

APR 27 2011

Amelia V. Vetrone, SBN 134612  
Department of Real Estate  
320 West 4th Street, Ste. 350  
Los Angeles, California 90013-1105

Telephone: (213) 576-6982  
Direct (213) 576-6940

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of

No. H- 37227 LA

SHARON A. COHEN, individually and  
doing business as SCFS,

A C C U S A T I O N

Respondent .

The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against SHARON A. COHEN, individually and doing business as SCFS, alleges as follows:

1.

The Complainant, Robin Trujillo, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in her official capacity.

///

///

///

1 2.

2 All references to the "Code" are to the California  
3 Business and Professions Code and all references to "Regulations"  
4 are to Title 10, Chapter 6, California Code of Regulations.

5 3.

6 Respondent SHARON A. COHEN ("COHEN") is licensed by the  
7 Department as a real estate broker. Respondent COHEN was  
8 originally licensed as a real estate salesperson on May 3, 1988,  
9 and as a real estate broker on or about May 17, 1994.

10 4.

11 Respondent maintained the licensed fictitious business  
12 SCFS from November 20, 1996, to September 29, 2010. At no time  
13 herein was Respondent COHEN's fictitious business, Mortgage  
14 Relief Services, Inc., licensed by the Department in any form.

15 5.

16 At all times herein relevant, Respondent engaged in the  
17 business of, acted in the capacity of, advertised or assumed to  
18 act as a real estate broker in the State of California within the  
19 meaning of Code Sections 10131(d) and 10131.2. Her activities  
20 included soliciting borrowers or lenders for and/or negotiating  
21 loans, collecting payments and/or performing services for  
22 borrowers or lenders in connection with loans secured by liens on  
23 real property. Her activities also included claiming, demanding,  
24 charging, receiving, collecting or contracting for the collection  
25 of advance fees within the meaning of Code Sections 10026 and  
26 10085. Respondent advertised, solicited and offered to provide  
27 loan modification services to economically distressed homeowners

1 seeking adjustments to the terms and conditions of their home  
2 loans.

3 (Audit of COHEN)

4 6.

5 On May 20, 2009, the Department completed an audit  
6 examination of the books and records of COHEN pertaining to the  
7 mortgage loan brokerage and the loan modification activities  
8 described in paragraph 5, above. The audit examination covered  
9 the period of time from June 1, 2007, to February 28, 2009. The  
10 primary purpose of the examination was to determine Respondent  
11 COHEN's compliance with the Real Estate Law. The audit  
12 examination revealed numerous violations of the Code and the  
13 Regulations as set forth in the following paragraphs, and more  
14 fully discussed in Audit Report LA 080211 and the exhibits and  
15 work papers attached to said audit report.

16 Bank and Trust Accounts

17 7.

18 At all times herein relevant, in connection with the  
19 activities described in Paragraph 5, above, COHEN accepted or  
20 received funds including funds in trust (hereinafter "trust  
21 funds") from or on behalf of actual or prospective parties,  
22 including economically distressed homeowner-borrowers as advance  
23 fees for loan modifications handled by COHEN and for mortgage  
24 loans. Thereafter COHEN made deposits and or disbursements of  
25 such trust funds. From time to time herein mentioned during the  
26 audit period, said trust funds were deposited and/or maintained  
27

1 by COHEN in the following bank account as COHEN did not maintain  
2 a trust account during the audit period:

3 Mortgage Release Services  
4 Account No. XXXXXX636 (Redacted for security)  
5 First Regional Bank  
Century City, California

6 (B/A #1 - COHEN's general bank account used for deposit of  
7 advance fees collected from homeowners for loan  
modifications)

8 Violations

9 8.

10 In the course of activities described in Paragraphs 5,  
11 and 7, above, and during the examination period described in  
12 Paragraph 6, above, Respondent COHEN, acted in violation of the  
13 Code and the Regulations in that Respondent:

14 (a) Mixed and commingled trust funds with COHEN's  
15 general funds by depositing trust funds in the form of collected  
16 advance fees solicited from homeowner-borrowers for loan  
17 modification services into B/A #1, in violation of Code Sections  
18 10145, 10176(e) and Regulation 2832;

19 (b) Failed to maintain a columnar record of the  
20 receipt and disbursement of trust funds handled through B/A #1  
21 for each homeowner-borrower for loan modifications and for each  
22 party to a mortgage loan transaction, in violation of Code  
23 Section 10145 and Regulation 2831;

24 (c) Failed to maintain a separate record for each  
25 beneficiary of trust funds collected from each homeowner-  
26 borrower, thereby failing to account for all advance fees  
27 collected for loan modification services and for mortgage loan

1 brokerage activities, in violation of Code Section 10145 and  
2 Regulation 2831.1;

