

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187000
3 Sacramento, CA 95818-7000
4 Telephone: (916) 227-0789

FILED
APR 24 2002

DEPARTMENT OF REAL ESTATE

By *Laurie G. Zain*

10 BEFORE THE DEPARTMENT OF REAL ESTATE
11 STATE OF CALIFORNIA

12 * * *

13 In the Matter of the Accusation of) DRE No. H-2681 SD
14 FEDERAL HOME LOANS CORPORATION)
15 and EVANGELINE MICHAEL SALAS,) STIPULATION AND AGREEMENT
16 Respondents.)
17)

18 It is hereby stipulated by and between Respondents
19 FEDERAL HOME LOANS CORPORATION (herein "FEDERAL"), and EVANGELINE
20 MICHAEL SALAS (herein "SALAS"), individually and by and through
21 Robert E. Muir, Esq., attorney of record herein for Respondents,
22 and the Complainant, acting by and through James L. Beaver,
23 Counsel for the Department of Real Estate (herein "the
24 Department"), as follows for the purpose of settling and
25 disposing of the Accusation filed on December 6, 2001 in this
26 matter (herein "the Accusation"):

27 DRE No. H-2681 SD

FEDERAL HOME LOANS CORPORATION
and EVANGELINE MICHAEL SALAS

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

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

11 3. On December 13, 2001, Respondents filed a Notice
12 of Defense pursuant to Section 11505 of the Government Code for
13 the purpose of requesting a hearing on the allegations in the
14 Accusation. Respondents each hereby freely and voluntarily
15 withdraw said Notice of Defense. Respondents acknowledge that
16 Respondents understand that by withdrawing said Notice of Defense
17 Respondents will thereby waive Respondents' right to require the
18 Real Estate Commissioner (herein "the Commissioner") to prove the
19 allegations in the Accusation at a contested hearing held in
20 accordance with the provisions of the APA and that Respondents
21 will waive other rights afforded to Respondents in connection
22 with the hearing such as the right to present evidence in defense
23 of the allegations in the Accusation and the right to cross-
24 examine witnesses.

25 4. This Stipulation is based on the factual
26 allegations contained in the Accusation. In the interests of

27 DRE No. H-2681 SD

FEDERAL HOME LOANS CORPORATION
and EVANGELINE MICHAEL SALAS

1 expediency and economy, Respondents choose not to contest these
2 allegations, but to remain silent and understand that, as a
3 result thereof, these factual allegations, without being admitted
4 or denied, will serve as a prima facie basis for the disciplinary
5 action stipulated to herein. The Real Estate Commissioner shall
6 not be required to provide further evidence to prove said factual
7 allegations.

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

18 6. This Stipulation and Agreement shall not
19 constitute an estoppel, merger or bar to any further
20 administrative or civil proceedings by the Department with
21 respect to any matters which were not specifically alleged to be
22 causes for accusation in this proceeding.

23 7. Respondents understand that by agreeing to this
24 Stipulation and Agreement, Respondents jointly and severally
25 agree to pay, pursuant to Section 10148 of the California
26 Business and Professions Code, the cost of the audit which

27 DRE No. H-2681 SD

FEDERAL HOME LOANS CORPORATION
and EVANGELINE MICHAEL SALAS

1 resulted in the determination that Respondents committed the
2 trust fund violation(s) found in paragraph I, below, of the
3 Determination of Issues. The amount of said costs is \$10,736.53.

4 8. Respondents further understand that by agreeing to
5 this Stipulation and Agreement in Settlement, the findings set
6 forth below in the Determination Of Issues become final, and that
7 the Commissioner may charge said Respondents, jointly and
8 severally, for the costs of any audit conducted pursuant to
9 Section 10148 of the California Business and Professions Code to
10 determine if the violations have been corrected. The maximum
11 costs of said audit shall not exceed \$10,736.53.

