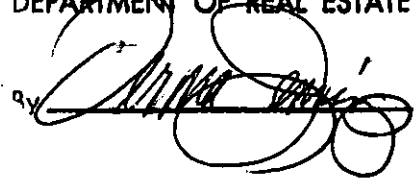


Flag

1 Department of Real Estate  
2 320 W. 4<sup>th</sup> St., Room 350  
3 Los Angeles, California 90013

4 Telephone: (213) 576-6982

**FILED**  
DEC 23 2010  
DEPARTMENT OF REAL ESTATE



5  
6  
7 BEFORE THE DEPARTMENT OF REAL ESTATE

8 STATE OF CALIFORNIA

9 \* \* \*

10	In the Matter of the Accusation of )	No. H-36112 LA
	)	
11	SOUTH POINT FINANCIAL, INC.;	)
	and <u>JOHN JAY BERUKOFF,</u>	) <u>STIPULATION AND AGREEMENT</u>
12	individually, and as	)
	designated officer of	)
13	the corporation,	)
	)	
14	)	
	)	
15	Respondents. )	

16  
17 It is hereby stipulated by and between JOHN JAY  
18 BERUKOFF (sometimes referred to as Respondent), and the  
19 Complainant, acting by and through James R. Peel, Counsel for  
20 the Department of Real Estate, as follows for the purpose of  
21 settling and disposing of the Accusation filed on July 15, 2009,  
22 in this matter.

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

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

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

7 3. On August 13, 2009, Respondent filed a Notice of  
8 Defense pursuant to Section 11506 of the Government Code for the  
9 purpose of requesting a hearing on the allegations in the  
10 Accusation. Respondent hereby freely and voluntarily withdraws  
11 said Notices of Defense. Respondent acknowledges that he  
12 understands that by withdrawing said Notices of Defense he will  
13 thereby waive his 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 APA and that he will waive  
16 other rights afforded to him in connection with the hearing,  
17 such as the right to present evidence in defense of the  
18 allegations in the Accusation and the right to cross-examine  
19 witnesses.

20 4. This Stipulation is based on the factual  
21 allegations contained in the Accusation filed in this  
22 proceeding. In the interest of expedience and economy,  
23 Respondent chooses not to contest these factual allegations, but  
24 to remain silent and understands that, as a result thereof,  
25 these factual statements, will serve as a prima facie basis for  
26 the disciplinary action stipulated to herein. The Real Estate  
27

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

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

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

21 7. The Order or any subsequent Order of the Real  
22 Estate Commissioner made pursuant to this Stipulation shall not  
23 constitute an estoppel, merger or bar to any further  
24 administrative or civil proceedings by the Department of Real  
25 Estate with respect to any conduct which was not specifically  
26 alleged to be causes for accusation in this proceeding.  
27

DETERMINATION OF ISSUES

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

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

ORDER

12  
13 All licenses and licensing rights of Respondent JOHN  
14 JAY BERUFOFF under the Real Estate Law are suspended for a  
15 period of fifteen (15) days from the effective date of this  
16 Decision; provided, however, that fifteen (15) days of said  
17 suspension shall be stayed for two (2) years upon the following  
18 terms and conditions:  
19

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

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

1 stay order and reimpose all or a portion of the stayed  
2 suspension. Should no such determination be made, the stay  
3 imposed herein shall become permanent.  
4  
5  
6

7 DATED:

Oct. 26, 2010

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

\* \* \*

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

21 Respondent can signify acceptance and approval of the  
22 terms and conditions of this Stipulation and Agreement by faxing  
23 a copy of the signature page, as actually signed by Respondent,  
24 to the Department at the following telephone/fax number:  
25 (213) 576-6917. Respondent agrees, acknowledges and understands  
26 that by electronically sending to the Department a fax copy of  
27 his or her actual signature as it appears on the Stipulation and

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

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 Berukoff)  
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

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

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.

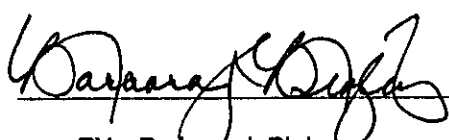
DATED: \_\_\_\_\_  
JOHN JAY BERUKOFF  
Respondent

\* \* \*

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





### 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 their 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.

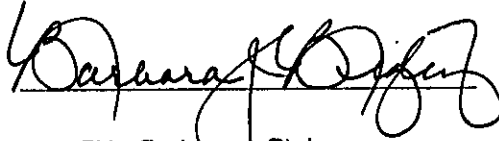
ORDER

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



1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

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.

///  
///  
///  
///

1 IV

2 At all times material herein, Respondents engaged in  
3 the business of, acted in the capacity of, advertised or assumed  
4 to act as a real estate broker in the State of California within  
5 the meaning of Sections 10131(d), 10131(e) and 10131.2 of the  
6 Code including soliciting borrowers and lenders and negotiating  
7 loans of real property and advance fee handling.

8 V

9 On or about April 8, 2009, the Department completed an  
10 examination of Respondent SOUTH POINT FINANCIAL's books and  
11 records, pertaining to the activities described in Paragraph IV  
12 above, covering a period from November 17, 2008, through January  
13 31, 2009, which examination revealed violations of the Code and  
14 of Title 10, Chapter 6, California Code of Regulations  
15 (hereinafter Regulations) as set forth below.

16 VI

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

23 VII

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

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

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

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

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

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

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

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

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

26 ///

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 license rights of Respondents  
5 SOUTH POINT FINANCIAL, INC., and JOHN JAY BERUKOFF, individually,  
6 and as designated officer of South Point Financial, Inc., under  
7 the Real Estate Law (Part 1 of Division 4 of the Business and  
8 Professions Code) and for such other and further relief as may be  
9 proper under other applicable provisions of law.

10 Dated at Los Angeles, California

11 this 1 day of July, 2009.

12  
13 

14 ROBIN L. TRUJILLO  
15 Deputy Real Estate Commissioner  
16  
17  
18  
19  
20  
21  
22  
23

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