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FEB 22 2018

BUREAU OF REAL ESTATE

By R. Posada

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of)

CARTHEL JAMES TOWNS, SR.,)

Respondent.)

CalBRE No. H-40146 LA

ORDER STAYING EFFECTIVE DATE

On January 26, 2018, an Order Denying Reinstatement of License but Granting Right to a Restricted License was rendered in the above-titled matter, to become effective February 22, 2018.

IT IS HEREBY ORDERED that the effective date of the Decision of January 22, 2018, is stayed for a period of 10 days to consider Respondent's petition for reconsideration.

The Order of January 26, 2018, shall become effective at 12 o'clock noon on March 5, 2018.

IT IS SO ORDERED this 22nd day of February, 2018.

WAYNE S. BELL
REAL ESTATE COMMISSIONER

By: Daniel J. Sandri
DANIEL J. SANDRI
Chief Deputy Commissioner

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BUREAU OF REAL ESTATE

By R. Posed

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BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of

CARTHEL JAMES TOWNS, SR.,

Respondent.

BRE No. H-40146 LA

COMPLAINANT'S REPLY TO
PETITION FOR
RECONSIDERATION

This memorandum is respectfully submitted in response to the Petition of Respondent CARTHEL JAMES TOWNS, SR. ("Respondent") for Reconsideration of the Decision filed in this matter on February 2, 2018.

I.

PROCEDURAL BACKGROUND

On July 8, 2016 a Decision was rendered in Case No. H-40146 LA, revoking the real estate broker license of Respondent, effective August 2, 2016. On August 15, 2017, Respondent petitioned for reinstatement of said real estate broker license. On January 26, 2018, an Order Denying Reinstatement of License but Granting Right to Restricted License was rendered, with an effective date of February 22, 2018. On February 21, 2017, the Bureau of Real

1 Estate ("Bureau") received a Petition for Reconsideration from Respondent. An Order Staying
2 Effective Date was issued on February 22, 2018, staying the effective date for ten (10) days, until
3 12 o'clock noon on March 5, 2018.

4 II.

5 RESPONDENT'S CONTENTIONS

6 Respondent claims he did not make an untrue statement in his Petition
7 Application by stating he has been unemployed since the decision revoking his license. His
8 rationale is that he was not "employed" by Valencia Christian Center because he was
9 "consulting" with the church as an independent contractor. He also does not consider his work as
10 a tax preparer and a consultant to businesses and non-profit groups as "employment".
11

12 Respondent also states that "of all the times I've held my license I have NEVER
13 failed to disclose material information." He believes that "sufficient time has passed allowing
14 the BRE to determine if I am rehabilitated."
15

16 III.

17 RESPONSE TO PETITION

18 The Miriam-Webster Dictionary defines the term "employ" as "(1): to use or
19 engage the services of; and (2): to provide with a job that pays wages or a salary." Even
20 if Respondent was employed as an independent contractor by his church and other
21 organizations, those organization still used his services in exchange for payment of
22 wages. Furthermore, Question 2 of Respondent's Petition Application asked him to
23 "List employment and work since the formal hearing, or decision imposing discipline."
24 Since it is undisputed that Respondent has engaged in work since his license discipline,
25
26
27

1 his answer to Question 2 was a material misstatement of fact, regardless of whether he
2 considered himself a formal "employee" of any organization.

3 The Decision in Case No. H-40146 LA held that Respondent's grand theft
4 conviction was substantially related to the qualifications, functions or duties of a real
5 estate licensee, since

6 "grand theft of personal property is by definition an illegal taking of
7 another's property without the owner's consent with the intent to benefit
8 the perpetrator. Without the written consent of Mr. and Mrs. L.,
9 Respondent appropriated funds totaling \$50,000 for his financial and
10 economic benefit. Significant weight is accorded the grand theft of
personal property crime of which respondent has been convicted." (Page 7,
paragraph 3 of Decision)

11 Furthermore, the Real Estate Commissioner adopted the Administrative Law
12 Judge's finding that, by failing to disclose his grand theft conviction in his broker
13 license renewal application, Respondent procured his license "by fraud,
14 misrepresentation, or deceit, or by making a material misstatement of fact in
15 application for license renewal". (Page 7, paragraph 5 of Decision)

17 Although Respondent's grand theft conviction occurred in 2012 and
18 the false statement on his broker renewal application was made in 2013,
19 Respondent's false statement on his pending petition application brings into
20 question whether he still appreciates the need to be forthright and honest as a real
21 estate licensee. See *Harrington v. Dept. of Real Estate* (1989), 214 Cal.App. 3d,
22 394. This is why the Order issued on January 26, 2018, concluded that more time
23 was required for Respondent to demonstrate the degree of rehabilitation required
24 for a plenary real estate broker license.
25

26 ///
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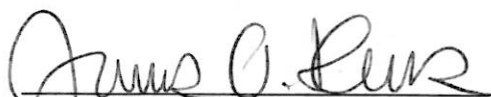
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2 IV.

