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Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California 90012
(213) 897-3937

FILED
SEP 23 1992

DEPARTMENT OF REAL ESTATE
BY C. Sany

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H-1851 SD
)	
<u>LOAN MARKETING & BROKER SERVICES</u>)	<u>STIPULATION AND</u>
<u>INC.</u> , a corporation;)	<u>AGREEMENT IN</u>
and <u>HOWARD MELVIN JOHNSON, JR.</u> ,)	<u>SETTLEMENT AND ORDER</u>
individually and as designated)	
officer of Loan Marketing &)	
Broker Services, Inc.;)	
Robert Christopher, Inc.; Precision))	
Financial, Inc.; Stiles)	
Investment Group, Inc.; Westpac)	
Financial Corporation; and)	
American Mortgage Associates, Inc.,))	
)	
Respondents.)	

It is hereby stipulated by and between LOAN MARKETING & BROKER SERVICES, INC., (hereinafter "LOAN MARKETING"), represented by its designated officer Howard Melvin Johnson, Jr., and HOWARD MELVIN JOHNSON, JR. (hereinafter "JOHNSON"), representing himself, and the Complainant, acting by and through Christopher K.D. Leong, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on January 18, 1991, and Amendment filed on August 27, 1991, 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 hearing
4 was to be held in accordance with the provisions of the
5 Administrative Procedures Act (APA), shall instead and in place
6 thereof be submitted solely on the basis of the provisions of
7 this Stipulation.

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

12 3. On February 4, 1991, Respondent JOHNSON,
13 individually, and on February 26, 1991, Respondent JOHNSON, on
14 behalf of Respondent LOAN MARKETING, filed Notices of Defense
15 pursuant to Section 11505 of the Government Code for the purpose
16 of requesting a hearing on the allegations in the Accusation.
17 Each respondent hereby freely and voluntarily withdraws said
18 Notices of Defense. Each respondent acknowledges that he
19 understands that by withdrawing said Notices of Defense he will
20 thereby waive his right to require the Commissioner to prove the
21 allegations in the Accusation at a contested hearing, held in
22 accordance with the provisions of the APA and that he will waive
23 other rights afforded to him in connection with the hearing such
24 as the right to present evidence in defense of the allegations
25 in the Accusation and the right to cross-examine witnesses.

26 4. Respondents, pursuant to the limitations set
27 forth below, hereby acknowledge that the factual allegations in

1 Paragraphs 1 through 15 of the Accusation filed in this
2 proceeding, are the basis for the settlement. 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 the
10 Commissioner in his discretion does not adopt the Stipulation
11 and the Agreement, the Agreement 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 admission or waiver made
15 herein.

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

22 7. This Stipulation is based on respondents'
23 decisions not to contest the allegations set forth in the
24 Accusation as a result of the agreement negotiated between the
25 parties. This Stipulation and the findings, expressed or
26 implied, based on respondents' decisions not to contest the
27 Accusation, is made expressly limited to this proceeding and any

1 further proceeding initiated by or brought before the Department
2 of Real Estate based upon the facts and circumstances alleged in
3 the Accusation, and made for the sole purpose of reaching an
4 agreed disposition of this proceeding. The decision of
5 respondents not to contest the factual statements alleged, and
6 as contained in the stipulated Order, is made solely for the
7 purpose of effecting this Stipulation. It is the intent and
8 understanding of the parties that this Stipulation shall not be
9 binding or admissible against respondents in any actions against
10 respondents by third parties.

11 DETERMINATION OF ISSUES

12 By reason of the foregoing stipulations, admissions
13 and waivers and solely for the purpose of settlement of the
14 pending Accusation without a hearing, it is stipulated and
15 agreed that the following determination of issues shall be
16 made:

17 The conduct or omissions of Respondent, LOAN
18 MARKETING, as set forth in Paragraphs 1 through 15, of the
19 Accusation constitute cause to suspend or revoke its real estate
20 licenses and license rights under the provisions of Section
21 10137 of the Code.

