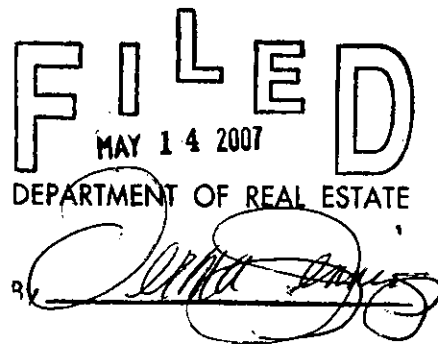


1 Department of Real Estate
2 320 W. 4th St., Room 350
3 Los Angeles, California 90013
4 Telephone: (213) 576-6982
5
6



7 BEFORE THE DEPARTMENT OF REAL ESTATE

8 STATE OF CALIFORNIA

9 * * *

| | |
|---|----------------------------------|
| 10 In the Matter of the Accusation of) | No. H-33134 LA |
| 11) | L-2006 110 337 |
| 12) | |
| 13 EMERALD MORTGAGE CORP.,) | |
| 14 and MARKUS STEVEN SHEPARD,) | <u>STIPULATION AND AGREEMENT</u> |
| 15 individually and as) | |
| 16 designated officer of) | |
| 17 Emerald Mortgage Corp.,) | |
| 18) | |
| 19) | |
| 20 Respondents.) | |
| 21) | |

18 It is hereby stipulated by and between MARKUS STEVEN
19 SHEPHERD (sometimes referred to as Respondent), and his
20 attorney, Rose Pothier, and the Complainant, acting by and
21 through James R. Peel, Counsel for the Department of Real
22 Estate, as follows for the purpose of settling and disposing of
23 the Accusation filed on August 11, 2006, in this matter.

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1 1. All issues which were to be contested and all
2 evidence which was to be presented by Complainant and Respondent
3 at a formal hearing on the Accusation, which hearing
4 was to be held in accordance with the provisions of the
5 Administrative Procedure Act ("APA"), shall instead and in place
6 thereof be submitted solely on the basis of the provisions of
7 this Stipulation and Agreement ("Stipulation").

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

12 3. On August 23, 2006, Respondent filed a Notice of
13 Defense pursuant to Section 11506 of the Government Code for the
14 purpose of requesting a hearing on the allegations in the
15 Accusation. Respondent hereby freely and voluntarily withdraws
16 said Notices of Defense. Respondent acknowledges that he
17 understands that by withdrawing said Notices of Defense he will
18 thereby waive his right to require the Commissioner to prove the
19 allegations in the Accusation at a contested hearing held in
20 accordance with the provisions of the APA and that he will waive
21 other rights afforded to him in connection with the hearing,
22 such as the right to present evidence in defense of the
23 allegations in the Accusation and the right to cross-examine
24 witnesses.

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1 4. This Stipulation is based on the factual
2 allegations contained in the Accusation filed in this
3 proceeding. In the interest of expedience and economy,
4 Respondent chooses not to contest these factual allegations, but
5 to remain silent and understands that, as a result thereof,
6 these factual statements, will serve as a prima facie basis for
7 the disciplinary action stipulated to herein. The Real Estate
8 Commissioner shall not be required to provide further evidence
9 to prove such allegations.

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

17 6. It is understood by the parties that the Real
18 Estate Commissioner may adopt the Stipulation as his decision
19 in this matter thereby imposing the penalty and sanctions on
20 Respondent's real estate licenses and license rights as set
21 forth in the below "Order". In the event that the Commissioner
22 in his discretion does not adopt the Stipulation, the
23 Stipulation shall be void and of no effect, and Respondent shall
24 retain the right to a hearing on the Accusation under all the
25 provisions of the APA and shall not be bound by any stipulation
26 or waiver made herein.
27

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

7 DETERMINATION OF ISSUES

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

12 The conduct, acts and/or omissions of Respondent
13 MARKUS STEVEN SHEPHERD, as set forth in the Accusation,
14 constitute cause for the suspension or revocation of all of the
15 real estate licenses and license rights of Respondent under the
16 provisions of Section 10177(d) of the Business and Professions
17 Code ("Code") for violation of Code Section 10137.

18 ORDER

19 All licenses and licensing rights of Respondent MARKUS
20 STEVEN SHEPHERD, under the Real Estate Law are suspended for a
21 period of sixty (60) days from the effective date of this
22 Decision; provided, however, that thirty (30) days of said
23 suspension shall be stayed for two (2) years upon the following
24 terms and conditions:
25
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1 1. Respondent shall obey all laws, rules and
2 regulations governing the rights, duties and responsibilities of
3 a real estate licensee in the State of California; and

4 2. That no final subsequent determination be made,
5 after hearing or upon stipulation that cause for disciplinary
6 action occurred within two (2) years of the effective date of
7 this Decision. Should such a determination be made, the
8 Commissioner may, in his discretion, vacate and set aside the
9 stay order and reimpose all or a portion of the stayed
10 suspension. Should no such determination be made, the stay
11 imposed herein shall become permanent.

