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FILED

OCT 28 2010

DEPARTMENT OF REAL ESTATE
BY: James B. [Signature]

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) NO. H-35253 LA
)
)
PETER MICHAEL SMYTH,)
)
Respondent)

ORDER SUSPENDING RESTRICTED REAL ESTATE LICENSE

TO: Peter Michael Smyth
PO Box 11136
Marina Del Rey, CA 90295

On February 22, 2010, a restricted real estate salesperson license was issued by the Department of Real Estate to respondent on the terms, conditions and restrictions set forth in the Real Estate Commissioner's Order of October 21, 2009, in Case No. H-35253 LA. This Order, which became effective on November 12, 2009, granted Respondent the right to the issuance of a restricted real estate salesperson license subject to the provisions of Section 10156.7 of the

1 Business and Professions Code and to enumerated additional
2 terms, conditions and restrictions imposed under authority of
3 Section 10156.6 of said Code. Among those terms, conditions
4 and restrictions, was the requirement that:

5
6 "Respondent shall, with nine months from the
7 effective date of this Decision, present evidence
8 satisfactory to the Real Estate Commissioner that
9 Respondent has, since the most recent issuance of
10 an original or renewal real estate salesperson
11 license, taken and successfully completed the
12 continuing education requirements of Article 2.5
13 of Chapter 3 of the Real Estate Law for renewal of
14 a real estate license. If Respondent fails to
15 satisfy this condition, the Commissioner may order
16 the suspension of the restricted license until
17 Respondent presents such evidence. The
18 Commissioner shall afford Respondent the
19 opportunity for a hearing pursuant to the
20 Administrative Procedure Act to present such
21 evidence."

22 The Commissioner has determined that as of
23 August 12, 2010, Respondent has failed to satisfy this
24 condition, and as such, is in violation of Section 10177(k) of
25 the Business and Professions Code. (Respondent has no right
26 to renew the restricted license if this condition isn't
27 satisfied by the date of its expiration. (Section 10156.7 of
the Business and Professions Code.)

28 NOW, THEREFORE, IT IS ORDERED under authority of
29 Section 10156.7 of the Business and Professions Code of the
30 State of California that the restricted real estate
31 salesperson license heretofore issued to respondent and the
32 exercise of any privileges thereunder is hereby suspended
33 until such time as Respondent provides proof satisfactory to

1 the Department of compliance with the condition(s) referred to
2 above, or pending final determination made after hearing (see
3 "Hearing Rights" set forth below).

4 IT IS FURTHER ORDERED that all license certificates
5 and identification cards issued by Department which are in the
6 possession of respondent be immediately surrendered by
7 personal delivery or by mailing in the enclosed,
8 self-addressed envelope to:

9 Department of Real Estate
10 Attn: Flag Section
11 P. O. Box 187000
12 Sacramento, CA 95818-7000

12 HEARING RIGHTS: Pursuant to the provisions of
13 Section 10156.7 of the Business and Professions Code, you have
14 the right to a hearing to contest the Commissioner's
15 determination that you are in violation of Section 10177(k).
16 If you desire a hearing, you must submit a written request.
17 The request may be in any form, as long as it is in writing
18 and indicates that you want a hearing. Unless a written
19 request for a hearing, signed by or on behalf of you, is
20 delivered or mailed to the Department at 320 West 4th Street,
21 Room 350, Los Angeles, California, 90013, within 20 days after
22 the date that this Order was mailed to or served on you, the
23 Department will not be obligated or required to provide you
24 with a hearing.

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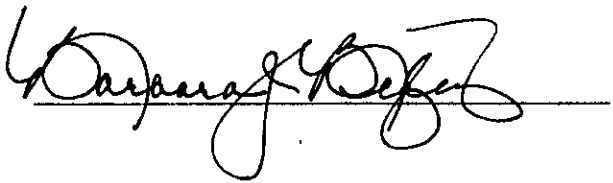
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This Order shall be effective immediately.

DATED: 10/20/2010

JEFF DAVI
Real Estate Commissioner



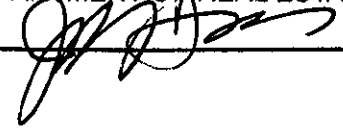
A handwritten signature in black ink, appearing to read 'Jeff Davi', is written over a horizontal line.

1 Department of Real Estate
2 320 West 4th Street, Ste. 350
3 Los Angeles, California 90013-1105

4 Telephone: (213) 576-6982

FILED

OCT 23 2009

DEPARTMENT OF REAL ESTATE
BY: 

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 PETER MICHAEL SMYTH,)
13 Respondent.)

