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GEORGE EDELSTEIN
STEVEN J. GORDON
THOMAS L. GREANEY
CONSTANCE K. ROBINSON
U. S. Department of Justice
Antitrust Division
Room 504, Safeway Building
Washington, D.C. 20530
Telephone: (202) 739-2244

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	Civil Action No.
v.)	C-76-1347-LHB
)	Filed: August 29, 1978
FREMONT BANK,)	entered: November 10, 1978
)	
Defendant.)	

FINAL JUDGMENT

Plaintiff, United States of America, filed its
Complaint herein on June 30, 1976. Defendant Fremont Bank,
in its Answer, filed August 23, 1976 denied the legal and
factual allegations set forth in the complaint and defendant,
Fremont Bank having appeared by its counsel, and both
parties by their respective attorneys having consented
to the making and entry of this Final Judgment without
trial or adjudication of any fact or law herein, and
without this Final Judgment constituting any evidence
or any admission by either party in respect to any issue
of law or fact;

NOW, THEREFORE, before any testimony has been taken
herein, without trial or adjudication of any issue of
fact or law herein, and upon consent of the parties hereto,
it is hereby

ORDERED, ADJUDGED AND DECREED, as follows:

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I.

This Court has jurisdiction over the subject matter of this action and of the parties hereto. The complaint states a claim upon which relief may be granted against the defendant under Section I of the Sherman Act.

II.

As used in this Final Judgment:

- (A) "Defendant" shall mean Fremont Bank;
- (B) "Person" shall mean any corporation, partnership, firm, individual, or any other business or legal entity;
- (C) "GNMA" means the Government National Mortgage Association, an agency of the federal government, created to subsidize mortgages for residential buildings by making commitments to purchase mortgages and purchasing said mortgages pursuant to 12 U.S.C. 1723(e);
- (D) "GNMA mortgage loan" means a below market or low interest rate mortgage subsidized by GNMA pursuant to the Emergency Housing Act of 1975, 12 U.S.C. 1723(e), which mortgage is purchased by GNMA after the loan has been made to a qualified purchaser of a single-family residence;
- (E) "GNMA mortgage take-out commitment" means a promise for consideration by a lender, who has a forward commitment from GNMA, to lend a certain sum of money on specified terms at a later date to qualifying customers of a builder to finance single family residences;
- (F) "Conventional take-out commitment" other than a GNMA mortgage take-out commitment, means a commitment for consideration by a lender to a

1 builder of single family residences to lend a certain
2 sum of money on specified terms at a later time to
3 qualifying customers of a builder to finance their resi-
4 dences.

5 III.

6 The provisions of this Final Judgment applicable to
7 the defendant shall also apply to each of its officers,
8 employees, agents, successors and assigns, and to all
9 other persons in active concert or participation with any
10 of them who receive actual notice of this Final Judgment
11 by personal service or otherwise.

12 IV.

13 Defendant is enjoined and restrained from making or
14 offering to make any GNMA mortgage take-out commitment to
15 any person on the condition, express or implied, that
16 such person obtain any conventional take-out commitment
17 from defendant.

18 Nothing herein shall be deemed to prevent defendant
19 from making or offering to make both a GNMA mortgage take-
20 out commitment and a conventional take-out commitment to
21 any person.

22 V.

23 For the purpose of determining or securing compliance
24 with this Final Judgment, and provided that defendant has
25 applied to participate in a GNMA program authorized in
26 the enabling legislation codified in 12 U.S.C. 1723(e), as
27 amended, and any acts extending the expiration date of
28 said law, any duly authorized representative of the
29 Department of Justice shall, upon written request of the
30 Attorney General or the Assistant Attorney General in
31 charge of the Antitrust Division, and on reasonable notice
32 to defendant, made to its principal office, be permitted,

1 subject to any legally recognized privilege: (a) access
2 during the office hours of defendant to inspect and copy
3 all books, ledgers, accounts, correspondence, memoranda,
4 and other records and documents in the possession, or
5 under the control of defendant relating to any matters
6 contained in this Final Judgment; and (b) subject to the
7 reasonable convenience of defendant, and without restraint
8 or interference from it, to interview officers, directors,
9 agents, servants or employees of the defendant, who may
10 have counsel present, regarding any such matters. Upon
11 the written request of the Attorney General, or the
12 Assistant Attorney General in charge of the Antitrust
13 Division, defendant shall submit such reports in writing
14 with respect to any of the matters contained in this Final
15 Judgment as from time to time may be requested. No
16 information obtained by the means provided in this
17 Section V or previously obtained by plaintiff from
18 defendant shall be divulged by any representative of
19 the Department of Justice to any person other than a
20 duly authorized representative of the Executive Branch
21 of the United States, except in the course of legal pro-
22 ceedings to which the United States is a party, or for
23 the purpose of securing compliance with this Final Judgment,
24 or as otherwise required by law.

25 If at any time, information or documents are furnished
26 by defendant to plaintiff, defendant represents and
27 identities in writing the material in any such information
28 or documents of a type described in Rule 26(c) (7) of the
29 Federal Rules of Civil Procedure, and defendant marks
30 each pertinent page of such material, "Subject to
31 claim of protection under Rule 26(c) (7) of the Federal Rules
32 ///

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3 THOMAS L. GREANEY
4 CONSTANCE K. ROBINSON
5 U.S. Department of Justice
6 Antitrust Division
7 Room 504, Safeway Building
8 Washington, D.C. 20530

9 UNITED STATES DISTRICT COURT
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,)
12)
13 Plaintiff,)
14 v.) Civil Action No.
15 FREMONT BANK,) C-76-1347-LHB
16)
17 Defendant.) Filed: August 29, 1978

18 STIPULATION

19 It is stipulated by and between the undersigned parties,
20 plaintiff, United States of America, and defendant, Fremont
21 Bank, by their respective attorneys, that:

22 1. The parties consent that a final judgment in the form
23 hereto attached may be filed and entered by the Court, upon
24 the motion of either party or upon the Court's own motion, at
25 any time after compliance with the requirements of the
26 Antitrust Procedures and Penalties Act [15 U.S.C. §16] and
27 without further notice to any party or other proceedings,
28 provided that plaintiff has not withdrawn its consent which
29 it may do at any time before the entry of the proposed Final
30 Judgment by serving notice thereof on defendant and by filing
31 that notice with the Court.

32 2. In the event plaintiff withdraws its consent or if
the proposed Final Judgment is not entered pursuant to this
Stipulation, this Stipulation shall be of no effect whatever

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and the making of this Stipulation shall be without prejudice to plaintiff and defendant in this or any other proceeding.

Dated: August 29, 1978

FOR THE PLAINTIFF

John H. Shenefield
JOHN H. SHENEFIELD
Assistant Attorney General

/s/ GEORGE EDELSTEIN
GEORGE EDELSTEIN

Richard J. Favretto
RICHARD J. FAVRETTO

/s/ STEVEN J. GORDON
STEVEN J. GORDON

/s/ KENNETH C. ANDERSON
KENNETH C. ANDERSON
Attorneys, Department of Justice

/s/ THOMAS L. GREANEY
THOMAS L. GREANEY
/s/ CONSTANCE K. ROBINSON
CONSTANCE K. ROBINSON
Attorneys, Department of Justice

FOR THE DEFENDANT

/s/ RICHARD E. V. HARRIS
RICHARD E. V. HARRIS

/s/ GILBERT SEROTA
GILBERT SEROTA

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& Sutcliffe
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