FLAG

FILED

NOV 14 2013

BUREAU OF REAL ESTATE

By Norma Simms

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

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|---|---|
| In the Matter of the Accusation of<br>PATRICK B. SMALL,<br>Respondent. | No. H-36146 LA |

ORDER AFTER RECONSIDERATION OF ORDER DENYING REINSTATEMENT OF LICENSE AND GRANTING RIGHT TO A LICENSE

On August 24, 2010, a Decision was rendered herein revoking the real estate broker license of Respondent.

On April 29, 2013, an Order Denying Reinstatement of License was rendered. Said Order was to become effective on September 6, 2013, but was stayed by separate order to October 7, 2013, and further stayed to October 17, 2013.

On September 18, 2013, Respondent filed a petition for reconsideration of the Order of April 29, 2013.

On October 14, 2013, an Order Granting Reconsideration was issued.

On October 23, 2013, Respondent filed additional argument in this matter.

I have considered Respondent's petition, petition for reconsideration, and the

evidence and arguments in support thereof. Respondent has demonstrated to my satisfaction that Respondent has undergone sufficient rehabilitation to warrant the reinstatement of Respondent's real estate broker license.

NOW, THEREFORE, IT IS ORDERED that Respondent's petition for reinstatement of Respondent's real estate broker license is granted subject to the following conditions:

(a) qualifies for, takes and passes the written examination required to obtain a real estate broker license;

(b) makes application and pays the appropriate fee for said license;

This Order shall become effective at 12 o'clock noon on DEC - 4 2013.

IT IS SO ORDERED NOV 07 2013

Real Estate Commissioner

**By: JEFFREY MASON**
**Chief Deputy Commissioner**

FILED

OCT 17 2013

BUREAU OF REAL ESTATE

By Laura B. Allen

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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|---|---|
| In the Matter of the Accusation of<br><br>PATRICK B. SMALL,<br><br>Respondent. | No. H-36146 LA |

ORDER GRANTING RECONSIDERATION

On April 29, 2013, an Order Denying Reinstatement of License was rendered in the above-entitled matter. Said Order was to become effective on September 6, 2013, but was stayed by separate Order to October 7, 2013, and further stayed to October 17, 2013.

On September 18, 2013, Respondent petitioned for reconsideration of the Order of April 29, 2013.

I have given due consideration to the petition of Respondent. I find good cause to reconsider the Order of April 29, 2013, and reconsideration is hereby granted.

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Respondent shall have until fifteen (15) days after the date of this Order in which to file written argument in further support of his petition for reconsideration. Counsel for the Department of Real Estate shall submit any written reply to said argument within fifteen (15) days thereafter.

IT IS SO ORDERED 10/14/2013.

Real Estate Commissioner

WAYNE S. BELL

Sacto Law

FILED
SEP 25 2013
BUREAU OF REAL ESTATE
By Lauren B. Dion

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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|---|---|
| In the Matter of the Accusation of<br>PATRICK B. SMALL,<br>Respondent. | No. H-36146 LA |

ORDER STAYING EFFECTIVE DATE

On April 29, 2013, an Order Denying Reinstatement of License was rendered to become effective September 6, 2013, and was stayed by separate order to October 7, 2013.

IT IS HEREBY ORDERED that the effective date of the Order Denying Reinstatement of License of April 29, 2013, is stayed for a period of 10 days to consider Respondent's petition for reconsideration.

The Order Denying Reinstatement of License of April 29, 2013, shall become effective at 12 o'clock noon on October 17, 2013.

IT IS SO ORDERED September 20, 2013.

WAYNE S. BELL
Real Estate Commissioner

By: Dolores Weeks
DOLORES WEEKS
Regional Manager

Sacto Hearing

FILED

SEP - 5 2013

BUREAU OF REAL ESTATE

By Laura B. Olan

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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|---|---|
| In the Matter of the Accusation of<br>PATRICK B. SMALL,<br>Respondent. | No. H-36146 LA |

ORDER STAYING EFFECTIVE DATE

On April 29, 2013, an Order Denying Reinstatement of License was rendered to become effective September 6, 2013.

IT IS HEREBY ORDERED that the effective date of the Order Denying Reinstatement of License of April 29, 2013, is stayed for a period of 30 days to consider Respondent's petition for reconsideration.

The Order Denying Reinstatement of License of April 29, 2013, shall become effective at 12 o'clock noon on October 7, 2013.

