

Sachs Glas

FILED

MAR 02 2012

DEPARTMENT OF REAL ESTATE

BY: *[Signature]*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of
DANIEL RENE BARILLAS,
Respondent.

No. H-29770 LA

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

On May 5, 2003, a Decision was rendered revoking Respondent's real estate salesperson license.

On November 3, 2010, Respondent petitioned for reinstatement of Respondent's real estate salesperson license.

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 salesperson license, in that:

///
///
///

I

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).

The Department has developed criteria in Section 2911, Title 10, Chapter 6, 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(l) – Significant or conscientious involvement in community, church or social programs

Respondent has not submitted such proof.

Regulation 2911(n)(5) – Change in attitude as evidenced by absence of subsequent convictions

In 2004, Respondent was convicted of wire fraud, a felony.

Given the violations found and the fact that Respondent has not established that Respondent has complied with Regulations 2911(l) and (n)(5) 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.

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

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

(a) qualifies for, takes and passes the written examination required to obtain a real estate salesperson license;

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

1 1. The restricted license issued to Respondent shall be subject to all of the
2 provisions of Code Section 10156.7 and to the following limitations, conditions and restrictions
3 imposed under authority of Code Section 10156.6. The restricted license issued to Respondent
4 may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of
5 Respondent's conviction or plea of nolo contendere to a crime which is substantially related to
6 Respondent's fitness or capacity as a real estate licensee.

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

11 3. Respondent shall not be eligible to apply for the issuance of an unrestricted
12 real estate license nor for the removal of any of the conditions, limitations or restrictions of a
13 restricted license until four (4) years have elapsed from the effective date of this Decision.

14 4. Respondent shall submit with any application for license under an employing
15 broker, or any application for transfer to a new employing broker, a statement signed by the
16 prospective employing real estate broker on a form approved by the Department of Real Estate
17 which shall certify:

18 (a) That the employing broker has read the Decision of the Commissioner which
19 granted the right to a restricted license; and

20 (b) That the employing broker will exercise close supervision over the
21 performance by the restricted licensee relating to activities for which a real estate license is
22 required.

23 5. During the term of the restricted license, Respondent shall report in writing to
24 the Crisis Response Team Manager in the Department's Los Angeles office a statement signed
25 under penalty of perjury detailing Respondent's activities for which a real estate license is
26 required. Said statement shall be received by the Department as of the first week of April of each
27 calendar year.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

6. Respondent shall notify the Commissioner in writing within 72 hours of any
arrest be sending a certified letter to the Commissioner at the Department of Real Estate, Post
Office Box 187000, Sacramento, CA 95818-70-00. 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 FEB 22 2012.

IT IS SO ORDERED 2/15/12

BARBARA J. BIGBY
Acting Real Estate Commissioner

