

1 Department of Real Estate
2 320 West Fourth Street, #350
3 Los Angeles, California 90013
4 (213) 576-6982
5 (213) 620-6430

FILED
MAY 12, 2008
DEPARTMENT OF REAL ESTATE

By C. Bay

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7
8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-34504 LA
12) L-2007120536
13)
14 THE FHL FINANCIAL GROUP and) STIPULATION AND
15 JEFFREY LOUIS PRATHER,) AGREEMENT
16 individually and as designated)
17 broker-officer of)
18 The FHL Financial Group,)
19)
20 _____ Respondents.)

21 It is hereby stipulated by and between THE FHL
22 FINANCIAL GROUP, a real estate corporation (sometimes referred
23 to herein as "Respondent FHL FINANCIAL") and JEFFREY LOUIS
24 PRATHER (sometimes referred to herein as "Respondent PRATHER"),
25 individually and as designated broker-officer of FHL FINANCIAL,
26 both represented by Douglas Lee Weeks, Esq., and the
27 Complainant, acting by and through Martha J. Rosett, Counsel
for the Department of Real Estate, as follows for the purpose
of settling and disposing of the Accusation filed on
November 16, 2007 in this matter:

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

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

12 3. On November 30, 2007, Respondents filed Notices
13 of Defense pursuant to Section 11506 of the Government Code for
14 the purpose of requesting a hearing on the allegations in the
15 Accusation. In order to effectuate this settlement,
16 Respondents hereby freely and voluntarily withdraw said Notices
17 of Defense. Respondents acknowledge that they understand that
18 by withdrawing said Notices of Defense, they will thereby waive
19 their rights to require the Commissioner to prove the
20 allegations in the Accusation at a contested hearing held in
21 accordance with the provisions of the APA and that they will
22 waive other rights afforded to them in connection with the
23 hearing such as the right to present evidence in defense of the
24 allegations in the Accusation and the right to cross-examine
25 witnesses.

26 4. Respondents, pursuant to the limitations set
27 forth below, although not admitting or denying the truth of the

1 allegations, will not contest the factual allegations contained
2 in the Accusation filed in this proceeding and the Real Estate
3 Commissioner shall not be required to provide further evidence
4 of such allegations.

5 5. It is understood by the parties that the Real
6 Estate Commissioner may adopt the Stipulation and Agreement as
7 his Decision in this matter, thereby imposing the penalty and
8 sanctions on Respondents' real estate licenses and license
9 rights as set forth in the below "Order". In the event that
10 the Commissioner in his discretion does not adopt the
11 Stipulation and Agreement, it shall be void and of no effect,
12 and Respondents shall retain the right to a hearing and
13 proceeding on the Accusation under all the provisions of the
14 APA and shall not be bound by any stipulation or waiver made
15 herein.

16 6. The Order or any subsequent Order of the Real
17 Estate Commissioner made pursuant to this Stipulation and
18 Agreement shall not constitute an estoppel, merger or bar to
19 any further administrative proceedings by the Department of
20 Real Estate with respect to any matters which were not
21 specifically alleged to be causes for accusation in this
22 proceeding.

23 7. This Stipulation and Respondents' decision not to
24 contest the Accusation are made for the purpose of reaching an
25 agreed disposition of this proceeding, and are expressly
26 limited to this proceeding and any other proceeding or case in
27 which the Department of Real Estate ("Department"), or another

1 licensing agency of this state, another state or if the federal
2 government is involved and otherwise shall not be admissible in
3 any other criminal or civil proceedings.

4 DETERMINATION OF ISSUES

5 By reason of the foregoing stipulations and waivers
6 and solely for the purpose of settlement of the pending
7 Accusation without a hearing, it is stipulated and agreed that
8 the following Determination of Issues shall be made:

9 1. The conduct, acts or omissions of Respondent THE
10 FHL FINANCIAL, as set forth in the Accusation, constitute cause
11 to suspend or revoke the real estate license and license rights
12 of Respondent THE FHL FINANCIAL, under the provisions of
13 Business and Professions Code ("Code") Sections 10177(d) and
14 10177(g) for violation of Code Sections 10145, 10176(g), and
15 10238(f); and Title 10, Chapter 6 of the California Code of
16 Regulations ("Regulations"), Regulations 2831, 2831.1, 2832.1,
17 and 2950(h).