IT IS SO ORDERED September 5, 2013

WAYNE S. BELL
Real Estate Commissioner

By: Dolores Weeks
DOLORES WEEKS
Regional Manager

FILED

AUG 16 2013

BUREAU OF REAL ESTATE

By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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|---|---|
| In the Matter of the Accusation of<br>PATRICK B. SMALL,<br>Respondent. | No. H-36146 LA |

ORDER DENYING REINSTATEMENT OF LICENSE

On August 24, 2010, a Decision was rendered herein revoking the real estate broker license of Respondent.

On January 23, 2012, Respondent petitioned for reinstatement of said real estate broker license. The Attorney General of the State of California has been given notice of the filing of said petition.

I have considered the petition of Respondent and the evidence submitted in support thereof. Respondent has failed to demonstrate to my satisfaction that Respondent has undergone sufficient rehabilitation to warrant the reinstatement of Respondent's real estate broker license at this time.

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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).

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

Regulation 2911(j)—discharge of, or bona fide efforts toward discharging, adjudicated debts or monetary obligations to others

Respondent failed to provide proof that a 2009 judgment in the amount of $1,260 has been satisfied.

Pursuant to Regulation 2911(j), I am not satisfied that Respondent is sufficiently rehabilitated to receive a real estate broker license.

NOW, THEREFORE, IT IS ORDERED that Respondent's petition for reinstatement of Respondent's real estate broker license is denied.

This Order shall become effective at 12 o'clock noon on SEP 06 2013.

IT IS SO ORDERED April 24, 2013

Real Estate Commissioner

By: Jeffrey Mason
Chief Deputy Commissioner

FILED

OCT 19 2010

DEPARTMENT OF REAL ESTATE

BY: _____

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

| | |
|---|---|
| In the Matter of the Accusation of<br><br>PATRICK B. SMALL,<br><br>Respondent. | NO. H-36146 LA<br>L 2009081023 |

ORDER DENYING RECONSIDERATION

On August 24, 2010, a Default Decision was rendered in the above-entitled matter. Said Decision was to become effective on September 21, 2010, and was stayed by separate Order to October 21, 2010.

On October 5, 2010, Respondent petitioned for reconsideration of the Default Decision of August 24, 2010.

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I have given due consideration to the petition of Respondent. I find no good cause to reconsider the Default Decision of August 24, 2010, and reconsideration is hereby denied.

IT IS SO ORDERED 10-18-2010.

JEFF DAVI

Real Estate Commissioner

FLAG

FILED

SEP 14 2010

DEPARTMENT OF REAL ESTATE

BY: _____

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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| | | |
|---|---|---|
| In the Matter of the Accusation of | ) | NO. H-36146 LA |
| | ) | |
| PATRICK B. SMALL, | ) | L-2009081023 |
| | ) | |
| Respondent. | ) | |
| | ) | |

ORDER STAYING EFFECTIVE DATE

On August 24, 2010, a Decision was rendered in the above-entitled matter to become effective September 21, 2010.

IT IS HEREBY ORDERED that the effective date of the Decision of August 24, 2010, is stayed for a period of thirty (30) days to allow Respondent PATRICK B. SMALL to file a petition for reconsideration.

The Decision of August 24, 2010, shall become effective at 12 o'clock noon on October 21, 2010.

DATED: September 14, 2010.

JEFF DAVI
Real Estate Commissioner

By: _____
PHILLIP IHDE
Regional Manager

FILED

SEP 01 2010

DEPARTMENT OF REAL ESTATE

BY: _____

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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| | | |
|---|---|---|
| In the Matter of the Accusation of | ) | |
| | ) | No. H-36146 LA |
| PATRICK B. SMALL, | ) | L-2009081023 |
| | ) | |
| Respondent. | ) | |
| | ) | |

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on August 2, 2010, and the findings of fact set forth herein are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits; and (3) other evidence.

This Decision suspends or revokes one or more real estate licenses on the ground of the violation of the Real Estate Law (commencing with Section 10000 of the Business and Professions Code (Code)) or Chapter 1 (commencing with Section 11000 of the Code) of Part 2 or the rules and regulations of the commissioner for the administration and enforcement of the Real Estate Law and Chapter 1 (commencing with Section 11000 of the Code) of Part 2.

The right to reinstatement of a revoked real estate license or to the reduction of a suspension is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of Respondent.

FINDINGS OF FACT

I

On July 29, 2009, Robin Trujillo made the Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, and Notice of Defense were mailed, by certified

mail, to Respondent's last known mailing address on file with the Department on July 30, 2009.

Respondent filed a Notice of Defense within the time required by Section 11506 of the Government Code. A hearing was set for July 28, 2010. Respondent was duly notified of the hearing but failed to appear. Respondent's default was entered herein.

