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DEPT. OF REAL ESTATE

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-41135 LA
)	
W E FINANCIAL INC, doing business as)	<u>STIPULATION AND AGREEMENT</u>
Beach Cities Escrows, JJC Financial, and)	
RE/MAX Select One, STUART JOHN)	
THOMAS, individually and as designated)	
officer of W E Financial Inc, and)	
KIMBER LEE WUERFEL.)	
)	
Respondents.)	
)	

It is hereby stipulated by and between Respondent W E FINANCIAL INC, Respondent STUART JOHN THOMAS, individually and as designated officer of W E Financial Inc, and Respondent KIMBER LEE WUERFEL ("Respondents"), represented by Laura A. Reiland, and the Complainant, acting by and through Steve Chu, Counsel for the Department of Real Estate ("Department"), as follows for the purpose of settling and disposing of the Accusation filed on August 13, 2018, in this matter:

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1 1. All issues which were to be contested and all evidence which was to be
2 presented by Complainant and Respondents at a formal hearing on the Accusation, which
3 hearing was to be held in accordance with the provisions of the Administrative Procedure Act
4 (“APA”), shall instead and in place thereof be submitted solely on the basis of the provisions of
5 this Stipulation and Agreement (“Stipulation”).

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

9 3. On August 24, 2018, Respondents filed a Notice of Defense pursuant to
10 section 11506 of the Government Code for the purpose of requesting a hearing on the
11 allegations in the Accusation. Respondents hereby freely and voluntarily withdraw said Notice
12 of Defense. Respondents acknowledge that Respondents understand that by withdrawing said
13 Notice of Defense, Respondents will thereby waive Respondents’ right to require the Real
14 Estate Commissioner (“Commissioner”) to prove the allegations in the Accusation at a
15 contested hearing held in accordance with the provisions of the APA and that Respondents will
16 waive other rights afforded to Respondents in connection with the hearing such as the right to
17 present evidence in defense of the allegations in the Accusation and the right to cross-examine
18 witnesses.

19 4. Respondents, pursuant to the limitations set forth below, hereby admit
20 that the factual allegations in the Accusation filed in this proceeding are true and correct and the
21 Commissioner shall not be required to provide further evidence to prove such allegations.

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1 5. It is understood by the parties that the Real Estate Commissioner may
 2 adopt the Stipulation as his Decision in this matter, thereby imposing the penalty and sanctions
 3 on Respondents’ real estate licenses and license rights as set forth in the below Order. In the
 4 event that the Commissioner in his discretion does not adopt the Stipulation, it shall be void
 5 and of no effect, and Respondents shall retain the right to a hearing and proceeding on the
 6 Accusation under all the provisions of the APA and shall not be bound by any admission or
 7 waiver made herein.

8 6. The Order or any subsequent Order of the Commissioner made pursuant
 9 to this Stipulation shall not constitute an estoppel, merger or bar to any further administrative or
 10 civil proceedings by the Department with respect to any matters which were not specifically
 11 alleged to be causes for the Accusation in this proceeding.

12 DETERMINATION OF ISSUES

13 By reason of the foregoing stipulations, admissions, and waivers, and solely for
 14 the purpose of settlement of the pending Accusation without a hearing, it is stipulated and
 15 agreed that the following Determination of Issues shall be made:

16 I.

17 The conduct, acts, and/or omissions of Respondent W E FINANCIAL INC, as
 18 described in the Accusation, constitute cause for the suspension or revocation of all real estate
 19 licenses and license rights of Respondent W E FINANCIAL INC under California Business and
 20 Professions Code (“Code”) sections 10177(d) and 10177(g) for violation of Code
 21 sections 10141.6(a), 10145, and 10176(e) and Title 10, Chapter 6, California Code of
 22 Regulations (“Regulations”) sections 2832, 2834, and 2835.

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1 II.

2 The conduct, acts, and/or omissions of Respondent STUART JOHN THOMAS,
3 as described in the Accusation, constitute cause for the suspension or revocation of all real
4 estate licenses and license rights of Respondent STUART JOHN THOMAS under Code
5 sections 10177(d), 10177(g), and 10177(h) for violation of Code section 10159.2 and
6 Regulations section 2725.

