Department of Real Estate
320 W. 4th St., Room 350
Los Angeles, California 90013

Telephone: (213) 576-6982

FILED
DEC 23 2010
DEPARTMENT OF REAL ESTATE
By

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of SOUTH POINT FINANCIAL, INC.; and JOHN JAY BERUKOFF, individually, and as designated officer of the corporation, Respondents.	No. H-36112 LA STIPULATION AND AGREEMENT

It is hereby stipulated by and between JOHN JAY BERUKOFF (sometimes referred to as Respondent), and the Complainant, acting by and through James R. Peel, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on July 15, 2009, in this matter.

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

thereof be submitted solely on the basis of the provisions of this Stipulation and Agreement ("Stipulation").

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

3. On August 13, 2009, Respondent filed a Notice of Defense pursuant to Section 11506 of the Government Code for the purpose of requesting a hearing on the allegations in the Accusation. Respondent hereby freely and voluntarily withdraws said Notices of Defense. Respondent acknowledges that he understands that by withdrawing said Notices of Defense he will thereby waive his right to require the Commissioner to prove the allegations in the Accusation at a contested hearing held in accordance with the provisions of the APA and that he will waive other rights afforded to him in connection with the hearing, such as the right to present evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.

4. This Stipulation is based on the factual allegations contained in the Accusation filed in this proceeding. In the interest of expedience and economy, Respondent chooses not to contest these factual allegations, but to remain silent and understands that, as a result thereof, these factual statements, will serve as a prima facie basis for the disciplinary action stipulated to herein. The Real Estate

Commissioner shall not be required to provide further evidence to prove such allegations.

5. This Stipulation and Respondent's decision not to contest the Accusation is made for the purpose of reaching an agreed disposition of this proceeding and is expressly limited to this proceeding and any other proceeding or case in which the Department of Real Estate ("Department"), the state or federal government, or an agency of this state, another state or the federal government is involved.

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

7. The Order or any subsequent Order of the Real Estate Commissioner made pursuant to this Stipulation shall not constitute an estoppel, merger or bar to any further administrative or civil proceedings by the Department of Real Estate with respect to any conduct which was not specifically alleged to be causes for accusation in this proceeding.

DETERMINATION OF ISSUES

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

The conduct, acts and/or omissions of Respondent JOHN JAY BERUKOFF, as set forth in the Accusation, constitute cause for the suspension or revocation of all of the real estate licenses and license rights of Respondent under the provisions of Section 10177(g) of the Business and Professions Code ("Code").

ORDER

All licenses and licensing rights of Respondent JOHN JAY BERUFOFF under the Real Estate Law are suspended for a period of fifteen (15) days from the effective date of this Decision; provided, however, that fifteen (15) days of said suspension shall be stayed for two (2) years upon the following terms and conditions:

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

2. That no final subsequent determination be made, after hearing or upon stipulation that cause for disciplinary action occurred within two (2) years of the effective date of this Decision. Should such a determination be made, the Commissioner may, in his discretion, vacate and set aside the

stay order and reimpose all or a portion of the stayed suspension. Should no such determination be made, the stay imposed herein shall become permanent.

DATED: Oct. 26, 2010

James R. Peel
JAMES R. PEEL, Counsel for the Department of Real Estate

* * *

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

Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by faxing a copy of the signature page, as actually signed by Respondent, to the Department at the following telephone/fax number: (213) 576-6917. Respondent agrees, acknowledges and understands that by electronically sending to the Department a fax copy of his or her actual signature as it appears on the Stipulation and

Agreement, that receipt of the faxed copy by the Department shall be as binding on Respondent as if the Department had received the original signed Stipulation and Agreement.

Further, if the Respondent is represented, the Respondent's counsel can signify his or her agreement to the terms and conditions of the Stipulation and Agreement by submitting that signature via fax.

DATED: 10/21/10

JOHN JAY BERUKOFF
Respondent

* * *

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

IT IS SO ORDERED _____.

JEFF DAVI
Real Estate Commissioner

_____

Agreement, that receipt of the faxed copy by the Department shall be as binding on Respondent as if the Department had received the original signed Stipulation and Agreement.

Further, if the Respondent is represented, the Respondent's counsel can signify his or her agreement to the terms and conditions of the Stipulation and Agreement by submitting that signature via fax.

DATED: _____

_____
JOHN JAY BERUKOFF
Respondent

* * *

The foregoing Stipulation and Agreement is hereby adopted as my Decision and Order in this matter, and shall become effective at 12 o'clock noon on JAN 12 2011.

