

1 Department of Real Estate
2 107 South Broadway, Room 8107
3 Los Angeles, CA 90012
4 (213) 897-3937

FILED
MAY 20 1997
DEPARTMENT OF REAL ESTATE

By Laura B. Crenshaw

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

11 In the Matter of the Accusation of) NO. H-2301 SD
12 RIO VISTA MORTGAGE CORPORATION) STIPULATION AND AGREEMENT
13 and MORGAN THOMAS WRIGHT,) IN SETTLEMENT AND ORDER
14 Respondents.)
15

16 It is hereby stipulated by and between RIO VISTA
17 MORTGAGE CORPORATION and MORGAN THOMAS WRIGHT (sometimes
18 referred to as Respondents) and the Complainant, acting by and
19 through James R. Peel, Counsel for the Department of Real
20 Estate, as follows for the purpose of settling and disposing of
21 the Accusation filed on January 22, 1997, in this matter.

22 1. All issues which were to be contested and all
23 evidence which was to be presented by Complainant and
24 Respondents at a formal hearing on the Accusation, which hearing
25 was to be held in accordance with the provisions of the
26 Administrative Procedure Act (APA), shall instead and in place
27 thereof be submitted solely on the basis of the provisions of
this Stipulation and Agreement in Settlement.

1 2. Respondents have received, read and understand the
2 Statement to Respondent, the Discovery Provisions of the APA and
3 the Accusation filed by the Department of Real Estate in this
4 proceeding.

5 3. On January 22, 1997, Respondents filed a Notice of
6 Defense pursuant to Section 11505 of the Government Code for the
7 purpose of requesting a hearing on the allegations in the
8 Accusation. Respondents hereby freely and voluntarily withdraw
9 said Notice of Defense. Respondents acknowledge that they
10 understand that by withdrawing said Notice of Defense they will
11 waive other rights afforded to them in connection with the
12 hearing, such as the right to present evidence in defense of the
13 allegations in the Accusation and the right to cross-examine
14 witnesses.

15 4. Respondents, pursuant to the limitations set forth
16 below, although not admitting or denying the truth of the
17 allegations, will not contest the factual allegations contained
18 in the Accusation filed in this proceeding and the Real Estate
19 Commissioner shall not be required to provide further evidence
20 of such allegations.

21 5. It is understood by the parties that the Real
22 Estate Commissioner may adopt the Stipulation and Agreement in
23 Settlement as his decision in this matter thereby imposing the
24 penalty and sanctions on Respondents' real estate licenses and
25 license rights as set forth below in the "Order". In the event
26 that the Commissioner in his discretion does not adopt the
27 Stipulation and the Agreement in Settlement, it shall be void



1 and of no effect, and Respondents shall retain the right to a
2 hearing and proceeding on the Accusation under the provisions of
3 the APA and shall not be bound by any stipulation or waiver made
4 herein.

5 6. The Order or any subsequent Order of the Real
6 Estate Commissioner made pursuant to this Stipulation and
7 Agreement in Settlement shall not constitute an estoppel, merger
8 or bar to any further administrative or civil proceedings by the
9 Department of Real Estate with respect to any matters which were
10 not specifically alleged to be causes for accusation in this
11 proceeding but shall constitute a bar, estoppel and merger as to
12 any allegations actually contained in the accusations against
13 Respondents herein.

14 7. This Stipulation is entered into by each party
15 with the express understanding and agreement that it is to be
16 used for the purposes of settling these proceedings only and
17 that this Stipulation shall not be deemed, used, or accepted as
18 an acknowledgment or stipulation in any other civil or
19 administrative proceeding to which this Department is not a
20 party. Said stipulation is expressly limited to these
21 proceedings and to any further proceeding initiated by or
22 brought before the Department of Real Estate, and shall have no
23 collateral estoppel or res judicata effect in any proceeding
24 other than a proceeding brought by the Department of Real
25 Estate.

26 8. That this Stipulation contains the full and
27 complete agreement of the parties hereto with regard to the



1 disposition of these administrative proceedings, only, and that
2 this Stipulation supersedes in their entirety all negotiations,
3 discussions, agreements, and/or proposals which may have been
4 issued or made by the respective parties and/or by attorneys for
5 the respective parties prior to the date of execution of this
6 Stipulation.

