

Sachs
Law

FILED
JUL 9 2001

DEPARTMENT OF REAL ESTATE

By *Laura B. Stone*

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) NO. H-26338 LA
)
JAIME AVILES,)
)
Respondent.)

ORDER DENYING REINSTATEMENT OF LICENSE

On March 4, 1997, a Decision was rendered herein revoking the real estate broker license of Respondent, 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 or about April 1 1997.

On April 25, 2000, Respondent petitioned for reinstatement of said license and the Attorney General of the State of California has been given notice of the filing of the petition.

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

6 I

7 In the Decision which revoked Respondent's real estate
8 broker license, there was a Determination of Issues made that
9 there was cause to revoke Respondent's license pursuant to
10 Business and Professions Code ("Code") Section 10177(h) for
11 failure to supervise.

12 An audit examination had determined that while
13 Respondent was the designated officer of a licensed real estate
14 corporation, the corporation was in violation of the Real Estate
15 Law. The corporation was found to have violated Code Section
16 10145.

17 II

18 On his petition application, Respondent failed to
19 disclose that he and companies in which he is a director, officer
20 or 100% shareholder, had been a defendant in approximately
21 thirty-three (33) court actions. This is cause to deny
22 Respondent's application pursuant to Code Section 10177(a).

23 ///

24 ///

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III

1 Respondent has real estate related obligations,
2 including obligations owed to principles for trust funds
3 received, for which restitution has not been made. This is cause
4 to deny Respondent's application pursuant to Sections 2911(b) and
5 2911(i) of Title 10, Chapter 6, California Code of Regulations
6 ("Regulations").
7

8 IV

9 One of Respondents prior employers (New West Funding)
10 stated that Respondent was terminated from employment, would not
11 be rehired and was not considered honest and trustworthy. This
12 is cause to deny Respondent's application pursuant to Regulation
13 2911(m) (2).
14

15 V

16 The serious nature of the conduct which led to the
17 revocation of Respondent's real estate broker license combined
18 with the facts set forth in Paragraphs II, III and IV evidence
19 that there is cause to deny Respondent's petition pursuant to
20 Regulation 2911(a).
21

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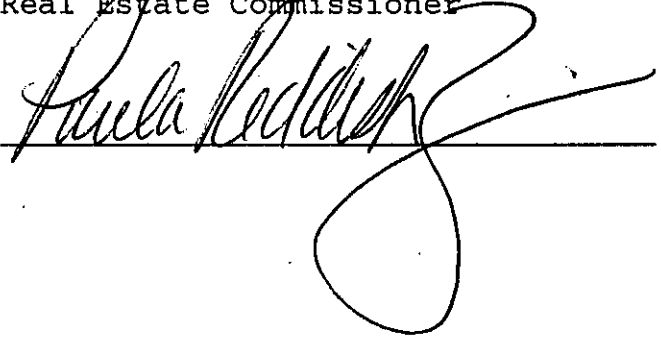
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NOW, THEREFORE, IT IS ORDERED that Respondent's
petition for reinstatement of Respondent's real estate broker
license is denied.

This Order shall become effective at 12 o'clock noon on
JUL 3⁰ 2001

DATED: June 29, 2001

PAULA REDDISH ZINNEMANN
Real Estate Commissioner



cc: Jaime Aviles
18141 Beach Blvd., # 290
Huntington Beach, CA 92648

1 Department of Real Estate
2 107 South Broadway, Room 8107
3 Los Angeles, California 90012
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FILED
MAR 11 1997
DEPARTMENT OF REAL ESTATE
By K. Kneuerhold

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)
HUNTINGTON BEACH FIRST ALLIED)
MORTGAGE CO., INC., and JAIME) H-26338 LA
AVILES, individually and as the)
designated officer of Huntington)
Beach First Allied Mortgage Co.,)
Inc.,)
Respondents.)
STIPULATION AND AGREEMENT
IN SETTLEMENT AND ORDER

