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FILED

SEP 17 2019

DEPT. OF REAL ESTATE  
By R. Pasada

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BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Accusation of  
  
TAM PHOUC KIEU,  
  
Respondent.

No. H-38517 LA

ORDER DENYING REINSTATEMENT OF LICENSE

On September 12, 2013, a Decision was rendered in Case No. H-38517 LA revoking the real estate broker license of Respondent effective October 2, 2013.

On January 16, 2019, 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  
8 On August 1, 2012, before the Superior Court of California, County of Orange, in  
9 Case No. 30-2012-00570043, a \$1,384.87 judgment was entered against  
Respondent, in favor of Portfolio Recovery Associates. Respondent offered no  
evidence of satisfying, or bona fide efforts towards satisfying, this judgment.

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

12 *(A) Testimony and/or other evidence of rehabilitation submitted by the applicant.*

13 In a May 7, 2019 interview with the Department of Real Estate, Respondent  
14 denied striking his son with a guitar and threatening his wife with a knife during  
the incident that led to his convictions for aggravated assault and criminal threats.  
15 This conflicts with a statement his signed with the Orange County Superior Court,  
under penalty of perjury, on April 7, 2011.

16 In response to Question 4A on his Enforcement Petition Application, to wit: "Do  
17 you have any past due debts, outstanding judgments, or have you filed  
bankruptcy?", Respondent answered "no" and failed to disclose the unsatisfied  
18 judgment listed 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  
19 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.

20  
21 *(B) Evidence from family members, friends and/or other persons familiar with  
applicant's previous conduct and with his or her subsequent attitudes and/or  
22 behavioral patterns.*

23 Respondent submitted reference letters which were drafted in March 2015.  
24 None of the letters acknowledge the conduct which led to Respondent's  
revocation. Nor did they express how Respondent's attitude may have changed  
25 since he engaged in criminal conduct.

26 Respondent has failed to demonstrate to my satisfaction that Respondent has  
27 undergone sufficient rehabilitation to warrant the reinstatement of Respondent's real estate

