

70094

FILED

OCT 19 2010

DEPARTMENT OF REAL ESTATE

BY: 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of)	NO. H-36146 LA
)	L 2009081023
PATRICK B. SMALL,)
))
Respondent.)
))

ORDER DENYING RECONSIDERATION

On August 24, 2010, a Default Decision was rendered in the above-entitled matter. Said Decision was to become effective on September 21, 2010, and was stayed by separate Order to October 21, 2010.

On October 5, 2010, Respondent petitioned for reconsideration of the Default Decision of August 24, 2010.

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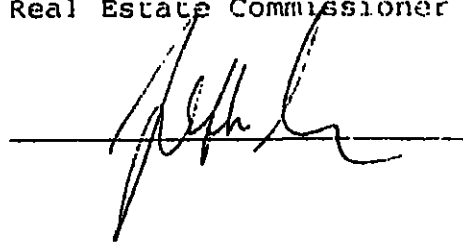
1 I have given due consideration to the petition of
2 Respondent. I find no good cause to reconsider the Default
3 Decision of August 24, 2010, and reconsideration is hereby
4 denied.

5 IT IS SO ORDERED 10-18-2010.

6 JEFF DAVIS

7 Real Estate Commissioner

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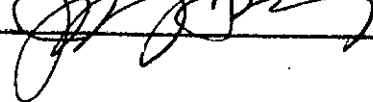
A handwritten signature in dark ink, appearing to read "Jeff Davis", is written over a horizontal line. The signature is stylized with a large, sweeping initial "J" and a clear "Davis" following.

PLAB

FILED

SEP 14 2010

DEPARTMENT OF REAL ESTATE

BY: 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	NO. H-36146 LA
)	
PATRICK B. SMALL,)	L-2009081023
)	
Respondent.)	
)	

ORDER STAYING EFFECTIVE DATE

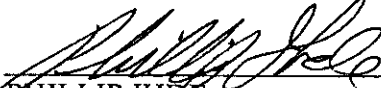
On August 24, 2010, a Decision was rendered in the above-entitled matter to become effective September 21, 2010.

IT IS HEREBY ORDERED that the effective date of the Decision of August 24, 2010, is stayed for a period of thirty (30) days to allow Respondent PATRICK B. SMALL to file a petition for reconsideration.

The Decision of August 24, 2010, shall become effective at 12 o'clock noon on October 21, 2010.

DATED: September 14, 2010.

JEFF DAVI
Real Estate Commissioner

By: 
PHILLIP IHDE
Regional Manager

FILED

BEFORE THE DEPARTMENT OF REAL ESTATE

SEP 01 2010

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

BY: 

* * * *

In the Matter of the Accusation of)

PATRICK B. SMALL,)

Respondent.)

No. H-36146 LA
L-2009081023

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on August 2, 2010, and the findings of fact set forth herein are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits; and (3) other evidence.

This Decision suspends or revokes one or more real estate licenses on the ground of the violation of the Real Estate Law (commencing with Section 10000 of the Business and Professions Code (Code)) or Chapter 1 (commencing with Section 11000 of the Code) of Part 2 or the rules and regulations of the commissioner for the administration and enforcement of the Real Estate Law and Chapter 1 (commencing with Section 11000 of the Code) of Part 2.

The right to reinstatement of a revoked real estate license or to the reduction of a suspension is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of Respondent.

FINDINGS OF FACT

I

On July 29, 2009, Robin Trujillo made the Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, and Notice of Defense were mailed, by certified

mail, to Respondent's last known mailing address on file with the Department on July 30, 2009.

Respondent filed a Notice of Defense within the time required by Section 11506 of the Government Code. A hearing was set for July 28, 2010. Respondent was duly notified of the hearing but failed to appear. Respondent's default was entered herein.

II

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

III

The evidence established that on or about August 13, 2008, Respondent using the unauthorized fictitious business name "Small & Small Paralegal," collected an advance fee pursuant to the provisions of a document which constitutes an advance fee agreement within the meaning of Code Section 10085.

IV

The evidence established that Respondent failed to submit the written agreement referred to in Paragraph III, above, to the Commissioner ten days before using it in violation of Code Section 10085 and Section 2970, Title 10, Chapter 6, Code of Regulations ("Regulations").

V

The evidence established that Respondent acted without Department authorization in using the fictitious business name "Small & Small Paralegal" to engage in activities requiring the issuance of a real estate license in violation of the provisions of Section 10159.5 of the Code and Section 2731 of the Regulations.

