

DEPARTMENT OF REAL ESTATE  
P. O. Box 187000  
Sacramento, CA 95818-7000

Telephone: (916) 227-0789

**FILED**  
FEB 22 2003

DEPARTMENT OF REAL ESTATE

*Laurie L. Quinn*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )	DRE No. H-8166 SF
)	
E & F FINANCIAL SERVICES, INC.)	OAH No. 2002100365
and ALEXANDER EISNER,	)
)	<u>STIPULATION AND AGREEMENT</u>
Respondents.	)

It is hereby stipulated by and between Respondents E & F FINANCIAL SERVICES, INC., a corporation, and ALEXANDER EISNER (hereinafter "Respondents"), individually and by and through Thomas C. Lasken, Esq., attorney of record herein for Respondents, and the Complainant, acting by and through James L. Beaver, Counsel for the Department of Real Estate (herein "the Department"), as follows for the purpose of settling and disposing of the Accusation filed on August 14, 2002 in this matter (herein "the Accusation"):

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DRE No. H-8166 SF

E & F FINANCIAL SERVICES, INC.  
and ALEXANDER EISNER

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 August 27, 2002, Respondents filed Notices of  
12 Defense pursuant to Section 11505 of the Government Code for the  
13 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.

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27 DRE No. H-8166 SF

E & F FINANCIAL SERVICES, INC.  
and ALEXANDER EISNER

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

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

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

25           ///

26           ///

27           DRE No. H-8166 SF

E & F FINANCIAL SERVICES, INC.  
and ALEXANDER EISNER

1           7.    Respondents understand that by agreeing to this  
2   Stipulation and Agreement, Respondents jointly and severally  
3   agree to pay, pursuant to Section 10148 of the California  
4   Business and Professions Code, the cost of the audit which  
5   resulted in the determination that Respondents committed the  
6   trust fund violation(s) found in paragraph I, below, of the  
7   Determination of Issues. The amount of said costs is \$5,979.16.

8           8.    Respondents further understand that by agreeing to  
9   this Stipulation and Agreement in Settlement, the findings set  
10   forth below in the Determination Of Issues become final, and that  
11   the Commissioner may charge said Respondents, jointly and  
12   severally, for the costs of any audit conducted pursuant to  
13   Section 10148 of the California Business and Professions Code to  
14   determine if the trust fund violation(s) found in paragraph I,  
15   below, of the Determination of Issues have been corrected. The  
16   maximum costs of said audit shall not exceed \$6,607.88.

17                   DETERMINATION OF ISSUES

18           By reason of the foregoing stipulations, admissions and  
19   waivers and solely for the purpose of settlement of the pending  
20   Accusation without hearing, it is stipulated and agreed that the  
21   following Determination of Issues shall be made:

22                               I

23           The acts and omissions of Respondent E & F FINANCIAL  
24   SERVICES, INC. (hereinafter "EFFS") as described in the  
25   Accusation are grounds for the suspension or revocation of the  
26   licenses and license rights of Respondent EFFS under the

27   DRE No. H-8166 SF

E & F FINANCIAL SERVICES, INC.  
and ALEXANDER EISNER

1 following provisions of the California Business and Professions  
2 Code (herein "the Code"):

3 (a) as to Paragraph IX(a) under Section 10145 of the  
4 Code and Section 2832(a) of the Regulations in conjunction with  
5 Section 10177(d) of the Code;

6 (b) as to Paragraph IX(b) under Section 10145 of the  
7 Code and Section 2832.1 of the Regulations in conjunction with  
8 Section 10177(d) of the Code;

9 (c) as to Paragraph XI(a) under Section 10234 of the  
10 Code in conjunction with Section 10177(d) of the Code; and

11 (d) as to Paragraph XI(d) under Section 10229(g) of  
12 the Code in conjunction with Section 10177(d) of the Code.

13 II

14 The acts and omissions of Respondent ALEXANDER EISNER  
15 (hereinafter "EISNER") as described in Paragraph XIV of the  
16 Accusation are grounds for the suspension or revocation of the  
17 licenses and license rights of Respondent ALEXANDER EISNER under  
18 Sections 10177(g) and 10177(h) of the Code and Section 10159.2 of  
19 the Code in conjunction with Section 10177(d) of the Code.