18 It is hereby stipulated by and between HUNTINGTON BEACH
19 FIRST ALLIED MORTGAGE CO., INC., a California corporation and
20 JAIME AVILES, individually and as the designated officer of
21 Huntington Beach First Allied Mortgage Co., Inc., and Philip
22 Friedman, Counsel for Respondents and the Complainant, acting by
23 and through Marjorie P. Mersel, Counsel for the Department of Real
24 Estate, as follows for the purpose of settling and disposing of
25 the Accusation filed on November 1, 1995, in this matter:

- 26 1. All issues which were to be contested and all
27 evidence which was to be presented by Complainant and Respondents

1 at a formal hearing on the Accusation, which hearing was to be
2 held in accordance with the provisions of the Administrative
3 Procedure Act ("APA"), shall instead and in place thereof be
4 submitted solely on the basis of the provisions of this
5 Stipulation.

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

10 3. On November 7, 1995, Respondents timely filed a
11 Notice of Defense pursuant to Section 11505 of the Government Code
12 for the 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 Notice of Defense they will
16 thereby waive their right to require the Commissioner to prove the
17 allegations in the Accusation at a contested hearing held in
18 accordance with the provisions of the APA and that they will waive
19 other rights afforded to them in connection with the hearing such
20 as the right to present evidence in defense of the allegations in
21 the Accusation and the right to cross-examine witnesses.

22 4. Respondents, pursuant to the limitations set forth
23 below, hereby do not admit but will not contest that the factual
24 allegations in Paragraphs one (I) through twenty-one (XXI) of the
25 Accusation filed in this proceeding are true and correct and the
26 Real Estate Commissioner shall not be required to provide further
27 evidence of such allegations.

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5. This Stipulation is based on Respondents' decision not to contest the allegations set forth in the Accusation as a result of the agreement negotiated between the parties. It is expressly limited to this proceeding and any further proceeding initiated by or brought before the Department of Real Estate based upon the facts and circumstances alleged in the Accusation, and made for the sole purpose of reaching an agreed disposition of this proceeding. The decision of Respondents not to contest the factual statements alleged, as contained in the stipulated Order, is made solely for the purpose of effectuating this Stipulation. It is the intent and understanding of the parties that this Stipulation and Order shall not be binding or admissible against Respondents in any actions against Respondents by third parties.

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

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

DETERMINATION OF ISSUES

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

1. The conduct and/or omissions of Respondent HUNTINGTON BEACH FIRST ALLIED MORTGAGE CO., INC., as set forth in Paragraphs one (I) through twenty-one (XXI) of the Accusation constitutes cause to suspend or revoke its real estate license and license rights under the provisions of Business and Professions Code Sections 10145 and 10177(d).

2. The conduct and/or omissions of Respondent JAIME AVILES, as set forth in Paragraphs one (I) through twenty-one (XXI) of the Accusation constitutes a lack of supervision over the activities of Huntington Beach First Allied Mortgage Co., Inc. requiring a real estate license and is cause to suspend or revoke his real estate license and license rights under the provisions of Business and Professions Code Section 10177(h).

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ORDER

WHEREFORE THE FOLLOWING ORDER IS MADE PURSUANT TO THE WRITTEN STIPULATION OF THE PARTIES:

I

The real estate broker license and license rights of Respondents HUNTINGTON BEACH FIRST ALLIED MORTGAGE CO., INC., and JAIME AVILES, under the Real Estate Law (Part 1 of Division 4 of the Code) are hereby revoked.

However, Respondents HUNTINGTON BEACH FIRST ALLIED MORTGAGE CO., INC., and JAIME AVILES shall be entitled to apply for and be issued restricted real estate broker licenses if they make application therefor and pay to the Department of Real Estate the appropriate fee for said license within ninety (90) days of the effective date of the Decision herein.

The restricted real estate broker licenses issued to Respondents shall be subject to all of the provisions of Section 10156.7 of the Code and the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of the Code:

A. The restricted licenses may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of a Respondents' conviction (including conviction of a plea of nolo contendere) to a crime which bears a significant relationship to Respondents' fitness or capacity as a real estate licensee.

B. The restricted license may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory

1 to the Commissioner that Respondents have, after the effective
2 date of the Order herein, violated provisions of the California
3 Real Estate Law, the Subdivided Lands Law, Regulations of the Real
4 Estate Commissioner or conditions attaching to said restricted
5 license.

