



1 On September 6, 2000, Respondent again petitioned for  
2 reinstatement of his real estate broker license and the Attorney  
3 General of the State of California has been given notice of the  
4 filing of the petition.

5 I have considered Respondent's petition and the  
6 evidence and arguments in support thereof. Respondent has failed  
7 to demonstrate to my satisfaction that Respondent has undergone  
8 sufficient rehabilitation to warrant the reinstatement of  
9 Respondent's real estate broker license, in that:

10 I

11 In the Decision which revoked Respondent's real estate  
12 broker license, there was a Determination of Issues made that  
13 there was cause to revoke Respondent's license pursuant to  
14 Business and Professions Code ("Code") Section 10177(h). While  
15 Respondent was the broker for a real estate company, a Department  
16 of Real Estate ("Department") audit found numerous trust fund  
17 handling and record keeping violations by the company.

18 II

19 In response to questions on his petition application,  
20 Respondent failed to disclose that he had been a defendant in a  
21 number of civil and small claims court actions, and that he had  
22 filed for bankruptcy. This is cause to deny Respondent's  
23 application pursuant to Code Section 10177(a).

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III

Respondent has not submitted evidence of enrollment in educational or training courses since issuance of his restricted real estate broker license. This evidences lack of rehabilitation and is cause to deny Respondent's petition pursuant to Regulation 2911(h).

IV

Respondent had a number of creditor debts discharged in bankruptcy. This evidences lack of rehabilitation and is cause to deny Respondent's petition pursuant to Regulation 2911(i).

V

Respondent is currently the designated officer of a licensed real estate corporation. A Department audit examination of the corporation completed on or about February 1, 2001, found a number of trust fund record keeping violations. This evidences lack of rehabilitation and is cause to deny Respondent's petition pursuant to Regulation 2911(j).

VI

Respondent has not submitted evidence of involvement in social programs. This evidences lack of rehabilitation and is cause to deny Respondent's petition pursuant to Regulation 2911(k).

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VII

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2 On April 25, 2001, Respondent was interviewed by  
3 a Deputy Real Estate Commissioner ("Deputy"). During the  
4 interview, Respondent stated that he did not disclose his 1990  
5 bankruptcy on his 1998 and 2000 Petition Application because "I  
6 thought you had all that stuff". He stated that he did not  
7 disclose his 2001 bankruptcy filing on his 2000 Petition  
8 Application because he was considering withdrawing his bankruptcy  
9 application.

10 Respondent told the Deputy that he did not disclose an  
11 ongoing civil suit because it was "being dismissed". He stated  
12 that he did not disclose a small claims court suit because "the  
13 case was a mistake".

14 Respondent's statements to the Deputy Real Estate  
15 Commissioner, evidence a lack of change in attitude. This is  
16 cause to deny Respondent's petition pursuant to Regulation  
17 2911(m)(1).

18 VIII

19 The conduct which led to the revocation of Respondent's  
20 real estate broker license combined with the facts set forth in  
21 Paragraphs II through VII, evidence that not enough time has  
22 passed to determine that Respondent is completely rehabilitated.  
23 This is cause to deny Respondent's petition pursuant to  
24 Regulation 2911(a).

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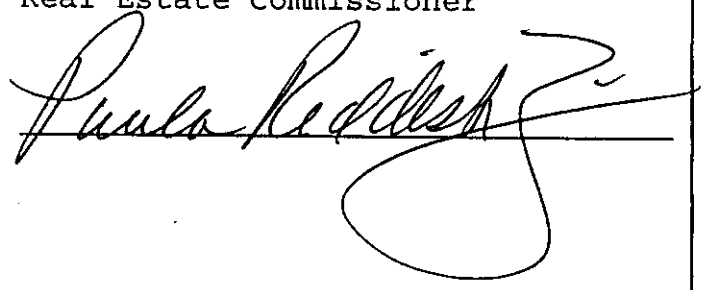
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NOW, THEREFORE, IT IS ORDERED that Respondent's  
petition for reinstatement of Respondent's real estate broker  
license is denied.

This Order shall become effective at 12 o'clock noon on  
JUN 25 2001

DATED: May 25, 2001

PAULA REDDISH ZINNEMANN  
Real Estate Commissioner



cc: Paul David Deavenport  
1583 Spinnaker Dr., # 204  
Ventura, CA 93001



1 This determination has been made in light of Respondent's  
2 history of acts and conduct which are substantially related  
3 to the qualifications, functions and duties of a real estate  
4 licensee. That history includes:

5 I

6 In the Decision which revoked his real estate  
7 broker's license there was a Determination of Issues made  
8 that there was sufficient cause to revoke the license of  
9 Respondent under Section 10177(h) of the California Business  
10 and Professions Code.

11 II

12 The violations of Real Estate Law which led to the  
13 eventual Decision which revoked the real estate license of  
14 Respondent were revealed in an audit completed December 29,  
15 1993, of the activities of Respondent doing business as New  
16 Life Financial covering a period of time from April of 1992  
17 to October, 1993. Said audit revealed that Respondent had a  
18 shortage in his trust account as of October 29, 1993,  
19 totaling \$124,449.30 in violation of Section 2832.1 of  
20 Chapter 6, Title 10, California Code of Regulations  
21 (Regulations). In addition, Respondent was also found to be  
22 in violation of Sections 2725, 2731, 2830, 2831, 2831.2,  
23 2833, 2834, 2842.5, and 2950 of the Regulations and Sections  
24 10145, 10232.4, 10234, 10240, 10242, 10244.1 and 10148 of the  
25 California Business and Professions Code.  
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III

1  
2 Since his license was revoked Respondent worked as  
3 an unpaid law intern from February of 1996 through November  
4 of 1996, studied for the California Bar Examination from  
5 November of 1996 to March of 1997 and worked as an Associate  
6 Attorney for the Darnall Law Offices from March of 1997 to  
7 March of 1998. From March of 1998 to the present Respondent  
8 worked independently as an attorney at law. In response to  
9 an employment verification sent to Respondent's former  
10 employer, Karen Darnall, she stated "I was not satisfied with  
11 work, Deavenport was not satisfied with compensation.  
12 Distrust. Not partnership material".

13 IV

14 Due to the very serious nature of the misconduct  
15 which led to the revocation of Respondent's real estate  
16 broker license, and his history of employment since his  
17 license was revoked, not enough time has elapsed to make a  
18 final determination that Respondent is sufficiently  
19 rehabilitated. This is cause to deny his petition pursuant to  
20 Section 2911(a) of Chapter 6, Title 10, California Code of  
21 Regulations.

22 NOW, THEREFORE, IT IS ORDERED that Respondent's  
23 petition for reinstatement of his broker's license is denied.  
24 However, Respondent has offered evidence that he is partially  
25 rehabilitated and it appears that Respondent will pose no  
26 danger to the public if issued a properly restricted real  
27 estate broker license.