7 III.

8 The conduct, acts, and/or omissions of Respondent KIMBER LEE WUERFEL,
9 as described in the Accusation, constitute cause for the suspension or revocation of all real
10 estate licenses and license rights of Respondent KIMBER LEE WUERFEL under Code
11 sections 10177(d) and 10177(g) for violation of Code sections 10159.5 and 10159.7(a)(5)(B)
12 and Regulations section 2731.

13 ORDER

14 I.

15 All licenses and licensing rights of Respondent W E FINANCIAL INC under the
16 Real Estate Law are suspended for a period of sixty (60) days from the effective date of this
17 Decision and Order; provided, however, that:

18 1. Sixty (60) days of said suspension shall be stayed for two (2) years upon
19 the following terms and conditions:

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

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1 b. No final determination be made after hearing or upon stipulation
2 that cause for disciplinary action against any of the real estate
3 licenses or license rights of Respondent occurred within two (2) years
4 from the effective date of this Decision and Order. Should such a
5 determination be made, the Commissioner may, in his discretion,
6 vacate and set aside the stay order and reimpose all or a portion of the
7 stayed suspension. Should no such determination be made, the stay
8 imposed herein shall become permanent.

9 2. All licenses and licensing rights of Respondent W E FINANCIAL INC
10 are indefinitely suspended unless or until Respondent W E FINANCIAL INC pays, jointly and
11 severally with Respondent STUART JOHN THOMAS and Respondent KIMBER LEE
12 WUERFEL, the sum of \$5,784.20 for the Commissioner's cost of the audit which led to this
13 disciplinary action pursuant to Code section 10148. Said payment shall be in the form of a
14 cashier's check made payable to the Department of Real Estate. The audit cost must be
15 delivered to the Department of Real Estate, Flag Section at P.O. Box 137013,
16 Sacramento, CA 95813-7013, prior to the effective date of this Decision and Order.

17 3. All licenses and licensing rights of Respondent W E FINANCIAL INC
18 are indefinitely suspended unless or until Respondent W E FINANCIAL INC pays, jointly and
19 severally with Respondent STUART JOHN THOMAS and Respondent KIMBER LEE
20 WUERFEL, the sum of \$2,640.80 for the Commissioner's reasonable cost of the investigation
21 and enforcement which led to this disciplinary action. Said payment shall be in the form of a
22 cashier's check made payable to the Department of Real Estate. The investigative and
23 enforcement costs must be delivered to the Department of Real Estate, Flag Section at
24 P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this Decision and
25 Order.

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1 4. Respondent W E FINANCIAL INC shall pay the Commissioner's
2 reasonable cost, not to exceed \$7,230.25, for any subsequent audit to determine if Respondent
3 W E FINANCIAL INC has corrected the violations found in the Determination of Issues. In
4 calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the
5 estimated average hourly salary for all persons performing audits of real estate brokers, and
6 shall include an allocation for travel time to and from the auditor's place of work. Respondent
7 W E FINANCIAL INC shall pay such cost within sixty (60) days of receiving an invoice
8 therefore from the Commissioner. If Respondent W E FINANCIAL INC fails to satisfy this
9 condition in a timely manner as provided for herein, Respondent W E FINANCIAL INC'S real
10 estate licenses shall automatically be suspended until payment is made in full, or until a
11 decision providing otherwise is adopted following a hearing held pursuant to this condition.

12 II.

13 All licenses and licensing rights of Respondent STUART JOHN THOMAS
14 under the Real Estate Law are suspended for a period of sixty (60) days from the effective date
15 of this Decision and Order; provided, however, that:

16 1. Sixty (60) days of said suspension shall be stayed for two (2) years upon
17 the following terms and conditions:

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

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1 b. No final determination be made after hearing or upon stipulation
2 that cause for disciplinary action against any of the real estate
3 licenses or license rights of Respondent occurred within two (2) years
4 from the effective date of this Decision and Order. Should such a
5 determination be made, the Commissioner may, in his discretion,
6 vacate and set aside the stay order and reimpose all or a portion of the
7 stayed suspension. Should no such determination be made, the stay
8 imposed herein shall become permanent.