7 DETERMINATION OF ISSUES

8 By reason of the foregoing stipulations and waivers
9 and solely for the purpose of settlement of the pending
10 Accusation without a hearing, it is stipulated and agreed that
11 the following determination of issues shall be made:

12 I

13 The conduct of Respondents, RIO VISTA MORTGAGE
14 CORPORATION and MORGAN THOMAS WRIGHT, as alleged in the
15 Accusation, is grounds for the suspension or revocation of all
16 of the real estate licenses and license rights of Respondents
17 under the provisions of Regulations 2831, 2831.1, 2831.2,
18 2832.1, and Sections 10145(a), 10177(d), and 10177(h) of the
19 Business and Professions Code.

20 ORDER

21 All licenses and license rights of Respondents RIO
22 VISTA MORTGAGE CORPORATION and MORGAN THOMAS WRIGHT under Part 1
23 of Division 4 of the Business and Professions Code are revoked;
24 provided, however, a restricted real estate broker license shall
25 be issued to Respondents, or either of them, pursuant to Section
26 10156.5 of the Code if Respondents make application therefor,
27 and pay to the Department of Real Estate the appropriate fee for

1 said license within 90 days from the effective date of the
2 Decision.

3 The restricted license issued to Respondents shall be
4 subject to all of the provisions of Section 10156.7 of the
5 Business and Professions Code and to the following limitations,
6 conditions, and restrictions, imposed under authority of Section
7 10156.6 of said Code.

8 1. The restricted licenses upon issuance to
9 respondents shall be suspended for 30 days, provided said
10 suspension shall be stayed on condition that each Respondent
11 pays a monetary penalty pursuant to Section 10175.2 of the
12 Business and Professions Code in the amount of \$1,200 (\$2,400
13 for both Respondents). Said payment shall be in the form of a
14 cashier's check or certified check made payable to the Recovery
15 Account of the Real Estate Fund. Said check must be delivered
16 to the Department prior to the effective date of the Order in
17 this matter.

18 2. The restricted license of RIO VISTA MORTGAGE
19 CORPORATION and MORGAN THOMAS WRIGHT may be suspended, pending
20 final determination made after formal hearing, by Order of the
21 Real Estate Commissioner in the event of Respondent's conviction
22 or plea of nolo contendere to a crime which bears a significant
23 relationship to Respondent's fitness or capacity as a real
24 estate licensee.

25 3. The restricted license of RIO VISTA MORTGAGE
26 CORPORATION and MORGAN THOMAS WRIGHT may be suspended, pending
27 final determination made after formal hearing, by Order of the

1 Real Estate Commissioner on evidence satisfactory to the
2 Commissioner that Respondent has, during the time it holds a
3 restricted license, violated provisions of the California Real
4 Estate Law, the Subdivided Lands Law, Regulations of the Real
5 Estate Commissioner, or the conditions attaching to this
6 restricted license.

7 4. Respondents RIO VISTA MORTGAGE CORPORATION and
8 MORGAN THOMAS WRIGHT shall not be eligible to apply for the
9 issuance of an unrestricted real estate license nor the removal
10 of any of the conditions, limitations or restrictions of a
11 restricted license until one (1) year has elapsed from the date
12 of issuance of the restricted license to Respondent.

13 5. Respondents RIO VISTA MORTGAGE CORPORATION and
14 MORGAN THOMAS WRIGHT shall report in writing to the Department
15 of Real Estate as the Real Estate Commissioner shall direct by
16 his Order herein or by separate written order issued while
17 Respondent holds a restricted license, such information
18 concerning Respondent's activities for which a real estate
19 license is required as the Commissioner shall deem to be
20 appropriate to protect the public interest.

21 6. Within two years from the effective date of this
22 Order, the Commissioner may audit the books and records of
23 respondent RIO VISTA MORTGAGE CORPORATION to determine
24 compliance with the Real Estate Law and Regulations of the Real
25 Estate Commissioner, pursuant to Code Section 10148.

26 a. The Real Estate Commissioner may charge

27 Respondents RIO VISTA MORTGAGE CORPORATION



1 and MORGAN THOMAS WRIGHT the reasonable
2 cost of this audit. In calculating the
3 amount of the reasonable costs, the
4 Commissioner may use the estimated average
5 hourly salary for all Department of
6 Real Estate audit personnel performing
7 audits of real estate brokers, and shall
8 include an allocation for travel costs,
9 including mileage, time to and from the
10 auditor's place of work, and per diem. The
11 Commissioner's reasonable costs shall in no
12 event exceed \$6,900.

