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**FILED**  
AUG 02 2000  
DEPARTMENT OF REAL ESTATE

By *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \* \*

In the Matter of the Accusation of ) NO. H-27850 LA  
CLARENCE MANSFIELD HENDERSON, )  
Respondent. )

ORDER VACATING SUSPENSION

In an Order effective April 10, 2000, the restricted license of CLARENCE MANSFIELD HENDERSON was suspended pursuant to Section 10177(k) of the Business and Professions Code due to Respondent's failure to meet the terms, conditions and restrictions set forth in the Real Estate Commissioner's Order of March 25, 1999.

Good cause now appearing, the Order Suspending Restricted Real Estate License dated April 10, 2000, is hereby vacated, effective immediately.

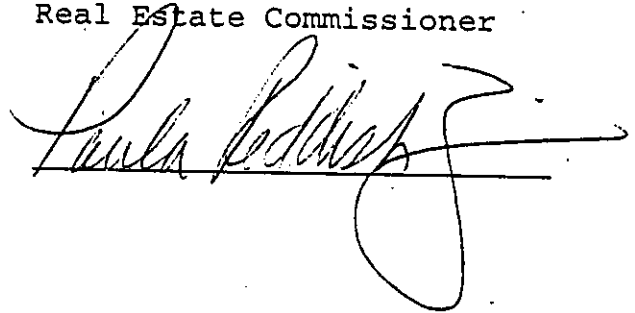
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IT IS SO ORDERED this 28<sup>th</sup> day of

July 2000.

PAULA REDDISH ZINNEMANN  
Real Estate Commissioner



*Suits  
young*

**FILED**  
APR 18 2000  
DEPARTMENT OF REAL ESTATE

By *Laura B. Orme*

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BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of )	
CLARENCE MANSFIELD HENDERSON, )	NO. H-27850 LA
Respondent. )	

ORDER SUSPENDING RESTRICTED REAL ESTATE LICENSE

TO: CLARENCE MANSFIELD HENDERSON:

On April 26, 1999, a restricted real estate broker license was issued by the Department of Real Estate to respondent on the terms, conditions and restrictions set forth in the Real Estate Commissioner's Order of March 25, 1999, in case No. H-27850 LA. This Order, which was effective April 26, 1999, granted the right to the issuance of a restricted real estate broker license subject to the provisions of Section 10156.7 of the Business and Professions Code and to enumerated additional terms, conditions and restrictions imposed under authority of Section 10156.6 of said Code. Among those

1 terms, conditions and restrictions, you were required to  
2 present evidence within nine months from April 26, 1999, that  
3 you have, since the most recent issuance of an original or  
4 renewal real estate license, taken and successfully completed  
5 the continuing education requirements of Article 2.5 of Chapter  
6 3 of the Real Estate Law for renewal of a real estate license.  
7 The Commissioner has determined that as of the date of this  
8 Order, you have failed to satisfy this condition, and as such,  
9 you are in violation of Section 10177(k) of the Business and  
10 Professions Code. (You have no right to renew your restricted  
11 license if this condition isn't satisfied by the date of its  
12 expiration. Section 10156.7 of the Business and Professions  
13 Code.)

14 NOW, THEREFORE, IT IS ORDERED under authority of  
15 Section 10156.7 of the Business and Professions Code of the  
16 State of California that the restricted real estate broker  
17 license heretofore issued to respondent and the exercise of any  
18 privileges thereunder is hereby suspended pending final  
19 determination made after hearing (see "Hearing Rights" set  
20 forth below).

21 IT IS FURTHER ORDERED that all license certificates  
22 and identification cards issued by Department which are in the  
23 possession of respondent be immediately surrendered by personal  
24 delivery or by mailing in the enclosed, self-addressed envelope  
25 to:

