

*Sant*

1 Department of Real Estate  
320 West 4th Street, Ste. 350  
2 Los Angeles, California 90013-1105  
3 Telephone: (213) 576-6982 (office)

**FILED**

APR - 9 2009

DEPARTMENT OF REAL ESTATE  
BY: *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

11	In the Matter of the Accusation of	)	No. H-34923 LA
12		)	
13	PACIFIC FINANCIAL LENDING,	)	<u>STIPULATION</u>
14	CORPORATION, and <u>ALAN JAY KELLEY,</u>	)	<u>AND</u>
15	individually and as designated	)	<u>AGREEMENT</u>
16	officer of Pacific Financial	)	
17	Lending Corporation,	)	
		)	
		)	
16	Respondents,	)	
17		)	

18 It is hereby stipulated by and between Respondent  
19 ALAN JAY KELLEY, individually and as designated officer of  
20 Pacific Financial Lending, (sometimes referred to as  
21 "Respondent"), and the Complainant, acting by and through Elliott  
22 Mac Lennan, Counsel for the Department of Real Estate, as follows  
23 for the purpose of settling and disposing of the Accusation  
24 ("Accusation") filed on May 8, 2008, in this matter:

- 25 1. All issues which were to be contested and all
- 26 evidence which was to be presented by Complainant and Respondent
- 27

1 at a formal hearing on the Accusation, which hearing was to be  
2 held in accordance with the provisions of the Administrative  
3 Procedure Act ("APA"), shall instead and in place thereof be  
4 submitted solely on the basis of the provisions of this  
5 Stipulation and Agreement (Stipulation).

6           2. Respondent has received, read and understands the  
7 Statement to Respondent, the Discovery Provisions of the APA and  
8 the Accusation filed by the Department of Real Estate in this  
9 proceeding.

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

22           4. This Stipulation is based on the allegations  
23 contained in the Accusation above. In the interest of expedience  
24 and economy, Respondent chooses not to contest these allegations,  
25 but to remain silent and understands that, as a result thereof,  
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1 these allegations, without being admitted or denied, will serve  
2 as a prima facie basis for the disciplinary action stipulated to  
3 herein. The Real Estate Commissioner shall not be required to  
4 provide further evidence to prove said allegations.

5 5. This Stipulation and Respondent's decision not to  
6 contest the Accusation is made for the purpose of reaching an  
7 agreed disposition of this proceeding and is expressly limited to  
8 this proceeding and any other proceeding or case in which the  
9 Department of Real Estate ("Department"), the state or federal  
10 government, or any agency of this state, another state or federal  
11 government is involved, and otherwise shall not be admissible in  
12 any other criminal or civil proceedings.

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

24 7. The Order or any subsequent Order of the Real  
25 Estate Commissioner made pursuant to this Stipulation shall not  
26 constitute an estoppel, merger or bar to any further  
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1 administrative or civil proceedings by the Department of Real  
2 Estate with respect to any matters which were not specifically  
3 alleged to be causes for Accusation in this proceeding but do  
4 constitute a bar, estoppel and merger as to any allegations  
5 actually contained in the Accusation against Respondents herein.

6 DETERMINATION OF ISSUES

7 By reason of the foregoing, it is stipulated and agreed  
8 that the following determination of issues shall be made:

9 The conduct of ALAN JAY KELLEY, as described in  
10 Paragraph 4, above, constitutes violations of Business and  
11 Professions Code ("Code") Section 10162. This conduct is a basis  
12 for discipline of Respondent's license pursuant to Code Section  
13 10177(d).

14 ORDER

15 WHEREFORE, THE FOLLOWING ORDER is hereby made:

16 All licenses and licensing rights of Respondent  
17 ALAN JAY KELLEY, under the Real Estate Law are suspended for a  
18 period of thirty days from the effective date of this Decision;  
19 provided, however, that if Respondent requests, said suspension,  
20 or a portion thereof, shall be stayed upon condition that:

21  
22 1. Pursuant to Section 10175.2 of the Business and  
23 Professions Code, Respondent pays a monetary penalty of thirty  
24 three dollars and thirty three cents (\$33.33) per day or One  
25 Thousand Dollars (\$1,000) in total.

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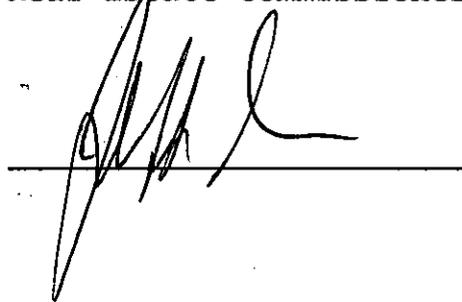


\* \* \*

The foregoing Stipulation and Agreement is hereby  
adopted as my Decision and shall become effective at 12 o'clock  
noon on April 29, 2009.