12 3. Provided, however, that if Respondent petitions,
13 the remaining thirty (30) days of said sixty (60) day suspension
14 shall be stayed upon condition that:

15 a. Respondent pays a monetary penalty pursuant to
16 Section 10175.2 of the Business and Professions Code at the rate
17 of \$66.66 for each day of the suspension for a total monetary
18 penalty of \$2,000.

19 b. Said payment shall be in the form of a
20 cashier's check or certified check made payable to the Recovery
21 Account of the Real Estate Fund. Said check must be received by
22 the Department prior to the effective date of the Decision in
23 this matter.
24

25 ///

26 ///

1 c. No further cause for disciplinary action
2 against the real estate licenses of Respondent occurs within two
3 (2) years from the effective date of the Decision in this
4 matter.

5 d. If Respondent fails to pay the monetary
6 penalty in accordance with the terms and conditions of the
7 Decision, the Commissioner may, without a hearing, order the
8 immediate execution of all or any part of the stayed suspension
9 in which event the Respondent shall not be entitled to any
10 repayment nor credit, prorated or otherwise, for money paid to
11 the Department under the terms of this Decision.

12 e. If Respondent pays the monetary penalty and if
13 no further cause for disciplinary action against the real estate
14 license of Respondent occurs within two (2) years from the
15 effective date of the Decision, the stay hereby granted shall
16 become permanent.

17
18 Should no order vacating the stay be issued, either in
19 accordance with this condition or condition "2", the stay
20 imposed herein shall become permanent.

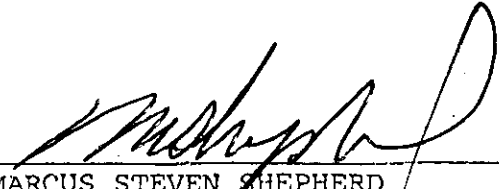
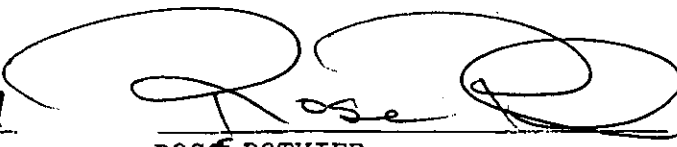
21
22
23 DATED: March 26, 2007 James R. Peel
24 JAMES R. PEEL, Counsel for the
25 Department of Real Estate
26
27

* * *

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

13 Respondent can signify acceptance and approval of the
14 terms and conditions of this Stipulation and Agreement by faxing
15 a copy of the signature page, as actually signed by Respondent,
16 to the Department at the following telephone/fax number:
17 (213) 576-6917. Respondent agrees, acknowledges and understands
18 that by electronically sending to the Department a fax copy of
19 his or her actual signature as it appears on the Stipulation and
20 Agreement, that receipt of the faxed copy by the Department
21 shall be as binding on Respondent as if the Department had
22 received the original signed Stipulation and Agreement.

23 Further, if the Respondent is represented, the
24 Respondent's counsel can signify his or her agreement to the
25 terms and conditions of the Stipulation and Agreement by
26 submitting that signature via fax.
27

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2
3
4 DATED: 3-19-07
MARCUS STEVEN SHEPHERD
Respondent5
6
7 DATED: 3/21/07
ROSE POTHIER
Counsel for Respondent8
9
10
11 * * *12
13 The foregoing Stipulation and Agreement is hereby
14 adopted as my Decision and Order in this matter, and shall
15 become effective at 12 o'clock noon on _____.

16 IT IS SO ORDERED _____.

17 JEFF DAVI
18 Real Estate Commissioner
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DATED: _____

MARCUS STEVEN SHEPHERD
Respondent

DATED: _____

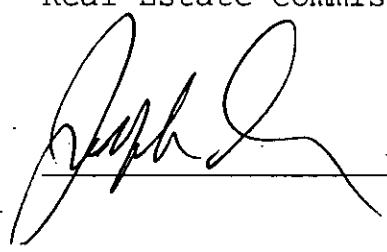
ROSS POTHIER
Counsel for Respondent

* * *

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 June 4, 2007

IT IS SO ORDERED MAY 08 2007

JEFF DAVI
Real Estate Commissioner



5/14/07
May

FILED
MAY 14 2007

DEPARTMENT OF REAL ESTATE

[Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

| | | |
|------------------------------------|---|----------------|
| In the Matter of the Accusation of |) | No. H-33134 LA |
| EMERALD MORTGAGE CORP., |) | L-2006 110 337 |
| |) | |
| |) | |
| Respondent. |) | |

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On August 11, 2006, an Accusation was filed in this matter against Respondent EMERALD MORTGAGE CORP.