26 Department of Real Estate  
27 Attn: Flag Section  
P. O. Box 187000  
Sacramento, CA 95818-7000

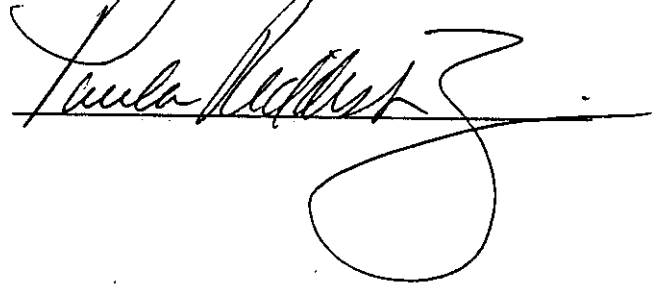
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HEARING RIGHTS: Pursuant to the provisions of Section 10156.7 of the Business and Professions Code, you have the right to a hearing to contest the Commissioner's determination that you are in violation of Section 10177(k). If you desire a hearing, you must submit a written request. The request may be in any form, as long as it is in writing and indicates that you want a hearing. Unless a written request for a hearing, signed by or on behalf of you, is delivered or mailed to the Department at 320 West 4<sup>th</sup> Street, Suite 350, Los Angeles, California, within 20 days after the date that this Order was mailed to or served on you, the Department will not be obligated or required to provide you with a hearing.

This Order shall be effective immediately.

DATED: April 10, 2000

PAULA REDDISH ZINNEMANN  
Real Estate Commissioner



SACHU

FILED  
April 16, 1999

DEPARTMENT OF REAL ESTATE

By [Signature]

DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \* \* \*

In the Matter of the Accusation of	)	No. H-27850 LA
	)	
GULL MORTGAGE, INC. and	)	
CLARENCE MANSFIELD HENDERSON,	)	
	)	
Respondents.	)	L-1998 110 234
_____)		

DECISION

The Proposed Decision dated March 10, 1999.  
of the Administrative Law Judge of the Office of  
Administrative Hearings, is hereby adopted as the Decision  
of the Real Estate Commissioner in the above-entitled matter.

This Decision shall become effective at 12 o'clock  
noon on April 26, 1999

IT IS SO ORDERED March 25, 1999

John R. Liberator  
Acting Commissioner

[Signature]

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

**FILED**

DEPARTMENT OF REAL ESTATE

By *[Signature]*

In the Matter of the Accusation of )  
)  
GULL MORTGAGE, INC. and )  
CLARENCE MANSFIELD HENDERSON, )  
)  
Respondents. )  
\_\_\_\_\_ )

Agency Case No. H 27850 LA  
OAH Case No. L - 1998110234

PROPOSED DECISION

This matter came on regularly for hearing before Carolyn Dee Magnuson, Administrative Law Judge of the Office of Administrative Hearing on February 10, 1999 in Los Angeles, California.

James R. Peel, Staff Counsel, represented the complainant.

Clarence Henderson appeared personally. He and the corporate respondent were represented by Daniel S. Baha, attorney at law.

Oral and documentary evidence was received, and the matter was submitted for decision.

The Administrative Law Judge makes the following findings of fact:

1. Thomas McCrady, the complainant, made the Accusation in his official capacity as Deputy Real Estate Commissioner of the Department of Real Estate ("Department"), State of California.
2. At all relevant times, Gull Mortgage, Inc. ("GMI") was licensed by the Department as a corporate real estate broker. Clarence Henderson ("Henderson") was licensed as the designated broker officer of said corporation.
3. GMI and Henderson (collectively "respondents") engaged in the business of, acted in the capacity of, advertised or assumed to act as, a real estate broker in the State of California on behalf of others and in the expectation of compensation. The main business of respondents was arranging and negotiating loans for mortgage bankers, mortgage brokers and institutional lenders. During 1997 and 1998, in connection with respondent's real estate brokerage activities, respondents accepted or received funds from borrowers and lenders, and thereafter made disbursements of such funds.

4. In June 1998, the Department conducted an audit of respondent's books and records for the period April 1, 1997 through April 30, 1998 to determine whether respondents handled and accounted for trust funds in accordance with the laws and regulations governing such activities by departmental licensees.

5. The auditor found that respondents failed to conduct their business in accordance with the applicable laws and regulations in several respects.

6. During the audit period, GMI had four trust accounts. Trust accounts 1 and 2 were used as depositories for appraisal fees and credit report fees. Trust account 2 was being phased out. Carolyn Freeman and Donna Webb were signatories on each trust account, but they were not departmental licensees.

7. Trust accounts 3 and 4 were used for the receipt and disbursement of escrow funds. Carolyn Freeman and Donna Webb were signatories on each trust account, but they were not departmental licensees.

8. The auditor prepared reconciliations for all the trust accounts. Trust accounts 1 and 2 had a credit balance of \$74.96. Trust account 3 balanced. Trust account 4 had a credit balance of \$91.00.

9. Trust account 3 should have been designated as a trust account in the name of the broker as trustee as required by 10 CCR section 2832, but was not.