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Therefore, a restricted real estate broker license shall be issued to Respondent pursuant to Section 10156.5 of the Code after Respondent first satisfies the following conditions within six (6) months from the date of this Order:

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

2. Submittal of evidence satisfactory to the Real Estate Commissioner that Respondent has, since his license was revoked, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license including three hour courses in trust fund accounting and handling and fair housing.

The restricted license issued to Respondent shall be subject to all of the provisions of Section 10156.7 of the Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.5 of said Code:

1. The restricted license shall not confer any property right in the privileges to be exercised thereunder and the Real Estate Commissioner may by appropriate order suspend prior to hearing the right of Respondent to exercise any privileges granted under the restricted license in the event of:

(a) The conviction of Respondent (including a plea of nolo contendere) of a crime which bears a significant relationship to Respondent's fitness, or capacity as a real estate licensee.

1 (b ) The receipt of evidence satisfactory to the  
2 Real Estate Commissioner that subsequent to the date of the  
3 Order herein Respondent has violated provisions of the  
4 California Real Estate Law, Regulations of the Real Estate  
5 Commissioner, or conditions attaching to said restricted  
6 license.

7 2. Respondent shall submit to the Real Estate  
8 Commissioner a Trust Fund Position Statement as of the last day  
9 of each calendar quarter (the accounting date) for so long as  
10 said restricted license shall remain in effect. If Respondent  
11 engages in no real estate transactions as a real estate broker  
12 or acts as a broker-salesperson for another broker during the  
13 calendar quarter in question, his quarterly report shall so  
14 state.

15 The Position Statement shall consist of the following:

16 A. A schedule of trust fund accountability with the  
17 following information for each transaction in which Respondent  
18 is accountable as agent or trustee to the owner of funds:

- 19 (1) Account number;  
20 (2) Type of transaction (purchase and sale, property  
21 management, loan collection);  
22 (3) Name of principal or beneficiary;  
23 (4) Description of real property; and  
24 (e) Trust fund liability.

25 B. A report of trust funds in the custody and control of  
26 Respondent as of the account date consisting of:

- 27 (1) A copy of Respondent's trust account bank statement

1 showing the balance of funds in the account as of the accounting  
2 date; and

3 (2) A schedule of uncleared checks drawn on the account  
4 adjusting the account to its true balance as of the accounting  
5 date.

6 C. A statement explaining any discrepancy between the  
7 total liability shown under (A) above and the adjusted trust  
8 account balance shown under (B) above.

9 The Trust Fund Position Statement shall be submitted by  
10 Respondent to the Los Angeles District Office of the Department  
11 of Real Estate not later than thirty (30) days after each  
12 accounting date. If Respondent has no trust fund liability as  
13 of an accounting date, his report to the Department shall so  
14 state.

15 Respondent shall certify the completeness and accuracy of  
16 each Position Statement to the best of his knowledge and belief.

17 Respondent shall regularly report in writing to the Real  
18 Estate Commissioner all of his dealings in real estate  
19 undertaken as a broker, which reports shall set forth the  
20 following information for each such transaction:

21 (a) The nature of the transaction and a brief description  
22 of the property involved;

23 (b) The name and address of each party to the transaction;

24 (c) The date of execution of the agreement and date of the  
25 closing of the transaction;

26 (d) The name and address of the escrow agent, if any;

27 (e) The purchase price of the property or the amount of  
the loan or other consideration involved;



- 1 (f) An account of the receipt and disposition of funds  
2 received by Respondent as agent in the transaction; and  
3 (g) The amount of commission received.

4 Such reports shall be submitted quarterly to the Office of  
5 the Real Estate Commissioner prior to the fifteenth day of each  
6 January, April, July and October for so long as said restricted  
7 license shall be in effect, and each report shall contain the  
8 information hereinabove specified for the calendar quarter  
9 immediately preceding the submission of each such report.

10 Respondent shall not be eligible to apply for the  
11 issuance of an unrestricted real estate license nor the  
12 removal of any of the conditions, limitations or restrictions  
13 attaching to the restricted license until at least one year  
14 has elapsed from the effective date of this Order.

15 This Order shall become effective at 12  
16 o'clock noon on July 15, 1999.

17  
18 DATED: June 15, 1999

19  
20 JOHN R. LIBERATOR  
21 Acting Commissioner

22 *John R. Liberator*  
23

24  
25 cc: Paul David Deavenport  
26 1560 Newbury Road, #241  
27 Thousand Oaks, CA 91320



BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation )  
of: ) No. H-25973 LA  
 )  
PAUL DAVID DEAVENPORT, ) L-9501056  
individually and doing business )  
as New Life Financial; and )  
MICHAEL J. STEPHENSON, )  
 )  
Respondent. )  
\_\_\_\_\_ )

PROPOSED DECISION

This matter came on regularly for hearing before Ralph B. Dash, Administrative Law Judge with the Office of Administrative Hearings on December 18, 1996 and February 13, 1997 at Los Angeles, California.

Complainant was represented by Darlene Averetta, Staff Counsel.

Respondent Michael J. Stephenson was present and was represented by Bruce Armstrong, Attorney at Law.

There were no other appearances, the matter having been settled as to the remaining Respondents.

The parties, through their respective counsel, agreed to limit proof of the charging allegations against Respondent Stephenson to the information contained in Paragraphs 2, 3 and 6b on pages 6 and 7 of the Audit Report dated January 28, 1994 (Exhibit 4), together with general background information contained therein regarding license histories, business activities and scope of the audit. Respondent Stephenson also requested that paragraph 22 on page 11 of Exhibit 4 be considered for purposes of mitigation; counsel for Complainant agreed.

On motion made by counsel for Respondent Stephenson, the first sentence of Paragraph 3, page 6 of Exhibit 4, which reads "Trust funds were converted by Stephenson to himself and NLF" was stricken on the grounds that it was a legal conclusion for the trier of fact to determine.

Oral and documentary evidence having been received and the matter submitted, the Administrative Law Judge makes the following Findings of Fact:

\* \* \* \* \*

1. Thomas McCrady made the Supplemental Accusation (the operative pleading herein) in his official capacity as Deputy Real Estate Commissioner of the State of California.

2. Respondent Michael J. Stephenson (hereinafter "Respondent") was originally issued a conditional real estate salesperson's by the Department of Real Estate ("Department") on December 23, 1993. That license expired as of June 23, 1995. Respondent now holds an unconditional salesperson's license which is due to expire on December 22, 1997.

3. Respondent first became involved in the mortgage loan business in 1991. He formed a corporation, named New Life Financial, Inc. ("New Life"), to operate the business. He had, in essence, purchased that name from an individual (Kenneth Sheate) who had used it for the past two years, doing credit counseling. Respondent had no prior real estate experience, training or education prior to his forming New Life, although he had had some several months of underwriting experience from his employment with Omni Investments. Mr. Sheate advised Respondent that he would need a broker to properly operate the business and put him in touch with former Respondent Paul Deavenport.