20 ORDER

21 I

22 A. All licenses and licensing rights of Respondent E  
23 & F FINANCIAL SERVICES, INC. under the Real Estate Law are  
24 suspended for a period of ninety (90) days from the effective  
25 date of the Decision herein; provided, however:

26 ///

27 DRE No. H-8166 SF

E & F FINANCIAL SERVICES, INC.  
and ALEXANDER EISNER

1           1.    If Respondent EFFE petitions, ninety (90) days of  
2 said ninety (90) day suspension (or a portion thereof) shall be  
3 stayed upon condition that:

4           (a)   Respondent EFFE pays a monetary penalty pursuant  
5 to Section 10175.2 of the Code at the rate of \$100.00 for each  
6 day of the suspension for a total monetary penalty of \$9,000.00.

7           (b)   Said payment shall be in the form of a cashier's  
8 check or certified check made payable to the Recovery Account of  
9 the Real Estate Fund. Said check must be received by the  
10 Department prior to the effective date of the Decision in this  
11 matter.

12           (c)   If Respondent EFFE fails to pay the monetary  
13 penalty in accordance with the terms and conditions of the  
14 Decision, the Commissioner may, without a hearing, vacate and set  
15 aside the stay order, and order the immediate execution of all or  
16 any part of the stayed suspension.

17           (d)   No final subsequent determination be made, after  
18 hearing or upon stipulation, that cause for disciplinary action  
19 against Respondent EFFE occurred within two (2) years of the  
20 effective date of the Decision herein. Should such a  
21 determination be made, the Commissioner may, in his or her  
22 discretion, vacate and set aside the stay order, and order the  
23 execution of all or any part of the stayed suspension, in which  
24 event the Respondent EFFE shall not be entitled to any repayment  
25 nor credit, prorated or otherwise, for money paid to the  
26 Department under the terms of this Decision.

27 DRE No. H-8166 SF

E & F FINANCIAL SERVICES, INC.  
and ALEXANDER EISNER

1 (e) If Respondent EFFS pays the monetary penalty and  
2 if no further cause for disciplinary action against the real  
3 estate license of Respondent occurs within two (2) years from the  
4 effective date of the Decision herein, then the stay hereby  
5 granted shall become permanent.

6 B. Respondent EFFS shall, within 45 days of receiving  
7 an invoice therefor from the Commissioner, pay (jointly and  
8 severally with Respondent EISNER) the Commissioner's costs in the  
9 amount of \$5,979.16 of the audit conducted pursuant to Section  
10 10148 of the Business and Professions Code that resulted in the  
11 determination that Respondent EFFS committed the violations  
12 described in Paragraph I of the Determination of Issues, above.  
13 If Respondent EFFS fails to pay such cost within the 45 days, the  
14 Commissioner may in his or her discretion indefinitely suspend  
15 all license and licensing rights of Respondent under the Real  
16 Estate Law until payment is made in full or until Respondent  
17 enters into an agreement satisfactory to the Commissioner to  
18 provide for payment. Upon payment in full, any indefinite  
19 suspension provided in this paragraph shall be stayed.

20 C. Respondent EFFS shall pay (jointly and severally  
21 with Respondent EISNER) the Commissioner's costs, not to exceed  
22 \$6,607.88, of any audit conducted pursuant to Section 10148 of  
23 the Business and Professions Code to determine if Respondent has  
24 corrected the violations described in Paragraph I of the  
25 Determination of Issues, above. In calculating the amount of the  
26 Commissioner's reasonable cost, the Commissioner may use the

27 DRE No. H-8166 SF

E & F FINANCIAL SERVICES, INC.  
and ALEXANDER EISNER

1 estimated average hourly salary for all persons performing audits  
2 of real estate brokers, and shall include an allocation for  
3 travel time to and from the auditor's place of work. Respondent  
4 EFFS shall pay such cost within 45 days of receiving an invoice  
5 therefor from the Commissioner detailing the activities performed  
6 during the audit and the amount of time spent performing those  
7 activities. If Respondent fails to pay such cost within the 45  
8 days, the Commissioner may in his or her discretion indefinitely  
9 suspend all license and licensing rights of Respondent EFFS under  
10 the Real Estate Law until payment is made in full or until  
11 Respondent EFFS enters into an agreement satisfactory to the  
12 Commissioner to provide for payment. Upon payment in full, the  
13 indefinite suspension provided in this paragraph shall be stayed.

14 II

15 A. All licenses and licensing rights of Respondent  
16 ALEXANDER EISNER under the Real Estate Law are indefinitely  
17 suspended until such time as Respondent EISNER provides proof  
18 satisfactory to the Commissioner that Respondent EISNER has,  
19 within thirty days prior to the effective date of the Decision  
20 herein or any date after said effective date, taken and  
21 successfully completed the trust fund accounting and handling  
22 course specified in paragraph (3), subdivision (a) of Section  
23 10170.5 of the Business and Professions Code. Upon satisfaction  
24 of this condition, the indefinite suspension provided in this  
25 paragraph shall be stayed.