12 DETERMINATION OF ISSUES

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

17 I

18 The acts and omissions of Respondents FEDERAL and SALAS
19 as described in the Accusation are grounds for the suspension or
20 revocation of the licenses and license rights of Respondents
21 FEDERAL and SALAS under the following provisions of the California
22 Business and Professions Code (herein "the Code") and/or Chapter
23 6, Title 10, California Code of Regulations (herein "the
24 Regulations"):

25 (a) as to Paragraph IX(b) under Section 2831.1 of the
26 Regulations in conjunction with Sections 10145 and 10177(d) of the

27 DRE No. H-2681 SD

FEDERAL HOME LOANS CORPORATION
and EVANGELINE MICHAEL SALAS

1 Code;

2 (b) as to Paragraph IX(c) under Section 2831.2 of the
3 Regulations in conjunction with Sections 10145 and 10177(d) of the
4 Code;

5 (c) as to Paragraph IX(e) under Section 10176(e) of the
6 Code;

7 (d) as to Paragraphs XII(a) and XII(b) under Section
8 10232.25(a) of the Code in conjunction with Section 10177(d) of
9 the Code;

10 (e) as to Paragraphs XII(c) and XII(d) under Section
11 10229(j)(3) of the Code in conjunction with Section 10177(d) of
12 the Code;

13 (f) as to Paragraph XII(e) under Section 10232.2(c) of
14 the Code in conjunction with Section 10177(d) of the Code;

15 (g) as to Paragraph XII(f) under Sections 10229(n) and
16 10232.2(a) of the Code in conjunction with Section 10177(d) of the
17 Code;

18 (h) as to Paragraph XIII(a) under Section 10232.4 of
19 the Code in conjunction with Section 10177(d) of the Code; and

20 (i) as to Paragraph XIII(b) under Section 10236.4 of
21 the Code in conjunction with Section 10177(d) of the Code.

22 II

23 The acts and omissions of Respondent SALAS as described
24 in the Accusation are grounds for the suspension or revocation of
25 the licenses and license rights of such Respondent under the
26 provisions of Section 10177(h) of the Code and Section 10159.2 of

27 DRE No. H-2681 SD

FEDERAL HOME LOANS CORPORATION
and EVANGELINE MICHAEL SALAS

1 the Code in conjunction with Section 10177(d) of the Code.

2 ORDER

3 I

4 All licenses and licensing rights of Respondent FEDERAL
5 HOME LOANS CORPORATION under the Real Estate Law are revoked;
6 provided, however, a restricted corporate real estate broker
7 license shall be issued to said Respondent pursuant to Section
8 10156.5 of the Business and Professions Code if, within 90 days
9 from the effective date of the Decision entered pursuant to this
10 Order, Respondent FEDERAL makes application for the restricted
11 license and pays to the Department of Real Estate the appropriate
12 fee therefor.

13 The restricted license issued to Respondent shall be
14 subject to all of the provisions of Section 10156.7 of the
15 Business and Professions Code and to the following limitations,
16 conditions and restrictions imposed under authority of Section
17 10156.6 of that Code:

18 1. The restricted license issued to Respondent may be
19 suspended prior to hearing by Order of the Real Estate
20 Commissioner in the event of Respondent's conviction or plea of
21 nolo contendere to a crime which is substantially related to
22 Respondent's fitness or capacity as a real estate licensee.

23 2. The restricted license issued to Respondent may be
24 suspended prior to hearing by Order of the Real Estate
25 Commissioner on evidence satisfactory to the Commissioner that
26 Respondent has violated provisions of the California Real Estate

27 DRE No. H-2681 SD

FEDERAL HOME LOANS CORPORATION
and EVANGELINE MICHAEL SALAS

1 Law, the Subdivided Lands Law, Regulations of the Real Estate
2 Commissioner or conditions attaching to the restricted license.