4. Mr. Deavenport agreed to act as broker for the company. He advised Respondent to open a trust account, although he never really explained its nature or proper use. Respondent commenced the mortgage loan business, which grew rapidly. Respondent had to move twice in less than three years because the business quickly outgrew its space.

While Respondent worked at New Life every day, Mr. Deavenport, at least during, the first year of operation, came in only monthly for a few hours to look at files and do "P.R." with the employees. As the business grew, Mr. Deavenport came in more frequently, perhaps two or three times in a two week period during the second year of operation, and much more often during the third year. It was during this latter period that Mr. Deavenport engaged in more training, began to ask about the trust account situation and in general paid more attention to the business of the business. Although there was no testimony on this point, the reasonable inference from all the evidence is that Mr. Deavenport became more active in the business because his income (5% of the gross commissions) grew as New Life flourished.

5. Between November 22, 1993 and December 29, 1993, the Department conducted an audit of Mr. Deavenport, doing business as New Life, for the period April 1992 through October 29, 1993 (the "audit period"). The audit included a review of bank statements, canceled checks, deposit receipts, control records and loan files. The audit showed that in 1993, 32 loans totalling over three and one-half million dollars were negotiated through New Life. The audit further showed that both Mr. Deavenport were signatories on the trust account, and Respondent and Mr. Sheate were signatories on the general account.

6. The audit showed that during the audit period, general account funds were commingled with trust account funds and that Respondent deposited loan proceeds into the trust account, then wrote checks against the deposits to the general account as well as to a third party. According to the audit, Respondent wrote 12 checks totalling \$62,800 from the trust account, 11 of which were deposited into the general account, and one, made payable to an individual named Earnest Esparza in the sum of \$4000, as part of the purchase price for property owned by Mr. Esparza and purchased by Respondent.

Respondent admitted the foregoing facts. However, the evidence showed that while Respondent did, in fact, commingle business funds with trust account funds, he did not convert any trust account funds to his personal use or to the use of New Life. What actually transpired was that Respondent had borrowed a total of \$65,000 for personal and business use, and deposited the loan proceeds into the trust account instead of into the business account. While Respondent contends he really didn't know any better, having been ill informed at the time, he nevertheless concedes that he violated the law when he commingled the funds.

7. The audit report showed, and Respondent conceded, that during the audit period, Respondent performed acts for which a real estate license is required when he reviewed and signed loan documents in connection with New Life transactions, at a time when he was not licensed by the Department.

8. Respondent acknowledges and accepts responsibility for his actions set forth above. He appears to have a strong family oriented background, having been married for five years with two children whom he supports. He has not been active in real estate at least since Mr. Deavenport's officers license was canceled on March 3, 1994, after the audit.

Nevertheless, Respondent is charged, by law, with knowing what acts require a real estate license and how a trust account should be properly handled. In fact, Respondent admitted on cross-examination that Mr. Deavenport had told him not to put third party funds into the trust. Respondent also admitted,

during his own testimony, that as the business flourished, Mr. Deavenport increasingly put pressure on him to obtain a real estate license and that he then took a number of courses and obtained a license (albeit not until December of 1993).

\* \* \* \* \*

DETERMINATION OF ISSUES

1. Respondent's commingling of personal funds (the loan proceeds) with trust account funds, as set forth in Finding 6, is ground for discipline of his real estate license under the provisions of Business and Professions Code Sections 10176(e) and 10177(g).

2. Respondent violated the provisions of Business and Professions Code Section 10130, by reason of Findings 2 and 7, which is ground for discipline under the provisions of Business and Professions Code Section 10177(f).

3. All evidence in aggravation, mitigation and rehabilitation has been taken into consideration with respect to the issuance of the below order.

\* \* \* \* \*

ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

All licenses and licensing rights of Respondent Michael J. Stephenson under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson license shall be issued to Respondent pursuant to Section 10156.5 of the Business and Professions Code if Respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to Respondent 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:

1. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of Respondent's conviction or plea of nolo contendere to a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee.



Respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

Date: 3-6-97



RALPH B. DASH  
Administrative Law Judge

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DARLENE AVERETTA, Counsel  
Department of Real Estate  
107 South Broadway, Room 8107  
Los Angeles, California 90012

(213) 897-3937

**FILED**  
AUG 27 1996  
DEPARTMENT OF REAL ESTATE

By C. Ben

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \* \* \*

In the Matter of the Accusation of	)	No. H-25973 LA
	)	L-(94)01056
PAUL DAVID DEAVENPORT,	)	
individually and doing business	)	
as New Life Financial; and	)	<u>SUPPLEMENTAL ACCUSATION</u>
MICHAEL J. STEPHENSON,	)	
	)	
Respondents.	)	
	)	

This Accusation is supplemental to the Accusation filed November 8, 1994, and amended December 21, 1995. PAUL DAVID DEAVENPORT entered into a stipulated settlement with the Department of Real Estate of the State of California ("Department"), effective April 17, 1996.

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against MICHAEL J. STEPHENSON, is informed and alleges in his official capacity as follows:

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1.

3 PAUL DAVID DEAVENPORT ("DEAVENPORT"), individually  
4 and doing business as New Life Financial was licensed by the  
5 Department as a real estate broker from approximately December 9,  
6 1987 to April 17, 1996.

2.

7 MICHAEL J. STEPHENSON ("STEPHENSON"), is presently  
8 licensed and/or has license rights under the Real Estate Law,  
9 Part 1 of Division 4 of the Code, as a real estate salesperson.  
10 Respondent was originally licensed by the Department as a  
11 conditional real estate salesperson, subject to Code Section  
12 10153.4, on December 23, 1993. STEPHENSON was the owner of  
13 New Life Financial, a Delaware corporation. From approximately  
14 in or about 1991 through in or about 1994, STEPHENSON was employed  
15 by DEAVENPORT and/or New Life Financial.

3.

17 At all times material herein, STEPHENSON, DEAVENPORT  
18 and New Life Financial engaged in the business of, acted in the  
19 capacity of, advertised or assumed to act as real estate brokers  
20 in the State of California, within the meaning of Code Section  
21 10131(d), including the operation and conduct of a mortgage loan  
22 brokerage business with the public wherein STEPHENSON, DEAVENPORT  
23 and New Life Financial, solicited prospective borrowers or lenders  
24 for, or negotiated, serviced, processed, or arranged loans secured  
25 directly or collaterally by liens on real property for another  
26 or others, for or in expectation of compensation.

27 ///



1 4.

2 In connection with the above-described loan brokerage  
3 business, DEAVENPORT and New Life Financial engaged in the  
4 business of, acted in the capacity of, advertised, or assumed  
5 to act as escrow holder, servicer and/or agent, and thereby  
6 acted or assumed to act under the exemption from the provisions  
7 of the Escrow Law as provided by Section 17006 of the California  
8 Financial Code.

9 5.

