

STEPHEN J. KENNEDY

LAW OFFICES OF  
**STEPHEN J. KENNEDY**  
ATTORNEY AT LAW  
1824 FRANKLIN STREET, SUITE 912  
OAKLAND, CALIFORNIA 94612

TELEPHONE: 832-1816  
444-5500  
AREA CODE 510

92 JUL 29 11:52

July 29, 1992

Mr. Scott O. Seery, CHMM  
Senior Hazardous Materials Specialist  
Department Of Environmental Health  
80 Swan Way, Rm. 200  
Oakland, CA 94621

Re: ESTATE OF JOHN G. PETTITI;  
19592 Center Street, Castro Valley

Dear Mr. Seery:

This letter is written in response to your letter of July 22, 1992 to Mr. Anthony Pettiti.

Please be advised that Mr. Anthony Pettiti in his capacity as executor of his father's will is doing everything in his power to comply with your requests.

There is a problem, however, in funding.

I enclose a copy of the "Inventory and Appraisement" in the Estate of John George Pettiti together with a copy of the "Petition For Authority To Borrow And Encumber Real Property" filed June 25, 1992 and the "Notice of Hearing" thereon.

As set forth in the petition the liquid assets of the estate have already been exhausted in removal of the tanks and remediation. The subject property described as inventory item 2(2) at 19592 Center Street cannot be sold or even used as security for a loan pending case closure. No one wishes to risk potentially unlimited personal liability for remediation while your agency has a case pending against the property. We are therefore attempting to

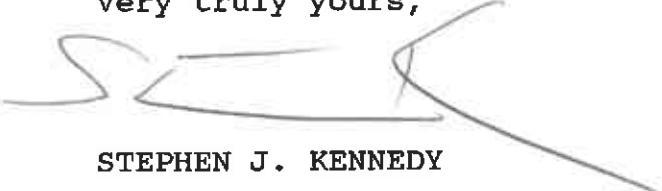
Mr. Scott O. Seery, CHMM  
July 29, 1992  
Page Two

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borrow money against the other real property asset of the estate, the decedent's family home at 15539 Usher Street, San Lorenzo to raise funds necessary to complete remediation.

Your patience in this matter is appreciated.

Very truly yours,



A handwritten signature in dark ink, appearing to read 'SJK', with a long horizontal line extending to the right.

STEPHEN J. KENNEDY

SJK/rew

encls:

c:\wp51\letters\pettiti.DOEH

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): Stephen J. Kennedy, Esq. #045428 (510) 444-5500 1624 Franklin Street, #912 Oakland, California 94612	TELEPHONE NO.:	FOR COURT USE ONLY
ATTORNEY FOR (Name): ANTHONY PETTTI, Executor SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA STREET ADDRESS: 24405 Amador MAILING ADDRESS: CITY AND ZIP CODE: Hayward, CA 94544 BRANCH NAME: SOUTHERN DIVISION	<b>ENDORSED FILED ALAMEDA COUNTY</b>  <b>JUN 25 1992</b>	
ESTATE OF (NAME): JOHN G. PETTTI	RONALD G. OVERHOLT, Exec. Off./Clerk By T. Guratana	
DECEDENT		
<b>NOTICE OF HEARING (Probate)</b>		CASE NUMBER:  H-18779-0

This notice is required by law. This notice does not require you to appear in court, but you may attend the hearing if you wish.

1. NOTICE is given that (name): ANTHONY PETTTI  
 (representative capacity, if any): Executor  
 has filed (specify):\*

Petition for Authority to Borrow and Encumber Real Property

2. You may refer to the filed documents for further particulars. (All of the case documents filed with the court are available for examination in the case file kept by the court clerk.)