6 C. Respondents shall obey all laws of the United States, the
7 State of California and its political subdivisions, and shall
8 further obey and comply with all rules and regulations of the Real
9 Estate Commissioner.

10 D. Respondents shall not be eligible for the issuance of
11 unrestricted real estate licenses nor the removal of any of the
12 conditions, limitations or restrictions of the restricted licenses
13 until at least two (2) years has elapsed from the effective date
14 of the Decision.

15 E. Respondent JAIME AVILES shall within six (6) months from
16 the effective date of the restricted license, take and pass the
17 Professional Responsibility Examination administered by the
18 Department including the payment of the appropriate examination
19 fee. If Respondent fails to satisfy this condition, the
20 Commissioner may order suspension of the restricted license until
21 respondent passes the examination.

22 F. Respondent JAIME AVILES shall, within twelve (12) months
23 from the effective date of the issuance of the restricted license,
24 present evidence satisfactory to the Real Estate Commissioner that
25 respondent has, since the most recent issuance of an original or
26 renewal real estate license, taken and successfully completed the
27 continuing education requirements of Section 10170.5 operative

1 January 1, 1996, for renewal of a real estate license. If
2 Respondent fails to satisfy this condition, the Commissioner may
3 order the suspension of the restricted license until the Respondent
4 presents such evidence. The Commissioner shall afford Respondent
5 the opportunity for a hearing pursuant to the Administrative
6 Procedure Act to present such evidence.

7 II

8 All licenses and licensing rights of Respondents

9 HUNTINGTON BEACH FIRST ALLIED MORTGAGE CO., INC., and JAIME AVILES
10 under the Real Estate Law are suspended for a period of thirty
11 (30) days from the date any restricted real estate broker license
12 is issued, provided, however:

13 1. If Respondents petition, the thirty (30) day
14 suspension shall be permanently stayed upon the terms and
15 conditions of this paragraph:

16 (a) Respondents HUNTINGTON BEACH FIRST ALLIED
17 MORTGAGE CO., INC., and JAIME AVILES each pay a monetary penalty
18 pursuant to Section 10175.2 of the Business and Professions Code
19 of \$1,500.

20 (b) Said payment shall be in the form of a
21 cashier's check or certified check made payable to the Recovery
22 Account of the Real Estate Fund. Said check must be delivered to
23 the Department prior to the effective date of the Order in this
24 matter;

25 (c) If Respondents HUNTINGTON BEACH FIRST ALLIED
26 MORTGAGE CO., INC., and JAIME AVILES fail to pay the monetary
27 penalty in accordance with the terms of this paragraph or this

1 Order, the Commissioner may, without a hearing, order the
2 immediate execution of all or any part of the thirty (30) days
3 suspension, in which event the Respondents shall not be entitled
4 to any repayment nor credit, prorated or otherwise, for money paid
5 to the Department under the terms of this Order.

6 III

7 A. Respondents HUNTINGTON BEACH FIRST ALLIED MORTGAGE CO.,
8 INC., and JAIME AVILES shall pay, pursuant to Section 10148 of the
9 Code, the Commissioner's reasonable cost for an audit to determine
10 if Respondent has corrected the trust fund violations found in
11 paragraph "1" of the Determination of Issues. In calculating the
12 amount of the Commissioner's reasonable costs, the Commissioner
13 may use the estimated average hourly salary for all Department
14 audit section personnel performing audits of real estate brokers,
15 and shall include an allocation for travel costs, including
16 mileage, time to and from the auditor's place of work, and per
17 diem in total amount not to exceed \$2,000.

18 (1) Respondents shall pay such cost within forty-five (45)
19 days of receipt of an invoice from the Commissioner detailing the
20 activities performed during the audit and the amount of time spent
21 performing those activities.