10 At all times material herein, in connection with the  
11 activities described in Paragraphs 3 and 4, above, STEPHENSON,  
12 DEAVENPORT and/or New Life Financial accepted or received funds,  
13 including funds in trust ("trust funds") from or on behalf  
14 of actual and prospective borrowers, lenders, investors and/or  
15 parties to mortgage loan transactions handled by them and  
16 thereafter made deposits and/or disbursements of such funds.  
17 From time to time herein mentioned, said trust funds were  
18 deposited and/or maintained in bank accounts, including  
19 but not necessarily limited to Account Number 301-247672,  
20 "Michael Stephenson DBA New Life Financial Trust Account  
21 ("Trust Account"), and Account Number 301246781, "Ken Skeate  
22 DBA New Life Financial" ("General Account"), at First State Bank  
23 of the Oaks, 230 N. Moorpark Road, Thousand Oaks, California  
24 91360.

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6.

On or about December 29, 1993, the Department completed an examination of DEAVENPORT and New Life Financial's books and records, pertaining to the real estate and trust fund handling activities described in Paragraphs 3 through 5, above, covering a period from approximately April 1992 through October 1993, which examination revealed violations of the Code and of Title 10, Chapter 6, California Code of Regulations.

7.

In the course of said examination, it was determined that STEPHENSON had commingled general account funds with trust funds in the Trust Account and/or converted trust funds.

8.

The conduct, acts and/or omissions of STEPHENSON as described in Paragraph 7, above, would constitute cause for the suspension or revocation of all real estate licenses and license rights of a licensee under the provisions of Code Sections 10176(e) and/or 10177(g); and are grounds to deny a license under Code Sections 480(a)(2) and/or 480(a)(3), and is cause for suspension or revocation of the license and license rights of STEPHENSON under Code Sections 10177(f) and/or 10177(j).

9.

In addition, while not licensed by the Department, STEPHENSON, while acting on behalf of another or others, for or in expectation of compensation, solicited prospective borrowers or lenders for, or negotiated, serviced, processed, or arranged loans secured directly or collaterally by liens on real property.

1  
2 The conduct, acts and/or omissions of STEPHENSON as  
3 described in Paragraph 9, above, violated Code Section 10130,  
4 and would constitute cause for the suspension or revocation of  
5 all real estate licenses and license rights of a licensee under  
6 the provisions of Code Sections 10177(d) and/or 10177(g); and  
7 are grounds to deny a license under Code Sections 480(a)(2)  
8 an/or 480(a)(3), and is cause for suspension or revocation of  
9 the license and license rights of Respondent STEPHENSON under  
10 Code Sections 10177(d) and/or 10177(f).  
11

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

19 Dated at Los Angeles, California  
20 this 27th day of August, 1996.  
21

22 THOMAS McCRADY  
23 Deputy Real Estate Commissioner  
24

25 cc: Michael J. Stephenson  
26 Bruce A. Armstrong, Esq.  
27 SACTO  
OAH

1 Department of Real Estate  
2 107 South Broadway, Room 8107  
3 Los Angeles, California 90012  
4  
5 Telephone (213) 897-3937  
6

**FILED**  
MAR 28 1996  
DEPARTMENT OF REAL ESTATE

By C. Ben

7  
8 DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \* \* \*

11 In the Matter of the Accusation of ) No. H-25973 LA  
12 ) L-01056  
13 PAUL DAVID DEAVENPORT, )  
14 individually and doing business ) STIPULATION AND AGREEMENT  
15 as New Life Financial; and )  
16 MICHAEL J. STEPHENSON, ) IN SETTLEMENT AND ORDER  
17 Respondents. )  
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28 It is hereby stipulated by and between Respondent  
29 PAUL DAVID DEAVENPORT (sometimes referred to herein as  
30 "Respondent"), acting by and through Michael D. Hiller, Esq.,  
31 Counsel for Respondent, and the Complainant, acting by and  
32 through Darlene Averetta, Counsel for the Department of Real  
33 Estate, as follows for the purpose of settling and disposing of  
34 the Accusation filed on November 8, 1994 and Amended on December  
35 21, 1995, in this matter (hereinafter "the Accusation"):

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1           1. All issues which were to be contested and all  
2 evidence which was to be presented by Complainant and/or  
3 Respondent at a formal hearing on the Accusation, which hearing  
4 was to be held in accordance with the provisions of the  
5 Administrative Procedure Act (APA), shall instead and in place  
6 thereof be submitted solely on the basis of the provisions of  
7 this Stipulation.

8           2. Respondent has received, read and understands the  
9 Statement to Respondent, the Discovery Provisions of the APA and  
10 the Accusation filed by the Department of Real Estate in this  
11 proceeding.

12           3. On December 22, 1994, Respondent filed a Notice of  
13 Defense pursuant to Section 11505 of the Government Code for the  
14 purpose of requesting a hearing on the allegations in the  
15 Accusation. Respondent hereby freely and voluntarily withdraws  
16 said a Notice of Defense. Respondent acknowledges that he  
17 understands that by withdrawing said a Notice of Defense, he will  
18 thereby waive his right to require the Commissioner to prove the  
19 allegations in the Accusation at a contested hearing held in  
20 accordance with the provisions of the APA, and that he will waive  
21 other rights afforded to him in connection with the hearing, such  
22 as the right to present evidence in defense of the allegations in  
23 the Accusation and the right to cross-examine witnesses.

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1           4. This Stipulation and Agreement in Settlement and  
2 Order is based on the factual allegations contained in the  
3 Accusation filed in this proceeding. In the interest of  
4 expedience and economy, Respondent chooses not to contest these  
5 factual allegations, but to remain silent and understands that,  
6 as a result thereof, these factual statements, without being  
7 admitted or denied, will serve as a prima facie basis for the  
8 disciplinary action stipulated to herein. This Stipulation and  
9 Agreement in Settlement and Order and Respondent's decision not  
10 to contest the Accusation are hereby expressly limited to this  
11 proceeding and made for the sole purpose of reaching an agreed  
12 disposition of this proceeding. Respondent's decision not to  
13 contest the factual allegations is made solely for the purpose of  
14 effectuating this Stipulation and is intended by Respondent to be  
15 non-binding upon him in any actions against Respondent by third  
16 parties. The Real Estate Commissioner shall not be required to  
17 provide further evidence to prove such allegations.

18           5. It is understood by the parties that the Real  
19 Estate Commissioner may adopt the Stipulation and Agreement in  
20 Settlement and Order as his decision in this matter thereby  
21 imposing the penalty and sanctions on Respondent's real estate  
22 license and license rights as set forth in the below "Order".

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1 In the event that the Commissioner in his discretion  
2 does not adopt the Stipulation and Agreement in Settlement and  
3 Order, the Stipulation and Agreement in Settlement and Order  
4 shall be void and of no effect, and Respondent shall retain the  
5 right to a hearing on the Accusation under all the provisions of  
6 the APA and shall not be bound by any admission or waiver made  
7 herein.

