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Department of Real Estate  
107 South Broadway, Room 8107  
Los Angeles, California 90012

(213) 897-3937

**FILED**  
NOV 17 1997  
DEPARTMENT OF REAL ESTATE

By *Laura P. Cron*

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \* \*

In the Matter of the Accusation of )	NO. H-27252 LA
S & F HOME EQUITY LOANS, INC.; )	<u>STIPULATION AND AGREEMENT</u>
and FRANCISCO MURILLO SILVA, )	
individually and as designated )	
officer of S & F Home Equity Loans, )	
Inc., )	
Respondents. )	

It is hereby stipulated by and between and George J. Paukert, Counsel for S & F HOME EQUITY LOANS, INC., dba Santa Fe & Associates Home Loans, S & F Realty, and S & F Home Equity, and FRANCISCO MURILLO SILVA, individually and as designated officer of S & F Home Equity Loans, Inc., (sometimes collectively referred to as Respondents), and the Complainant, acting by and through Elliott Mac Lennan, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on June 30, 1997, in this matter:

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

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

3. On July 15, 1997, Respondents filed a Notice of Defense pursuant to Section 11506 of the Government Code for the purpose of requesting a hearing on the allegations in the Accusation. Respondents hereby freely and voluntarily withdraw said Notice of Defense. Respondents acknowledge that they understand that by withdrawing said Notice of Defense they thereby waive their right to require the Commissioner to prove the allegations in the Accusation at a contested hearing held in accordance with the provisions of the APA and that they will waive other rights afforded to them in connection with the hearing such as the right to present evidence in their defense of the allegations in the Accusation and the right to cross-examine witnesses.

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

9           5. This Stipulation is based on Respondents' decision  
10 not to contest the allegations set forth in the Accusation as a  
11 result of the agreement negotiated between the parties. This  
12 Stipulation is expressly limited to this proceeding and any  
13 further proceeding initiated by or brought before the Department  
14 of Real Estate based upon the facts and circumstances alleged in  
15 the Accusation, and made for the sole purpose of reaching an  
16 agreed disposition of this proceeding. The decision of  
17 Respondents' not to contest the factual statements alleged, and  
18 contained in the "Order" herein below, is made solely for the  
19 purpose of effectuating this Stipulation. It is the intent and  
20 understanding of the parties that this Stipulation shall not be  
21 binding or admissible against Respondents in any actions against  
22 Respondents by third parties.

23           6. It is understood by the parties that the Real Estate  
24 Commissioner may adopt the Stipulation as his Decision in this  
25 matter thereby imposing the penalty and sanctions on Respondents'  
26 real estate licenses and license rights as set forth in the  
27 "Order" herein below. In the event that the Commissioner in his



1 discretion does not adopt the Stipulation, the Stipulation shall  
2 be void and of no effect, and Respondents shall retain the right  
3 to a hearing and proceeding on the Accusation under the provisions  
4 of the APA and shall not be bound by any stipulation or waiver  
5 made herein.

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

12 8. The parties agree that the Accusation may be amended  
13 to delete Paragraph XIV(a).

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DETERMINATION OF ISSUES

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

I

The acts or omissions of Respondent S & F HOME EQUITY LOANS, INC., as described in Paragraph 4, above, are in violation of Section 10145 of the Business and Professions Code (Code) and Sections 2831, 2831.1, 2831.2, and 2832.1 of Title 10, Chapter 6 of the California Code of Regulations (Regulations) and are a basis for the suspension or revocation of Respondent's license and license rights pursuant to Section 10177(d) of the Code.

II

The conduct of Respondent FRANCISCO MURILLO SILVA as described in Paragraph 4, above, is in violation of Section 10145 of the Code and Sections 2831, 2831.1, 2831.2, and 2832.1 of the Regulations, consists of negligence and/or incompetence, and a failure to supervise, and is a basis for the suspension or revocation of said Respondent's license and license rights pursuant to Sections 10159.2, 10177(d), 10177(g) and 10177(h) of the Code.

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

4 C. Respondents shall obey all laws of the United  
5 States, the State of California and its political subdivisions,  
6 and shall further obey and comply with all rules and regulations  
7 of the Real Estate Commissioner.

8 D. Respondents shall not be eligible for the issuance  
9 of unrestricted real estate licenses nor the removal of any of the  
10 conditions, limitations or restrictions of the restricted licenses  
11 until at least two (2) years has elapsed from the effective date  
12 of the Decision.

