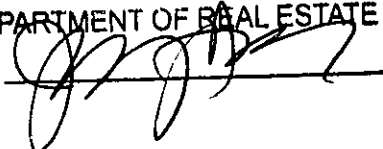


7206  
1 Department of Real Estate  
320 West 4th Street, Suite 350  
2 Los Angeles, CA 90013-1105

3 Telephone: (213) 576-6982

**FILED**

JAN 26 2012

DEPARTMENT OF REAL ESTATE  
BY: 

8  
9 BEFORE THE DEPARTMENT OF REAL ESTATE  
10 STATE OF CALIFORNIA

11 \* \* \*

11 In the Matter of the Accusation of ) NO. H-37270 LA  
12 )  
12 PAMELA LEE CUMMINGS, ) L-2011060772  
13 )  
14 ) STIPULATION AND AGREEMENT  
15 Respondent. )

16  
17 It is hereby stipulated by and between PAMELA LEE  
18 CUMMINGS (sometimes referred to as "Respondent"), and the  
19 Complainant, acting by and through Cheryl Keily, Counsel for the  
20 Department of Real Estate, as follows for the purpose of  
21 settling and disposing of the Accusation filed on May 12, 2011,  
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 was to be  
26 held in accordance with the provisions of the Administrative  
27 Procedure Act (APA), shall instead and in place thereof be

1 submitted solely on the basis of the provisions of this  
2 Stipulation and Agreement.

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

7           3. On June 8, 2011, Respondent filed a Notice of  
8 Defense, pursuant to Section 11506 of the Government Code for  
9 the purpose of requesting a hearing on the allegations in the  
10 Accusation. Respondent hereby freely and voluntarily withdraws  
11 said Notice of Defense. Respondent acknowledges that she  
12 understands that by withdrawing said Notice of Defense she will  
13 thereby waive her 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 she will  
16 waive other rights afforded to her in connection with the  
17 hearing, 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. In the interest of  
22 expedience and economy, Respondent chooses not to contest these  
23 allegations, but to remain silent and understand that, as a  
24 result thereof, these factual allegations, without being  
25 admitted or denied, will serve as a prima facie basis for the  
26 disciplinary action stipulated to herein. The Real Estate  
27

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

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

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

22           7. The Order or any subsequent Order of the Real  
23 Estate Commissioner made pursuant to this Stipulation and  
24 Agreement shall not constitute an estoppel, merger or bar to any  
25 further administrative or civil proceedings by the Department of  
26 Real Estate with respect to any matters which were not  
27

1 specifically alleged to be causes for accusation in this  
2 proceeding.

3 DETERMINATION OF ISSUES

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

8 The Conduct of Respondent is in violation of Business  
9 and Professions Code ("Code") Sections 10085 and 10145 and  
10 Sections 2970 and 2831 of Title 10, Chapter 6, California Code  
11 of Regulations, and is grounds for the suspension or revocation  
12 of all of the real estate licenses and license rights of  
13 Respondent under the provisions of Code Section 10177(g).

14 ORDER

15 WHEREFORE, THE FOLLOWING ORDER is hereby made:

16 1. ALL licenses and licensing rights of Respondent  
17 PAMELA LEE CUMMINGS, under the Real Estate Law are suspended for  
18 a period of sixty (60) days from the effective date of this  
19 Decision; provided, however, that the entire period of said  
20 suspension shall be stayed for one (1) year upon the following  
21 terms and conditions:

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

25 B. That no final subsequent determination be made,  
26 after hearing or upon stipulation, that cause for disciplinary  
27 action occurred within one (1) year of the effective date of

1 this Decision. Should such a determination be made, the  
2 Commissioner may, in his discretion, vacate and set aside the  
3 stay order and reimpose all or a portion of the stayed  
4 suspension. Should no such determination be made, the stay  
5 imposed herein shall become permanent.

6 2. Respondent shall, within six months from the  
7 effective date of this Decision, take and pass the Professional  
8 Responsibility Examination administered by the Department  
9 including the payment of the appropriate examination fee. If  
10 Respondent fails to satisfy this condition, the Commissioner may  
11 order suspension of Respondent's license until Respondent passes  
12 the examination.

13 3. Pursuant to Section 10148 of the Code, Respondent  
14 PAMELA LEE CUMMINGS shall pay the Commissioner's reasonable cost  
15 for (a) the audit which led to the disciplinary action, and (b)  
16 a subsequent audit to determine if Respondent has corrected the  
17 trust fund violations found in the Determination of Issues. In  
18 calculating the amount of the Commissioner's reasonable cost, the  
19 Commissioner may use the estimated average hourly salary for all  
20 persons performing audits of real estate brokers, and shall  
21 include an allocation for travel time to and from the auditor's  
22 place of work. Respondents shall pay such cost within 60 days  
23 of receiving an invoice from the Commissioner detailing the  
24 activities performed during the audit and the amount of time  
25 spent performing those activities. The Commissioner may suspend  
26 the license of Respondent pending a hearing held in accordance  
27 with Section 11500, et seq., of the Government Code, if payment

1 is not timely made as provided for herein, or as provided for in  
2 a subsequent agreement between Respondent and the Commissioner.  
3 The suspension shall remain in effect until payment is made in  
4 full or until Respondent enters into an agreement satisfactory  
5 to the Commissioner to provide for payment, or until a decision  
6 providing otherwise is adopted following a hearing held pursuant  
7 to this condition.

