

1 Department of Real Estate  
2 320 W. 4<sup>th</sup> Street, Suite 350  
3 Los Angeles, CA 90013-1105

4 Telephone: (213) 576-6982

**FILED**

APR 05 2007

DEPARTMENT OF REAL ESTATE

BY: Rena B. Olson

5 **DEPARTMENT OF REAL ESTATE**

6 **STATE OF CALIFORNIA**

7  
8 *In the Matter of the Application of*

9  
10 MICHAEL LOREN CARLTON PIRKEY,

11 Respondent.

) No. H-33366 LA

) L-2006110533

) **STIPULATION AND WAIVER**

12  
13  
14 It is hereby stipulated by and between, MICHAEL LOREN CARLTON PIRKEY, (hereinafter  
15 "Respondent") and Respondent's attorney, Frank M. Buda, and the Complainant, acting by and through  
16 James Demus, Counsel for the Department of Real Estate, as follows for the purpose of settling and  
17 disposing of the Statement of Issues filed on October 31, 2006 in this matter:

18 Respondent acknowledges that Respondent has received and read the Statement of Issues and the  
19 Statement to Respondent filed by the Department of Real Estate in connection with Respondent's  
20 application for a real estate salesperson license. Respondent understands that the Real Estate  
21 Commissioner may hold a hearing on this Statement of Issues for the purpose of requiring further proof  
22 of Respondent's honesty and truthfulness and to prove other allegations therein, or that he may in his  
23 discretion waive the hearing and grant Respondent a restricted real estate salesperson license based upon  
24 this Stipulation and Waiver. Respondent also understands that by filing the Statement of Issues in this  
25 matter the Real Estate Commissioner is shifting the burden to Respondent to make a satisfactory showing  
26 that Respondent meets all the requirements for issuance of a real estate salesperson license. Respondent  
27 further understands that by entering into this stipulation and waiver Respondent will be stipulating that

1 the Real Estate Commissioner has found that Respondent has failed to make such a showing, thereby  
2 justifying the denial of the issuance to Respondent of an unrestricted real estate salesperson license.

3 Respondent hereby admits that the allegations in paragraphs one, two and six of the Statement of  
4 Issues filed against Respondent are true and correct and requests that the Real Estate Commissioner in  
5 his discretion issue a restricted real estate salesperson license to Respondent under the authority of  
6 Section 10156.5 of the Business and Professions Code. Respondent understands that any such restricted  
7 license will be issued subject to and be limited by Section 10153.4 of the Business and Professions Code.

8 Respondent is aware that by signing this Stipulation and Waiver, Respondent is waiving  
9 Respondent's right to a hearing and the opportunity to present evidence at the hearing to establish  
10 Respondent's rehabilitation in order to obtain an unrestricted real estate salesperson license if this  
11 Stipulation and Waiver is accepted by the Real Estate Commissioner. However, Respondent is not  
12 waiving Respondent's right to a hearing and to further proceedings to obtain a restricted or unrestricted  
13 license if this Stipulation and Waiver is not accepted by the Commissioner.

14 Respondent further understand that the following conditions, limitations and restrictions will  
15 attach to a restricted license issued by the Department of Real Estate pursuant hereto:

- 16 1. The license shall not confer any property right in the privileges to be exercised including the  
17 right of renewal, and the Real Estate Commissioner may by appropriate order suspend the  
18 right to exercise any privileges granted under this restricted license in the event of:
  - 19 a. The conviction of Respondent (including a plea of nolo contendere) to a crime which  
20 bears a substantial relationship to respondent's fitness or capacity as a real estate  
21 licensee; or
  - 22 b. The receipt of evidence that respondent has violated provisions of the California Real  
23 Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner  
24 or conditions attaching to this restricted license.
- 25 2. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate  
26 license nor the removal of any of the conditions, limitations or restrictions attaching to the  
27 restricted license until two years have elapsed from the date of issuance of the restricted

1 license to Respondent.