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27 DRE No. H-8166 SF

E & F FINANCIAL SERVICES, INC.  
and ALEXANDER EISNER



1           B.    All licenses and licensing rights of Respondent  
2 EISNER under the Real Estate Law are suspended for a period of  
3 ninety (90) days from the effective date of the Decision herein;  
4 provided, however:

5           1.    If Respondent EISNER petitions, ninety (90) days  
6 of said ninety (90) day suspension (or a portion thereof) shall  
7 be stayed upon condition that:

8           (a)   Respondent EISNER pays a monetary penalty pursuant  
9 to Section 10175.2 of the Code at the rate of \$100.00 for each  
10 day of the suspension for a total monetary penalty of \$9,000.00.

11           (b)   Said payment shall be in the form of a cashier's  
12 check or certified check made payable to the Recovery Account of  
13 the Real Estate Fund. Said check must be received by the  
14 Department prior to the effective date of the Decision in this  
15 matter.

16           (c)   If Respondent EISNER fails to pay the monetary  
17 penalty in accordance with the terms and conditions of the  
18 Decision, the Commissioner may, without a hearing, vacate and set  
19 aside the stay order, and order the immediate execution of all or  
20 any part of the stayed suspension.

21           (d)   No final subsequent determination be made, after  
22 hearing or upon stipulation, that cause for disciplinary action  
23 against Respondent EISNER occurred within two (2) years of the  
24 effective date of the Decision herein. Should such a  
25 determination be made, the Commissioner may, in his or her  
26 discretion, vacate and set aside the stay order, and order the

27 DRE No. H-8166 SF

E & F FINANCIAL SERVICES, INC.  
and ALEXANDER EISNER

1 execution of all or any part of the stayed suspension, in which  
2 event the Respondent shall not be entitled to any repayment nor  
3 credit, prorated or otherwise, for money paid to the Department  
4 under the terms of this Decision.

5 (e) If Respondent EISNER pays the monetary penalty and  
6 if no further cause for disciplinary action against the real  
7 estate license of Respondent EISNER occurs within two (2) years  
8 from the effective date of the Decision herein, then the stay  
9 hereby granted shall become permanent.

10 C. Respondent EISNER shall, within 45 days of  
11 receiving an invoice therefor from the Commissioner, pay (jointly  
12 and severally with Respondent EFFE) the Commissioner's costs in  
13 the amount of \$5,979.16 of the audit conducted pursuant to  
14 Section 10148 of the Business and Professions Code that resulted  
15 in the determination that Respondent EFFE committed the  
16 violations described in Paragraph I of the Determination of  
17 Issues, above. If Respondent EISNER fails to pay such cost within  
18 the 45 days, the Commissioner may in his or her discretion  
19 indefinitely suspend all license and licensing rights of  
20 Respondent under the Real Estate Law until payment is made in  
21 full or until Respondent EISNER enters into an agreement  
22 satisfactory to the Commissioner to provide for payment. Upon  
23 payment in full, any indefinite suspension provided in this  
24 paragraph shall be stayed.

25 D. Respondent EISNER shall pay (jointly and severally  
26 with Respondent EFFE) the Commissioner's costs, not to exceed

27 DRE No. H-8166 SF

E & F FINANCIAL SERVICES, INC.  
and ALEXANDER EISNER

1 \$6,607.88, of any audit conducted pursuant to Section 10148 of  
2 the Business and Professions Code to determine if Respondent EFFE  
3 has corrected the violations described in Paragraph I of the  
4 Determination of Issues, above. In calculating the amount of the  
5 Commissioner's reasonable cost, the Commissioner may use the  
6 estimated average hourly salary for all persons performing audits  
7 of real estate brokers, and shall include an allocation for  
8 travel time to and from the auditor's place of work. Respondent  
9 shall pay such cost within 45 days of receiving an invoice  
10 therefor from the Commissioner detailing the activities performed  
11 during the audit and the amount of time spent performing those  
12 activities. If Respondent EISNER fails to pay such cost within  
13 the 45 days, the Commissioner may in his or her discretion  
14 indefinitely suspend all license and licensing rights of  
15 Respondent under the Real Estate Law until payment is made in  
16 full or until Respondent enters into an agreement satisfactory to  
17 the Commissioner to provide for payment. Upon payment in full,  
18 the indefinite suspension provided in this paragraph shall be  
19 stayed.

