

By K. M. Kneib

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Application of
BRIAN STEPHEN SNELL,
Respondent.

H-31762 LA

STIPULATION
AND
WAIVER

It is hereby stipulated by and between BRIAN STEPHEN SNELL (hereinafter "Respondent") and the Complainant, acting by and through Elliott Mac Lennan, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Statement of Issues filed on March 14, 2005 in this matter:

A. Respondent acknowledges that Respondent has received and read the Statement of Issues and the Statement to Respondent filed by the Department of Real Estate in connection with Respondent's application for a real estate salesperson license. Respondent understands that the Real Estate

1 Commissioner may hold a hearing on this Statement of Issues for
2 the purpose of requiring further proof of Respondent's honesty
3 and truthfulness and to prove other allegations therein, or that
4 he may in his discretion waive the hearing and grant Respondent a
5 restricted real estate salesperson license based upon this
6 Stipulation and Waiver. Respondent also understands that by
7 filing the Statement of Issues in this matter the Real Estate
8 Commissioner is shifting the burden to Respondent to make a
9 satisfactory showing that Respondent meet all the requirements
10 for issuance of a real estate salesperson license. Respondent
11 further understands that by entering into this stipulation and
12 waiver Respondent will be stipulating that the Real Estate
13 Commissioner has found that Respondent has failed to make such
14 a showing, thereby justifying the denial of the issuance to
15 Respondent of an unrestricted real estate salesperson license.

16 B. Respondent hereby admits that the allegations of
17 the Statement of Issues filed against Respondent are true and
18 correct and requests that the Real Estate Commissioner in his
19 discretion issue a restricted real estate salesperson license to
20 Respondent under the authority of Section 10156.5 of the Business
21 and Professions Code.

22 C. Respondent is aware that by signing this
23 Stipulation and Waiver, Respondent is waiving Respondent's right
24 to a hearing and the opportunity to present evidence at the
25 hearing to establish Respondent's rehabilitation in order to
26 obtain an unrestricted real estate salesperson license if this
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1 Stipulation and Waiver is accepted by the Real Estate
2 Commissioner. However, Respondent is not waiving Respondent's
3 right to a hearing and to further proceedings to obtain a
4 restricted or unrestricted license if this Stipulation and Waiver
5 is not accepted by the Commissioner.

6 D. Respondent further understands that the following
7 conditions, limitations, and restrictions will attach to a
8 restricted license issued by the Department of Real Estate
9 pursuant hereto:

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

15 a. The conviction of Respondent (including a plea of
16 nolo contendere) to a crime which bears a substantial
17 relationship to Respondent's fitness or capacity as a real estate
18 licensee; or

19 b. The receipt of evidence that Respondent has
20 violated provisions of the California Real Estate Law, the
21 Subdivided Lands Law, Regulations of the Real Estate
22 Commissioner, or conditions attaching to this restricted license.

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

1 3. With the application for license, or with the
2 application for transfer to a new employing broker, Respondent
3 shall submit a statement signed by the prospective employing
4 broker on a form approved by the Department of Real Estate
5 wherein the employing broker shall certify as follows:

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

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

12 4. Respondent's restricted real estate salesperson
13 license is issued subject to the requirements of Section 10153.4
14 of the Business and Professions Code, to wit: Respondent is
15 required, within eighteen (18) months of the issuance of the
16 restricted license, to submit evidence satisfactory to the
17 Commissioner of successful completion, at an accredited
18 institution, of two of the courses listed in Section 10153.2,
19 other than real estate principles, advanced legal aspects of real
20 estate, advanced real estate finance, or advanced real estate
21 appraisal. If Respondent fails to timely present to the
22 Department satisfactory evidence of successful completion of the
23 two required courses, the restricted license shall be
24 automatically suspended effective eighteen (18) months after the
25 date of its issuance. Said suspension shall not be lifted
26 unless, prior to the expiration of the restricted license,
27 Respondent has submitted the required evidence of course

1 completion and the Commissioner has given written notice to
2 Respondent of the lifting of the suspension.

3 5. Six months after the issuance of the restricted
4 license, and at six month intervals thereafter during the term of
5 any restricted license issued pursuant to this Decision,
6 Respondent shall provide proof acceptable to the Real Estate
7 Commissioner that, during the preceding six months, Respondent
8 has, each and every week, attended one or more sessions of
9 Alcoholics Anonymous, or that such attendance in any week was
10 impractical due to travel for work, the illness of Respondent or
11 a member of Respondent's family, vacation, incarceration,
12 residential treatment for substance abuse, extreme personal
13 hardship for Respondent or a member of Respondent's family, or
14 family emergency. Respondent shall submit such proof to the Los
15 Angeles Crisis Response Team Manager of the Department of Real
16 Estate. The Commissioner may suspend the restricted license
17 issued to Respondent pending a hearing held in accordance with
18 Section 11500, et seq., of the Government Code, if such proof is
19 not timely submitted as provided for herein, or as provided for
20 in a subsequent agreement between the Respondent and the
21 Commissioner. The suspension shall remain in effect until such
22 proof is submitted or until Respondent enters into an agreement
23 satisfactory to the Commissioner to provide such proof, or until
24 a decision providing otherwise is adopted following a hearing
25 held pursuant to this condition.

