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FILED

FEB 26 2013

DEPARTMENT OF REAL ESTATE
BY: *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

BILLY LEROY MILLER,

Respondent.

No. H-27998 LA

ORDER DENYING REINSTATEMENT OF LICENSE AND
GRANTING RIGHT TO A RESTRICTED LICENSE

On February 23, 2000, a Decision was rendered revoking the real estate broker license of Respondent, but granting a restricted salesperson license. The restricted license was issued March 21, 2000.

On or about December 21, 2010, Respondent petitioned for reinstatement of Respondent's real estate broker license. The Attorney General of the State of California has been given notice of the filing of the petition.

I have considered Respondent's petition and the evidence and arguments 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 broker license, in that:

I

In the Decision which revoked Respondent's real estate license there were Determination of Issues made that there was cause to revoke Respondent's real estate license for various audit violations.

II

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).

III

The Department 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(k) – Correction of business practices resulting in injury to others or with the potential to cause such injury. Respondent has not been a broker for over five (5) years.

Given the violations found and the fact that Respondent has not established that Respondent has complied with Regulation 2911(k), I am not satisfied that Respondent is sufficiently rehabilitated to receive a real estate broker license.

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

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

A restricted real estate broker license shall be issued to Respondent pursuant to Code Section 10156.5 if Respondent within twelve (12) months from the date hereof providing Respondent:

1 (A) Qualifies for, takes and passes the written examination required to obtain a
2 real estate broker license;

3 (b) makes application and pays the appropriate fee for said license;

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

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

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

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

18 This Order shall become effective at 12 o'clock noon on MAR 18 2013

19 IT IS SO ORDERED 11/9/2012

20 Real Estate Commissioner

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22 By WAYNE S. BELL
23 Chief Counsel
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