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**FILED**

**AUG 17 2012**

**DEPARTMENT OF REAL ESTATE**

BY: *[Signature]*

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BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Accusation of  
SCOTT JOSEPH SMITH,  
Respondent.

No. H-33455 LA

ORDER DENYING REINSTATEMENT OF LICENSE

On March 27, 2007, a Decision was rendered providing for the revocation of the real estate broker license of Respondent, but granting Respondent the right to apply for a restricted broker license. The restricted license was issued April 19, 2007 and will expire April 18, 2015.

On December 17, 2010, Respondent petitioned for reinstatement of Respondent's real estate broker license. The Attorney General of the State of California has been given notice of the filing of the petition.

I have considered Respondent's petition and the evidence and arguments in support thereof. Respondent has failed to demonstrate to my satisfaction that Respondent has undergone sufficient rehabilitation to warrant the reinstatement of Respondent's real estate broker license, in that:

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On or about March 4, 2004 and November 18, 2005, Respondent was convicted of driving under the influence.

Said crimes involves moral turpitude and are substantially related to the functions, qualifications and duties of a real estate licensee pursuant to Section 2910, Title 10, Chapter 6, California Code of Regulations ("Regulations").

The burden of proving rehabilitation rests with the petitioner (*Feinstein v. State Bar* (1952) 39 Cal. 2d 541). A petitioner is required to show greater proof of honesty and integrity than an applicant for first time licensure. The proof must be sufficient to overcome the prior adverse judgment on the applicant's character (*Tardiff v. State Bar* (1980) 27 Cal. 3d 395).

The Department has developed criteria in Section 2911 of Title 10, California Code of Regulations (Regulations) to assist in evaluating the rehabilitation of an applicant for reinstatement of a license. Among the criteria relevant in this proceeding are:

Regulation 2911(j) – Discharge of , or bona fide efforts toward discharging, adjudicated debts or monetary obligations to others.

Respondent has not provided such proof for an unpaid civil judgment and State and Federal tax liens.

Regulation 2911(l) – Significant or conscientious involvement in community, church or social programs.

Respondent has not provided proof of such involvement.

Given the violation found and the fact that Respondent has not established that Respondent has complied with Regulation 2911(j) and (l), I am not satisfied that Respondent is sufficiently rehabilitated to receive an unrestricted real estate license.

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1                    NOW, THEREFORE, IT IS ORDERED that Respondent's petition for  
2 reinstatement of Respondent's real estate broker license is denied.

3                    This Order shall become effective at 12 o'clock noon on September 6, 2012.

4 IT IS SO ORDERED May 22, 2012

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6 REAL ESTATE COMMISSIONER

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8 By WAYNE S. BELL  
9 Chief Counsel

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