

1 ELLIOTT MAC LENNAN, SBN 66674
2 Department of Real Estate
3 320 West 4th Street, Ste. 350
4 Los Angeles, California 90013-1105

5 Telephone: (213) 576-6911 (direct)
6 -or- (213) 576-6982 (office)

FILED
MAR - 8 2005

DEPARTMENT OF REAL ESTATE

By K. Theobald

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)	No. H-31281 LA
12 SCOT WILLIAM HARVEY,)	
13 Respondent.)	<u>STIPULATION</u>
)	<u>AND</u>
)	<u>AGREEMENT</u>

14
15 It is hereby stipulated by and between SCOT WILLIAM
16 HARVEY (sometimes referred to as Respondent) and the Complainant,
17 acting by and through Elliott Mac Lennan, Counsel for the
18 Department of Real Estate, as follows for the purpose of settling
19 and disposing the Accusation ("Accusation") filed in this matter
20 on September 8, 2004:

21 1. All issues which were to be contested and all
22 evidence which was to be presented by Complainant and Respondent
23 at a formal hearing on the Accusation, which hearing was to be
24 held in accordance with the provisions of the Administrative
25 Procedure Act ("APA"), shall instead and in place
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1 thereof be submitted solely on the basis of the provisions of
2 this Stipulation and Agreement ("Stipulation").

3 2. Respondent has received, read and understands the
4 Statement to Respondent, the Discovery Provisions of the APA and
5 the Accusation filed by the Department of Real Estate in this
6 proceeding.

7 3. Respondent timely filed a Notice of Defense
8 pursuant to Section 11505 of the Government Code for the purpose
9 of requesting a hearing on the allegations in the Accusation.
10 Respondent hereby freely and voluntarily withdraws said Notice of
11 Defense. Respondent acknowledges that he understands that by
12 withdrawing said Notice of Defense he thereby waives his right to
13 require the Commissioner to prove the allegations in the
14 Accusation at a contested hearing held in accordance with the
15 provisions of the APA and that he will waive other rights
16 afforded to him in connection with the hearing such as the right
17 to present evidence in defense of the allegations in the
18 Accusation and the right to cross-examine witnesses.

19 4. This Stipulation is based on the factual
20 allegations contained in the Accusation filed in this proceeding.
21 In the interest of expedience and economy, Respondent chooses not
22 to contest these factual allegations, but to remain silent and
23 understands that, as a result thereof, these factual statements,
24 will serve as a prima facie basis for the disciplinary action
25 stipulated to herein. The Real Estate Commissioner shall not be
26 required to provide further evidence to prove such allegations.

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1 5. This Stipulation and Respondent's decision not to
2 contest the Accusation are made for the purpose of reaching an
3 agreed disposition of this proceeding and are expressly limited
4 to this proceeding and any other proceeding or case in which the
5 Department of Real Estate ("Department"), the state or federal
6 government, or an agency of this state, another state or the
7 federal government is involved.

8 6. It is understood by the parties that the Real
9 Estate Commissioner may adopt the Stipulation and Agreement as
10 his decision in this matter thereby imposing the penalty and
11 sanctions on Respondent's real estate license and license rights
12 as set forth in the "Order" hereinbelow. In the event that the
13 Commissioner in his discretion does not adopt the Stipulation and
14 the Agreement, the Agreement shall be void and of no effect, and
15 Respondent shall retain the right to a hearing and proceeding on
16 the Accusation under the provisions of the APA and shall not be
17 bound by any admission or waiver made herein.

18 7. The Order or any subsequent Order of the Real
19 Estate Commissioner made pursuant to this Stipulation shall not
20 constitute an estoppel, merger or bar to any further
21 administrative or civil proceedings by the Department of Real
22 Estate with respect to any matters which were not specifically
23 alleged to be causes for accusation in this proceeding.

