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DEPT. OF REAL ESTATE

By R. Posada

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Accusation of  
  
ANDREW KENNETH KIEMM,  
  
Respondent.

No. H-36566 LA

ORDER DENYING REINSTATEMENT OF LICENSE

On June 24, 2010, a Decision was rendered in Case No. H-36556 LA revoking the real estate broker license of Respondent effective October 4, 2010.

On April 25, 2018, Respondent petitioned for reinstatement of said 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 the petition of Respondent and the evidence submitted in support thereof.

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1 The Department has developed criteria in Section 2911 of Title 10, California  
2 Code of 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  
5 ***2911. Criteria for Rehabilitation***

6 (a) (10) Discharge of, or bona fide efforts toward discharging, adjudicated debts  
or monetary obligations to others.

7 On March 14, 2000, Respondent entered into a Stipulation and Order before the  
8 U.S. Bankruptcy Court, Central District of California, in Case No 8:99-ap-01984-JR. Among  
9 the terms of the Stipulation and Order was a \$1,360,000 judgment against Respondent, in favor  
10 of Peter Huang. The debt was found to be non-dischargeable. On June 5, 2009 a Renewal of  
11 Judgment was issued, extending enforceability of the judgement for 10 years. A November 15,  
12 2018 letter from Respondent's counsel stated "I believe the matter will lapse after June of 2019.  
13 If the judgment is renewed, we will take the appropriate action to resolve the matter at that time."  
14 Therefore, Respondent has offered no evidence of bona fide efforts toward resolving his  
15 \$1,360,000 judgment.

16  
17 (a) (13) New and different social and business relationships from those which  
18 existed at the time of the conduct that is the basis for denial of the Bureau  
19 action sought.

20 Respondent submitted a reference letter from Miles Masters, which stated they  
21 "have both a professional and personal relationship" that extends over 20 years. Miles Masters  
22 was the owner of Milestone Capital Group Inc., the corporation for which Respondent was the  
23 designated officer when his license was revoked. Respondent submitted one other reference  
24 letter which mentions "constant contact through the last 20 years". Therefore, Respondent has  
25 not proven new and different social and business relationships from those that existed at the time  
26 of the conduct leading to his revocation.

27 (a)(14) Change in attitude from that which existed at the time of the conduct in  
question as evidenced by the following:  
(A) Testimony and/or other evidence of rehabilitation submitted by the applicant.

In response to Question 4A in his Enforcement Petition Application, to wit "Do  
you have any past debts, outstanding judgments, or have you filed for bankruptcy?", Respondent  
disclosed a different bankruptcy, but did not disclose the bankruptcy which led to the \$1,360,00  
judgment described above. In *Harrington vs. Dept. of Real Estate (1989)*, 214 Cal. App. 3d,  
394, the court stated that lack of candor in completing a license application is itself sufficient to  
sustain a finding that the applicant does not yet appreciate the need to speak honestly about and  
to accept responsibility for one's actions.

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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 at this time.

Given the violations found and the fact that Respondent has not established that Respondent has satisfied Regulations 2911(a)(1), (a)(13), and (a)(14), I am not satisfied that Respondent is sufficiently rehabilitated to receive a real estate broker license.

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

This Order shall become effective at 12 o'clock noon on **MAY 23 2019**

IT IS SO ORDERED April 30, 2019

DANIEL J. SANDRI  
ACTING REAL ESTATE COMMISSIONER

