

1 Department of Real Estate  
2 P. O. Box 187000  
3 Sacramento, CA 95818-7000  
4  
5 Telephone: (916) 227-0789  
6  
7

FILED  
OCT 19 1999

DEPARTMENT OF REAL ESTATE  
*Laurie A. Zain*

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11	In the Matter of the Accusation of	)	No. H-2500 SD
12	ANDREW LOUIS PIRETTI,	)	OAH NO. L-1999080112
13	Respondents.	)	<u>STIPULATION AND AGREEMENT</u>

14  
15 It is hereby stipulated by and between Respondent  
16 ANDREW LOUIS PIRETTI (hereinafter "Respondent"), and the  
17 Complainant, acting by and through David A. Peters, Counsel for  
18 the Department of Real Estate, as follows for the purpose of  
19 settling and disposing of the Accusation filed on June 21,  
20 1999, in this matter (hereinafter "the Accusation"):

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

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

5           3.     On July 21, 1999, Respondent filed a Notice of  
6 Defense pursuant to Section 11505 of the Government Code for  
7 the purpose of requesting a hearing on the allegations in the  
8 Accusation. Respondent hereby freely and voluntarily withdraws  
9 said Notice of Defense. Respondent acknowledges that  
10 Respondent understands that by withdrawing said Notice of  
11 Defense Respondents will thereby waive Respondent's right to  
12 require the Commissioner to prove the allegations in the  
13 Accusation at a contested hearing held in accordance with the  
14 provisions of the APA and that Respondent will waive other  
15 rights afforded to Respondent in connection with the hearing  
16 such as the right to present evidence in defense of the  
17 allegations in the Accusation and the right to cross-examine  
18 witnesses.

19           4.     Respondent, pursuant to the limitations set  
20 forth below, hereby admits that the factual allegations in the  
21 Accusation are true and correct and agrees that the Real Estate  
22 Commissioner shall not be required to provide further evidence  
23 of such allegations.

24           5.     It is understood by the parties that the Real  
25 Estate Commissioner may adopt the Stipulation and Agreement as  
26 his decision in this matter, thereby imposing the penalty and  
27



1 the Code in conjunction with Section 10240(a) of the Code and  
2 Section 2725 of Title 10, California Code of Regulations.

3 ORDER

4 I

5 All licenses and licensing rights of Respondent  
6 ANDREW LOUIS PIRETTI under the Real Estate Law are revoked;  
7 provided, however, a restricted real estate broker license shall  
8 be issued to Respondent pursuant to Section 10156.5 of the  
9 Business and Professions Code if, within ninety (90) days from  
10 the effective date of the Decision entered pursuant to this Order  
11 Respondent:

12 (a) Pays a fine pursuant to Section 10139.5 of the  
13 Business and Professions Code in the sum of \$5,000.00 in the form  
14 of a cashier's check or certified check made payable to the  
15 Recovery Account of the Real Estate Fund; and

16 (b) Makes application for the restricted license and  
17 pays to the Department of Real Estate the appropriate fee  
18 therefor.

19 Any restricted real estate broker license issued to  
20 Respondent under the Decision entered pursuant to this Order  
21 shall be subject to all of the provisions of Section 10156.7 of  
22 the Business and Professions Code and to the following  
23 limitations, conditions and restrictions imposed under authority  
24 of Section 10156.6 of that Code:

25 1. The restricted license issued to the Respondent  
26 may be suspended prior to hearing by Order of the Real Estate

27 ///

1 Commissioner in the event of the Respondent's conviction or plea  
2 of nolo contendere to a crime which is substantially related to  
3 Respondent's fitness or capacity as a real estate licensee.

4           2.    The restricted license issued to the Respondent  
5 may be suspended prior to hearing by Order of the Real Estate  
6 Commissioner on evidence satisfactory to the Commissioner that  
7 the Respondent has violated provisions of the California Real  
8 Estate Law, the Subdivided Lands Law, Regulations of the Real  
9 Estate Commissioner or conditions attaching to the restricted  
10 license.

11           3.    The Respondent shall not be eligible to apply  
12 for the issuance of an unrestricted real estate license nor for  
13 the removal of any of the conditions, limitations or  
14 restrictions of a restricted license until one (1) year has  
15 elapsed from the effective date of this Decision.