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1 B. The restricted license issued to Respondent shall
2 be subject to all of the provisions of Section 10156.7 of the
3 Code and the following limitations, conditions and restrictions
4 imposed under authority of Section 10156.6 of that Code:

5 1. The restricted license issued to Respondent may be
6 suspended prior to hearing by Order of the Real Estate
7 Commissioner in the event of Respondent's conviction or plea of
8 nolo contendere to a crime which is substantially related to
9 Respondent's fitness or capacity as a real estate licensee.

10 2. The restricted license issued to Respondent may
11 be suspended prior to hearing by Order of the Real Estate
12 Commissioner on evidence satisfactory to the Commissioner that
13 Respondent has violated provisions of the California Real Estate
14 Law, the Subdivided Lands Law, Regulations of the Real Estate
15 Commissioner or conditions attaching to the restricted license.
16

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

22 4. Respondent shall, within nine (9) months from the
23 effective date of this Decision, present evidence satisfactory to
24 the Real Estate Commissioner that Respondent has, since the most
25 recent issuance of an original or renewal real estate license,
26 taken and successfully completed the continuing education.
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1 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
2 for renewal of a real estate license. If Respondent fails to
3 satisfy this condition, the Commissioner may order the suspension
4 of the restricted license until the Respondent presents such
5 evidence. The Commissioner shall afford Respondent the
6 opportunity for a hearing pursuant to the Administrative
7 Procedure Act to present such evidence.

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11 DATED: 1-5-05

EL
ELLIOTT MAC LENNAN, Counsel for
the Department of Real Estate

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13 * * *

14 I have read the Stipulation and Waiver and its terms
15 are understood by me and are agreeable and acceptable to me. I
16 understand that I am waiving rights given to me by the California
17 Administrative Procedure Act (including but not limited to
18 Sections 11506, 11508, 11509 and 11513 of the Government Code),
19 and I willingly, intelligently and voluntarily waive those
20 rights, including the right of requiring the Commissioner to
21 prove the allegations in the Accusation at a hearing at which I
22 would have the right to cross-examine witnesses against me and to
23 present evidence in defense and mitigation of the charges.

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Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by faxing a copy of its signature page, as actually signed by Respondent, to the Elliott Mac Lennan, Esq. c/o the Department of Real Estate at the following telephone/fax number: (213) 576-6917.

Respondent agrees, acknowledges and understands that by electronically sending to the Department a fax copy of his actual signature as it appears on the Stipulation and Agreement, that receipt of the faxed copy by the Department shall be as binding on Respondent as if the Department had received the original signed Stipulation and Agreement.


DATED: _____ SCOT WILLIAM HARVEY, Respondent

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Respondent agrees, acknowledges and understands that by electronically sending to the Department a fax copy of his actual signature as it appears on the Stipulation and Agreement, that receipt of the faxed copy by the Department shall be as binding on Respondent as if the Department had received the original signed Stipulation and Agreement.

DATED: 1-13-05


SCOT WILLIAM HARVEY, Respondent

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The foregoing Stipulation and Agreement is hereby
adopted as my Decision as to Respondent SCOT WILLIAM HARVEY and
shall become effective at 12 o'clock noon
on MAR 28, 2005

IT IS SO ORDERED

3-2, 2005

JEFF DAVI
Real Estate Commissioner



1 Among those terms, conditions and restrictions,
2 Respondent shall not incur a conviction to a crime which bears a
3 substantial relationship to Respondent's fitness or capacity as a
4 real estate licensee. Respondent has failed to satisfy this
5 condition, and as such, is in violation of Section 10177(k) of
6 the Code.

7 On October 2, 2001, in the Superior Court of
8 California, County of Riverside, State of California, respondent
9 was convicted upon a guilty plea to one count of California Penal
10 Code Section 415(a) (fighting, causing loud words, or using
11 offensive words in a public place), a misdemeanor.

12 On July 31, 2002, in the Superior Court of California,
13 County of Riverside, State of California, respondent was
14 convicted upon a guilty plea to one count of California Penal
15 Code Section 273.6(a) (violation of court order - domestic
16 violence), a misdemeanor.

