

1 Department of Real Estate
2 P.O. Box 187007
3 Sacramento, CA 95818-7007
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5
6

FILED
MAY 23 2006

DEPARTMENT OF REAL ESTATE

By Anne Shave

7 BEFORE THE DEPARTMENT OF REAL ESTATE

8 STATE OF CALIFORNIA

9 * * *

10 In the Matter of the Application of)
11 ROBERT ELLIS SMITH,)
12 Respondent.)

No. H-3445 SD

STIPULATION AND WAIVER

13
14 I, ROBERT ELLIS SMITH, respondent herein, do hereby
15 affirm that I have applied to the Department of Real Estate for
16 a real estate salesperson license and that to the best of my
17 knowledge I have satisfied all of the statutory requirements
18 for the issuance of the license, including the payment of the
19 fee therefor.

20 I acknowledge that I have received and read the
21 Statement of Issues and the Statement to Respondent filed by the
22 Department of Real Estate on March 13, 2006, in connection with
23 my application for a real estate salesperson license. I
24 understand that the Real Estate Commissioner may hold a hearing
25 on this Statement of Issues for the purpose of requiring further
26 proof of Respondent's honesty and truthfulness and to prove other
27

1 allegations therein, or that he may in his discretion waive the
2 hearing and grant me a restricted real estate salesperson license
3 based upon this Stipulation and Waiver. I also understand that
4 by filing the Statement of Issues in this matter the Real Estate
5 Commissioner is shifting the burden to me to make a satisfactory
6 showing that Respondent meets all the requirements for issuance
7 of a real estate salesperson license. I further understand that
8 by entering into this stipulation and waiver I will be
9 stipulating that the Real Estate Commissioner has found that I
10 have failed to make such a showing, thereby justifying the denial
11 of the issuance to me of an unrestricted real estate salesperson
12 license.

13 I hereby admit that the allegations of the Statement of
14 Issues filed against me are true and correct and requests that
15 the Real Estate Commissioner in his discretion issue a restricted
16 real estate salesperson license to me under the authority of
17 Section 10156.5 of the Business and Professions Code. I
18 understand that any such restricted license will be issued
19 subject to and be limited by Section 10153.4 of the Business and
20 Professions Code.

21 I am aware that by signing this Stipulation and Waiver,
22 I am waiving my right to a hearing and the opportunity to present
23 evidence at the hearing to establish my rehabilitation in order
24 to obtain an unrestricted real estate salesperson license if this
25 Stipulation and Waiver is accepted by the Real Estate
26 Commissioner. However, I am not waiving my right to a hearing
27 and to further proceedings to obtain a restricted or unrestricted

1 license if this Stipulation and Waiver is not accepted by the
2 Commissioner.

3 I further understand that the following conditions,
4 limitations, and restrictions will attach to a restricted license
5 issued by the Department of Real Estate pursuant hereto:

6 1. The license shall not confer any property right in the
7 privileges to be exercised including the right of renewal,
8 and the Real Estate Commissioner may by appropriate order
9 suspend the right to exercise any privileges under this
10 restricted license in the event of:

- 11 a. The conviction of Respondent (including a plea of nolo
12 contendere) to a crime which bears a substantial
13 relationship to Respondent's fitness or capacity as a
14 real estate licensee; or
- 15 b. The receipt of evidence that Respondent has violated
16 provisions of the California Real Estate Law, the
17 Subdivided Lands Law, Regulations of the Real Estate
18 Commissioner or conditions attaching to this restricted
19 license.

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

26 3. With the application for license, or with the application
27 for transfer to a new employing broker, I shall submit a

1 statement signed by the prospective employing broker on a
2 form approved by the Department of Real Estate wherein the
3 employing broker shall certify as follows:

4 a. That the broker has read the Statement of Issues which
5 is the basis for the issuance of the restricted
6 license; and

7 b. That broker will carefully review all transaction
8 documents prepared by the restricted licensee and
9 otherwise exercise close supervision over the
10 licensee's performance of acts for which a real estate
11 license is required.

12 4. I shall regularly attend an alcohol abuse treatment or
13 recovery program, such as Alcoholics Anonymous or other
14 formal program, at least once a week during the term(s) of
15 the restricted license.

