

FILED

FEB 17 2006

DEPARTMENT OF REAL ESTATE

By

Jean Brumby

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

No. H-7736 SF

KENNETH LEE GARDNER,

Respondent.

ORDER GRANTING REINSTATEMENT OF LICENSE

On March 6, 2000, a Decision was rendered herein revoking the real estate broker license of Respondent effective April 20, 2000, but granting Respondent the right to the issuance of a restricted real estate broker license. A restricted real estate broker license was issued to Respondent on July 21, 2000, and Respondent has operated as a restricted licensee since that time.

On June 15, 2004, Respondent petitioned for reinstatement of said real estate broker license, and the Attorney General of the State of California has been given notice of the filing of said petition.

///

1 I have considered the petition of Respondent and the
2 evidence and arguments in support thereof. Respondent has
3 demonstrated to my satisfaction that Respondent meets the
4 requirements of law for the issuance to Respondent of an
5 unrestricted real estate broker license and that it would not be
6 against the public interest to issue said license to Respondent.

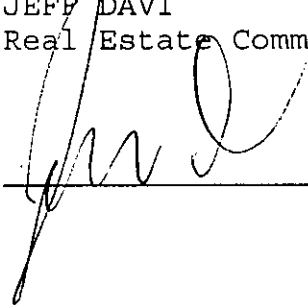
7 NOW, THEREFORE, IT IS ORDERED that Respondent's
8 petition for reinstatement is granted and that a real estate
9 broker license be issued to Respondent if Respondent satisfies
10 the following conditions within nine (9) months from the date of
11 this Order:

12 1. Submittal of a completed application and payment of
13 the fee for a real estate broker license.

14 2. Submittal of evidence of having, since the most
15 recent issuance of an original or renewal real estate license,
16 taken and successfully completed the continuing education
17 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
18 for renewal of a real estate license.

19 This Order shall become effective immediately.

20 DATED: 29.06

21 JEFF DAVI
22 Real Estate Commissioner
23 
24
25
26
27

ORIGINAL

FILED
MAR 31 2000

Department of Real Estate
P. O. Box 187000
Sacramento, CA 95818-7000
Telephone: (916) 227-0789

DEPARTMENT OF REAL ESTATE

By Shelly Ely

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of	)	No. H-7736 SF
	)	
	)	STIPULATION AND AGREEMENT
	)	
LORD FINANCIAL SERVICES, INC.,	)	<u>AS TO KENNETH L. GARDNER</u>
	)	
WENDY LORD, and KENNETH L. GARDNER,	)	<u>and LORD FINANCIAL</u>
	)	
Respondents.	)	<u>SERVICES, INC. ONLY</u>
	)	
	)	

It is hereby stipulated by and between KENNETH L. GARDNER and LORD FINANCIAL SERVICES, INC., (Respondents) and their attorney of record, POTHIER & ASSOCIATES by Rose Pothier and the Complainant, acting by and through David B. Seals, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on August 12, 1999, in this matter:

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondents at a formal hearing on the Accusation, only as to the Respondents

1 specifically designated above, which hearing was to be held in
2 accordance with the provisions of the Administrative Procedure
3 Act (APA), shall instead and in place thereof be submitted solely
4 on the basis of the provisions of this Stipulation and Agreement
5 in Settlement.

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

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

23 4. This Stipulation is based on the factual allegations
24 contained in the Accusation. In the interests of expedience and
25 economy, Respondents choose not to contest these allegations, but
26 to remain silent and understand that, as a result thereof, these
27 factual allegations, without being admitted or denied, will serve

1 as a prima facie basis for the disciplinary action stipulated to
2 herein. The Real Estate Commissioner shall not be required to
3 provide further evidence to prove said factual allegations.

4 5. It is understood by the parties that the Real
5 Estate Commissioner may adopt the Stipulation and Agreement in
6 Settlement as her decision in this matter thereby imposing the
7 penalty and sanctions on Respondents' real estate licenses and
8 license rights as set forth in the below "Order". In the event
9 that the Commissioner in her discretion does not adopt the
10 Stipulation and Agreement in Settlement, it shall be void and of
11 no effect, and Respondents shall retain the right to a hearing
12 and proceeding on the Accusation under all the provisions of the
13 APA and shall not be bound by any admission or waiver made
14 herein.