17 Said crimes bear a substantial relationship to
18 Respondent's fitness or capacity as a real estate broker.

19 Respondent failed to disclose said convictions on his
20 Broker Renewal Application of September 30, 2003.

21 NOW THEREFORE, IT IS ORDERED under authority of Section
22 10156.7 of the Code that the restricted real estate broker
23 license heretofore issued to Respondent and the exercise of any
24 privileges thereunder is hereby suspended.

25 IT IS FURTHER ORDERED that all license certificates and
26 identification cards issued by the Department which are in the
27 possession of Respondent be immediately surrendered by personal

1 delivery or by mailing in the enclosed self-addressed envelope
2 to:

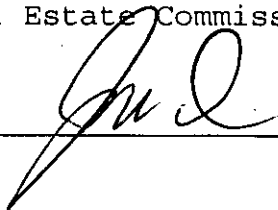
3 DEPARTMENT OF REAL ESTATE
4 Attn: Flag Section
5 P. O. Box 187000
6 Sacramento, CA 95818-7000

7 HEARING RIGHTS: Pursuant to the provisions of Section
8 10156.7 of the Code, you have the right to a hearing to contest
9 the Commissioner's determination that you are in violation of
10 Section 10177(k). If you desire a hearing, you must submit a
11 written request. The request may be in any form, as long as it
12 is in writing and indicates that you want a hearing. Unless a
13 written request for a hearing, signed by or on behalf of you, is
14 delivered or mailed to the Department at c/o Elliott Mac Lennan,
15 Counsel, 320 W. 4th Street, Suite 350, Los Angeles, California
16 90013-1105, within 20 days after the date that this Order was
17 mailed to or served on you, the Department will not be obligated
18 or required to provide you with a hearing.

18 This Order shall be effective immediately.

19 DATED: 1-25-09

20 JEFF DAVI
21 Real Estate Commissioner

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1 Among those terms, conditions and restrictions,
2 Respondent shall not incur a conviction to a crime which bears a
3 substantial relationship to Respondent's fitness or capacity as a
4 real estate licensee. Respondent has failed to satisfy this
5 condition, and as such, is in violation of Section 10177(k) of
6 the Code.

7 On October 2, 2001, in the Superior Court of
8 California, County of Riverside, State of California, respondent
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10 Code Section 415(a) (fighting, causing loud words, or using
11 offensive words in a public place), a misdemeanor.

12 On July 31, 2002, in the Superior Court of California,
13 County of Riverside, State of California, respondent was
14 convicted upon a guilty plea to one count of California Penal
15 Code Section 273.6(a) (violation of court order - domestic
16 violence), a misdemeanor.

17 Said crimes bear a substantial relationship to
18 Respondent's fitness or capacity as a real estate broker.

19 Respondent failed to disclose said convictions on his
20 Broker Renewal Application of September 30, 2003.

21 NOW THEREFORE, IT IS ORDERED under authority of Section
22 10156.7 of the Code that the restricted real estate broker
23 license heretofore issued to Respondent and the exercise of any
24 privileges thereunder is hereby suspended.

25 IT IS FURTHER ORDERED that all license certificates and
26 identification cards issued by the Department which are in the
27 possession of Respondent be immediately surrendered by personal

1 delivery or by mailing in the enclosed self-addressed envelope
2 to:

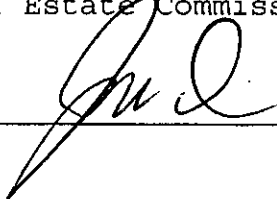
3 DEPARTMENT OF REAL ESTATE
4 Attn: Flag Section
5 P. O. Box 187000
6 Sacramento, CA 95818-7000

7 HEARING RIGHTS: Pursuant to the provisions of Section
8 10156.7 of the Code, you have the right to a hearing to contest
9 the Commissioner's determination that you are in violation of
10 Section 10177(k). If you desire a hearing, you must submit a
11 written request. The request may be in any form, as long as it
12 is in writing and indicates that you want a hearing. Unless a
13 written request for a hearing, signed by or on behalf of you, is
14 delivered or mailed to the Department at c/o Elliott Mac Lennan,
15 Counsel, 320 W. 4th Street, Suite 350, Los Angeles, California
16 90013-1105, within 20 days after the date that this Order was
17 mailed to or served on you, the Department will not be obligated
18 or required to provide you with a hearing.

