156.6 of that
6 Code:

7 A. The restricted license issued to Respondent may be suspended prior to
8 hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction or
9 plea of nolo contendere to a crime which is substantially related to Respondent's fitness or
10 capacity as a real estate licensee.

11 B. The restricted license issued to Respondent may be suspended prior to
12 hearing by Order of the Real Estate Commissioner on evidence satisfactory to the
13 Commissioner that Respondent has violated provisions of the California Real Estate Law, the
14 Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching
15 to the restricted license.

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

20
21
22 10/4/18
23 DATED


24 JAMES A. DEMUS, Counsel
25 Department of Real Estate

26 * * *

27 I have read the Stipulation and its terms are understood by me and are agreeable
and acceptable to me. I willingly and voluntarily agree to enter into this Stipulation.

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Respondent shall send a hard copy of the original signed Stipulation and Agreement to: James A. Demus, Department of Real Estate, 320 West Fourth St, Ste 350, Los Angeles, CA, 90013. In the event of time constraints, Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by emailing a scanned copy of the signature page, as actually signed by Respondent, to the Department counsel assigned to this case. Respondent agrees, acknowledges and understands that by electronically sending the Department a scan of Respondent's actual signature as it appears on the Stipulation and Agreement, that receipt of the scan by the Department shall be binding on Respondent as if the Department had received the original signed Stipulation and Agreement.

SEPTEMBER 30, 2018


Dated


DANIEL ALAN WEINSTEIN
Respondent

I have reviewed this Stipulation and Agreement as to form and content and have advised my client accordingly.

September 29, 2018

Dated


SETH W. WIENER
Attorney for Respondent

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DECISION AND ORDER

The foregoing Stipulation and Agreement and Decision After Reconsideration is hereby adopted as my Decision in this matter.

This Decision shall become effective at 12 o'clock noon on NOV 14 2018

IT IS SO ORDERED October 22, 2018

Daniel J. Sandri
Acting Real Estate Commissioner



FILED
SEP 20 2018

DEPARTMENT OF REAL ESTATE
By Re. P. O'Connell

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

No. H-27854 LA

DANIEL ALAN WEINSTEIN,

Respondent.

ORDER GRANTING RECONSIDERATION

On August 20, 2018, an Order Denying Reinstatement was signed in the above-entitled matter. Said Order was to become effective on September 14, 2018 and was stayed by separate Order to September 24, 2018.

On September 11, 2018, Respondent petitioned for reconsideration of the Order of August 20, 2018.

I find that there is good cause to reconsider the Order of August 20, 2018. Reconsideration is granted for the limited purpose of determining whether license reinstatement should be granted.

Respondent shall have fifteen (15) days after the date of this Order, in which to file written argument in further support of his petition for reconsideration. Counsel for the

1 Bureau of Real Estate shall submit any written reply to said argument within fifteen (15) days
2 thereafter.

3
4 IT IS SO ORDERED September 17, 2018.

5
6 DANIEL J. SANDRI
7 ACTING REAL ESTATE COMMISSIONER

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FILED
AUG 24 2018
DEPARTMENT OF REAL ESTATE
By R. Posada

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

DANIEL ALAN WEINSTEIN,

Respondent.

No. H-27854 LA

ORDER DENYING REINSTATEMENT OF LICENSE

On May 12, 1999, a Decision was rendered in Case No. H-27854 LA revoking the real estate broker license of Respondent effective June 8, 1999.

On March 27, 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 the petition of Respondent 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. Criteria of Rehabilitation (Denial)

5 (a) The following criteria have been developed and will be considered by the
6 Department pursuant to Section 482 of the Business and Professions Code for the
7 purpose of evaluating whether or not an applicant is rehabilitated for purposes of issuance or for
8 reinstatement of license:

9 2) Restitution to any person who has suffered monetary losses through
10 “substantially related” acts or omissions of the applicant or escheat to the State of these monies
11 or other properties if the victim(s) cannot be located.

12 The Decision in Case No. H-27854 LA noted that United States Bankruptcy Court
13 for the Central District of California order Respondent to repay \$900 to Phyllis Gross, \$3,600 to
14 Travis Perry, and \$15,000 to the court. Respondent has offered no evidence of complying with
15 this order.

16 11) Correction of business practices resulting in injury to others or with the
17 potential to cause such injury.

18 Since Respondent has not operated as a real estate licensee or handled
19 bankruptcies for others since his revocation, he cannot demonstrate that he has corrected the
20 business practices that resulted in injury to others.

21 12) Significant or conscientious involvement in community, church or
22 privately-sponsored programs designed to provide social benefits or to ameliorate social
23 problems.

24 Although Respondent claimed to be a “reserve police officer for 9 years”, he did
25 not corroborate this claim with any documentation from any police department. Nor did he
26 demonstrate when his service ended or the extent of his involvement as a reserve police officer.
27 Respondent also claimed to teach free “safety and security seminars”. No evidence was

1 provided from anyone who had either attended or authorized any such seminars. Nor was there
2 evidence regarding when, and how often, these seminars were held.

3 14) Change in attitude from that which existed at the time of the conduct in
4 question as evidenced by following:

5 (A) Testimony of applicant and/or evidence of rehabilitation submitted by the
6 applicant.

7 Respondent continues to deny responsibility for the acts that led to the revocation
8 of his license.

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

12 Given the violations found and the fact that Respondent has not established that
13 Respondent has satisfied Regulations 2911(a)(2), (11), (12) and (14), I am not satisfied that
14 Respondent is 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 This Order shall become effective at 12 o'clock noon on

SEP 13 2018

18 IT IS SO ORDERED August 20, 2018

19 DANIEL J. SANDRI
20 ACTING REAL ESTATE COMMISSIONER

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22 Daniel J. Sandri
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