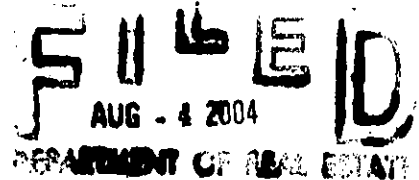


1 Department of Real Estate
320 West Fourth Street, Suite 350
2 Los Angeles, California 90013-1105

3 Telephone: (213) 576-6982
4 -or- (213) 576-6910 (Direct)



8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 SHERRY WY SOCKI,)
13 individually and dba)
14 America West Financial,)
Respondent.)

NO. H-30152 LA
L-2003060895

STIPULATION AND AGREEMENT

15 It is hereby stipulated by and between SHERRY
16 WY SOCKI, individually and dba America West Financial (hereafter
17 "Respondent"), represented by David C. Holt, Esq., and the
18 Complainant, acting by and through Chris Leong, Counsel for the
19 Department of Real Estate, as follows for the purpose of
20 settling and disposing of the Accusation filed on June 13,
21 2003, as to Respondent.

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

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

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

7 3. Respondent filed a Notice of Defense pursuant to
8 Section 11505 of the Government Code for the purpose of
9 requesting a hearing on the allegations in the Accusation.
10 Respondent hereby freely and voluntarily withdraws said Notice
11 of Defense. Respondent acknowledges that she understands that
12 by withdrawing said Notice of Defense that she will thereby
13 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 Administrative Procedure
16 Act and that Respondent will waive other rights afforded to her
17 in connection with the hearing, such as the right to present
18 evidence in defense of the allegations in the Accusation and
19 the right to cross-examine witnesses.

20 4. In the interest of expedience and economy,
21 Respondent chooses not to contest the factual allegations in
22 Paragraphs 1 through 7 of the Accusation, but to remain silent
23 and understands that, as a result thereof, these factual
24 statements, without being admitted or denied, will serve as a
25 prima facie basis for the disciplinary action stipulated to
26 herein. The Real Estate Commissioner shall not be required to
27 provide further evidence to prove such allegations.

1 5. It is understood by the parties that the Real
2 Estate Commissioner may adopt the Stipulation as his Decision
3 in this matter, thereby imposing the penalty and sanctions on
4 Respondent's real estate license and license rights as set
5 forth in the "Order" below. In the event that the Commissioner
6 in his discretion does not adopt the Stipulation, it shall be
7 void and of no effect, and Respondent shall retain the right to
8 a hearing and proceeding on the Accusation under all the
9 provisions of the Administrative Procedure Act and shall not be
10 bound by any admission or waiver made herein.

11 6. The Order or any subsequent Order of the Real
12 Estate Commissioner made pursuant to this Stipulation shall not
13 constitute an estoppel, merger or bar to any further
14 administrative or civil proceeding by the Department of Real
15 Estate with respect to any matters which were not specifically
16 alleged to be causes for accusation in this proceeding.

17 DETERMINATION OF ISSUES

18 By reason of the foregoing stipulations, admissions
19 and waivers and solely for the purpose of settlement of the
20 pending Accusation without a hearing, it is stipulated and
21 agreed that the following Determination of Issues shall be
22 made:

23 I

24 The conduct, acts and omissions of Respondent, as
25 alleged in the Accusation, are in violation of Title 10,
26 Chapter 6, California Code of Regulations, Sections 2831,
27 2831.1 and 2832 and Section 10145 of the California Business

1 and Professions Code (hereafter "Code") and are grounds for the
2 suspension or revocation of all real estate licenses and
3 license rights of Respondent under the provisions of Code
4 Section 10177(d).

5 ORDER

6 WHEREFORE, THE FOLLOWING ORDER is hereby made:

7 I. All licenses and licensing rights of Respondent
8 under the Real Estate Law are suspended for a period of one
9 hundred and eighty (180) days from the effective date of this
10 Decision; provided, however, that one hundred twenty (120) days
11 of said suspension shall be stayed for two (2) years upon the
12 following terms and conditions:

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

16 2. That no final subsequent determination be
17 made, after hearing or upon stipulation, that cause for
18 disciplinary action occurred within two (2) years of the
19 effective date of this Decision. Should such determination be
20 made, the Commissioner may, in his discretion, vacate and set
21 aside the stay order and reimpose all or a portion of the
22 stayed suspension. Should no such determination be made, the
23 stay imposed herein shall become permanent.

24 II. The initial sixty (60) day portion of said one
25 hundred eighty (180) day suspension shall commence on the
26 effective date of this Decision; provided, however, that if
27 Respondent petitions, said suspension shall be stayed upon

condition that:

1
2 1. Pursuant to Code Section 10175.2, Respondent pays a
3 monetary penalty of fifty dollars (\$50.00) per day for a total
4 monetary penalty of \$3,000.00.

