

1 Department of Real Estate
2 320 W. 4th Street, Suite 350
3 Los Angeles, CA 90013-1105

4 Telephone: (213) 576-6982

FILED
OCT 26 2007
DEPARTMENT OF REAL ESTATE

[Signature]

7 **DEPARTMENT OF REAL ESTATE**

8 **STATE OF CALIFORNIA**

9
10 *In the Matter of the Application of*

11
12 **BYRON V. SMITH,**

13
14 Respondent

)
) No. H- 34350 LA
)
)

) **STIPULATION AND**
) **WAIVER**
)
)

15 I, BYRON V. SMITH, respondent herein, do hereby affirm that I have applied to the Department of
16 Real Estate for a real estate salesperson license and that to the best of my knowledge I have satisfied all of
17 the statutory requirements for the issuance of the license, including the payment of the fee therefor.

18 I acknowledge that I have received and read the Statement of Issues and the Statement to Respondent
19 filed by the Department of Real Estate on October 2, 2007, in connection with my application for a real
20 estate salesperson license. I understand that the Real Estate Commissioner may hold a hearing on this
21 Statement of Issues for the purpose of requiring further proof of my honesty and truthfulness and to prove
22 other allegations therein, or that he may in his discretion waive the hearing and grant me a restricted real
23 estate salesperson license based upon this Stipulation and Waiver. I also understand that by filing the
24 Statement of Issues in this matter the Real Estate Commissioner is shifting the burden to me to make a
25 satisfactory showing that I meet all the requirements for issuance of a real estate salesperson license. I
26 further understand that by entering into this stipulation and waiver I will be stipulating that the Real Estate
27

1 Commissioner has found that I have failed to make such a showing, thereby justifying the denial of the
2 issuance to me of an unrestricted real estate salesperson license.

3 I hereby admit that the allegations of the Statement of Issues filed against me are true and correct and
4 request that the Real Estate Commissioner in his discretion issue a restricted real estate salesperson license
5 to me under the authority of Section 10156.5 of the Business and Professions Code. I understand that any
6 such restricted license will be issued subject to and be limited by Section 10153.4 of the Business and
7 Professions Code.

8 I am aware that by signing this Stipulation and Waiver, I am waiving my right to a hearing and the
9 opportunity to present evidence at the hearing to establish my rehabilitation in order to obtain an
10 unrestricted real estate salesperson license if this Stipulation and Waiver is accepted by the Real Estate
11 Commissioner. However, I am not waiving my right to a hearing and to further proceedings to obtain a
12 restricted or unrestricted license if this Stipulation and Waiver is not accepted by the Commissioner.

13 I further understand that the following conditions, limitations, and restrictions will attach to a
14 restricted license issued by the Department of Real Estate pursuant hereto:

- 15 1. The license shall not confer any property right in the privileges to be exercised including the
16 right of renewal, and the Real Estate Commissioner may by appropriate order suspend the right
17 to exercise any privileges granted under this restricted license in the event of:
 - 18 a. The conviction of respondent (including a plea of nolo contendere) to a crime which bears a
19 substantial relationship to respondent's fitness or capacity as a real estate licensee; or
 - 20 b. The receipt of evidence that respondent has violated provisions of the California Real
21 Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner, or
22 conditions attaching to this restricted license.
- 23 2. I shall not be eligible to apply for the issuance of an unrestricted real estate license nor the
24 removal of any of the conditions, limitations or restrictions attaching to the restricted license
25 until two years have elapsed from the date of issuance of the restricted license to respondent.
26
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1 3. With the application for license, or with the application for transfer to a new employing broker, I
2 shall submit a statement signed by the prospective employing broker on a form approved by the
3 Department of Real Estate wherein the employing broker shall certify as follows:

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

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

9 4. My restricted real estate salesperson license is issued subject to the requirements of Section
10 10153.4 of the Business and Professions Code, to wit: I am required, within eighteen (18) months
11 of the issuance of the restricted license, to submit evidence satisfactory to the Commissioner of
12 successful completion, at an accredited institution, of a course in real estate practices and one of
13 the courses listed in Section 10153.2, other than real estate principles, advanced legal aspects of
14 real estate, advanced real estate finance, or advanced real estate appraisal. If I fail to timely
15 present to the Department satisfactory evidence of successful completion of the two required
16 courses, the restricted license shall be automatically suspended effective eighteen (18) months
17 after the date of its issuance. Said suspension shall not be lifted unless, prior to the expiration of
18 the restricted license, I have submitted the required evidence of course completion and the
19 Commissioner has given written notice to Respondent of the lifting of the suspension.

20 5. Pursuant to Section 10154, if I have not satisfied the requirements for an unqualified license
21 under Section 10153.4, Respondent shall not be entitled to renew the restricted license, and shall
22 not be entitled to the issuance of another license which is subject to Section 10153.4 until four
23 years after the date of the issuance of the preceding restricted license.

24 Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and
25 Waiver by faxing a copy of the signature page, as actually signed by respondent, to the Department at fax
26 number (213) 576-6917. Respondent agrees, acknowledges and understands that by electronically sending
27 to the Department a fax copy of his actual signature as it appears on the Stipulation and Waiver, that receipt

1 of the faxed copy by the Department shall be as binding on respondent as if the Department had received
2 the original signed Stipulation and Waiver.

3 X 10/5/07
4 Dated

X Byron V. Smith
BYRON V. SMITH, Respondent

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

9 Therefore, IT IS HEREBY ORDERED that a restricted real estate salesperson license be issued to
10 respondent BYRON V. SMITH if respondent has otherwise fulfilled all of the statutory requirements for
11 licensure. The restricted license shall be limited, conditioned, and restricted as specified in the foregoing
12 Stipulation and Waiver.