13 E. Respondent FRANCISCO MURILLO SILVA shall, within  
14 twelve (12) months from the effective date of this Decision,  
15 present evidence satisfactory to the Real Estate Commissioner that  
16 Respondent has, since the most recent issuance of an original or  
17 renewal real estate license, taken and successfully completed the  
18 continuing education requirements of Article 2.5 of Chapter 3 of  
19 the Real Estate Law for renewal of a real estate license. If  
20 Respondent fails to satisfy this condition, the Commissioner may  
21 order the suspension of the restricted license until the Respondent  
22 presents such evidence. The Commissioner shall afford respondent  
23 the opportunity for a hearing pursuant to the Administrative  
24 Procedure Act to present such evidence.

25 F. As a further condition of any restricted license  
26 being issued to Respondents, they, or either of them, shall first  
27 provide evidence satisfactory to the Commissioner that the deficit



1 in the amount of \$919.00 has been cured including the identity of  
2 the source of funds used to cure the deficit

3 II

4 A. Respondent S & F HOME EQUITY LOANS, INC., and/or  
5 FRANCISCO MURILLO SILVA shall pay, pursuant to Section 10148 of  
6 the Code, the Commissioner's reasonable cost for an audit to  
7 determine if Respondents have corrected the trust fund violations  
8 found in paragraphs "I" and "II" of the Determination of Issues.  
9 In calculating the amount of the Commissioner's reasonable costs,  
10 the Commissioner may use the estimated average hourly salary for  
11 all Department audit section personnel performing audits of real  
12 estate brokers, and shall include an allocation for travel costs,  
13 including mileage, time to and from the auditor's place of work,  
14 and per diem in total amount not to exceed \$5,400.

15 (1) Respondents shall pay such cost within forty-five  
16 (45) days of receipt of an invoice from the Commissioner detailing  
17 the activities performed during the audit and the amount of time  
18 spent performing those activities.

19 (2) If Respondents, or either of them, fail to pay,  
20 within forty-five (45) days from receipt of the invoice specified  
21 above, the Commissioner's reasonable costs for an audit to  
22 determine if Respondents have corrected the violations found in  
23 paragraph s"I" and "II" of the Determination of Issues, the  
24 Commissioner may order the indefinite suspension of Respondents'  
25 or either of them, restricted real estate licenses and license  
26 rights. The suspension shall remain in effect until payment is  
27 made in full, or until Respondents enter into an agreement





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satisfactory to the Commissioner to provide for such payment. The Commissioner may impose further reasonable disciplinary terms and conditions upon Respondents' real estate license and license rights as part of any such agreement.

DATED: 8-18-97

*E. M. Lennan*  
ELLIOTT MAC LENNAN  
Counsel for Complainant

\* \* \* \*

We have read the Stipulation and Agreement and its terms are understood by us and are agreeable and acceptable to us. We understand that we are waiving rights given to us by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and we willingly, intelligently and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which we would have the right to cross-examine witnesses against us and to present evidence in defense and mitigation of the charges.

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DATED: 9-24-97

Francisco M. Silva  
S & F HOME EQUITY LOANS, INC.,  
Respondent,  
BY: FRANCISCO MURILLO SILVA, D.O.

DATED: 9-24-97

Francisco M. Silva  
FRANCISCO MURILLO SILVA,  
individually and as designated  
officer of S & F Home Equity Loans,  
Inc., Respondent

DATED: 9-24-97

George J. Parkert  
GEORGE J. PARKERT,  
Counsel for Respondents

\* \* \* \*

The foregoing Stipulation and Agreement is hereby  
adopted by the Commissioner as my Decision and Order and shall  
become effective at 12 o' clock noon on December 9, 1997.

IT IS SO ORDERED 11/12, 1997.

JIM ANTT JR.  
Real Estate Commissioner

Jim Antt Jr.

*Sacto May*

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \* \* \*

In the Matter of the Accusation of )  
S&F HOME EQUITY LOANS, INC., )  
et al., )  
Respondents. )

Case No. H-27252 LA  
OAH No. L-1997070497

**FILED**  
JUL 30 1997  
DEPARTMENT OF REAL ESTATE

By *Jana B. Cran*

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 107 South Broadway, 2nd Floor, Los Angeles, California NOVEMBER 13 & 14 1997, at the hour of 9:00 a.m. or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

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. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

Dated: JUL 30 1997

DEPARTMENT OF REAL ESTATE

By: *Elliott MacLennan*  
ELLIOTT MAC LENNAN, Counsel

cc: S&F Home Loans, Inc.  
Francisco Murillo Silva  
Sacto.  
OAH

*Santa Fe*

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ELLIOTT MAC LENNAN, Counsel  
Department of Real Estate  
107 South Broadway, Room 8107  
Los Angeles, California 90012