3. A HEARING on the matter will be held as follows:

Date: July 31, 1992      Time: 9:00 a.m. Dept.: 39      Room:  
 Address of court  shown above  is:

STEPHEN J. KENNEDY  Attorney or party \_\_\_\_\_ (SIGNATURE)  
 (TYPE OR PRINT NAME)

Date: June 24, 1992  Clerk, by \_\_\_\_\_, Deputy

4. This notice was mailed on (date): June 24, 1992 at (place): Oakland

(Continued on reverse)

ESTATE OF (NAME):

JOHN G. PETTITI

CASE NUMBER:

H 18779-0

DECEDENT

**CLERK'S CERTIFICATE OF  POSTING  MAILING**

I certify that I am not a party to this cause and that a copy of the foregoing Notice of Hearing (Probate)

1.  was posted at (address):

1001 E 14th St

on (date):

2.  was served on each person named below. Each notice was enclosed in an envelope with postage fully prepaid. Each envelope was addressed to a person whose name and address is given below, sealed, and deposited with the United States Postal Service at (place):

, California,

on (date):

Date:

Clerk, by \_\_\_\_\_, Deputy

**PROOF OF SERVICE BY MAIL**

- 1. I am over the age of 18 and not a party to this cause. I am a resident of or employed in the county where the mailing occurred.
- 2. My residence or business address is (specify):

1624 Franklin Street, #912, Oakland, CA 94612

3. I served the foregoing Notice of Hearing (Probate) on each person named below by enclosing a copy in an envelope addressed as shown below AND

- a.  depositing the sealed envelope with the United States Postal Service with the postage fully prepaid.
- b.  placing the envelope for collection and mailing on the date and at the place shown in item 4 following our ordinary business practices. I am readily familiar with this business' practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.

4. a. Date mailed: June 24, 1992

b. Place mailed (city, state): Oakland, CA

5.  I served with the Notice of Hearing (Probate) a copy of the petition or other document referred to in the notice.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: June 24, 1992

REGINA E. WYRICK

(TYPE OR PRINT NAME)

(SIGNATURE OF DECLARANT)

**NAME AND ADDRESS OF EACH PERSON TO WHOM NOTICE WAS MAILED**

Mable Chubbick  
15539 Usher Street  
San Lorenzo, CA 94580

Leland Bruzzone  
Garcia, Bruzzone & Galliano  
16101 E. 14th Street  
San Leandro, CA 94578

1 STEPHEN J. KENNEDY, ESQ. #045428  
2 1624 Franklin Street, #912  
3 Oakland, California 94612  
4 (510) 444-5500

5 Attorney for Petitioner  
6 ANTHONY PETTITI

**ENDORSED  
FILED  
ALAMEDA COUNTY**

**JUN 25 1992**

**RONALD G. OVERHOLT, Exec. Off./Clerk  
By T. Guratana**

7  
8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

9 In re the Estate of

No. H-18779-0

10 JOHN G. PETTITI,

PETITION FOR AUTHORITY TO  
BORROW AND ENCUMBER REAL  
PROPERTY

11 Deceased.

12 Date: July 31, 1992  
13 Time: 9:00 a.m.  
14 Place: Department 39

15 \_\_\_\_\_  
16 PETITIONER ALLEGES:

17 1. Petitioner is the son of the decedent above named and the  
18 duly appointed and acting executor of his last will and testament.

19  
20 2. As appears from the inventory filed herewith the  
21 principal assets of this estate are the parcels of real property on  
22 Center Street in Castro Valley and on Usher Street in San Lorenzo.  
23 The property on Usher Street is the PETTITI family home which the  
24 decedent inherited from his mother. The property is clear. The  
25 property on Center Street had been a Texaco service station and had  
26 been purchased by the decedent in early 1986 to provide petitioner  
27 with a place to operate petitioner's auto repair business,

1 "Anthony's Auto Service." The property is owned by the estate  
2 subject to a first deed of trust in favor of WAYNE DEL RIO, et al.  
3 securing payment of a note in the original sum of \$115,000  
4 representing the balance of the purchase price of the property.  
5 The note calls for monthly payments (interest only) of \$958.33 and  
6 is due on full in April 28, 1996. Although the property had been  
7 a (Texaco) service station it had not been operated for  
8 approximately one year prior to the time decedent purchased the  
9 property nor (as to gasoline sales) for about one year afterwards;  
10 that is, petitioner did car repairs but did not sell fuel.  
11

12 3. The decedent gave your petitioner use of the property  
13 rent free and in March 1987 petitioner subleased the tanks and  
14 pumps to TRICK ENTERPRISES, INC. for sales of racing fuel and,  
15 after that lease expired, briefly operated the tanks and pumps for  
16 purposes of dispensing racing fuel himself.  
17