18 2. The conduct, acts or omissions of Respondent
19 JEFFREY LOUIS PRATHER, as set forth in the Accusation,
20 constitute cause to suspend or revoke the real estate license
21 and license rights of Respondent JEFFREY LOUIS PRATHER under
22 the provisions of Code Sections 10177(d), 10177(g) and 10177(h)
23 for violation of Code Sections 10145, 10176(g), 10238(f), and
24 10159.2; and Regulations 2831, 2831.1, 2832.1, and 2950(h).

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1 5. If Respondents pay the monetary penalty, and if
2 no further cause for disciplinary action against the real
3 estate licenses of Respondents occurs within two years from the
4 effective date of the Decision, the stay hereby granted shall
5 become permanent.

6 II. Pursuant to Section 10148 of the Business and
7 Professions Code, Respondents shall pay the Commissioner's
8 reasonable cost for a) the audit which led to this disciplinary
9 action and, b) a subsequent audit to determine if Respondents
10 have corrected the trust fund violations found in Paragraphs 1
11 and 2 of the Determination of Issues. The cost of the audit
12 which led to this disciplinary action is \$5,887.70. In
13 calculating the amount of the Commissioner's reasonable cost,
14 the Commissioner may use the estimated average hourly salary
15 for all persons performing audits of real estate brokers, and
16 shall include an allocation for travel costs, including
17 mileage, time to and from the auditor's place of work and per
18 diem. Said amount for the subsequent audit shall not exceed
19 \$5,887.70. Respondents shall pay such cost within 60 days of
20 receiving an invoice from the Commissioner detailing the
21 activities performed during the audit and the amount of time
22 spent performing those activities. The Commissioner may, in
23 his discretion, vacate and set aside the stay order, if payment
24 is not timely made as provided for herein, or as provided for
25 in a subsequent agreement between the Respondents and the
26 Commissioner. The vacation and the set aside of the stay shall
27 remain in effect until payment is made in full, or until

1 Respondents enter into an agreement satisfactory to the
2 Commissioner to provide for payment. Should no order vacating
3 the stay be issued, either in accordance with this condition or
4 condition "I.", the stay imposed herein shall become permanent.

5 III. All licenses and licensing rights of Respondent
6 JEFFREY LOUIS PRATHER are indefinitely suspended unless or
7 until Respondent provides proof satisfactory to the
8 Commissioner of having taken and successfully completed the
9 continuing education course on trust fund accounting and
10 handling specified in subdivision (a) of Section 10170.5 of the
11 Business and Professions Code. Proof of satisfaction of this
12 requirement includes evidence that Respondent has successfully
13 completed the trust fund account and handling continuing
14 education course within 120 days prior to the effective date of
15 the Decision in this matter.

16 DATED: 4/8/08


MARTHA J. ROSETT
Counsel for Complainant

17 * * *

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

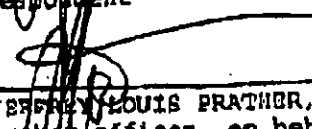
5 Respondents may signify acceptance and approval of the
 6 terms and conditions of this Stipulation and Agreement by faxing
 7 a copy of its signature page, as actually signed by Respondents,
 8 to the Department at the following fax number (213) 576-6917.
 9 Respondents agree, acknowledge and understand that by
 10 electronically sending to the Department a fax copy of their
 11 actual signatures as they appear on the Stipulation, that receipt
 12 of the faxed copy by the Department shall be as binding on
 13 Respondents as if the Department had received the original signed
 14 Stipulation and Agreement.

