

*Lacto*

1 Department of Real Estate  
2 320 West 4th Street, Ste. 350  
3 Los Angeles, California 90013-1105  
4 Telephone: (213) 576-6982 (office)

**FILED**

JUN 17 2009

DEPARTMENT OF REAL ESTATE  
BY: *A. Freely*

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11	In the Matter of the Accusation of	)	No. H-35387 LA
12	NEW HAVEN FINANCIAL INC.	)	
13	and LAWRENCE S. RABINOFF,	)	
14	individually and as designated	)	
14	officer of New Haven Financial	)	<u>STIPULATION</u>
15	Inc.,	)	<u>AND</u>
15	Respondents.	)	<u>AGREEMENT</u>

17 It is hereby stipulated by and between Respondents  
18 NEW HAVEN FINANCIAL INC. and LAWRENCE S. RABINOFF, individually  
19 and as designated officer of New Haven Financial Inc., (sometimes  
20 collectively referred to as "Respondents"), represented by Steven  
21 Morris, Esq., and the Complainant, acting by and through Elliott  
22 Mac Lennan, Counsel for the Department of Real Estate, as follows  
23 for the purpose of settling and disposing of the Accusation  
24 ("Accusation") filed on October 16, 2008, in this matter:

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

8           2. Respondents have received, read and understand 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. Respondents filed a Notice of Defense pursuant to  
13 Section 11506 of the Government Code for the purpose of  
14 requesting a hearing on the allegations in the Accusation.  
15 Respondents hereby freely and voluntarily withdraw the Notice of  
16 Defense.

17           4. This Stipulation is based on the factual  
18 allegations contained in the Accusation. In the interest of  
19 expedience and economy, Respondents choose not to contest these  
20 allegations.

21           5. This Stipulation is made for the purpose of  
22 reaching an agreed disposition of this proceeding and is  
23 expressly limited to this proceeding and any other proceeding or  
24 case in which the Department of Real Estate ("Department"), the  
25 state or federal government, or any agency of this state, another  
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state or federal government is involved.

1  
2           6. It is understood by the parties that the Real  
3 Estate Commissioner may adopt this Stipulation as his Decision in  
4 this matter thereby imposing the penalty and sanctions on  
5 Respondents' real estate licenses and license rights as set forth  
6 in the "Order" herein below. In the event that the Commissioner  
7 in his discretion does not adopt the Stipulation, it shall be  
8 void and of no effect and Respondents shall retain the right to a  
9 hearing and proceeding on the Accusation under the provisions of  
10 the APA and shall not be bound by any stipulation or waiver made  
11 herein.

12           7. The Order or any subsequent Order of the Real  
13 Estate Commissioner made pursuant to this Stipulation shall not  
14 constitute an estoppel, merger or bar to any further  
15 administrative or civil proceedings by the Department of Real  
16 Estate with respect to any matters which were not specifically  
17 alleged to be causes for Accusation in this proceeding but do  
18 constitute a bar, estoppel and merger as to any allegations  
19 actually contained in the Accusations against Respondent herein.  
20

21           8. Respondents understand that by agreeing to this  
22 Stipulation, Respondents agree to pay, pursuant to Business and  
23 Professions Code Section 10148, the cost of the audit. The  
24 amount of said cost for the audit is \$4,958.40.

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1 9. Respondents have received, read, and understand the  
2 "Notice Concerning Costs of Subsequent Audit". Respondents  
3 further understand that by agreeing to this Stipulation, the  
4 findings set forth below in the Determination of Issues become  
5 final, and the Commissioner may charge Respondents for the cost  
6 of any subsequent audit conducted pursuant to Business and  
7 Professions Code Section 10148 to determine if the violations  
8 have been corrected. The maximum cost of the subsequent audit  
9 will not exceed \$4,958.40.

10 DETERMINATION OF ISSUES

11 By reason of the foregoing, it is stipulated and agreed  
12 that the following determination of issues shall be made:

13 The conduct, acts or omissions of NEW HAVEN FINANCIAL  
14 INC. and LAWRENCE S. RABINOFF, as described in Paragraph 4,  
15 herein above, are in violation of Section 10145 of the Business  
16 and Professions Code ("Code") and is a basis for discipline of  
17 Respondents' license and license rights as violations of the Real  
18 Estate Law pursuant to Code Sections 10177(d).

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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

The license and licensing rights of Respondents NEW  
HAVEN FINANCIAL INC. and LAWRENCE S. RABINOFF, under the Real  
Estate Law, are suspended for a period of sixty (60) days from  
the effective date of this Decision; provided, however, that  
thirty (30) days of said suspension shall be stayed for two (2)  
years upon the following terms and conditions:

A. Provided, however, that if Respondents request, the  
initial thirty (30) days of said suspension (or a portion  
thereof) shall be stayed for two (2) years upon condition that:

1. Each Respondent pays a monetary penalty pursuant to  
Section 10175.2 of the Business and Professions Code at the rate  
of \$83.33 per day for each day of the suspension for a monetary  
penalty of \$2,500, or \$5,000 total.

