

High
File

FILED
FEB 16 2006
DEPARTMENT OF REAL ESTATE

By K. Stieberholt

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)
DONALD THARPE SMITH, JR.,) H-32149 LA
Respondent.)

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On August 25, 2005, an Accusation was filed in this matter against Respondent DONALD THARPE SMITH, JR.

On January 20, 2006, Respondent petitioned the Commissioner to voluntarily surrender his real estate salesperson license pursuant to Section 10100.2 of the Business and Professions Code.

IT IS HEREBY ORDERED that Respondent DONALD THARPE SMITH, JR's petition for voluntary surrender of his real estate salesperson license is accepted as of the effective date of this Order as set forth below, based upon the understanding and agreement expressed in Respondent's Declaration dated January

1 20, 2006, (attached as Exhibit "A" hereto). Respondent's
2 license certificate and pocket card shall be sent to the below
3 listed address so that they reach the Department on or before
4 the effective date of this Order:

5
6 Department of Real Estate
7 Atten: Licensing Flag Section
8 P.O. BOX 18700
9 Sacramento, CA 95818-7000

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11 This Order shall become effective at 12 o'clock noon
12 on MAR - 8, 2006.

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14 DATED: 2-9, 2006.

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16 JEFF DAVI
17 Real Estate Commissioner
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8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

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11 In the Matter of the Accusation of)
12 DONALD THARPE SMITH, JR.,) H-32149 LA
13)
14 Respondent.)

15 DECLARATION

16
17 My name is DONALD THARPE SMITH, JR. and I am currently
18 licensed as a real estate salesperson and/or have license
19 rights with respect to said license. I am representing myself
20 in this matter.

21 In lieu of proceeding in this matter in accordance
22 with the provisions of the Administrative Procedures Act
23 (Sections 11400 et seq., of the Government Code) I wish to
24 voluntarily surrender my real estate license issued by the
25 Department of Real Estate ("Department"), pursuant to Business
26 and Professions Code Section 10100.2.
27

1 I understand that by so voluntarily surrendering my
2 license, that it can only be reinstated in accordance with the
3 provisions of Section 11522 of the Government Code. I also
4 understand that by so voluntarily surrendering my license, I
5 agree to the following:

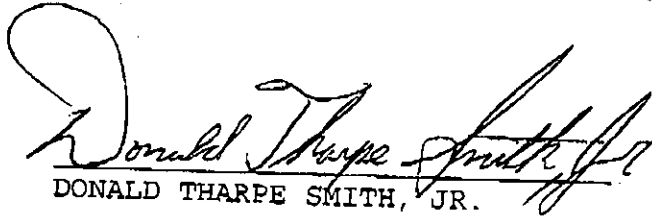
6 The filing of this Declaration shall be deemed as my
7 petition for voluntary surrender. It shall also be deemed to be
8 an understanding and agreement by me that, I waive all rights I
9 have to require the Commissioner to prove the allegations
10 contained in the Accusation filed in this matter at a hearing
11 held in accordance with the provisions of the Administrative
12 Procedures Act (Government Code Sections 11400 et seq.), and
13 that I also waive other rights afforded to me in connection with
14 the hearing such as the right to discovery, the right to present
15 evidence in defense of the allegations in the Accusation and the
16 right to cross examine witnesses. I further agree that upon
17 acceptance by the Commissioner, as evidenced by an appropriate
18 order, all affidavits and all relevant evidence obtained by the
19 Department in this matter prior to the Commissioner's
20 acceptance, and all allegations contained in the Accusation
21 filed in the Department Case No. H-32149 LA, may be considered
22 by the Department to be true and correct for the purpose of
23 deciding whether or not to grant reinstatement of my license
24 pursuant to Government Code Section 11522.

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1 I declare under penalty of perjury under the laws of
2 the State of California that the above is true and correct and
3 that I freely and voluntarily surrender my license and all
4 license rights attached thereto.

5 DATED: January 20, 2006 at IRVINE, California.

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8 
9 DONALD THARPE SMITH, JR.

1 I declare under penalty of perjury under the laws of
2 the State of California that the above is true and correct and
3 that I freely and voluntarily surrender my license and all
4 license rights attached thereto.

5 DATED: _____, 2006 at _____, California.

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8 _____
9 DONALD THARPE SMITH, JR.
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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
AUG 25 2005
DEPARTMENT OF REAL ESTATE

By K. Niederholt

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

DONALD THARPE SMITH, JR.,

Respondent.

No. H-32149 LA

ACCUSATION

The Complainant, Maria Suarez, a Deputy Real Estate
Commissioner of the State of California, for cause of accusation
against DONALD THARPE SMITH, JR., is informed and alleges in her
official capacity as follows:

1.

Respondent is presently licensed and/or has license
rights as a real estate salesperson under the Real Estate Law
(Part 1 of Division 4 of the California Business and Professions
Code) (Code).

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2.

Respondent was originally licensed by the Department of Real Estate of the State California as a real estate salesperson on February 10, 1989.

3.

On December 30, 2003, in the Superior Court of California, County of Los Angeles, respondent was convicted by a plea of nolo contendere to one count of Penal Code Section 273.5(a) (corporal injury on spouse), a misdemeanor.

4.

This crime alleged in Paragraph 3 by its facts and circumstances involves moral turpitude under *People v. Rodriguez* (1992) 5 Cal. App. 4th 1398, 1402, and is substantially related under Section 2910(a)(8), Chapter 6, Title 10 of the California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

5.

The facts as alleged in Paragraph 3, above, constitutes cause for the suspension or revocation of the license and license rights of respondent under Sections 490 and/or 10177(b) of the Code.

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

9 Dated at Los Angeles, California

10 This

25th day of July 2005.


Deputy Real Estate Commissioner

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24 cc: Donald Tharpe Smith, Jr.
25 Maria Suarez
26 Sacto
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