8  
9 DATED:

December 15, 2011

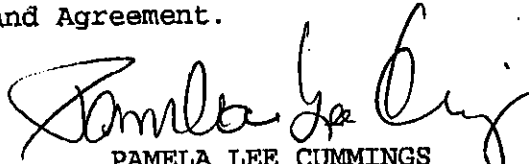
Cheryl D. Kelly  
CHERYL D. KELLY, Counsel  
DEPARTMENT OF REAL ESTATE

11 \* \* \*

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

23 Respondent can signify acceptance and approval of the  
24 terms and conditions of this Stipulation and Agreement by faxing  
25 a copy of its signature page, as actually signed by Respondent,  
26 to the Department at the following telephone/fax number (213)  
27 576-6917. Respondent agrees, acknowledges, and understands that

1 by electronically sending to the Department a fax copy of his  
2 actual signature as it appears on the Stipulation and Agreement,  
3 that receipt of the faxed copy by the Department shall be as  
4 binding on Respondent as if the Department had received the  
5 original signed Stipulation and Agreement.

6  
7 

8 PAMELA LEE CUMMINGS  
9 Respondent

12/15/2011

10 \* \* \*

11 The foregoing Stipulation and Agreement is hereby  
12 adopted as my Decision in this matter and shall become effective  
13 at 12 o'clock noon on , 20\_\_.

14 IT IS SO ORDERED

15 , 20\_\_.

16 BARBARA J. BIGBY  
17 Acting Real Estate Commissioner  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

1 by electronically sending to the Department a fax copy of his  
2 actual signature as it appears on the Stipulation and Agreement,  
3 that receipt of the faxed copy by the Department shall be as  
4 binding on Respondent as if the Department had received the  
5 original signed Stipulation and Agreement.

6  
7 DATED: \_\_\_\_\_

PAMELA LEE CUMMINGS  
Respondent

9 \* \* \*

10 The foregoing Stipulation and Agreement is hereby  
11 adopted as my Decision in this matter and shall become effective  
12 at 12 o'clock noon on FEB 15 2012, 20\_\_.

13 IT IS SO ORDERED 1/19, 2012.

14  
15   
16 BARBARA J. BIGBY  
17 Acting Real Estate Commissioner  
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26  
27



1 CHERYL D. KEILY, SBN# 94008  
2 Department of Real Estate  
3 320 West Fourth Street, Ste. 350  
4 Los Angeles, California 90013

5 Telephone: (213) 576-6982  
6 (Direct) (213) 576-6905

**FILED**

MAY 12 2011

DEPARTMENT OF REAL ESTATE  
BY: 

9 DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 \* \* \* \* \*

12 In the Matter of the Accusation

No. H-37270 LA

13 PAMELA LEE CUMMINGS, )

14 ) ACCUSATION

15 )  
16 Respondent. )  
\_\_\_\_\_ )

17  
18 The Complainant, Robin Trujillo, a Deputy Real Estate  
19 Commissioner of the State of California, for cause of Accusation  
20 against PAMELA LEE CUMMINGS ("Respondent") is informed and  
21 alleges as follows:

22 1.

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

26 ///

27 ///

2.

Respondent is presently licensed and/or has license rights under the under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code, hereinafter "Code") as a real estate broker.

3.

At all times mentioned herein Respondent engaged in the business of soliciting borrowers and lenders and negotiating the terms of loans secured by real property between borrowers and third party lenders for or in expectation of compensation, within the meaning of Code Section 10131(d).

4.

At all times mentioned herein Respondent engaged in the business of advance fee brokerage within the definition of Code Section 10131.2 by claiming, demanding, charging, receiving, collecting or contracting for the collection of an advance fee, within the meaning of Code Section 10026, in connection with any employment undertaken to obtain a loan or loans.

FIRST CAUSE OF ACCUSATION

(Advance Fee Violation pursuant to Section 10085 of the Code)

5.

Respondent engaged in advance fee activities including, but not limited to, the following loan activities with respect to loans which were secured by liens on real property:

a. On or about June 5, 2009, Lyndon James Kurt paid an advance fee of \$500 to Respondent doing business under the

1 unauthorized fictitious business name "Sherwood Financial." The  
2 advance fee was collected pursuant to the provisions of an  
3 agreement pertaining to loan solicitation, negotiation, and  
4 modification services to be provided by Respondent with respect  
5 to a loan secured by the real property located at 16655 Grand  
6 Avenue, Bellflower, California 90706.