13 b. Respondents shall pay, within 45 days from
14 receipt of the invoice, the Commissioner's
15 reasonable costs for the chargeable follow-
16 up audit.

17 c. If Respondents RIO VISTA MORTGAGE
18 CORPORATION and MORGAN THOMAS WRIGHT fail
19 to pay, within 45 days from receipt of the
20 invoice, for the Commissioner's reasonable
21 costs for an audit, the Commissioner may
22 order the indefinite suspension of
23 Respondents' real estate licenses and
24 license rights. The suspension shall
25 remain in effect until payment is made in
26 full, or until Respondents enter into an
27 agreement satisfactory to the Commissioner



1 to provide for such payment. The
2 Commissioner may impose further reasonable
3 disciplinary terms and conditions upon
4 Respondents' real estate licenses and
5 license rights as part of any such
6 agreement.

7 7. Respondent MORGAN THOMAS WRIGHT shall, within
8 twelve months from the effective date of this
9 Decision, present evidence satisfactory to the
10 Real Estate Commissioner that Respondent has,
11 since the most recent issuance of an original
12 or renewal real estate license, taken and
13 successfully completed the continuing education
14 requirements of Article 2.5 of Chapter 3 of the
15 Real Estate Law for renewal of a real estate
16 license, including 3 hour courses in ethics,
17 agency, fair housing and trust fund handling.
18 If Respondent fails to satisfy this condition,
19 the Commissioner may order the suspension of the
20 restricted license until the Respondent presents
21 such evidence. The Commissioner shall afford
22 Respondent the opportunity for a hearing
23 pursuant to the Administrative Procedure Act to
24 present such evidence.

25 8. Respondent MORGAN THOMAS WRIGHT shall, within
26 six months from the effective date of this
27 Decision, take and pass the Professional



1 Responsibility Examination administered by the
2 Department including the payment of the
3 appropriate examination fee. If Respondent
4 fails to satisfy this condition, the
5 Commissioner may order suspension of
6 Respondent's license until Respondent passes the
7 examination.

8 9. Before any restricted license is issued,
9 Respondent RIO VISTA MORTGAGE CORPORATION shall
10 provide evidence that the April 30, 1996
11 shortage in its trust account 55017842 has
12 been cured and the source of the funds used
13 to cure said shortage.

14
15
16 DATED: April 9, 1997

James R. Peel
JAMES R. PEEL
Counsel for Complainant

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18 * * * *

19 I have read the Stipulation and Agreement in
20 Settlement, and its terms are understood by me and are agreeable
21 and acceptable to me. I understand that I am waiving rights
22 given to me by the California Administrative Procedure Act
23 (including but not limited to Sections 11506, 11508, 11509 and
24 11513 of the Government Code), and I willingly, intelligently
25 and voluntarily waive those rights, including the right of
26 requiring the Commissioner to prove the allegations in the
27 Accusation at a hearing at which I would have the right to

1 cross-examine witnesses against me and to present evidence in
2 defense and mitigation of the charges.

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4 DATED: 3-31-97


RIO VISTA MORTGAGE CORPORATION
Respondent

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7 DATED: 3-31-97

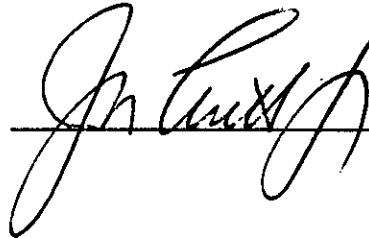

MORGAN THOMAS WRIGHT
Respondent

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9 * * * *

10
11 The foregoing Stipulation and Agreement in Settlement
12 is hereby adopted as my Order and shall become effective at
13 12 o' clock noon on June 10, 1997.