18 This Order shall be effective immediately.

19 DATED: 1-25-09

20 JEFF DAVI
21 Real Estate Commissioner

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1 Among those terms, conditions and restrictions,
2 Respondent shall not incur a conviction to a crime which bears a
3 substantial relationship to Respondent's fitness or capacity as a
4 real estate licensee. Respondent has failed to satisfy this
5 condition, and as such, is in violation of Section 10177(k) of
6 the Code.

7 On October 2, 2001, in the Superior Court of
8 California, County of Riverside, State of California, respondent
9 was convicted upon a guilty plea to one count of California Penal
10 Code Section 415(a) (fighting, causing a loud words, or using
11 offensive words in a public place), a misdemeanor.

12 On July 31, 2002, in the Superior Court of California,
13 County of Riverside, State of California, respondent was
14 convicted upon a guilty plea to one count of California Penal
15 Code Section 273.6(a) (violation of court order - domestic
16 violence), a misdemeanor.

17 Said crimes bear a substantial relationship to
18 Respondent's fitness or capacity as a real estate salesperson.

19 Respondent failed to disclose said convictions on his
20 Broker Renewal Application of September 30, 2003.

21 NOW THEREFORE, IT IS ORDERED under authority of Section
22 10156.7 of the Code that the restricted real estate salesperson
23 license heretofore issued to Respondent and the exercise of any
24 privileges thereunder is hereby suspended.

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not
adopted

1 IT IS FURTHER ORDERED that all license certificates and
2 identification cards issued by the Department which are in the
3 possession of Respondent be immediately surrendered by personal
4 delivery or by mailing in the enclosed self-addressed envelope
5 to:

6 DEPARTMENT OF REAL ESTATE
7 Attn: Flag Section
8 P. O. Box 187000
9 Sacramento, CA 95818-7000

9 HEARING RIGHTS: Pursuant to the provisions of Section
10 10156.7 of the Code, you have the right to a hearing to contest
11 the Commissioner's determination that you are in violation of
12 Section 10177(k). If you desire a hearing, you must submit a
13 written request. The request may be in any form, as long as it
14 is in writing and indicates that you want a hearing. Unless a
15 written request for a hearing, signed by or on behalf of you, is
16 delivered or mailed to the Department at c/o Elliott Mac Lennan,
17 Counsel, 320 W. 4th Street, Suite 350, Los Angeles, California
18 90013-1105, within 20 days after the date that this Order was
19 mailed to or served on you, the Department will not be obligated
20 or required to provide you with a hearing.
21

22 This Order shall be effective immediately.

23 DATED: December 3 2004

25 JEFF DAVI
26 Real Estate Commissioner
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*Acco
log*

1 ELLIOTT MAC LENNAN, SBN 66674
2 Department of Real Estate
3 320 West 4th Street, Ste. 350
4 Los Angeles, California 90013-1105

5 Telephone: (213) 576-6911 (direct)
6 -or- (213) 576-6982 (office)

FILED
SEP - 8 2004
DEPARTMENT OF REAL ESTATE

By *K. Theobald*

7
8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)	No. H-31281 LA
12 SCOT WILLIAM HARVEY,)	
13 Respondent.)	<u>ACCUSATION</u>

14
15 The Complainant, Janice Waddell, a Deputy Real Estate
16 Commissioner of the State of California, for cause of accusation
17 against SCOT WILLIAM HARVEY ("respondent") is informed and
18 alleges in her official capacity as follows:

19 1.

20 Respondent is presently licensed and/or has license
21 rights as a restricted real estate broker under the Real Estate
22 Law (Part 1 of Division 4 of the California Business and
23 Professions Code.

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LICENSE HISTORY

2.

Respondent was originally licensed by the Department of Real Estate of the State of California as a real estate broker on May 11, 1993. On April 22, 1998, in Case No. H-27248 LA, respondent's real estate broker license was restricted as a result of the discipline imposed in this case for violations of the Real Estate Law disciplined as more fully set forth below in Paragraph 9.

