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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

BRIANA RAE AMADOR,

Respondent.

No. H-40566 LA

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

On May 1, 2017, a Decision was rendered in Case No. H-40566 LA revoking the real estate salesperson license of Respondent effective May 30, 2017.

On November 16, 2018, Respondent petitioned for reinstatement of said real estate salesperson 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.

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 (1) *The time that has elapsed since commission of the acts(s) or offense(s):*
7 (A) *The passage of less than two years after the most recent criminal conviction*
8 *or act of the applicant that is a cause of action in the Bureau's Statement of Issues*
9 *against the applicant is inadequate to demonstrate rehabilitation.*
10 (B) *Notwithstanding subdivision (a)(1)(A), above, the two year period may be*
11 *increased based upon consideration of the following:*
12 (i) *The nature and severity of the crime(s) and/or act(s) committed by the*
13 *applicant.*

14 Respondent was convicted of forgery and theft in August 2016. Both of these
15 crimes involve dishonesty and were committed in the practice of real estate. Therefore,
16 the nature and severity of these crimes requires more than two years to demonstrate
17 rehabilitation.

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

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

21 In response to Question 3B in her Enforcement Petition Application, to wit: "List
22 all arrests and convictions of law, including traffic", Respondent disclosed her 2016
23 convictions for forgery and theft. However, Respondent failed to disclose that she was
24 arrested for a possession of a controlled substance on December 6, 2002. On March 19,
25 2003, before the Superior Court of California, County of Orange, in Case No. 03F0239,
26 she pled guilty to violating Health and Safety Code section 11377(a), subject to
27 completion of a drug treatment program.

 In a letter attached to her Enforcement Petition Application, Respondent referred
 to her 2016 convictions, stating "Prior and since the incident in question, I have had a
 clean criminal history. **I have not had any interaction with law enforcement**, nor any
 new or additional criminal incident. **The conduct in question was one isolated**
 incident. (emphasis added)

 Therefore, Respondent made two false statements in her Enforcement Petition
 Application. 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.

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

4 Respondent submitted four letters of recommendation with her Enforcement Petition
5 Application. None of these letters expressed knowledge of the Respondent's criminal conduct or
6 license discipline. Nor did any of the letters explain how Respondent's attitudes or behavioral
7 patterns may have changed since the criminal conduct which led to her license discipline.

8 Respondent has failed to demonstrate to my satisfaction that Respondent has
9 undergone sufficient rehabilitation to warrant the reinstatement of Respondent's unrestricted real
10 estate salesperson license.

11 I am satisfied, however, that it will not be against the public interest to issue a
12 restricted real estate salesperson license to Respondent.

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

17 1. Submits a completed application and pays the fee for a real estate
18 salesperson license within the 12 month period following the effective date of this Order; and

19 2. Submits proof that Respondent has completed the continuing education
20 requirements for renewal of the license sought. The continuing education courses must be
21 completed either (i) within the 12 month period preceding the filing of the completed
22 application, or (ii) within the 12 month period following the effective date of this Order.

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

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

1 B. The restricted license issued to Respondent may be suspended prior to
2 hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner
3 that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands
4 Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted
5 license.

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

10 D. Respondent shall submit with any application for license under an
11 employing broker, or any application for transfer to a new employing broker, a statement signed
12 by the prospective employing real estate broker on a form approved by the Department of Real
13 Estate which shall certify:

14 1. That the employing broker has read the Decision of the Commissioner
15 which granted the right to a restricted license; and

16 2. That the employing broker will exercise close supervision over the
17 performance by the restricted licensee relating to activities for which a real estate license is
18 required.

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

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

9 IT IS SO ORDERED April 30, 2019

10 DANIEL J. SANDRI
11 ACTING REAL ESTATE COMMISSIONER

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