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Department of Real Estate
320 W. 4th Street, Suite 350
Los Angeles, California 90013-1105

(213) 576-6911

FILED
APR 14 2000
DEPARTMENT OF REAL ESTATE

By *K. Muehlenfeld*

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	NO. H-28161 LA
WALTER FRANCOIS VILLAUME III,)	<u>STIPULATION AND AGREEMENT</u>
Respondent.)	

It is hereby stipulated by and between WALTER FRANCOIS VILLAUME III (sometimes referred to as Respondent) represented by Frank Buda, Esq. 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 16, 1999, 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 her 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 her
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.

27 /



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 as
8 described in Paragraph 4, above, is a basis for the suspension or
9 revocation of Respondent's license and license rights thereunder
10 pursuant to Section 10177(g) of the Code.

11 ORDER

12 WHEREFORE THE FOLLOWING ORDER IS MADE PURSUANT TO THE
13 WRITTEN STIPULATION OF THE PARTIES:

14 I

15 The license and licensing rights of Respondent WALTER
16 FRANCOIS VILLAUME III under the Real Estate Law are suspended for
17 a period of ten (10) days from the effective date of this
18 Decision; provided, however, that all ten (10) days of said
19 suspension shall be stayed for one (1) year upon the following
20 terms and conditions:

21 1. Respondent pays a monetary penalty pursuant to
22 Section 10175.2 of the Code at the rate of \$100.00 for each day
23 of said suspension stayed, for a total monetary penalty of
24 \$1,000.

25 2. Said payment shall be in the form of a cashier's
26 check or certified check made payable to the Recovery Account
27



1 of the Real Estate Fund. Said check must be delivered to the
2 Department prior to the effective date of the Decision.

3 3. If Respondent fails to pay the monetary penalty in
4 accordance with the terms of the Decision, the Commissioner,
5 may, without a hearing, order the immediate execution of all or
6 any part of the 10 day stayed suspension, in which event the
7 Respondent shall not be entitled to any repayment nor credit,
8 prorated or otherwise, for money paid to the Department under
9 the terms of this Decision.

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

13 5. That no final subsequent determination be made,
14 after hearing or upon stipulation, that cause for disciplinary
15 action occurred within one (1) year of the effective date of
16 this Decision. Should such a determination be made, the
17 Commissioner may, in her discretion, vacate and set aside the
18 stay order and reimpose all or a portion of the stayed
19 suspension. Should no such determination be made, the stay
20 imposed herein shall become permanent.

21 6. Prior to July 1, 2000, Respondent shall pay, as
22 provided in this sub-paragraph 6, the sum of \$80.00, to five
23 borrowers named Jones, Hjorth, Renna, Schubert and Swift,
24 totalling \$400.00, (1) Respondent shall mail the payments by
25 certified mail, return receipt requested, to the borrowers last
26 address on file with or known to Respondent. (2) If any of the
27 payments are returned by the Post Office marked "unable to



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deliver," Respondent shall employ a locator service (that may be limited to or include or be limited to the Internet or other database retrieval search) to try and locate the owners. Payments shall then be made to the addresses recommended by the locator service. (3) If unable to effect payment after using a locator service, Respondent shall provide reasonable proof satisfactory to the Commissioner of his efforts to comply with the provisions of this sub-paragraph 6. (4) If the Commissioner determines that proof to be unsatisfactory, she shall so advise Respondent, and indicate what additional reasonable efforts should be made to make payment to the borrowers. (5) Respondent shall provide proof satisfactory to the Commissioner that said payments have been paid.

DATED: 3-8-00

Elliott Mac Lennan
ELLIOTT MAC LENNAN
Counsel for Complainant

* * * *

I have read the Stipulation and Agreement and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and I 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 I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

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DATED: 3/14/2000

Walter Francois Villaume III
WALTER FRANCOIS VILLAUME III,
Respondent

DATED: 3-13-2000

Frank Buda
FRANK BUDA
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 May 4, 2000.