3.

In response to Question 3 of the Broker Renewal Application of September 30, 2003, to wit: "Within the past four year period have you been convicted of any violation of law? (Convictions expunged under Penal Code Section 1203.4 must be disclosed however you may only omit minor traffic citations which citations which do not constitute a misdemeanor or felony offense)". Respondent marked the box denoting "No." Respondent failed to disclose the convictions below.

4.

On October 2, 2001, in the Superior Court of California, County of Riverside, State of California, respondent was convicted upon a guilty plea to one count of California Penal Code Section 415(a) (fighting, causing a loud words, or using offensive words in a public place), a misdemeanor.

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5.

On July 31, 2002, in the Superior Court of California, County of Riverside, State of California, respondent was convicted upon a guilty plea to one count of California Penal Code Section 273.6(a) (violation of court order - domestic violence), a misdemeanor.

6.

These crimes, by their facts and circumstances, are substantially related under Section 2910(a), Chapter 6, Title 10 of the California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

7.

Respondent's failure to reveal the criminal conviction in his Broker Renewal Application of September 30, 2003, constitutes the procurement by renewal of a real estate license by fraud, misrepresentation or deceit, or by making a material misstatement of fact in said application, which is cause for suspension or revocation of respondent's real estate broker license under Code Sections 498 and/or 10177(a).

8.

The alleged convictions constitutes cause for the suspension or revocation of the license and license rights of respondent under Code Sections 490 and/or 10177(b).

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1 IN AGGRAVATION AND LACK OF REHABILITATION

2 9.

3 Respondent committed the Penal Code Section 273.6(a)
4 crime while on probation for the Penal Code Section 415
5 conviction. Under the Criteria of Rehabilitation provided for by
6 Title 10, Chapter 6, Section 2912(m) of the California Code of
7 Regulations Respondent has not demonstrated a change in attitude
8 from that which existed at the time of the commission the Penal
9 Code Section 415 crime on November 30, 2000, and is therefore not
10 rehabilitated.
11

12 10.

13 Pursuant to In Re Gossage (2000), 23 Cal. 4th1080; 99
14 Cal. Rptr. 2d 130; 5 P. 3d 186, respondent's failure to reveal
15 his complete criminal history consisting of the crimes set forth
16 above demonstrates that respondent has not rehabilitated himself
17 and further demonstrates a lack of respect for the legal system.
18

19 Prior Discipline

20 11.

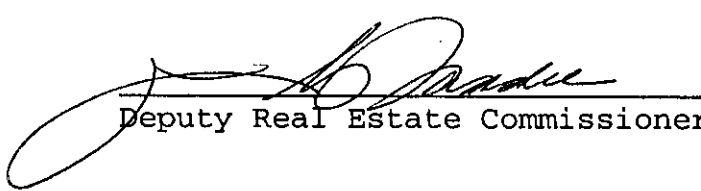
21 On July 2, 1997, in Case No. H-27248 LA, an Accusation
22 was filed against respondent SCOT WILLIAM HARVEY that resulted in
23 discipline for said respondent on April 22, 1998, for violations
24 of Sections 10159.2, 10159.5, 10160, 10161.8 and 10240 of the
25 California Business and Professions Code and Sections 2715, 2725,
26
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1 2752, 2753 and 2840 of Title 10, Chapter 6, California Code of
2 Regulations.

3 WHEREFORE, Complainant prays that a hearing be
4 conducted on the allegations of this Accusation and that upon
5 proof thereof, a decision be rendered imposing disciplinary
6 action against the licenses and license rights of respondent SCOT
7 WILLIAM HARVEY under the Real Estate Law (Part 1 of Division 4 of
8 the Business and Professions Code) and for such other and further
9 relief as may be proper under other applicable provisions of law.

10 Dated at Los Angeles, California

11 this *30 August 2004*

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15 Deputy Real Estate Commissioner
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25 cc: Scot William Harvey

26 Janice Waddell
27 Sacto.

DKW