20 February 11, 2003  
21 DATED

  
22 JAMES L. BEAVER, Counsel  
23 Department of Real Estate

24 \* \* \*

25 I have read the Stipulation and Agreement and have  
26 discussed its terms with my attorney and its terms are understood  
27 by me and are agreeable and acceptable to me. I understand that I  
am waiving rights given to me by the California Administrative

DRE No. H-8166 SF

E & F FINANCIAL SERVICES, INC.  
and ALEXANDER EISNER

1 Procedure Act (including but not limited to Sections 11506,  
2 11508, 11509, and 11513 of the Government Code), and I willingly,  
3 intelligently, and voluntarily waive those rights, including the  
4 right of requiring the Commissioner to prove the allegations in  
5 the Accusation at a hearing at which I would have the right to  
6 cross-examine witnesses against me and to present evidence in  
7 defense and mitigation of the charges.

8 2/3/03

DATED

E & F FINANCIAL SERVICES, INC.  
Respondent

9  
10 By Alexander Eisner  
ALEXANDER EISNER  
11 Designated Officer - Broker

12 2/3/03

DATED

Alexander Eisner  
ALEXANDER EISNER  
13 Respondent

14 \* \* \*

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

17 3/3/03

DATED

Thomas C. Lasken  
18 THOMAS C. LASKEN  
19 Attorney for Respondents

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27 DRE No. H-8166 SF

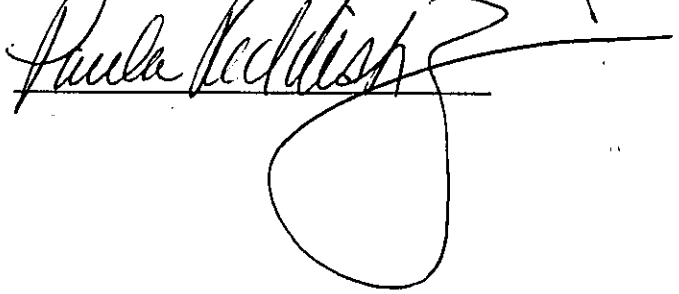
E & F FINANCIAL SERVICES, INC.  
and ALEXANDER EISNER

1 \* \* \*

2 The foregoing Stipulation and Agreement is hereby  
3 adopted by me as my Decision in this matter and shall become  
4 effective at 12 o'clock noon on MARCH 14, 2003.

5 IT IS SO ORDERED February 21, 2003.

6  
7 PAULA REDDISH ZINNEMANN  
Real Estate Commissioner

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27 DRE No. H-8166 SF

E & F FINANCIAL SERVICES, INC.  
and ALEXANDER EISNER

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

**FILED**  
NOV 13 2002

DEPARTMENT OF REAL ESTATE

*In the Matter of the Accusation of*

E & F FINANCIAL SERVICES, INC.,  
and ALEXANDER EISNER,

Case No. H-8166 SF

OAH No. N-2002100365

*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

**OFFICE OF ADMINISTRATIVE HEARING, THE ELIHU HARRIS STATE BUILDING,  
1515 CLAY STREET, SUITE 206, OAKLAND, CALIFORNIA 94612**

on **THURSDAY, JANUARY 23, 2003**, 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

*Dated:* NOVEMBER 13, 2002

By

*James L. Beaver*  
JAMES L. BEAVER (L2)

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 -or- (916) 227-0788 (Direct)

FILED  
AUG 14 2002

DEPARTMENT OF REAL ESTATE

By *[Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )

12 E & F FINANCIAL SERVICES, INC., )  
13 and ALEXANDER EISNER, )

14 Respondent. )

No. H-8166 SF

ACCUSATION

15 The Complainant, Les R. Bettencourt, a Deputy Real  
16 Estate Commissioner of the State of California, for cause of  
17 Accusation against E & F FINANCIAL SERVICES, INC. (herein  
18 "EFFI") and ALEXANDER EISNER (herein "EISNER"), is informed and  
19 alleges as follows:

20 I

21 The Complainant, Les R. Bettencourt, a Deputy Real  
22 Estate Commissioner of the State of California, makes this  
23 Accusation in his official capacity.

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1 II

2 At all times herein mentioned, Respondents EFFI and  
3 EISNER (herein "Respondents") were and now are licensed and/or  
4 have license rights under the Real Estate Law (Part 1 of  
5 Division 4 of the Business and Professions Code) (herein "the  
6 Code").