3 3. Respondent shall not be eligible to apply for the
4 issuance of an unrestricted real estate license nor for the
5 removal of any of the conditions, limitations or restrictions of
6 a restricted license until two (2) years have elapsed from the
7 effective date of this Decision.

8 4. Pursuant to Section 10148 of the Business and
9 Professions Code, Respondent shall, jointly and severally with
10 Respondent SALAS, pay the sum of \$10,736.53 as and for the
11 Commissioner's cost of the audit which led to this disciplinary
12 action. Respondent shall pay such cost within 45 days of
13 receiving an invoice therefor from the Commissioner. The
14 Commissioner may suspend the restricted license issued to
15 respondent pending a hearing held in accordance with Section
16 11500, et seq., of the Government Code, if payment is not timely
17 made as provided for herein, or as provided for in a subsequent
18 agreement between the Respondent and the Commissioner. The
19 suspension shall remain in effect until payment is made in full
20 or until Respondent enters into an agreement satisfactory to the
21 Commissioner to provide for payment, or until a decision
22 providing otherwise is adopted following a hearing held pursuant
23 to this condition.

24 5. Pursuant to Section 10148 of the Business and
25 Professions Code, Respondent Respondent shall, jointly and
26 severally with Respondent SALAS, pay the Commissioner's

27 DRE No. H-2681 SD

FEDERAL HOME LOANS CORPORATION
and EVANGELINE MICHAEL SALAS

1 reasonable cost, not to exceed \$10,736.53, for an audit to
2 determine if Respondent has corrected the trust fund violation(s)
3 found in paragraph I of the Determination of Issues. In
4 calculating the amount of the Commissioner's reasonable cost, the
5 Commissioner may use the estimated average hourly salary for all
6 persons performing audits of real estate brokers, and shall
7 include an allocation for travel time to and from the auditor's
8 place of work. Respondent shall pay such cost within 45 days of
9 receiving an invoice therefor from the Commissioner detailing the
10 activities performed during the audit and the amount of time
11 spent performing those activities. The Commissioner may suspend
12 the restricted license issued to respondent pending a hearing
13 held in accordance with Section 11500, et seq., of the Government
14 Code, if payment is not timely made as provided for herein, or as
15 provided for in a subsequent agreement between the Respondent and
16 the Commissioner. The suspension shall remain in effect until
17 payment is made in full or until Respondent enters into an
18 agreement satisfactory to the Commissioner to provide for
19 payment, or until a decision providing otherwise is adopted
20 following a hearing held pursuant to this condition.

21 II

22 All licenses and licensing rights of Respondent

23 EVANGELINE MICHAEL SALAS under the Real Estate Law are revoked;
24 provided, however, a restricted real estate broker license shall
25 be issued to said Respondent pursuant to Section 10156.5 of the
26 Business and Professions Code if, within 90 days from the

27 DRE No. H-2681 SD

FEDERAL HOME LOANS CORPORATION
and EVANGELINE MICHAEL SALAS

1 effective date of the Decision entered pursuant to this Order,
2 Respondent SALAS makes application for the restricted license and
3 pays to the Department of Real Estate the appropriate fee
4 therefor.

5 The restricted license issued to Respondent shall be
6 subject to all of the provisions of Section 10156.7 of the
7 Business and Professions Code and to the following limitations,
8 conditions and restrictions imposed under authority of Section
9 10156.6 of that Code:

10 1. The restricted license issued to Respondent may be
11 suspended prior to hearing by Order of the Real Estate
12 Commissioner in the event of Respondent's conviction or plea of
13 nolo contendere to a crime which is substantially related to
14 Respondent's fitness or capacity as a real estate licensee.

15 2. The restricted license issued to Respondent may be
16 suspended prior to hearing by Order of the Real Estate
17 Commissioner on evidence satisfactory to the Commissioner that
18 Respondent has violated provisions of the California Real Estate
19 Law, the Subdivided Lands Law, Regulations of the Real Estate
20 Commissioner or conditions attaching to the restricted license.

