

1 Department of Real Estate
2 P.O. Box 187007
3 Sacramento, CA 95818-7007
4
5 Telephone: (916) 227-0781
6

FILED
JUN 25 2007

DEPARTMENT OF REAL ESTATE

By *Gene Shaver*

7 BEFORE THE DEPARTMENT OF REAL ESTATE

8 STATE OF CALIFORNIA

9 * * *

10 In the Matter of the Application of)
11)
12 ROBERT ELLIS SMITH,)
13)
14 Respondent.)

No. H-3690 SD

STIPULATION AND WAIVER

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

21 I acknowledge that I have received and read the
22 Statement of Issues and the Statement to Respondent filed by the
23 Department of Real Estate on May 1, 2007, in connection with my
24 application for a real estate broker license. I understand that
25 the Real Estate Commissioner may hold a hearing on this Statement
26 of Issues for the purpose of requiring further proof of
27 Respondent's honesty and truthfulness and to prove other

1 allegations therein, or that he may in his discretion waive the
2 hearing and grant me a restricted real estate broker 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 broker license. I further understand that by
8 entering into this stipulation and waiver I will be stipulating
9 that the Real Estate Commissioner has found that I have failed to
10 make such a showing, thereby justifying the denial of the
11 issuance to me of an unrestricted real estate broker license.

12 I hereby admit that the allegations of the Statement of
13 Issues filed against me are true and correct and requests that
14 the Real Estate Commissioner in his discretion issue a restricted
15 real estate broker license to me under the authority of Section
16 10156.5 of the Business and Professions Code.

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

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

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

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

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

24 3. I shall regularly attend an alcohol abuse treatment or
25 recovery program, such as Alcoholics Anonymous or other
26 formal program, at least once a week during the term(s) of
27 the restricted license.

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2
3 5/18/2007
4 DATED

RZ SMITH
ROBERT ELLIS SMITH
Respondent

5
6 * * *

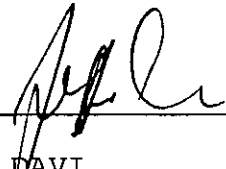
7 I have read the Statement of Issues filed herein and
8 the foregoing Stipulation and Waiver signed by the Respondent. I
9 am satisfied that the hearing for the purpose of requiring
10 further proof as to the honesty and truthfulness of Respondent
11 need not be called and that it will not be inimical to the public
12 interest to issue a restricted real estate broker license to
13 Respondent.

14 Therefor, IT IS HEREBY ORDERED that a restricted real
15 estate broker license be issued to Respondent, if Respondent has
16 otherwise fulfilled all of the statutory requirement for
17 licensure. The restricted license shall be limited, conditioned,
18 and restricted as specified in the foregoing Stipulation and
19 Waiver.

20 This Order is effective immediately.

21 IT IS SO ORDERED

6-20-07

22
23 
24 JEFF DAVI
25 Real Estate Commissioner
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27

1 TRULY SUGHRUE, Counsel
2 State Bar No. 223266
3 Department of Real Estate
4 P.O. Box 187007
5 Sacramento, CA 95818-7007
6
7 Telephone: (916) 227-0781

FILED
MAY 01 2007

DEPARTMENT OF REAL ESTATE

By Anne Shaver

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

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

No. H-3690 SD

STATEMENT OF ISSUES

15 The Complainant, JOSEPH AIU, 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 broker
22 license on or about May 22, 2006.

23 II

24 Complainant, JOSEPH AIU, a Deputy Real Estate
25 Commissioner of the State of California, makes this Statement of
26 Issues in his official capacity and not otherwise.
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III

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

IV

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

PRIOR PROCEEDING

V

Effective May 18, 2006, in Case No. H-3445 SD before the State of California Department of Real Estate, the application of Respondent for a real estate salesperson license was denied, but the right to a restricted real estate salesperson license was granted, for violation of Sections 480(a), and 10177(b) of the Code.

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

JOSEPH AIU
Deputy Real Estate Commissioner

Dated at San Diego, California,
this 11 day of April, 2007.