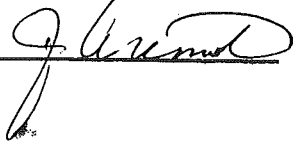


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FILED

JUN 06 2014

BUREAU OF REAL ESTATE

By 

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	CalBRE No. H-38731 LA
)	
<u>KENNETH BRIAN CLEAVER</u> and)	OA# No. 2013080491
<u>JASON ALLAN SMITH,</u>)	
)	
Respondents.)	
)	
)	
)	

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On August 7, 2013, a Second Amended Accusation was filed in this matter against Respondent KENNETH BRIAN CLEAVER.

On May 8, 2014, Respondent KENNETH BRIAN CLEAVER petitioned the Commissioner to voluntarily surrender his real estate salesperson license pursuant to Section 10100.2 of the Business and Professions Code.

IT IS HEREBY ORDERED that Respondent KENNETH BRIAN CLEAVER's petition for voluntary surrender of his real estate salesperson license is accepted as of the effective date of this Order as set forth below, based upon the understanding and

1 agreement expressed in Respondent's Declaration dated May 9,
2 2014, (attached as Exhibit "A" hereto). Respondent's license
3 certificate, pocket card and any branch office license
4 certificate shall be sent to the below listed address so that
5 they reach the Bureau on or before the effective date of this
6 Order:

7
8 Bureau of Real Estate
9 Attn: Licensing Flag Section
10 P.O. Box 137013
11 Sacramento, CA 95813-7013

12 This Order shall become effective at 12 o'clock noon
13 on JUN 27 2014.

14 DATED: MAY 23 2014.

15 REAL ESTATE COMMISSIONER

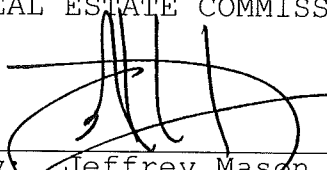
16 
17 By: Jeffrey Mason
18 Chief Deputy Commissioner
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20
21
22
23
24
25
26

EXHIBIT "A"

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
)	CalBRE No. H-38731 LA
<u>KENNETH BRIAN CLEAVER</u> and)	
JASON ALLAN SMITH,)	OAH No. 2013080491
)	
)	
Respondents.)	
)	
)	
)	
)	

DECLARATION

My name is KENNETH BRIAN CLEAVER, and I am currently licensed as a real estate salesperson and/or have license rights with respect to said license. I am representing myself in this matter.

In lieu of proceeding in this matter in accordance with the provisions of the Administrative Procedure Act (Sections 11400 et seq., of the Government Code), I wish to voluntarily surrender my real estate license, issued by the

1 Bureau of Real Estate ("Bureau"), pursuant to Business and
2 Professions Code Section 10100.2.

3 I understand that by so voluntarily surrendering my
4 license, I may be relicensed as a broker or as a salesperson, or
5 issued a mortgage loan originator endorsement, only by
6 petitioning for reinstatement pursuant to Section 11522 of the
7 Government Code. I also understand that by so voluntarily
8 surrendering my real estate salesperson license, I agree to the
9 following:

10 1. The filing of this Declaration shall be deemed as
11 my petition for voluntary surrender.

12 2. It shall also be deemed to be an understanding and
13 agreement by me that I waive all rights I have to require the
14 Commissioner to prove the allegations contained in the Second
15 Amended Accusation filed in this matter at a hearing held in
16 accordance with the provisions of the Administrative Procedure
17 Act (Government Code Sections 11400 et seq.), and that I also
18 waive other rights afforded to me in connection with the hearing
19 such as the right to discovery, the right to present evidence in
20 defense of the allegations in the Second Amended Accusation and
21 the right to cross-examine witnesses.

22 3. I further agree that upon acceptance by the
23 Commissioner, as evidenced by an appropriate order, all
24 affidavits and all relevant evidence obtained by the Bureau in

1 this matter prior to the Commissioner's acceptance, and all
2 allegations contained in the Second Amended Accusation filed in
3 the Bureau Case No. H-38731 LA, may be considered by the Bureau
4 to be true and correct for the purpose of deciding whether to
5 grant relicensure or reinstatement pursuant to Government Code
6 Section 11522.

7 4. I freely and voluntarily surrender all my licenses
8 and license rights under the Real Estate Law.

9 5. I agree that I am jointly and severally liable
10 with Respondent Jason Allan Smith for restitution to all persons
11 who have suffered monetary losses due to the acts alleged in the
12 Second Amended Accusation. I agree to submit, within 30 days
13 from signing this Declaration, proof satisfactory to the
14 Commissioner of payment of restitution in the amount of \$3,650
15 to Clayton Foster Reed; \$3,200 to Timothy Ray Welch; and
16 \$4,487.85 to Heather J. Thompson. (1) I shall mail the
17 payments by certified mail, return receipt requested, to the
18 last addresses on file with or known to me for Clayton Foster
19 Reed, Timothy Ray Welch, and Heather J. Thompson. (2) If the
20 payment is returned by the Post Office marked "unable to
21 deliver," I shall employ a locator service (that may be limited
22 to or include or be limited to the Internet or other database
23 retrieval search) to try and locate Clayton Foster Reed, Timothy
24 Ray Welch, and Heather J. Thompson. Repayment shall then be

1 made to the address(es) recommended by the locator service. (3)
2 If unable to effect repayment after using a locator service, I
3 shall provide reasonable proof satisfactory to the Commissioner
4 of its efforts to comply with the provisions of this paragraph.

5 (4) If the Commissioner determines that proof to be

6 unsatisfactory, the Commissioner shall so advise me, and
7 indicate what additional reasonable efforts should be made to
8 make repayment to Clayton Foster Reed, Timothy Ray Welch, and

9 Heather J. Thompson. (5) If the Commissioner determines that

10 reasonable efforts have been made to locate Clayton Foster Reed,

11 Timothy Ray Welch, and Heather J. Thompson without success, said

12 payments shall escheat to the State of California. (6) All

13 proofs of payments shall be submitted to Bureau Counsel Lissete

14 Garcia, Attention: Legal Section, Bureau of Real Estate, 320 W.

15 Fourth St., Suite 350, Los Angeles, California 90013-1105.

16 6. A copy of the Commissioner's Criteria of

17 Rehabilitation is attached hereto. If and when a petition

18 application is made for reinstatement of a surrendered license

19 or endorsement, the Real Estate Commissioner will consider as

20 one of the criteria of rehabilitation, whether or not

21 restitution has been made to any person who has suffered

22 monetary losses through "substantially related" acts or

23 omissions of Respondent, whether or not such persons are named

24 in the investigation file in this case.

7. I am aware that if I petition for reinstatement in the future, payment of the Bureau's investigation and enforcement costs in this matter, which total \$4,227.29, will be a condition of reinstatement.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this declaration was executed MAY 9, 2014, at DANA POINT, California.


KENNETH BRIAN CLEAVER