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DETERMINATION OF ISSUES

I

Respondent is in violation of Code Sections 10159.5 and 10085 and Sections 2731 and 2970 of the Regulations. Cause for disciplinary action against Respondent exists pursuant to Business and Professions Code Sections 10085, 10177(d), and 10177(g).

II

The standard of proof applied was clear and convincing proof to a reasonable certainty.

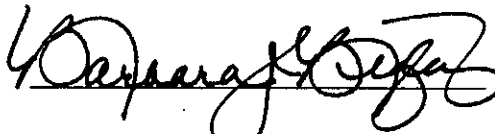
ORDER

The licenses and license rights of Respondent PATRICK B. SMALL, under the provisions of Part I of Division 4 of the Business and Professions Code, are revoked.

This Decision shall become effective at 12 o'clock
noon SEP 21 2010.

DATED: 8/24/2010

JEFF DAVI
Real Estate Commissioner



BY: Barbara J. Bigby
Chief Deputy Commissioner

FILED

AUG 02 2010

DEPARTMENT OF REAL ESTATE

BY: 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of)	NO. H-36146 LA
)	L-2009081023
PATRICK B. SMALL,)	
)	<u>DEFAULT ORDER</u>
)	
Respondent.)	

Respondent PATRICIA B. SMALL, filed a Notice of Defense within the time required by Section 11506 of the Government Code. A hearing was set for July 28 and 29, 2010. Respondent was duly notified of the hearing but failed to appear on July 29, 2010. Respondent is now in default. It is therefore, ordered that a default be entered on the record in this matter.

IT IS SO ORDERED August 2, 2010.

JEFF DAVI
Real Estate Commissioner

By: 

PHILLIP IHDE
Regional Manager

FILED

BEFORE THE DEPARTMENT OF REAL ESTATE

SEP 01 2010

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

BY: 

* * * *

In the Matter of the Accusation of)
PATRICK B. SMALL,)
Respondent.)
_____)

No. H-36146 LA
L-2009081023

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on August 2, 2010, and the findings of fact set forth herein are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits; and (3) other evidence.

This Decision suspends or revokes one or more real estate licenses on the ground of the violation of the Real Estate Law (commencing with Section 10000 of the Business and Professions Code (Code)) or Chapter 1 (commencing with Section 11000 of the Code) of Part 2 or the rules and regulations of the commissioner for the administration and enforcement of the Real Estate Law and Chapter 1 (commencing with Section 11000 of the Code) of Part 2.

The right to reinstatement of a revoked real estate license or to the reduction of a suspension is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of Respondent.

FINDINGS OF FACT

I

On July 29, 2009, Robin Trujillo made the Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, and Notice of Defense were mailed, by certified

mail, to Respondent's last known mailing address on file with the Department on July 30, 2009.

Respondent filed a Notice of Defense within the time required by Section 11506 of the Government Code. A hearing was set for July 28, 2010. Respondent was duly notified of the hearing but failed to appear. Respondent's default was entered herein.

II

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

III

The evidence established that on or about August 13, 2008, Respondent using the unauthorized fictitious business name "Small & Small Paralegal," collected an advance fee pursuant to the provisions of a document which constitutes an advance fee agreement within the meaning of Code Section 10085.

IV

The evidence established that Respondent failed to submit the written agreement referred to in Paragraph III, above, to the Commissioner ten days before using it in violation of Code Section 10085 and Section 2970, Title 10, Chapter 6, Code of Regulations ("Regulations").

V

The evidence established that Respondent acted without Department authorization in using the fictitious business name "Small & Small Paralegal" to engage in activities requiring the issuance of a real estate license in violation of the provisions of Section 10159.5 of the Code and Section 2731 of the Regulations.

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DETERMINATION OF ISSUES

I

Respondent is in violation of Code Sections 10159.5 and 10085 and Sections 2731 and 2970 of the Regulations. Cause for disciplinary action against Respondent exists pursuant to Business and Professions Code Sections 10085, 10177(d), and 10177(g).

II

The standard of proof applied was clear and convincing proof to a reasonable certainty.

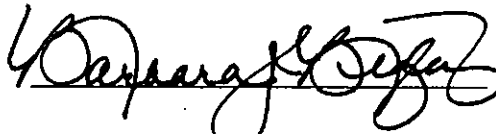
ORDER

The licenses and license rights of Respondent PATRICK B. SMALL, under the provisions of Part I of Division 4 of the Business and Professions Code, are revoked.

This Decision shall become effective at 12 o'clock noon SEP 21 2010.