IT IS SO ORDERED 11/1/2010.

JEFF DAVI
Real Estate Commissioner

BY: Barbara J. Bigby
Chief Deputy Commissioner

FILED
DEC 23 2010
DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of SOUTH POINT FINANCIAL, INC., and JOHN JAY BERUKOFF, individually and as designated officer of the corporation, Respondents.	No. H-36112 LA

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 October 20, 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.

FINDINGS OF FACT

I

On July 1, 2009, Robin L. Trujillo made the Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California.

On October 20, 2010, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondent SOUTH POINT FINANCIAL, INC.'s default was entered herein.

II

SOUTH POINT FINANCIAL, INC. (hereinafter referred to as "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

At all times herein mentioned, Respondent, on behalf of others in expectation of compensation, engaged in the business, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California within the meaning of Sections 10131(d), 10131(e). and 10131.2 of the Code including soliciting borrowers and lenders and negotiating loans on real property and advance fee handling.

IV

On or about April 8, 2009, the Department completed an examination of Respondent's books and records pertaining to the activities described in Paragraph III above covering a period from November 17, 2008, through January 31 2009, which examination revealed violations of the Code and of Title 10, Chapter 6, California Code of Regulations (Regulations) as set forth below.

V

The examination described in Paragraph IV above determined that in connection with the activities described in Paragraph III above Respondent accepted or received funds including funds in trust (hereinafter "trust funds") from or on behalf of principals and thereafter made deposit or disbursement of such funds.

VI

In the course of activities described in Paragraphs III and V and during the examination period described in Paragraph IV Respondent acted in violation of the Code and the Regulations as follows, and as more specifically set forth in Audit Report No. LA 080195 and related exhibits.

1. Violated Code Section 10145(a) and Regulation 2831 by failing to maintain a columnar record of all trust funds received and disbursed.

2. Violated Code Section 10145 and Regulation 2831.1 by failing to maintain separate records for all receipts and disbursements for each beneficiary or transaction for fees received with information sufficient to identify the transaction and the parties to the transaction.

3. Violated Code Section 10145 and Regulation 2831.2 by not performing a monthly reconciliation of the trust fund records.

4. Violated Section 10176(e) of the Code by commingling broker funds with money or property of principals.

5. Violated Code Section 10146 and Regulation 2832 by collecting advance fees and failing to deposit the fees into a real estate broker trust account. The advance fees were deposited into the general account.

6. Violated Code Section 10146 and Regulation 2972 by failing to provide each borrower with an itemized accounting.

7. Violated Code Section 10085 and Regulation 2970 by failing to provide advance fee material/agreements to be used to the Commissioner for review and approval ten days prior to there use.

8. Violated Code Section 10160 and Regulation 2753 by not maintaining possession of each license for salespersons in its employ.

9. Violated Regulation 2726 by not maintaining a broker-salesperson agreement with each real estate salesperson in its employ.

DETERMINATION OF ISSUES

I

Cause for disciplinary action against Respondent SOUTH POINT FINANCIAL, INC. exists pursuant to Business and Professions Code Sections 10176(e), 10177(d) and 10177(g) for violation of Code Sections 10085, 10145, 10146, 10160, and Regulations 2726, 2753, 2831, 2831.1, 2831.2, 2832, 2970 and 2972.

II

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

ORDER

The license and license rights of Respondent SOUTH POINT FINANCIAL, INC. under the provisions of Part I of Division 4 of the Business and Professions Code is revoked.

This Decision shall become effective at 12 o'clock noon JAN 12 2011.

DATED: 11-1-2010

JEFF DAVI
Real Estate Commissioner

BY: Barbara J. Bigby
Chief Deputy Commissioner

SACTO.

JAMES R. PEEL, Counsel (SBN 47055)
Department of Real Estate
320 West Fourth Street, Suite 350
Los Angeles, CA 90013-1105

Telephone: (213) 576-6982
-or- (213) 576-6913 (Direct)

FILED
JUL 15 2009
DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of SOUTH POINT FINANCIAL, INC.; and JOHN JAY BERUKOFF, individually and as designated officer of the corporation, Respondents.	No. H-36112 LA A C C U S A T I O N

The Complainant, Robin L. Trujillo, a Deputy Real Estate Commissioner of the State of California, for cause of accusation against SOUTH POINT FINANCIAL, INC., and JOHN JAY BERUKOFF, individually and as designated officer of the corporation, alleges as follows:

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I

The Complainant, Robin Trujillo, acting in her official capacity as a Deputy Real Estate Commissioner of the State of California, makes this Accusation against SOUTH POINT FINANCIAL, INC., and JOHN JAY BERUKOFF.

