

Handwritten initials/signature

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

FILED
JUL 22 1998
DEPARTMENT OF REAL ESTATE

3 (213) 897-3937

By *K. M. ...*

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DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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In the Matter of the Accusation of)	NO. H-27487 LA
WALTER FRANCOIS VILLAUME III,)	<u>STIPULATION AND AGREEMENT</u>
)	
)	
)	
Respondent.)	

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It is hereby stipulated by and between and Gwen H. Vecchio and Herman Thordsen of the Law Offices of Herman Thordsen, Counsel for WALTER FRANCOIS VILLAUME III (sometimes referred to as Respondent), 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 January 14, 1998, in this matter:

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondent 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



1 submitted solely on the basis of the provisions of this
2 Stipulation and Agreement (Stipulation).

3 2. Respondent has received, read and understands the
4 Statement to Respondent, the Discovery Provisions of the APA and
5 the Accusation filed by the Department of Real Estate in this
6 proceeding.

7 3. Respondent filed a Notice of Defense pursuant to
8 Section 11506 of the Government Code for the purpose of requesting
9 a hearing on the allegations in the Accusation. Respondent hereby
10 freely and voluntarily withdraws said Notice of Defense.
11 Respondent acknowledges that he understands that by withdrawing
12 said Notice of Defense he thereby waives his right to require the
13 Commissioner to prove the allegations in the Accusation at a
14 contested hearing held in accordance with the provisions of the
15 APA and that he will waive other rights afforded to him in
16 connection with the hearing such as the right to present evidence
17 in his defense and the right to cross-examine witnesses.

18 4. This Stipulation is based on the factual allegations
19 contained in the Accusation. In the interest of expedience and
20 economy, Respondent chooses not to contest these allegations, but
21 to remain silent and understands that, as a result thereof, these
22 factual allegations, without being admitted or denied, will serve
23 as a prima facie basis for the disciplinary action stipulated to
24 herein. The Real Estate Commissioner shall not be required to
25 provide further evidence to prove said factual allegations.

26 5. This Stipulation is based on Respondent's decision
27 not to contest the allegations set forth in the Accusation as a

1 result of the agreement negotiated between the parties. This
2 Stipulation is expressly limited to this proceeding and any
3 further proceeding initiated by or brought before the Department
4 of Real Estate based upon the facts and circumstances alleged in
5 the Accusation for the sole purpose of reaching an agreed
6 disposition of this proceeding. The decision of Respondent not to
7 contest the allegations contained in the "Order" herein below, is
8 made solely for the purpose of effectuating this Stipulation. It
9 is the intent and understanding of the parties that this
10 Stipulation shall not be binding or admissible against Respondent
11 in any actions against Respondent by third parties.

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

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

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1 DETERMINATION OF ISSUES

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

6 I

7 The conduct of Respondent WALTER FRANCOIS VILLAUME III
8 as described in Paragraph 4, above, is in violation of Section
9 10240 of the Business and Professions Code (Code) and Sections
10 2726 and 2840 of Title 10, Chapter 6 of the California Code of
11 Regulations, and is a basis for the suspension or revocation of
12 Respondent's license and license rights pursuant to Section
13 10177(d) of the Code

14 ORDER

15 WHEREFORE THE FOLLOWING ORDER IS MADE PURSUANT TO THE
16 WRITTEN STIPULATION OF THE PARTIES:

17 I

18 All licenses and licensing rights of Respondent WALTER
19 FRANCOIS VILLAUME III under the Real Estate Law are suspended for
20 a period of thirty (30) days from the effective date of this
21 Decision; provided, however, that all thirty (30) days of said
22 suspension shall be stayed for one (1) year upon the following
23 terms and conditions:

- 24
25 1. Respondent shall obey all laws, rules and
26 regulations governing the rights, duties and
27



1 responsibilities of a real estate licensee in the State
2 of California; and

3
4 2. That no final subsequent determination be made,
5 after hearing or upon stipulation, that cause for
6 disciplinary action occurred within one (1) year of the
7 effective date of this Decision. Should such a
8 determination be made, the Commissioner may, in his
9 discretion, vacate and set aside the stay order and
10 reimpose all or a portion of the stayed suspension.
11 Should no such determination be made, the stay imposed
12 herein shall become permanent.

13 DATED:

4-6-98

E. M. Lennan
ELLIOTT MAC LENNAN
Counsel for Complainant

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



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DATED: 5/29/98

Walter Francois Villaume III
WALTER FRANCOIS VILLAUME III,
Respondent

DATED: 5/29/98

Gwen H. Vecchio
GWEN H. VECCHIO,
Attorney for Respondent

DATED: 5-29-98

Herman Thordsen
HERMAN THORSEN,
Attorney for Respondent

* * * *

The foregoing Stipulation and Agreement is hereby
adopted as my Decision and Order and shall become effective at 12
o' clock noon on August 12, 1998.

IT IS SO ORDERED 7/14, 1998.