No. H-35253 LA
L-2008100723

14 STIPULATION
15 AND
16 AGREEMENT

17
18 It is hereby stipulated by and between PETER MICHAEL
19 SMYTH (sometimes referred to as "Respondent"), represented by
20 Daniel F. Brookman, Esq. and the Complainant, acting by and
21 through Elliott Mac Lennan, Counsel for the Department of Real
22 Estate, as follows for the purpose of settling and disposing of
23 the Accusation filed on August 29, 2008, in this matter:

24 1. All issues which were to be contested and all
25 evidence which was to be presented by Complainant and Respondent
26 at a formal hearing on the Accusation, which hearing was to be
27

1 held in accordance with the provisions of the Administrative
2 Procedure Act ("APA"), shall instead and in place thereof be
3 submitted solely on the basis of the provisions of this
4 Stipulation and Agreement (Stipulation).

5 2. Respondent has received, read and understands the
6 Statement to Respondent, the Discovery Provisions of the APA and
7 the Accusation filed by the Department of Real Estate in this
8 proceeding.

9 3. Respondent filed a Notice of Defense pursuant to
10 Section 11506 of the Government Code for the purpose of
11 requesting a hearing on the allegations in the Accusation.
12 Respondent hereby freely and voluntarily withdraws said Notice of
13 Defense. Respondent acknowledges that he understands that by
14 withdrawing said Notice of Defense he thereby waives his right to
15 require the Commissioner to prove the allegations in the
16 Accusation at a contested hearing held in accordance with the
17 provisions of the APA and that he will waive other rights
18 afforded to him in connection with the hearing such as the right
19 to present evidence in his defense of the allegations in the
20 Accusation and the right to cross-examine witnesses.

21 4. This Stipulation is based on the factual
22 allegations contained in the Accusation. In the interest of
23 expedience and economy, Respondent chooses not to contest these
24 allegations, but to remain silent and understands that, as a
25 result thereof, these allegations, without being admitted or
26 denied, will serve as a prima facie basis for the disciplinary
27 action stipulated to herein. The Real Estate Commissioner shall

1 not be required to provide further evidence to prove said
2 allegations.

3 5. This Stipulation is made for the purpose of
4 reaching an agreed disposition of this proceeding and is
5 expressly limited to this proceeding and any other proceeding or
6 case in which the Department of Real Estate ("Department"), or
7 another licensing agency of this state, another state or if the
8 federal government is involved, and otherwise shall not be
9 admissible in any other civil or criminal proceeding.

10 6. It is understood by the parties that the Real
11 Estate Commissioner may adopt this Stipulation as his Decision
12 in this matter thereby imposing the penalty and sanctions on
13 Respondent's real estate licenses and license rights as set forth
14 in the "Order" herein below. In the event that the Commissioner,
15 in his discretion, does not adopt the Stipulation, it shall be
16 void and of no effect and Respondent shall retain the right to
17 a hearing and proceeding on the Accusation under the provisions
18 of the APA and shall not be bound by any stipulation or waiver
19 made herein.

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

DETERMINATION OF ISSUES

1
2 By reason of the foregoing stipulations and waivers and
3 solely for the purpose of settlement of the pending Accusation
4 without a hearing, it is stipulated and agreed that the following
5 determination of issues shall be made:

6 The conduct of Respondent PETER MICHAEL SMYTH, as
7 described in Paragraph 4 above, is a basis for discipline of all
8 of the real estate licenses and license rights of Respondent
9 under the provisions of Sections 490 and 10177(b) of the Business
10 and Professions Code.

ORDER

WHEREFORE THE FOLLOWING ORDER IS HEREBY MADE:

I.

11
12
13
14 The real estate broker license and license rights of
15 Respondent PETER MICHAEL SMYTH under the Real Estate Law are
16 revoked; provided, however, a restricted real estate salesperson
17 license shall be issued to Respondent, pursuant to Section
18 10156.5 of the Business and Professions Code, if Respondent makes
19 application therefor and pays to the Department of Real Estate
20 the appropriate fee for the restricted license within ninety (90)
21 days from the effective date of this Decision. The restricted
22 license issued to Respondent shall be subject to all of the
23 provisions of Section 10156.7 of the Code and the following
24 limitations, conditions and restrictions imposed under authority
25 of Section 10156.6 of that Code:
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1. The restricted salesperson license issued to

Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction or plea of nolo contendere to a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee.