IT IS SO ORDERED 3/31, 2009.

JEFF DAVI  
Real Estate Commissioner



A handwritten signature in black ink, appearing to read 'Jeff Davi', is written over a horizontal line. The signature is stylized and cursive.

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1 IT IS HEREBY ORDERED that Respondent PACIFIC FINANCIAL  
2 LENDING CORPORATION's petition for voluntary surrender of its  
3 real estate broker license rights is accepted as of the effective  
4 date of this Order as set forth below, based upon the  
5 understanding and agreement expressed in Respondent's Declaration  
6 dated May 14, 2008, (attached as Exhibit "A" hereto).  
7 Respondent's license certificate, pocket card and any branch  
8 office license certificate shall be sent to the below listed  
9 address so that they reach the Department on or before the  
10 effective date of this Order:

11  
12 Department of Real Estate  
13 Atten: Licensing Flag Section  
14 P.O. Box 187000  
15 Sacramento, CA 95818-7000

16 This Order shall become effective at 12 o'clock noon on  
17 August 18, 2008

18 DATED: 7-18-08, 2008

19 JEFF DAVI  
20 Real Estate Commissioner

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23 BY: Barbara J. Bigby  
24 Chief Deputy Commissioner  
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"EXHIBIT A"

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of	)	No. H-34923 LA
	)	
PACIFIC FINANCIAL LENDING	)	
CORPORATION; and ALAN JAY KELLEY,	)	
individually and as designated	)	
officer of Pacific Financial	)	
Lending Corporation,	)	
	)	
Respondents.	)	
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DECLARATION

My name is Ihsan Salia and I am the President of  
PACIFIC FINANCIAL LENDING CORPORATION, which is licensed as a  
real estate broker and/or has license rights with respect to  
said license. I am authorized to sign this declaration on  
behalf of PACIFIC FINANCIAL LENDING CORPORATION.

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1           In lieu of proceeding in this matter in accordance  
2 with the provisions of the Administrative Procedures Act  
3 (Sections 11400 et seq., of the Government Code) PACIFIC  
4 FINANCIAL LENDING CORPORATION wishes to voluntarily surrender  
5 its real estate license issued by the Department of Real Estate  
6 ("Department"), pursuant to Business and Professions Code  
7 Section 10100.2.

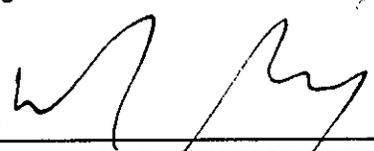
8           I understand that PACIFIC FINANCIAL LENDING  
9 CORPORATION by so voluntarily surrendering its license, can only  
10 have it reinstated in accordance with the provisions of Section  
11 11522 of the Government Code. I also understand that by so  
12 voluntarily surrendering its license rights, PACIFIC FINANCIAL  
13 LENDING CORPORATION agrees to the following:

14           The filing of this Declaration shall be deemed as its  
15 petition for voluntary surrender. It shall also be deemed to be  
16 an understanding and agreement by PACIFIC FINANCIAL LENDING  
17 CORPORATION that, it waives all rights it has to require the  
18 Commissioner to prove the allegations contained in the  
19 Accusation ("Accusation") filed in this matter at a hearing held  
20 in accordance with the provisions of the Administrative  
21 Procedures Act (Government Code Sections 11400 et seq.), and  
22 that it also waives other rights afforded to it in connection  
23 with the hearing such as the right to discovery, the right to  
24 present evidence in defense of the allegations in the Accusation  
25 and the right to cross examine witnesses. I further agree on  
26  
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1 LENDING CORPORATION that upon acceptance by the Commissioner, as  
2 evidenced by an appropriate order, all affidavits and all  
3 relevant evidence obtained by the Department in this matter  
4 prior to the Commissioner's acceptance, and all allegations  
5 contained in the Accusation filed in the Department Case No. H-  
6 34923 LA, may be considered by the Department to be true and  
7 correct for the purpose of deciding whether or not to grant  
8 reinstatement of PACIFIC FINANCIAL LENDING CORPORATION's license  
9 pursuant to Government Code Section 11522.

10 I declare under penalty of perjury under the laws of  
11 the State of California that the above is true and correct and  
12 that I am acting freely and voluntarily on behalf of AMERICAN  
13 DREAM FUNDING INC. to surrender its license and all license  
14 rights attached thereto.

15  
16 5/14/08, 2008  
17 Date and Place

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19   
20 PACIFIC FINANCIAL LENDING  
21 CORPORATION  
22 BY: IHSAN SALIA,  
23 President  
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1.