8 6. The Order or any subsequent Order of the Real  
9 Estate Commissioner made pursuant to this Stipulation shall not  
10 constitute an estoppel, merger or bar to any further  
11 administrative or civil proceedings by the Department of Real  
12 Estate with respect to any matters which were not specifically  
13 alleged to be causes for accusation in this proceeding.

14 DETERMINATION OF ISSUES

15 By reason of the foregoing stipulations and waivers and  
16 solely for the purpose of settlement of the pending Accusation  
17 without a hearing, it is stipulated and agreed that the following  
18 determination of issues shall be made:

19 The conduct, acts and/or omissions of Respondent  
20 PAUL DAVID DEAVENPORT, as set forth in the Accusation, although  
21 not willful, indicates a lack of supervision pursuant to  
22 Section 2725, Title 10, Chapter 6, California Code of Regulations  
23 and constitutes cause for the suspension or revocation of the  
24 real estate license and license rights of Respondent under the  
25 provisions of Business and Professions Code Section 10177(h).

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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I

All licenses and licensing rights of Respondent  
PAUL DAVID DEAVENPORT, under the Real Estate Law, are revoked.

Pursuant to Section 11522 of the California  
Government Code, Respondent shall not be eligible to petition the  
Commissioner for reinstatement of his real estate license and  
licensing rights, until one (1) year has elapsed from the  
effective date of the Decision.

\* \* \* \* \*

I have read the Stipulation and Agreement in Settlement  
and Order 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 Sections 11506, 11508, 11509 and  
11513 of the Government Code), and I willingly, intelligently and  
voluntarily waive those rights, including the right of requiring  
the Commissioner to prove the allegations in the Accusation at a  
hearing at which I would have the right to cross-examine  
witnesses against me and to present evidence in defense and  
mitigation of the charges.

DATED: 3/8/96

*Paul David Deavenport*  
PAUL DAVID DEAVENPORT, Respondent

DATED: 3/8/96

*Michael D. Hiller*  
MICHAEL D. HILLER, ESQ.  
Counsel for the Respondent  
approved as to form

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DATED: March 12, 1996

Darlene Averetta  
DARLENE AVERETTA, Counsel for the  
Department of Real Estate

\* \* \* \* \*

The foregoing Stipulation and Agreement in Settlement  
is hereby adopted as my Decision and Order as to Respondent,  
PAUL DAVID DEAVENPORT, and shall become effective at 12 o'clock  
noon on April 17, 1996.

IT IS SO ORDERED 3/25/96

JIM ANTT, JR.  
Real Estate Commissioner

J. Antt Jr.

SAC

1 DARLENE AVERETTA, Counsel  
2 Department of Real Estate  
3 107 South Broadway, Room 8107  
4 Los Angeles, California 90012  
5 (213) 897-3937

FILED  
DEC 21 1995  
DEPARTMENT OF REAL ESTATE

By C. Ben

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \* \* \*

11	In the Matter of the Accusation of	)	No. H-25973 LA
12	PAUL DAVID DEAVENPORT,	)	L-01056
13	individually and doing business	)	
14	as New Life Financial; and	)	<u>AMENDED ACCUSATION</u>
15	MICHAEL J. STEPHENSON,	)	
	Respondents.	)	

16 This Accusation amends the Accusation filed November 8,  
17 1994.

18 The Complainant, Thomas McCrady, a Deputy Real Estate  
19 Commissioner of the State of California, for cause of Accusation  
20 against PAUL DAVID DEAVENPORT, individually and doing business as  
21 New Life Financial; and MICHAEL J. STEPHENSON, is informed and  
22 alleges in his official capacity as follows:

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4.

All further references to "respondents", unless otherwise specified, includes the parties identified in Paragraphs 1 and 2 above, and also includes the managers, employees, agents and real estate licensees employed by or associated with said parties, who at all times herein mentioned were engaged in the furtherance of the business or operations of said parties and who were acting within the course and scope of their authority, agency, or employment.

5.

At all times material herein, respondents engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate brokers in the State of California, within the meaning of Code Section 10131(d), including the operation and conduct of a mortgage loan brokerage business with the public wherein respondents solicited prospective borrowers or lenders for, or negotiated, serviced, processed, or arranged loans secured directly or collaterally by liens on real property for another or others, for or in expectation of compensation.

6.

In connection with the above-described loan brokerage business, respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as escrow holder, servicer and/or agent, and thereby acted or assumed to act under the exemption from the provisions of the Escrow Law as provided by Section 17006(d) of the California Financial Code.

///

7.

1  
2 At all times material herein, in connection with the  
3 activities described in Paragraphs 5 and 6, above, respondents  
4 accepted or received funds including funds in trust (hereinafter  
5 "trust funds") from or on behalf of actual and prospective  
6 borrowers, lenders, investors and/or parties to mortgage loan  
7 transactions handled by respondents and thereafter made deposits  
8 and/or disbursements of such funds. From time to time herein  
9 mentioned, said trust funds were deposited and/or maintained by  
10 respondents, in bank accounts, including but not necessarily  
11 limited to Account Number 301-247672, "Michael Stephenson DBA  
12 New Life Financial Trust Account (hereinafter the "Trust  
13 Account"), and Account Number 301246781, "Ken Skeate DBA  
14 New Life Financial" (hereinafter "the General Account"), at  
15 First State Bank of the Oaks, 230 N. Moorpark Road, Thousand Oaks,  
16 California 91360 ("First State Bank").

17 8.

18 On or about December 29, 1993, the Department completed  
19 an examination of the books and records of respondents, pertaining  
20 to the real estate and trust fund handling activities described in  
21 Paragraphs 5 through 7, above, covering a period from  
22 approximately April 1992 through October 1993, which examination  
23 revealed violations of the Code and of Title 10, Chapter 6,  
24 California Code of Regulations (hereinafter "Regulations") as set  
25 forth below.

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1  
2 In the course of activities described in Paragraphs 5  
3 through 7, above, and during the examination period described in  
4 Paragraph 8, respondents acted in violation of the Code and the  
5 Regulations in that:

6 (a) there was a shortage in the Trust Account:

7 (1) As of October 29, 1993, in the amount of  
8 approximately One Hundred Twenty-Four Thousand Four Hundred  
9 Ninety-Nine Dollars and Thirty Cents (\$124,499.30);

10 (2) As of September 30, 1993, in the amount of  
11 approximately One Hundred Twenty-One Thousand Nine Hundred  
12 Eighty-Nine Dollars and Sixty-two Cents (\$121,989.62).