9 2. All licenses and licensing rights of Respondent are indefinitely
10 suspended unless or until Respondent provides proof satisfactory to the Commissioner of
11 having taken and successfully completed the continuing education course on trust fund
12 accounting and handling specified in Code section 10170.5(a)(3). Proof of satisfaction of this
13 requirement includes evidence that Respondent has successfully completed the trust fund
14 accounting and handling continuing education course within one hundred twenty (120) days
15 prior to the effective date of this Decision and Order. Proof of completion of the trust fund
16 accounting and handling course must be delivered to the Department of Real Estate, Flag
17 Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this
18 Decision and Order.

19 3. Respondent shall, within six (6) months from the effective date of this
20 Decision and Order, take and pass the Professional Responsibility Examination administered by
21 the Department including the payment of the appropriate examination fee. If Respondent fails
22 to satisfy this condition, all of Respondent's real estate licenses and license rights shall
23 automatically be suspended until Respondent passes the examination.

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1 4. Respondent shall, within nine (9) months from the effective date of this
2 Decision and Order, present evidence satisfactory to the Commissioner that Respondent has,
3 since the most recent issuance of an original or renewal real estate license, taken and
4 successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the
5 Real Estate Law for renewal of a real estate license. If Respondent fails to satisfy this
6 condition, all of Respondent's real estate licenses and license rights shall automatically be
7 suspended until Respondent presents evidence satisfactory to the Commissioner of having taken
8 and successfully completed the continuing education requirements. Proof of completion of the
9 continuing education courses must be delivered to the Department of Real Estate, Flag Section
10 at P.O. Box 137013, Sacramento, CA 95813-7013.

11 5. All licenses and licensing rights of Respondent STUART JOHN
12 THOMAS are indefinitely suspended unless or until Respondent STUART JOHN THOMAS
13 pays, jointly and severally with Respondent W E FINANCIAL INC and Respondent KIMBER
14 LEE WUERFEL, the sum of \$5,784.20 for the Commissioner's cost of the audit which led to
15 this disciplinary action pursuant to Code section 10148. Said payment shall be in the form of a
16 cashier's check made payable to the Department of Real Estate. The audit cost must be
17 delivered to the Department of Real Estate, Flag Section at P.O. Box 137013,
18 Sacramento, CA 95813-7013, prior to the effective date of this Decision and Order.

19 6. All licenses and licensing rights of Respondent STUART JOHN
20 THOMAS are indefinitely suspended unless or until Respondent STUART JOHN THOMAS
21 pays, jointly and severally with Respondent W E FINANCIAL INC and Respondent KIMBER
22 LEE WUERFEL, the sum of \$2,640.80 for the Commissioner's reasonable cost of the
23 investigation and enforcement which led to this disciplinary action. Said payment shall be in
24 the form of a cashier's check made payable to the Department of Real Estate. The investigative
25 and enforcement costs must be delivered to the Department of Real Estate, Flag Section at
26 P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this Decision and
27 Order.

1 III.

2 All licenses and licensing rights of Respondent KIMBER LEE WUERFEL
3 under the Real Estate Law are suspended for a period of sixty (60) days from the effective date
4 of this Decision and Order; provided, however, that:

5 1. Sixty (60) days of said suspension shall be stayed for two (2) years upon
6 the following terms and conditions:

7 a. Respondent shall obey all laws, rules, and regulations governing
8 the rights, duties, and responsibilities of a real estate licensee in the
9 State of California.

10 b. No final determination be made after hearing or upon stipulation
11 that cause for disciplinary action against any of the real estate
12 licenses or license rights of Respondent occurred within two (2) years
13 from the effective date of this Decision and Order. Should such a
14 determination be made, the Commissioner may, in his discretion,
15 vacate and set aside the stay order and reimpose all or a portion of the
16 stayed suspension. Should no such determination be made, the stay
17 imposed herein shall become permanent.

