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FILED
NOV - 9 1998
DEPARTMENT OF REAL ESTATE
K. K. K.

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)
FRANCISCO EDUARDO FRANCIA,)
Respondent.) DRE No. H-27383 LA
OAH No. L-1998050281

DECISION AFTER REJECTION

The matter of FRANCISCO EDUARDO FRANCIA came for hearing before Milford A. Maron, Administrative Law Judge, of the Office of Administrative hearings in Los Angeles, California, on July 22, 1998.

Elliott Mac Lennan, Counsel, represented the complainant. Respondent FRANCISCO EDUARDO FRANCIA was personally present throughout the hearing and representing himself.

Evidence was received, the hearing was closed, and the matter was submitted.

On August 12, 1998, the Administrative Law Judge submitted a Proposed Decision which I declined to adopt as my Decision herein pursuant to Section 11517(c) of the Government Code of the State of California. Respondent was served with

1 notice of my determination not to adopt the Proposed Decision of
2 the Administrative Law Judge along with a copy of said Proposed
3 Decision. Respondent was notified that the case would be decided
4 by me upon the record including the transcript of proceedings held
5 on July 22, 1998, and upon any written argument offered by
6 Respondent.

7 Written argument has been submitted on behalf of
8 Respondent and complainant.

9 I have given careful consideration to the record in this
10 case, including the transcript of proceedings of July 22, 1998.

11 The following shall constitute the Decision of the Real
12 Estate Commissioner in the above entitled matter:

13 FINDINGS OF FACT

14 The findings as set forth in the Proposed Decision of
15 the Administrative Law Judge dated August 12, 1998, are hereby
16 adopted as the Findings Of Fact of the Real Estate Commissioner in
17 the above-entitled matter.

18 DETERMINATION OF ISSUES

19 The Determination of Issues, to wit that cause exists
20 under the provisions of Business and Professions Code Sections
21 10176(i) and 10177(g) to discipline Respondent's real estate
22 broker license, as set forth in the Proposed Decision of the
23 Administrative Law Judge dated August 12, 1998, are hereby adopted
24 as the Findings Of Fact of the Real Estate Commissioner in the
25 above-entitled matter.

26 Contrary to the Order of the Administrative Law Judge, I
27 do not feel that the public interest is adequately protected by a



1 suspension, in part stayed, as the measure of discipline, due to
2 Respondent, as buyer's agent, having forged buyer's refund check
3 and converted the proceeds. However, I do feel that adequate
4 protection will be provided to the public if Respondent is given
5 the right to apply for and receive a restricted real estate
6 salesperson license as this will put him under the direct
7 supervision of an employing broker.

8 ORDER

9
10 A. The real estate broker license and license rights of
11 Respondent FRANCISCO EDUARDO FRANZIA under the provision of Part 1
12 of Division 4 of the Business and Professions Code are hereby
13 revoked.

14 B. A restricted real estate salesperson license shall be
15 issued to Respondent pursuant to Section 10156.5 of the Code upon
16 Respondent's application and payment of the appropriate fee,
17 provided the application is made within 180 days from the
18 effective date of the Decision here.

19 C. The restricted license issued to Respondent shall be
20 subject to all of the provisions of Section 10156.7 of the Code
21 and to the following limitations conditions and restrictions
22 imposed under authority of Section 10156.6 of the Code:

23 1. The restricted license may be suspended prior to
24 hearing by Order of the Real Estate Commissioner in the event that
25 Respondent is convicted or enters a plea of nolo contendere to a
26 crime which bears a significant relationship to the fitness or
27 capacity of Respondent to the functions of a real estate license.



1 2. The restricted license may be suspended prior to
2 hearing by Order of the Real Estate Commissioner on evidence
3 satisfactory to the Real Estate Commissioner that Respondent has
4 violated provisions of the California Real Estate Law, the
5 Subdivision Lands Law, Regulations of the Real Estate
6 Commissioner, or conditions attaching to the restricted license.

7 3. Respondent shall, within twelve months from the
8 effective date of the Decision, present evidence satisfactory to
9 the Real Estate Commissioner that he has, since the most recent
10 issuance of an original or renewal real estate license, taken and
11 successfully completed the continuing education requirements of
12 Section 10170.5 (operative January 1, 1996) for renewal of a real
13 estate license. If Respondent fails to satisfy this condition the
14 Commissioner may order the suspension of the restricted license
15 until the Respondent presents such evidence. The Commissioner
16 shall afford Respondent the opportunity for a hearing pursuant to
17 the Administrative Procedure Act to present such evidence.