18 4. In about June of 1989 the County of Alameda took steps to  
19 insure that the underground storage tanks on the Center Street  
20 property had not leaked petro-chemicals into the ground and  
21 immediately required that the existing steel tanks be removed.  
22 Keeping in mind that the decedent here died on April 15, 1990, on  
23 or about July 1, 1990 the tanks were in fact dug up. It was at  
24 this point in time that it was discovered that petro-chemicals had  
25 leaked into the soil, if not from the tanks, then from the badly  
26 corroded fuel lines (plumbing) leading from the tanks to the  
27 islands and the pumps. Petitioner spent \$14,540 in digging up the  
28

1 tanks and has so far spent approximately an additional \$87,500 in  
2 remediation. It appeared at one time that the remediation had been  
3 adequate following a "clean" test of the ground water, however, a  
4 later test revealed apparent further petro-chemical contamination.  
5 Attached hereto is a March 24, 1992 letter/estimate from ACC  
6 ENVIRONMENTAL CONSULTANTS indicating a need to pay the sum of  
7 approximately \$8,825 to install two additional monitoring wells and  
8 for testing. As can be seen by examining the inventory, however,  
9 petitioner has already exhausted the liquid assets of estate  
10 leaving only the two parcels of real property. The Silacci note,  
11 (inventory item 2(9), is valueless. The additional \$8,825 is  
12 required immediately and it appears not improbable that further  
13 expenses will be incurred prior to case closure.

14  
15 5. As appears from the will of the decedent, a copy of which  
16 is attached to the petition for probate, petitioner is the sole  
17 heir to this estate except for an estate (a right to occupy) for 15  
18 years willed decedent's significant other, MABLE CHUBBICK, in the  
19 home on the Usher Street property.

20  
21 6. Petitioner desires to relocate his auto repair business  
22 to the Usher Street property and there is a garage there  
23 sufficiently large to permit that use. Petitioner has checked with  
24 Alameda County zoning and verified that this use would be  
25 permitted. In addition petitioner has already run separate (one  
26 hundred amp) electrical service to the garage. Petitioner believes  
27 that this use would not interfere in any respect with MABEL

1 CHUBBICK's occupancy of the residence. Petitioner would then be  
2 free to sell the Center Street property. Petitioner has been  
3 unable to sell the Center Street property, however, due to the  
4 ongoing Alameda County Department of Health Service/EPA toxic  
5 contamination clean-up; that is, no one wants to buy the property  
6 with potentially unlimited personal liability for clean-up expense  
7 until there has been a case closure and petitioner's promise of a  
8 personal indemnity has not proven adequate to overcome the obvious  
9 disincentives to a buyer. Petitioner, however, has been able to  
10 locate a potential buyer who is willing to enter into a  
11 lease/option with a purchase price of \$225,000 and to pay \$25,000  
12 down and then to pay \$1,400 a month in rent pending case closure or  
13 for four years, whichever is sooner, with the \$1,400 not to be  
14 credited against the purchase price. The \$25,000 will largely be  
15 used to pay the real estate broker's commissions but the balance  
16 plus the \$1,400 per month in rent would be adequate for debt  
17 service on the first an the Center Street property, taxes and  
18 insurance, and a small profit.

19  
20 7. Petitioner estimates that the cost of further  
21 environmental remediation will be on the order of \$25,000 (although  
22 all prior estimates have proved to be too conservative) and that he  
23 will need approximately \$50,000 to complete relocation of his  
24 business to the Usher Street address; as a reserve for debt service  
25 on the loan; for, potentially, yet additional remediation expense;  
26 and, definitely, for attorney's fees incurred in this matter and in  
27 administrative proceedings before the State Water Resources Board



1 and pursuing an action against former owners, lessees, and real  
2 estate brokers to share the cost of remediation. Pettiti v.  
3 Texaco, Alameda County Superior Court Civil Action No. H 151624-5.  
4

5 8. Acting on petitioner's behalf a real estate broker has  
6 arranged a loan for petitioner in the sum of \$75,000 payable in  
7 monthly installments of \$825.00 (interest only at a rate of 13% per  
8 annum) or more due in full in four years and six months. This  
9 loan, however, will only be made on the condition that petitioner  
10 pay a real estate broker's commission and such further expenses as  
11 are required to insure the borrower that the loan is secured by  
12 first deed of trust against the subject property (not to exceed  
13 \$2,250). It is essential that the deed of trust be given in  
14 petitioner's capacity as executor of the estate and therefore bind  
15 the interests of all heirs, including MABLE CHUBBICK.

