

1 I have considered the petition of Respondent and
2 the evidence and arguments in support thereof. Respondent
3 has demonstrated to my satisfaction that Respondent meets
4 the requirements of law for the issuance to Respondent of
5 an unrestricted real estate broker license and that it would
6 not be against the public interest to issue said license to
7 Respondent SUSAN LESLIE SHERMAN.
8

9 NOW, THEREFORE, IT IS ORDERED that Respondent's
10 petition for reinstatement is granted and that a real estate
11 broker license be issued to Respondent if Respondent satisfies
12 the following conditions within nine (9) months from the date
13 of this Order:

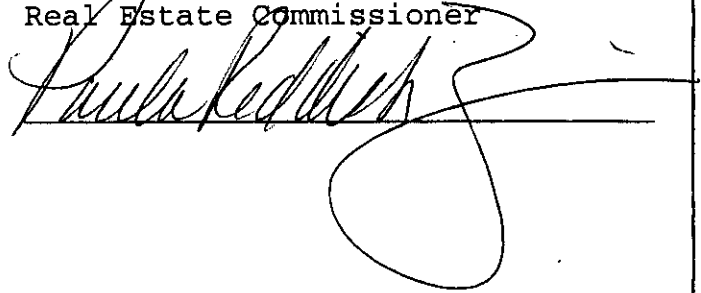
14 1. Submittal of a completed application and payment
15 of the fee for a real estate broker license.

16 2. Submittal of evidence of having, since the most
17 recent issuance of an original or renewal real estate license,
18 taken and successfully completed the continuing education
19 requirements of Article 2.5 of Chapter 3 of the Real Estate
20 Law for renewal of a real estate license.

21 This Order shall become effective immediately.

22 DATED: February 5, 2003.

23 PAULA REDDISH ZINNEMANN
24 Real Estate Commissioner



25 cc: Susan Leslie Sherman
26 3515 Dahlia Ave.
27 Los Angeles, CA 90026

4011 Garden Ave.
Los Angeles, CA 90039

FILED
FEB - 9 1998

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By K. Wiederholt

* * * * *

In the Matter of the Accusation of)

No. H-27030 LA

L-9704068

SUSAN LESLIE SHERMAN,)

Respondent(s).)

DECISION

The Proposed Decision dated January 21, 1998, of the Administrative Law Judge of the Office of Administrative Hearings, is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

This Decision shall become effective at 12 o'clock noon on March 3, 1998.

IT IS SO ORDERED

JIM ANTT, JR.
Real Estate Commissioner

Jim Antt, Jr.

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
 SUSAN LESLIE SHERMAN,)
)
 Respondent.)
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)

Case No. H-27030 LA
OAH No. L-9704068

PROPOSED DECISION

This matter came on regularly for hearing before H. Stuart Waxman, Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California on December 26, 1997.

Complainant, Thomas McCrady, was represented by Elliott Mac Lennan, Real Estate Counsel.

Respondent, Susan Leslie Sherman ("Respondent") was present and represented herself.

Oral and documentary evidence was received and the matter was submitted for decision.

FINDINGS OF FACT

The Administrative Law Judge makes the following Findings of Fact:

1. The Accusation was made by Complainant, Thomas McCrady, who is a Deputy Real Estate Commissioner of the State of California, acting in his official capacity.

2. Respondent was originally licensed by the Department as a Real Estate Broker on February 27, 1981. The license will expire on February 26, 2001 unless renewed.

3. During her professional career, Respondent has maintained an independent real estate brokerage, specializing in real estate sales. Beginning on or around July 1, 1994, she agreed to perform property management services for some clients who were nearing retirement.

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4. Respondent's property management duties included overseeing six (6) properties for owners, Henry and Soonie Lim ("the Lims"). The six properties contained a total of sixty (60) units. In April of 1996, Respondent also assumed management duties of a four unit apartment building and two single family houses for another client.

5. Respondent maintained separate trust accounts for the two clients ("the Silverlake account" and "the Lim account"). The Silverlake account was originally held at East West Bank on Glendale Boulevard in Los Angeles. It was in the name of "Sherman Realty Trust, Silverlake Drive Account." The account was closed in July of 1996 and was replaced by another account held at Glendale Federal Bank in Glendale. That account was in the name of "Susan L. Sherman, dba Sherman Realty Trust (Silverlake Drive Account)." The Lim account was in the name of "Sherman Realty Trust Account."

6. Respondent failed to maintain a daily balance in the trust fund record for the Lim account. She also failed to record some of the deposits in the trust account record.

7. On March 28, 1996, Respondent issued a check to herself from the Silverlake account in the sum of four hundred sixty dollars (\$460) for management fees. Later that same month, she issued another check to herself in the same amount for the same management services, thus resulting in a shortage of \$460 from the trust account. Respondent claimed to have written the second check in error. However, it was not until November 19, 1996, after the auditor from the Department of Real Estate had completed her audit, that Respondent replaced the extra funds she had taken from the account.

8. In March, November and December of 1995, Respondent withdrew part of her management fees in advance from the Lim account. She believed she was justified to do so since rents had been paid in advance of their due dates.