18 4. Respondent shall not be eligible to apply for the
19 issuance of real estate broker license nor the removal of any of
20 the conditions, limitations or restrictions of a restricted
21 license until at least one year has elapsed from the effective
22 date of this Decision.

23 5. Respondent shall submit with his application for said
24 restricted license under an employing broker, a statement signed
25 by the prospective employing broker which shall certify (1) That
26 he or she has read the Decision of the Commissioner which granted
27 the right to a restricted license and (2) That he or she will



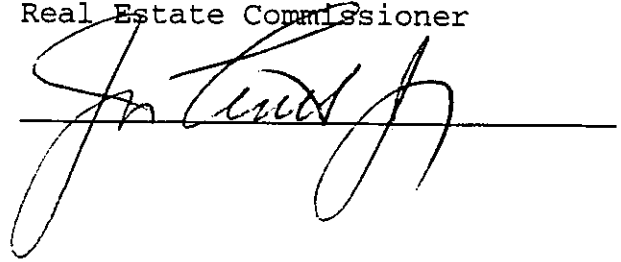
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exercise close supervision over the performance by the restricted licensee of activities for which a real estate license is required.

This Decision shall become effective at 12 o'clock noon
on December 1, 1998.

IT IS SO ORDERED 11/5/98

JIM ANTT, JR.
Real Estate Commissioner



Handwritten scribble

FILED
AUG 24 1998
DEPARTMENT OF REAL ESTATE

By *K. M. Desholt*

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DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H-27383 LA
FRANCISCO EDUARDO FRANCIA,)	L-1998050281
Respondent.)	

NOTICE

TO: FRANCISCO EDUARDO FRANCIA, Respondent

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated August 12, 1998, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated August 12, 1998, is attached hereto for your information.

In accordance with Section 11517(c) of the Government Code of the State of California, the disposition of this case will be determined by me after consideration of the record herein including the transcript of the proceedings held on July 22, 1998, and any written argument hereafter submitted on behalf of respondent and complainant.

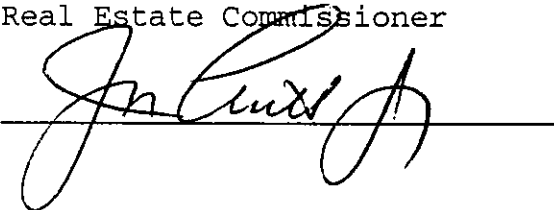
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Written argument for respondent to be considered by me must be submitted within 15 days after receipt of the transcript of the proceedings of July 22, 1998, at the Los Angeles office of the Department of Real Estate unless an extension of the time is granted for good cause shown.

Written argument of complainant to be considered by me must be submitted within 15 days after receipt of the argument of respondent at the Los Angeles office of the Department of Real Estate unless an extension of the time is granted for good cause shown.

DATED: 8/18/98

JIM ANTT, JR.
Real Estate Commissioner


BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation)	
of:)	
)	No. H-27383 LA
)	
FRANCISCO EDUARDO FRANCIA,)	L-1998050281
)	
)	
Respondent.)	
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PROPOSED DECISION

This matter came on regularly for hearing before Milford A. Maron, Administrative Law Judge with the Office of Administrative Hearings, on July 22, 1998, at Los Angeles, California. The Complainant was represented by Elliott MacLennan, Staff Counsel. The Respondent, Francisco Eduardo Francia, appeared in person without counsel. Oral and documentary evidence having been received and the matter submitted, the Administrative Law Judge finds as follows:

I

Thomas McCrady, Complainant, made the Accusation in his official capacity as a Deputy Real Estate Commissioner of the State of California.

II

A. At all times material herein Respondent, Francisco Eduardo Francia, was licensed as a real estate salesperson employed by G & S Inc., Century 21 Hacienda, Los Angeles, his broker, where he engaged in activities as a real estate salesperson.*

*On April 25, 1997, Respondent was licensed as a real estate broker.

B. Respondent was the buyer's agent for Edmundo and Lisa Fernandez who purchased real property located at 2909 Main Street, Alhambra, California. On or about November 10, 1995, at the close of escrow, Respondent received a refund check from escrow made payable to the buyers in the amount of \$448.69. Respondent forged their names and converted the proceeds.

C. Respondent cannot clearly articulate his mental processes at the time of the event, although he is contrite for his misbehavior. Respondent has reimbursed the sum plus interest to buyers.