13 Respondents caused, permitted and/or allowed, the  
14 withdrawal or disbursement of trust funds from the Trust Account,  
15 without the prior written consent of every principal who then was  
16 an owner of funds in the account, thereby reducing the balance of  
17 funds in the said trust accounts to an amount less than the  
18 existing aggregate trust fund liability of the broker to all  
19 owners of said trust funds, in violation of Code Section 10145 and  
20 Regulation 2832.1;

21 (b) Respondents failed to place all trust funds  
22 received by respondents into a neutral escrow depository, or into  
23 the hands of the principal on whose behalf the funds were  
24 received, or into a trust account in the name of the broker as  
25 trustee in a bank or other financial institution, in that  
26 respondents deposited, allowed, permitted or caused the deposit of  
27 trust funds into the Trust Account, which account was not



1 maintained in Respondent's name as broker and trustee, but in the  
2 name of Michael Stephenson, at the time an unlicensed person, in  
3 violation of Code Section 10145 and Regulation 2830;

4 (c) Respondents failed to maintain complete and  
5 accurate control records for the Trust Account, in violation of  
6 Regulation 2831;

7 (d) Respondents failed to maintain complete and  
8 adequate separate records for each beneficiary or transaction,  
9 accounting therein for all trust funds received, deposited and/or  
10 disbursed for the Trust Account, in violation Regulation 2831.1;

11 (e) Respondents failed to maintain a reconciliation of  
12 the control records for all trust funds received and disbursed  
13 with the separate records for each beneficiary or transaction for  
14 the Trust Account, in violation of Regulation 2831.2;

15 (f) Respondents, caused, permitted and/or allowed,  
16 employee, STEPHENSON, who at the time was neither licensed by the  
17 Department nor covered by a fidelity bond, as a signatory on the  
18 Trust Account, in violation of Regulation 2834;

19 (g) Respondents failed to maintain a record for the  
20 unidentified overage in the Trust Account, in violation of Code  
21 Section 10145 and Regulation 2833;

22 (h) Respondents failed to deliver to lenders the  
23 applicable completed disclosure statement described in Section  
24 10232.5 of the Code as early as practicable before lenders became  
25 obligated to make loans, in violation of Code Section 10232.4;

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1 (i) Respondents failed to always record the assignment  
2 of trust deeds, naming as beneficiary the lender or his nominee,  
3 with the county recorder of the county in which the real property  
4 was located prior to the disbursement of funds or within ten days  
5 of written authorization for release, in violation of Code  
6 Section 10234;

7 (j) Respondents failed to deliver to the borrower,  
8 within three days or before the borrower became obligated to  
9 complete the loan, a statement in writing, containing all the  
10 information required by Section 10241, in violation of Code  
11 Section 10240;

12 (k) All Mortgage Loan Disclosure Statements were not  
13 signed by the prospective borrower or the licensee negotiating the  
14 loan, in violation of Regulation 2842.5;

15 (l) Respondents charged borrowers more than allowable  
16 expenses and fees on loans, in violation of Code Section 10242;

17 (m) Respondents did not always give borrowers of owner-  
18 occupied property, under six (6) year, substantially equal  
19 payments on loans, in violation of Code Section 10244.1;

20 (n) DEAVENPORT failed to review, initial and date every  
21 instrument prepared or signed by a real estate salesperson in  
22 connection with transactions for which a real estate license is  
23 required, which may have had a material effect upon the rights or  
24 obligations of a party to the transaction; or, if DEAVENPORT  
25 delegated said acts to a broker or a salesperson, he failed to  
26 make certain that said review was properly completed, in violation  
27 of Regulation 2725;



1 (o) Respondents used the fictitious business name,  
2 "New Life Financial, Inc." in the conduct of activities requiring  
3 a real estate license without holding a license bearing said  
4 fictitious business name, in violation of Code Section 10159.5  
5 and Regulation 2731;

6 (p) Respondents failed to disclose to borrowers,  
7 respondents' position as escrow holder; and failed to deliver to  
8 all borrowers, a written escrow closing statement of all receipts  
9 and disbursements together with the name of the person to whom any  
10 such disbursement was made, in violation of Regulation 2950;

11 (q) Respondents failed, after notice, to make available  
12 for examination, inspection, and copying by the Commissioner's  
13 representative during regular business hours, documents executed  
14 or obtained by him, during the past three years, in connection  
15 with any transaction for which a real estate broker license is  
16 required, including but not necessarily limited to, copies of  
17 checks received from lenders and borrowers which were deposited  
18 into the Trust Account, in violation of Code Section 10148;

19 (r) Respondents commingled general account funds with  
20 trust funds in the Trust Account in violation of Code Section  
21 10176(e), and trust funds were converted by respondent STEPHENSON.

22 10.

23 The conduct, acts and/or omissions of respondent  
24 DEAVENPORT as described in Paragraph 9, above, violated the Code  
25 and the Regulations as set forth below:

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PARAGRAPH

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PROVISIONS VIOLATED

Code Section 10145  
and Regulation 2832.1  
Code Section 10145  
and Regulation 2830  
Regulation 2831  
Regulation 2831.1  
Regulation 2831.2  
Regulation 2834  
Code Section 10145  
and Regulation 2833  
Code Section 10232.4  
Code Section 10234  
Code Section 10240  
Regulation 2842.5  
Code Section 10242  
Code Section 10244.1  
Regulation 2725  
Code Section 10159.5  
and Regulation 2731  
Regulation 2950  
Code Section 10148  
Code Section 10176(e)

Each of the foregoing violations constitute cause for the  
suspension or revocation of all real estate licenses and license  
rights of respondent DEAVENPORT under the provisions of Code  
Sections 10176(e), 10177(d), and/or 10177(h).

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14.

During the past three years, respondent DEAVENPORT employed and/or compensated Arnold Avila and respondent STEPHENSON, who at the time were unlicensed persons, whom respondent DEAVENPORT knew or should have known to be unlicensed, to perform acts and conduct activity requiring a real estate license as described in Code Section 10131(d), for another or others.

15.

During the past three years, while not licensed by the Department, Arnold Avila and respondent STEPHENSON, while acting on behalf of another or others, for or in expectation of compensation, solicited prospective borrowers or lenders for, or negotiated, serviced, processed, or arranged loans secured directly or collaterally by liens on real property.

16.

The conduct, acts and/or omissions of respondent DEAVENPORT, as described in Paragraph 14, above, constitutes cause for the suspension or revocation of all real estate licenses and license rights of respondent DEAVENPORT under the provisions of Code Section 10137.

17.

The conduct, acts and/or omissions of respondent STEPHENSON as described in Paragraph 15 above, violated Code Section 10130, and would constitute cause for the suspension or revocation of all real estate licenses and license rights of a licensee under the provisions of Code Section 10177(d); and are

1 grounds to deny a license under Code Sections 480(a)(2) and  
2 480(a)(3), and is cause for suspension or revocation of the  
3 license and license rights of respondent STEPHENSON under Code  
4 Sections 10177(d) and/or 10177(f).