2 3. With the application for license, or with the application for transfer to a new employing  
3 broker, Respondent shall submit a statement signed by the prospective employing broker on  
4 a form approved by the Department of Real Estate wherein the employing broker shall  
5 certify as follows:

6 a. That broker has read the Statement of Issues which is the basis for the issuance of  
7 the restricted license; and

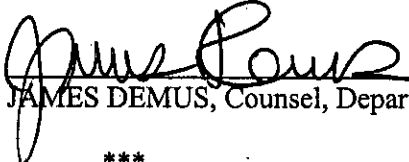
8 b. That broker will carefully review all transaction documents prepared by the  
9 restricted licensee and otherwise exercise close supervision over the licensee's  
10 performance of acts for which a license is required.

11 4. Respondent's restricted real estate salesperson license is issued subject to the requirements  
12 of Section 10153.4 of the Business and Professions Code, to wit: Respondent is required,  
13 within eighteen (18) months of the issuance of the restricted license to, submit evidence  
14 satisfactory to the Commissioner of successful completion, at an accredited institution, of a  
15 course in real estate practices and one of the courses listed in Section 10153.2, other than  
16 real estate principles, advanced legal aspects of real estate, advanced real estate finance or  
17 advanced real estate appraisal. If Respondent fails to timely present to the Department  
18 satisfactory evidence of successful completion of the two required courses, the restricted  
19 license shall be automatically suspended effective eighteen (18) months after the date of its  
20 issuance. Said suspension shall not be lifted unless, prior to the expiration of the restricted  
21 license, Respondent has submitted the required evidence of course completion and the  
22 Commissioner has given written notice to me of the lifting of the suspension.

23 5. Pursuant to Section 10154, if Respondent has not satisfied the requirements for an  
24 unqualified license under Section 10153.4, Respondent shall not be entitled to renew the  
25 restricted license, and shall not be entitled to the issuance of another license which is  
26 subject to Section 10153.4 until four years after the date of the issuance of the preceding  
27 restricted license.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

DATED 4/4/07

  
JAMES DEMUS, Counsel, Department of Real Estate  
\*\*\*

I have read the Statement of Issues, have discussed it with my counsel, 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 California Administrative Procedure Act (including but not limited to Section 11506, 11508, 11509, and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive those rights, including the right of a hearing on the Statement of Issues at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.


Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and Waiver by faxing a copy of its signature page, as actually signed by respondent, to the Department at the following telephone/fax number: (213) 576-6917. Respondent agrees, acknowledges and understands that by electronically sending to the Department a fax copy of his actual signature as it appears on the Stipulation and Waiver, that receipt of the faxed copy by the Department shall be as binding on respondent as if the Department had received the original signed Stipulation an Waiver.

DATED 2-12-07

  
MICHAEL LOREN CARLTON PIRKEY, Respondent

*I have reviewed the Stipulation and Waiver as to form and content and have advised my client accordingly.*

DATED 2-7-07

  
FRANK M. BUDA, Attorney for Respondent

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

\*\*\*

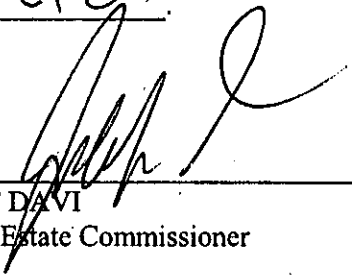
I have read the Statement of Issues filed herein and the foregoing Stipulation and Waiver signed by Respondent. I am satisfied that the hearing for the purpose of requiring further proof as to the honesty and turthfulness of Respondent need not be called and that it will not be inimical to the public interest to issue a restricted real estate salesperson license to Respondent.

Therefore, IT IS HEREBY ORDERED that a restricted real estate salesperson license be issued to respondent MICHAEL LOREN CARLTON PIRKEY, if respondent has otherwise fulfilled all of the statutory requirements for licensure. The restricted license shall be limited, conditioned and restricted as specified in the foregoing Stipulation and Waiver.

This Order is effective immediately.

IT IS SO ORDERED

3-29-07

  
\_\_\_\_\_  
JEFF DAVI  
Real Estate Commissioner

*Handwritten initials*

JAMES DEMUS, Counsel (SBN 225005)  
Department of Real Estate  
320 West 4th Street, Suite 350  
Los Angeles, California 90013-1105

**FILED**

OCT 31 2006

DEPARTMENT OF REAL ESTATE  
BY: *Janice B. Alena*

Telephone: (213) 576-6982  
(Direct) (213) 576-6910

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Application of )	NO. H-33366 LA
MICHAEL LOREN CARLTON PIRKEY, )	<u>STATEMENT OF ISSUES</u>
Respondent. )	

The Complainant, Joseph Aiu, a Deputy Real Estate Commissioner of the State of California, for Statement of Issues against MICHAEL LOREN CARLTON PIRKEY, ("Respondent"), is informed and alleges in his official capacity as follows:

I

On or about February 24, 2006, Respondent made application to the Department of Real Estate of the State of California for a real estate salesperson license, with the knowledge and understanding that any license issued as a result of said application would be subject to the conditions of Business and Professions Code Section 10153.4.