14 IT IS SO ORDERED 5/13, 1997.

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16 JIM ANTT, JR.
17 Real Estate Commissioner

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1 JAMES R. PEEL, Counsel
2 Department of Real Estate
3 107 South Broadway, Room 8107
4 Los Angeles, CA 90012
5 (213) 897-3937

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DEPARTMENT OF REAL ESTATE

By James B. Orme

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9 DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

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12 In the Matter of the Accusation of) NO. H-2301 SD
13 RIO VISTA MORTGAGE CORPORATION;)
14 and MORGAN THOMAS WRIGHT,) A C C U S A T I O N
15 Respondents.)
16

17 The Complainant, J. Chris Graves, a Deputy Real Estate
18 Commissioner of the State of California, for cause of Accusation
19 against, RIO VISTA MORTGAGE CORPORATION, and MORGAN THOMAS WRIGHT,
20 alleges as follows:

21 I

22 The Complainant, J. Chris Graves, acting in his official
23 capacity as a Deputy Real Estate Commissioner of the State of
24 California, makes this Accusation against RIO VISTA MORTGAGE
25 CORPORATION, and MORGAN THOMAS WRIGHT.

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II

RIO VISTA MORTGAGE CORPORATION, and MORGAN THOMAS WRIGHT (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 referred to as the "Code").

III

At all times herein mentioned, respondent RIO VISTA MORTGAGE CORPORATION, was licensed by the Department of Real Estate as a corporate real estate broker, and respondent MORGAN THOMAS WRIGHT was licensed as the designated broker officer of said corporation, and ordered, authorized or participated in the illegal conduct of respondent RIO VISTA MORTGAGE CORPORATION, as alleged in this Accusation.

IV

At all times herein mentioned respondent RIO VISTA MORTGAGE CORPORATION, on behalf of others in expectation of compensation, engaged in the business, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California within the meaning of Section 10131(d) and (e) of the Code, including soliciting borrowers and lenders and negotiating loans on real property, as well as collecting payments from borrowers on behalf of the lenders.

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During 1995 through 1996, in connection with the aforesaid real estate brokerage activities, respondent RIO VISTA MORTGAGE CORPORATION accepted or received funds from borrowers and lenders and thereafter made disbursements of such funds.

VI

In connection with respondents' activities as a real estate broker as described above, respondents acted in violation of the Real Estate Law, Business and Professions Code (hereinafter Code), and California Code of Regulations (hereinafter Regulations), Title 10, Chapter 6, as follows:

1. RIO VISTA MORTGAGE CORPORATION, violated Section 10145(a) of the Code and Regulation 2832.1 by maintaining as of April 30, 1996, a shortage in trust account No. 55017842 in the amount of \$74,918.52.

2. RIO VISTA MORTGAGE CORPORATION violated Regulation 2831 by maintaining columnar records for each trust account that were missing dates when funds received, from whom funds received, and daily balances.

3. RIO VISTA MORTGAGE CORPORATION, violated Regulation 2831.1 by failing to maintain a separate record for each beneficiary or transaction or the separate records were missing dates of deposits and a daily balance.

4. RIO VISTA MORTGAGE CORPORATION, violated Regulation 2831.2 by failing to maintain monthly reconciliations of the balance of all separate beneficiary records with the columnar

1 record of all trust funds received and disbursed for each trust
2 account.

3 VII

4 The conduct of respondent RIO VISTA MORTGAGE
5 CORPORATION, as alleged above, subjects its real estate license
6 and license rights to suspension or revocation pursuant to
7 Sections 10177(d) and 10177(g) of the Code.

8 VIII

9 The conduct of respondent MORGAN THOMAS WRIGHT, as
10 alleged above, as the responsible individual, by allowing and
11 permitting respondent RIO VISTA MORTGAGE CORPORATION to engage in
12 the conduct specified in Paragraph VI above, subjects his real
13 estate licenses and license rights to suspension or revocation
14 pursuant to Sections 10177(d) and 10177(h) of the Code.

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1 WHEREFORE, complainant prays that a hearing be conducted
2 on the allegations of this Accusation and, that upon proof
3 thereof, a decision be rendered imposing disciplinary action
4 against all licenses and license rights of respondents RIO VISTA
5 MORTGAGE CORPORATION and MORGAN THOMAS WRIGHT under the Real
6 Estate Law (Part 1 of Division 4 of the Business and Professions
7 Code) and for such other and further relief as may be proper under
8 other applicable provisions of law.

9 Dated at San Diego, California
10 this 22nd day of January, 1997.

11 J. CHRIS GRAVES

12 Deputy Real Estate Commissioner

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25 cc: Rio Vista Mortgage Corporation
26 Morgan Thomas Wright
 Sacto.
 DMB

27 lbo