

1 Procedure Act ("APA"), shall instead and in place thereof be
2 submitted solely on the basis of the provisions of this
3 Stipulation and Agreement.

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

8 3. On August 23, 1999, Respondents filed a Notice of
9 Defense pursuant to Section 11505 of the Government Code for the
10 purpose of requesting a hearing on the allegations in the
11 Accusation. Respondents hereby freely and voluntarily withdraw
12 said Notice of Defense. Respondents acknowledge that they
13 understand that by withdrawing said Notice of Defense they will
14 thereby waive their right to require the Commissioner to prove
15 the allegations in the Accusation at a contested hearing held in
16 accordance with the provisions of the APA and that they will
17 waive other rights afforded to them in connection with the
18 hearing such as the right to present evidence in defense of the
19 allegations in the Accusation and the right to cross-examine
20 witnesses.

21 4. This Stipulation is based on the factual
22 allegations contained in the Accusation. In the interests of
23 expedience and economy, Respondents choose not to contest these
24 allegations, but to remain silent and understand that, as a
25 result thereof, these factual allegations, without being admitted
26 or denied, will serve as a prima facie basis for the disciplinary
27 action stipulated to herein. The Real Estate Commissioner shall

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I

The conduct of Respondent USMC, as described in the Accusation, is cause for the suspension or revocation of the real estate license and license rights of Respondent USMC under the provisions of Sections 10137 and 10138 of the Business and Professions Code ("Code").

II

The conduct of the Respondent VIZZOLINI, as described in the Accusation, is cause for the suspension or revocation of the real estate license and license rights of Respondent VIZZOLINI under the provisions of Section 10177(h) of the Code.

ORDER

A. All licenses and licensing rights of Respondents under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to Respondents pursuant to Section 10156.5 of the Business and Professions Code if Respondents make application therefor and pay to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Order. The restricted license shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions, and restrictions imposed under authority of Section 10156.6 of that Code:

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///

1 (1) The restricted license issued to Respondents may be
2 suspended prior to hearing by Order of the Real Estate
3 Commissioner in the event of Respondents' conviction
4 or plea of nolo contendere to a crime which is
5 substantially related to Respondents' fitness or
6 capacity as a real estate licensee.

7 (2) The restricted license issued to Respondents may be
8 suspended prior to hearing by Order of the Real Estate
9 Commissioner on evidence satisfactory to the
10 Commissioner that Respondents have violated provisions
11 of the California Real Estate Law, the Subdivided Lands
12 Law, Regulations of the Real Estate Commissioner or
13 conditions attaching to the restricted license.

14 (3) Respondents shall not be eligible to apply for the
15 issuance of an unrestricted real estate license nor the
16 removal of any of the conditions, limitations or
17 restrictions of a restricted license until two (2)
18 years have elapsed from the effective date of this
19 Order.

20 B. Respondent VIZZOLINI shall, within nine months from the
21 effective date of this Order, present evidence satisfactory
22 to the Real Estate Commissioner that he has, since the most
23 recent issuance of an original or renewal real estate
24 license, taken and successfully completed the continuing
25 education requirements of Article 2.5 of Chapter 3 of the
26 Real Estate Law for renewal of a real estate license. If
27 Respondent VIZZOLINI fails to satisfy this condition, the

1 Commissioner may order the suspension of the restricted
2 license until he presents such evidence. The Commissioner
3 shall afford Respondent VIZZOLINI the opportunity for a
4 hearing pursuant to the Administrative Procedure Act to
5 present such evidence.

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

13
14 August 10, 2020
15 DATED

13
14 Thomas C. Lasken
15 THOMAS C. LASKEN, Counsel
16 DEPARTMENT OF REAL ESTATE

16 * * *

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

U S MORTGAGE CENTER
Respondent

8-31-00

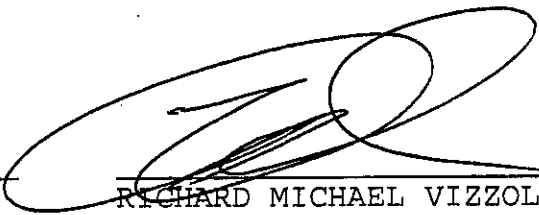
DATED

By:


RICHARD MICHAEL VIZZOLINI
President

8-31-00

DATED



RICHARD MICHAEL VIZZOLINI
Respondent

* * *

I have reviewed the Stipulation and Agreement in settlement as to form and content and have advised my clients accordingly.

August 1, 2000

DATED


ROSE POTHIER
Attorney for Respondents

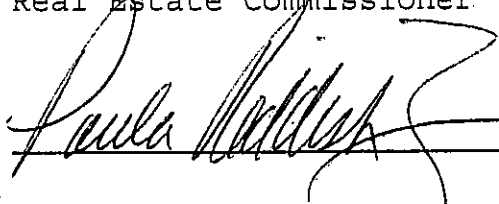
* * *

The foregoing Stipulation and Agreement in settlement
is hereby adopted by the Real Estate Commissioner as her
Decision and Order and shall become effective at 12 o'clock
noon on October 4, 2000.