5 2. Said payment shall be in the form of a cashier's
6 check or certified check made payable to the Recovery Account of
7 the Real Estate Fund. Said check must be received by the
8 Department prior to the effective date of the Decision in this
9 matter.

10 3. No further cause for disciplinary action against
11 the real estate license of Respondent occurs within two (2)
12 years from the effective date of the Decision in this matter.

13 4. If Respondent fails to pay the monetary penalty in
14 accordance with the terms and conditions of the Decision, the
15 Commissioner may, without a hearing, order the immediate
16 execution of all or any part of the stayed suspension in which
17 event the Respondent shall not be entitled to any repayment nor
18 credit, prorated or otherwise, for money paid to the Department
19 under the terms of this Decision.

20 5. If Respondent pays the monetary penalty and if no
21 further cause for disciplinary action against the real estate
22 license of Respondent occurs within two (2) years from the
23 effective date of this Decision, the stay hereby granted shall
24 become permanent.

25 6. Respondent's license shall be indefinitely
26 suspended unless or until Respondent submits proof satisfactory
27 to the Commissioner of having taken and successfully completed

1 the continuing education course on trust fund accounting and
2 handling specified in subdivision (a) of Section 10170.5 of the
3 Code. Proof of satisfaction of this requirement includes
4 evidence that Respondent has successfully completed the trust
5 fund account and handling continuing education course within 120
6 days prior to the effective date of the Decision in this matter.

7 III. Pursuant to Code Section 10148, Respondent
8 shall pay the Commissioner's reasonable cost for: a) the audit
9 which led to this disciplinary action and, b) a subsequent
10 audit to determine if Respondent has corrected the trust fund
11 violations found in the Determination of Issues. The cost of
12 the audit which led to this disciplinary action is \$2,489.00.
13 In calculating the amount of the Commissioner's reasonable
14 cost, the Commissioner may use the estimated average hourly
15 salary for all persons performing audits of real estate
16 brokers, and shall include an allocation for travel time to and
17 from the auditor's place of work. Said amount for the
18 subsequent audit shall not exceed \$2,489.00. Respondent shall
19 pay such cost within 60 days of receiving an invoice from the
20 Commissioner detailing the activities performed during the
21 audit and the amount of time spent performing those activities.
22 The Commissioner may in his discretion, vacate and set aside
23 the stay order, if payment is not timely made as provided for
24 herein, or as provided for in a subsequent agreement between
25 the Respondent and the Commissioner. The vacation and set
26 aside of the stay shall remain in effect until payment is made
27

1 in full, or until Respondent enters into an agreement
2 satisfactory to the Commissioner to provide for payment.

3 DATED: 3/12/04 CHRIS LEONG
4 CHRIS LEONG, ESQ.
5 Counsel for Complainant

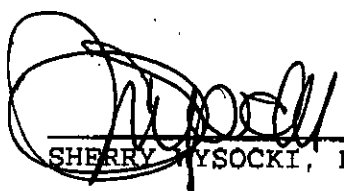
6 * * *

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

18 Respondent can signify acceptance and approval of the
19 terms and conditions of this Stipulation and Agreement by
20 faxing a copy of the signature page, as actually signed by
21 Respondent, to the Department at fax number (213) 576-6917.
22 Respondent agrees, acknowledges and understands that by
23 electronically sending to the Department a fax copy of her
24 actual signature as it appears on the Stipulation and
25 Agreement, that receipt of the faxed copy by the Department
26 shall be as binding on Respondent as if the Department had
27 received the original signed Stipulation and Agreement.

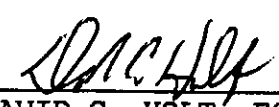
1
2
3 DATED:

3/10/04


SHERRY MYSOCKI, Respondent

5
6 DATED:

3/10/04


DAVID C. HOLT, ESQ.
Counsel for Respondent
Approved as to form

8
9 * * *

10 The foregoing Stipulation and Agreement is hereby
11 adopted as my Decision in this matter and shall become
12 effective at 12 o'clock noon on September 3, 2004.

13 IT IS SO ORDERED

July 26, 2004

14 JOHN R. LIBERATOR
Acting Real Estate Commissioner

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
 SHERRY WYSOCKI,)
 individually and dba)
 America West Financial,)
)
 _____)
 Respondent(s)

Case No. **H-30152 LA**

OAH No. L-2003060895

FILED
JUL 18 2003
DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on **THURSDAY, DECEMBER 11, 2003**, 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: July 18, 2003

By



DARLENE AVERETTA
Asst. Chief Counsel
for Chris Leong, Counsel

cc: Sherry Wysocki
✓ Sacto.
OAH
Dianna Bautista, L.A. Audits

CHRIS LEONG, Counsel (SBN 141079)
Department of Real Estate
320 West Fourth Street, Suite 350
Los Angeles, CA 90013-1105

Telephone: (213) 576-6982
-or- (213) 576-6910 (Direct)



BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-30152 LA
SHERRY WYSOCKI,	)
individually and dba	)
America West Financial,	)
Respondent.	)

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against SHERRY WYSOCKI, individually and dba America West Financial (hereinafter "Respondent"), is informed and alleges in her official capacity as follows:

1.

