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FILED

AUG 16 2016

BUREAU OF REAL ESTATE

By H. A. Stilly

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

JERRY GANG CHEN,

Respondent.

No. H-36596 LA

ORDER DENYING REINSTATEMENT OF RESTRICTED LICENSE

On April 26, 2011, a Decision was rendered in Case No. H-36596 LA revoking Respondent's real estate broker license, but granting Respondent the right to the issuance of a restricted real estate salesperson license effective June 9, 2011, however, Respondent did not apply for a restricted salesperson license.

On March 8, 2016, Respondent petitioned for reinstatement of Respondent's real estate broker license.

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.

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(j) Discharge of, or bona fide efforts toward discharging,
5 adjudicated debts or monetary obligations to others.

6 Petitioner offered no evidence of discharging the following monetary
7 obligations: State tax liens of \$24,879 and \$4,326; small claims court judgments of \$5,000 to
8 Man Ho Chan and \$2,000 to Ricardo Cuan; and an \$84,953 judgment to Siu Young
9 Ko. Petitioner also failed to pay the Real Estate Commissioner \$9,423.50 in reasonable audit
10 costs, as ordered in the Stipulation and Agreement for Case H-36596 LA.

11 Regulation 2911(k) Correction of business practices resulting in injury to others
12 or with the potential to cause such injury.

13 Petitioner offered no evidence of curing the \$24,457.39 trust fund shortage in his
14 escrow account, as ordered in the Stipulation and Agreement for Case H-36596 LA.

15 Regulation 2911(l) Significant or conscientious involvement in community,
16 church or privately-sponsored programs designed to provide social benefits or to ameliorate
17 social problems.

18 Petitioner's reinstatement application states that he is not involved in any such
19 programs.

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

22 (1) Testimony of applicant.

23 The Petitioner continues to deny responsibility for the actions that led to his
24 license discipline in Case No. H-36596 LA. He also denied any court judgments against him in
25 his reinstatement application.

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

No such evidence was submitted.

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(j), (k), (l), and (n)

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 SEP 05 2016.

IT IS SO ORDERED

REAL ESTATE COMMISSIONER

Wayne S. Bell