

1 Department of Real Estate
2 320 West 4th Street, Ste. 350
3 Los Angeles, California 90013-1105
4
5 Telephone: (213) 576-6982 (office)
6
7

FILED

OCT 23 2008

DEPARTMENT OF REAL ESTATE

BY: *[Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12)
13 WLP FINANCIAL SERVICES,)
14 a California Corporation, doing)
15 business as GMAC Real Estate and)
16 Smith Moore Estate; and)
17 LESLIE RENEE SMITH, individually)
and as designated officer of)
WLP Financial Services,)
Respondents,)

No. H-34976 LA

STIPULATION

AND
AGREEMENT

18 It is hereby stipulated by and between Respondents
19 WLP FINANCIAL SERVICES, a corporate real estate broker, and
20 LESLIE RENEE SMITH, individually and as designated officer of WLP
21 Financial Services, (sometimes collectively referred to as
22 "Respondents"), represented Mary E. Work, Esq., and the
23 Complainant, acting by and through Elliott Mac Lennan, Counsel
24 for the Department of Real Estate, as follows for the purpose of
25 settling and disposing of the Accusation ("Accusation") filed on
26 May 29, 2008, in this matter:
27

1 1. All issues which were to be contested and all
2 evidence which was to be presented by Complainant and Respondents
3 at a formal hearing on the Accusation, which hearing was to be
4 held in accordance with the provisions of the Administrative
5 Procedure Act ("APA"), shall instead and in place thereof be
6 submitted solely on the basis of the provisions of this
7 Stipulation and Agreement ("Stipulation").

8 2. Respondents have received, read and understand the
9 Statement to Respondent, the Discovery Provisions of the APA and
10 the Accusation filed by the Department of Real Estate in this
11 proceeding.

12 3. Respondents timely filed a Notice of Defense
13 pursuant to Section 11506 of the Government Code for the purpose
14 of requesting a hearing on the allegations in the Accusation.
15 Respondents hereby freely and voluntarily withdraw said Notice of
16 Defense. Respondents acknowledge that they understand that by
17 withdrawing said Notice of Defense they thereby waive their right
18 to require the Commissioner to prove the allegations in the
19 Accusation at a contested hearing held in accordance with the
20 provisions of the APA and that they will waive other rights
21 afforded to them in connection with the hearing such as the right
22 to present evidence in their defense the right to cross-examine
23 witnesses.
24

25 ///

26 ///

1 4. This Stipulation is based on the factual
2 allegations contained in the Accusation. In the interest of
3 expedience and economy, Respondents choose not to contest the
4 allegations which give rise to the violations stipulated to
5 herein, but to remain silent and understand that, as a result
6 thereof, these factual allegations, without being admitted or
7 denied, will serve as a prima facie basis for the disciplinary
8 action stipulated to herein. The Real Estate Commissioner shall
9 not be required to provide further evidence to prove said factual
10 allegations.

11 5. This Stipulation is made for the purpose of
12 reaching an agreed disposition of this proceeding and is
13 expressly limited to this proceeding and any other proceeding or
14 case in which the Department of Real Estate ("Department"), the
15 state or federal government, or any agency of this state, another
16 state or federal government is involved.

17 6. It is understood by the parties that the Real
18 Estate Commissioner may adopt this Stipulation as his Decision in
19 this matter thereby imposing the penalty and sanctions on
20 Respondents' real estate licenses and license rights as set forth
21 in the "Order" herein below. In the event that the Commissioner
22 in his discretion does not adopt the Stipulation, it shall be
23 void and of no effect and Respondents shall retain the right to a
24 hearing and proceeding on the Accusation under the provisions of
25 the APA and shall not be bound by any stipulation or waiver made
26
27

herein.

7. The Order or any subsequent Order of the Real Estate Commissioner made pursuant to this Stipulation shall not constitute an estoppel, merger or bar to any further administrative or civil proceedings by the Department of Real Estate with respect to any matters which were not specifically alleged to be causes for Accusation in this proceeding but do constitute a bar, estoppel and merger as to any allegations actually contained in the Accusations against Respondent herein.