* * * * *

Pursuant to the foregoing findings of fact, the Administrative Law Judge makes the following determination of issues:

Cause for disciplinary action exists against Respondent pursuant to Sections 10176(i) and 10177(g) of the Business and Professions Code.

* * * * *

WHEREFORE, THE FOLLOWING ORDER is hereby made:

All licenses and licensing rights of Respondent Francisco Eduardo Francia under the Real Estate Law are suspended for a period of one hundred twenty (120) days from the effective date of this Decision; provided, however, that sixty (60) days of said suspension shall be stayed for two (2) years upon the following terms and conditions:

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

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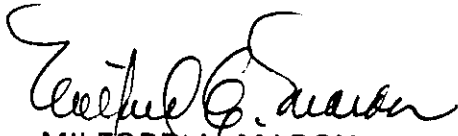
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NOT ADOPTED

2. That no final subsequent determination be made, after hearing or upon stipulation, that cause for disciplinary action occurred within two (2) years of the effective date of this Decision. Should such a determination be made, the Commissioner may, in his discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed suspension. Should no such determination be made, the stay imposed herein shall become permanent.

NOT RECORDED
DATED: Aug 12, 1998


MILFORD A. MARON
Administrative Law Judge
Office of Administrative Hearings

MAM:btm

Sacto plus

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

FILED
JUN 15 1998
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

FRANCISCO EDUARDO FRANCIA,

Respondent

By *K. Anderson*

Case No. H-27383 LA

OAH No. L-1998050281

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at _____
Office of Administrative Hearings, 107 South Broadway, Second Floor, Los Angeles
CA 90012

on July 22, 1998, at the hour of 1:30 p.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: June 15, 1998

By *W. J. W.*
Counsel

cc: Francisco Eduardo Francia
Sacto
OAH

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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
NOV 19 1997
DEPARTMENT OF REAL ESTATE

By *B. Niederholt*

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	
)	
FRANCISCO EDUARDO FRANCIA,)	No. H-27383 LA
)	
)	<u>A C C U S A T I O N</u>
)	
Respondent.)	
_____)	

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, for cause of accusation against FRANCISCO EDUARDO FRANCIA, is informed and alleges in his official capacity as follows:

I

FRANCISCO EDUARDO FRANCIA (FRANCIA) or (Respondent) is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code).

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II

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

III

FRANCIA is presently licensed and/or has license rights under the Real Estate Law as a real estate salesperson. At all mentioned times and since January 16, 1987, to April 25, 1997, FRANCIA was licensed as a real estate salesperson by the Department of Real Estate of the State of California (Department). On April 25, 1997, FRANCIA was licensed as a real estate broker.

IV

At all times herein mentioned, in the City of Los Angeles, Los Angeles County, Respondent FRANCIA was employed by G & S Inc., Century 21 Hacienda, in the City of Los Angeles, as his employing real estate broker. FRANCIA conducted activities set forth in Section 10131(a) of the Code wherein, on behalf of others and for compensation or in expectation of compensation, Respondent FRANCIA sold or offered to sell, bought or offered to buy, solicited prospective sellers or purchasers of, solicited or obtained listings of, or negotiated the purchase, sale or exchange of real property.

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V

Respondent was the buyer's agent for Edmundo and Lisa Fernandez who purchased the real property they purchased located at 2909 Street, Alhambra, California. On or about November 10, 1995, at the close of escrow, Respondent received a refund check from escrow made payable to the buyers in the amount of \$448.69. Respondent forged their names and converted the proceeds.

VI

The conduct of FRANZIA, with respect to the Edmundo and Lisa Fernandez property transaction, as described in Paragraphs V through VII, above, constitutes a violation of Section 10176(i) of the Code. This conduct and violation are cause to suspend or revoke the real estate license and license rights of FRANZIA.

VII

The overall conduct of Respondent FRANZIA, with respect to the Edmundo and Lisa Fernandez property transaction, as described in Paragraphs V through X herein above, constitutes negligence and/or incompetence. This conduct and violations are cause to suspend or revoke the real estate license and license rights of Respondent FRANZIA pursuant to Section 10177(g) of the Code.

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WHEREFORE, Complainant prays that a hearing be conducted on the allegations made by the Accusation and, that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of FRANCISCO EDUARDO FRANCIA 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 applicable provisions of law. Dated at Los Angeles, California this 19th day of November, 1997.

THOMAS MC CRADY

Deputy Real Estate Commissioner

cc: Francisco Eduardo Francia
Sacto.
LR