15
16 DATED: 3/4/08



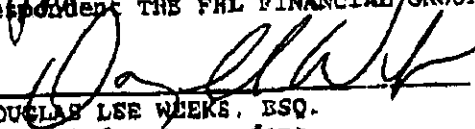
 JEFFREY LOUIS PRATHER,
 individually,
 Respondent

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19 DATED: 3/4/08



 JEFFREY LOUIS PRATHER, Designated
 broker/officer, on behalf of
 Respondent THE FHL FINANCIAL GROUP

20
21
22 DATED: 3-4-08



 DOUGLAS LEE WEEKS, ESQ.
 Counsel for Respondent

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2 we would have the right to cross-examine witnesses against us
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12 of the faxed copy by the Department shall be as binding on
13 Respondents as if the Department had received the original signed
14 Stipulation and Agreement.

15
16 DATED: _____

JEFFREY LOUIS PRATHER,
individually,
Respondent

17
18
19 DATED: _____

JEFFREY LOUIS PRATHER, designated
broker-officer, on behalf of
Respondent THE FHL FINANCIAL GROUP

20
21
22 DATED: _____

DOUGLAS LEE WEEKS, ESQ.
Counsel for Respondent

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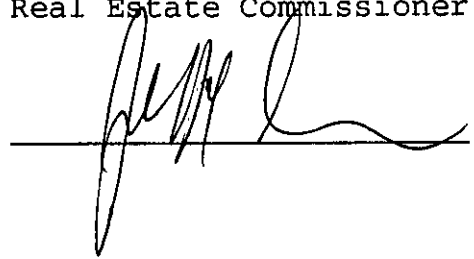
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The foregoing Stipulation and Agreement is hereby
adopted as my Decision in this matter and shall become
effective at 12 o'clock noon on June 11, 2008.

IT IS SO ORDERED d. 30-08 .

JEFF DAVI
Real Estate Commissioner



A handwritten signature in black ink, appearing to read 'Jeff Davi', is written over a horizontal line. The signature is stylized and cursive.

1 FINANCIAL"), is presently licensed and at all times relevant
2 herein was licensed under the Real Estate Law, Part 1 of Division
3 4 of the California Business and Professions Code (hereinafter
4 "Code") as a corporate real estate broker. Respondent FHL
5 FINANCIAL has been licensed by the Department of Real Estate of
6 the State of California (hereinafter "Department") as a corporate
7 real estate broker since on or about November 1, 1983. At all
8 times relevant herein, Respondent FHL FINANCIAL was and is
9 authorized to act by and through Respondent JEFFREY LOUIS PRATHER
10 as the designated officer and broker responsible, pursuant to the
11 provisions of Code Section 10159.2 for the supervision and
12 control of the activities conducted on behalf of FHL FINANCIAL by
13 FHL FINANCIAL's officers and employees.

14
15 3.

16 Respondent JEFFREY LOUIS PRATHER (hereinafter
17 "PRATHER"), is licensed and at all times relevant herein was
18 licensed under the Code as a real estate broker. Respondent
19 PRATHER has been licensed by the Department as a real estate
20 broker since on or about May 2, 1986. At all times relevant
21 herein, Respondent PRATHER was and is the broker-officer of
22 Respondent FHL FINANCIAL, responsible pursuant to the provisions
23 of Code Section 10159.2 for the supervision and control of the
24 activities conducted on behalf of FHL FINANCIAL by FHL
25 FINANCIAL's officers and employees. Respondent also does
26 business as T D Co.
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4.

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2 At all times material herein, Respondents engaged in
3 the business of, acted in the capacity of, advertised or assumed
4 to act as real estate brokers in the State of California within
5 the meaning of Code Section 10131(d), for another or others in
6 expectation of compensation. Said activity included representing
7 borrowers and lenders of loans secured by real property, and
8 performing loan servicing and escrow activities in relation to
9 those loans pursuant to the exemption set forth in Financial Code
10 Section 17006(a)(4).

11
12 5.