21 3. Respondent shall not be eligible to apply for the
22 issuance of an unrestricted real estate license nor for the
23 removal of any of the conditions, limitations or restrictions of
24 a restricted license until two (2) years have elapsed from the
25 effective date of this Decision.

26 4. Pursuant to Section 10148 of the Business and

27 DRE No. H-2681 SD

FEDERAL HOME LOANS CORPORATION
and EVANGELINE MICHAEL SALAS

1 Professions Code, Respondent shall, jointly and severally with
2 Respondent FEDERAL, pay the sum of \$10,736.53 as and for the
3 Commissioner's cost of the audit which led to this disciplinary
4 action. Respondent shall pay such cost within 45 days of
5 receiving an invoice therefor from the Commissioner. The
6 Commissioner may suspend the restricted license issued to
7 respondent pending a hearing held in accordance with Section
8 11500, et seq., of the Government Code, if payment is not timely
9 made as provided for herein, or as provided for in a subsequent
10 agreement between the Respondent and the Commissioner. The
11 suspension shall remain in effect until payment is made in full
12 or until Respondent enters into an agreement satisfactory to the
13 Commissioner to provide for payment, or until a decision
14 providing otherwise is adopted following a hearing held pursuant
15 to this condition.

16 5. Pursuant to Section 10148 of the Business and
17 Professions Code, Respondent Respondent shall, jointly and
18 severally with Respondent FEDERAL, pay the Commissioner's
19 reasonable cost, not to exceed \$10,736.53, for an audit to
20 determine if Respondent has corrected the trust fund violation(s)
21 found in paragraph I of the Determination of Issues. In
22 calculating the amount of the Commissioner's reasonable cost, the
23 Commissioner may use the estimated average hourly salary for all
24 persons performing audits of real estate brokers, and shall
25 include an allocation for travel time to and from the auditor's
26 place of work. Respondent shall pay such cost within 45 days of

27 DRE No. H-2681 SD

FEDERAL HOME LOANS CORPORATION
and EVANGELINE MICHAEL SALAS

1 receiving an invoice therefor from the Commissioner detailing the
2 activities performed during the audit and the amount of time
3 spent performing those activities. The Commissioner may suspend
4 the restricted license issued to respondent pending a hearing
5 held in accordance with Section 11500, et seq., of the Government
6 Code, if payment is not timely made as provided for herein, or as
7 provided for in a subsequent agreement between the Respondent and
8 the Commissioner. The suspension shall remain in effect until
9 payment is made in full or until Respondent enters into an
10 agreement satisfactory to the Commissioner to provide for
11 payment, or until a decision providing otherwise is adopted
12 following a hearing held pursuant to this condition.

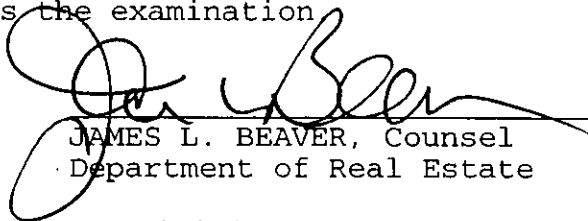
13 6. Respondent shall, within nine months from the
14 effective date of the Decision, present evidence satisfactory to
15 the Commissioner that Respondent has, since the most recent
16 issuance of an original or renewal real estate license, taken and
17 successfully completed the continuing education requirements of
18 Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a
19 real estate license. If Respondent fails to satisfy this
20 condition, the Commissioner may order the suspension of the
21 restricted license until the Respondent presents such evidence.
22 The Commissioner shall afford Respondent the opportunity for a
23 hearing pursuant to the Administrative Procedure Act to present
24 such evidence.

