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BUREAU OF REAL ESTATE

By S. Black

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BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of

MATTHEW WAYNE STEWART,

No. H-5482 SAC

Respondent.

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

On May 24, 2012, in Case No. H-5482 SAC, a Decision was rendered revoking the real estate salesperson license of Respondent effective June 12, 2012.

On September 28, 2015, 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 Respondent's petition and the evidence submitted in support thereof.

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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(k) Correction of business practices resulting in injury to others
5 or with the potential to cause such injury.

6 Respondent has not had the opportunity to demonstrate change in business
7 practices.

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

1 plea of nolo contendere to a crime which is substantially related to Respondent's fitness or
2 capacity as a real estate licensee.

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

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

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

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

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

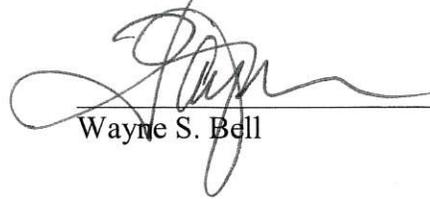
21 E. Respondent shall notify the Commissioner in writing within 72 hours of
22 any arrest by sending a certified letter to the Commissioner at the Bureau of Real Estate, Post
23 Office Box 137007, Sacramento, CA 95813-7007. The letter shall set forth the date of
24 Respondent's arrest, the crime for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

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This Order shall become effective at 12 o'clock noon on APR 12 2016

IT IS SO ORDERED 3/16/2016

REAL ESTATE COMMISSIONER



Wayne S. Bell