7 III

8 At all times herein mentioned, EFFI was and now is  
9 licensed by the Department of Real Estate of the State of  
10 California (herein "the Department") as a corporate real estate  
11 broker by and through EISNER as designated officer-broker of  
12 EFFI to qualify said corporation and to act for said corporation  
13 as a real estate broker.

14 IV

15 At all times herein mentioned, EISNER was and now is  
16 licensed by the Department as a real estate broker, individually  
17 and as designated officer-broker of EFFI. As said designated  
18 officer-broker, EISNER was at all times mentioned herein  
19 responsible pursuant to Section 10159.2 of the Code for the  
20 supervision of the activities of the officers, agents, real  
21 estate licensees and employees of EFFI for which a license is  
22 required.

23 V

24 Whenever reference is made in an allegation in this  
25 Accusation to an act or omission of EFFI, such allegation shall  
26 be deemed to mean that the officers, directors, employees,  
27 agents and/or real estate licensees employed by or associated



1 with EFFI committed such act or omission while engaged in the  
2 furtherance of the business or operations of such corporate  
3 Respondent and while acting within the course and scope of their  
4 authority and employment.

5 VI

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

23 VII

24 In so acting as real estate brokers, as described in  
25 Paragraph VI, above, Respondents accepted or received funds in  
26 trust (herein "trust funds") from or on behalf of lenders,  
27 investors, borrowers and others in connection with the mortgage

1 loan brokerage activities described in Paragraph VI, above, and  
2 thereafter from time to time made disbursements of said trust  
3 funds.

4 VIII

5 The aforesaid trust funds accepted or received by  
6 Respondents were deposited or caused to be deposited by  
7 Respondents into one or more bank accounts (herein "trust fund  
8 accounts") maintained by Respondents for the handling of trust  
9 funds, including but not necessarily limited to:

10 (a) The "E&F Financial Services Inc. Trust Account",  
11 #0431000814, maintained by Respondents at the Burlingame,  
12 California, branch of City National Bank (herein "the CNB  
13 branch") (herein "Trust #1");

14 (b) The "E&F Financial Services Inc. Trust Account",  
15 #0431014530, maintained by Respondents at the CNB branch (herein  
16 "Trust #2");

17 (c) The "E&F Financial Services Inc. Escrow/Trust  
18 Account", #0431000792, maintained by Respondents at the CNB  
19 branch (herein "Trust #3");

20 (d) The "French Ranch LLC/E&F Financial Services as  
21 TTEE" account, #1212794, maintained by Respondents at the San  
22 Rafael, California, branch of Metro Commercial Bank (herein  
23 "Trust #4");

24 (e) The "E&F Financial Services Inc. FBO Lawrence  
25 Ross Construction Account #1112K", #0431015420, maintained by  
26 Respondents at the CNB branch (herein "B/A #1");

27 ///

1 (f) The "E&F Financial Services Inc. FBO Lawrence  
2 Ross Interest Reserve Account #1112K", #0431015412, (formerly  
3 #1550-656877) maintained by Respondents at the CNB branch  
4 (herein "B/A #2");

5 (g) The "E&F Financial Services Inc. FBO Lawrence  
6 Ross Fees Account #1112K", #0431015404, maintained by  
7 Respondents at the CNB branch (herein "B/A #3");

8 (h) The "E&F Financial Services Inc. FBO Saratoga  
9 Palm Development, Inc. Construction Account #1172K", #043110432,  
10 maintained by Respondents at the CNB branch (herein "B/A #4");

11 (i) The "E&F Financial Services Inc. FBO Saratoga  
12 Palm Development, Inc. Interest Account #1172K", #043102430,  
13 maintained by Respondents at the CNB branch (herein "B/A #5");

14 (j) The "E&F Financial Services Inc. FBO Saratoga  
15 Palm Development, Inc. Fees Account #1172K", #0431032465,  
16 maintained by Respondents at the CNB branch (herein "B/A #6");  
17 and

18 (k) The "E&F Financial Services Inc. FBO French Ranch  
19 LLC" account, #1439843, maintained by Respondents at the San  
20 Rafael, California, branch of Metro Commercial Bank (herein  
21 "B/A #7").

