

1 Department of Real Estate
320 West 4th Street, Suite 350
2 Los Angeles, CA 90013-1105

3 Telephone: (213) 576-6982

FILED

JAN 26 2012

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)	NO. H-37270 LA
12)	
13 PAMELA LEE CUMMINGS,)	L-2011060772
14)	
15)	<u>STIPULATION AND AGREEMENT</u>
16 Respondent.)	

17 It is hereby stipulated by and between PAMELA LEE
18 CUMMINGS (sometimes referred to as "Respondent"), and the
19 Complainant, acting by and through Cheryl Keily, Counsel for the
20 Department of Real Estate, as follows for the purpose of
21 settling and disposing of the Accusation filed on May 12, 2011,
22 in this matter.

23 1. All issues which were to be contested and all
24 evidence which was to be presented by Complainant and Respondent
25 at a formal hearing on the Accusation, which hearing was to be
26 held in accordance with the provisions of the Administrative
27 Procedure Act (APA), shall instead and in place thereof be

1 submitted solely on the basis of the provisions of this
2 Stipulation and Agreement.

3 2. Respondent has received, read and understands the
4 Statement to Respondent, the Discovery Provisions of the APA and
5 the Accusation filed by the Department of Real Estate
6 ("Department") in this proceeding.

7 3. On June 8, 2011, Respondent filed a Notice of
8 Defense, pursuant to Section 11506 of the Government Code for
9 the purpose of requesting a hearing on the allegations in the
10 Accusation. Respondent hereby freely and voluntarily withdraws
11 said Notice of Defense. Respondent acknowledges that she
12 understands that by withdrawing said Notice of Defense she will
13 thereby waive her right to require the Commissioner to prove the
14 allegations in the Accusation at a contested hearing held in
15 accordance with the provisions of the APA and that she will
16 waive other rights afforded to her in connection with the
17 hearing, such as the right to present evidence in defense of the
18 allegations in the Accusation and the right to cross-examine
19 witnesses.

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

1 Commissioner shall not be required to provide further evidence
2 to prove said factual 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"), the
7 state or federal government, or any agency of this state,
8 another state or federal government is involved, and otherwise
9 shall not be admissible in any other criminal or civil
10 proceedings.

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

22 7. The Order or any subsequent Order of the Real
23 Estate Commissioner made pursuant to this Stipulation and
24 Agreement shall not constitute an estoppel, merger or bar to any
25 further administrative or civil proceedings by the Department of
26 Real Estate with respect to any matters which were not
27

1 specifically alleged to be causes for accusation in this
2 proceeding.

3 DETERMINATION OF ISSUES

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

8 The Conduct of Respondent is in violation of Business
9 and Professions Code ("Code") Sections 10085 and 10145 and
10 Sections 2970 and 2831 of Title 10, Chapter 6, California Code
11 of Regulations, and is grounds for the suspension or revocation
12 of all of the real estate licenses and license rights of
13 Respondent under the provisions of Code Section 10177(g).

14 ORDER

15 WHEREFORE, THE FOLLOWING ORDER is hereby made:

16 1. ALL licenses and licensing rights of Respondent
17 PAMELA LEE CUMMINGS, under the Real Estate Law are suspended for
18 a period of sixty (60) days from the effective date of this
19 Decision; provided, however, that the entire period of said
20 suspension shall be stayed for one (1) year upon the following
21 terms and conditions:

22 A. Respondent shall obey all laws, rules and
23 regulations governing the rights, duties and responsibilities of
24 a real estate licensee in the State of California; and

25 B. That no final subsequent determination be made,
26 after hearing or upon stipulation, that cause for disciplinary
27 action occurred within one (1) year of the effective date of

1 this Decision. Should such a determination be made, the
2 Commissioner may, in his discretion, vacate and set aside the
3 stay order and reimpose all or a portion of the stayed
4 suspension. Should no such determination be made, the stay
5 imposed herein shall become permanent.

6 2. Respondent shall, within six months from the
7 effective date of this Decision, take and pass the Professional
8 Responsibility Examination administered by the Department
9 including the payment of the appropriate examination fee. If
10 Respondent fails to satisfy this condition, the Commissioner may
11 order suspension of Respondent's license until Respondent passes
12 the examination.

13 3. Pursuant to Section 10148 of the Code, Respondent
14 PAMELA LEE CUMMINGS shall pay the Commissioner's reasonable cost
15 for (a) the audit which led to the disciplinary action, and (b)
16 a subsequent audit to determine if Respondent has corrected the
17 trust fund violations found in the Determination of Issues. In
18 calculating the amount of the Commissioner' reasonable cost, the
19 Commissioner may use the estimated average hourly salary for all
20 persons performing audits of real estate brokers, and shall
21 include an allocation for travel time to and from the auditor's
22 place of work. Respondents shall pay such cost within 60 days
23 of receiving an invoice from the Commissioner detailing the
24 activities performed during the audit and the amount of time
25 spent performing those activities. The Commissioner may suspend
26 the license of Respondent pending a hearing held in accordance
27 with Section 11500, et seq., of the Government Code, if payment

1 is not timely made as provided for herein, or as provided for in
2 a subsequent agreement between Respondent and the Commissioner.
3 The suspension shall remain in effect until payment is made in
4 full or until Respondent enters into an agreement satisfactory
5 to the Commissioner to provide for payment, or until a decision
6 providing otherwise is adopted following a hearing held pursuant
7 to this condition.