22 (2) If Respondents fail to pay, within forty-five (45) days from
23 receipt of the invoice specified above, the Commissioner's
24 reasonable costs for an audit to determine if Respondents have
25 corrected the violations found in paragraph "1" of the
26 Determination of Issues, the Commissioner may order the indefinite
27 suspension of Respondents' restricted real estate license and

rights. The suspension shall remain in effect until
2 payment is made in full, or until Respondents enters into an
3 agreement satisfactory to the Commissioner to provide for such
4 payment. The Commissioner shall afford Respondents the
5 opportunity for a hearing pursuant to the Administrative Procedure
6 Act to present such evidence. The Commissioner may impose further
7 reasonable disciplinary terms and conditions upon Respondents'
8 real estate license and license rights as part of any such
9 agreement.

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13 * * * * *

14 We have read the Stipulation and Agreement in Settlement
15 and Order, have discussed it with our counsel, and its terms are
16 understood by us and are agreeable and acceptable to us. We
17 understand that we are waiving rights given to us by the
18 California Administrative Procedure Act (including but not limited
19 to Sections 11506, 11508, 11509 and 11513 of the Government Code),
20 and we willingly, intelligently and voluntarily waive those
21 rights, including the right of requiring the Commissioner to prove
22 the allegations in the Accusation at a hearing at which we would
23 have the right to cross-examine witnesses against us and to
24 present evidence in defense and mitigation of the charges.

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DATED: 12/18/96

Jaime Aviles

HUNTINGTON BEACH FIRST ALLIED MORTGAGE CO., INC., Respondent,
By JAIME AVILES, Designated Officer

DATED 12/18/96

Jaime Aviles
JAIME AVILES, Respondent

DATED: 12/19/96

Philip Friedman
PHILIP FRIEDMAN, Counsel for Respondents

* * * * *

The foregoing Stipulation and Agreement in Settlement
is hereby adopted as my Decision and Order as to Respondents
HUNTINGTON BEACH FIRST ALLIED MORTGAGE CO., INC., and JAIME AVILES
and shall become effective at 12 o'clock noon on
April 1, 1997.

IT IS SO ORDERED 3/4, 1997

JIM ANTT, JR.
Real Estate Commissioner

Jim Antt Jr

Sachs
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FILED
MAR 21 1996
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**BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

DEPARTMENT OF REAL ESTATE

By Raquel R. Arboleda

In the Matter of the Accusation of) Case No. H-26338 LA
)
HUNTINGTON BEACH FIRST ALLIED,) OAH No. L-9601033
)

Respondent(s)

NOTICE OF HEARING ON ACCUSATION

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 Wednesday & Thursday, December 4 & 5, 1996, 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: March 21, 1996

By Marjorie P. Mersel
Marjorie P. Mersel, Counsel

cc: Huntington Beach First Allied
James Aviles
Sacto.
OAH

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Miss Gray

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George Wright, Staff Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, CA 90012
(213) 897-3937

FILED
NOV - 1 1995
DEPARTMENT OF REAL ESTATE

By *K. Kuebler*

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	No. H-26338 LA
HUNTINGTON BEACH FIRST ALLIED)	A C C U S A T I O N
MORTGAGE CO., INC., and JAIME)	
AVILES, individually and as)	
designated officer of Huntington)	
Beach First Allied Mortgage Co.,)	
Inc.,)	
Respondents.)	

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, for cause of accusation against HUNTINGTON BEACH FIRST ALLIED MORTGAGE CO., INC., a corporation, and JAIME AVILES, alleges as follows:

I

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in his official capacity.

II

At all times mentioned herein, HUNTINGTON BEACH FIRST ALLIED MORTGAGE CO., INC. ("HUNTINGTON"), was and still is

1 licensed by the Department of Real Estate of the State of
2 California ("Department") as a corporate real estate broker.

3
4 III

5 At all times herein mentioned, JAIME AVILES ("AVILES")
6 was licensed by the Department as a real estate broker in his
7 individual capacity. At all times herein mentioned, AVILES was
8 licensed by the Department as the designated officer of
9 HUNTINGTON. As the designated officer of HUNTINGTON, AVILES was
10 and is responsible for the supervision and control of the
11 activities conducted on behalf of HUNTINGTON by its officers and
12 employees as necessary to secure full compliance with the Real
13 Estate Law as set forth in Section 10159.2 of the Code.