16  
17 Wherefore petitioner prays:  
18

19 1. That he be authorized in his capacity as executor to  
20 borrow \$75,000 - on the terms set forth herein, the obligation to  
21 repay to be evidenced by a promissory note and secured by a first  
22 deed of trust on the Usher Street property described as inventory  
23 item (2)(1);  
24

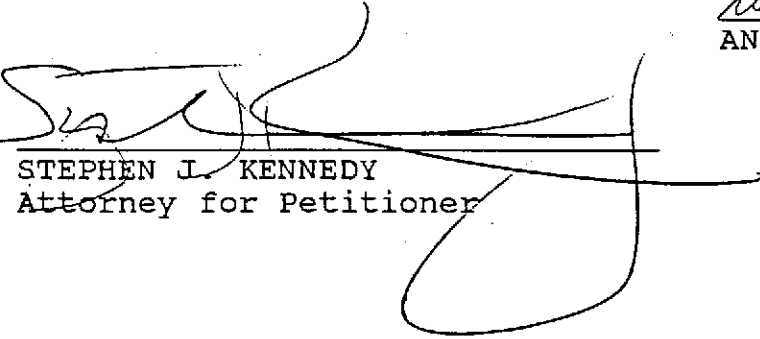
25 2. That he be authorized to relocate his business to the  
26 Usher Street property; and  
27

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3. For such other relief as the court deems appropriate.

Dated: June 20, 1992

  
\_\_\_\_\_  
ANTHONY PETTITI

  
\_\_\_\_\_  
STEPHEN J. KENNEDY  
Attorney for Petitioner

VERIFICATION

I am the petitioner in the above entitled action. I have read the foregoing "PETITION FOR AUTHORITY TO BORROW AND ENCUMBER REAL PROPERTY" and know the contents thereof; and I certify that the same are true of my own knowledge, except as to the matters which are therein stated upon my information or belief, and as to those matters I believe them to be true.

I hereby declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

DATED: June , 1992



ANTHONY PETTITI

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): <b>STEPHEN J. KENNEDY</b> (415) 444-5500 1624 Franklin Street, Suite 912 Oakland, California 94612	TELEPHONE NO.: FOR COURT USE ONLY  <b>ENDORSED FILED ALAMEDA COUNTY</b>  <b>JUN 25 1992</b>  <b>RONALD G. OVERHOLT, Exec. Off./Clerk</b> <b>By T. Guratana</b>
ATTORNEY FOR (Name): <b>Executor</b> <b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA</b> STREET ADDRESS: 24405 Amador Street MAILING ADDRESS: CITY AND ZIP CODE: <b>Hayward, California 94544</b> BRANCH NAME:	CASE NUMBER:  <b>H-18779-0</b>  Date of Death of Decedent or of Appointment of Guardian or Conservator: <b>4/15/90</b>
ESTATE OF (NAME): <b>JOHN GEORGE PETTITI</b>  <input checked="" type="checkbox"/> DECEDENT <input type="checkbox"/> CONSERVATEE <input type="checkbox"/> MINOR	
<b>INVENTORY AND APPRAISEMENT</b> <input checked="" type="checkbox"/> Complete <input type="checkbox"/> Final <input type="checkbox"/> Partial No.: <input type="checkbox"/> Supplemental <input type="checkbox"/> Reappraisal for Sale	

**APPRAISALS**

1. Total appraisal by representative (attachment 1)	\$ -0-
2. Total appraisal by referee (attachment 2)	\$ 527,966.94
<b>TOTAL:</b>	<b>\$ 527,966.94</b>