8
9 DATED:

December 15, 2011

Cheryl D. Kelly

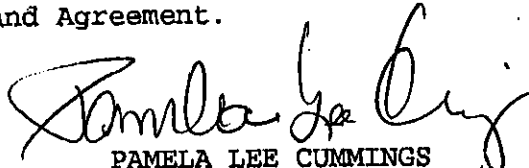
CHERYL D. KELLY, Counsel
DEPARTMENT OF REAL ESTATE

10
11 * * *

12 I have read the Stipulation and Agreement, and its
13 terms are understood by me and are agreeable and acceptable to
14 me. I understand that I am waiving rights given to me by the
15 California Administrative Procedure Act (including but not
16 limited to Sections 11506, 11508, 11509 and 11513 of the
17 Government Code), and I willingly, intelligently and voluntarily
18 waive those rights, including the right of requiring the
19 Commissioner to prove the allegations in the Accusation at a
20 hearing at which I would have the right to cross-examine
21 witnesses against me and to present evidence in defense and
22 mitigation of the charges.

23 Respondent can signify acceptance and approval of the
24 terms and conditions of this Stipulation and Agreement by faxing
25 a copy of its signature page, as actually signed by Respondent,
26 to the Department at the following telephone/fax number (213)
27 576-6917. Respondent agrees, acknowledges, and understands that

1 by electronically sending to the Department a fax copy of his
2 actual signature as it appears on the Stipulation and Agreement,
3 that receipt of the faxed copy by the Department shall be as
4 binding on Respondent as if the Department had received the
5 original signed Stipulation and Agreement.

6
7 

8 PAMELA LEE CUMMINGS
Respondent

12/15/2011

9 * * *

10 The foregoing Stipulation and Agreement is hereby
11 adopted as my Decision in this matter and shall become effective
12 at 12 o'clock noon on _____, 20____.

13 IT IS SO ORDERED

, 20____.

14
15
16 BARBARA J. BIGBY
17 Acting Real Estate Commissioner
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1 by electronically sending to the Department a fax copy of his
2 actual signature as it appears on the Stipulation and Agreement,
3 that receipt of the faxed copy by the Department shall be as
4 binding on Respondent as if the Department had received the
5 original signed Stipulation and Agreement.

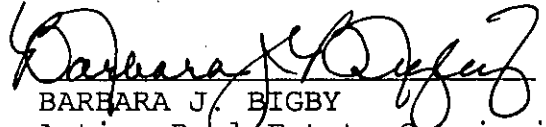
7 DATED: _____

PAMELA LEE CUMMINGS
Respondent

* * *

10 The foregoing Stipulation and Agreement is hereby
11 adopted as my Decision in this matter and shall become effective
12 at 12 o'clock noon on FEB 15 2012, 20__.

13 IT IS SO ORDERED 1/19, 2012.

15 
16 BARBARA J. BIGBY
17 Acting Real Estate Commissioner

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1 CHERYL D. KEILY, SBN# 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

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MAY 12 2011

DEPARTMENT OF REAL ESTATE
BY: 

9 DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * * * *

12 In the Matter of the Accusation No. H-37270 LA

13	PAMELA LEE CUMMINGS,)	
14)	<u>ACCUSATION</u>
15)	
16	Respondent.)	
	_____)	

17
18 The Complainant, Robin Trujillo, a Deputy Real Estate
19 Commissioner of the State of California, for cause of Accusation
20 against PAMELA LEE CUMMINGS ("Respondent") is informed and
21 alleges as follows:

22 1.

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

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2.

1 Respondent is presently licensed and/or has license
2 rights under the under the Real Estate Law (Part 1 of Division 4
3 of the Business and Professions Code, hereinafter "Code") as a
4 real estate broker.
5

6 3.

7 At all times mentioned herein Respondent engaged in the
8 business of soliciting borrowers and lenders and negotiating the
9 terms of loans secured by real property between borrowers and
10 third party lenders for or in expectation of compensation, within
11 the meaning of Code Section 10131(d).
12

13 4.

14 At all times mentioned herein Respondent engaged in the
15 business of advance fee brokerage within the definition of Code
16 Section 10131.2 by claiming, demanding, charging, receiving,
17 collecting or contracting for the collection of an advance fee,
18 within the meaning of Code Section 10026, in connection with any
19 employment undertaken to obtain a loan or loans.
20

21 FIRST CAUSE OF ACCUSATION

22 (Advance Fee Violation pursuant to Section 10085 of the Code)
23

24 5.