1 The Complainant, Robin Trujillo, acting in her official  
2 capacity as a Deputy Real Estate Commissioner of the State of  
3 California, makes this Accusation against PACIFIC FINANCIAL  
4 LENDING CORPORATION and ALAN JAY KELLEY.  
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2.

6 All references to the "Code" are to the California  
7 Business and Professions Code and all references to "Regulations"  
8 are to Title 10, Chapter 6, California Code of Regulations.  
9

10 LICENSE HISTORY

3.

11 A. At all times mentioned, PACIFIC FINANCIAL LENDING  
12 CORPORATION ("PFLC") was licensed or had license rights issued by  
13 the Department of Real Estate ("Department") as a real estate  
14 broker. On March 01, 2004, PFLC was originally licensed as a  
15 real estate broker.  
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18 B. At all times mentioned, ALAN JAY KELLEY ("KELLEY")  
19 was licensed or had license rights issued by the Department as a  
20 real estate broker. On September 8, 2000, KELLEY was originally  
21 licensed as a real estate salesperson. On May 3, 2005, KELLEY  
22 was originally licensed as a real estate broker. At all times  
23 mentioned, during the period of the audit report, set forth  
24 below, KELLEY was licensed as the designated officer of PFLC.

25 C. At all times material herein, PFLC was licensed by  
26 the Department as a corporate real estate broker by and through  
27 KELLEY, as the designated officer and broker responsible,

1 pursuant to Code Section 10159.2 of the Business and Professions  
2 Code for supervising the activities requiring a real estate  
3 license conducted on behalf PFLC of by PFLC's officers, agents  
4 and employees, including KELLEY.

5 BROKERAGE

6 4.

7 At all times mentioned, in the City and County of  
8 Orange, PFLC acted as a real estate broker and conducted licensed  
9 activities within the meaning of Code Section 10131(d). PFLC  
10 operated a mortgage and loan brokerage.

11 INVESTIGATION

12 5.

13 In or about April 2008, the Department conducted an  
14 investigation of the books and records of PFLC pertaining to the  
15 residential resale and mortgage loan activities described in  
16 Paragraph 4, that require a real estate license. The  
17 investigation revealed violations of the Code and the Regulations  
18 as set forth in the following paragraphs.  
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VIOLATIONS OF THE REAL ESTATE LAW

6.

In the course of activities described in Paragraphs 4 and 5, above, Respondents PFLC and KELLEY, acted in violation of the Code and the Regulations in that they:

(a) Abandoned PFLC's office located at 333 S. Anita Dr., Orange, California, without notification to the Department, in violation of Code Section 10162 and Regulation 2715; and

(b) Failed to retain all records of PFLC's activities requiring a real estate broker license during the past three years including sales and loan transaction files for PFLC's real estate clients and further including listings, real estate contracts, canceled checks, escrow and trust records, as required by Code Section 10148.

7.

The conduct of Respondents PFLC and KELLEY, described in Paragraph 7, above, violated the Code and the Regulations as set forth below:

PARAGRAPH

PROVISIONS VIOLATED

6(a)

Code Section 10162 and Regulation 2715

6(b)

Code Section 10148

1 The foregoing violations constitute cause for the suspension or  
2 revocation of the real estate license and license rights of PFLC  
3 and KELLEY under the provisions of Code Section 10148, 10165,  
4 10177(d) and/or 10177(g).

5 NEGLIGENCE

6 8.

7 The overall conduct of Respondents PFLC and KELLEY in  
8 abandoning PFLC'S office including, but not limited to,  
9 abandoning dozens of Bekins boxes containing the files of real  
10 estate clients that contained, inter alia, employment,  
11 residential and personal financial data including social security  
12 numbers, and for not retaining client files, constitutes  
13 negligence. This conduct and violation are cause for the  
14 suspension or revocation of the real estate license and license  
15 rights of said pursuant to Code Section 10177(g).

16 LACK OF SUPERVISION AND COMPLIANCE

17 9.

18 The overall conduct of Respondent KELLEY constitutes a  
19 failure on his part, as officer designated by a corporate broker  
20 licensee, to exercise the reasonable supervision and control over  
21 the licensed activities of PFLC as required by Code Section  
22 10159.2, and to keep PFLC in compliance with the Real Estate Law,  
23 and is cause for the suspension or revocation of the real estate  
24 license and license rights of KELLEY pursuant to the provisions  
25 of Code Sections 10177(d), 10177(g) and 10177(h).  
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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 the license and license rights of Respondents  
5 PACIFIC FINANCIAL LENDING CORPORATION and ALAN JAY KELLEY, under  
6 the 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 May 2008.*   
11 Deputy Real Estate Commissioner

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24 cc: Pacific Financial Lending Corporation  
25 c/o Alan Jay Kelley D.O.  
26 Robin Trujillo  
27 Sacto  
Angela Guevara