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DEPT. OF REAL ESTATE

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:)	
)	DRE No. H-41812 LA
MICHAEL GARY SMITH, doing)	
business as Newport American)	
Properties,)	
)	
Respondent.)	

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 February 10, 2021, and the Findings of Fact set forth herein, which are based on one or more of the following: (1) The express admissions of Respondent, MICHAEL GARY SMITH ("Respondent"); (2) affidavits; and (3) other evidence.

This Decision revokes one or more real estate licenses on the grounds of the violation of the Real Estate Law, Part 1 commencing with Section 10000 of the Business and Professions Code ("Code") and/or the Regulations of the Real Estate Commissioner, Title 10, Chapter 6 of the California Code of Regulations ("Regulations").

Pursuant to Government Code Section 11521, the California Department of Real Estate ("the Department") may order reconsideration of this Decision on petition of any party. The party seeking reconsideration shall set forth new facts, circumstances, and evidence, or errors in law or analysis, that show(s) grounds and good cause for the Commissioner to reconsider the Decision. If new evidence is presented, the party shall specifically identify the new evidence and explain why it was not previously presented. The Department's power to order reconsideration of this Decision shall expire 30 days after mailing of this Decision, or on the effective date of this Decision, whichever occurs first. The right to reinstatement of a revoked real estate license, or to the reduction of a penalty, is controlled by Section 11522 of the Government Code. A copy of Government Code Sections 11521 and 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

FINDINGS OF FACT

1.

On August 18, 2020, Veronica Kilpatrick made the Accusation in her official capacity as a Supervising Special Investigator of the Department. The Accusation, Statement to Respondent, and Notice of Defense were mailed, by certified mail, return receipt requested, to Respondent's last known mailing address on file with the Department on November 03, 2020.

On February 10, 2021, no Notice of Defense having been received or filed herein within the time prescribed by Section 11506 of the Government Code, Respondent's default was entered herein.

2.

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

3.

At all times mentioned, Respondent was licensed and/or had licensing rights issued by the Department of Real Estate as a real estate broker.

4.

At all times mentioned, in the State of California, Respondent acted as a real estate broker, conducting licensed activities within the meaning of Code Section 10131, subdivision (b) (leasing or renting of real property and the collection of rents and security deposits for real property on behalf of others for compensation or in expectation of compensation).

5.

Attached as Exhibit "A" is a true and correct copy of the Accusation filed on November 03, 2020, which is incorporated herein as part of this Decision.

DETERMINATION OF ISSUES

6.

The allegations contained in the Accusation, incorporated herein by reference made in Paragraph 5, above, constitute cause for the suspension or revocation of all the licenses, license endorsements, and license rights of Respondent under the provisions of Sections 10176(e), 10176(i), 10177(d), and/or 10177(g) of the Business and Professions Code.

7.

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

ORDER

All licenses and licensing rights of Respondent MICHAEL GARY SMITH 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 on APR 13 2021.

DATED: 3.9.21.

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER

Douglas R. McCauley

FILED

FEB 10 2021

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1 Department of Real Estate
1651 Exposition, Blvd.
2 Sacramento, CA, 95815
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8 **BEFORE THE DEPARTMENT OF REAL ESTATE**
9 **STATE OF CALIFORNIA**

10 * * *

11 In the Matter of the Accusation of:) DRE NO. H-41812 LA
12 MICHAEL GARY SMITH,) DEFAULT ORDER
13 Respondent.)
14 _____)

15 Respondent MICHAEL GARY SMITH, having failed to file a Notice of
16 Defense within the time required by Section 11506 of the Government Code, is now in
17 default. It is, therefore, ordered that a default be entered on the record in this matter.

18 IT IS SO ORDERED FEB 10 2021.

19 DOUGLAS R. McCAULEY
20 REAL ESTATE COMMISSIONER

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22 By: *CS*
23 CHIKA SUNQUIST
24 Assistant Commissioner, Enforcement
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