22 The conduct or omissions of Respondent, JOHNSON, as
23 set forth in Paragraphs 1 through 15, of the Accusation
24 constitute cause to suspend or revoke his real estate licenses
25 and license rights under the provisions of Section 10137.

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ORDER

1
2 A. Respondent LOAN MARKETING's corporate real
3 estate broker license is hereby revoked.

4 B. Respondent JOHNSON's real estate broker licenses
5 and license rights are hereby revoked.

6 C. A restricted real estate broker license shall be
7 issued to Respondent, JOHNSON, pursuant to Section 10156.5 of
8 the Business and Professions Code if respondent makes
9 application therefor, and pays to the Department of Real Estate
10 the appropriate fee for said license within 120 days from the
11 effective date of the Order herein. The restricted license
12 issued to Respondent shall be subject to all of the provisions
13 of Section 10156.7 of the Business and Professions Code and to
14 the following limitations, conditions, and restrictions imposed
15 under authority of Section 10156.6 of the Code.

16 (1) The restricted license may be suspended
17 prior to hearing by Order of the Real Estate Commissioner in the
18 event of Respondent's conviction or plea of nolo contendere to a
19 crime which bears a significant relationship to Respondent's
20 fitness or capacity as a real estate licensee.

21 (2) The restricted license may be suspended
22 prior to and pending final determination after formal hearing by
23 Order of the Real Estate Commissioner based upon evidence
24 satisfactory to the Commissioner that Respondent has violated
25 provisions of the California Real Estate Law, the Subdivided
26 Lands Law, Regulations of the Real Estate Commissioner or
27 conditions attaching to his restricted license.

1 (3) Respondent shall not be eligible to apply
2 for the issuance of an unrestricted real estate license nor the
3 removal of any of the conditions, limitations or restrictions of
4 the restricted license until at least one year has elapsed from
5 the date of this Order.

6 (4) Respondent, JOHNSON, shall, within six
7 months from the effective date of the restricted license, take
8 and pass the Professional Responsibility Examination
9 administered by the Department including the payment of the
10 appropriate examination fee. If respondent fails to satisfy
11 this condition, the Commissioner may order suspension of the
12 restricted license until respondent passes the examination.

13 (5) Respondent, JOHNSON, shall, within six (6)
14 months from the effective date of the Decision, present evidence
15 satisfactory to the Real Estate Commissioner that he has, since
16 the most recent issuance of an original or renewal real estate
17 license, taken and successfully completed the continuing
18 education requirements of Article 2.5 of Chapter 3 of the Real
19 Estate Law for renewal of a real estate license. If Respondent
20 fails to satisfy this condition, the Commissioner may order the
21 suspension of the restricted license until the Respondent
22 presents such evidence. The Commissioner shall afford
23 Respondent the opportunity for a hearing pursuant to the
24 Administrative Procedure Act to present such evidence. Upon
25 renewal of the license issued pursuant to this Order,
26 Respondent, JOHNSON, shall submit evidence of having taken and
27 successfully completed the continuing education requirements of

1 Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a
2 real estate license.

3 (6) Respondent, JOHNSON, shall submit to the
4 Department of Real Estate a Quarterly Trust Funds Position
5 Statement as of the last day of each March, June, September and
6 December. The Position Statement shall cover all trust funds
7 subject to the provisions of Section 10145 of the Code held by
8 Respondent as agent or as trustee. The Position Statement shall
9 be submitted to the District Manager of the Department's Los
10 Angeles office not later than 60 days following the last day of
11 each such calendar quarter. The Position Statement shall include
12 the information and documents specified below and be verified as
13 true and accurate by Respondent under penalty of perjury. If
14 Respondent has no trust fund liability as of the last day of the
15 calendar quarter, the Position Statement shall so state.