II

Respondent is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereinafter "Code") as a real estate broker.

III

The evidence established that on or about August 13, 2008, Respondent using the unauthorized fictitious business name "Small & Small Paralegal," collected an advance fee pursuant to the provisions of a document which constitutes an advance fee agreement within the meaning of Code Section 10085.

IV

The evidence established that Respondent failed to submit the written agreement referred to in Paragraph III, above, to the Commissioner ten days before using it in violation of Code Section 10085 and Section 2970, Title 10, Chapter 6, Code of Regulations ("Regulations").

V

The evidence established that Respondent acted without Department authorization in using the fictitious business name "Small & Small Paralegal" to engage in activities requiring the issuance of a real estate license in violation of the provisions of Section 10159.5 of the Code and Section 2731 of the Regulations.

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## DETERMINATION OF ISSUES

I

Respondent is in violation of Code Sections 10159.5 and 10085 and Sections 2731 and 2970 of the Regulations. Cause for disciplinary action against Respondent exists pursuant to Business and Professions Code Sections 10085, 10177(d), and 10177(g).

II

The standard of proof applied was clear and convincing proof to a reasonable certainty.

## ORDER

The licenses and license rights of Respondent PATRICK B. SMALL, under the provisions of Part I of Division 4 of the Business and Professions Code, are revoked.

This Decision shall become effective at 12 o'clock noon SEP 21 2010.

DATED: 8/24/2010.

JEFF DAVI
Real Estate Commissioner

BY: Barbara J. Bigby
Chief Deputy Commissioner

FILED

AUG 02 2010

DEPARTMENT OF REAL ESTATE

BY: _____

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

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|---|---|
| In the Matter of the Accusation of<br><br>PATRICK B. SMALL,<br><br>Respondent. | NO. H-36146 LA<br>L-2009081023<br><br>DEFAULT ORDER |

Respondent PATRICIA B. SMALL, filed a Notice of Defense within the time required by Section 11506 of the Government Code. A hearing was set for July 28 and 29, 2010. Respondent was duly notified of the hearing but failed to appear on July 29, 2010. Respondent is now in default. It is therefore, ordered that a default be entered on the record in this matter.

IT IS SO OREDERED August 2, 2010.

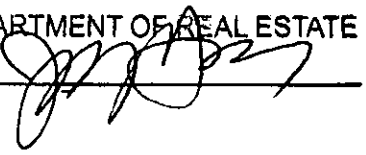
JEFF DAVI
Real Estate Commissioner

By: _____
PHILLIP IHDE
Regional Manager

FILED

SEP 01 2010

DEPARTMENT OF REAL ESTATE

BY: 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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| | | |
|---|---|---|
| In the Matter of the Accusation of<br><br>PATRICK B. SMALL,<br><br>Respondent. | ) | No. H-36146 LA<br>L-2009081023 |

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on August 2, 2010, and the findings of fact set forth herein are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits; and (3) other evidence.

This Decision suspends or revokes one or more real estate licenses on the ground of the violation of the Real Estate Law (commencing with Section 10000 of the Business and Professions Code (Code)) or Chapter 1 (commencing with Section 11000 of the Code) of Part 2 or the rules and regulations of the commissioner for the administration and enforcement of the Real Estate Law and Chapter 1 (commencing with Section 11000 of the Code) of Part 2.

The right to reinstatement of a revoked real estate license or to the reduction of a suspension is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of Respondent.

FINDINGS OF FACT

I

On July 29, 2009, Robin Trujillo made the Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, and Notice of Defense were mailed, by certified

mail, to Respondent's last known mailing address on file with the Department on July 30, 2009.

Respondent filed a Notice of Defense within the time required by Section 11506 of the Government Code. A hearing was set for July 28, 2010. Respondent was duly notified of the hearing but failed to appear. Respondent's default was entered herein.

II

Respondent is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereinafter "Code") as a real estate broker.

III

The evidence established that on or about August 13, 2008, Respondent using the unauthorized fictitious business name "Small & Small Paralegal," collected an advance fee pursuant to the provisions of a document which constitutes an advance fee agreement within the meaning of Code Section 10085.

IV

The evidence established that Respondent failed to submit the written agreement referred to in Paragraph III, above, to the Commissioner ten days before using it in violation of Code Section 10085 and Section 2970, Title 10, Chapter 6, Code of Regulations ("Regulations").

V

The evidence established that Respondent acted without Department authorization in using the fictitious business name "Small & Small Paralegal" to engage in activities requiring the issuance of a real estate license in violation of the provisions of Section 10159.5 of the Code and Section 2731 of the Regulations.