14 IV

15 All further references to HUNTINGTON shall include
16 HUNTINGTON and AVILES and shall be deemed to refer to the
17 officers, employees, agents and real estate licensees employed by
18 or associated with HUNTINGTON, who at all times herein mentioned
19 were engaged in the furtherance of the business or operations of
20 HUNTINGTON, and who were acting within the course and scope of
21 their authority and employment.

22 V

23 At all times mentioned herein, for or in expectation of
24 compensation, HUNTINGTON engaged in the business of, acted in the
25 capacity of, advertised or assumed to act as a real estate broker
26 in the State of California, within the meaning of Section 10131(d)
27 of the Code, including the operation of a mortgage loan brokerage
business with the public wherein lenders and borrowers were



1 solicited for loans secured directly or collaterally by liens on
2 real property, wherein such loans were arranged, negotiated,
3 processed, consummated, and serviced on behalf of others, for
4 compensation or in expectation of compensation. In addition,
5 HUNTINGTON performed escrows for its mortgage loan division.

6 VI

7 All further references to the "Code" are to the
8 California Business and Professions Code, and all further
9 references to the "Regulations" are to Chapter 6, Title 10,
10 California Code of Regulations.

11 VII

12 On or about August 12, 1994, Department personnel
13 completed an investigative audit of the books and records of
14 HUNTINGTON, pertaining to its mortgage loan broker and broker
15 escrow activities, for a period commencing on November 1, 1993,
16 and terminating on July 31, 1994, and unless otherwise specified,
17 the relevant period of time referenced herein shall be the same.
18 The findings of that audit are set forth in the paragraphs that
19 follow.

20 VIII

21 In connection with the aforesaid mortgage loan and
22 broker escrow activities, HUNTINGTON solicited and negotiated
23 first trust deed loans on behalf of borrowers as well as
24 originated FHA and conventional loans. HUNTINGTON also provided
25 broker escrow service for its loan activities. HUNTINGTON accepted
26 or received funds ("trust funds"), from or on behalf of borrowers
27 for its escrows and thereafter made disbursements of such funds.



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HUNTINGTON deposited these funds into the following account at
First Interstate Bank in Huntington Beach, California:

"First Allied Escrow, A Division of Huntington Beach
Allied First Allied Mortgage Co. Inc."
Account No. 157-7-11309 (T/A)

IX

HUNTINGTON violated Section 2830 of the Regulations and
Section 10145 of the Code by placing the trust funds into T/A
which was not properly designated as a trust account in the name
of the broker.

X

At all times material herein, HUNTINGTON failed to
maintain proper columnar records of the trust funds maintained in
the trust account. The columnar records did not indicate the date
that the funds were received, from whom the funds were received,
nor to whom the funds were paid. HUNTINGTON violated Section 2831
of the Regulations by its failure to properly perform such acts.

XI

At all times herein mentioned, HUNTINGTON failed to
maintain adequate, accurate or complete separate for each
beneficiary and transaction in the T/A. HUNTINGTON violated
Section 2831.1 of the Regulations by such conduct.

XII

At all times material herein, HUNTINGTON failed to
accurately and completely reconcile the balance of all separate
records maintained pursuant to the provisions of Section 2831.1,
with the columnar records of all trust funds received and

1 disbursed as required by Section 2831 of the Regulations, on a
2 monthly basis for the T/A. HUNTINGTON violated Section 2831.2 by
3 its failure to perform said acts.

4 XIII

5 As of June 30, 1992, HUNTINGTON violated Section 10145
6 of the Code and Section 2832.1 of the Regulations by disbursing or
7 allowing the disbursement of funds from the trust account, without
8 the prior written consent of every principal who was then an owner
9 of said funds in the account, in an amount which was at least
10 \$384.50 less than the existing aggregate trust fund liability to
11 all owners of said trust funds.

12 XIV

13 The audit examination also revealed that HUNTINGTON
14 placed \$1,032.90 that belonged to a borrower into its general
15 account rather than into its trust account. Such conduct
16 constitutes commingling and violated Section 10176(e) of the Code.