2. The restricted salesperson license issued to

Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

3. Respondent shall not be eligible to apply for the

issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until three (3) years has elapsed from the effective date of this Decision.

4. Respondent shall submit with any application for

license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker on a form approved by the Department of Real Estate which shall certify that:

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1 (a) The employing broker has read
2 the Decision of the Commissioner which granted the right to a
3 restricted salesperson license; and

4 (b) The employing broker will exercise
5 close supervision over the performance by the restricted licensee
6 relating to activities for which a real estate license is
7 required.

8 5. Respondent shall, within nine months from the
9 effective date of this Decision, present evidence satisfactory
10 to the Real Estate Commissioner that Respondent has, since the
11 most recent issuance of an original or renewal real estate
12 license, taken and successfully completed the continuing
13 education requirements of Article 2.5 of Chapter 3 of the Real
14 Estate Law for renewal of a real estate license. If Respondent
15 fails to satisfy this condition, the Commissioner may order the
16 suspension of the restricted license until the Respondent
17 presents such evidence. The Commissioner shall afford Respondent
18 the opportunity for a hearing pursuant to the Administrative
19 Procedure Act to present such evidence.
20
21

22 DATED: 9-14-09

E7L
ELLIOTT MAC LENNAN, Counsel for
the Department of Real Estate

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* * * *

EXECUTION OF THE STIPULATION

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2
3 I have read the Stipulation and discussed it with my
4 counsel. Its terms are understood by me and are agreeable and
5 acceptable to me. I understand that I am waiving rights given to
6 me by the California Administrative Procedure Act (including but
7 not limited to Sections 11506, 11508, 11509 and 11513 of the
8 Government Code), and I willingly, intelligently and voluntarily
9 waive those rights, including the right of requiring the
10 Commissioner to prove the allegations in the Accusation at a
11 hearing at which I would have the right to cross-examine
12 witnesses against me and to present evidence in defense and
13 mitigation of the charges.

MAILING AND FACSIMILE

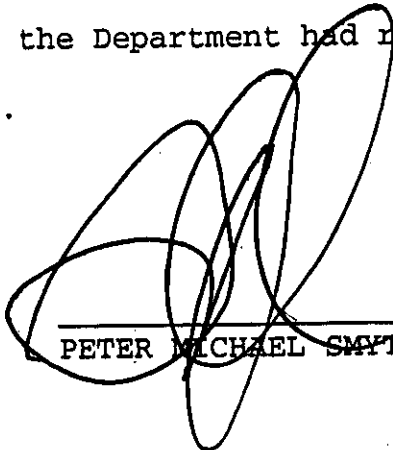
14
15 Respondent (1) shall mail the original signed signature
16 page of the stipulation herein to Elliott Mac Lennan: Attention:
17 Legal Section, Department of Real Estate, 320 W. Fourth St.,
18 Suite 350, Los Angeles, California 90013-1105. Additionally,
19 Respondent shall also (2) facsimile a copy of signed signature
20 page, to the Department at the following telephone/fax number:
21 (213) 576-6917, Attention: Elliott Mac Lennan. A facsimile
22 constitutes acceptance and approval of the terms and conditions
23 of this stipulation.
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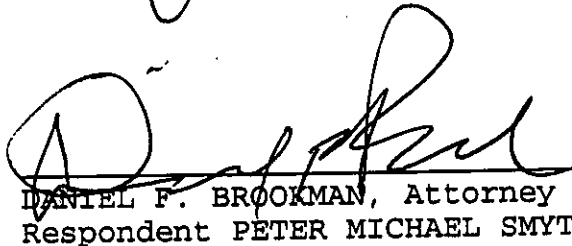
1 Respondent agrees, acknowledges and understands that by
2 electronically sending to the Department a facsimile copy of
3 Respondent's actual signature as it appears on the stipulation
4 that receipt of the facsimile copy by the Department shall be as
5 binding on Respondent as if the Department had received the
6 original signed stipulation.

7
8
9 DATED: 22 Sept 09



PETER MICHAEL SMYTH, Respondent

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12
13 DATED: 22 Sept 09



DANIEL F. BROOKMAN, Attorney for
Respondent PETER MICHAEL SMYTH

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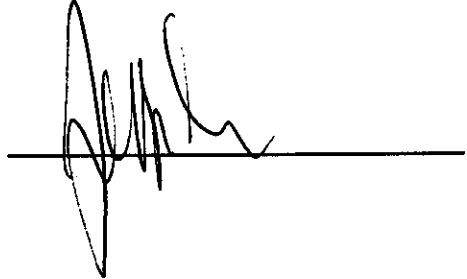
The foregoing Stipulation and Agreement is hereby

adopted as my Decision and shall become effective at _____

12 o'clock noon on November 12, 2009.