**DECLARATION OF REPRESENTATIVE**

3. Attachments 1 and 2 together with all prior inventories filed contain a true statement of  all  a portion of the estate that has come to my knowledge or possession, including particularly all money and all just claims the estate has against me. I have truly, honestly, and impartially appraised to the best of my ability each item set forth in attachment 1.
4.  No probate referee is required  by order of the court dated (specify):

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.  
 Date: **July 7, 1990**

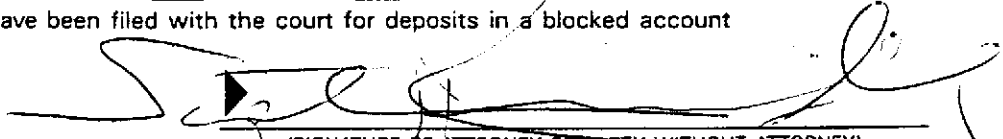
**ANTHONY JOHN PETTITI**  
 (TYPE OR PRINT NAME) (Include title if corporate officer)

  
 (SIGNATURE OF PERSONAL REPRESENTATIVE)

**STATEMENT REGARDING BOND**  
 (Complete if required by local court rule)

5.  Bond is waived.
6.  Sole personal representative is a corporate fiduciary.
7.  Bond filed in the amount of: \$  Sufficient  Insufficient
8.  Receipts for: \$ \_\_\_\_\_ have been filed with the court for deposits in a blocked account at (specify institution and location):

Date: **July 7, 1990**

  
 (SIGNATURE OF ATTORNEY OR PARTY WITHOUT ATTORNEY)

**DECLARATION OF PROBATE REFEREE**

9. I have truly, honestly, and impartially appraised to the best of my ability each item set forth in attachment 2.
10. A true account of my commission and expenses actually and necessarily incurred pursuant to my appointment is
- |                       |                                                    |
|-----------------------|----------------------------------------------------|
| Statutory commission: | \$ 528.00                                          |
| Expenses (specify):   | \$ 42.00 (24.00 Travel; 14.00 Mapping; 4.00 Photo) |
| <b>TOTAL:</b>         | <b>\$ 570.00</b>                                   |

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.  
 Date: **November 7, 1990**

**JACK C. LOCKHART**  
 (TYPE OR PRINT NAME)

  
 (SIGNATURE OF REFEREE)

(Instructions on reverse)

(IN DECEDENTS' ESTATES, ATTACHMENTS MUST CONFORM TO PROBATE CODE 601  
REGARDING COMMUNITY AND SEPARATE PROPERTY)

PAGE 1 OF 4 TOTAL PAGES  
(ADD PAGES AS REQUIRED)

Item No.	Description	Appraised value
1.	<p>Real property improved with a single family residence in the unincorporated area of the County of Alameda, State of California commonly known as:</p> <p>15539 Usher Street, San Lorenzo, California 94580-1640 and more particularly described as:</p> <p>PARCEL ONE:</p> <p>That portion of Block 3, "Map of San Lorenzo", filed January 16, 1864 in Book 6 of maps, at page 3, records of said County described as follows:</p> <p>BEGINNING at a point on the western line of Usher Street (formerly 2nd Street), distant thereon 80 feet southerly from the southern line of Sycamore Street, as said streets are shown on said map ; thence southerly along said line of Usher Street 50 feet; thence at right angles westerly 150 feet; thence at right angles northerly 50 feet; thence at right angles easterly 150 feet to the point of beginning.</p> <p>PARCEL TWO:</p> <p>A portion of block 3 according to the map of San Lorenzo filed January 16, 1864 in the office of the County recorder of said Alameda County, and of record in Map book 6, at page 3, bounded as follows:</p> <p>BEGINNING at the point of intersection of the southern line of Sycamore Street with a line drawn parallel with the eastern line of Hesperian Blvd., formerly Telegraph Road, and distant at right angles 165 feet easterly therefrom, as said street and road are shown on said map; and running thence along said parallel line southerly 52.60 feet to the actual point of beginning of this description; thence continuing along said parallel line southerly 27.40 feet; thence parallel with said line of Sycamore Street easterly 50 feet; thence parallel with said line of Hesperian Blvd., northerly 27.40 feet; thence parallel with said line of Sycamore Street westerly 50 feet to the actual point of beginning.</p>	<p>\$</p> <p>\$200,000.00</p>