25 7. Respondent shall, within six (6) months from the
26 issuance of the restricted license, take and pass the

1 Professional Responsibility Examination administered by the
2 Department, including the payment of the appropriate examination
3 fee. If Respondent fails to satisfy this condition, the
4 Commissioner may order the suspension of the restricted license
5 until Respondent passes the examination

6 4-2-02

DATED


JAMES L. BEAVER, Counsel
Department of Real Estate

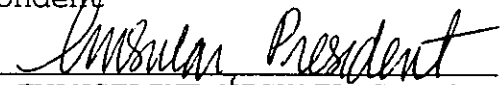
8 * * *

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

20 4-2-02

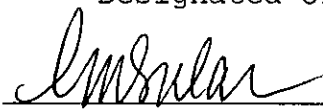
DATED

FEDERAL HOME LOANS CORPORATION
Respondent

21 By 
22 EVANGELINE MICHAEL SALAS
23 Designated Officer - Broker

24 4-2-02

DATED


25 EVANGELINE MICHAEL SALAS
26 Respondent

27 ///

DRE No. H-2681 SD

FEDERAL HOME LOANS CORPORATION
and EVANGELINE MICHAEL SALAS

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 have reviewed the Stipulation and Agreement as to form and content and have advised my clients accordingly.

4-2-02

DATED

Robert E. Muir

ROBERT E. MUIR
Attorney for Respondents

* * *

The foregoing Stipulation and Agreement is hereby adopted by as my Decision in this matter and shall become effective at 12 o'clock noon on MAY 15, 2002.

IT IS SO ORDERED *April 17*, 2002.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

Paula Reddish

FILED

**BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

DEC 27 2001

DEPARTMENT OF REAL ESTATE

Lucille G. Zinn
By _____

In the Matter of the Accusation of

FEDERAL HOME LOANS CORPORATION,
AND EVANGELINE MICHAEL SALAS,

}
}

Case No. H-2681 SD

OAH No. L-2001120425

Respondents

NOTICE OF HEARING ON ACCUSATION

To the above named respondents:

You are hereby notified that a hearing will be held before the Department of Real Estate at **THE OFFICE OF ADMINISTRATIVE HEARINGS, 1350 FRONT STREET, SUITE 6022, SAN DIEGO, CA 92101** on **FRIDAY, APRIL 5, 2002**, at the hour of **9:00 A.M.**, or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

By *James L. Beaver*

JAMES L. BEAVER, Counsel

Dated: DECEMBER 27, 2001

1 JAMES L. BEAVER, Counsel (SBN 60543)
2 DEPARTMENT OF REAL ESTATE
3 P. O. Box 187000
4 Sacramento, CA 95818-7000
5 Telephone: (916) 227-0789
6 (916) 227-0788 (Direct)

FILED
DEC - 6 2001

DEPARTMENT OF REAL ESTATE

By Lucie A. Zinn

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No.: H-2681 SD
12 FEDERAL HOME LOANS CORPORATION,) ACCUSATION
13 and EVANGELINE MICHAEL SALAS,)
14 Respondents.)

15 The Complainant, J. Chris Graves, a Deputy Real Estate
16 Commissioner of the State of California, for cause of Accusation
17 against FEDERAL HOME LOANS CORPORATION (hereinafter "FEDERAL")
18 and EVANGELINE MICHAEL SALAS (hereinafter "SALAS"), is informed
19 and alleges as follows:

20 I

21 The Complainant, J. Chris Graves, a Deputy Real Estate
22 Commissioner of the State of California, makes this Accusation
23 in his official capacity.

24 ///

25 ///

26 ///

27 ///

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

II

At all times herein mentioned, Respondents FEDERAL and SALAS (hereinafter "Respondents") were and now are licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) (hereinafter "the Code").

III

At all times herein mentioned, Respondent FEDERAL was and now is licensed by the Department of Real Estate of the State of California (hereinafter "the Department") as a corporate real estate broker by and through Respondent SALAS as designated officer-broker of Respondent FEDERAL to qualify said corporation and to act for said corporation as a real estate broker.