16 (a) The Position Statement shall consist of the
17 following information covering the calendar quarter
18 for each trust fund bank account:

19 (i) A statement identifying the account
20 number and the name and address of each trust fund
21 depository.

22 (ii) A schedule of trust fund
23 accountability as of the last day of the calendar
24 quarter which names each trust fund beneficiary or
25 principal, states the trust fund liability to each
26 such beneficiary or principal, and states the
27 aggregate trust fund liability as of that day.

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(iii) A statement explaining any discrepancy as of the last day of the calendar quarter between the aggregate trust fund liability and the balance of the trust fund bank account adjusted for any uncleared checks drawn on the account.

(b) The position statement shall be accompanied by the following supporting documentation covering the calendar quarter for each trust fund bank account:

(i) A copy of the bank statement covering the last day of the calendar quarter, a schedule of uncleared checks drawn on the account as of that day.

(ii) For each trust fund bank account, a copy of the columnar record in chronological sequence of all entrusted funds received and disbursed maintained by Respondent in compliance with the provisions of Section 2831 of the Regulations, a copy of the separate beneficiary or transactions records maintained in compliance with Section 2831.1 of the Regulations, and a copy of the records of reconciliations produced in compliance with Section 2831.2 of the Regulations.

DATED: 8/31/92 Christopher K.D. Leong
Christopher K.D. Leong
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

1 California Administrative Procedure Act (including but not
2 limited to Sections 11506, 11508, 11509 and 11513 of the
3 Government Code), and I willingly, intelligently and voluntarily
4 waive those rights, including the right of requiring the
5 Commissioner to prove the allegations in the Accusation at a
6 hearing at which I would have the right to cross-examine
7 witnesses against me and to present evidence in defense and
8 mitigation of the charges.

9
10 DATED: 8-27-92

Howard Melvin Johnson Jr.
HOWARD MELVIN JOHNSON
Respondent

11
12 DATED: 8-27-92

Howard Melvin Johnson Jr.
LOAN MARKETING & BROKERAGE
SERVICE, Respondent
By: Howard Melvin Johnson,
Designated officer

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16 * * *

17 The foregoing Stipulation and Agreement in Settlement
18 and Order is hereby adopted as my Decision and Order and shall
19 become effective at 12 o'clock noon on October 13, 1992.

20 IT IS SO ORDERED

4/18/92
CLARK WALLACE
Real Estate Commissioner

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Clark Wallace

ckdl

Sate

1 Christopher K.D. Leong, Counsel
2 Department of Real Estate
3 107 South Broadway, Room 8107
4 Los Angeles, California, 90012

5 (213) 620-4790

3/27 1991

(Signature)

8 DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * * * *

11	In the Matter of the Accusation of)	H-1851 SD
12	LOAN MARKETING & BROKER SERVICES, INC.)	<u>AMENDMENT TO</u>
13	a corporation; and HOWARD MELVIN JOHNSON)	<u>ACCUSATION</u>
14	JR. individually and as designated)	
15	officer of Loan Marketing & Broker)	
16	Services, Inc.; Robert Christopher,)	
17	Inc.; Precision Financial, Inc.;)	
	Stiles Investment Group, Inc.; Westpac)	
	Financial Corporation; and American)	
	Mortgage Associates, Inc.,)	
	Respondents.)	

18 The Accusation heretofore filed on January 18, 1991,
19 in the above-named matter is hereby amended as follows:

20 Complainant incorporates by reference Paragraphs 1
21 through 15, of his Accusation filed on January 18, 1991.

22 16.