9. Respondent was authorized, pursuant to the property management contracts she had with her clients, to expend funds up to an amount certain for maintenance, repairs, and the like. However, on several occasions, she expended funds in excess of the specified amount, for those purposes, with only verbal approval of the clients rather than their written approval. Occasionally, the approvals came in by fax. However, Respondent did not keep those approvals.

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10. In April of 1996, the Lims terminated their property management agreement with Respondent. Respondent then turned over the original checks, books, contracts and receipts for the Lim properties to the Lims without making copies. Respondent printed a copy of the computerized bank register and then deleted the rest of the Lim information from her computer. She was therefore unable to produce the books, accounts and records of the Lim properties when the Department audited the Lim account in November of 1996.

11. Respondent claims the Lim properties were the first ones she managed. She admits to her failure to comply with many of the requisites in the Real Estate Law relating to proper conduct for property managers.

12. Respondent still manages the Silverlake properties. She claims she has learned a great deal from her earlier experiences and now conducts her management activities differently.

DETERMINATION OF ISSUES

Pursuant to the foregoing findings of fact, the Administrative Law Judge makes the following determination of issues:

1. Cause exists to discipline the real estate broker's license of Respondent, Susan Leslie Sherman, for (1) deficit in a trust account, (2) failure to maintain a trust account in the broker's name, (3) failure to maintain a control record for the daily balance of trust funds, and (4) failure to maintain and produce records, pursuant to Business and Professions Code sections 10145, 10148, and 10177(d)(g) and Title 10, California Code of Regulations sections 2830, 2831 and 2832.1, as set forth in Findings 5, 6, 7, 8, 9, 10 and 11.

A real estate broker is charged with the responsibility of being conversant with the statutes, regulations and other requisites of the area(s) in which he/she works. With all of her substantial experience as a real estate broker and knowing her experience was exclusively in sales, it is mystifying why Respondent would not familiarize herself with the Real Estate Law as it applies to property management, before taking on property management clients. While it is fortuitous that no money was actually lost, Respondent's engaging in property management activities without the proper knowledge posed, and continues to pose, a substantial risk to the public. Accordingly, the public interest can best be protected by the issuance of a properly-conditioned restricted license.

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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

All licenses and licensing rights of Respondent, Susan Leslie Sherman, under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to Respondent pursuant to Section 10156.5 of the Business and Professions Code if Respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to Respondent shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

1. The restricted 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 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 have elapsed from the effective date of this Decision.

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

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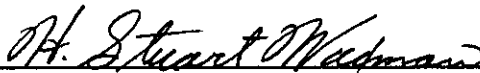
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5. Respondent shall report in writing to the Department of Real Estate as the Real Estate Commissioner shall direct by his Decision herein or by separate written order issued while the restricted license is in effect such information concerning Respondent's activities for which a real estate license is required as the Commissioner shall deem to be appropriate to protect the public interest.

Such reports may include, but shall not be limited to, periodic independent accountings of trust funds in the custody and control of Respondent and periodic summaries of salient information concerning each real estate transaction in which the Respondent engaged during the period covered by the report.

6. Pursuant to Section 10148 of the Business and Professions Code, Respondent shall pay the Commissioner's reasonable cost for an audit to determine if Respondent has corrected the trust fund violations found in Finding One of the Determination of Issues. In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary for all persons performing audits of real estate brokers, and shall include an allocation for travel time to and from the auditor's place of work. Respondent shall pay such cost within 45 days of receiving an invoice from the Commissioner detailing the activities performed during the audit and the amount of time spent performing those activities. The Commissioner may suspend the restricted license issued to respondent pending a hearing held in accordance with Section 11500, et seq., of the Government Code, if payment is not timely made as provided for herein, or as provided for in a subsequent agreement between the Respondent and the Commissioner. The suspension shall remain in effect until payment is made in full or until Respondent enters into an agreement satisfactory to the Commissioner to provide for payment, or until a decision providing otherwise is adopted following a hearing held pursuant to this condition.

DATED: January 21, 1998



H. STUART WAXMAN
Administrative Law Judge
Office of Administrative Hearings

Sacto plus

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
DEC - 2 1997
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

SUSAN LESLIE SHERMAN,

By K. Wiederhold

Case No. H-27030 LA

OAH No. L-9704068

Respondent

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at _____
Office of Administrative Hearings, 107 South Broadway, Second Floor
Los Angeles, CA 90012

on December 26, 1997, at the hour of 9:00 a.m.,
or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: December 2, 1997

By [Signature] Counsel

kw cc: Susan Leslie Sherman
Sacto
OAH
AK
RE 501 (Rev. 8/97)

Sacto plus

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
JUL 17 1997
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

SUSAN LESLIE SHERMAN,

}

By *R. Medubelt*

Case No. H-27030 LA

OAH No. L-9704068

Respondent

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at _____
Office of Administrative Hearings, 107 South Broadway, Second Floor
Los Angeles, CA 90012

on September 18, 1997, at the hour of 10:00 a.m.
or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: JUL 17 1997

By *[Signature]*
Counsel

cc: Susan Leslie Sherman
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kw

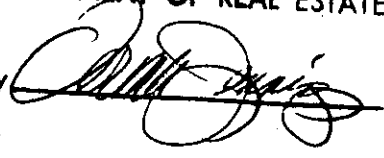
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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
APR 16 1997
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of)
)
 SUSAN LESLIE SHERMAN,)
)
 Respondent.)

