

ELLIOTT MAC LENNAN, SBN 66674
Department of Real Estate
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Los Angeles, California 90013-1105

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FILED
AUG 10 2001

DEPARTMENT OF REAL ESTATE

By K. Mederholdt

THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of	)	H-29023 LA
HOME SERVICES UNLIMITED, INC.;	)	
and, FRANCIS KO, individually	)	STIPULATION
and as designated officer of	)	AND
Home Services Unlimited, Inc.	)	AGREEMENT
	)	
Respondents.	)	

It is hereby stipulated by and between Respondents
HOME SERVICES UNLIMITED, INC., and FRANCIS KO, individually and
as designated officer of Home Services Unlimited, Inc. (sometimes
collectively referred to as Respondents), represented by John
Vozenilek, 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 April 16, 2001, in this matter:

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

1 accordance with the provisions of the Administrative Procedure
2 Act (APA), shall instead and in place thereof be submitted solely
3 on the basis of the provisions of this Stipulation and Agreement
4 (Stipulation).

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

9 3. Respondents filed a Notice of Defense pursuant to
10 Section 11506 of the Government Code for the purpose of
11 requesting a hearing on the allegations in the Accusation.
12 Respondents hereby freely and voluntarily withdraw said Notice of
13 Defense. Respondents acknowledge that they understand that by
14 withdrawing said Notice of Defense they thereby waive their right
15 to require the Commissioner to prove the allegations in the
16 Accusation at a contested hearing held in accordance with the
17 provisions of the APA and that they will waive other rights
18 afforded to them in connection with the hearing such as the right
19 to present evidence in their defense the right to cross-examine
20 witnesses.
21

22 4. This Stipulation is based on the factual allegations
23 contained in the Accusation. In the interest of expedience and
24 economy, Respondents choose not to contest these allegations, but
25 to remain silent and understand that, as a result thereof, these
26 factual allegations, without being admitted or denied, will serve
27

1 as a prima facie basis for the disciplinary action stipulated to
2 herein. The Real Estate Commissioner shall not be required to
3 provide further evidence to prove said factual allegations.

4 5. This Stipulation is based on Respondents' decision not
5 to contest the allegations set forth in the Accusation as a
6 result of the agreement negotiated between the parties. This
7 Stipulation is expressly limited to this proceeding and any
8 further proceeding initiated by or brought before the Department
9 of Real Estate based upon the facts and circumstances alleged in
10 the Accusation and is made for the sole purpose of reaching an
11 agreed disposition of this proceeding without a hearing. The
12 decision of Respondents not to contest the allegations is made
13 solely for the purpose of effectuating this Stipulation. It is
14 the intent and understanding of the parties that this Stipulation
15 shall not be binding or admissible against Respondents in any
16 actions against Respondents by third parties.

17 6. It is understood by the parties that the Real Estate
18 Commissioner may adopt this Stipulation as her Decision in this
19 matter thereby imposing the penalty and sanctions on Respondents'
20 real estate licenses and license rights as set forth in the
21 "Order" herein below. In the event that the Commissioner in her
22 discretion does not adopt the Stipulation, it shall be void and
23 of no effect and Respondents shall retain the right to a hearing
24 and proceeding on the Accusation under the provisions of the APA
25 and shall not be bound by any stipulation or waiver made herein.
26
27

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

7 8. This stipulation and the order made pursuant to this
8 stipulation shall have no collateral estoppel or res judicata
9 effect in any proceeding(s) in which HOME SERVICES UNLIMITED,
10 INC. and FRANCIS KO and the Department are not parties. This
11 stipulation is made and accepted with the express understanding
12 and agreement that it is for the purpose of settling these
13 proceedings only, and is not intended as, nor shall be it be
14 deemed, used, argued, or accepted as an acknowledgement or
15 admission of fact in any other judicial, administrative, or other
16 proceeding in which the Department is not a party.

17 9. Respondents understand that by agreeing to this
18 Stipulation, Respondents agree to pay, pursuant to Business and
19 Professions Code Section 10148, the cost of the audit of Home
20 Services Unlimited, Inc. which led to this disciplinary action.
21 The amount of said cost is \$4,713.