IV

At all times herein mentioned, Respondent SALAS was and now is licensed by the Department as a real estate broker, individually and as designated officer-broker of Respondent FEDERAL. As said designated officer-broker, Respondent SALAS was at all times mentioned herein responsible pursuant to Section 10159.2 of the Code for the supervision of the activities of the officers, agents, real estate licensees and employees of Respondent FEDERAL for which a license is required.

V

Whenever reference is made in an allegation in this Accusation to an act or omission of Respondent FEDERAL, such allegation shall be deemed to mean that the officers, directors,

1 employees, agents and/or real estate licensees employed by or
2 associated with Respondent FEDERAL committed such act or
3 omission while engaged in the furtherance of the business or
4 operations of such corporate Respondent and while acting within
5 the course and scope of their authority and employment.
6

7 VI

8 At all times herein mentioned, Respondents engaged in
9 the business of, acted in the capacity of, advertised, or
10 assumed to act as real estate brokers within the State of
11 California within the meaning of Sections 10131(d) and 10131(e)
12 of the Code, including the operation and conduct of a mortgage
13 loan brokerage with the public wherein, on behalf of others, for
14 compensation or in expectation of compensation, Respondents
15 solicited lenders and borrowers for loans secured directly or
16 collaterally by liens on real property, wherein Respondents
17 arranged, negotiated, processed, and consummated such loans,
18 wherein Respondents serviced and collected payments on such
19 loans, and wherein Respondents sold or offered to sell, bought
20 or offered to buy, or exchanged or offered to exchange
21 promissory notes secured directly or collaterally by a lien on
22 real property and performed services for the holders thereof,
23 including servicing and collecting payments on such promissory
24 notes.

25 VII

26 In so acting as real estate brokers, as described in
27 Paragraph VI, above, Respondents accepted or received funds in
trust (hereinafter "trust funds") from or on behalf of lenders,

1 investors, borrowers and others in connection with the mortgage
2 loan brokerage activities described in Paragraph VI, above, and
3 thereafter from time to time made disbursements of said trust
4 funds.

5
6 VIII

7 The aforesaid trust funds accepted or received by
8 Respondents were deposited or caused to be deposited by
9 Respondents into one or more bank accounts (hereinafter "trust
10 fund accounts") maintained by Respondents for the handling of
11 trust funds, including but not necessarily limited to the
12 following accounts maintained by Respondents at the San Diego,
13 California, branches of Washington Mutual Bank:

14 (a) The "Federal Home Loans Corporation Loan
15 Servicing Trust Acct", Account Number 8790160283 (hereinafter
16 "TA1");

17 (b) The "Federal Home Loans Corporation Loan
18 Servicing Trust Acct", Account Number 54400575801 (hereinafter
19 "TA2");

20 (c) The "Federal Home Loans Corp Disbursement Trust
21 Acct", Account Number 54400074801 (hereinafter "TA3"); and

22 (d) The "Federal Home Loans Corp Escrow Trust Acct",
23 account number 54400078001 (hereinafter "TA4").

24 IX

25 Within the three-year period immediately preceding the
26 filing of this Accusation, in connection with the collection and
27 disbursement of said trust funds, Respondents:

///

1
2 (a) Failed to keep a columnar record in chronological
3 sequence of all trust funds received and disbursed from TA1,
4 TA2, TA3 and TA4 in the manner required by Section 2831 of Title
5 10, California Code of Regulations (hereinafter "the
6 Regulations"), in that said columnar records set forth the date
7 funds were deposited but failed to set forth the date funds were
8 received;

9 (b) Failed to maintain a separate record for each
10 beneficiary or transaction, accounting therein for all said
11 trust funds received, deposited into, and disbursed from TA1,
12 TA2, TA3 and TA4 in the manner required by Section 2831.1 of the
13 regulations, in that said separate records failed to include
14 transactions that had, in fact, occurred and routinely included
15 amounts for disbursements by check which overstated the amount
16 of the check;