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5-13-05

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DATED Elliott Mac Lennan, Counsel
Department of Real Estate

* * *

I have read the Stipulation and Waiver. Its terms
are understood by me and are agreeable and acceptable to me. I
understand that I am waiving rights given to me by the
California Administrative Procedure Act (including but not
limited to Sections 11506, 11508, 11509, and 11513 of the
Government Code), and I willingly, intelligently, and
voluntarily waive those rights, including the right of a
hearing on the Statement of Issues at which I would have the
right to cross-examine witnesses against me and to present
evidence in defense and mitigation of the charges.

Respondent can signify acceptance and approval of the
terms and conditions of this Stipulation and Wavier by faxing a
copy of the signature page, as actually signed by Respondent,
to Elliott Mac Lennan at the Department at 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 Waiver,
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 Waiver.

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2 05/19/05
3 DATED

Brian S. Snell
BRIAN STEPHEN SNELL
Respondent

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

12 Therefore, IT IS HEREBY ORDERED that a restricted real
13 estate salesperson license be issued to Respondent BRIAN STEPHEN
14 SNELL, if Respondent has otherwise fulfilled all of the statutory
15 requirements for licensure. The restricted license shall be
16 limited, conditioned, and restricted as specified in the
17 foregoing Stipulation and Waiver.

18 This Order is effective immediately.

19 IT IS SO ORDERED _____, 2005.

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21 JEFF DAVI
22 Estate Commissioner
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2 DATED

BRIAN STEPHEN SNELL
Respondent

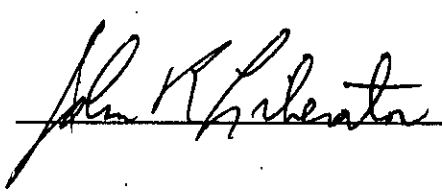
3
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6 the foregoing Stipulation and Waiver signed by Respondent. I am
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12 Therefore, IT IS HEREBY ORDERED that a restricted real
13 estate salesperson license be issued to Respondent BRIAN STEPHEN
14 SNELL, if Respondent has otherwise fulfilled all of the statutory
15 requirements for licensure. The restricted license shall be
16 limited, conditioned, and restricted as specified in the
17 foregoing Stipulation and Waiver.

18 This Order is effective immediately.

19 IT IS SO ORDERED June 13, 2005.

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21 JEFF DAVI
Estate Commissioner

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25 BY: John R. Liberator
26 Chief Deputy Commissioner
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Handwritten: 3/14/05

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

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

FILED
MAR 14 2005
DEPARTMENT OF REAL ESTATE

By K. Niederholt

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Application of	)	No. H-31762 LA
BRIAN STEPHEN SNELL,	)	<u>STATEMENT OF ISSUES</u>
Respondent.	)	

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, for Statement of Issues against BRIAN STEPHEN SNELL (Respondent) is informed and alleges in her official capacity as follows:

1.

Respondent made application to the Department of Real Estate of the State of California for a real estate salesperson license on or about April 28, 2004, subject to Section 10153.4(c) under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code) (Code).

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CRIMINAL CONVICTIONS

2.

On August 14, 2003, in the Superior Court of California, County of Orange, in Case No. 03HM02896, respondent was convicted upon a plea of guilty to violating one count of the California Vehicle Code Section (VC) 23152(a) (D.U.I.), and one count of violating VC 23152(b) (Driving with a Blood Alcohol Level of 0.08% or More). These crimes are misdemeanors, which by their facts and circumstances, involve moral turpitude and are substantially related under Section 2910, Chapter 6, Title 10 of the California Code of Regulations (Regulations), to the qualifications, functions or duties of a real estate licensee.

3.

On July 28, 1997, in the Superior Court of California, County of Orange, in Case No. 97NS1775, respondent was convicted upon a plea of guilty to violating one count of the California Vehicle Code Section (VC) 23152(a) (D.U.I.), and one count of violating VC 23152(b) (Driving with a Blood Alcohol Level of 0.08% or More). These crimes are misdemeanors, which by their facts and circumstances, involve moral turpitude and are substantially related under the Regulations, to the qualifications, functions or duties of a real estate licensee.

4.

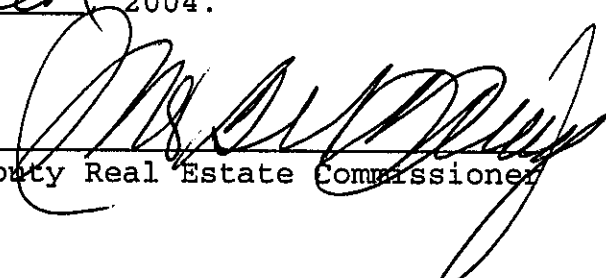
Respondent's convictions, as set forth in Paragraphs 2 and 3, above, are cause to deny Respondent's real estate license

1 application under Sections 475(a), 480(a) and/or 10177(b) of the
2 California Business and Professions Code.

3 These proceedings are brought under the provisions of
4 Section 10100, Division 4 of the California Business and
5 Professions Code and Sections 11500 through 11529 of the
6 California Government Code.

7 WHEREFORE, the Complainant prays that above-entitled
8 matter be set for hearing and, upon proof of the charges
9 contained herein, that the Commissioner refuse to authorize the
10 issuance of, and deny the issuance of, a real estate salesperson
11 license to Respondent BRIAN STEPHEN SNELL, and for such other and
12 further relief as may be proper in the premises.

13 Dated at Los Angeles, California
14 this 14th day of March 2004.

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18 Deputy Real Estate Commissioner
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24 cc: Brian Stephen Snell
25 William Sidney Spradley
26 Maria Suarez
27 Sacto
LA