II

SOUTH POINT FINANCIAL, INC., and JOHN JAY BERUKOFF individually and as designated officer of said corporation (hereinafter referred to as "Respondents") are presently licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code, hereinafter Code).

III

Respondent SOUTH POINT FINANCIAL, INC. was originally licensed as a real estate broker on November 17, 2008. Respondent JOHN JAY BERUKOFF was the designated broker officer from November 17, 2008 through January 8, 2009 and pursuant of Code Section 10159.2 was responsible for the supervision and control of the activities conducted on behalf of the corporation by its officers and employees as necessary to secure full compliance with the provisions of the real estate law including supervision of salespersons licensed to the corporation in the performance of acts for which a real estate license is required.

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IV

At all times material herein, Respondents 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 Sections 10131(d), 10131(e) and 10131.2 of the Code including soliciting borrowers and lenders and negotiating loans of real property and advance fee handling.

V

On or about April 8, 2009, the Department completed an examination of Respondent SOUTH POINT FINANCIAL's books and records, pertaining to the activities described in Paragraph IV above, covering a period from November 17, 2008, through January 31, 2009, which examination revealed violations of the Code and of Title 10, Chapter 6, California Code of Regulations (hereinafter Regulations) as set forth below.

VI

The examination described in Paragraph V, above, determined that, in connection with the activities described in Paragraph IV above, Respondent SOUTH POINT FINANCIAL, INC. accepted or received funds, including funds in trust (hereinafter "trust funds") from or on behalf of principals, and thereafter made deposit or disbursement of such funds.

VII

In the course of activities described in Paragraphs IV through VI and during the examination period described in Paragraph V, Respondents SOUTH POINT FINANCIAL, INC., and JOHN JAY BERUKOFF acted in violation of the Code and the Regulations

as follows, and as more specifically set forth in Audit Report No. LA 080195 and related exhibits:

1. Violated Code Section 10145 and Regulation 2831 by failing to maintain a columnar record of all trust funds received and disbursed.

2. Violated Code Section 10145 and Regulation 2831.1 by failing to maintain separate records for all receipts and disbursements for each beneficiary or transaction for fees received with information sufficient to identify the transaction and the parties to the transaction.

3. Violated Code Section 10145 and Regulation 2831.2 by not performing a monthly reconciliation of the trust fund records.

4. Violated Section 10176(e) of the Code by commingling broker funds with money or property of principals.

5. Violated Code Section 10146 and Regulation 2832 by collecting advance fees and failing to deposit the fees into a real estate broker trust account. The advance fees were deposited into the general account.

6. Violated Code Section 10146 and Regulation 2972 by failing to provide each borrower with an itemized accounting.

7. Violated Code Section 10085 and Regulation 2970 by failing to provide advance fee material/agreements to be used to the Commissioner for review and approval ten days prior to there use.

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8. Violated Code Section 10160 and Regulation 2753 by not maintaining possession of each license for salespersons in its employ.

9. Violated Regulation 2726 by not maintaining a broker-salesperson agreement with each real estate salesperson in its employ.

VIII

The conduct, acts and/or omissions of Respondents SOUTH POINT FINANCIAL, INC., and JOHN JAY BERUFKOFF, as alleged above, subjects their real estate licenses and license rights to suspension or revocation pursuant to Sections 10177(d) and/or 10177(g) of the Code.

IX

The conduct, acts and/or omissions of Respondent JOHN JAY BERUKOFF in failing to ensure full compliance with the Real Estate Law is in violation of Code Section 10159.2 and subjects his real estate licenses and license rights to suspension or revocation pursuant to Sections 10177(d), 10177(g), and 10177(h) of the Code.

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WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of Respondents SOUTH POINT FINANCIAL, INC., and JOHN JAY BERUKOFF, individually, and as designated officer of South Point Financial, Inc., under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) and for such other and further relief as may be proper under other applicable provisions of law.

Dated at Los Angeles, California

this 1 day of July, 2009.

ROBIN L. TRUJILLO
Deputy Real Estate Commissioner

cc: South Point Financial, Inc.
John Jay Berukoff
Robin L. Trujillo
Audit Section
Phil Ihde
Sacto.