IT IS SO ORDERED 10-21, 2009.

JEFF DAVI
Real Estate Commissioner



A handwritten signature in black ink, appearing to read 'JEFF DAVI', is written over a horizontal line. The signature is stylized and cursive.

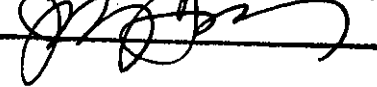
1 CHERYL D. KEILY, Counsel (SBN 94008)
2 Department of Real Estate
3 320 West 4th Street, Suite 350
4 Los Angeles, California 90013-1105

5 Telephone: (213) 576-6982
6 (Direct) (213) 576-5770

FILED

AUG 29 2008

DEPARTMENT OF REAL ESTATE

BY: 

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8
9 BEFORE THE DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of) No. H-35253 LA
13 PETER MICHAEL SMYTH,) A C C U S A T I O N
14 Respondent.)
15 _____)

16 The Complainant, Maria Suarez, a Deputy Real Estate
17 Commissioner of the State of California, for cause of Accusation
18 against PETER MICHAEL SMYTH, aka Peter Smyth, ("Respondent")
19 alleges as follows:

20 1.

21 The Complainant, Maria Suarez, a Deputy Real Estate
22 Commissioner of the State of California, makes this Accusation
23 in her official capacity.

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2.

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

3.

5
6 (CRIMINAL CONVICTION)

7 On or about December 6, 2007, in the Superior Court of
8 the State of California, County of Los Angeles, Case No.
9 BA322871, Respondent was convicted of violating California Civil
10 Code section 2945.4(g) (Mortgage Foreclosure Fraud), a
11 misdemeanor. The underlying facts of this crime involve moral
12 turpitude, which bear a substantial relationship under Section
13 2910, Title 10, Chapter 6, California Code of Regulations to the
14 qualifications, functions or duties of a real estate licensee.
15

4.

16 The crime of which Respondent was convicted, as
17 described in Paragraph 3, above, constitutes cause under
18 Sections 490 and 10177(b) of the Code for the suspension or
19 revocation of the license and license rights of Respondent under
20 the Real Estate Law.
21

5.

22
23 (VIOLATION OF CORPORATE SECURITIES LAW OF 1968)

24 On or about July 1, 2008, the California Corporations
25 Commissioner issued a Desist and Refrain Order against
26 Respondent based on the opinion of the California Corporations
27 Commissioner that securities offered by Respondent were offered

1 in this state by means of oral and written communications which
2 omitted to state material facts necessary in order to make the
3 statements made, in light of the circumstances under which they
4 were made, not misleading, in violation of the Corporate
5 Securities Law of 1968.

6 6.

7 Respondent's violation of the California Corporate
8 Securities Law of 1968, or the regulations of the Commissioner
9 of Corporations pertaining thereto, as alleged herein above in
10 Paragraph 5, constitutes cause under Sections 480(a)(3) and/or
11 10177(n) of the Code for the suspension or revocation of the
12 license and license rights of Respondent under the Real Estate
13 Law.

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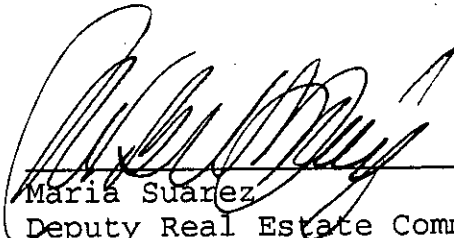
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2 WHEREFORE, Complainant prays that a hearing be
3 conducted on the allegations of this Accusation and that upon
4 proof thereof, a decision be rendered imposing disciplinary
5 action against all the licenses and license rights of
6 Respondent, PETER MICHAEL SMYTH, under the Real Estate Law (Part
7 1 of Division 4 of the Business and Professions Code) and for
8 such other and further relief as may be proper under other
9 applicable provisions of law.

10 Dated at Los Angeles, California

11 this 27th day of August, 2008.
12
13

14
15 
16 _____
17 Maria Suarez
18 Deputy Real Estate Commissioner
19
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26 cc: PETER MICHAEL SMYTH
27 Maria Suarez
Sacto.