///

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

II

In aggravation, on or about June 17, 2003 in the Superior Court of California, County of Riverside, in Case No. RIM370630, Respondent was convicted of violating California Vehicle Code Sections 14601.1 (driving on a suspended license), and 40508(a) (failure to appear), both misdemeanors.

III

On or about June 17, 2003 in the Superior Court of California, County of Riverside, in Case No. RIM356566, Respondent was convicted of violating California Vehicle Code Sections 14601.1 (driving on a suspended license), 40508(a) (failure to appear), and California Penal Code Section 853.7 (failure to appear on written promise). Said crimes involve moral turpitude and bear a substantial relationship under Section 2910, Title 10, Chapter 6, California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

IV

On or about June 17, 2003 in the Superior Court of California, County of Riverside, in Case No. RIM436596, Respondent was convicted of violating California Penal Code Sections 237.6(A) (violation of court order), and 136.1(B) (2) (preventing another from giving testimony), both misdemeanors. Said crimes involve moral turpitude and bear a substantial relationship under Section 2910, Title 10, Chapter 6, California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

1 V

2 On or about June 17, 2003 in the Superior Court of  
3 California, County of Riverside, in Case No. RIM370633,  
4 Respondent was convicted of violating California Vehicle Code  
5 Sections 14601.1 (driving on a suspended license), and 40508(a)  
6 (failure to appear), and California Penal Code Section 853.7  
7 (failure to appear on a written promise, all misdemeanors. Said  
8 crimes involve moral turpitude and bear a substantial  
9 relationship under Section 2910, Title 10, Chapter 6, California  
10 Code of Regulations, to the qualifications, functions or duties  
11 of a real estate licensee.

12 VI

13 On or about December 4, 2003, in the Superior Court of  
14 California, County of Riverside, in Case No. RIF113702,  
15 Respondent was convicted of violating California Health and  
16 Safety Code Section 11377(a) (possession of a controlled  
17 substance), a felony. Said crime bears a substantial  
18 relationship under Section 2910, Title 10, Chapter 6, California  
19 Code of Regulations, to the qualifications, functions or duties  
20 of a real estate licensee.

21 VII

22 The crimes of which Respondent was convicted, as  
23 alleged in Paragraphs III through VI above, constitute cause for  
24 denial of Respondent's application for a real estate license  
25 under Business and Professions Code Sections 475(a)(2), 480(a),  
26 and 10177(b).

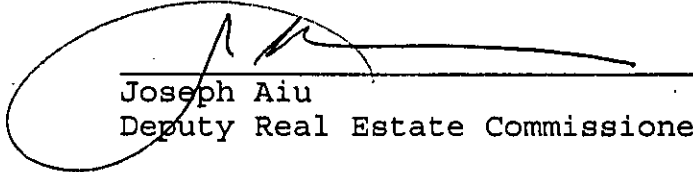
27 ///



1           These proceedings are brought under the provisions of  
2 Section 10100, Division 4 of the Business and Professions Code  
3 of the State of California and Sections 11500 through 11528 of  
4 the California Government Code.

5  
6           WHEREFORE, the Complainant prays that the above-  
7 entitled matter be set for hearing and, upon proof of the  
8 charges contained herein, that the Commissioner refuse to  
9 authorize the issuance of, and deny the issuance of, a real  
10 estate salesperson license to Respondent, MICHAEL LOREN CARLTON  
11 PIRKEY, and for such other and further relief as may be proper  
12 in the premises.

13 Dated at San Diego, California  
14 this 27 day of February, 2006.

15  
16  
17   
18 Joseph Aiu  
19 Deputy Real Estate Commissioner  
20  
21  
22  
23  
24

25 cc: Michael Loren Carlton Pirkey  
26 Douglas W. Shepherd  
27 Sacto.  
Joseph Aiu