IT IS SO ORDERED

September 5, 2000.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner



FILED

MAY - 5 2000

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

In the Matter of the Accusation of

U S MORTGAGE CENTER, and
RICHARD MICHAEL VIZZOLINI,

}

Case No. H-3461 SAC

OAH No. N-2000010070

Respondent

FIRST CONTINUED
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, 560 J Street,

Suites 340/360, Sacramento, California 95814

on September 11, 12, 13, 14, 15, 25 & 26, 2000, 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: May 5, 2000

By Thomas C. Lasken
THOMAS C. LASKEN Counsel

FILED

FEB 11 2000

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By Kathleen Contreras

In the Matter of the Accusation of

U.S. MORTGAGE CENTER, and
RICAHRD MICHAEL VIZZOLINI,

Case No. H-3461 SAC

OAH No. N-2000010070

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, 560 J Street,

Suites 340/360, Sacramento, California 95814

on May 2, May 3, May 4, and May 5, 2000, 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: February 11, 2000

By Thomas C. Lasken
THOMAS C. LASKEN Counsel

1 THOMAS C. LASKEN, Counsel
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000

5 Telephone: (916) 227-0789

FILED

AUG 18 1999

DEPARTMENT OF REAL ESTATE

By *Juan Antonio*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 U S MORTGAGE CENTER, and)
13 RICHARD MICHAEL VIZZOLINI;)
14 Respondents.)

NO. H- 3461 SAC

ACCUSATION

15 The Complainant, Charles W. Koenig, a Deputy Real
16 Estate Commissioner of the State of California, for cause of
17 Accusation against U S MORTGAGE CENTER, and against RICHARD
18 MICHAEL VIZZOLINI individually and as Designated Officer of
19 U S MORTGAGE CENTER, is informed and alleges as follows:

20 I

21 The Complainant, Charles W. Koenig, a Deputy Real
22 Estate Commissioner of the State of California, makes this
23 Accusation in his official capacity.

24 II

25 At all times herein mentioned, Respondent U S MORTGAGE
26 CENTER (hereinafter "Respondent USMC") was licensed and/or had
27 license rights under the Real Estate Law, Part 1 of Division 4 of

1 the Business and Professions Code (hereinafter "Code") as a real
2 estate brokerage corporation, by and through Respondent RICHARD
3 MICHAEL VIZZOLINI (hereinafter Respondent "VIZZOLINI") as its
4 Designated Officer.

5 III

6 At all times herein mentioned, Respondent VIZZOLINI was
7 licensed, and/or had license rights under the Code, individually
8 and as Designated Officer of Respondent USMC.

9 IV

10 Whenever reference is made in an allegation in this
11 Accusation to an act or omission of "Respondents", such
12 allegation shall be deemed to mean the act or omission of each of
13 the Respondents named in the caption hereof, acting individually,
14 jointly, and severally, and as agents of each other.

15 V

16 At all times mentioned herein, Respondents engaged in
17 the business of, acted in the capacity of, advertised or assumed
18 to act as a real estate broker within the State of California,
19 including the operation and conduct of a mortgage loan brokerage
20 business with the public wherein lenders and borrowers were
21 solicited for loans secured directly or collaterally by liens on
22 real property, wherein such loans were arranged, negotiated,
23 processed, and consummated on behalf of others for compensation
24 or in expectation of compensation.

25 VI

26 Within the three-year period immediately preceding the
27 filing of this Accusation, in connection with the mortgage loan

1 brokerage activities described in Paragraph V above, Respondents
2 employed and compensated unlicensed persons, including Susan Ow,
3 Daniel McGettigan, and Walter Howard, to perform acts for which a
4 real estate license is required including, but not limited to,
5 the acts described in Paragraph V above, in violation of Sections
6 10137 and 10138 of the Code.

7
8 VII

9 Within the three-year period immediately preceding the
10 filing of this Accusation, in connection with the mortgage loan
11 brokerage activities described in Paragraph V above, Respondents
12 engaged in a course of conduct of advertising in the Sacramento
13 Bee Newspaper, in its "Going Rates" Section, that they could make
14 available to prospective borrowers loans on terms which they knew
15 or should have known were not available, in that Respondents
16 failed to disclose fees, charges, rebates, or "yield spread
17 premiums" which they intended to receive as compensation and
18 which would increase the costs to the borrowers of the loans
19 advertised beyond the terms disclosed in the advertising.

20 VIII

21 Within the three-year period immediately preceding the
22 filing of this Accusation, in connection with the mortgage loan
23 brokerage activities described in Paragraph V above, Respondents
24 engaged in a course of conduct of placing advertisements in the
25 Sacramento Bee Newspaper, in its "Going Rates" Section, which did
26 not disclose within the printed text of the advertisements the
27 license under which the loan would be made or arranged in the
manner required by Section 10235.5 of the Code.

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IX

Respondents' acts and omissions alleged in Paragraph VI above constitute cause for the suspension or revocation of Respondents' real estate licenses and/or license rights under Sections 10137 and 10138 of the Code.

X

Respondents' acts and omissions alleged in Paragraph VII above constitute the making of substantial misrepresentations, and violation of Section 10235 of the Code, and are cause for the suspension or revocation of Respondents' real estate licenses and/or license rights under Sections 10176(a) and 10177(d) of the Code.

XI

Respondents' acts and omissions alleged in Paragraph VIII above constitute the making of substantial misrepresentations, and violation of Section 10235.5 of the Code, and are cause for the suspension or revocation of Respondents' real estate licenses and/or license rights under Sections 10176(a) and 10177(d) of the Code.

XII

Within the three-year period immediately preceding the filing of this Accusation, in connection with the mortgage loan brokerage activities described in Paragraph V above, Respondent VIZZOLINI, as designated broker-officer for Respondent USMC, failed to exercise reasonable supervision and control over the licensed activities of Respondent USMC as required by Section 10159.2 of the Code. Such failure is cause for the suspension or

1 revocation of Respondent VIZZOLINI's licenses and/or license
2 rights under Section 10177(h) of the Code.

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

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16 
17 CHARLES W. KOENIG
18 Deputy Real Estate Commissioner
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20

21 Dated at Sacramento, California,
22 this 5th day of August, 1999.
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