17 (c) Failed to reconcile, at least once a month, the
18 balance of all separate beneficiary or transaction records with
19 TA1, TA2, TA3 and TA4 in compliance with Section 2831.2 of the
20 Regulations;

21 (d) Authorized James Donald Salas, an unlicensed
22 person without fidelity bond coverage, and Connie M. Willis, an
23 unlicensed person without fidelity bond coverage, to make
24 disbursements from TA1, TA2, TA3 and TA4 in violation of Section
25 2834(b) of the Regulations; and

26 (e) Commingled with FEDERAL's own money the money of
27 others which was received and held in trust by FEDERAL, in
violation of Section 10176(e) of the Code.

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

X

At all times mentioned herein Respondent FEDERAL was a real estate broker meeting the threshold criteria of subdivision (a) of Section 10232 with a fiscal year ending on the 30th day of November each year.

XI

At all times mentioned herein from and after January 1, 1998, Respondent FEDERAL was a real estate broker which was a servicing agent meeting the criteria of paragraph (3) of subdivision (j) of Section 10229 of the Code with respect to notes or interests sold pursuant to Section 10229 of the Code secured directly by either an interest in the same real property or undivided interests in notes secured directly by real property equivalent to a series transaction.

XII

Within the three-year period immediately preceding the filing of this Accusation, in connection with the mortgage loan servicing and trust fund handling activities described above, Respondents failed:

(a) Until April 17, 2001 to file or cause to be filed with the Department any of the quarterly trust fund status reports for TA1, TA2, TA3 and TA4 required by Section 10232.25(a) of the Code for the fiscal quarters ending April 30, 2000, July 31, 2000, and October 31, 2000, which reports each became finally due to the Department thirty (30) days after the close of the fiscal period for which the report was to be made;

///

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

(b) Until June 4, 2001 to file or cause to be filed with the Department the quarterly trust fund status reports for TA1, TA2, TA3 and TA4 required by Section 10232.25(a) of the Code for the fiscal quarter ending April 30, 2001, which report became finally due to the Department thirty (30) days after the close of the fiscal period for which the report was to be made;

(c) Until April 17, 2001 to file or cause to be filed with the Department any of the quarterly reports required by paragraph (3) of subdivision (j) of Section 10229 of the Code of the inspection of TA1, TA2, TA3 and TA4 by a public accountant for the fiscal quarters ending July 31, 1999, October 31, 1999, April 30, 2000, July 31, 2000, and October 31, 2000, which reports each became finally due to the Department thirty (30) days after the close of the fiscal period for which the report was to be made;

(d) Until June 4, 2001 to file or cause to be filed with the Department the quarterly report required by paragraph (3) of subdivision (j) of Section 10229 of the Code of the inspection of TA1, TA2, TA3 and TA4 by a public accountant for the fiscal quarter ending April 30, 2001, which report became finally due to the Department thirty (30) days after the close of the fiscal period for which the report was to be made;

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

1 (e) Until May 15, 2001 to file or cause to be filed
2 with the Department the annual business activity report required
3 by Section 10232.2(c) for the fiscal year ending January 31,
4 2000, which report became finally due to the Department ninety
5 (90) days after the close of the fiscal period for which the
6 report was to be made; and

7 (f) Until May 23, 2001 to file or cause to be filed
8 with the Department the annual report required by Sections
9 10229(n) and 10232.2(a) of the Code of a review of the trust
10 fund financial statements for TA1, TA2, TA3 and TA4 by an
11 independent public accountant, which report became finally due
12 to the Department ninety (90) days after the close of the fiscal
13 period for which the report was to be made.