10. Checks received in trust were sometimes not deposited into a trust account within three days of their receipt.

11. GMI failed to maintain separate records for each of the four trust accounts, as required by 10 CCR section 2381.1.

12. GMI also failed to reconcile the balance of each beneficiary or transaction with the record of all trust funds received and disbursed for each of the trust accounts, as required by 10 CCR section 2831.2.

13. GMI did not reconcile columnar records to the separate transaction records for each trust account, as required by 10 CCR section 2831.2.

14. GMI did not maintain a fidelity bond to cover the non-licensed signatories on the trust accounts, as required by 10 CCR section 2834.<sup>1</sup>

15. It does not appear that Henderson is involved in the day to day operations of the business. Nonetheless, he is responsible for its performance. GMI

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<sup>1</sup> The auditor found other violations, as well. However, they were not pleaded in the Accusation and are, therefore, not addressed in this decision.



employs a general manager, who oversees the respondent's business transactions and is responsible for ensuring the business complies with applicable laws and regulations.

16. The general manager testified that GMI's procedures are set up to comply with federal lending regulations. GMI has operated on the premise that, if federal requirements were complied with, state standards would also be met. That postulate is incorrect.

17. GMI keeps financial records and accounting documents in each borrower's file. Each transaction is reconciled and a record kept in the file.

18. The general manager testified that the bank signature card designates trust account 3 as being a trust account, but the checks for the account erroneously do not have that designation.

19. The general manager also reported that the business is covered by insurance that will reimburse the business for employee dishonesty. There is a \$250 deductible on that policy.

20. GMI has closed Trust accounts 1 and 2, and no longer deposits fees for credit checks and appraisals into a GMI account.

21. GMI's general manager maintains that it is not possible for respondents to comply with the three day deposit requirement, because GMI has representatives all over the state who don't have access to the trust accounts and because at times the paperwork is not completed within three days. Even if true, these reasons are not excuses. There is no reason why GMI's agents cannot either mail trust checks directly to the bank when received, or delay accepting the check until the paperwork is done.

22. In 1998, in Department case number H 27227 LA, respondent's license was disciplined. The basis for that discipline was an audit done in March 1995 for the period January 1, 1994 through December 30, 1994 that found, inter alia, that respondents did not keep daily balances for trust accounts 1 and 2, did not maintain separate records for each beneficiary, did not reconcile the trust account balance with the beneficiary records each month, and did not provide borrowers with the Mortgage Loan Disclosure Statement required by the State of California. Respondents were placed on one year's probation.

23. Three years later, respondent's have not changed their practices to correct the violations found in 1995, which are in large part the ones respondents are charged with in this proceeding.<sup>2</sup>

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<sup>2</sup> Although discipline was not imposed for the 1995 violations until 1998, respondents knew in 1995 that the violations had been found. Moreover, 5 months of the 1998 audit period occurred after discipline was imposed, and respondents made no changes in their business practices.

24. It was clear from the general manager's testimony that he still sees no reason to change any practice as long as it meets federal standards. From the lack of compliance following the prior discipline, it appears that respondent is not amenable to voluntary compliance or, at least, such discipline must be much more stringent than that previously imposed.

25. While it is true that no member of the public has been shown to have been harmed by any of the violations committed by respondent, that does not mean that no harm occurred. Because the Department has only limited resources available, to the extent those resources have been expended monitoring respondents, the Department has not been able to police other licensees, which may well have resulted in losses to the public that could have been prevented had the Department not been occupied with respondents.

26. Had there been harm to any of respondents' clients as a result of respondents' conduct, this would be a straight revocation case. As it is, respondent's failure to correct procedures, which respondents have known since 1995 were violations of state law, merits a substantial discipline in the hope that will engage their attention and cause them to change their ways. If they do not, the next round of discipline should result in revocation.

27. Claimant's counsel requested the Proposed Decision contain a provision requiring respondents to pay for another audit, as provided in Business and Professions Code section 10428. However, a violation of Business and Professions Code section 10425 was neither pleaded nor proven.

\* \* \* \* \*

Based on the forgoing Findings of Fact, the Administrative Law Judge makes the following Determination of Issues:

1. Cause to discipline respondents' licenses exists under the provisions of 10 CCR section 2832 for failing to designate an account used to receive and disburse trust funds as a trust account.

2. Cause to discipline respondents' licenses exists under the provisions of 10 CCR section 2832 for failing to deposit checks received in trust within three days of receipt.