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

22 7. Respondents LORD FINANCIAL SERVICES, INC. and
23 KENNETH L. GARDNER have received, read and understand the "Notice
24 Concerning Costs of Subsequent Audits". Respondents LORD
25 FINANCIAL SERVICES, INC. and KENNETH L. GARDNER understand that
26 by agreeing to this Stipulation and Agreement in Settlement, the
27 findings set forth below in the DETERMINATION OF ISSUES become

1 final, and that the Commissioner may charge Respondents LORD
2 FINANCIAL SERVICES, INC. and KENNETH L. GARDNER for the costs of
3 any audit conducted pursuant to Section 10148 of the Business and
4 Professions Code to determine if the violations have been
5 corrected. The maximum costs of said audit will not exceed
6 \$7296.74.

7 DETERMINATION OF ISSUES

8 I

9 The facts alleged above are grounds for the suspension
10 or revocation of the licenses and license rights of Respondents
11 as follows:

12 (a) As to Respondent LORD FINANCIAL SERVICES, INC.
13 under Section 10177(d) in conjunction with Sections 10145 and
14 10132.4 of the Code and Sections 2831 and 2831.2 of the
15 Regulations.

16 (b) As to Respondent KENNETH L. GARDNER, under Section
17 10177(d) in conjunction with Sections 10145 and 10132.4 of the
18 Code and Sections 2831 and 2831.2 of the Regulations.

19 ORDER

20 I

21 A. The real estate broker license and all license rights of
22 Respondents LORD FINANCIAL SERVICES, INC. and KENNETH L.
23 GARDNER, and each of them, under the Real Estate Law are
24 revoked.

25 B. A restricted real estate broker license shall be issued to
26 Respondents, and each of them, pursuant to Business and
27 Professions Code Section 10156.5, if Respondents make

1 application therefor and pay to the Department the
2 appropriate fee for said license within ninety (90) days
3 from the effective date of this ORDER.

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

9 (1) The license shall not confer any property right in the
10 privileges to be exercised, and the Real Estate
11 Commissioner may by appropriate order suspend the
12 right to exercise any privileges granted under the
13 restricted license in the event of:

14 (a) The conviction of Respondents, and each of them,
15 (including a plea of nolo contendere) to a crime
16 which bears a significant relation to
17 Respondents' fitness or capacity as a real estate
18 licensee; or,

19 (b) The receipt of evidence that Respondents, and each
20 of them, has violated provisions of the California
21 Real Estate Law, Subdivided Lands Law, Regulations
22 of the Real Estate Commissioner or conditions
23 attaching to the restricted license.

24 (2) Respondents shall not be eligible to apply for issuance
25 of an unrestricted real estate license nor the removal
26 of any of the conditions, limitations or restrictions
27 attaching to the restricted license until one (1) year

1 has elapsed from the date of issuance of a restricted
2 license to each said Respondent.

3 D. Respondent KENNETH L. GARDNER shall, within nine (9) months
4 from the effective date of this ORDER, present evidence
5 satisfactory to the Real Estate Commissioner that he has,
6 since the most recent issuance of an original or renewal
7 real estate license, taken and successfully completed the
8 continuing education requirements of Article 2.5 of Chapter
9 3 of the Real Estate Law for renewal of a real estate
10 license. If Respondent GARDNER fails to satisfy this
11 condition, the Commissioner may order the suspension of the
12 restricted license until Respondent GARDNER presents such
13 evidence. The Commissioner shall afford Respondent GARDNER
14 the opportunity for a hearing pursuant to the Administrative
15 Procedure Act to present such evidence.

16 E. Respondent KENNETH L. GARDNER shall, within six (6) months
17 from the effective date of this Order, take and pass the
18 Professional Responsibility Examination administered by the
19 Department including the payment of the appropriate
20 examination fee. If Respondent GARDNER fails to satisfy this
21 condition, the Commissioner may order suspension of
22 Respondent GARDNER'S license until Respondent GARDNER passes
23 the examination.

24 F. Any restricted real estate broker license issued to either
25 of said Respondents may be suspended or revoked for a
26 violation by said Respondent of any of the conditions
27 attaching to the restricted license.

1 G. Pursuant to Section 10148 of the Business and Professions
2 Code, Respondents LORD FINANCIAL SERVICES, INC. and KENNETH
3 L. GARDNER shall pay the Commissioner's reasonable cost for
4 an audit to determine if Respondent LORD FINANCIAL
5 SERVICES, INC. has corrected the trust fund violation(s)
6 found in the Determination of Issues. In calculating the
7 amount of the Commissioner's reasonable cost, the
8 Commissioner may use the estimated average hourly salary
9 for all persons performing audits of real estate brokers,
10 and shall include an allocation for travel costs, including
11 mileage, time to and from the auditor's place of work and
12 per diem. The reasonable cost, based on the prior audit is
13 \$7,296.74. Respondents LORD FINANCIAL SERVICES, INC. and
14 KENNETH L. GARDNER, shall be jointly and severally liable
15 for payment of the entire amount of the cost of the audit
16 and shall pay such cost within 45 days of receiving an
17 invoice from the Commissioner detailing the activities
18 performed during the audit and the amount of time spent
19 performing those activities. The Commissioner may suspend
20 the restricted licenses issued to respondent LORD FINANCIAL
21 SERVICES, INC. and KENNETH L. GARDNER pending a hearing
22 held in accordance with Section 11500, et seq., of the
23 Government Code, if payment is not timely made as provided
24 for herein, or as provided for in a subsequent agreement
25 between Respondents LORD FINANCIAL SERVICES, INC., KENNETH
26 L. GARDNER and the Commissioner. The suspension shall
27 remain in effect until payment is made in full or until

