

1 Department of Real Estate  
2 320 West Fourth Street, Ste. 350  
3 Los Angeles, California 90013

4 (213) 576-6982

**FILED**  
April 11, 2008  
DEPARTMENT OF REAL ESTATE

By C. J.

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \* \* \*

11 To:

No. H-34832 LA

12 SMR FINANCIAL SERVICES, INC. )  
13 and JAMES GRADY KAY, )  
14 individually and as )  
15 designated officer of )  
16 SMR Financial Services, Inc.. )

ORDER TO DESIST  
AND REFRAIN

17 The Real Estate Commissioner of the State of California  
18 has caused an investigation to be made of your activities as a  
19 real estate broker, and based on the findings of that  
20 investigation is of the opinion that SMR FINANCIAL SERVICES, INC.  
21 and JAMES GRADY KAY, individually and as designated officer of  
22 SMR Financial Services, Inc., have violated Sections 10235,  
23 10140.6, 10159.5, 14701, 14702, 17533.6 of the Business and  
24 Professions Code (hereinafter "Code") as well as Sections 2770.1,  
25 2731, 2847.3, and 2848 subdivisions (5), (6), (7), (8), and (16)  
26 of Chapter 6, Title 10, California Code of Regulations  
27 (hereinafter "Regulations").

1.

At all times mentioned herein, you, SMR FINANCIAL SERVICES, INC., were licensed by the Department of Real Estate of the State of California (hereinafter "Department") as a corporate real estate broker with Respondent JAMES GRADY KAY as the designated officer.

2.

At all times mentioned herein, you, JAMES GRADY KAY, individually, and as designated officer of SMR Financial Services, Inc., were licensed by the Department as a real estate broker.

3.

You, SMR FINANCIAL SERVICES, INC. and JAMES GRADY KAY, knowingly advertised, printed, displayed, published, distributed, or caused or permitted to be advertised, printed, displayed, published, or distributed, statements or representations with regard to the rates, terms, or conditions for making, purchasing, or negotiating loans on real property which were false, misleading, or deceptive.

4.

Your conduct, as alleged in Paragraph 3, above, is in violation of Code Section 10235 and Section 2848 subdivisions (5), (6), (7), (8), and (16) of the Regulations.

5.

You, SMR FINANCIAL SERVICES, INC. and JAMES GRADY KAY, included the name, trade name, logo, or tagline, of a lender in solicitation for financial services directed to a consumer who

1 has obtained a loan from the lender without the consent of the  
2 lender, and which failed clearly and conspicuously to state that  
3 you are not sponsored by or affiliated with the lender and that  
4 the solicitation is not authorized by the lender, which shall be  
5 identified by name.

6 6.

7 Your conduct, as alleged in Paragraph 5, above, is in  
8 violation of Code Section 14701.

9 7.

10 You, SMR FINANCIAL SERVICES, INC. and JAMES GRADY KAY,  
11 made solicitations for the making or arranging of a loan that  
12 included a consumer's loan number or loan amount without  
13 obtaining the consent of the consumer, and which failed to state  
14 that you are not sponsored by or affiliated with the lender and  
15 that the solicitation is not authorized by the lender.

16 8.

17 Your conduct, as alleged in Paragraph 7, above, is in  
18 violation of Code Section 14702.

19 9.

20 You, SMR FINANCIAL SERVICES, INC. and JAMES GRADY KAY,  
21 made solicitations for the making or arranging of a loan that  
22 contained a term or symbol that reasonably could be interpreted  
23 or construed as implying a state or local government connection,  
24 approval, or endorsement, which failed to bear the following:

25 (a) With respect to the face of the solicitation, the  
26 language: "THIS PRODUCT OR SERVICE HAS NOT BEEN APPROVED OR  
27 ENDORSED BY ANY GOVERNMENT AGENCY, AND THIS OFFER IS NOT BEING

1 MADE BY AN AGENCY OF THE GOVERNMENT," and,

2 (b) In the case of a mailed solicitation, an envelope  
3 or outside cover or wrapper bearing the notice: "THIS IS NOT A  
4 GOVERNMENT DOCUMENT."

5 10.

6 Your conduct, as alleged in Paragraph 9, above, is in  
7 violation of Code Section 17533.6 of the Regulations.

8 11.

9 You, SMR FINANCIAL SERVICES, INC., knowingly  
10 advertised, printed, displayed, published, distributed, or caused  
11 or permitted to be advertised, printed, displayed, published, or  
12 distributed, statements or representations using the fictitious  
13 name "SMR Financial" without a properly licensed fictitious  
14 business name.

15 12.

16 Your conduct, as alleged in Paragraph 11, above, is in  
17 violation of Code Section 10159.5 and Section 2731 of the  
18 Regulations.

19 13.

20 You, SMR FINANCIAL SERVICES, INC. and JAMES GRADY KAY,  
21 published, circulated, distributed, or caused to be published,  
22 circulated, or distributed in a newspaper or periodical, or by  
23 mail matter pertaining to any activity for which a real estate  
24 license is required which does not contain a designation  
25 disclosing that you are performing acts for which a real estate  
26 license is required.

27 ///

14.

Your conduct, as alleged in Paragraph 13, above, is in violation of Code Section 10140.6 and Section 2770.1 of the Regulations.

15.

You, SMR FINANCIAL SERVICES, INC. and JAMES GRADY KAY, placed one or more advertisements disseminated primarily in the State of California for the making or arranging of a loan, including a solicitation for borrowers or potential investors, that failed to disclose within the printed text of the advertisement, the required statement: "Real estate broker, California Department of Real Estate" or "California Department of Real Estate, real estate broker" in type size no smaller than smallest print in advertisement.

16.

Your conduct, as alleged in Paragraph 15, above, is in violation of Section 2847.3 of the Regulations.

///

///

///

///

///

///

///

///

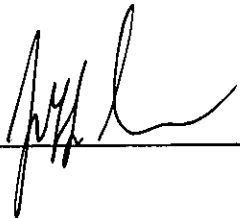
///

///

1 NOW, THEREFORE, YOU, SMR FINANCIAL SERVICES, INC. and  
2 JAMES GRADY KAY, ARE ORDERED TO DESIST AND REFRAIN from  
3 performing any and all activities for which a real estate broker  
4 license is required until you comply with all provisions of the  
5 Real Estate Law as discussed in this Order.

6 DATED: 4/8, 2008.

7  
8 JEFF DAVI  
Real Estate Commissioner

9  
10   
11 \_\_\_\_\_  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

24 cc: SMR Financial Services, Inc.  
25 32301 Camino Capistrano, Unit D  
San Juan Capistrano, California 92675

26 James Grady Kay  
27 32301 Camino Capistrano, Unit D  
San Juan Capistrano, California 92675