DETERMINATION OF ISSUES

By reason of the foregoing, it is stipulated and agreed that the following determination of issues shall be made:

I.

The conduct of WLP FINANCIAL SERVICES, as described in Paragraph 4, above, is in violation of Sections 10145 and 10240 of the Business and Professions Code ("Code") and Sections 2831 and 2831.1, of Title 10, Chapter 6 of the California Code of Regulations and is a basis for discipline of Respondent's license and license rights as violations of the Real Estate Law pursuant to Code Section 10177(d).

II.

The conduct of LESLIE RENEE SMITH, as described in Paragraph 4, above, constitutes a failure to keep WLP FINANCIAL SERVICES in compliance with the Real Estate Law during the time that she was the officer designated by a corporate broker

1 licensee in violation of Section 10159.2 of the Code and is a
2 basis for discipline of Respondent's license pursuant to Code
3 Section 10177(h).

4 ORDER

5 WHEREFORE, THE FOLLOWING ORDER is hereby made:

6 I.

7 All licenses and licensing rights of Respondent WLP
8 FINANCIAL SERVICES under the Real Estate Law suspended for a
9 period of thirty (30) days from the effective date of this
10 Decision.

11 A. Provided, however, that if Respondent requests,
12 said thirty day suspension (or a portion thereof) shall be stayed
13 for two (2) years upon condition that:

14 1. Respondent pays a monetary penalty pursuant to
15 Section 10175.2 of the Business and Professions Code at the rate
16 of \$100.00 per day for each day of the thirty day suspension for
17 a total monetary penalty of \$3,000.

18 2. Said payment shall be in the form of a cashier's
19 check or certified check made payable to the Recovery Account of
20 the Real Estate Fund. Said check must be received by the
21 Department prior to the effective date of the Decision in this
22 matter.

23 3. No further cause for disciplinary action against
24 the real estate license of Respondent occurs within two (2) years
25 from the effective date of the Decision in this matter.
26
27

1 4. If Respondent fails to pay the monetary penalty in
2 accordance with the terms of the Decision, the Commissioner may,
3 without a hearing, order the immediate execution of all or any
4 part of the stayed suspension, in which event Respondent shall
5 not be entitled to any repayment nor credit, prorated or
6 otherwise, for money paid to the Department under the terms of
7 this Decision.

8 5. If Respondent pays the monetary penalty and if no
9 further cause for disciplinary action against the real estate
10 license of Respondent occurs within two (2) years from the
11 effective date of the Decision, the stay hereby granted shall
12 become permanent.

13 II.

14 Respondent LESLIE RENEE SMITH is publicly reprovded.

15 III.

16 All licenses and licensing rights of Respondent LESLIE
17 RENEE SMITH are indefinitely suspended unless or until Respondent
18 provides proof satisfactory to the Commissioner, of having taken
19 and successfully completed the continuing education course on
20 trust fund accounting and handling specified in paragraph (3) of
21 subdivision (a) of Section 10170.5 of the Business and
22 Professions Code. Proof of satisfaction of this requirement
23 includes evidence that respondent has successfully completed the
24 trust fund account and handling continuing education course.
25 within 120 days prior to the effective date of the Decision in
26
27

1 this matter.

2 IV.

3 Respondent LESLIE RENEE SMITH shall within six (6)
4 months from the effective date of the Decision herein, take and
5 pass the Professional Responsibility Examination administered by
6 the Department including the payment of the appropriate
7 examination fee. If Respondent fails to satisfy this condition,
8 the Commissioner may order suspension of Respondent's license
9 until Respondent passes the examination.