1 Respondents LORD FINANCIAL SERVICES, INC. and KENNETH L.
2 GARDNER enter into an agreement satisfactory to the
3 Commissioner to provide for payment, or until a decision
4 providing otherwise is adopted following a hearing held
5 pursuant to this condition.

6 H. Prior to and as a condition of the issuance of the
7 restricted license as provided herein, Respondent shall
8 provide evidence satisfactory to the Real Estate
9 Commissioner that Respondent has cured the shortage alleged
10 in the Accusation.

11
12 Feb. 1, 2000
13 DATED

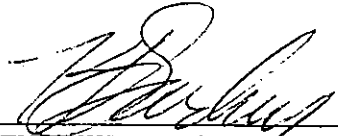
14 
15 DAVID B. SEALS, Counsel
16 DEPARTMENT OF REAL ESTATE

17 * * *

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

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1/25/00
DATED


KENNETH L. GARDNER
Respondent

1/25/00
DATED


LORD FINANCIAL SERVICES, INC
Respondent

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

1/24/00
DATED

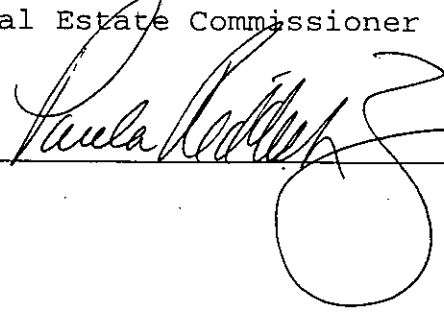

POTHIER & ASSOCIATES by
Rose Pothier
Attorneys for Respondents

* * *

The foregoing Stipulation and Agreement for
Settlement is hereby adopted by the Real Estate Commissioner as
her Decision and Order and shall become effective at 12 o'clock
noon on April 20, 2000.

IT IS SO ORDERED March 6, 2000.

PAULA REDDISH ZINNEMANN
Real Estate Commissioner



FILED
APR 26 2000

DEPARTMENT OF REAL ESTATE

By Shelly Ely

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
LORD FINANCIAL SERVICES, INC.,)
WENDY LORD, and)
KENNETH L. GARDNER,)
Respondents.)

NO. H-7736 SF

DISMISSAL

DISMISSAL

The Accusation herein filed on August 12, 1999 is
DISMISSED as to WENDY LORD only.

IT IS SO ORDERED this 20th day of
April, 2000.

PAULA REDDISH ZINNEMAN
Real Estate Commissioner

Paula Reddish Zinneman

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
MAR 28 2000

DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

LORD FINANCIAL SERVICES, INC.,
WENDY LORD, and KENNETH L. GARDNER

By Shelly Ely

Case No. H-7736 SF

OAH No. 1999080427

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, 1515 CLAY STREET, SUITE 206, OAKLAND, CALIFORNIA 94612 on TUESDAY--APRIL 18, 2000, at the hour of 10:00 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.

Dated: MARCH 28, 2000

DEPARTMENT OF REAL ESTATE
By David B. Seals
DAVID B. SEALS *Counsel*

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILE
DEC 22 1999

DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

LORD FINANCIAL SERVICES, INC.,
WENDY LORD, and KENNETH L. GARDNER,

Respondent

Case No. H-7736 SF By Shelly Ely
OAH No. N1999080427

SECOND 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, 1515 Clay Street, Suite 206,
Oakland, California 94612

on WEDNESDAY--APRIL 12, 2000, at the hour of 10:30 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.

