

FILED

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DEPT. OF REAL ESTATE
By *Cal Selous*

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-05075 SD
)	
STEPHEN WILLIAM SMITH JR,)	<u>ACCUSATION</u>
)	
)	
Respondent.)	
)	

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the State of California, for cause of Accusation against STEPHEN WILLIAM SMITH JR ("Respondent") alleges as follows:

1.

The Complainant, Veronica Kilpatrick, a Supervising Special Investigator of the State of California, makes this Accusation in her official capacity.

2.

All references to the "Code" are to the California Business and Professions Code and all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

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1 LICENSE HISTORY

2 3.

3 a. Respondent is presently licensed and/or has license rights under the Real
4 Estate Law, Part 1 of Division 4 of the California Business and Professions Code, as a real
5 estate salesperson ("RES"), Department of Real Estate¹ ("Department") license ID 01983156.

6 b. The Department originally issued Respondent's RES license on or about
7 September 12, 2016.

8 c. Respondent's license is scheduled to expire on September 11, 2020.

9 CAUSE FOR DISCIPLINE

10 (CRIMINAL CONVICTION)

11 4.

12 April 4, 2018; Vehicle Code 23152(a) – Felony

13 a. On January 19, 2018, in the Superior Court of California, County of San
14 Diego, in Case No. SCN382234, The People of the State of California vs. Stephen William
15 Smith, a felony complaint was filed against Respondent for violation of Vehicle Code Sections
16 23152(a) (driving under the influence of alcohol), a felony, and 23152(b) (driving under the
17 influence of having blood alcohol level of 0.08% or more), a felony. Both counts included
18 enhancements for Vehicle Code Sections 23550(a) (3 or more priors within 10 years) and
19 23578 (having a blood alcohol level of 0.15% or more).

20 b. On March 6, 2018, Respondent pled guilty to and was convicted for Vehicle
21 Code Section Vehicle Code Sections 23152(a) (driving under the influence of alcohol), a
22 felony, with enhancements for Vehicle Code Sections 23550(a) (3 or more priors within 10
23 years) and 23578 (having a blood alcohol level of 0.15% or more).

24 c. On April 4, 2018, the Court suspended the imposition of sentence and placed
25 Respondent on formal probation for 5 years under certain terms and conditions, including, in
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27 ¹ Between July 1, 2013 and July 1, 2018, the Department of Real Estate operated as the Bureau of Real Estate
under the Department of Consumer Affairs.

1 part, 1 year jail (probation work furlough), attend DUI victim impact panel, payment of \$1,628
2 fine and court fees and other counseling programs as directed by probation officer.

3 (AGGRAVATING FACTORS)

4 5.

5 October 23, 2012; Vehicle Code 23152 (b) – Misdemeanor

6 a. On October 23, 2012, in the Superior Court of California, County of San
7 Diego, in Case No. CN311047, The People of the State of California vs. Stephen William
8 Smith, Respondent pled guilty to and was convicted for violation of Vehicle Code Section
9 23152(b) (driving under the influence of having blood alcohol level of 0.08% or more), a
10 misdemeanor, with enhancements for Vehicle Code Sections 23546(a) (2 or more priors within
11 10 years) and 23578 (having a blood alcohol level of 0.15% or more).

12 b. Also on October 23, 2012, the Court suspended the imposition of sentence
13 and placed Respondent on summary probation for 5 years under certain terms and conditions,
14 including, in part, 150 days jail (work furlough), enroll and complete multiple conviction
15 program, suspension of driver's license for 3 years, and payment of \$2,834 fine and court fees.

16 6.

17 June 8, 2009; Vehicle Code 23152 (b) – Misdemeanor

18 a. On June 8, 2009, in the Superior Court of California, County of San Diego, in
19 Case No. M073351, The People of the State of California vs. Stephen William Smith,
20 Respondent pled guilty to and was convicted for violation of Vehicle Code Section 23152(b)
21 (driving under the influence of having blood alcohol level of 0.08% or more), a misdemeanor,
22 with enhancements for prior driving under the influence conviction (Case No. C281125).

23 b. Also on June 8, 2009, the Court suspended the imposition of sentence and
24 placed Respondent on summary probation for 5 years under certain terms and conditions,
25 including, in part, 96 hours jail, 20 days public service program, enroll and complete multiple
26 conviction program, and payment of \$2,408 fine and court fees.

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7.

July 11, 2008; Vehicle Code 23152 (b) – Misdemeanor

a. On July 11, 2008, in the Superior Court of California, County of San Diego, in Case No. **C281125**, The People of the State of California vs. Stephen William Smith, Respondent pled guilty to and was convicted for violation of Vehicle Code Section 23152(b) (driving under the influence of having blood alcohol level of 0.08% or more), a misdemeanor, with enhancements for Vehicle Code Section 23578 (having a blood alcohol level of 0.15% or more).

b. Also on June 8, 2009, the Court suspended the imposition of sentence and placed Respondent on summary probation for 5 years under certain terms and conditions, including, in part, 180 days jail stayed, 10 days public service program, enroll and complete a first conviction 9 month program, and payment of \$1,912 fine and court fees.

8.

The crime of which Respondent was convicted, as set forth in Paragraphs 4 above, by its facts and circumstances, bears substantial relationship under Section 2910, Title 10, Chapter 6, California Code of Regulations to the qualifications, functions or duties of a real estate licensee and constitutes cause under **Code Sections 490 and 10177(b)** for the suspension or revocation of the license and license rights of Respondent under the Real Estate Law.

SECOND CAUSE FOR DISCIPLINE

(FAILURE TO REPORT)

9.

Respondent did not report in writing to the Department a felony complaint being filed against him and/or his felony conviction within thirty (30) days: Case No. SCN382234 – felony complaint filed on January 19, 2018 and convicted on March 6, 2018.

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10.

Respondent's failure to report his felony complaint as well as felony conviction constitutes cause for discipline under Code Section 10186.2² of the license and license rights of Respondent under the Real Estate Law.

COSTS

11.

Code Section 10106 provides, in pertinent part, that in any order issued in resolution of a disciplinary proceeding before the Department, the Commissioner may request the administrative law judge to direct a licensee found to have committed a violation of this part to pay a sum not to exceed the reasonable costs of investigation and enforcement of the case.

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² Pursuant to Business and Professions Code 10186.2: (a)(1) A licensee shall report any of the following to the department: (A) The bringing of an indictment or information charging a felony against the licensee. (B) The conviction of the licensee, including any verdict of guilty, or plea of guilty or no contest, of any felony or misdemeanor. (c) Any disciplinary action taken by another licensing entity or authority of this state or of another state or an agency of the federal government. (2) The report required by this subdivision shall be made in writing within 30 days of the date of the bringing of the indictment or the charging of a felony, the conviction, or the disciplinary action. (b) Failure to make a report required by this section shall constitute a cause for discipline.

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