13 This Order is effective immediately.

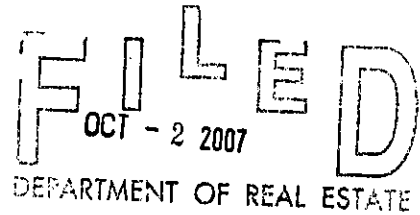
14 IT IS SO ORDERED 10/24/07

16 Jeff Davi
17 Real Estate Commissioner

18 [Signature]
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Wiederholt

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of) NO. H- 34350 LA
)
BYRON V. SMITH,)
) STATEMENT OF ISSUES
)
Respondent.)

The Complainant, Robin Trujillo, a Deputy Real Estate
Commissioner of the State of California, for cause of Statement
of Issues against BYRON V. SMITH, ("Respondent"), is informed
and alleges as follows:

1.

The Complainant, Robin Trujillo, a Deputy Real Estate
Commissioner of the State of California, makes this Statement of
Issues against Respondent in her official capacity.

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2.

Respondent made application to the Department of Real Estate of the State of California for a real estate salesperson license on or about November 13, 2006, with the knowledge and understanding that any license issued as a result of said application would be subject to the conditions of Business and Professions Code ("Code") Section 10153.4.

(CRIMINAL CONVICTIONS)

3.

On or about August 29, 1979, in the California Superior Court, County of Los Angeles, in Case no. M156100, Respondent was convicted of violating Penal Code 484 (Petty Theft), a misdemeanor. The underlying facts of this criminal conviction involve moral turpitude, which bear a substantial relationship under Title 10, Chapter 6, Section 2910, California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

4.

On or about July 6, 1983, in the California Superior Court, County of Los Angeles, in Case no. A623404, Respondent was convicted of violating Health and Safety Code 11379.5 (Transporting Controlled Substance), a felony. The underlying facts of this criminal conviction involve moral turpitude, which bear a substantial relationship under Title 10, Chapter 6,

1 Section 2910, California Code of Regulations, to the
2 qualifications, functions or duties of a real estate licensee.

3 5.

4 On or about June 25, 1984, in the California Superior
5 Court, County of Los Angeles, in Case no. M121092, Respondent
6 was convicted of violating Penal Code 496 (Receiving Stolen
7 Property), a misdemeanor. The underlying facts of this criminal
8 conviction involve moral turpitude, which bear a substantial
9 relationship under Title 10, Chapter 6, Section 2910, California
10 Code of Regulations, to the qualifications, functions or duties
11 of a real estate licensee.

12 6.

13 The crimes of which Respondent was convicted, as
14 alleged herein above in Paragraphs 3 through 5 constitute cause
15 for denial of Respondent's application for a real estate license
16 under Business and Professions Code Sections 475(a)(2);
17 480(a)(1); and/or 10177(b).

18 7.

19 (FAILURE TO REVEAL CONVICTION)
20

21 In response to Question 25 of his license application,
22 to wit: "HAVE YOU EVER BEEN CONVICTED OF ANY VIOLATION OF LAW?
23 CONVICTIONS EXPUNGED UNDER PENAL CODE SECTION 1203.4 MUST BE
24 DISCLOSED. HOWEVER, YOU MAY OMIT MINOR TRAFFIC CITATIONS WHICH
25 DO NOT CONSTITUTE A MISDEMEANOR OR FELONY OFFENSE". Respondent
26 answered "YES", but failed to reveal the convictions described
27 in Paragraph 3 through 5, above.

1 8.

2 Respondent's failure to reveal the conviction set
3 forth herein in Paragraphs 3 through 5, above, in his license
4 application, constitutes, knowingly making a false statement of
5 material fact required to be revealed in said application, which
6 is grounds for denial of the issuance of a license under
7 Business and Professions Code Sections 480(c) and 10177(a).

8 9.

9
10 In aggravation, on or about July 18, 1986, in the
11 California Superior Court, County of Los Angeles, in Case no.
12 A535051, Respondent was convicted of violating Health and Safety
13 Code 11350(a) (Possession of Narcotic), a felony.

14 10.

15 In aggravation, on or about November 17, 1988, in the
16 California Superior Court, County of Los Angeles, in Case no.
17 88MO8306, Respondent was convicted of violating Health and
18 Safety Code 11364 (Possession of Paraphernalia), a misdemeanor.

19 11.

20 In aggravation, on or about April 5, 1989, in the
21 California Superior Court, County of Los Angeles, in Case no.
22 A891091, Respondent was convicted of violating Health and Safety
23 Code 11350(a) (Possession of Narcotic), a felony.

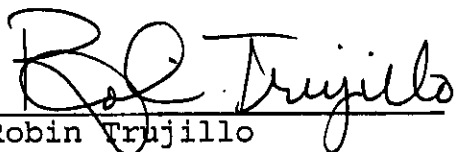
24
25 The Statement of Issues is brought under the
26 provisions of Section 10100, Division 4 of the Business and
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1 Professions Code of the State of California and Sections 11500
2 and 11529 of the Government Code.

3
4 WHEREFORE, Complainant prays that the above entitled
5 matter be set for hearing and, upon proof of the charges
6 contained herein, that the Commissioner refuse to authorize the
7 issuance of, and deny the issuance of, a real estate salesperson
8 license to Respondent, BYRON V. SMITH, and for such other and
9 further relief as may be proper in the premises.

10
11 Dated at Los Angeles, California

12 This 26 day of September, 2007.
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15 
16 Robin Trujillo
17 Deputy Real Estate Commissioner
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22

23 Cc: BYRON V. SMITH
24 Robin Trujillo
25 Sacto.
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