10 V.

11 Pursuant to Section 10148 of the Business and
12 Professions Code, Respondents WLP FINANCIAL SERVICES and LESLIE
13 RENEE SMITH, shall pay the Commissioner's reasonable cost for (a)
14 the underlying audit (b) a subsequent audit to determine if
15 Respondents are now in compliance with the Real Estate Law. The
16 cost of the audit is \$3,674.05. In calculating the amount of the
17 Commissioner's reasonable cost, the Commissioner may use the
18 estimated average hourly salary for all persons performing audits
19 of real estate brokers, and shall include an allocation for
20 travel time to and from the auditor's place of work. Said amount
21 for the prior and subsequent audits shall not exceed \$7,348.10.

23 Respondents shall pay such cost within 60 days of
24 receiving an invoice from the Commissioner detailing the
25 activities performed during the audit and the amount of time
26 spent performing those activities.
27

1 The Commissioner may suspend the license of Respondents
2 pending a hearing held in accordance with Section 11500, et seq.
3 of the Government Code, if payment is not timely made as provided
4 for herein, or as provided for in a subsequent agreement between
5 Respondents and the Commissioner. The suspension shall remain in
6 effect until payment is made in full or until Respondents enter
7 into an agreement satisfactory to the Commissioner to provide for
8 payment, or until a decision providing otherwise is adopted
9 following a hearing held pursuant to this condition.
10

11
12 DATED: 9-8-08

ELL
ELLIOTT MAC LENNAN, Counsel for
the Department of Real Estate

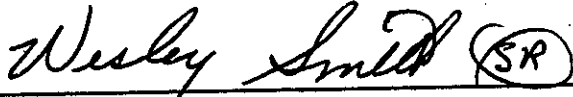
14 * * *

15 EXECUTION OF THE STIPULATION

16 We have read the Stipulation and discussed it with our
17 counsel. Its terms are understood by us and are agreeable and
18 acceptable to us. We understand that we are waiving rights given
19 to us by the California Administrative Procedure Act (including
20 but not limited to Sections 11506, 11508, 11509 and 11513 of the
21 Government Code), and we willingly, intelligently and voluntarily
22 waive those rights, including the right of requiring the
23 Commissioner to prove the allegations in the Accusation at a
24 hearing at which we would have the right to cross-examine
25 witnesses against us and to present evidence in defense and
26 mitigation of the charges.
27

1 Respondents can signify acceptance and approval of the
2 terms and conditions of this Stipulation by faxing a copy of its
3 signature page, as actually signed by Respondents, to the
4 Department at the following telephone/fax number: Elliott Mac
5 Lennan at (213) 576-6917. Respondents agree, acknowledge and
6 understand that by electronically sending to the Department a fax
7 copy of Respondents' actual signature(s) as they appear on the
8 Stipulation, that receipt of the faxed copy by the Department
9 shall be as binding on Respondents as if the Department had
10 received the original signed Stipulation.
11
12
13

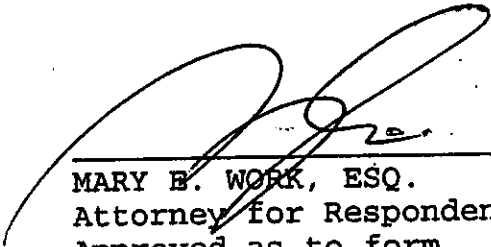
14 DATED: 9/15/08


WLP FINANCIAL SERVICES, Respondent
BY: WESLEY SMITH, SR.,
President

15
16
17
18
19 DATED: 9/15/08


LESLIE RENEE SMITH Respondent
Individually

20
21
22
23
24 DATED: 9/16/08

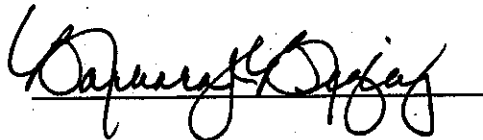

MARY E. WORK, ESQ.
Attorney for Respondent
Approved as to form

* * *

The foregoing Stipulation and Agreement is hereby
adopted as my Decision as to Respondents WLP FINANCIAL SERVICES
and LESLIE RENEE SMITH, individually and as designated officer of
WLP Financial Services, and shall become effective at 12 o'clock
noon on November 21, 2008.