16           4.    The Respondent shall, within nine (9) months  
17 from the effective date of the Decision, present evidence  
18 satisfactory to the Real Estate Commissioner that the  
19 Respondent has, since the most recent issuance of an original  
20 or renewal real estate license, taken and successfully  
21 completed the continuing education requirements of Article 2.5  
22 of Chapter 3 of the Real Estate Law for renewal of a real  
23 estate license. If the Respondent fails to satisfy this  
24 condition, the Commissioner may order the suspension of the  
25 restricted license until the Respondent presents such evidence.  
26 The Commissioner shall afford the Respondent the opportunity

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1 for a hearing pursuant to the Administrative Procedure Act to  
2 present such evidence.

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

10 6. Any restricted real estate broker license issued  
11 to the Respondent may be suspended or revoked for a violation by  
12 the Respondent of any of the conditions attaching to the  
13 restricted license.

14 9/24/90

15 DATED

14 Larry Alvarado

15 for DAVID A. PETERS, Counsel  
16 DEPARTMENT OF REAL ESTATE

17 \* \* \*

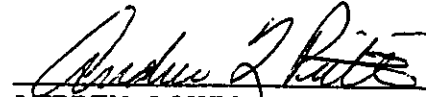
18 I have read the Stipulation and Agreement and its  
19 terms are understood by me and are agreeable and acceptable to  
20 me. I understand that I am waiving rights given to me by the  
21 California Administrative Procedure Act (including but not  
22 limited to Sections 11506, 11508, 11509, and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

27 ///

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

3  
4 9-15-99

5 DATED



6 ANDREW LOUIS PIRETTI  
7 Respondent

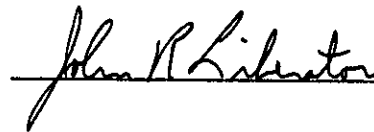
8 \* \* \*

9 The foregoing Stipulation and Agreement for  
10 Settlement is hereby adopted by the Real Estate Commissioner as  
11 his Decision and Order and shall become effective at 12 o'clock  
12 noon on November 9, 1999.

13 IT IS SO ORDERED

14 October 7, 1999

15 JOHN R. LIBERATOR  
16 Acting Real Estate Commissioner

17 

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

FILED  
AUG 16 1999

DEPARTMENT OF REAL ESTATE

By Laurie A. Zain

In the Matter of the Accusation of

ANDREW LOUIS PIRETTI,

}

Case No. H-2500 SD

OAH No. L-1999080112

Respondent

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 1350 Front Street, Suite 6022, San Diego, CA 92101

on Monday, September 20, 1999, at the hour of 9:00 AM, or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: August 16, 1999

By David A. Peters  
DAVID A. PETERS Counsel



1 DAVID A. PETERS, Counsel (SBN 99528)  
2 Department of Real Estate  
3 P. O. Box 187000  
4 Sacramento, CA 95818-7000  
5 Telephone: (916) 227-0789  
6 -or- (916) 227-0781 (Direct)  
7

FILED  
JUN 21 1999

DEPARTMENT OF REAL ESTATE

*Laurie A. Zin*  
By \_\_\_\_\_

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of ) No. H-2500 SD  
12 ANDREW LOUIS PIRETTI, ) ACCUSATION  
13 Respondent. )  
14 \_\_\_\_\_ )

15 The Complainant, J. Chris Graves, a Deputy Real Estate  
16 Commissioner of the State of California, for cause of accusation  
17 against ANDREW LOUIS PIRETTI dba Manhattan Acceptance (hereinafter  
18 "Respondent"), is informed and alleges as follows:

19 I

20 The Complainant, J. Chris Graves, a Deputy Real Estate  
21 Commissioner of the State of California, makes this Accusation in  
22 his official capacity.

23 II

24 Respondent is licensed and/or has license rights under  
25 the Real Estate Law (Part 1 of Division 4 of the Business and  
26 Professions Code) (hereinafter "the Code") as a real estate  
27 broker.

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III

Beginning on or about July 1, 1998, and continuing thereafter, Respondent engaged in the business of, acted in the capacity of, advertised, or assumed to act as a real estate broker within the State of California, within the meaning of Section 10131(d) of the Code, including the operation and conduct of a mortgage loan brokerage business with the public wherein lenders and borrowers were solicited for loans secured directly or collaterally by liens on real property, wherein such loans were arranged, negotiated, processed, and consummated on behalf of others for compensation or in expectation of compensation.

