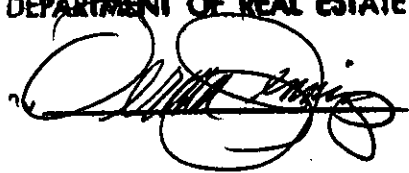


1 Department of Real Estate
2 320 West 4th Street, Suite 350
3 Los Angeles, California 90013

4 (213) 576-6913
5
6
7

FILED
JUN 19 2009
DEPARTMENT OF REAL ESTATE



8 DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 MARKUS STEVEN SHEPHERD,)
13 Respondent.)

No. H-35245 LA
L-2008 110 676

STIPULATION AND AGREEMENT

14
15 It is hereby stipulated by and between MARKUS STEVEN
16 SHEPHERD (sometimes referred to as Respondent), and the
17 Complainant, acting by and through James R. Peel, Counsel for the
18 Department of Real Estate, as follows for the purpose of settling
19 and disposing of the Accusation filed on August 27, 2008, in this
20 matter.

21 1. All issues which were to be contested and all
22 evidence which was to be presented by Complainant and Respondent
23 at a formal hearing on the Accusation, which hearing was to be
24 held in accordance with the provisions of the Administrative
25 Procedure Act (APA), shall instead and in place thereof be
26 submitted solely on the basis of the provisions of this
27 Stipulation and Agreement.

1 2. Respondent has received, read and understands the
2 Statement to Respondent, the Discovery Provisions of the APA and
3 the Accusation filed by the Department of Real Estate in this
4 proceeding.

5 3. On September 11, 2008, Respondent filed a Notice
6 of Defense pursuant to Section 11506 of the Government Code for
7 the purpose of requesting a hearing on the allegations in the
8 Accusation. Respondent hereby freely and voluntarily withdraws
9 said Notice of Defense. Respondent acknowledges that he
10 understands that by withdrawing said Notice of Defense he will
11 thereby waive his right to require the Commissioner to prove the
12 allegations in the Accusation at a contested hearing held in
13 accordance with the provisions of the APA and that he will waive
14 other rights afforded to him in connection with the hearing such
15 as the right to present evidence in defense of the allegations
16 in the Accusation and the right to cross-examine witnesses.

17 4. This Stipulation is based on the factual
18 allegations contained in the Accusation filed in this
19 proceeding. In the interest of expedience and economy,
20 Respondent chooses not to contest these factual allegations, but
21 to remain silent and understands that, as a result thereof,
22 these factual statements, will serve as a prima facie basis for
23 the disciplinary action stipulated to herein. The Real Estate
24 Commissioner shall not be required to provide further evidence
25 to prove such allegations.

26 ///

27 ///

1 5. The Stipulation herein and Respondent's decision
2 not to contest the Accusation, are made solely for the purpose
3 of reaching an agreed disposition of this proceeding and are
4 expressly limited to this proceeding and any other proceeding or
5 case in which the Department of Real Estate ("Department") or
6 another licensing agency of this state, another state or if the
7 federal government is involved, and otherwise shall not be
8 admissable in any other criminal or civil proceedings.

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

19 7. The Order or any subsequent Order of the Real
20 Estate Commissioner made pursuant to this Stipulation and
21 Agreement shall not constitute an estoppel, merger or bar to any
22 further administrative or civil proceedings by the Department of
23 Real Estate with respect to any matters which were not
24 specifically alleged to be causes for accusation in this
25 proceeding.

26 ///

27 ///

1
2 DETERMINATION OF ISSUES

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

7 The conduct of Respondent MARKUS STEVEN SHEPHERD as
8 described in Paragraph 4, above, is grounds for the discipline
9 of the real estate licenses and license rights of Respondent
10 under the provisions of Section 10177(g) of the Business and
11 Professions Code.