## ATTACHMENT NO: 2

(IN DECEDENTS' ESTATES, ATTACHMENTS MUST CONFORM TO PROBATE CODE 601  
REGARDING COMMUNITY AND SEPARATE PROPERTY)

PAGE 2 OF 4 TOTAL PAGES  
(ADD PAGES AS REQUIRED)

Item No.	Description	Appraised value
2.	Real property improved with garage in the Township of Eden, an unincorporated area of County of Alameda, State of California commonly known and described as:	\$

19592 Center Street, Castro Valley, California  
and more particularly described as:

PARCEL ONE:

A portion of the 10 acre parcel of land described in the Deed from F.C. Hunter, et al, to Wilford Thomas Webb, et ux., recorded March 27, 1944, Series No. RR/18057, Book 4505, Page 275, Alameda County Records, described as follows:

BEGINNING at a point on the eastern line of Center Street, distant thereon southerly 207 feet from the northern line of said 10 acre parcel; and running thence along said line of Center Street southerly 106.26 feet, more or less, to a point distant thereon northerly 25 feet from the southern line of said 10 acre parcel, said point being on the northern line of a private road known as Edward's Lane; thence along the last mentioned line parallel with said southern line of the 10 acre parcel, easterly 100 feet; thence parallel with said line of Center Street, northerly 106.26 feet, more or less, to a line drawn parallel with said northern line of the 10 acre parcel easterly from the point of beginning; thence along the line so drawn westerly 100 feet to the point of beginning.

EXCEPTING therefrom that portion conveyed to the County of Alameda by Deed recorded August 12, 1963, Series No. AU/1333840, Reel 962, Image 574, Alameda County Records.

ATTACHMENT NO: 2

(IN DECEDENTS' ESTATES, ATTACHMENTS MUST CONFORM TO PROBATE CODE 601 REGARDING COMMUNITY AND SEPARATE PROPERTY)

PAGE . . . 3 . . . OF . . . 4 . . . TOTAL PAGES  
(ADD PAGES AS REQUIRED)

Item No.	Description	Appraised value
PARCEL TWO:		\$

A non-exclusive easement appurtenant to Parcel 1 above for driveway purposes granted in the Deed from Wilford Thomas Webb, et al, to Ralph B. Pahlmeyer, et ux, recorded February 7, 1956, Series No. AL/13452, Book 7929, page 36, Alameda County Records, over the following described property:

A portion of the 10 acre parcel of land described in the Deed from F.C. Hunter, et al, to Wilford Thomas Webb, et ux, recorded March 27, 1944, Series No. RR/18057, Book 4505, Page 275, Alameda County Records, described as follows:

Beginning at a point on the eastern line of Center Street, distant thereon southerly 188 feet from the northern line of said 10 acre parcel, and running thence south 8° 00' west 19 feet; thence south 82° 02' east 19 feet; thence north 37° 02' west 26.81 feet, more or less to the point of beginning.

Alameda County Account No. 84C-1062-24	\$165,000.00
----------------------------------------	--------------

(IN DECEDENTS' ESTATES, ATTACHMENTS MUST CONFORM TO PROBATE CODE 601  
REGARDING COMMUNITY AND SEPARATE PROPERTY)

PAGE . 4 . . . OF . 4 . . . TOTAL PAGES  
(ADD PAGES AS REQUIRED)

Item No.	Description	Appraised value
3.	1974 Ford Torino stationwagon (with 50,000 miles)	\$ 1,000.00
4.	1981 Chev El Camino with 63,000 miles (heavy body damage)	1,000.00
5.	1962 Plymouth Valiant stationwagon (150,000 miles in poor condition)	Nil
6.	1949 GMC one ton pickup (heavily restored and/or customized)	6,000.00
7.	15116.513 shares of Franklin California Tax- Free Income Fund Inc.	104,303.94
8.	Miscellaneous household fixtures, furnishings and appliances:	3,500.00
9.	Note from Silacci Family Trust for \$32,300.00 plus interest at 13% per annum from October 1, 1986	32,300.00
	Accrued Interest	14,863.00
	Total Attachment #2	<u>\$527,966.94</u>