(213) 897-3937

**FILED**  
JUN 30 1997  
DEPARTMENT OF REAL ESTATE

By Laura B. Orone

DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \* \* \*

In the Matter of the Accusation of )  
S & F HOME EQUITY )  
LOANS, INC.; and )  
FRANCISCO MURILLO SILVA, )  
individually and as )  
designated officer of )  
S & F Home Equity )  
Loans, Inc., )  
Respondents. )

No. H-27252 LA

A C C U S A T I O N

The Complainant, Thomas McCrady, a Deputy Real Estate  
Commissioner of the State of California, for cause of Accusation  
against S & F HOME EQUITY LOANS, INC., dba Santa Fe & Associates  
Home Loans, S & F Realty, and S & F Home Equity, and FRANCISCO  
MURILLO SILVA, individually and as designated officer of S & F  
Home Equity Loans, Inc., is informed and alleges in his official  
capacity as follows:

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I

S & F HOME EQUITY LOANS, INC (S & F) and FRANCISCO MURILLO SILVA (SILVA), sometimes collectively referred to as Respondents, are presently licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code).

II

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

III

At all times mentioned, S & F was licensed by the Department of Real Estate of the State of California (Department) as a corporate real estate broker by and through SILVA as designated officer.

IV

At all times mentioned, SILVA was licensed by the Department as designated officer of S & F to qualify S & F and to act for S & F as a real estate broker and, as provided by Section 10159.2 of the Code, was responsible for the supervision and control of the activities conducted on behalf of S & F by its officers, managers and employees as necessary to secure full compliance with the provisions of the Real Estate Law including the supervision of the salespersons licensed to the corporation in the performance of acts for which a real estate license is required by Section 10159.2 of the Code.

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V

Whenever reference is made in an allegation in the accusation to an act or omission of S & F such allegation shall be deemed to mean that the officers, directors, managers, employees, agents and real estate licensees employed by or associated with S & F, including SILVA, committed such act or omission while engaged in the furtherance of the business or operation of S & F and while acting within the course and scope of its corporate authority, agency and employment.

VI

At all times mentioned, S & F and SILVA were acting as the agent or employee of the other and within the course and scope of such agency or employment.

VII

At all times mentioned, in the City of El Monte, Los Angeles County, Respondent S & F and Respondent SILVA engaged in the business of, acted in the capacity of, advertised, or assumed to act real estate brokers, within the meaning of Section 10131(d) of the Code, including the operation of a mortgage loan brokerage business with the public wherein lenders and borrowers were solicited for loans secured directly or collaterally by liens on real property, wherein such loans were arranged, negotiated, processed, consummated and serviced, on behalf of others for compensation or in expectation of compensation and for fees often collected in advance and further including broker-controlled escrows of mortgage loans.

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VIII

Audit No. LA 9960297  
Mortgage Loan Trust Account

On March 19, 1997, the Department completed a field audit examination of the books and records of S & F pertaining to its mortgage loan and mortgage loan servicing activities described in Paragraph VII, above, for a period of time beginning on January 1, 1994 and ending on January 31, 1997, which revealed violations of the Code and the Regulations as set forth in the following paragraphs.

IX

At all times mentioned, in connection with the activities described in Paragraph VII, above, Respondents S & F and SILVA accepted or received funds in trust (trust funds) from or on behalf of actual or prospective borrowers and lenders, and thereafter made disposition of such funds. Respondents S & F and SILVA maintained the following trust account into which they deposited certain of these funds:

"S & F Home Equity Loans, Inc., DBA: Santa Fe & Associates  
Loan Service Trust Account  
No. 27-917886-7"  
Home Savings of America  
Alhambra Office #207  
401 East Valley Blvd.  
Alhambra, California 91801

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X

With respect to the mortgage loan service trust fund referred to in Paragraph VII, it is alleged that S & F and SILVA:

(a) Permitted, allowed, or caused a deficit to accumulate in the trust account which on January 31, 1997, was in the amount of \$919.78, in violation of Section 10145 of the Code and Regulation 2832.1; and

(b) Failed to perform a monthly reconciliation of the columnar record for the receipt and disposition of all trust funds received by S & F for the trust account, and the balance of all separate beneficiary or transaction records, as required by Regulation 2831.2;

XI

The conduct of Respondents S & F and SILVA, described in Paragraph X, above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
X(a)	Section 10145 & 10159.2 of the Code, and Section 2832.1 of the Regulations and
X(b)	Section 2831.2 of the Regulations

Each of the foregoing violations separately constitutes cause for the suspension or revocation of the real estate licenses and license rights of Respondents S & F and SILVA under the provisions of Section 10177(d) of the Code.