IT IS SO ORDERED April 11, 2000.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner

Paula Reddish Zinnemann

Sacto

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
NOV - 2 1999
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

WALTER FRANCOIS VILLAUME III,

By K. Vielerhoff

Case No. H- 28161 LA

OAH No. L-1999070198

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, 320 W. Fourth St., Ste. 630, Los Angeles, CA on November 17, 1999, 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: NOV - 2 1999

By E. J. Li Counsel

cc: Walter Francois Villaume III
RE 501 (Rev. 8/97) Frank M. Buda, Esq.
Sacto OAH DB

kw

Backs July

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
JUL 19 1999
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

WALTER F. VILLAUME III,

By *K. Melcher*

Case No. H-28161 LA

OAH No. L-1999070198

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, 320 W. Fourth St., Ste. 630, Los Angeles, CA on October 5 & 6, 1999, 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: July 19, 1999

By *Frank M. Buda*

Counsel

cc: Walter F. Villaume III
Frank M. Buda, Esq.
RE 501 (Rev. 8/97) Sacto OAH DB

kw

Accy Hatt

ELLIOTT MAC LENNAN, Counsel
State Bar No. 66674
Department of Real Estate
320 W. Fourth Street, Ste. 350
Los Angeles, California 90013

FILED
JUN 16 1999

DEPARTMENT OF REAL ESTATE

By *K. Meder*

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(213) 576-6911

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H-28161 LA
WALTER FRANCOIS VILLAUME III,)	<u>A C C U S A T I O N</u>
Respondent.)	

The Complainant, Daniel M. Hatt, acting in his official capacity as a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against WALTER FRANCOIS VILLAUME III, operating under the fictitious business name of Pacific Prime Mortgage, is informed and alleges as follows:

1

WALTER FRANCOIS VILLAUME III (VILLAUME), sometimes referred to as 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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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.

3

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.

4

At all times herein mentioned, in the City of Newport Beach, Orange County, Respondent VILLAUME, acted as a real estate broker, within the meaning of Section 10131(b) 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.

5

VILLAUME dba Pacific Prime Mortgage represented to borrowers Ann Marie Jones, Jeffrey R. Renna, George Hjorth, Randall Schubert, Horrie Tumey, Scates, Swift, and Toyer that including but not limited to title insurance charges with respect to their loans was \$180.00 for the "FLAG" (Fidelity Lenders Abbreviated Guarantee) policy issued by Fidelity National Title

1 Insurance Company and Respondent collected this amount. Whereas,
2 in truth, Pacific Prime Mortgage was only charged \$100 per policy.
3 For these and for a total of 308 other unknown California
4 borrowers, Pacific Prime Mortgage overcharged borrowers \$24,640 in
5 1997 for FLAG policies and Respondent converted this excess for
6 his own use.

7
8 6

9 The conduct of VILLAUME, as described in Paragraph 5,
10 constitutes the making of a substantial misrepresentation. This
11 conduct and violation are cause to suspend or revoke the real
12 estate license and license rights of VILLAUME under the provisions
13 of Section 10176(a) of the Code.

14 7

15 The conduct of VILLAUME, as described in Paragraph 5
16 above, constitutes fraud and dishonest dealing in performing acts
17 which require a real estate license. This conduct and violation
18 are cause to suspend or revoke the real estate license and license
19 rights of VILLAUME under Section 10176(i) of the Code.

20 8

21 The conduct of taking a secret profit undisclosed to the
22 aforesaid borrowers in the amount of \$80 each constitutes a
23 violation of Section 10176(g) of the Code and is cause for the
24 suspension or revocation of the real estate license and license
25 rights of VILLAUME under the provisions thereunder.

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The overall conduct of VILLAUME, constitutes negligence or incompetence. This conduct and violation are cause for the suspension or revocation of the real estate license and license rights of VILLAUME under Section 10177(g) of the Code.

Prior Discipline

10

On June 5, 1995, in Case No. H-2084 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 Code and Sections 2831, 2831.1, 2831.2, 2832.1, 2834 and 2842.5 of the Regulations.

Prior Discipline

11

On June 5, 1995, 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 Code and Sections 2831, 2831.1, 2831.2, 2832.1 and 2834 of the Regulations.

Prior Discipline

12

On January 14, 1998, in Case No. H-27487 LA, an Accusation was filed against Respondent VILLAUME that resulted in discipline for said Respondent for violations of Section 10240 of the Code and Sections 2726 and 2842.5 of the Regulations.

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WHEREFORE, Complainant prays that a hearing be conducted on the allegations of the accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all license and license rights of Respondent WALTER FRANCOIS VILLAUME III 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 16th day of June, 1999.

DANIEL M. HATT

Deputy Real Estate Commissioner

cc: Walter Francois Villaume III
Sacto
DB