23 The transactions referenced in Paragraph 9 include but
24 are not limited to loans solicited, negotiated and completed for
25 the following persons:
26
27

1	Edelmuth
2	Codling
3	Vivaldi
4	Homberger
5	Jones
6	Boccuzzi
7	Klock
8	Hayes
9	Archuleta
10	Sheldon
11	Mohmaudi
12	Mosquedo
13	Mastroangelo
14	Fitzwilson
15	Koo
16	Galloway
17	Butkiweig
18	Sheldon
19	Chien/Wang
20	Addesso
21	Armstrong
22	Addesso
23	Lawson - Bush
24	Schubert
25	Varonalis
26	Gerst
27	Brown
28	Carson
29	Fox
30	Hanson
31	Spence/Stuhlert
32	Johnson
33	Weaver
34	Lester
35	Lester
36	Pani
37	Williams
38	Norland
39	Clark/Larson
40	Clark
41	Zukaitis
42	Fleck
43	Taylor
44	Digiacommo
45	Wieland
46	Elkin
47	Riley
48	West
49	Gillette
50	Campbell, B.
51	Campbell, J.
52	Thomas
53	Klugman
54	Navin/Dvorak

1 Chung
West
2 Russak
Burns
3 Cisniros
Delval
4 Vaccor
Mittiman
5 Farkas
Archbold
6 Bye
McCutcheon
7 Schneider
Hoang
8 Boylan
Betz
9 Smith
Bacarti/Bacarti
10 Miranda
Zukuities
11 Kurzweil
Dellatre
12 Smith
Kai
13 Prudent
Nguyen/Ngo
14 Pasley
Gerardy
15 Corarito
Battle
16 Christensen
Rosenberg
17 Scholl
Sapo
18 Mrozowski
Keppler
19 Tractor
Reynolds
20 Meckenstock
Foster
21 Baransky
Lange
22 Shamlyan
Murray
23 Schultz
Hamm
24 Seeth
Edwin
25 Georgaklio
Naime
26 Breeze
Keefe
27 Carson
VanBaxtel
Heatherizgtn

1 Scheiderman
2 Heatherington

17.

3 On or about September 10, 1989, LMBS ceased doing
4 business. Subsequently, but before October 26, 1990, LMBS
5 allowed its corporate status to expire.
6

7 WHEREFORE, Complainant prays that a hearing be
8 conducted on the allegations of this Accusation and that upon
9 proof thereof, a decision be rendered imposing disciplinary
10 action against all licenses and license rights of Respondents
11 LOAN MARKETING & BROKER SERVICES, INC. and HOWARD MELVIN JOHNSON
12 JR., under the Real Estate Law (Part 1 of Division 4 of the
13 Business and Professions Code), and for such other and further
14 relief as may be proper under other applicable provisions of
15 law.

16 Dated at San Diego, California
17 this 27th day of August, 1991.

18
19 J. CHRIS GRAVES
20 Deputy Real Estate Commissioner

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26 cc: LOAN MARKETING & BROKER SERVICES, INC.
27 HOWARD MELVIN JOHNSON JR.
Sacto.
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Christopher K.D. Leong, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California, 90012

(213) 620-4790

JAN 13 1991
DEPARTMENT OF REAL ESTATE
BY [Signature]

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	H- 1851 SD
)	
LOAN MARKETING & BROKER SERVICES, INC.)	<u>ACCUSATION</u>
a corporation; and HOWARD MELVIN JOHNSON)	
JR. individually and as designated)	
officer of Loan Marketing & Broker)	
Services, Inc.; Robert Christopher,)	
Inc.; Precision Financial, Inc.;)	
Stiles Investment Group, Inc.; Westpac)	
Financial Corporation; and American)	
Mortgage Associates, Inc.,)	
)	
Respondents.)	

The Complainant, J. Chris Graves, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against HOWARD MELVIN JOHNSON JR. (hereinafter JOHNSON); and LOAN MARKETING & BROKER SERVICES, INC. (hereinafter LMBS), a corporation; (sometimes referred to as Respondents) is informed and alleges as follows:

1.

The Complainant, J. Chris Graves, a Deputy Real Estate Commissioner of the State of California, makes this

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Accusation against Respondents in his official capacity.

2.

All Sections of Title 10, Chapter 6, California Code of Regulations, are hereinafter referred to as "Regulations".

3.

JOHNSON and LMBS, 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 "the Code").

