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OCT 03 2019

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  
  
RENE E. BAUTISTA,  
  
Respondent.

No. H-40715 LA

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

On January 4, 2018, in Case No. H-40715 LA, a Decision was rendered revoking the real estate broker license of Respondent effective February 6, 2018.

On February 26, 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 Respondent's petition and the evidence submitted in support

1 thereof.

2 The Department has developed criteria in Section 2911 of Title 10, California  
3 Code of Regulations (Regulations) to assist in evaluating the rehabilitation of an applicant for  
4 reinstatement of a license. Among the criteria relevant in this proceeding are:

5  
6 **2911. Criteria for Rehabilitation**

(a) (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  
or act of the applicant.*

8 (B) *Notwithstanding subdivision (a)(1)(A), above, the two year period may be  
increased based upon consideration of the following:*

9 (i) *The nature and severity of the crime(s) and/or act(s) committed by the  
10 Applicant.*

11 On November 7, 2016, Respondent received a federal felony conviction for mail  
12 fraud. He was ordered to pay \$71,360 in restitution. The nature and severity of  
this crime necessitates that more time is needed to demonstrate rehabilitation.

13 *(10) Discharge of, or bona fide efforts toward discharging, adjudicated debts or  
14 monetary obligations to others.*

15 On or about November 13, 2015, before the Superior Court of California, County  
16 of Los Angeles, in Case No. BC526909, a judgment of \$454,404 was entered  
17 against Respondent, jointly and severally with three other parties. Respondent  
has offered no evidence of discharging, or bona fide efforts toward, discharging  
this monetary obligation.

18 Respondent has failed to demonstrate to my satisfaction that Respondent has  
19 undergone sufficient rehabilitation to warrant the reinstatement of Respondent's unrestricted real  
20 estate broker license.

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

23 A restricted real estate broker license shall be issued to Respondent pursuant to  
24 Section 10156.5 of the Business and Professions Code, if Respondent satisfies the following

1 conditions prior to and as a condition of obtaining a restricted real estate broker license within  
2 twelve (12) months from the effective date of this Order:

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

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

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

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

16 B. The restricted license issued to Respondent may be suspended prior to  
17 hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner  
18 that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands  
19 Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted  
20 license.

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

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

6 This Order shall become effective at 12 o'clock noon on OCT 22 2019.

7 IT IS SO ORDERED September 28, 2019

8 DANIEL J. SANDRI  
9 ACTING REAL ESTATE COMMISSIONER

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11 *Daniel J. Sandri*  
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