On March 19, 2007, Respondent petitioned the Commissioner to voluntarily surrender its real estate broker license pursuant to Section 10100.2 of the Business and Professions Code.

IT IS HEREBY ORDERED that Respondent EMERALD MORTGAGE CORP.'s petition for voluntary surrender of its real estate broker license is accepted as of the effective date of this Order as set forth below, based upon the understanding and agreement expressed in Respondent's Declaration dated March 19, 2007

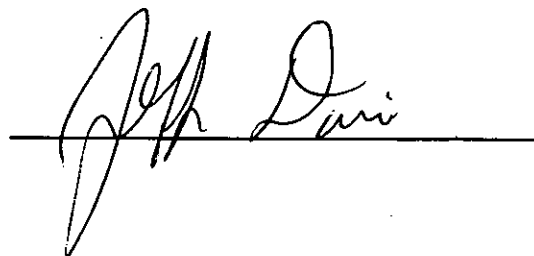
1 (attached as Exhibit "A" hereto). Respondent's license
2 certificates, pocket cards and any branch office license
3 certificate shall be sent to the below listed address so that
4 they reach the Department on or before the effective date of this
5 Order:

6
7 DEPARTMENT OF REAL ESTATE
8 Attn: Licensing Flag Section
9 P. O. Box 187000
10 Sacramento, CA 95818-7000

11 This Order shall become effective at 12 o'clock noon
12 on June 4, 2007.

13 DATED: 4-10, 2007

14 JEFF DAVI
15 Real Estate Commissioner

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

| | | |
|------------------------------------|---|----------------|
| In the Matter of the Accusation of |) | No. H-33134 LA |
| EMERALD MORTGAGE CORP., et al., |) | L-2006 110 337 |
| |) | |
| |) | |
| Respondent. |) | |

DECLARATION

My name is Markus Steven Shepherd and that I am currently an officer of EMERALD MORTGAGE CORP., which is licensed as a real estate broker and/or has license rights with respect to said license. I am authorized and empowered to sign this declaration on behalf of EMERALD MORTGAGE CORP. I am acting on behalf of EMERALD MORTGAGE CORP. in this matter.

In lieu of proceeding in this matter in accordance with the provisions of the Administrative Procedure Act (Sections 11400 et seq., of the Business and Professions Code) EMERALD MORTGAGE CORP. wishes to voluntarily surrender its real estate

1 license issued by the Department of Real Estate ("Department"),
2 pursuant to Business and Professions Code Section 10100.2.


3 I understand that EMERALD MORTGAGE CORP., by so
4 voluntarily surrendering its license, can only have it reinstated
5 in accordance with the provisions of Section 11522 of the
6 Government Code. I also understand that by so voluntarily
7 surrendering its license, EMERALD MORTGAGE CORP. agrees to the
8 following:

9 The filing of this Declaration shall be deemed as its
10 petition for voluntary surrender. It shall also be deemed to be
11 an understanding and agreement by EMERALD MORTGAGE CORP. that, it
12 waives all rights it has to require the Commissioner to prove the
13 allegations contained in the Accusation filed in this matter at a
14 hearing held in accordance with the provisions of the
15 Administrative Procedure Act (Government Code Sections 11400 et
16 seq.), and that it also waives other rights afforded to it in
17 connection with the hearing such as the right to discovery, the
18 right to present evidence in defense of the allegations in the
19 Accusation and the right to cross-examine witnesses. I further
20 agree on behalf of EMERALD MORTGAGE CORP. that upon acceptance by
21 the Commissioner, as evidenced by an appropriate order, all
22 affidavits and all relevant evidence obtained by the Department
23 in this matter prior to the Commissioner's acceptance, and all
24 allegations contained in the Accusation filed in the Department
25 Case No. H-33134 LA, may be considered by the Department to be
26 true and correct for the purpose of deciding whether or not to
27

1 grant reinstatement of EMERALD MORTGAGE CORP.'s license pursuant
2 to Government Code Section 11522.

3 I declare under penalty of perjury under the laws of
4 the State of California that the above is true and correct and
5 that I am acting freely and voluntarily on behalf of EMERALD
6 MORTGAGE CORP. to surrender its license and all license rights
7 attached thereto.

8 3-19-07 Tarzana, Ca
9 Date and Place


10 EMERALD MORTGAGE CORP.
11 By: Markus Steven Shephard
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1 grant reinstatement of EMERALD MORTGAGE CORP.'s license pursuant
2 to Government Code Section 11522..

3 I declare under penalty of perjury under the laws of
4 the State of California that the above is true and correct and
5 that I am acting freely and voluntarily on behalf of EMERALD
6 MORTGAGE CORP. to surrender its license and all license rights
7 attached thereto.