12 ORDER

13 Respondent MARKUS STEVEN SHEPARD is hereby publicly
14 reproved.

15
16 DATED: May 28, 2009

17
18 James R. Peel
19 JAMES R. PEEL
20 Counsel for Complainant
21 * * *

22 I have read the Stipulation and Agreement, have
23 discussed it with my attorney, and its terms are understood by
24 me and are agreeable and acceptable to me. I understand that I
25 am waiving rights given to me by the California Administrative
26 Procedure Act (including but not limited to Sections 11506,
27 11508, 11509 and 11513 of the Government Code), and I willingly,

1 intelligently and voluntarily waive those rights, including the
2 right of requiring the Commissioner to prove the allegations in
3 the Accusation at a hearing at which I would have the right to
4 cross-examine witnesses against me and to present evidence in
5 defense and mitigation of the charges.


6 Respondent can signify acceptance and approval of the
7 terms and conditions of this Stipulation and Agreement by faxing
8 a copy of the signature page, as actually signed by Respondent,
9 to the Department at the following telephone/fax number: (213)
10 576-6917. Respondent agrees, acknowledges and understands that
11 by electronically sending to the Department a fax copy of his
12 actual signature as it appears on the Stipulation and Agreement
13 that receipt of the faxed copy by the Department shall be as
14 binding on Respondent as if the Department had received the
15 original signed Stipulation and Agreement.

16 Further, if the Respondent is represented in these
17 proceedings, the Respondent's attorney can signify his agreement
18 to the terms and conditions of the Stipulation and Agreement by
19 submitting that signature via fax.

20
21 DATED: 5-21-09


MARKUS STEVEN SHEPHERD
Respondent

22
23
24 DATED: May 21, 2009


ARTHUR D. HODGE
Counsel for Respondent

25
26
27 * * *

1 intelligently and voluntarily waive those rights, including the
2 right of requiring the Commissioner to prove the allegations in
3 the Accusation at a hearing at which I would have the right to
4 cross-examine witnesses against me and to present evidence in
5 defense and mitigation of the charges.

6 Respondent can signify acceptance and approval of the
7 terms and conditions of this Stipulation and Agreement by faxing
8 a copy of the signature page, as actually signed by Respondent,
9 to the Department at the following telephone/fax number: (213)
10 576-6917. Respondent agrees, acknowledges and understands that
11 by electronically sending to the Department a fax copy of his
12 actual signature as it appears on the Stipulation and Agreement
13 that receipt of the faxed copy by the Department shall be as
14 binding on Respondent as if the Department had received the
15 original signed Stipulation and Agreement.

16 Further, if the Respondent is represented in these
17 proceedings, the Respondent's attorney can signify his agreement
18 to the terms and conditions of the Stipulation and Agreement by
19 submitting that signature via fax.

20
21 DATED: _____

22 MARKUS STEVEN SHEPHERD
Respondent

23
24 DATED: _____

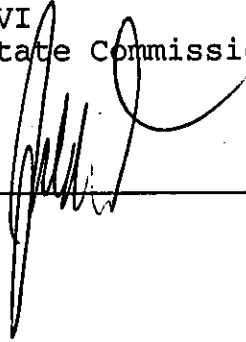
25 ARTHUR D. HODGE
Counsel for Respondent

26
27 * * *

1 The foregoing Stipulation and Agreement is hereby
2 adopted as my Decision in this matter and shall become effective
3 at 12 o'clock noon on July 9 , 2009.

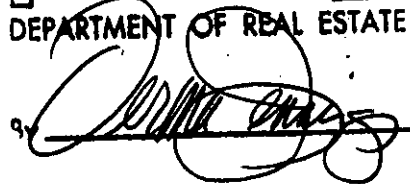
4 IT IS SO ORDERED 6-3 , 2009.