JIM ANTT JR.
Real Estate Commissioner

J. Antt Jr.

Handwritten initials

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
APR - 1 1998
DEPARTMENT OF REAL ESTATE

By *R. Thordson*

In the Matter of the Accusation of

WALTER FRANCOIS VILLAUME, III,

Case No. H-27487 LA

OAH No. L-1998020141

Respondent

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 June 3, 1998, 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: April 1, 1998

By *H.T.*
Counsel

cc: Walter Francois Villaume, III
Herman Thordson, Esq.
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Sacto

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
MAR - 2 1998
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

WALTER FRANCOIS VILLAUME,

By R. Kuleshes

Case No. H-27487 LA

OAH No. L-199802014

Respondent

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 March 27, 1998, 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: MAR - 2 1998

By ei n. li Counsel

cc: Walter Francois Villaume III
Herman Thordsen, Esq.
Sacto
OAH DH

facto

1 ELLIOTT MAC LENNAN, Counsel
2 State Bar # 66674
3 Department of Real Estate
4 107 South Broadway, Room 8107
5 Los Angeles, California 90012
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8 Telephone (213) 897-3937

FILED
JAN 14 1998
DEPARTMENT OF REAL ESTATE

By K. Huderholt

9 DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * * * *

12 In the Matter of the Accusation of)
13 WALTER FRANCOIS VILLAUME III,)
14) No. H-27487 LA
15) A C C U S A T I O N
16 Respondent.)

17 The Complainant, Thomas McCrady, acting in his official
18 capacity as a Deputy Real Estate Commissioner of the State of
19 California, filed this accusation against WALTER FRANCOIS VILLAUME
20 III operating under the fictitious business name of Pacific Prime
21 Mortgage, is informed and alleges as follows:

22 I

23 WALTER FRANCOIS VILLAUME III (VILLAUME), sometimes
24 referred to as Respondent, is presently licensed and/or has
25 license rights under the Real Estate Law (Part 1 of Division 4 of
26 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 all references to "Regulations" are to Title 10, Chapter 6, California Code of Regulations.

III

At all times mentioned, VILLAUME was licensed or had license rights issued by the Department of Real Estate (Department) as a real estate broker. VILLAUME was initially licensed by the Department on March 28, 1990.

IV

At all times herein mentioned, in the City of Irvine, Orange County, Respondent VILLAUME acted as real estate broker, 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 and collaterally by liens on real property, wherein such loans were arranged, negotiated, processed and consummated on behalf of others for compensation or in expectation of compensation and for fees often collected in advance.

V

On September 19, 1997, the Department completed a field audit examination of the books and records of VILLAUME dba Pacific Prime Mortgage pertaining to his activities requiring a real estate license described in Paragraph IV. The audit examination covered a period of time beginning on January 1, 1996, and ending on July 31, 1997. The audit examination revealed violations of the Code and the Regulations as set forth below.



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VI

The audit examination revealed that VILLAUME failed to provide a statement in writing containing all the information required by Section 10241 of the Code to various borrowers including but not limited to Munoz, Ognall, Broniola, Carmon and Guerrero before these borrowers became obligated to perform under the terms of their loans. This omission is a violation of Section 10240 of the Code and Section 2840 of the Regulations. This omission constitutes cause for the suspension or revocation of the real estate license and license rights of Respondent VILLAUME under Section 10177(d) of the Code.

VII

The audit examination also revealed that VILLAUME failed to date Broker-Salesperson agreements with nineteen of VILLAUME's fifty-six salespeople, in violation of Regulation 2726. This conduct and violation are also cause to suspend or revoke VILLAUME's license and license rights under Sections 10177(d) and 10177(h) of the Code.

VIII

The overall conduct of VILLAUME in violating Section 10240 of the Code and Regulations Sections 2726 and 2840, as described in Paragraphs IV through VII above, constitutes a failure to supervise, negligence or incompetence. This conduct and violation are cause for the suspension or revocation of the real estate license and license rights of Respondent VILLAUME under the provisions of Sections 10177(g) and 10177(h) of the Code.

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Prior Discipline

IX

On June 23, 1995, in Case No. H-2048 SA, an ORDER TO DESIST AND REFRAIN was issued to Respondent VILLAUME under Section 10086 of the Code (Engaging in Prohibited Activity, Order to Desist and Refrain) for violations of Sections 10137, 10145, 10159.2 and 10240 of the California Business and Professions Code and Sections 2831, 2831.1, 2831.2, 2832.1 and 2834 of Title 10, Chapter 6, California Code of Regulations.

Prior Discipline

X

On September 17, 1991, in Case No. H-2047 SA, an Accusation was filed against Respondent VILLAUME that resulted in discipline for said Respondent for violations of Sections 10137, 10145, 10159.2 and 10240 of the California Business and Professions Code and Sections 2831, 2831.1, 2831.2, 2832.1 and 2834 of Title 10, Chapter 6, California Code of Regulations.

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1 WHEREFORE, Complainant prays that a hearing be conducted
2 on the allegations of the accusation and that upon proof thereof,
3 a decision be rendered imposing disciplinary action against the
4 license and license rights of Respondent WALTER FRANCOIS VILLAUME
5 III under the Real Estate Law (Part 1 of Division 4 of the
6 Business and Professions Code) and for such other and further
7 relief as may be proper under other applicable provisions of law.
8 Dated at Los Angeles, California
9 this 14th day of January, 1998.

THOMAS MC CRADY

Deputy Real Estate Commissioner

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cc Walter Francois Villaume III
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DH