22 IX

23 Between November 1, 1999 and September 29, 2000, in  
24 connection with the collection and disbursement of said trust  
25 funds, EFFI:

26 ///

27 ///

1 (a) Failed to place trust funds entrusted to EFFI  
2 into the hands of a principal on whose behalf the funds were  
3 received, into a neutral escrow depository, or into a trust fund  
4 account in the name of EFFI as trustee at a bank or other  
5 financial institution, in conformance with the requirements of  
6 Section 10145 of the Code and Section 2832(a) of Chapter 6,  
7 Title 10, California Code of Regulations (herein "the  
8 Regulations"), in that EFFI placed such funds in B/A #1 through  
9 #7, inclusive (more particularly identified in subsections (e)  
10 through (k), inclusive of Paragraph VIII, above), accounts that  
11 were not in the name of EFFI as trustee; and

12 (b) Caused, suffered or permitted the balance of  
13 funds in Trust #3 to be reduced to an amount which, as of  
14 March 31, 2000 was approximately \$25,813.67 less than the  
15 aggregate liability of EFFI to all owners of such funds, without  
16 the prior written consent of the owners of such funds.

17 X

18 At all times mentioned herein EFFI was a real estate  
19 broker which:

20 (a) Offered to sell and sold notes subject to Section  
21 10229 of the Code secured directly by an interest in the same  
22 real property or undivided interests in notes secured directly  
23 by real property equivalent to a series transaction; and

24 (b) Was a servicing agent meeting the criteria of  
25 paragraph (3) of subdivision (j) of Section 10229 of the Code  
26 with respect to notes or interests sold pursuant to Section  
27 10229 of the Code.

XI

Between November 1, 1999 and September 29, 2000, in course of the mortgage and multi-lender loan origination, servicing and trust fund handling activities described in Paragraphs VI and X, above, EFFI:

(a) Failed to cause proper assignments of trust deeds, naming as assignee the purchaser or a nominee other than Respondent, to be executed and recorded with the county recorder of the county in which the real property is located within the time specified in Section 10234 of the Code;

(b) Failed to comply with Section 10229(e)(1) of the Code, in that EFFI failed, in course of the sale of notes subject to Section 10229 of the Code, to timely obtain the signature of purchasers on the statement described in Section 10229(e) containing the information prescribed thereby, and/or failed to retain on file for a period of four years a true and correct copy of such statement signed by the purchasers;

(c) Failed, in course of the sale of notes subject to Section 10229 of the Code, to timely advise purchasers of their right to receive a copy of the appraisal or broker's evaluation, as required by Section 10229(g)(3) of the Code; and

(d) Caused, suffered and permitted the aggregate principal amount of notes sold subject to Section 10229 of the Code to exceed 80% of the current market value of the real property, in violation of Section 10229(g) of the Code.

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XII

At all times mentioned herein EFFI was a real estate broker meeting the threshold criteria of subdivision (a) of Section 10232 with a fiscal year ending on the 31st day of December each year.

XIII

Between November 1, 1999 and November 13, 2000, in connection with the mortgage loan origination, servicing and trust fund handling activities described in Paragraph VI, above, EFFI failed to file with the Department any trust fund status report required by Section 10232.25(a) covering B/A #1 through #7.

XIV

EISNER failed to exercise reasonable supervision over the acts of EFFI in such a manner as to allow the acts and omissions on the part of EFFI described above, to occur.

XV

The facts alleged above are grounds for the suspension or revocation of the licenses and license rights of EFFI under the following provisions of the Code and/or the Regulations:

(a) As to Paragraph IX(a), under Section 10145 of the Code and Section 2832(a) of the Regulations in conjunction with Section 10177(d) of the Code;

(b) As to Paragraph IX(b), under Section 10145 of the Code and Section 2832.1 of the Regulations in conjunction with Section 10177(d) of the Code;

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1 (c) As to Paragraph XI(a), under Section 10234 of the  
2 Code in conjunction with Section 10177(d) of the Code;

3 (d) As to Paragraph XI(b), under Section 10229(e)(1)  
4 of the Code in conjunction with Section 10177(d) of the Code;

5 (d) As to Paragraph XI(c), under Section 10229(g)(3)  
6 of the Code in conjunction with Section 10177(d) of the Code;

7 (e) As to Paragraph XI(d), under Section 10229(g) of  
8 the Code in conjunction with Section 10177(d) of the Code; and

9 (f) As to Paragraph XIII, under Section 10232.25(a)  
10 of the Code in conjunction with Section 10177(d) of the Code.

11 XVI

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

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

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9             
10           LES R. BETTENCOURT  
            Deputy Real Estate Commissioner

11   Dated at Oakland, California,  
12   this 30<sup>th</sup> day of July, 2002.