5 JEFF DAVI
6 Real Estate Commissioner

7 
8 _____
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

SAC

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 Telephone: (213) 576-6982
6 -or- (213) 576-6913 (Direct)
7

FILED
AUG 27 2008
DEPARTMENT OF REAL ESTATE


8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)	No. H-35245 LA
12)	
13)	<u>A C C U S A T I O N</u>
14)	
15)	
16)	
17)	
18)	
19)	
20)	
21)	
22)	
23)	
24)	
25)	
26)	
27)	

MARKUS STEVEN SHEPHERD,

Respondent.

18 The Complainant, Robin L. Trujillo, a Deputy Real
19 Estate Commissioner of the State of California, for cause of
20 accusation against MARKUS STEVEN SHEPHERD, alleges as follows:

21 I

22 The Complainant, Robin L. Trujillo, acting in her
23 official capacity as a Deputy Real Estate Commissioner of the
24 State of California, makes this Accusation against MARKUS STEVEN
25 SHEPHERD.

1 II

2 MARKUS STEVEN SHEPHERD (hereinafter referred to as
3 "Respondent") is presently licensed and/or has license rights
4 under the Real Estate Law (Part 1 of Division 4 of the Business
5 and Professions Code, hereinafter Code). Respondent previously
6 had his broker license suspended for 60 days-stayed for two years
7 on terms and condition as a result of the Decision in case No. H-
8 33134 LA effective June 4, 2007.

9 III

10 Emerald Mortgage Corp. was originally licensed as a
11 real estate broker on September 27, 1993. Pursuant to Code
12 Section 10159.2, Respondent MARKUS STEVEN SHEPHERD was
13 responsible for the supervision and control of the activities
14 conducted on behalf of the corporation by its officers and
15 employees as necessary to secure full compliance with the
16 provisions of the Real Estate Law, including the supervision of
17 salespersons licensed to the corporation in the performance of
18 acts for which a real estate license is required.

19 IV

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

1 V

2 In connection with Respondent's activities as a real
3 estate broker, as described above, Emerald Mortgage Corp. and
4 Respondent violated Section 10137 of the Code by employing Juan
5 Barriera and Maurizio Arnaiz, who were not licensed as a real
6 estate broker or salesperson, to solicit and negotiate loans on
7 real property for borrowers Alberto Garcia-Velazquez, Maria
8 Herrera, Mauricio Rincon, Marco Rivera, and Maria Crespo.

9 VI

10 The conduct, acts and/or omissions of Respondent MARCUS
11 STEVEN SHEPHERD, as alleged above, subject his real estate
12 licenses and license rights to suspension or revocation pursuant
13 to Sections 10137, 10177(d) and/or 10177(g) of the Code.

14 VII

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

21 VIII

22 The current business address maintained by Respondent
23 with the Department is 1008 West Avenue M-4 #4, Palmdale,
24 California. Respondent is no longer located at this address nor
25 has Respondent informed the Department of any new address nor is
26 Respondent presently maintaining any definite place of business
27


1 in the State of California which shall serve as his office for
2 the transaction of business requiring a real estate license.

3 IX

4 The acts and omissions of Respondent, as set forth
5 above, are in violation of Section 10162 of the Code and are
6 grounds for the suspension or revocation of the licenses and
7 license rights of Respondent under Code Section 10165.

8 WHEREFORE, Complainant prays that a hearing be
9 conducted on the allegations of this Accusation and that upon
10 proof thereof, a decision be rendered imposing disciplinary
11 action against all licenses and license rights of Respondent
12 MARKUS STEVEN SHEPHERD under the Real Estate Law (Part 1 of
13 Division 4 of the Business and Professions Code) and for such
14 other and further relief as may be proper under other applicable
15 provisions of law.

16 Dated at Los Angeles, California
17 this 27 day of August, 2008.

18
19
20 
21 ROBIN L. TRUJILLO
22 Deputy Real Estate Commissioner
23
24

25 cc: Marcus Steven Shepherd
26 Phillip Ihde
27 Robin L. Trujillo
Sacto.