

FILED

MAY 08 2018

BUREAU OF REAL ESTATE

By R. Posada

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Accusation of

ROBERT ANTHONY MURATALLA,

No. H-36288 LA

Respondent.

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

On November 10, 2011, in Case No. H-36288 LA, a Decision was rendered revoking the real estate salesperson license of Respondent effective December 10, 2011.

On December 14, 2016, Respondent petitioned for reinstatement of said real estate salesperson 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 Respondent's petition and the evidence submitted in support thereof.

1 The Bureau has developed criteria in Section 2911 of Title 10, California Code of
2 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(c) Expungement of criminal convictions resulting from immoral
5 or antisocial acts.

6 On March 15, 2012, in Case No. J-1401-CR-201101935, before the Justice Court,
7 1st Precinct, County of Yuma, State of Arizona, Respondent was convicted for violating Arizona
8 Revised Statute 13-3415A (attempted possession of drug paraphernalia), a misdemeanor.
9 Respondent has presented no evidence that this criminal conviction has been expunged.

10 Regulation 2911(i) Completion of, or sustained enrollment in, formal educational
11 or vocational training courses for economic self-improvement.

12 Respondent has offered no evidence of completing any such courses.

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

15 (1) Testimony of applicant.

16 In response to Question 3B in his Enforcement Petition Application, to wit:
17 "List all arrests and convictions of law, including traffic", Respondent failed to disclose the 2012
18 conviction described above. In *Harrington vs. Dept. of Real Estate (1989)*, 214 Cal. App. 3d,
19 394, the court stated that lack of candor in completing a license application is itself sufficient to
20 sustain a finding that the applicant does not yet appreciate the need to speak honestly about and to
21 accept responsibility for one's actions.

22 (2) Evidence from family members, friends or other persons familiar with
23 applicant's previous conduct and with his subsequent attitudes and behavioral
24 patterns.

25 Respondent offered no personal references who were familiar with the conduct
26 which led to his license revocation.

27 (5) Absence of subsequent felony or misdemeanor convictions that are reflective

1 of an inability to conform to societal rules when considered in light of the conduct
2 in question.

3 Respondent's 2012 misdemeanor conviction occurred subsequent to his license
4 discipline.

5 Respondent has failed to demonstrate to my satisfaction that Respondent has
6 undergone sufficient rehabilitation to warrant the reinstatement of Respondent's unrestricted real
7 estate salesperson license.

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

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

14 1. Respondent shall qualify for, take and pass the real estate salesperson
15 license examination.

16 2. Submittal of a completed application and payment of the fee for a real
17 estate salesperson license.

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

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

25 B. The restricted license issued to Respondent may be suspended prior to
26 hearing by Order of the Real Estate Commissioner on evidence satisfactory to the
27 Commissioner that Respondent has violated provisions of the California Real Estate Law, the

1 Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to
2 the restricted license.

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

7 D. Respondent shall submit with any application for license under an
8 employing broker, or any application for transfer to a new employing broker, a statement signed
9 by the prospective employing real estate broker on a form approved by the Bureau of Real
10 Estate which shall certify:

11 1. That the employing broker has read the Decision of the Commissioner
12 which granted the right to a restricted license; and

13 2. That the employing broker will exercise close supervision over the
14 performance by the restricted licensee relating to activities for which a real estate license is
15 required.

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1 E. Respondent shall notify the Commissioner in writing within 72 hours of
2 any arrest by sending a certified letter to the Commissioner at the Bureau of Real Estate, Post
3 Office Box 137007, Sacramento, CA 95813-7007. The letter shall set forth the date of
4 Respondent's arrest, the crime for which Respondent was arrested and the name and address of
5 the arresting law enforcement agency. Respondent's failure to timely file written notice shall
6 constitute an independent violation of the terms of the restricted license and shall be grounds for
7 the suspension or revocation of that license.

8 This Order shall become effective at 12 o'clock noon on

MAY 28 2018

9 IT IS SO ORDERED

May 1, 2018

10 WAYNE S. BELL
11 REAL ESTATE COMMISSIONER

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14 By: DANIEL J. SANDRI
15 Chief Deputy Commissioner