3. Cause to discipline respondents' licenses exists under the provisions of 10 CCR section 2831.1 for failing to maintain separate records for each beneficiary or transaction.

4. Cause to discipline respondents' licenses exists under the provisions of 10 CCR section 2831.2 for failing to reconcile columnar records and beneficiary records on a monthly basis.

5. Cause to discipline respondents' licenses exists under the provisions of 10 CCR section 2834 for allowing unlicensed and unbonded persons to sign on the trust accounts.

6. Cause to discipline respondents' licenses exists under the provisions of Business and Professions Code section 10177(d) and 10177(g) for violating the laws and regulations governing real estate licensees.

Cause to discipline respondent Henderson's license exists under the provisions of Business and Professions Code sections 10177(d) and 10177(h) for failure to properly supervise GMI's conduct.

\* \* \* \* \*

WHEREFORE, THE FOLLOWING ORDER is made:

All licenses and licensing rights of Gull Mortgage, Inc. and Clarence Henderson under the Real Estate Law are revoked; provided, however, a restricted real estate corporate broker's license shall be issued to GMI and a designated broker's license shall be issued to Henderson pursuant to section 10156.5 of the Business and Professions Code, if respondents make application therefor and pay to the Department the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted licenses issued to respondents 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. Respondents' licenses shall be actually suspended for a period of 15 consecutive business days.
2. The restricted licenses issued to respondents may be suspended prior to hearing by order of the Real Estate Commissioner ("Commissioner") in the event of respondent's conviction or plea of nolo contendere to a crime which is substantially related to respondents' fitness or capacity as a real estate licensee.
3. The restricted licenses issued to respondents may be suspended prior to hearing by Order of the Commissioner on evidence satisfactory to the Commissioner that a respondent has violated a provision of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Commissioner or conditions attaching to their respective restricted licenses.
4. Neither respondent shall be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until three years have elapsed from the effective date of this Decision.

5. Within nine months from the effective date of this Decision, respondent Henderson shall present evidence satisfactory to the Real Estate Commissioner that respondent has, since the most recent issuance of an original or renewal real estate license, 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. If 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.

6. Within six months from the effective date of this Decision, respondent Henderson shall take and pass the Professional Responsibility Examination administered by the Department, including the payment of the appropriate examination fee. If respondent fails to satisfy this condition, the Commissioner may order suspension of respondent's license until respondent passes the examination.

7. Respondent shall report in writing to the Department, as the Commissioner shall direct, such information concerning respondents' activities, for which a real estate license is required, as the Commissioner shall deem to be appropriate to protect the public interest. Such reports may include, but shall not be limited to, periodic independent accountings of trust funds in the custody and control of respondent and periodic summaries of salient information concerning each real estate transaction in which the respondent engaged during the period covered by the report.

DATED: March 10, 1999

  
CAROLYN D. MAGNUSON  
Administrative Law Judge  
Office of Administrative Hearings

SACTs

197-1209-008  
BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

**FILED**  
JAN 04 1999  
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of )  
GULL MORTGAGE CORPORATION and, )  
CLARENCE MANSFIELD HENDERSON, )  
Respondents. )

NO. H-27850 LA  
By \_\_\_\_\_  
NOTICE OF CONTINUED HEARING

L-1998 110 234

**To the above-named Respondents:**

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 107 South Broadway, 2nd. Floor, Los Angeles, California 90012 on FEBRUARY 10, 1999 at 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.

**Dated:** January 4, 1999

DEPARTMENT OF REAL ESTATE

By: James R. Peel  
JAMES R. PEEL  
Counsel

cc: Gull Mortgage Corporation  
cc: Dan Baja, Esq.

DB, OAH & SACTO

SACTO

197-1209-008  
BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

**FILED**  
NOV 20 1998  
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of )  
 )  
GULL MORTGAGE CORPORATION and, )  
CLARENCE MANSFIELD HENDERSON, )  
 )  
Respondents. )  
 )

NO. H-27850 LA By [Signature]

NOTICE OF HEARING ON ACCUSATION

L-1998 110 234

To the above-named Respondents:

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 107 South Broadway, 2nd. Floor, Los Angeles, California 90012 on January 8, 1999 at 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.