13 All further references to "Respondents" include
14 Respondent FHL FINANCIAL and Respondent PRATHER, and also include
15 the employees, agents and real estate licensees employed by or
16 associated with each Respondent, who at all times material herein
17 were engaged in the furtherance of the business or operations of
18 said parties and who were acting within the course and scope of
19 their authority, agency or employment.

20 Audit Violations

21
22 6.

23 During the period between January 1, 2006 and October
24 31, 2006, in connection with the aforesaid real estate loan and
25 escrow activities, Respondents accepted or received funds,
26 including funds in trust (hereinafter "trust funds") from or on
27 behalf of actual and prospective lenders and borrowers on loans

1 secured by real property, and related escrows, and made deposits
2 and/or disbursements of such funds. From time to time herein
3 mentioned, said trust funds were deposited into accounts
4 maintained by Respondents at California Bank & Trust, located at
5 24012 Calle De La Plata, Laguna Hills, CA, identified as follows:

6 A. Account No. 30-300049-61, entitled, "The FHL
7 Financial Group, Loan Servicing Trust" (hereinafter referred to
8 as "Trust Account 1"). During the audit period, Respondent
9 PRATHER and Catherine A. Schlicht (RES) were signatories on this
10 account. One signature was required per check. Trust Account 1
11 was used to handle borrower payment receipts and disbursements
12 for the loan servicing activities.

13 B. Account No. 30-3000051-81, entitled, "The FHL
14 Financial Group, Group Trust" (hereinafter referred to as "Trust
15 Account 2"). During the audit period, Respondent PRATHER and
16 Catherine Schlicht (RES) were signatories on this account. One
17 signature is required per check. Trust Account 2 was used to
18 handle escrow receipts and disbursements for the broker escrow
19 activities.
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21 7.

22 On or about March 16, 2007, the Department completed
23 its examination of Respondent FHL FINANCIAL's books and records
24 pertaining to the real estate activities described in Paragraphs
25 4 and 6 above, covering a period from approximately January 1,
26 2006 to October 31, 2006. The primary purpose of the examination
27

1 was to determine Respondent's compliance with the Real Estate
2 Law. The examination, Audit Nos. LA 060071 (mortgage loan
3 activities) and LA 060163 (broker escrow activities), revealed
4 violations of the Code, and of Title 10, Chapter 6, California
5 Code of Regulations (hereinafter "Regulations"), as set forth
6 below and as more specifically set forth in the Audit Reports and
7 Exhibits attached thereto.

8 8.

9 In the course of activities described in Paragraphs 4
10 and 6 above, and during the examination period described in
11 Paragraph 7, Respondents acted in violation of the Code and the
12 Regulations in that:

13 a) As of October 31, 2006, Trust Account 1 had a
14 shortage of \$2,042.59. Respondents caused, permitted and/or
15 allowed the withdrawal or disbursement of trust funds from this
16 account without the prior written consent of every principal who
17 then was an owner of funds in the account, thereby reducing the
18 balance of funds in the said account to an amount less than the
19 existing aggregate trust fund liability of the broker to all the
20 owners of said trust funds, in violation of Code Section 10145
21 and Regulation 2832.1.

22 b) Respondents did not disclose to all beneficiaries
23 who had trust funds in Trust Account 1 that FHL FINANCIAL
24 received earnings credits of \$4,740.40 during the audit period
25 from funds available in Trust Account 1. Respondents did not
26
27

1 disclose to all beneficiaries who had trust funds in Trust
2 Account 2 that FHL Financial received earnings credits of
3 \$2,317.87 during the audit period from funds available in Trust
4 Account 2. This undisclosed profit or compensation was in
5 violation of Code Section 10176(g).

6 c) The control records for Trust Account 1 were not
7 always accurate or complete, in violation of Code Section 10145
8 and Regulation 2831.