Dated: December 22, 1999

DEPARTMENT OF REAL ESTATE

By

David B. Seals
DAVID B. SEALS

Counsel

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
SEP 17 1999

DEPARTMENT OF REAL ESTATE

By Shelly Ely

In the Matter of the Accusation of

LORD FINANCIAL SERVICES, INC.,
WENDY LORD, and KENNETH L. GARDNER,

Case No. H-7736 SF

OA# No. N-1999080427

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, 1515 Clay Street, Suite 206,
Oakland, California 94612

on MONDAY--OCTOBER 25, 1999, at the hour of 10:00 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: September 17, 1999

By David B. Seals
DAVID B. SEALS Counsel

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
SEP 01 1999

DEPARTMENT OF REAL ESTATE

By Shelly Ely

In the Matter of the Accusation of

LORD FINANCIAL SERVICES, INC.,
WENDY LORD, and KENNETH L. GARDNER,

Case No. H-7736 SF

OAH No. N 1999080427

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, 1515 Clay Street, Suite 206,

Oakland, California 94612

on WEDNESDAY--SEPTEMBER 29, 1999, at the hour of 10:00 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: September 1, 1999

By David B. Seals
DAVID B. SEALS Counsel

1 DAVID B. SEALS, Counsel (SBN 69378)
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000

5 Telephone: (916) 227-0789
6 -or- (916) 227-0792 (Direct)

FILED

AUG 12 1999

DEPARTMENT OF REAL ESTATE

By Jean Rumb

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H- 7736 SF

12 LORD FINANCIAL SERVICES, INC.,)

ACCUSATION

13 WENDY LORD, and)

14 KENNETH L. GARDNER,)

15 Respondents.)

16 The Complainant, Les R. Bettencourt, a Deputy Real
17 Estate Commissioner of the State of California for cause of
18 Accusation against LORD FINANCIAL SERVICES, INC., (hereinafter
19 "Respondent LFS"), WENDY LORD, (hereinafter "Respondent LORD"),
20 and KENNETH L. GARDNER (hereinafter "Respondent GARDNER"), is
21 informed and alleges as follows:

22 FIRST CAUSE OF ACCUSATION

23 I

24 The Complainant, Les R. Bettencourt, a Deputy Real
25 Estate Commissioner of the State of California, makes this
26 Accusation against Respondents in his official capacity.

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II

Respondents LFS, LORD, and GARDNER are presently licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code) (hereinafter "Code").

III

At all times herein mentioned, Respondent LFS was licensed as a real estate broker corporation. Respondent LORD was acting as its designated broker-officer until on or about September 28, 1997. Beginning on or about September 29, 1997, and continuing thereafter Respondent GARDNER was acting as its designated broker-officer.

IV

At all times herein mentioned, Respondent LORD was licensed as a real estate broker, and until on or about September 28, 1997, was the designated broker-officer of Respondent LFS.

V

At all times herein mentioned, Respondent GARDNER was licensed as a real estate broker and from on or about September 29, 1997, was the designated broker-officer of Respondent LFS.

VI

Whenever reference is made in an allegation in this Accusation to an act or omission of "Respondents", such allegation shall be deemed to mean the act or omission of each of
///

1 the Respondents named in the caption herein, acting individually,
2 jointly and severally.

3 VII

4 At various times mentioned herein, Respondents engaged
5 in the business of, acted in the capacity of, advertised, or
6 assumed to act as real estate brokers within the State of
7 California, within the meaning of Section 10131(d) of the Code,
8 including the operation and conduct of a mortgage loan brokerage
9 business with the public wherein lenders and borrowers were
10 solicited for loans secured directly or collaterally by liens on
11 real property, wherein such loans were arranged, negotiated,
12 processed, and consummated on behalf of others for compensation
13 or in expectation of compensation, and wherein such loans were
14 serviced and payments thereon were collected or behalf of others.

15 VIII

16 During the course of the mortgage loan brokerage
17 activities described in Paragraph VII above, Respondents LFS,
18 LORD and GARDNER received and disbursed funds held in trust on
19 behalf of another or others.

20 IX

21 As of on or about June 30, 1998, Respondents maintained the
22 following trust fund accounts at Union Bank, Pleasanton Branch,
23 749 Main Street, Pleasanton, CA 94566:

24 Lord Financial Services Inc.
25 Trust Account Servicing Trust
26 Account No. 1 534 0026 3189
(hereinafter Trust #1)

27 ///

1 Lord Financial Services Inc. Trust Account
Lord Financial Client Trust
2 Account No. 1 534 0026 3171
(hereinafter Trust #2)
3

4 Lord Financial Services Inc. Trust Account
Construction Disbursement
5 Account No. 1 534 0026 3197
(hereinafter Trust #3)
6

7 Lord Financial Services Inc. Trust Account
Servicing Trust #2
8 Account No. 1 534 0030 9354
(hereinafter Trust #4)
9

10 Lord Financial Services Inc. Trust Account
Macelhenny Construction Hold
11 Account No. 1 534 0032 2712
(hereinafter Interest Trust #1)
12

13 Lord Financial Services Inc. Trust Account
William Johnson Construction Hold
14 Account No. 1 534 0032 2290
(hereinafter Interest Trust #3)
15

16 X

17 Respondents LFS and LORD, until on or about
18 September 28, 1997, in connection with Trust # 1 and Trust #2,
19 failed to maintain a record of all trust funds received and
20 disbursed in violation of Section 2831, Title 10, California Code
21 of Regulations (hereinafter the Regulations). As a result, the
22 Department was unable to determine if there was a shortage in
23 such trust fund accounts.