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.

///

2.

1 The Complainant Maria Suarez, a Deputy Real Estate
2 Commissioner of the State of California, makes this Accusation
3 against Respondent in her official Capacity.
4

3.

5
6 At all times material herein, Respondent engaged in
7 the business of, acted in the capacity of, advertised or
8 assumed to act as a real estate broker for others in the State
9 of California, within the meaning of Code Section 10131(d),
10 including the operation and conduct of a real estate mortgage
11 loan business with the public wherein Respondent solicited
12 borrowers for loans secured by interest in real property in
13 expectation of compensation.

4.

14
15 On August 26, 2002, the Department concluded its
16 examination of Respondent's books and records pertaining to
17 Respondent's activities as a real estate broker in audit number
18 LA 010430, covering a period from approximately July 1, 2000 to
19 February 28, 2002. The examination revealed violations of the
20 Code and of Title 10, Chapter 6, California Code of Regulations
21 (hereinafter "Regulations"), as set forth below, and as more
22 specifically set forth in audit number LA 010430, and the
23 related audit report and working papers attached thereto.

5.

24
25 At all times herein, in connection with the real
26 estate sales, loan and loan servicing activity described in
27 Paragraph 3 above, Respondent accepted or received funds,

1 including funds in trust (hereinafter "trust funds") from or on
2 behalf of actual and prospective parties to transactions
3 handled by Respondent and thereafter made deposits and/or
4 disbursements of such funds. From time to time herein
5 mentioned, said trust funds were deposited and/or maintained by
6 Respondent in bank accounts not designated as trust accounts.

7 6.

8 Respondent acted in violation of the Code and the
9 Regulations as set forth below and as more specifically
10 described in Audit Report LA 010430 and the exhibits attached
11 thereto:

12 (a) Respondent failed to deposit trust funds
13 received from the borrowers, escrow or title company, at the
14 close of escrow for unpaid appraisal fees into a trust account
15 including trust funds received from Jesse and Mary Delgado,
16 Marvin and Saundra Anders, and Arsenio and Maria Osongco, in
17 violation of Code Section 10145 and Regulation 2832;

18 (b) Respondent failed to maintain a columnar record
19 of funds received at the close of escrow for appraisal fees
20 still due, in violation of Code Section 10145 and
21 Regulation 2831;

22 (c) Respondent failed to maintain separate records
23 for trust funds received on behalf of others, specifically
24 funds received at the close of escrow for appraisal fees still
25 due were not being recorded on separate records, in violation
26 of Code Section 10145 and Regulation 2831.1;

27 (d) Respondent failed to disclose to borrowers,

1 including Jess and Mary Lou Delgado and Arsenio and Maria
2 Osongco, that she would be receiving additional compensation
3 from lenders, in violation of Code Section 10176(g);

4 (e) Respondent charged borrowers Jose and Blanca
5 Rodriguez, \$235.00 more than the maximum allowable cost and
6 expenses for a second trust deed loan under \$20,000.00, in
7 violation of Code Section 10242(a).

8 7.

9 The conduct, acts and omissions of Respondent, as
10 described in Paragraph 6, violated the Code and the Regulations
11 as set forth above and constitutes cause for the suspension or
12 revocation of all real estate licenses and license rights of
13 Respondent under the provisions of Code Sections 10176(g),
14 10177(d) and/or 10177(g).

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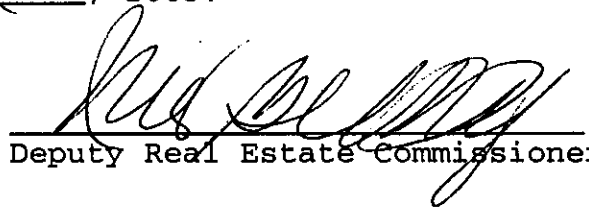
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27

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 licenses and/or license rights of
5 Respondent, SHERRY WYSOCKI, individually and dba America West
6 Financial, under the Real Estate Law (Part 1 of Division 4 of
7 the Business and Professions Code), and for such other and
8 further relief as may be proper under other applicable
9 provisions of law.

10 Dated at Los Angeles, California

11 this 14th day of June, 2003.

12
13 
14 Deputy Real Estate Commissioner
15
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22

23 cc: Sherry Wysocki
24 Maria Suarez
25 Sacto.
26 LA Audit/Bautista
27 AE