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## DETERMINATION OF ISSUES

I

Respondent is in violation of Code Sections 10159.5 and 10085 and Sections 2731 and 2970 of the Regulations. Cause for disciplinary action against Respondent exists pursuant to Business and Professions Code Sections 10085, 10177(d), and 10177(g).

II

The standard of proof applied was clear and convincing proof to a reasonable certainty.

## ORDER

The licenses and license rights of Respondent PATRICK B. SMALL, under the provisions of Part I of Division 4 of the Business and Professions Code, are revoked.

This Decision shall become effective at 12 o'clock noon SEP 21 2010.

DATED: 8/24/2010.

JEFF DAVI
Real Estate Commissioner

BY: Barbara J. Bigby
Chief Deputy Commissioner

FILED

AUG 02 2010

DEPARTMENT OF REAL ESTATE

BY: _____

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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| | |
|---|---|
| In the Matter of the Accusation of<br><br>PATRICK B. SMALL,<br><br>Respondent. | NO. H-36146 LA<br>L-2009081023<br><br>DEFAULT ORDER |

Respondent PATRICIA B. SMALL, filed a Notice of Defense within the time required by Section 11506 of the Government Code. A hearing was set for July 28 and 29, 2010. Respondent was duly notified of the hearing but failed to appear on July 29, 2010. Respondent is now in default. It is therefore, ordered that a default be entered on the record in this matter.

IT IS SO OREDERED August 2, 2010.

JEFF DAVI
Real Estate Commissioner

By: _____
PHILLIP IHDE
Regional Manager

CHERYL D. KEILY, SNB# 94008
Department of Real Estate
320 West Fourth Street, Ste. 350
Los Angeles, California 90013

Telephone: (213) 576-6982
(Direct) (213) 576-6905

FILED

JUL 30 2009

DEPARTMENT OF REAL ESTATE
BY: _____

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation

PATRICK B. SMALL,

Respondent.

No. H-36146 LA

A C C U S A T I O N

The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against PATRICK B. SMALL, aka Patrick Benedict Small, is informed and alleges as follows:

1.

The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in her official capacity.

2.

Respondent is presently licensed and/or has license rights

under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code, hereinafter "Code"), as a real estate broker.

FIRST CAUSE OF ACCUSATION
(Advance Fee Violation)

3.

At all times mentioned herein, in the State of California, Respondent engaged in the business of claiming, demanding, charging, receiving, collecting or contracting for the collection of advance fees, within the meaning of Code Section 10026, including, but not limited to, the following loan modification activities with respect to loans which were secured by liens on real property:

a. On or about August 13, 2008, Respondent, using the fictitious business name "Small & Small Paralegal," collected an advance fee of $950 from Kelly Bruchhauser pursuant to the provisions of a written agreement pertaining to loan modification services to be provided by Respondent with respect to a loan secured by the real property located at 5496 North Edgemont Drive, San Bernardino, California 92404.

4.

Respondents collected the advance fees described in Paragraph 3, above, pursuant to the provisions of a document which constitutes an advance fee agreement within the meaning of Code Section 10085.

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5.

Respondent failed to submit the written agreement referred to in Paragraph 4, above, to the Commissioner ten days before using it in violation of Code Section 10085 and Section 2970, Title 10, Chapter 6, Code of Regulations ("Regulations").

6.

The conduct, acts and/or omissions of Respondent, as set forth above, are cause for the suspension or revocation of the licenses and license rights of Respondent pursuant to Code Sections 10085, 10177(d) and/or 10177(g).

SECOND CAUSE OF ACCUSATION
(Use of Unauthorized Fictitious Business Name)

7.

Complainant hereby incorporates by reference the allegations set forth in Paragraphs 1 through 6, above.

8.

Respondent acted without Department authorization in using the fictitious business name "Small & Small Paralegal" to engage in activities requiring the issuance of a real estate license in violation of the provisions of Section 10159.5 of the Code and Section 2731 of the Regulations.

9.

The conduct, acts and/or omissions of Respondent, as set forth in Paragraph 8, above, violate Code Section 10159.5 and Section 2731 of the Regulations and are cause for the suspension

or revocation of the licenses and license rights of Respondent pursuant to Code Section 10177(d) and/or 10177(g).

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all the licenses and license rights of Respondent PATRICK B. SMALL, under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), and for such other and further relief as may be proper under other applicable provisions of law.

Dated at Los Angeles, California
this 29 day of July, 2009.

Robin Trujillo
Deputy Real Estate Commissioner

cc: Patrick B. Small
Robin Trujillo
Sacto.