24 XI

25 Respondents LFS and LORD, until on or about
26 September 28, 1997, caused the disbursement of trust funds from
27 Interest Trust #1 to Interest Trust #3 without the written

1 consent of every principal who was an owner of the funds, causing
2 the balance of the funds in the account to be an amount less than
3 the existing aggregate trust fund liability of Respondents LFS
4 and LORD to all owners of said funds in Interest Trust #1 in
5 violation of Section 10145 of the Code and Section 2832.1 of the
6 Regulations.

7 XII

8 Respondents LFS and LORD, until on or about
9 September 28, 1997, in connection with Interest Trust #1, failed
10 to maintain a record of all trust funds received and disbursed in
11 violation of Section 2831 of the Regulations.

12 XIII

13 The acts and/or omissions of Respondents LFS and LORD
14 described in this Second Cause of Accusation are grounds for the
15 suspension or revocation of Respondents LFS and LORD licenses and
16 license rights under Section 10145 of the Code and Sections 2831
17 and 2832.1 of the Regulations in conjunction with Section
18 10177(d) of the Code.

19 SECOND CAUSE OF ACCUSATION

20 XIV

21 There is hereby incorporated in this second, separate
22 and distinct Cause of Accusation, all of the allegations
23 contained in Paragraphs I through XII of the First Cause of
24 Accusation with the same force and effect as if herein fully set
25 forth.

26 ///

27 ///

1 XV

2 Respondents LFS and GARDNER, after on or about
3 September 28, 1997, in connection with Trust #1, failed to
4 maintain a record of all trust funds received and disbursed in
5 violation of Section 2831, Title 10, California Code of
6 Regulations (hereinafter the Regulations). As a result, the
7 Department was unable to determine if there was a shortage in
8 such trust fund account.

9 XVI

10 The adjusted balance of Trust #4 as of June 30, 1998
11 was a negative Two Thousand Seven Hundred Sixty-Three and 04/100
12 Dollars (-\$2,763.04) and the trust fund accountability in the
13 account as of June 30, 1998 was Thirteen Thousand Two Hundred
14 Five and 05/100 Dollars (\$13,205.05). Therefore, Respondents LFS
15 and GARDNER, as of June 30, 1998, had a trust fund shortage of
16 Fifteen Thousand Nine Hundred Sixty-Eight and 09/100 Dollars
17 (\$15,968.09).

18 XVII

19 Respondents LFS and GARDNER, after on or about
20 September 28, 1997, caused the disbursement of trust funds from
21 Trust #4 without the written consent of every principal who was
22 an owner of the funds, causing the balance of the funds in the
23 account to be an amount less than the existing aggregate trust
24 fund liability of Respondents LFS and GARDNER to all owners of
25 said funds in violation of Section 10145 of the Code and Section
26 2832.1 of the Regulations.

27 ///

1 XVIII

2 Respondents LFS and GARDNER failed to maintain signed
3 copies of lender disclosure statements to various lenders,
4 including but not limited to John R. and Sheila K. Edmunson, in
5 violation of Sections 10232.4 of the Code.

6 XIX

7 The acts and/or omissions of Respondents LFS and
8 GARDNER described in this Second Cause of Accusation are grounds
9 for the suspension or revocation of Respondents LFS and GARDNER
10 licenses and license rights under Sections 10145 and 10232.4 of
11 the Code and Sections 2831 and 2832.1 of the Regulations in
12 conjunction with Section 10177(d) of the Code.

13 WHEREFORE, Complainant prays that a hearing be
14 conducted on the allegations of this Accusation and that upon
15 proof thereof a decision be rendered imposing disciplinary action
16 against all licenses and license rights of Respondents, under the
17 Real Estate Law (Part 1 of Division 4 of the Business and
18 Professions Code) and for such other and further relief as may be
19 proper under other provisions of law.

20
21 
22 LES R. BETTENCOURT
Deputy Real Estate Commissioner

23 Dated at Oakland, California,
24 this 6th day of August, 1999.