14 XIII

15 Within the three-year period immediately preceding the
16 filing of this Accusation, in connection with the mortgage loan
17 servicing and trust fund handling activities described above,
18 Respondents:

19 (a) Failed to provide prospective mortgage loan
20 investors the statement described in Section 10232.5 of the
21 Code, in violation of Section 10232.4 of the Code, in that the
22 statement described in Section 10232.5 of the Code provided by
23 Respondents to prospective mortgage loan investors was not by
24 signed by Respondents or a real estate salesperson licensed to
25 Respondents; and

26 ///

27 ///

1 (b) Violated the provisions of Section 10246.4 of the
2 Code, in that, Respondents failed to include the Department's
3 license information telephone number in the disclosures to the
4 borrowers and lenders required by Sections 10232.4 and 10240 of
5 the Code.

6
7 XIV

8 Respondent SALAS failed to exercise reasonable
9 supervision over the acts of Respondent FEDERAL in such a manner
10 as to allow the acts and omissions on the part of Respondent
11 FEDERAL described above, to occur.

12 XV

13 PRIOR ADMINISTRATIVE PROCEEDINGS

14 On February 23, 1989, in Case No. H-1652 SD, the Real
15 Estate Commissioner issued an order to Respondent FEDERAL
16 requiring FEDERAL to desist and refrain from violating Sections
17 10233 of the Code and Sections 2725(c), 2830, 2831, 2832.1 and
18 2950(h) of the Regulations.

19 XVI

20 The facts alleged above are grounds for the suspension
21 or revocation of the licenses and license rights of Respondents
22 FEDERAL and SALAS under the following provisions of the Code
23 and/or the Regulations:

24 (a) As to Paragraph IX(a), under Section 2831 of the
25 Regulations in conjunction with Sections 10145 and 10177(d) of
26 the Code;

27 ///

///

1
2 (b) As to Paragraph IX(b), under Section 2831.1 of
3 the Regulations in conjunction with Sections 10145 and 10177(d)
4 of the Code;

5 (c) As to Paragraph IX(c), under Section 2831.2 of
6 the Regulations in conjunction with Sections 10145 and 10177(d)
7 of the Code;

8 (d) As to Paragraph IX(d), under Section 2834(b) of
9 the Regulations in conjunction with Sections 10145 and 10177(d)
10 of the Code;

11 (e) As to Paragraph IX(e), under Section 10176(e) of
12 the Code;

13 (f) As to Paragraphs XII(a) and XII(b), under Section
14 10232.25(a) of the Code in conjunction with Section 10177(d) of
15 the Code;

16 (g) As to Paragraphs XII(c) and XII(d), under Section
17 10229(j)(3) of the Code in conjunction with Section 10177(d) of
18 the Code;

19 (h) As to Paragraph XII(e), under Section 10232.2(c)
20 of the Code in conjunction with Section 10177(d) of the Code;

21 (i) As to Paragraph XII(f), under Sections 10229(n)
22 and 10232.2(a) of the Code in conjunction with Section 10177(d)
23 of the Code;

24 (j) As to Paragraph XIII(a), under Section 10232.4 of
25 the Code in conjunction with Section 10177(d) of the Code; and

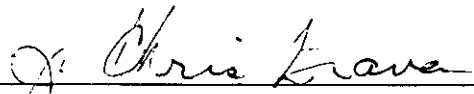
26 (k) As to Paragraph XIII(b), under Section 10246.4 of
27 the Code in conjunction with Section 10177(d) of the Code.

///

XVII

The facts alleged above as to Paragraph XIV of the Accusation are grounds for the suspension or revocation of the licenses and license rights of Respondent SALAS under Section 10177(g) and/or Section 10177(h) of the Code and Section 10159.2 of the Code in conjunction with Section 10177(d) of the Code.

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of Respondents under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), and for such other and further relief as may be proper under other provisions of law.



J. CHRIS GRAVES
Deputy Real Estate Commissioner

Dated at San Diego, California,
this 27th day of November, 2001.