25 Respondent engaged in advance fee activities including,
26 but not limited to, the following loan activities with respect to
27 loans which were secured by liens on real property:

a. On or about June 5, 2009, Lyndon James Kurt paid
an advance fee of \$500 to Respondent doing business under the

1 unauthorized fictitious business name "Sherwood Financial." The
2 advance fee was collected pursuant to the provisions of an
3 agreement pertaining to loan solicitation, negotiation, and
4 modification services to be provided by Respondent with respect
5 to a loan secured by the real property located at 16655 Grand
6 Avenue, Bellflower, California 90706.

7 6.

8 Respondent collected the advance fee described in
9 Paragraph 5, above, pursuant to the provisions of an agreement
10 which constitutes an advance fee agreement within the meaning of
11 Code Sections 10026 and 10085.

12 7.

13 Respondent failed to submit the agreement referred to
14 in Paragraphs 5 and 6, above, to the Commissioner ten days before
15 using it in violation of Code Section 10085 and Section 2970,
16 Title 10, Chapter 6, Code of Regulations ("Regulations").

17 8.

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

22 SECOND CAUSE OF ACCUSATION
23 (Audit Violations)

24 9.

25 Complainant hereby incorporates by reference the
26 allegations set forth in Paragraphs 1 through 8, above.
27

10.

1 On or about April 21, 2010, the Department completed an
2 audit examination of the books and records of Respondent
3 pertaining to the real estate activities described in Paragraphs
4 5 and 6, above, covering a period from May 24, 2008, to March 31,
5 2010.
6

11.

7 At all times mentioned herein, and in connection with
8 the activities described in Paragraphs 5 and 6, above, Respondent
9 accepted or received funds, including advance fees to be held in
10 trust from or on behalf of actual or prospective parties to
11 transactions handled by Respondent, and thereafter made deposits
12 and/or disbursements of such funds.
13

12.

14 The audit examination revealed violations of the Code
15 and the Regulations, as set forth in the following paragraphs,
16 and more fully discussed in Audit Report No. LA 090199 along with
17 the exhibits and work papers attached to the audit report:
18

19 (a) Respondent failed to establish and maintain a trust
20 account at a bank or other recognized financial institution in
21 the name of the broker for deposit of advance fees collected by
22 Respondent, in violation of Code Section 10146.
23

24 (b) Failed to maintain a complete, accurate and
25 continuous control record in the form of a columnar record in
26 chronological order of all trust funds received, deposited and
27 disbursed in violation of Code Section 10145 and Section 2831 of

1 the Regulations.

2 (c) Failed to perform a monthly reconciliation of the
3 balance of all separate beneficiary or transaction records
4 maintained pursuant to Section 2831.1 of the Regulations with the
5 record of all trust funds received and disbursed in connection
6 with loan modification in violation of Code Section 10145 and
7 Section 2831.2 of the Regulations.

8 (d) Failed to deposit the advance fees described in
9 Paragraph 5 and 6, above, into a real estate broker trust account
10 in violation of Code Section 10146.

11 DISCIPLINE STATUTES AND REGULATIONS

12 13.

13 The conduct of Respondent described in Paragraph 12,
14 above, violated the Code and the Regulations as set forth below:

15 <u>PARAGRAPH</u>	16 <u>PROVISIONS VIOLATED</u>
17 11(a)	Code Section 10146
18 11(b)	Code Section 10145 and Section 2831 19 of the Regulations
20 11(c)	Code Section 10145 and Section 21 2831.2 of the Regulations
22 11(d)	Code Section 10146

23 14.

24
25 The foregoing violations, as set forth hereinabove,
26 constitute cause for the suspension or revocation of the real
27 estate licenses and license rights of Respondent under the

1 provisions of Code Sections 10177(d) for violation of the Real
2 Estate Law and/or 10177(g) for negligence or incompetence.

3 THIRD CAUSE OF ACCUSATION
4 (Use of Unauthorized Fictitious Business Name)

5 15.

6 Complainant hereby incorporates by reference the
7 allegations set forth in Paragraphs 1 through 14, above.

8 16.

9 Use of a fictitious business name for activities
10 requiring the issuance of a real estate license requires the
11 filing of an application for the use of such name with the
12 Department of Real Estate in accordance with the provisions of
13 Code Section 10159.5.

14 17.

15 Respondent acted without Department authorization in
16 using the fictitious business name "Sherwood Financial" to engage
17 in activities requiring the issuance of a real estate license.

18 18.

19 The conduct, acts and/or omissions of Respondent, as
20 set forth in Paragraph 17, above, violate Code Section 10159.5
21 and Section 2731 of the Regulations, and are cause for the
22 suspension or revocation of the licenses and license rights of
23 Respondent pursuant to Code Sections 10177(d) and/or 10177(g).

24 ///

25 ///

26 ///

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

9 Dated at Los Angeles, California

10 this 10 day of May, 2011.
11

12 
13 _____
14 Robin Trujillo
15 Deputy Real Estate Commissioner
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26 cc: PAMELA LEE CUMMINGS
27 Robin Trujillo
Sacto.