IT IS SO ORDERED 10/17, 2008.

JEFF DAVI
Real Estate Commissioner



BY: Barbara J. Bigby
Chief Deputy Commissioner

Sato

ELLIOTT MAC LENNAN, (CSB#066674)
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

MAY 29 2008

DEPARTMENT OF REAL ESTATE

BY: H. H. H.

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

WLP FINANCIAL SERVICES,
a California Corporation, doing
business as GMAC Real Estate and
Smith Moore Estates; and
LESLIE RENEE SMITH, individually
and as designated officer of
WLP Financial Services,

Respondents.

No. H-34976 LA

A C C U S A T I O N

The Complainant, Maria Suarez, a Deputy Real Estate
Commissioner of the State of California, for cause of Accusation
against WLP FINANCIAL SERVICES dba GMAC Real Estate and Smith
Moore Estates, and LESLIE RENEE SMITH, individually and as
designated officer of WLP Financial Services, alleges as follows:

1.

The Complainant, Maria Suarez, acting in her official
capacity as a Deputy Real Estate Commissioner of the State of

1 California, makes' this Accusation against WLP FINANCIAL SERVICES
2 and LESLIE RENEE SMITH.

3 2.

4 All references to the "Code" are to the California
5 Business and Professions Code and all references to "Regulations"
6 are to Title 10, Chapter 6, California Code of Regulations.

7 LICENSE HISTORY

8 3.

9 A. At all times mentioned, WLP FINANCIAL SERVICES
10 ("WLP") and LESLIE RENEE SMITH were licensed or had license
11 rights issued by the Department of Real Estate ("Department") as
12 real estate brokers.

13 B. At all times mentioned, WLP was licensed by the
14 Department as a corporate real estate broker by and through
15 SMITH, as the designated officer and broker responsible, pursuant
16 to Code Section 10159.2 for supervising the activities requiring
17 a real estate license conducted on behalf of WLP by WLP's
18 officers, agents and employees, including SMITH. WLP was
19 originally licensed on December 15, 1994.

20 C. At all times mentioned, LESLIE RENEE SMITH
21 ("SMITH") was licensed or had license rights issued by the
22 Department as a real estate broker. On August 6, 1993, SMITH was
23 originally licensed as a real estate broker. On December 15,
24 1994, SMITH was licensed as the designated officer of WLP.

25
26 ///

BROKERAGE

WLP FINANCIAL SERVICES

4.

At all times mentioned, in the City and County of Los Angeles, WLP and SMITH acted as real estate brokers conducting licensed activities within the meaning of Code Section 10131(a) by operating a residential resale brokerage dba GMAC Real Estate and Smith Moore Estates.

WLP FINANCIAL SERVICES

AUDIT

5.

On February 26, 2008, the Department completed an audit examination of the books and records of WLP pertaining to the residential resale activities described in Paragraph 4, that require a real estate license. The audit examination covered a period of time beginning on January 1, 2006 to December 31, 2007. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs, and more fully discussed in Audit Report LA 070155 and the exhibits and workpapers attached to said audit report.

TRUST ACCOUNT

6.

During the audit period WLP did not maintain a trust account.

///

1 WLP FINANCIAL SERVICES
2 VIOLATIONS OF THE REAL ESTATE LAW
3

4 7.

5 In the course of activities described in Paragraph 6,
6 above, and during the examination period described in Paragraph
7 5, Respondents WLP and SMITH acted in violation of the Code and
8 the Regulations in that they:

9 (a) Mixed and commingled trust funds by depositing
10 credit and appraisal fees which are trust funds into the general
11 account, in violation of Code Sections 10145, 10176(e) and
12 10177(g).