5  
6 WHEREFORE, Complainant prays that a hearing be conducted  
7 on the allegations of this Accusation and that upon proof thereof,  
8 a decision be rendered imposing disciplinary action against all  
9 licenses and license rights of Respondents PAUL DAVID DEAVENPORT,  
10 individually and doing business as New Life Financial; and MICHAEL  
11 J. STEPHENSON, under the Real Estate Law (Part 1 of Division 4 of  
12 the Business and Professions Code) and for such other and further  
13 relief as may be proper under other applicable provisions of law.  
14 Dated at Los Angeles, California  
15 this 21st day of December, 1995.

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18 THOMAS MCCRADY  
19 Deputy Real Estate Commissioner  
20  
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23  
24 cc: Paul D. Deavenport  
25 Michael J. Stephenson  
26 Bruce A. Armstrong, Esq.  
27 Michael D. Hiller, Esq.  
SACTO  
OAH  
SB



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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of )  
)  
PAUL DAVID DEAVENPORT, )  
individually and dba )  
New Life Financial; and )  
MICHAEL J. STEPHENSON, )  
\_\_\_\_\_ )

Case No. H-25973 LA

OAH No. L-01056

Respondent (s)

FILED  
JAN 19 1995  
DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON ACCUSATION

By C. Berg

To the above-named Respondent (s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 314 W. First Street, Los Angeles, CA 90012 on DECEMBER 26 and 27, 1995, at the hour of 9:00 A.M., or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

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. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: January 19, 1995

By Darlene Averetta  
DARLENE AVERETTA, Counsel

cc: Paul David Deavenport  
Michael J. Stephenson  
Bruce A. Armstrong, Esq.  
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DARLENE AVERETTA, Counsel  
Department of Real Estate  
107 South Broadway, Room 8107  
Los Angeles, California 90012  
  
(213) 897-3937

**FILED**  
NOV - 8 1994  
DEPARTMENT OF REAL ESTATE

By C. Bay

DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \* \* \*

In the Matter of the Accusation of	)	No. H-25973 LA
	)	
PAUL DAVID DEAVENPORT,	)	<u>A C C U S A T I O N</u>
individually and doing business	)	
as New Life Financial; and	)	
MICHAEL J. STEPHENSON,	)	
	)	
Respondents.	)	

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The Complainant, Steven J. Ellis, a Deputy Real Estate Commissioner of the State of California, for cause of accusation against PAUL DAVID DEAVENPORT, individually and doing business as New Life Financial; and MICHAEL J. STEPHENSON, is informed and alleges in his official capacity as follows:

FIRST CAUSE OF ACCUSATION

(Audit)

1.

PAUL DAVID DEAVENPORT, individually and doing business as New Life Financial (hereinafter "DEAVENPORT"), is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code

1 (hereinafter "the Code"). At all times material herein,  
2 DEAVENPORT was licensed by the Department of Real Estate of the  
3 State of California (the "Department") as a real estate broker.

4 2.

5 MICHAEL J. STEPHENSON (hereinafter "STEPHENSON"), is  
6 presently licensed and/or has license rights under the Real Estate  
7 Law, Part 1 of Division 4 of the California Business and  
8 Professions Code (hereinafter "the Code") as a real estate  
9 salesperson. Respondent was originally licensed by the Department  
10 as a conditional real estate salesperson, subject to Section  
11 10153.4 of the Code, on December 23, 1993. During the past three  
12 years STEPHENSON was employed by DEAVENPORT.

13 3.

14 Arnold Avila is not now and has never been licensed by  
15 the Department.

16 4.

17 All further references to "respondents", unless  
18 otherwise specified, includes the parties identified in Paragraphs  
19 1 and 2 above, and also includes the managers, employees, agents  
20 and real estate licensees employed by or associated with said  
21 parties, who at all times herein mentioned were engaged in the  
22 furtherance of the business or operations of said parties and who  
23 were acting within the course and scope of their authority,  
24 agency, or employment.

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5.

At all times herein mentioned, respondents engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate brokers 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 respondents solicited prospective borrowers or lenders for, or negotiated, serviced, processed, or arranged loans secured directly or collaterally by liens on real property for another or others, for or in expectation of compensation.

6.

In connection with the above-described loan brokerage business, respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as escrow holder, servicer and/or agent, and thereby acted or assumed to act under the exemption from the provisions of the Escrow Law as provided by Section 17006(d) of the California Financial Code.

7.

At all times material herein, in connection with the activities described in Paragraphs 5 and 6, above, respondents accepted or received funds including funds in trust (hereinafter "trust funds") from or on behalf of actual and prospective borrowers, lenders, investors and/or parties to mortgage loan transactions handled by respondents and thereafter made deposits and or disbursements of such funds. From time to time herein mentioned, said trust funds were deposited and/or maintained by respondents, in bank accounts, including but not necessarily

1 limited to Account Number 301-247672, "Michael Stephenson DBA  
2 New Life Financial Trust Account (hereinafter the "Trust  
3 Account"), and Account Number 301246781, "Ken Skeate DBA  
4 New Life Financial" (hereinafter "the General Account"), at  
5 First State Bank of the Oaks, 230 N. Moorpark Road, Thousand Oaks,  
6 California 91360 ("First State Bank").

7 8.

8 On or about December 29, 1993, the Department completed  
9 an examination of the books and records of respondents, pertaining  
10 to the real estate and trust fund handling activities described in  
11 Paragraphs 4 through 6, above, covering a period from  
12 approximately April 1992 through October 1993, which examination  
13 revealed violations of the Code and of Title 10, Chapter 6,  
14 California Code of Regulations (hereinafter the "Regulations") as  
15 set forth below.

16 9.

17 In the course of activities described in Paragraphs 5  
18 through 7, above, and during the examination period described in  
19 Paragraph 8, respondents acted in violation of the Code and the  
20 Regulations in that:

21 (a) there was a shortage in the Trust Account:

22 (1) As of October 29, 1993, in the amount of  
23 approximately One Hundred Twenty-Four Thousand Four Hundred  
24 Ninety-Nine Dollars and Thirty Cents (\$124,499.30);

25 (2) As of September 30, 1993, in the amount of  
26 approximately One Hundred Twenty-One Thousand Nine Hundred  
27 Eighty-Nine Dollars and Sixty-two Cents (\$121,989.62);

1 Respondents, caused, permitted and/or allowed, the  
2 withdrawal or disbursement of trust funds from the Trust Account,  
3 without the prior written consent of every principal who then was  
4 an owner of funds in the account, thereby reducing the balance of  
5 funds in the said trust accounts to an amount less than the  
6 existing aggregate trust fund liability of the broker to all  
7 owners of said trust funds, in violation of Code Section 10145 and  
8 Regulation 2832.1;

9 (b) Respondents failed to place all trust funds  
10 received by respondents into a neutral escrow depository, or into  
11 the hands of the principal on whose behalf the funds were  
12 received, or into a trust account in the name of the broker as  
13 trustee in a bank or other financial institution, in that  
14 respondents deposited, allowed, permitted or caused the deposit of  
15 trust funds into the Trust Account, which account was not  
16 maintained in Respondent's name as broker and trustee, but in the  
17 name of Michael Stephenson, at the time an unlicensed person, in  
18 violation of Code Section 10145 and Regulation 2830;

