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**FILED**

**FEB 20 2019**

**DEPT. OF REAL ESTATE**

By R. P. Sted

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of  
  
BARAK VOLNER,  
  
Respondent.

No. H-36474 LA

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

On October 20, 2010, in Case No. H-36474 LA, a Decision was rendered accepting the voluntary surrender of the real estate broker license of Respondent effective November 22, 2010. On February 26, 2013, a restricted real estate salesperson license was issued to Respondent. That license expired on February 25, 2017. On September 6, 2018, Respondent petitioned for reinstatement of his real estate broker 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

1 thereof.

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. Criteria for Rehabilitation**

6 *(a) (9) Completion of, or sustained enrollment in, formal education or vocational  
7 training courses for economic self-improvement.*

8 Respondent has offered no evidence of completing any such courses since he  
9 surrendered his real estate license.

10 *(a)(14) Change in attitude from that which existed at the time of the conduct in  
11 question as evidenced by the following:*

12 *(B) Evidence from family members, friends and/or other persons familiar with  
13 applicant's previous conduct and with his or her subsequent attitudes and/or  
14 behavioral patterns.*

15 Respondent submitted reference letters that demonstrate no knowledge of the  
16 conduct that led to the surrender of his license, let alone any change in attitude or behavioral  
17 patterns that may have occurred after the surrender of his license.

18 Respondent has failed to demonstrate to my satisfaction that Respondent has  
19 undergone sufficient rehabilitation to warrant the reinstatement of Respondent's unrestricted real  
20 estate broker license.

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

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

27 1. Respondent shall qualify for, take and pass the real estate broker license  
examination.



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D. Respondent shall notify the Commissioner in writing within 72 hours of  
any arrest by sending a certified letter to the Commissioner at the Department of Real Estate, Post  
Office Box 137007, Sacramento, CA 95813-7007. 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.

MAR 11 2019

This Order shall become effective at 12 o'clock noon on \_\_\_\_\_.

IT IS SO ORDERED February 15, 2019

DANIEL J. SANDRI  
ACTING REAL ESTATE COMMISSIONER

*Daniel J. Sandri*