22 10. Respondents have received, read, and understand the
23 "Notice Concerning Costs of Subsequent Audit". Respondents
24 further understand that by agreeing to this Stipulation, the
25 findings set forth below in the Determination of Issues become
26
27

1 final, and the Commissioner may charge Respondents for the cost
2 of any subsequent audit conducted pursuant to Business and
3 Professions Code Section 10148 to determine if the violations
4 have been corrected. The maximum cost of the subsequent audit
5 will not exceed \$4,713.

6 DETERMINATION OF ISSUES

7 By reason of the foregoing, it is stipulated and agreed that
8 the following determination of issues shall be made:

9 I.

10 The conduct of HOME SERVICES UNLIMITED, INC., as described
11 in Paragraph 4, is in violation of Sections 10145 and 10161.8 of
12 the Business and Professions Code (Code) and Sections 2752, 2832,
13 2834 of Title 10, Chapter 6 of the California Code of Regulations
14 and is a basis for the suspension or revocation of Respondent
15 HOME SERVICES UNLIMITED, INC.'s license and license rights as a
16 violation of the Real Estate Law pursuant to Sections 10177(d)
17 and 10177(g) of the Code.
18

19 II.

20 The conduct of FRANCIS KO, as described in Paragraph 4,
21 constitutes a failure to keep Home Services Unlimited, Inc., in
22 compliance with the Real Estate Law during the time that he was
23 the officer designated by a corporate broker licensee in
24 violation of Sections 10159.2 of the Code. This conduct is a
25 basis for the suspension or revocation of Respondent's license
26 pursuant to Section 10177(h) of the Code.
27

1
2 ORDER

3 WHEREFORE, THE FOLLOWING ORDER is hereby made:

4 I.

5 All licenses and licensing rights of Respondents HOME
6 SERVICES UNLIMITED, INC. and FRANCIS KO under the Real Estate Law
7 are suspended for a period of sixty (60) days from the effective
8 date of this Decision; provided, however, that all sixty (60)
9 days of said suspension shall be stayed for two (2) years upon
10 the following terms and conditions:

11 1. Respondents shall obey all laws, rules and
12 regulations governing the rights, duties and responsibilities
13 of a real estate licensee in the State of California.

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

22 3. Pursuant to Section 10148 of the Business and
23 Professions Code, Respondents shall pay the Commissioner's
24 reasonable cost for (a) the audit which led to this disciplinary
25 action and (b) a subsequent audit to determine if Respondent Home
26 Services Unlimited, Inc. and Francis Ko are in compliance with the
27 Real Estate Law.

1 Services Unlimited, Inc. is now in compliance with the Real
2 Estate Law. The cost of the audit which led to this disciplinary
3 action is \$4,713. In calculating the amount of the
4 Commissioner's reasonable cost, the Commissioner may use the
5 estimated average hourly salary for all persons performing audits
6 of real estate brokers, and shall include an allocation for
7 travel time to and from the auditor's place of work. Said amount
8 for the prior and subsequent audits shall not exceed \$9,426.

9 Respondents shall pay such cost within 60 days of
10 receiving an invoice from the Commissioner detailing the
11 activities performed during the audit and the amount of time
12 spent performing those activities.

13 The Commissioner may suspend the license of Respondents
14 pending a hearing held in accordance with Section 11500, et seq.,
15 of the Government Code, if payment is not timely made as provided
16 for herein, or as provided for in a subsequent agreement between
17 the Respondents and the Commissioner. The suspension shall
18 remain in effect until payment is made in full or until a
19 Respondent enters into an agreement satisfactory to the
20 Commissioner to provide for payment, or until a decision
21 providing otherwise is adopted following a hearing held pursuant
22 to this condition.
23

24
25 DATED: 7-4-01

elliott
ELLIOTT MAC LENNAN, Counsel for
the Department of Real Estate
/

* * *

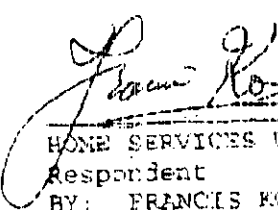
EXECUTION OF THE STIPULATION

We have read the Stipulation and Agreement, and have discussed it with our counsel. 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.