IV

Beginning on or about July 1, 1998 and continuing through on or about November 6, 1998, Keith William Davenport Jr. an unlicensed person in the employ of Respondent (hereinafter "Davenport"), engaged in the business of, 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) of the Code, including the operation and conduct of a mortgage loan brokerage business with the public wherein lenders and borrowers were solicited for loans secured directly or collaterally by liens on real property, wherein such loans were arranged, negotiated, processed, and consummated on behalf of others for compensation or in expectation of compensation.

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V

Said mortgage loan brokerage activities conducted by Davenport as described in Paragraph IV above, included, but are not limited to, the following transactions:

<u>DATE</u>	<u>BORROWERS</u>	<u>PROPERTY</u>
09/18/98	Arne S. and Nancy C. Lindgren	7247 Spoonbill Lane Carlsbad, California
09/25/98	Thomas E. and Olive McCullough	4679 Cyrus Way Oceanside, California
10/13/98	James and Marilyn Sallas	7327 Black Swan Place Carlsbad, California
11/06/98	Richard E. and Maryann Honn	2911 Sondra Court Carlsbad, California

VI

Beginning on or about July 1, 1998 and continuing through on or about November 6, 1998, in connection with the mortgage loan brokerage activities described in Paragraphs IV and V above, Respondent employed and/or compensated, directly or indirectly, Davenport to perform acts requiring a real estate license at a time when Davenport was not licensed by the Department of Real Estate.

VII

On or about November 4, 1998, Davenport, while in Respondent's employ and at a time when Davenport was not licensed by the Department of Real Estate, solicited Luke Martin to obtain a loan.

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1 VIII

2 At various times beginning on or about July 1, 1998 and  
3 continuing through on or about November 6, 1998, Respondent failed  
4 to exercise reasonable supervision over the activities of  
5 Davenport, by allowing Davenport an unlicensed employee to perform  
6 acts for which a license is required, by compensating Davenport  
7 for performing said licensed acts and by failing to establish  
8 adequate policies, rules, procedures and systems to review,  
9 oversee, inspect and manage his mortgage loan brokerage  
10 activities.

11 IX

12 Beginning on or about July 1, 1998 and continuing  
13 through on or about November 6, 1998, in connection with the  
14 mortgage loan brokerage activities described in Paragraphs IV and  
15 V above, Respondent in negotiating loans secured directly or  
16 collaterally by liens on real property, and before the borrowers  
17 became obligated to complete the loan, failed to present to all  
18 borrowers, a written Borrower Disclosure Statement with the  
19 contents set forth in Sections 10236.4(b) and 10241 of the Code,  
20 in violation of Section 10240(a) of the Code.

21 X

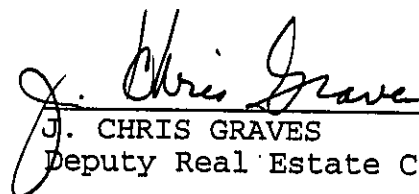
22 The acts and/or omissions of Respondent described above  
23 are grounds for the suspension or revocation of the license and/or  
24 license rights of Respondent under the following sections of the  
25 Code and of Title 10, California Code of Regulations (hereinafter  
26 "Regulations":

27 ///

1 (1) As to Paragraph VI, under Section 10137 of the  
2 Code; and

3 (2) As to Paragraph VIII, under Section 10177(h) of the  
4 Code and Section 2725 of the Regulations in conjunction with  
5 Section 10177(d) of the Code. In the alternative, the acts and/or  
6 omissions of Respondent described in Paragraph VIII are grounds  
7 for the suspension or revocation of Respondent's license and/or  
8 license rights under Section 10177(g) of the Code.

9 WHEREFORE, Complainant prays that a hearing be conducted  
10 on the allegations of this Accusation and that upon proof thereof  
11 a decision be rendered imposing disciplinary action against all  
12 licenses and license rights of Respondent, under the Real Estate  
13 Law (Part 1 of Division 4 of the Business and Professions Code)  
14 including the imposition of a fine of up to \$10,000 pursuant to  
15 the provisions of Section 10139.5 of the Business and Professions  
16 Code, and for such other and further relief as may be proper under  
17 other provisions of law.

18  
19   
20 J. CHRIS GRAVES  
Deputy Real Estate Commissioner

21 Dated at San Diego, California,  
22 this 11<sup>th</sup> day of June, 1999.