13 (b) Failed to maintain a control record in the form of
14 a columnar record in chronological order of all "Trust Funds
15 Received, Not Placed Broker's Trust Account", in violation of
16 Code Section 10145 and Regulation 2831. WLP did not maintain a
17 columnar record for credit and appraisal fees.

18 (c) Failed to maintain a separate record for each
19 beneficiary or transaction, thereby failing to account for all
20 trust funds received, deposited and disbursed, as required by
21 Code Section 10145 and Regulation 2831.1. WLP did not maintain a
22 separate record for credit and appraisal fees.

23 (d)(1) Failed to retain a true and correct copy of a
24 Department of Real Estate approved Mortgage Loan Disclosure
25 Statement signed by the broker for borrowers Nicholas, Ross,
26
27

1 Patterson and Bridewell, in violation of Code Section 10240 and
2 Regulation 2840; and

3 (d)(2) Failed to disclose yield spread premiums from
4 lenders on the approved Mortgage Loan Disclosure Statement for
5 the aforesaid borrowers, in violation of Code Section 10240, and
6 Regulation 2840.

7 (e) SMITH failed to exercise adequate supervision over
8 the real estate resales activities of WLP requiring a real estate
9 license in order to ensure compliance the Real Estate Laws and
10 Regulations and had no system in place for regularly monitoring
11 compliance with the Real Estate Law especially in regard to
12 establishing policies to review trust fund handling, in violation
13 of Code Sections 10159.2, 10177(h) and Regulation 2725.

14 DISCIPLINE STATUTES AND REGULATIONS

15 8.

16 The conduct of Respondents WLP and SMITH, described in
17 Paragraph 7, above, violated the Code and the Regulations as set
18 forth below:
19

20 PARAGRAPH

PROVISIONS VIOLATED

21 7(a)

Code Section 10145, 10176(e), and
22 10177(g)

23
24 7(b)

Code Section 10145 and Regulation
25 2831
26
27

1 7(c)

Code Section 10145 and Regulation
2831.1

3
4 7(d)

Code Section 10240 and Regulation
2840

5
6
7 7(e)

Code Section 10159.2 and 10177(h)
and Regulation 2725

8
9
10 The foregoing violations constitute cause for the suspension or
11 revocation of the real estate license and license rights of WLP
12 and SMITH, under the provisions of Code Sections 10176(e),
13 10177(d) and/or 10177(g).

14
15 NEGLIGENCE

16 8.

17 The overall conduct of Respondents WLP and SMITH
18 constitutes negligence. This conduct and violation are cause for
19 the suspension or revocation of the real estate license and
20 license rights of said Respondents pursuant to Code Sections
21 10177(d) and/or 10177(g).

22 SUPERVISION AND COMPLIANCE

23 9.

24 The overall conduct of Respondent SMITH constitutes a
25 failure on her part, as officer designated by a corporate broker
26 licensee, to exercise the reasonable supervision and control over
27

1 the licensed activities of WLP as required by Code Section
2 10159.2, and to keep WLP in compliance with the Real Estate Law,
3 and is cause for the suspension or revocation of the real estate
4 license and license rights of SMITH pursuant to the provisions of
5 Code Sections 10177(d), 10177(g) and 10177(h).

6 WHEREFORE, Complainant prays that a hearing be
7 conducted on the allegations of this Accusation and that upon
8 proof thereof, a decision be rendered imposing disciplinary
9 action against the license and license rights of Respondents WLP
10 FINANCIAL SERVICES and LESLIE RENEE SMITH, individually and as
11 designated officer of WLP Financial Services, under the Real
12 Estate Law (Part 1 of Division 4 of the Business and Professions
13 Code) and for such other and further relief as may be proper
14 under other applicable provisions of law.

15 Dated at Los Angeles, California

16 this 23rd day of May 2008
17 
18 Deputy Real Estate Commissioner

19
20
21
22
23
24
25 cc: WLP Financial Services
26 c/o Leslie Renee Smith D.O.
27 Maria Suarez
Sacto
Audits - Robert S. Brody