8
9 _____
Date and Place

EMERALD MORTGAGE CORP.

By: Markus Steven Shepherd

SAID
HAY

FILED
AUG 11 2006

DEPARTMENT OF REAL ESTATE

By 

1 JAMES R. PEEL, Counsel (SBN 47055)
2 Department of Real Estate
3 320 West Fourth Street, Suite 350
4 Los Angeles, CA 90013-1105
5
6
7
8 Telephone: (213) 576-6982
9 -or- (213) 576-6913 (Direct)
10

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

| | | | |
|----|------------------------------------|---|----------------------------|
| 11 | In the Matter of the Accusation of |) | No. H-33134 LA |
| 12 | |) | |
| 13 | EMERALD MORTGAGE CORP., |) | <u>A C C U S A T I O N</u> |
| 14 | and MARKUS STEVEN SHEPHERD, |) | |
| 15 | individually and as |) | |
| 16 | designated officer of |) | |
| 17 | Emerald Mortgage Corp., |) | |
| 18 | |) | |
| 19 | Respondents. |) | |

18 The Complainant, Janice A. Waddell, a Deputy Real
19 Estate Commissioner of the State of California, for cause of
20 accusation against EMERALD MORTGAGE CORP., and MARKUS STEVEN
21 SHEPHERD, individually and as designated officer of Emerald
22 Mortgage Corp., alleges as follows:

23 I

24 The Complainant, Janice A. Waddell, acting in her
25 official capacity as a Deputy Real Estate Commissioner of the
26 State of California, makes this Accusation against EMERALD
27 MORTGAGE CORP., and MARKUS STEVEN SHEPHERD.

1 II

2 EMERALD MORTGAGE CORP., and MARKUS STEVEN SHEPHERD,
3 individually and as designated officer of said corporation
4 (hereinafter referred to as "Respondents"), are presently
5 licensed and/or have license rights under the Real Estate Law
6 (Part 1 of Division 4 of the Business and Professions Code)
7 (hereinafter Code).

8 III

9 Respondent EMERALD MORTGAGE CORP., was originally
10 licensed as a real estate broker on September 27, 1993. The
11 corporate license of Respondent EMERALD MORTGAGE CORP., will
12 expire on September 26, 2009. Pursuant to Code Section 10159.2,
13 Respondent MARKUS STEVEN SHEPHERD is responsible for the
14 supervision and control of the activities conducted on behalf of
15 the corporation by its officers and employees as necessary to
16 secure full compliance with the provisions of the real estate
17 law, including the supervision of salespersons licensed to the
18 corporation in the performance of acts for which a real estate
19 license is required.

20 IV

21 At all times material herein, Respondents engaged in
22 the business of, acted in the capacity of, advertised or assumed
23 to act as a real estate broker in the State of California, within
24 the meaning of Section 10131(d) of the Code, including soliciting
25 borrowers and lenders and negotiating loans on real property.

26 ///

27 ///

1 V

2 In connection with Respondents' activities as a real
3 estate broker, as described above, Respondents violated Section
4 10137 of the Code in that on or about July 15, 2003, and April 1,
5 2004, Respondents employed Jonathan Richard Bates, who was not
6 licensed as a real estate broker or salesperson, to solicit and
7 negotiate loans on real property located at 12573 Cometa Ave.,
8 Sylmar, California, for borrower Antonio Cerda.

9 VI

10 The conduct, acts and/or omissions of Respondents,
11 EMERALD MORTGAGE, CORP., and MARCUS STEVEN SHEPHERD, as alleged
12 above, subjects their real estate licenses and license rights to
13 suspension or revocation pursuant to Sections 10137, 10177(d)
14 and/or 10177(g) of the Code.

15 VII

16 The conduct, acts and/or omissions of Respondent MARKUS
17 STEVEN SHEPHERD, in failing to ensure full compliance with the
18 Real Estate Law is in violation of Section 10159.2 of the Code
19 and subjects his real estate licenses and license rights to
20 suspension or revocation pursuant to Sections 10177(d), 10177(g)
21 and/or 10177(h) of the Code.

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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 license rights of Respondents
5 EMERALD MORTGAGE CORP., and MARKUS STEVEN SHEPHERD, under the
6 Real Estate Law (Part 1 of Division 4 of the Business and
7 Professions Code) and for such other and further relief as may be
8 proper under other applicable provisions of law.

9 Dated at Los Angeles, California

10 this 6 day of July, 2006.

11
12
13 
14 JANICE A. WADDELL
15 Deputy Real Estate Commissioner
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22

23 cc: Emerald Mortgage Corp.
24 Marcus Steven Shepherd
25 Janice A. Waddell
26 Sacto.
27