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XII

Audit No. LA 960354  
Escrow Trust Account

On March 19, 1997, the Department completed a field audit examination of the books and records of S & F pertaining to its escrow activities described in Paragraph VII, above, for a period of time beginning on January 1, 1994 and ending on January 31, 1997, which revealed violations of the Code and the Regulations as set forth in the following paragraphs.

XIII

At all times mentioned, in connection with the activities described in Paragraph VII, above, Respondents S & F and SILVA accepted or received funds in trust (trust funds) from or on behalf of actual or prospective borrowers and lenders, and thereafter made disposition of such funds. Respondents S & F and SILVA maintained the following escrow trust account into which they deposited certain of these funds:

"S & F Home Equity Loans, Inc., DBA: Santa Fe & Associates  
Escrow Trust Account  
No. 027-917876-8"  
Home Savings of America  
Alhambra Office #207  
401 East Valley Blvd.  
Alhambra, California 91801

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2 With respect to the escrow trust funds referred to in  
3 Paragraph XIII, it is alleged that S & F and SILVA:

4 (a) Permitted, allowed, or caused a deficit to  
5 accumulate in the escrow trust account which on January 31, 1997,  
6 was in the amount of \$4,436.49, in violation of Section 10145 of  
7 the Code and Regulation 2832.1;

8 (b) Failed to maintain a control record for the daily  
9 balance of the receipt and disposition of all trust funds in  
10 escrow trust account received by S & F, as required by Regulation  
11 2831;

12 (c) Failed to maintain a separate record for each  
13 beneficiary or transaction, thereby failing to account for all  
14 trust funds received, deposited, and disbursed by the escrow trust  
15 account, as required by Regulation 2831.1; and,

16 (d) Failed to perform a monthly reconciliation of the  
17 columnar record for the receipt and disposition of all trust funds  
18 received by S & F for the trust account, and the balance of all  
19 separate beneficiary or transaction records, as required by  
20 Regulation 2831.2.

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XV

The conduct of Respondents S & F and SILVA, described in Paragraph XIV, above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
XIV(a)	Section 10145 & 10159.2 of the Code, and Section 2832.1 of the Regulations
XIV(b)	Section 10145 & 10159.2 of the Code, and Section 2831 of the Regulations
XIV(c)	Section 10145 & 10159.2 of the Code, and Section 2831.1 of the Regulations
XIV(d)	Section 10145 & 10159.2 of the Code, and Section 2831.2 of the Regulations

Each of the foregoing violations separately constitutes cause for the suspension or revocation of the real estate licenses and license rights of Respondents S & F and SILVA under the provisions of Section 10177(d) of the Code.

XVI

The conduct of Respondent SILVA, in allowing Respondent S & F to violate Section 10145 of the Code and Regulations 2831, 2831.1, 2831.2 and 2832.1, as described in Paragraphs VII through XV herein above, during the time that SILVA was the designated officer of S & F, constitutes negligence or incompetence. This conduct and violation are cause for the suspension or revocation of the real estate license and license rights of Respondent SILVA under the provisions of Section 10177(g) of the Code.



XVII

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2 The conduct of Respondent SILVA, in failing to supervise  
3 S & F, during the time that SILVA was its designated officer,  
4 constitutes a failure by Respondent SILVA to exercise reasonable  
5 supervision of the activities of Respondent S & F, which require a  
6 real estate license. This conduct and violation are cause to  
7 suspend or revoke the real estate license and license rights of  
8 Respondent SILVA under the provisions of Sections 10159.2 and  
9 10177(h) of the Code.

10 WHEREFORE, Complainant prays that a hearing be conducted on  
11 the allegations made by the accusation and, that upon proof  
12 thereof, a decision be rendered imposing disciplinary action  
13 against the license and license rights of Respondent S & F HOME  
14 EQUITY LOANS, INC., and FRANCISCO MURILLO SILVA, individually and  
15 as designated officer of S & F Home Equity Loans, Inc., under the  
16 Real Estate Law (Part 1 of Division 4 of the Business and  
17 Professions Code) and for such other and further relief as may be  
18 proper under other applicable provisions of law.

19 Dated at Los Angeles, California  
20 this 30th day of June, 1997.

21 THOMAS MC CRADY  
22 Deputy Real Estate Commissioner

23  
24  
25 cc: S & F Home Equity Loans, Inc.  
26 c/o Francisco Murillo Silva, D.O.  
27 Sacto.  
MGS