3 (d) Failed to perform a monthly reconciliation of the  
4 balance of all separate homeowner-borrower records maintained  
5 pursuant to Regulation 2831.1 with the record of all trust funds  
6 received and disbursed by B/A #1, in violation of Code Section  
7 10145 and Regulation 2831.2;

8 (e) Collected advance fees within the meaning of Code  
9 Section 10026 from homeowner-borrowers seeking loan modification  
10 services without having first submitted Respondents' advance fee  
11 agreement to the Department for review and authorization, in  
12 violation of Code Section 10085 and Regulation 2970;

13 (f) Collected advance fees in connection with loan  
14 modification activities and deposited those fees into COHEN's  
15 general account B/A #1, which was not in the name of the broker,  
16 or its licensed fictitious business name, and which was not  
17 designated as a trust account, in violation of Code Sections  
18 10145, 10146, and 10176(e), and Regulation 2832;

19 (g) Received trust funds in the form of advance fees  
20 without maintaining and providing to the homeowner-borrowers an  
21 accounting identifying the name of the agent, name of the  
22 principal, services to be rendered, identification of the trust  
23 fund account into which the advance fees were deposited, the  
24 amount of the fee collected, the allocation of money disbursed  
25 from the advance fee to cover services, commission and overhead,  
26 and a list of the names and addresses of the persons to whom  
27 information pertaining to the homeowner-borrower's loan

1 requirements were submitted and the dates of the submittal, all  
2 in violation of Code Section 10146 and Regulation 2972;

3 (h) Collected advance fees in connection with loan  
4 modification activities in the name of the fictitious business  
5 Mortgage Release Services which is not a licensed fictitious  
6 business name of Respondent in violation of Code Section 10159.5,  
7 and Regulation 2731;

8 (i) Failed to retain a true and complete copy of a  
9 Department of Real Estate approved Mortgage Loan Disclosure  
10 Statement signed by the broker and borrower, and failed to  
11 disclose to the borrower the yield spread premium, lender  
12 rebates, DRE license number, and all fees paid to the broker in  
13 connection with mortgage loan brokerage activity, all in  
14 violation of Code Section 10240 and Regulation 2840; and

15 (j) Failed to retain the salesperson license  
16 certificate for one (1) employed salesperson, in violation of  
17 Code Section 10160 and Regulation 2753.

18 Disciplinary Statutes

19 9.

20 The conduct of Respondent COHEN described in Paragraph  
21 8, above, violated the Code and the Regulations as set forth  
22 below:

| 23 <u>PARAGRAPH</u> | <u>PROVISIONS VIOLATED</u>       |
|---------------------|----------------------------------|
| 24                  |                                  |
| 25 8(a)             | Code Sections 10145 and 10176(e) |
| 26                  | Regulation 2832                  |
| 27                  |                                  |

|    |      |                              |
|----|------|------------------------------|
| 1  | 8(b) | Code Section 10145 and       |
| 2  |      | Regulation 2831              |
| 3  |      |                              |
| 4  |      |                              |
| 5  | 8(c) | Code Section 10145 and       |
| 6  |      | Regulation 2831.1            |
| 7  |      |                              |
| 8  |      |                              |
| 9  | 8(d) | Code Section 10145 and       |
| 10 |      | Regulation 2831.2            |
| 11 |      |                              |
| 12 |      |                              |
| 13 | 8(e) | Code Section 10085 and       |
| 14 |      | Regulation 2970              |
| 15 |      |                              |
| 16 |      |                              |
| 17 | 8(f) | Code Sections 10145, 10146,  |
| 18 |      | 10176(e) and Regulation 2832 |
| 19 |      |                              |
| 20 |      |                              |
| 21 | 8(g) | Code Section 10146 and       |
| 22 |      | Regulation 2972              |
| 23 |      |                              |
| 24 |      |                              |
| 25 | 8(h) | Code Sections 10159.5 and    |
| 26 |      | Regulation 2731              |
| 27 |      |                              |

Code Section 10240 and  
Regulation 2840

Code Section 10160 and  
Regulation 2753

The foregoing violations constitute cause for discipline of the real estate license and license rights of Respondent COHEN, as aforesaid, under the provisions of Code Sections 10176(e), 10177(d), and/or 10177(g).

///

///

///

///

///

///

/ / /

/ / /

/// /// ///

/ / /

///

/ / /

/ / /

/ / /

/ / /

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 Respondent  
5 SHARON A. COHEN under the Real Estate Law and for such other and  
6 further relief as may be proper under other applicable provisions  
7 of law including for costs of audit.

8 Dated at Los Angeles, California, April 26, 2011.

10   
11 \_\_\_\_\_  
12 Robin Trujillo  
13 Deputy Real Estate Commissioner  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

25 cc: Sharon A. Cohen  
26 Robin Trujillo  
27 Sacto  
Audits - Manijeh Khazrai