Case No. H-27030 LA
OAH No. L-9704068

By 

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 107 South Broadway, 2nd Floor, Los Angeles, California, on **May 27, 1997**, at the hour of 9:00 a.m., or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

Dated: April 16, 1997.

DEPARTMENT OF REAL ESTATE



ELLIOTT MAC LENNAN, Counsel

cc: Susan Leslie Sherman
Sacto.
OAH

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II

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

III

At all times mentioned, SHERMAN was licensed or had license rights issued by the Department of Real Estate (Department) as a real estate broker. SHERMAN was initially licensed by the Department on February 27, 1981.

IV

At all times mentioned, in the City of Los Angeles, Los Angeles County, California, respondent SHERMAN engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker, in the State of California, within the meaning of Section 10131(a) of the Code in that she operated a residential real estate resale business with the public wherein, on behalf of others and for compensation or in expectation of compensation, respondent SHERMAN, sold or offered to sell, bought or offered to buy, solicited prospective sellers or purchasers of, solicited or obtained listings of, or negotiated the purchase, sale or exchange of real property. Respondent SHERMAN is also engaged in real property management activities within the meaning of Section 10131(b) of the Code.

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V

On November 22, 1996, the Department completed a field audit examination of the books and records of SHERMAN dba Sherman Realty pertaining to the activities described in Paragraph IV, above, for the period beginning on July 1, 1994 and ending on September 30, 1996, which revealed violations of the Code and the Regulations as set forth in the following paragraphs.

VI

At all times mentioned, in connection with the aforesaid real estate activities described in Paragraph IV, SHERMAN accepted or received funds in trust (trust funds) from or on behalf of purchasers and sellers and actual or prospective lessors and lessees, and thereafter made disposition of such funds. SHERMAN maintained the following trust accounts as the depository of said funds:

Susan L. Sherman, DBA Sherman Realty Trust ("T/A # 1")
(Silverlake Drive Account)
Account Number 001-820237-1
Glendale Federal Bank
Glendale, California

Sherman Realty Trust Silverlake Drive Account ("T/A # 2")
Account Number 03305265
East West Bank
Los Angeles, California

Sherman Realty Trust Account ("T/A # 3")
Account Number 03302734
East West Bank
Los Angeles, California

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VII

With respect to the trust funds referred to in Paragraph VI, it is alleged that SHERMAN:

(a) Permitted, allowed, or caused a deficit to accumulate in T/A #1, which on September 30, 1996, was in the amount of Four Hundred Sixty Dollars (\$460.00) in violation of Section 10145 of the Code and Regulation 2832.1. Additionally, SHERMAN withdrew part of her management fees in advance in March, November and December 1995;

(b) Failed to maintain T/A #2 and T/A #3 in the name of the broker, as required by Section 2830 of the Regulations; and

(c) Failed to maintain a control record for the daily balance of the receipt and disposition of all trust funds in trust account received, as required by Regulation 2831.

VIII

The conduct of respondent SHERMAN, described in Paragraph VII above, violated the Code and the Regulations as set forth below:

PARAGRAPH

PROVISIONS VIOLATED

VII(a)	Section 10145 of the Code and Section 2832.1 of the Regulations
VII(b)	Section 10145 of the Code and Section 2830 of the Regulations
VII(c)	Section 10145 of the Code and Section 2831 of the Regulations

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1 Each of the foregoing violations separately constitutes cause for
2 the suspension or revocation of the real estate license and
3 license rights of respondent SHERMAN under the provisions of
4 Section 10177(d) of the Code

5 IX

6 On November 22, 1996, the Department completed a field
7 audit examination of the books and records of SHERMAN dba Sherman
8 Realty pertaining to the activities described in Paragraph IV,
9 above. Respondent failed to produce or maintain all records of
10 her activity during this period, including invoices and cancelled
11 checks, requiring a real estate license for certain property
12 owners clients under her management including Henry and Soonis
13 Lim, in violation of Section 10148 of the Code. This conduct and
14 violation are cause for the suspension or revocation of the real
15 estate license and license rights of respondent SHERMAN under the
16 provisions of Section 10177(d) of the Code.

17 X

18 The overall conduct of respondent SHERMAN in violating
19 Sections 10145 and 10148 of the Code and Regulations Sections
20 2832.1, 2830 and 2831, as described in Paragraphs IV through IX
21 above, constitutes negligence or incompetence. This conduct and
22 violation are cause for the suspension or revocation of the real
23 estate license and license rights of respondent SHERMAN under the
24 provisions of Section 10177(g) of the Code.

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

8 Dated at Los Angeles, California
9 this 4th day of March, 1997.

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11 Thomas McGrady By PHT
12 Deputy Real Estate Commissioner
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25 cc Susan Leslie Sherman
26 Sacto
27 AK