9 d) The separate records for each beneficiary of Trust
10 Account 1 were not always accurate or complete. In particular,
11 funds transferred from Trust Account 1 to Trust Account 2 were
12 not posted accurately for the investor's ledgers, causing the
13 daily balance of the control records and the investor's ledgers
14 to be overstated. In addition, the separate records maintained
15 for the Servicing Trust Account were not always accurate or
16 complete. This was in violation of Code Section 10145 and
17 Regulation 2831.1.

18 e) Respondents did not retain a statement signed by
19 each of the prospective investors in multi-lender transactions
20 which indicated that the investor's investment does not exceed
21 10% of the investor's net worth, and/or 10% of the investor's
22 adjusted gross income,. Examples of multi-lender transactions
23 for which Respondents failed to maintain such statements for each
24 of the investors include:

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26 ///

1 Loan No. 260167 (2000 Wilding Lane, recorded 9/21/06);
2 Loan No. 260161 (1658 Vasili Lane, recorded 8/25/06);
3 Loan No. 260145 (3765 Ranch Top Rd., recorded 6/16/06);
4 Loan No. 260135 (25082 Butterwood, recorded 5/2/06).

5 Failure to maintain these required statements was in
6 violation of Code Section 10238(f).

7 f) Respondents did not deliver a Lender/Purchaser
8 Disclosure Statement to the prospective investors before the
9 investors became obligated to make the loans. Examples include
10 the transactions listed in Paragraph (e) above. This was in
11 violation of Code Sections 10232.4 and 10232.5.

12 g) In three sampled multi-lender loan transactions,
13 transactions in which Respondents negotiated and arranged hard
14 money loans for borrowers and private investors, the Deeds of
15 Trust were recorded in the name of "The FHL Financial Group Inc."
16 as the beneficiary, even though FHL FINANCIAL was not a 100%
17 investor. Subsequent Assignments of Deeds of Trust were not
18 recorded in the name of the investors who funded the loans within
19 10 days following the release of the investor's funds, in
20 violation of Code Section 10234.

21 h) In at least two of the sampled loans being serviced
22 by Respondents, borrower's payment or payoff funds received on
23 loans being serviced by FHL FINANCIAL were not always transmitted
24 to the prospective lenders within 25 days after payments were
25 received by FHL FINANCIAL, or rolled over to a new loan within 25
26

1 days, in violation of Code Sections 10231.1 and/or 10231.

2 i) In two of the sampled Loan/Escrow transactions,
3 Respondents failed to disclose to borrowers in writing or on the
4 Mortgage Loan Disclosure Statements that FHL FINANCIAL elected to
5 fund the loans in FHL FINANCIAL controlled funds in violation of
6 Code Sections 10241.2 and 10240.

7 j) In five of the sampled loan escrow transactions,
8 Respondents failed to disclose to all parties in writing that FHL
9 FINANCIAL had any interest as a stockholder, officer, partner or
10 owner in the escrow operation, in violation of Regulation
11 2950(h).

12 9.

13 The foregoing violations constitute cause for the
14 suspension or revocation of Respondent FHL FINANCIAL's and
15 Respondent PRATHER's real estate licenses and license rights
16 under the provisions of Code Sections 10177(d) and 10177(g).

17 10.

18 The violations set forth above constitute cause for the
19 suspension or revocation of Respondent PRATHER's real estate
20 license and/or license rights, as the broker-officer of
21 Respondent FHL FINANCIAL, for failing to supervise the activities
22 of the corporation, in violation of Code Sections 10159.2, in
23 conjunction with 10177(h), 10177(d) and 10177(g).

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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all licenses and/or license rights of Respondent
5 THE FHL FINANCIAL GROUP and Respondent JEFFREY LOUIS PRATHER
6 under the Real Estate Law and for such other and further relief
7 as may be proper under applicable provisions of law.

8 Dated at Los Angeles, California
9 this 14 day of November, 2007.

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12 _____
13 Deputy Real Estate Commissioner

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24 cc: The FHL Financial Group
25 Jeffrey Louis Prather
26 Sacto.
27 Robin Trujillo
L.A. Audits (Lin)