Dated: November 19, 1998

DEPARTMENT OF REAL ESTATE

By: [Signature: James R. Peel]  
JAMES R. PEEL  
Counsel

cc: Gull Mortgage Corporation  
cc: Dan Baja, Esq.  
DB, OAH & SACTO

*Sacts*

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JAMES R. PEEL, Counsel  
Department of Real Estate  
107 South Broadway, Room 8107  
Los Angeles, California 90012  
State Bar 47055

(213) 897-3937

**FILED**  
OCT 13 1998  
DEPARTMENT OF REAL ESTATE  
By *[Signature]*

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \* \*

In the Matter of the Accusation of	)	NO. H-27850 LA
	)	
GULL MORTGAGE CORPORATION and	)	<u>A C C U S A T I O N</u>
CLARENCE MANSFIELD HENDERSON,	)	
	)	
Respondents.	)	
_____	)	

The Complainant, Thomas Mc Crady, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against GULL MORTGAGE CORPORATION and CLARENCE MANSFIELD HENDERSON alleges as follows:

I

The Complainant, Thomas Mc Crady acting in his official capacity as a Deputy Real Estate Commissioner of the State of California, makes this Accusation against GULL MORTGAGE CORPORATION and CLARENCE MANSFIELD HENDERSON.

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II

GULL MORTGAGE CORPORATION and CLARENCE MANSFIELD  
HENDERSON (hereinafter referred to as respondents) are presently  
licensed and/or have license rights under the Real Estate Law,  
Part 1 of Division 4 of the Business and Professions Code  
(hereinafter referred to as "the Code").

III

At all times herein mentioned, respondent GULL  
MORTGAGE CORPORATION was licensed by the Department of Real  
Estate of the State of California as a corporate real estate  
broker, respondent CLARENCE MANSFIELD HENDERSON, was licensed as  
the designated broker officer of said corporation, and ordered,  
authorized or participated in the illegal conduct of respondent  
GULL MORTGAGE CORPORATION as alleged in this Accusation.  
Respondent Henderson previously had his broker license  
disciplined in case No. H-27227 LA, filed January 15, 1998.

IV

At all times herein mentioned, respondent GULL  
MORTGAGE CORPORATION on behalf of others in expectation of  
compensation, engaged in the business, acted in the capacity of,  
advertised or assumed to act as a real estate broker in the  
State of California within the meaning of Section 10131 (d) of  
the Code, including soliciting borrowers and lenders and  
negotiating loans on real property.





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V

During 1997 and 1998, in connection with the aforesaid real estate brokerage activities, respondent GULL MORTGAGE CORPORATION accepted or received funds from borrowers and lenders and thereafter made disbursements of such funds.

VI

In connection with respondents' activities as a real estate broker, as described above, respondents, GULL MORTGAGE CORPORATION and CLARENCE MANSFIELD HENDERSON, acted in violation of the Real Estate Law, Business and Professions Code, (hereinafter Code), and California Code of Regulations (hereinafter Regulations), Title 10, Chapter 6, as follows:

1. Violated Regulation 2832 in that the escrow trust accounts were not maintained in the broker's name as trustee.  
Appraisal and credit report fees were not deposited into a trust account within 3 business days in loan transactions relating to Borrowers Becerra, Morrison, Lapoff and Johnson.
2. Violated Regulation 2381.1 by failing to maintain separate records for each beneficiary or transaction.
3. Violated Regulation 2831.2 by not maintaining monthly reconciliations of columnar records to the separate transaction records for all trust accounts.
4. Violated Regulation 2834 by allowing unlicensed and unbounded persons to sign on the trust accounts, namely, Carolyn Freeman and Donna Web.

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VII

The conduct of respondent GULL MORTGAGE CORPORATION as alleged above, subjects its real estate license and license rights to suspension or revocation pursuant to Sections 10177(d) and 10177(g) of the Code.

VIII

The conduct of respondent, CLARENCE MANSFIELD HENDERSON, as alleged above, as the responsible broker, by allowing and permitting respondent GULL MORTGAGE CORPORATION to engage in the conduct specified in paragraph VI above, subjects his real estate licenses and license rights to suspension or revocation pursuant to Sections 10177(d) and 10177(h) of the Code.

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and, that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and licensing rights of respondents GULL MORTGAGE CORPORATION and CLARENCE MANSFIELD HENDERSON, under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) and for such other and further relief as may be proper under other applicable provisions of law.  
Dated at Los Angeles, California this 13th day of October, 1998.

  
Deputy Real Estate Commissioner

cc: GULL MORTGAGE CORPORATION and  
CLARENCE MANSFIELD HENDERSON  
DB, Sacto.

JRP:rgp