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FILED

DEC 05 2013

BUREAU OF REAL ESTATE

By *J. Brunk*

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of
VICTORIA AVALOS,
Respondent.

No. H-36432 LA

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

On November 28, 2010, a Decision was rendered revoking Respondent's real estate salesperson license. In 2009, Respondent was convicted of violating Penal Code Section 484(a) (petty theft).

On August 17, 2012, Respondent petitioned for reinstatement of said 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:

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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 Bureau 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(j)—Discharge of, or bona fide efforts toward discharging debts or monetary obligations to others

Respondent is currently making payments on three civil judgments.

Given the violations found and the fact that Respondent has not established that Respondent has complied with Regulation 2911(j), 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) takes, passes, and qualifies for the real estate salesperson license examination.

(b) submits a completed application and pays the appropriate fee for a real estate salesperson license within the 12 month period following the date of this Order.

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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 two (2) 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 Bureau of Real Estate which
17 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. Respondent shall notify the Commissioner in writing within 72 hours of any
24 arrest by sending a certified letter to the Commissioner at the Bureau of Real Estate, Post Office
25 Box 137003, Sacramento, CA 95813-7013. The letter shall set forth the date of Respondent's
26 arrest, the crime for which Respondent was arrested and the name and address of
27 the arresting law enforcement agency. Respondent's failure to timely file written notice shall

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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 DEC 26 2013

IT IS SO ORDERED NOV 22 2013

REAL ESTATE COMMISSIONER


By: JEFFREY MASON
Chief Deputy Commissioner