7 6.

8 Respondent collected the advance fee described in  
9 Paragraph 5, above, pursuant to the provisions of an agreement  
10 which constitutes an advance fee agreement within the meaning of  
11 Code Sections 10026 and 10085.

12 7.

13 Respondent failed to submit the agreement referred to  
14 in Paragraphs 5 and 6, above, to the Commissioner ten days before  
15 using it in violation of Code Section 10085 and Section 2970,  
16 Title 10, Chapter 6, Code of Regulations ("Regulations").

17 8.

18 The conduct, acts and/or omissions of Respondent, as  
19 set forth above, are cause for the suspension or revocation of  
20 the licenses and license rights of Respondent pursuant to Code  
21 Sections 10085, 10177(d) and/or 10177(g).

22  
23 SECOND CAUSE OF ACCUSATION  
24 (Audit Violations)

25 9.

26 Complainant hereby incorporates by reference the  
27 allegations set forth in Paragraphs 1 through 8, above.

10.

1           On or about April 21, 2010, the Department completed an  
2 audit examination of the books and records of Respondent  
3 pertaining to the real estate activities described in Paragraphs  
4 5 and 6, above, covering a period from May 24, 2008, to March 31,  
5 2010.  
6

11.

7           At all times mentioned herein, and in connection with  
8 the activities described in Paragraphs 5 and 6, above, Respondent  
9 accepted or received funds, including advance fees to be held in  
10 trust from or on behalf of actual or prospective parties to  
11 transactions handled by Respondent, and thereafter made deposits  
12 and/or disbursements of such funds.  
13  
14

12.

15           The audit examination revealed violations of the Code  
16 and the Regulations, as set forth in the following paragraphs,  
17 and more fully discussed in Audit Report No. LA 090199 along with  
18 the exhibits and work papers attached to the audit report:  
19

20           (a) Respondent failed to establish and maintain a trust  
21 account at a bank or other recognized financial institution in  
22 the name of the broker for deposit of advance fees collected by  
23 Respondent, in violation of Code Section 10146.

24           (b) Failed to maintain a complete, accurate and  
25 continuous control record in the form of a columnar record in  
26 chronological order of all trust funds received, deposited and  
27 disbursed in violation of Code Section 10145 and Section 2831 of

the Regulations.

(c) Failed to perform a monthly reconciliation of the balance of all separate beneficiary or transaction records maintained pursuant to Section 2831.1 of the Regulations with the record of all trust funds received and disbursed in connection with loan modification in violation of Code Section 10145 and Section 2831.2 of the Regulations.

(d) Failed to deposit the advance fees described in Paragraph 5 and 6, above, into a real estate broker trust account in violation of Code Section 10146.

DISCIPLINE STATUTES AND REGULATIONS

13.

The conduct of Respondent described in Paragraph 12, above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
11(a)	Code Section 10146
11(b)	Code Section 10145 and Section 2831.2 of the Regulations
11(c)	Code Section 10145 and Section 2831.2 of the Regulations
11(d)	Code Section 10146

14.

The foregoing violations, as set forth hereinabove, constitute cause for the suspension or revocation of the real estate licenses and license rights of Respondent under the

1 provisions of Code Sections 10177(d) for violation of the Real  
2 Estate Law and/or 10177(g) for negligence or incompetence.

3 THIRD CAUSE OF ACCUSATION  
4 (Use of Unauthorized Fictitious Business Name)

5 15.

6 Complainant hereby incorporates by reference the  
7 allegations set forth in Paragraphs 1 through 14, above.

8 16.

9 Use of a fictitious business name for activities  
10 requiring the issuance of a real estate license requires the  
11 filing of an application for the use of such name with the  
12 Department of Real Estate in accordance with the provisions of  
13 Code Section 10159.5.

14 17.

15 Respondent acted without Department authorization in  
16 using the fictitious business name "Sherwood Financial" to engage  
17 in activities requiring the issuance of a real estate license.

18 18.

19 The conduct, acts and/or omissions of Respondent, as  
20 set forth in Paragraph 17, above, violate Code Section 10159.5  
21 and Section 2731 of the Regulations, and are cause for the  
22 suspension or revocation of the licenses and license rights of  
23 Respondent pursuant to Code Sections 10177(d) and/or 10177(g).  
24

25 ///

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 the licenses and license rights of Respondent  
5 PAMELA LEE CUMMINGS under the Real Estate Law (Part 1 of Division  
6 4 of the Business and Professions Code), and for such other and  
7 further relief as may be proper under other applicable provisions  
8 of law.

9 Dated at Los Angeles, California

10 this 10 day of May, 2011.  
11

12   
13 \_\_\_\_\_  
14 Robin Trujillo  
15 Deputy Real Estate Commissioner  
16  
17  
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20  
21  
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26 cc: PAMELA LEE CUMMINGS  
27 Robin Trujillo  
Sacto.