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**FILED**

DEC 17 2012

DEPARTMENT OF REAL ESTATE  
BY: K. Theodorholt

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Application of  
GAVIN STANLEY MONGER,  
Respondent.

No. H-31715 LA

ORDER DENYING REMOVAL OF RESTRICTIONS

On April 14, 2005, a Decision was rendered denying Respondent's license application, but granting Respondent the right to a restricted real estate salesperson license. Said license was issued June 4, 2005. Said Decision was rendered due to Respondent's 2003 convictions for failure to appear and failure to obey a lifeguard.

On February 23, 2011, Respondent petitioned for removal of restrictions from said real estate salesperson license.

I have considered the petition of Respondent and the evidence submitted in support thereof. Respondent has failed to demonstrate to my satisfaction that Respondent has undergone sufficient rehabilitation to warrant the removal of restrictions on Respondent's real estate salesperson license at this time.

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

1 prior adverse judgment on the applicant's character (*Tardiff v. State Bar* (1980) 27 Cal. 3d 395).

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

5 2911(c)—expungement of convictions

6 The conviction in 2003 for Failure To Appear has not been expunged.

7 2911(j)—discharge of monetary obligations

8 Respondent has not paid a State tax lien.

9 Regulation 2911(l) - Significant or conscientious involvement in community,  
10 church or privately-sponsored programs designed to provide social benefits or to ameliorate  
11 social problems.

12 Respondent has not provided evidence of qualifying activities.

13 Regulation 2911(n) (1) and (5)- Change in attitude from that which existed at the  
14 time of the conduct in question as evidenced by any or all of the following:

15 (1) Testimony of applicant

16 Respondent failed to provide all requested information.

17 (5) New conviction

18 In 2006, Respondent was convicted of driving under the influence.

19 Given the violations found and the fact that Respondent has not established that  
20 Respondent has complied with Regulations 2911 (c), (j), (l), and (n)(1) and (5), I am not satisfied  
21 that Respondent is sufficiently rehabilitated to receive an unrestricted real estate salesperson  
22 license.

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1                    NOW, THEREFORE, IT IS ORDERED that Respondent's petition for removal of  
2 restrictions on Respondent's real estate license is denied.

3                    This Order shall become effective at 12 o'clock noon on JAN - 7 2013.

4                    IT IS SO ORDERED 8/10/2012

5                    Real Estate Commissioner

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7 By WAYNE S. BELL  
8 Chief Counsel