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**FILED**

**APR 19 2021**

**DEPT. OF REAL ESTATE**

By 

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of  
  
MICHELLE MARIA PAULA SMITH,  
  
Respondent.

No. H-39102 LA

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

On July 31, 2014, in Case No. H-39102 LA, a Decision was rendered revoking the real estate salesperson license of Respondent effective August 27, 2014, but granting Respondent the right to apply for a restricted real estate salesperson license. Respondent did not apply for a restricted salesperson license and her license remains revoked to date.

On January 3, 2020, 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).

1 I have considered Respondent's petition and the evidence submitted in support  
2 thereof.

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

6  
7 **2911. Criteria for Rehabilitation**

8 *(a) (3) Expungement of criminal convictions.*

9 Respondent has offered no evidence of expungement of her December 10, 2010  
10 conviction for violation of Penal Code Section 666 (petty theft with a prior)  
11 before the Superior Court of California, County of Los Angeles, Case No.  
12 NA084137.

13 *(a) (9) Completion of, or sustained enrollment in, formal education or vocational  
14 training courses for economic self-improvement.*

15 Respondent has offered no evidence of completing any such courses.

16 Respondent has failed to demonstrate to my satisfaction that Respondent has  
17 undergone sufficient rehabilitation to warrant the reinstatement of Respondent's unrestricted real  
18 estate salesperson license.

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

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

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

27 2. Submits proof that Respondent has completed the continuing education  
requirements for renewal of the license sought. The continuing education courses must be

1 completed either (i) within the 12 month period preceding the filing of the completed  
2 application, or (ii) within the 12 month period following the effective date of this Order.

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

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

10 B. The restricted license issued to Respondent may be suspended prior to  
11 hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner  
12 that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands  
13 Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted  
14 license.

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

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

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

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