DATED: 8/24/2010

JEFF DAVI
Real Estate Commissioner

A handwritten signature in black ink, appearing to read 'Barbara J. Bigby', is written over a horizontal line.

BY: Barbara J. Bigby
Chief Deputy Commissioner

FILED

AUG 02 2010

DEPARTMENT OF REAL ESTATE

BY: 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of)	NO. H-36146 LA
)	L-2009081023
PATRICK B. SMALL,)	
)	<u>DEFAULT ORDER</u>
)	
Respondent.)	
)	

Respondent PATRICIA B. SMALL, filed a Notice of Defense within the time required by Section 11506 of the Government Code. A hearing was set for July 28 and 29, 2010. Respondent was duly notified of the hearing but failed to appear on July 29, 2010. Respondent is now in default. It is therefore, ordered that a default be entered on the record in this matter.

IT IS SO ORDERED August 2, 2010.

JEFF DAVI
Real Estate Commissioner

By: 


PHILLIP IHDE
Regional Manager

1 CHERYL D. KEILY, SNB# 94008
2 Department of Real Estate
3 320 West Fourth Street, Ste. 350
4 Los Angeles, California 90013

5 Telephone: (213) 576-6982
6 (Direct) (213) 576-6905

FILED

JUL 30 2009

DEPARTMENT OF REAL ESTATE
BY: 

9 DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * * * *

12 In the Matter of the Accusation

No. H-36146 LA

13 PATRICK B. SMALL,)

A C C U S A T I O N

14)
15 Respondent.)
16 _____)

17 The Complainant, Robin Trujillo, a Deputy Real Estate
18 Commissioner of the State of California, for cause of Accusation
19 against PATRICK B. SMALL, aka Patrick Benedict Small, is informed
20 and alleges as follows:

21 1.

22 The Complainant, Robin Trujillo, a Deputy Real Estate
23 Commissioner of the State of California, makes this Accusation in
24 her official capacity.

25 2.

26 Respondent is presently licensed and/or has license rights
27

1 under the Real Estate Law (Part 1 of Division 4 of the Business
2 and Professions Code, hereinafter "Code"), as a real estate
3 broker.

4 FIRST CAUSE OF ACCUSATION
5 (Advance Fee Violation)

6 3.

7 At all times mentioned herein, in the State of
8 California, Respondent engaged in the business of claiming,
9 demanding, charging, receiving, collecting or contracting for the
10 collection of advance fees, within the meaning of Code Section
11 10026, including, but not limited to, the following loan
12 modification activities with respect to loans which were secured
13 by liens on real property:

14 a. On or about August 13, 2008, Respondent, using the
15 fictitious business name "Small & Small Paralegal," collected an
16 advance fee of \$950 from Kelly Bruchhauser pursuant to the
17 provisions of a written agreement pertaining to loan modification
18 services to be provided by Respondent with respect to a loan
19 secured by the real property located at 5496 North Edgemont
20 Drive, San Bernardino, California 92404.

21 4.

22 Respondents collected the advance fees described in
23 Paragraph 3, above, pursuant to the provisions of a document
24 which constitutes an advance fee agreement within the meaning of
25 Code Section 10085.
26

27 ///

5.

Respondent failed to submit the written agreement referred to in Paragraph 4, above, to the Commissioner ten days before using it in violation of Code Section 10085 and Section 2970, Title 10, Chapter 6, Code of Regulations ("Regulations").

6.

The conduct, acts and/or omissions of Respondent, as set forth above, are cause for the suspension or revocation of the licenses and license rights of Respondent pursuant to Code Sections 10085, 10177(d) and/or 10177(g).

SECOND CAUSE OF ACCUSATION

(Use of Unauthorized Fictitious Business Name)

7.

Complainant hereby incorporates by reference the allegations set forth in Paragraphs 1 through 6, above.

8.

Respondent acted without Department authorization in using the fictitious business name "Small & Small Paralegal" to engage in activities requiring the issuance of a real estate license in violation of the provisions of Section 10159.5 of the Code and Section 2731 of the Regulations.

9.

The conduct, acts and/or omissions of Respondent, as set forth in Paragraph 8, above, violate Code Section 10159.5 and Section 2731 of the Regulations and are cause for the suspension

1 or revocation of the licenses and license rights of Respondent
2 pursuant to Code Section 10177(d) and/or 10177(g).

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

11 Dated at Los Angeles, California

12 this 29 day of July, 2009.
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15 
16 Robin Trujillo
17 Deputy Real Estate Commissioner
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26 cc: Patrick B. Small
27 Robin Trujillo
Sacto.