17 XV

18 The audit examination also revealed that John Georges
19 ("Georges") was not licensed by the Department as a real estate
20 broker or as a real estate salesperson who is employed under the
21 license of a broker. Georges' conditional real estate salesperson
22 license expired on October 13, 1993 but Georges continued to
23 perform activities requiring a real estate license. Georges
24 violated Section 10130 of the Code by performing said acts which
25 require a license when Georges was not licensed by the Department
26 at the time as either a real estate broker or as a salesperson
27 employed under the license of HUNTINGTON. HUNTINGTON violated



1 Section 10137 of the Code by employing and/or compensating Georges
2 for these acts.

3 XVI

4 At all times material in the course of the above-
5 described mortgage loan brokerage business, HUNTINGTON solicited
6 borrowers for and negotiated for loans secured by liens on real
7 property. The audit revealed that said borrowers did not receive
8 mortgage loan disclosure statements. HUNTINGTON violated Section
9 10240 and of the Code and Section 2840 of the Regulations by
10 failing to provide borrowers with Department-approved Borrower
11 Disclosure Statements when appropriate.

12 XVII

13 The audit examination also revealed that HUNTINGTON
14 employed real estate salespersons who prepared instruments which
15 had a material effect upon the rights and obligations of
16 principals represented by HUNTINGTON. AVILES violated Section
17 2725 of the Regulations by failing to review, initial, and date
18 all such instruments.

19 XVIII

20 At all times material in the course of mortgage loan
21 broker activities, HUNTINGTON was involved in escrows wherein
22 HUNTINGTON had a financial interest in the transaction or was the
23 owner of the agency handling the escrow. HUNTINGTON violated
24 Section 2950(c) of the Regulations by failing to give to each
25 principal in the transaction escrow instructions when HUNTINGTON
26 had a financial interest in the transaction.

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XIX

The audit examination also revealed that HUNTINGTON employed real estate salespersons but failed to notify the Department of their employment and termination. HUNTINGTON violated Section 2752 of the Regulations by failing to notify the Department of their employment or termination.

XX

The audit examination revealed that HUNTINGTON was at all times using the fictitious business name "First Allied Escrow" for its broker escrows. At no time herein mentioned has HUNTINGTON been authorized by the Department to use said name on its license. Said conduct violates Section 2731(a) of the Regulations and is cause under Section 10177(d) to suspend or revoke the license and license rights of HUNTINGTON under the Real Estate Law.

XXI

The audit examination revealed that HUNTINGTON was issued a corporate real broker real estate license on March 31, 1994, but that it had opened the trust account on October 27, 1993, and received funds and performed mortgage and broker escrow activities prior to March 31, 1994. HUNTINGTON violate Section 10130 of the Code by performing said activities prior to the issuance of its corporate broker license.

XXII

The conduct of HUNTINGTON and AVILES, as alleged hereinabove in Paragraphs VIII through XXI, constitutes cause for the suspension or revocation of all licenses and/or license rights of the Respondents under Sections 10176(e), 10137 and 10177(d) of

1 the Code.

2 XXVI

3 The conduct of Respondent AVILES, in allowing
4 Respondent HUNTINGTON to violate the above-described
5 provisions of the Code while acting as the designated officer
6 of HUNTINGTON, constitutes a failure to exercise reasonable
7 supervision and control of the activities of HUNTINGTON for
8 which a real estate license is required, and is cause for the
9 suspension or revocation of the licenses and/or licensing
10 rights of AVILES under Section 10177(h) of the Code.

11 WHEREFORE, Complainant prays that a hearing be conducted
12 on the allegations of this Accusation and that upon proof thereof,
13 a decision be rendered imposing disciplinary action against all
14 licenses and/or license rights of HUNTINGTON BEACH FIRST ALLIED
15 MORTGAGE CO., INC., and JAIME AVILES under the Real Estate Law and
16 for such other and further relief as may be proper under
17 applicable provisions of law.

18 Dated at Los Angeles, California
19 this 1st day of November , 1995.

20 THOMAS MC CRADY

21 Deputy Real Estate Commissioner

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25 cc: Huntington Beach First Allied Mortgage Co., Inc.
26 Jaime Aviles
27 SACTO
SR