18 2. Respondent shall, within six (6) months from the effective date of this
19 Decision and Order, take and pass the Professional Responsibility Examination administered by
20 the Department including the payment of the appropriate examination fee. If Respondent fails
21 to satisfy this condition, all of Respondent's real estate licenses and license rights shall
22 automatically be suspended until Respondent passes the examination.

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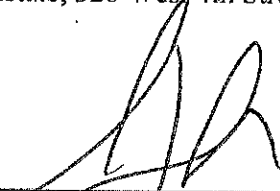
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We have read the Stipulation and Agreement. We understand that we are waiving rights given to us by the California Administrative Procedure Act, (including but not limited to sections 11521 and 11523 of the Government Code), and we willingly, intelligently, and voluntarily waive those rights, including the right to seek reconsideration and the right to seek judicial review of the Commissioner's Decision and Order by way of a writ of mandate.

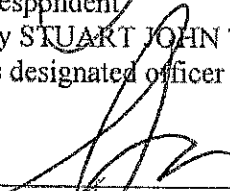
We agree, acknowledge, and understand that we cannot rescind or amend this Stipulation and Agreement.

We can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by mailing the original signed Stipulation and Agreement by March 11, 2019, to: Steve Chu, Department of Real Estate, 320 West 4th Street, Suite 350, Los Angeles, California 90013-1105.

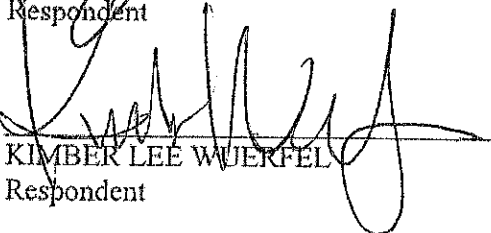
DATED: 2/19/19


W E FINANCIAL INC
Respondent
By STUART JOHN THOMAS,
as designated officer of W E Financial Inc

DATED: 2/19/19


STUART JOHN THOMAS
Respondent

DATED: 2-19-19


KIMBER LEE WUERFEL
Respondent

DATED: _____

Laura A. Reiland
Counsel for Respondents
Approved as to Form

1 * * *

2 We have read the Stipulation and Agreement. We understand that we are
3 waiving rights given to us by the California Administrative Procedure Act, (including but not
4 limited to sections 11521 and 11523 of the Government Code), and we willingly, intelligently,
5 and voluntarily waive those rights, including the right to seek reconsideration and the right to
6 seek judicial review of the Commissioner's Decision and Order by way of a writ of mandate.

7 We agree, acknowledge, and understand that we cannot rescind or amend this
8 Stipulation and Agreement.

9 We can signify acceptance and approval of the terms and conditions of this
10 Stipulation and Agreement by mailing the original signed Stipulation and Agreement by
11 March 11, 2019, to: Steve Chu, Department of Real Estate, 320 West 4th Street, Suite 350,
12 Los Angeles, California 90013-1105.

13
14 DATED: _____

15 _____
16 W E FINANCIAL INC
17 Respondent
18 By STUART JOHN THOMAS,
19 as designated officer of W E Financial Inc

20
21 DATED: _____

22 _____
23 STUART JOHN THOMAS
24 Respondent

25 DATED: _____

26 _____
27 KIMBER LEE WUERFEL
Respondent

28 DATED: 2.19.19

29 _____
30 *Laura A. Reiland*
31 Laura A. Reiland
32 Counsel for Respondents
33 Approved as to Form

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The foregoing Stipulation and Agreement is hereby adopted by me as my
Decision in this matter as to Respondent W E FINANCIAL INC, Respondent STUART JOHN
THOMAS, and Respondent KIMBER LEE WUERFEL, and shall become effective at
12 o'clock noon on April 11, 2019.

IT IS SO ORDERED March 7, 2019

DANIEL J. SANDRI
ACTING REAL ESTATE COMMISSIONER