16 5. My restricted real estate salesperson license is issued
17 subject to the requirements of Section 10153.4 of the
18 Business and Professions Code, to wit: I am required,
19 within eighteen (18) months of issuance of the restricted
20 license, to submit evidence satisfactory to the
21 Commissioner of successful completion, at an accredited
22 institution, of two of the courses listed in Section
23 10153.2, other than real estate principles, advanced legal
24 aspects of real estate, advanced real estate finance, or
25 advanced real estate appraisal. If I fail to timely
26 present to the Department satisfactory evidence of
27 successful completion of the two required courses, the

1 restricted license shall be automatically suspended
2 effective eighteen (18) months after the date of its
3 issuance. Said suspension shall not be lifted unless,
4 prior to the expiration of the restricted license, I have
5 submitted the required evidence of course completion and
6 the Commissioner had given written notice to Respondent of
7 the lifting of the suspension.

8 6. Pursuant to Section 10154, if I have not satisfied the
9 requirements for an unqualified license under Section
10 10153.4, Respondent shall not be entitled to renew the
11 restricted license, and shall not be entitled to the
12 issuance of another license which is subject to Section
13 10153.4 until four years after the date of the issuance of
14 the preceding restricted license.

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17 4/13/06
18 _____
19 DATED

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23 _____
24 ROBERT ELLIS SMITH
25 Respondent
26
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* * *

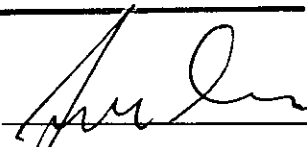
1 I have read the Statement of Issues filed herein and
2 the foregoing Stipulation and Waiver signed by the Respondent. I
3 am satisfied that the hearing for the purpose of requiring
4 further proof as to the honesty and truthfulness of Respondent
5 need not be called and that it will not be inimical to the public
6 interest to issue a restricted real estate salesperson license to
7 Respondent.

8
9 Therefor, IT IS HEREBY ORDERED that a restricted real
10 estate salesperson license be issued to Respondent, if Respondent
11 has otherwise fulfilled all of the statutory requirement for
12 licensure. The restricted license shall be limited, conditioned,
13 and restricted as specified in the foregoing Stipulation and
14 Waiver.

15 This Order is effective immediately.

16 IT IS SO ORDERED

5-18-06

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18 
19 JEFF DAVI
20 Real Estate Commissioner
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FILED
MAR 13 2006

DEPARTMENT OF REAL ESTATE

By Anne Shawver

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of)
12 ROBERT ELLIS SMITH,) No. H-3445 SD
13 Respondent.) STATEMENT OF ISSUES

14
15 The Complainant, J. CHRIS GRAVES, a Deputy Real Estate
16 Commissioner of the State of California, for Statement of Issues
17 against ROBERT ELLIS SMITH (hereinafter "Respondent"), is
18 informed and alleges as follows:

19 I

20 Respondent made application to the Department of Real
21 Estate of the State of California for a real estate salesperson
22 license on or about December 28, 2004, with the knowledge and
23 understanding that any license issued as a result of said
24 application would be subject to the conditions of Section 10153.4
25 of the Business and Professions Code.

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1 II

2 Complainant, J. CHRIS GRAVES, a Deputy Real Estate
3 Commissioner of the State of California, makes this Statement of
4 Issues in his official capacity and not otherwise.

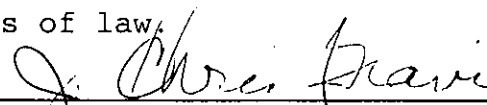
5 III

6 On or about May 24, 2004, in the State of Arizona,
7 Superior Court for the County of Yuma, Respondent was convicted
8 of Attempted Criminal Damage, a felony, a crime involving moral
9 turpitude which bears a substantial relationship under Section
10 2910, Title 10, California Code of Regulations, to the
11 qualifications, functions, or duties of a real estate licensee.

12 VI

13 The crime of which Respondent was convicted, as alleged
14 above, constitutes cause for denial of Respondent's application
15 for a real estate license under Sections 480(a) and 10177(b) of
16 the California Business and Professions Code.

17 WHEREFORE, the Complainant prays that the above-
18 entitled matter be set for hearing and, upon proof of the charges
19 contained herein, that the Commissioner refuse to authorize the
20 issuance of, and deny the issuance of, a real estate salesperson
21 license to Respondent, and for such other and further relief as
22 may be proper under other provisions of law.

23 
24 J. CHRIS GRAVES
Deputy Real Estate Commissioner

25 Dated at San Diego, California,
26 this 10th day of February, 2006.