19 (c) Respondents failed to maintain complete and  
20 accurate control records for the Trust Account, in violation of  
21 Regulation 2831;

22 (d) Respondents failed to maintain complete and  
23 adequate separate records for each beneficiary or transaction,  
24 accounting therein for all trust funds received, deposited and/or  
25 disbursed for the Trust Account, in violation Regulation 2831.1;

26 (e) Respondents failed to maintain a reconciliation of  
27 the control records for all trust funds received and disbursed

1 with the separate records for each beneficiary or transaction for  
2 the Trust Account, in violation of Regulation 2831.2;

3 (f) Respondents, caused, permitted and/or allowed,  
4 employee, STEPHENSON, who at the time was neither licensed by the  
5 Department nor covered by a fidelity bond, as a signatory on the  
6 Trust Account, in violation of Regulation 2834;

7 (g) Respondents failed to maintain a record for the  
8 unidentified overage in the Trust Account, in violation of Code  
9 Section 10145 and Regulation 2833;

10 (h) Respondents failed to deliver to lenders the  
11 applicable completed disclosure statement described in Section  
12 10232.5 of the Code as early as practicable before lenders became  
13 obligated to make loans, in violation of Code Section 10232.4;

14 (i) Respondents failed to always record the assignment  
15 of trust deeds, naming as beneficiary the lender or his nominee,  
16 with the county recorder of the county in which the real property  
17 was located prior to the disbursement of funds or within ten days  
18 of written authorization for release, in violation of Code Section  
19 10234;

20 (j) Respondents failed to deliver to the borrower,  
21 within three days or before the borrower became obligated to  
22 complete the loan, a statement in writing, containing all the  
23 information required by Section 10241, in violation of Code  
24 Section 10240;

25 (k) All Mortgage Loan Disclosure Statements were not  
26 signed by the prospective borrower or the licensee negotiating the  
27 loan, in violation of Regulation 2842.5;

1 (l) Respondents charged borrowers more than allowable  
2 expenses and fees on loans, in violation of Code Section 10242;

3 (m) Respondents did not always give borrowers of owner-  
4 occupied property, under six (6) year, substantially equal payments  
5 on loans, in violation of Code Section 10244.1;

6 (n) DEAVENPORT failed to review, initial and date every  
7 instrument prepared or signed by a real estate salesperson in  
8 connection with transactions for which a real estate license is  
9 required, which may have had a material effect upon the rights or  
10 obligations of a party to the transaction; or, if DEAVENPORT  
11 delegated said acts to a broker or a salesperson, he failed to  
12 make certain that said review was properly completed, in violation  
13 of Regulation 2725;

14 (o) Respondents used the fictitious business name, "New  
15 Life Financial, Inc." in the conduct of activities requiring a  
16 real estate license without holding a license bearing said  
17 fictitious business name, in violation of Code Section 10159.5 and  
18 Regulation 2731;

19 (p) Respondents failed to disclose to borrowers,  
20 respondents position as escrow holder; and failed to deliver to  
21 all borrowers, a written escrow closing statement of all receipts  
22 and disbursements together with the name of the person to whom any  
23 such disbursement was made, in violation of Regulation 2950;

24 (q) Respondents failed, after notice, to make available  
25 for examination, inspection, and copying by the Commissioner's  
26 representative during regular business hours, documents executed  
27 or obtained by him, during the past three years, in connection

1 with any transaction for which a real estate broker license is  
2 required, including but not necessarily limited to, copies of  
3 checks received from lenders and borrowers which were deposited  
4 into the Trust Account, in violation of Code Section 10148;

5 (r) Respondents commingled general account funds with  
6 trust funds in the Trust Account, and trust funds were converted  
7 by STEPHENSON, in violation of Code Section 10176(e).

8 10.

9 The conduct, acts and omissions of respondents as  
10 described in Paragraph 9, above, violated the Code and the  
11 Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
12 9(a)	Code Section 10145 and Regulation 2832.1
13	
14 9(b)	Code Section 10145 and Regulation 2830
15 9(c)	Regulation 2831
16 9(d)	Regulation 2831.1
17 9(e)	Regulation 2831.2
18 9(f)	Regulation 2833
19 9(g)	Code Section 10145 and Regulation 2833
20	
21 9(h)	Code Section 10232.4
22 9(i)	Code Section 10234
23 9(j)	Code Section 10240
24 9(k)	Regulation 2842.5
25 9(l)	Code Section 10242
26 9(m)	Code Section 10244.1
27 9(n)	Regulation 2725

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- 9(o) Code Section 10159.5 and Regulation 2731
- 9(p) Regulation 2950
- 9(q) Code Section 10148
- 9(r) Code Section 10176(e)

Each of the foregoing violations constitutes cause for the suspension or revocation of all real estate licenses and license rights of Respondent DEAVENPORT under the provisions of Code Sections 10177(d) and 10177(e).

11.

The conduct, acts and omissions of Respondent DEAVENPORT described in Paragraph 9(r), above, constitutes commingling and/or conversion and are cause for the suspension or revocation of all real estate licenses and license rights of respondent pursuant to the provisions of Section 10176(e) of the Code.

SECOND CAUSE OF ACCUSATION

(Violations of Code Sections 10130 and 10137)

12.

Complainant incorporates herein by reference the Preamble and the allegations of Paragraphs 1 through 11, inclusive, herein above.

13.

During the past three years, respondents employed and/or compensated Arnold Avila and STEPHENSON, who at the time were unlicensed persons, whom respondents knew or should have known to be unlicensed, to perform acts and conduct activity requiring a real estate license as described in Section 10131(d) of the Code,

1 for another or others.

2 14.

3 During the past three years, while not licensed by the  
4 Department, Arnold Avila and STEPHENSON, while acting on behalf of  
5 another or others, for or in expectation of compensation,  
6 solicited prospective borrowers or lenders for, or negotiated,  
7 serviced, processed, or arranged loans secured directly or  
8 collaterally by liens on real property.

9 15.

10 The conduct, acts and omissions of respondents, as  
11 described in Paragraph 13, above, constitutes cause for the  
12 suspension or revocation of all real estate licenses and license  
13 rights of respondents under the provisions of Section 10137 of the  
14 Code.

15 16.

16 The conduct, acts and/or omissions of STEPHENSON as  
17 described in Paragraph 14 above, violated Code Section 10130, and  
18 would constitute cause for the suspension or revocation of all  
19 real estate licenses and license rights of a licensee under the  
20 provisions of Section 10177(d) of the Code; and are grounds to  
21 deny a license under Sections 480(a)(2) and 480(a)(3) of the Code,  
22 and is cause for suspension or revocation of the license and  
23 license rights of STEPHENSON under Section 10177(f) of the Code.

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