4.

At all times herein mentioned, LMBS, was licensed by the Department of Real Estate of the State of California (hereinafter the Department) as a corporate real estate broker by and through JOHNSON as its designated officer.

5.

At all times herein mentioned, JOHNSON was licensed by the Department as a real estate broker, both individually and as the designated officer of LMBS, to qualify said corporation and to act for said corporation as a real estate broker and, under Section 10159.2 of the Code, was responsible for the supervision and control of the activities conducted on behalf of LMBS, by its officers, managers and employees as necessary to secure full compliance with the provisions of the Code and of the Regulations.

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6.

Whenever reference is made in an allegation in this Accusation to an act or omission of LMBS, and/or Respondents, such allegation shall be deemed to mean that the officers, directors, employees, agents and real estate licensees employed by or associated with Respondents, including but not limited to JOHNSON, committed such act or omissions while engaged in the furtherance of the business or operation of Respondents and while acting within the course and scope of their corporate authority and employment.

7.

At all times herein mentioned, LMBS and JOHNSON, were acting as the agent or employee of the other and within the course and scope of such agency or employment.

8.

At all times herein mentioned, Respondents engaged in the business of, acted in the capacity of, and assumed to act as a real estate licensee in the State of California as defined in Section 10131(d) of the Code, wherein they solicited for and negotiated loans secured by liens on real property as the agent of others for or in expectation of compensation

9.

During a period of time from January 1, 1988 to August 1, 1989, William Jencks (hereinafter Jencks), was an employee of Respondents. During this period, Jencks engaged in the business of and acted as a real estate licensee and

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solicited for and negotiated some 69 loans secured by liens on real property. Of these, 36 loans were funded. Respondents compensated Jencks the sum of \$44,650.00 for these activities. At no time mentioned was Jencks licensed as either a real estate broker or a real estate salesperson, while he was employed by Respondents.

FIRST CAUSE OF ACCUSATION

(Violation by Respondents LMBS and JOHNSON of Section 10177(g) of the Code)

10.

As a First Cause of Accusation, Complainant incorporates herein by this reference the Preamble and each of the allegations in Paragraphs 1 through 12 hereinabove.

11.

The conduct of JOHNSON and LMBS, in allowing Jencks to solicit potential borrowers and to perform acts requiring a license, constitutes demonstrated negligence or incompetence in performing acts which require a real estate license. Said conduct is cause to suspend or revoke the real estate license and license rights of Respondents under Section 10177(g) of the Code.

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SECOND CAUSE OF ACCUSATION

(Violation by Respondent LMBS and JOHNSON of Section
10137(d) of the Code)

12.

As a Second Cause of Accusation, Complainant
incorporates herein by this reference the Preamble and each
of the allegations in Paragraphs 1 through 12 hereinabove.

13.

The acts and/or omissions of Respondents as alleged
in Paragraphs 1 to 12 are grounds for discipline under the
provisions of Sections 10137 of the Code.

THIRD CAUSE OF ACCUSATION

(Violation by Respondent JOHNSON and LMBS of Section
10177(h) of the Code)

14.

As a third Cause of Accusation, Complainant
incorporates herein by this reference the Preamble and each
of the allegations in Paragraphs 1 through 12 hereinabove.

15.

The acts and omissions of JOHNSON and as set forth
in Paragraphs 1 to 12, constitute a lack of proper
supervision over the acts of Jencks and LMBS, requiring a
real estate license, and are bases for the suspension or
revocation of his license and license rights pursuant to
Section 10177(h) of the Code.

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WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of Respondents LOAN MARKETING & BROKER SERVICES, INC. and HOWARD MELVIN JOHNSON JR., 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 San Diego, California
this 18th day of January, 1991.

J. CHRIS GRAVES

Deputy Real Estate Commissioner

cc: LOAN MARKETING & BROKER SERVICES, INC.
HOWARD MELVIN JOHNSON JR.
Sacto.
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