3 CONCLUSION

4 Complainant requests that the Real Estate Commissioner review the matter herein
5 and render a Decision thereon.
6

7
8 Dated: February 22, 2018
9

10 BUREAU OF REAL ESTATE

11 

12 JAMES A. DEMUS,
13 Counsel for the Complainant
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BUREAU OF REAL ESTATE

By Ross Powell

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

CARTHEL JAMES TOWNS, SR.,

No. H-40146 LA

Respondent.

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

On July 8, 2016, in Case No. H-40146 LA, a Decision was rendered revoking the real estate broker license of Respondent effective August 2, 2016.

On August 15, 2017, 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 Respondent's petition 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(a)(1)(A) The passage of less than two years after the most
5 recent criminal conviction or act of the applicant that is a cause of action.

6 Regulation 2911(a)(1)(B) The two year period may be increased based upon
7 consideration of the following:

- 8 (i) The nature and severity of the crime(s) and/or acts committed by the
9 applicant.
- 10 (ii) The applicant's history of criminal convictions and/or license discipline
11 that are "substantially related" to the qualifications, function and duties of
12 a real estate licensee.

13 Respondent was convicted of violating Penal Code Section 487(a) (grand theft of
14 personal property) and ordered to pay \$48,600 in restitution. Respondent also denied receiving
15 any criminal convictions within the prior six years, on a renewal applicant he submitted less than
16 two years after his criminal conviction. Both Respondent's conviction and his failure to disclose
17 the conviction demonstrated a pattern of dishonesty. Given this history and the severity of the
18 crime, more time is needed to determine if Respondent is rehabilitated.

19 Regulation 2911(a)(14) Change in attitude from that which existed at the time of
20 the conduct in question as evidenced by any or all of the following:

21 (a) Testimony and/or other evidence of rehabilitation submitted by the applicant.

22 In response to Question 2 on his Petition Application, to wit: "List employment
23 and work since the formal hearing or decision imposing discipline", Respondent replied by stating
24 "Not applicable (unemployed) since decision imposing discipline". This statement was untrue,
25 since Respondent was employed as an executive pastor at the Valencia Christian Center after the
26 decision imposing discipline. In *Harrington vs. Dept. of Real Estate* (1989), 214 Cal. App. 3d,
27 394, the court stated that lack of candor in completing a license application is itself sufficient to

1 sustain a finding that the applicant does not yet appreciate the need to speak honestly about and to
2 accept responsibility for one's actions.

3 Respondent has failed to demonstrate to my satisfaction that Respondent has
4 undergone sufficient rehabilitation to warrant the reinstatement of Respondent's unrestricted real
5 estate broker license.

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

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

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

14 2. Submittal of a completed application and payment of the fee for a real
15 estate broker license.

16 The restricted license issued to Respondent shall be subject to all of the provisions
17 of Section 10156.7 of the Business and Professions Code and to the following limitations,
18 conditions and restrictions imposed under authority of Section 10156.6 of that Code:

19 A. The restricted license issued to Respondent may be suspended prior to
20 hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction or
21 plea of nolo contendere to a crime which is substantially related to Respondent's fitness or
22 capacity as a real estate licensee.

23 B. The restricted license issued to Respondent may be suspended prior to
24 hearing by Order of the Real Estate Commissioner on evidence satisfactory to the
25 Commissioner that Respondent has violated provisions of the California Real Estate Law, the
26 Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to
27 the restricted license.

1 C. Respondent shall not be eligible to apply for the issuance of an
2 unrestricted real estate license nor the removal of any of the limitations, conditions or
3 restrictions of a restricted license until two (2) years have elapsed from the date of the issuance
4 of the restricted license to Respondent.

5 D. Respondent shall notify the Commissioner in writing within 72 hours of
6 any arrest by sending a certified letter to the Commissioner at the Bureau of Real Estate, Post
7 Office Box 137007, Sacramento, CA 95813-7007. The letter shall set forth the date of
8 Respondent's arrest, the crime for which Respondent was arrested and the name and address of
9 the arresting law enforcement agency. Respondent's failure to timely file written notice shall
10 constitute an independent violation of the terms of the restricted license and shall be grounds for
11 the suspension or revocation of that license.

FEB 22 2018

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

13 IT IS SO ORDERED

1/26/18

14 WAYNE S. BELL
15 REAL ESTATE COMMISSIONER

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18 By: DANIEL J. SANDRI
19 Chief Deputy Commissioner