Respondents can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by faxing a copy of its signature page, as actually signed by Respondents, to the Department at the following telephone/fax number: Elliott Mac Lennan at (213) 576-6917. Respondents agree, acknowledge and understand that by electronically sending to the Department a fax copy of Respondents' actual signature as they appear on the Stipulation and Agreement, that receipt of the faxed copy by the Department shall be as binding on Respondents as if the Department had received the original signed Stipulation and Agreement.

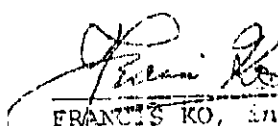
1 DATED:

7-18-01


HOME SERVICES UNLIMITED, INC.
Respondent
BY: FRANCIS KO, D O.,

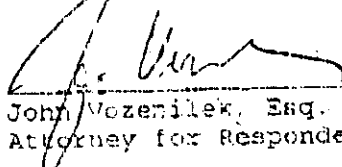
4 DATED:

7-18-01


FRANCIS KO, Individually and as
designated officer of Home Services
Unlimited Inc., Respondent

8 DATED:

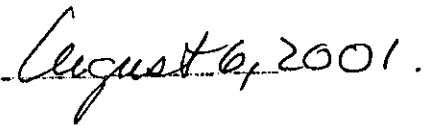
7-18-01


John Vozenilek, Esq.
Attorney for Respondents

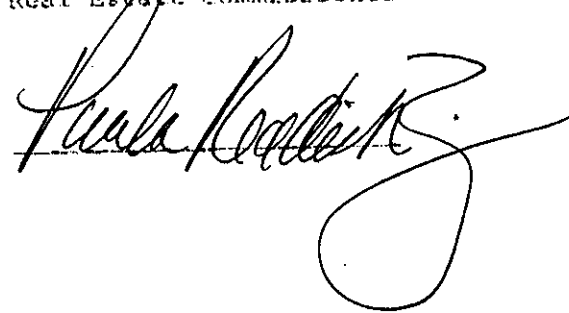
10 * * *

12 The foregoing Stipulation and Agreement is hereby
13 adopted as my Decision as to Respondents HOME SERVICES UNLIMITED,
14 INC. and FRANCIS KO, and shall become effective at 12 o'clock
15 noon
16 on _____

17 IT IS SO ORDERED


August 6, 2001.

18 PAULA REDEISH ZINNEBANN
19 Real Estate Commissioner



1 DATED: _____

HOME SERVICES UNLIMITED, INC.
Respondent,
BY: FRANCIS KO, D.O.,

5 DATED: _____

FRANCIS KO, individually and as
designated officer of Home Services
Unlimited, Inc., Respondent

8 DATED: _____

John Vozenilek, Esq.
Attorney for Respondents

12 The foregoing Stipulation and Agreement is hereby
13 adopted as my Decision as to Respondents HOME SERVICES UNLIMITED,
14 INC. and FRANCIS KO, and shall become effective at 12 o'clock
15 noon

16 on August 30, 2001

17 IT IS SO ORDERED

August 1, 2001.

19 PAULA REDDISH ZINNEMANN
Real Estate Commissioner

21 *Paula Reddish Zinnemann*
22 _____
23 _____
24 _____
25 _____
26 _____
27 _____

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Glas*

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By K. K. K. K. K.

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STATE OF CALIFORNIA

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In the Matter of the Accusation of	)	No. H-29023 LA
HOME SERVICES UNLIMITED, INC.;	)	
and, FRANCIS KO, individually	)	<u>ACCUSATION</u>
and as designated officer of	)	
Home Services Unlimited, Inc.	)	
Respondents.	)	

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, acting in his official capacity, for cause of Accusation against HOME SERVICES UNLIMITED, INC., dba Land-Lord Management, Life-Line Mortgage, and Triple Eight Realty ("HOME SERVICES"), and FRANCIS KO, individually and as designated officer of Home Services Unlimited, Inc. ("KO"), is informed and alleges as follows:

1

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.

HOMES SERVICES and KO, (hereinafter referred to as Respondents) are presently licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code, hereinafter "Code"). On February 7, 1994, HOME SERVICES was originally licensed as a real estate broker.

At all times mentioned, KO was licensed by the Department as designated officer of HOMES SERVICES to qualify HOMES SERVICES and to act for it 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 HOMES SERVICES 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. KO was originally licensed as a real estate broker on April 27, 1982.

