

facts file

FILED
SEP 21 2012
DEPARTMENT OF REAL ESTATE
BY: *[Signature]* for KW

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of
ISAAC DARYL SENY,
Respondent.

No. H-36162 LA

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

On August 24, 2010, a Decision was rendered providing for the revocation of the real estate broker license of Respondent.

On November 1, 2011, 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.

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1 The burden of proving rehabilitation rests with the petitioner (*Feinstein v. State*
2 *Bar* (1952) 39 Cal. 2d 541). A petitioner is required to show greater proof of honesty and
3 integrity than an applicant for first time licensure. The proof must be sufficient to overcome the
4 prior adverse judgment on the applicant's character (*Tardiff v. State Bar* (1980) 27 Cal. 3d 395).

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

8 Regulation 2911(k)—change in business practices

9 Respondent has not provided such proof.

10 Given the violation found and the fact that Respondent has not established that
11 Respondent has complied with Regulation 2911(k), I am not satisfied that Respondent is
12 sufficiently rehabilitated to receive an unrestricted real estate license.

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

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

17 A restricted real estate broker license shall be issued to Respondent pursuant to
18 Code Section 10156.5 if Respondent within twelve (12) months from the date hereof providing
19 Respondent makes application and pays the appropriate fee for said license.

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

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

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

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

8 4. Submits proof that Respondent has completed the continuing education
9 requirements for renewal of the license sought. The continuing education courses must be
10 completed either (1) within the 12 month period preceding the filing of the completed
11 application, or (2) within the 12 month period following the date of this Order.

12 This Order shall become effective at 12 o'clock noon on OCT 11 2012.

13 IT IS SO ORDERED

14 7/17/2012

15 Real Estate Commissioner

16 BY WAYNE S. BELL
17 Chief Counsel