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

At all times mentioned, in the City of Buena Park, County of Los Angeles, HOME SERVICES acted as real estate broker and conducted licensed activities within the meaning of:

A. Code Section 10131(a) in that HOME SERVICES operated a residential real estate resale brokerage.

B. Code Section 10131(b) of the Code in that HOME SERVICES operated a property management business.

C. Code Section 10131(d) of the Code in that HOME SERVICES operated a mortgage and loan brokerage; and,

D. HOME SERVICES also conducted broker controlled escrows via its escrow company under the exemption set forth in California Financial Code Section 17006(a)(4).

On November 27, 2000, the Department completed an audit examination of the books and records of HOME SERVICES pertaining to the activities described in Paragraph 5 that require a real estate license. The audit examination covered a period of time beginning on October 1, 1999 and terminating on September 29, 2000. The audit examination revealed violations of the Code and the Regulations as set forth in the following paragraphs.

At all times mentioned, in connection with the activities described in Paragraph 5, HOME SERVICES accepted or received funds in trust (trust funds) from or on behalf of actual or prospective buyers and sellers, landlords and tenants, and

1 borrowers and lenders, for deposit into its broker-controlled
2 escrow operation. Thereafter HOME SERVICES made disposition of
3 such funds. HOME SERVICES maintained the following trust
4 accounts into which it deposited certain of these funds at the
5 following banks:

6 "Home Services Unlimited Inc. Land-Lord Management -
Trust Account (T/A #1)
7 Account No. 06248-01816"
Bank of America
8 8880 Valley View
Buena Park, California

9
10 "Home Services Unlimited Inc. Land-Lord Management
Account No. 179-850002-1" (T/A #2)

11 Washington Mutual Bank, FA
12 7964 Beach Blvd.
Buena Park, California

13 "Lin & Tseng Enterprise
Account No. 00907-10261" (T/A #3)
14 Bank of America
15 8880 Valley View
Buena Park, California

16 "Lin & Tseng Enterprise Arrow Meadow Apartment
Account No. 00907-10261" (T/A #4)
17 Bank of America
18 8880 Valley View
Buena Park, California

19 "Home Services Unlimited Inc. dba Life Line Mortgage, Mortgage
Trust Account
20 Account No. 17912-015-15" (T/A #5)
21 Bank of America
22 8880 Valley View
Buena Park, California

23 "Home Services Unlimited Inc. Escrow Trust Account
Account No. 17913-01468" (T/A #6)
24 Bank of America
25 8880 Valley View
Buena Park, California

With respect to the licensed activities referred to in Paragraph 5, and the audit examination referred to in Paragraph 6, it is alleged that HOME SERVICES:

(a) Failed to place funds accepted on behalf of another into the hands of the owner of the funds, into a neutral escrow depository or into a trust fund account in the name of the broker as trustee at a bank or other financial institution, as required by Code Section 10145 and Regulations 2832. T/A #2 was not set up as a trust account;

(b) Failed to place funds accepted on behalf of another into the hands of the owner of the funds, into a neutral escrow depository or into a trust fund account in the name of the broker as trustee at a bank or other financial institution, as required by Code Section 10145 and Regulations 2832. T/A #3 and T/A #4 were not set up in the broker's name as trustee and they were not designated as trust accounts;

(c) Permitted unlicensed and unbonded persons Lety Chan, Mei Chun Lin, and T.C..Cheng to be authorized signatories on selected trust accounts, in violation of Regulation 2834; and

(d) Failed to notify the Department of the employment of licensees Ko Tang and Lisa Chu, and the termination of licensees Kung M. Kao, Donna D. Ly, K.C. Yu, and Christine R.J. Yu, as required by Code Section 10161.8 and Regulation 2752.

The conduct of Respondent HOME SERVICES, described in Paragraph 8, above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
8(a)	Code Section 10145 and Regulation 2832
8(b)	Code Section 10145 and Regulation 2832
8(c)	Code Section 10145 and Regulation 2834, and
8(d)	Code Section 10161.8 and Regulation 2752

Each of the foregoing violations constitute cause for the suspension or revocation of the real estate license and license rights of HOME SERVICES under the provisions of Code Section 10177(d).

10

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