2. Said payment shall be in the form of a cashier's  
check or certified check made payable to the Recovery Account of  
the Real Estate Fund. Said check must be received by the  
Department prior to the effective date of the Decision in this  
matter.

3. No further cause for disciplinary action against  
the real estate license of Respondents occur within two (2) years  
from the effective date of the Decision in this matter.

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1                   4. If Respondents fail to pay the monetary penalty in  
2 accordance with the terms of the Decision, the Commissioner may,  
3 without a hearing, order the immediate execution of all or any  
4 part of the stayed suspension, in which event the Respondents  
5 shall not be entitled to any repayment nor credit, prorated or  
6 otherwise, for money paid to the Department under the terms of  
7 this Decision.

8                   5. If Respondents pay the monetary penalty and if no  
9 further cause for disciplinary action against the real estate  
10 license of Respondents occurs within two (2) years from the  
11 effective date of the Decision, the stay hereby granted shall  
12 become permanent.

13                   B. The remaining thirty (30) days of the sixty (60)  
14 day suspension shall be stayed for two (2) years upon the  
15 following terms and conditions:

16                   (a) Respondents shall obey all laws, rules and  
17 regulations governing the rights, duties and responsibilities of  
18 a real estate licensee in the State of California; and

19                   (b) That no final subsequent determination be made  
20 after hearing or upon stipulation, that cause for disciplinary  
21 action occurred within two (2) years from the effective date of  
22 this Decision. Should such a determination be made, the  
23 Commissioner may, in his discretion, vacate and set aside the  
24 stay order and reimpose all or a portion of the stayed  
25 suspension. Should no such determination be made, the stay  
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1 imposed herein shall become permanent.

2 II.

3 Pursuant to Section 10148 of the Business and  
4 Professions Code, Respondents NEW HAVEN FINANCIAL INC. and  
5 LAWRENCE S. RABINOFF shall pay the Commissioner's reasonable cost  
6 for (a) the audit which led to this disciplinary action (b) a  
7 subsequent audit to determine if Respondents are now in  
8 compliance with the Real Estate Law. The cost of the audit which  
9 led to this disciplinary action is \$4,958.40. In calculating the  
10 amount of the Commissioner's reasonable cost, the Commissioner  
11 may use the estimated average hourly salary for all persons  
12 performing audits of real estate brokers, and shall include an  
13 allocation for travel time to and from the auditor's place of  
14 work. Said amount for the prior and subsequent audits shall not  
15 exceed \$9,916.80.

16  
17 Respondents shall pay such cost within 60 days of  
18 receiving an invoice from the Commissioner detailing the  
19 activities performed during the audit and the amount of time  
20 spent performing those activities.

21 The Commissioner may suspend the license of Respondents  
22 pending a hearing held in accordance with Section 11500, et seq.,  
23 of the Government Code, if payment is not timely made as provided  
24 for herein, or as provided for in a subsequent agreement between  
25 the Respondent and the Commissioner. The suspension shall remain  
26 in effect until payment is made in full or until Respondents  
27

1 enter into an agreement satisfactory to the Commissioner to  
2 provide for payment, or until a decision providing otherwise is  
3 adopted following a hearing held pursuant to this condition.  
4  
5

6 DATED:

4/7/09

EL  
ELLIOTT MAC LENNAN, Counsel for  
the Department of Real Estate

8 \* \* \*

9 EXECUTION OF THE STIPULATION

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

22 MAILING AND FACSIMILE

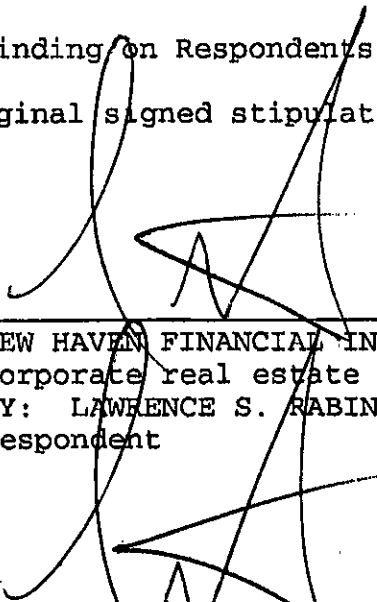
23 Respondents (1) shall mail the original signed  
24 signature page of the stipulation herein to Elliott Mac Lennan:  
25 Attention: Legal Section, Department of Real Estate, 320 W.  
26 Fourth St., Suite 350, Los Angeles, California 90013-1105.  
27



1 Respondents shall also (2) facsimile a copy of signed signature  
2 page, to the Department at the following telephone/fax number:  
3 (213) 576-6917, Attention: Elliott Mac Lennan.

4 A facsimile constitutes acceptance and approval of the  
5 terms and conditions of this stipulation. Respondents agree,  
6 acknowledge and understand that by electronically sending to the  
7 Department a facsimile copy of Respondents' actual signature as  
8 it appears on the stipulation that receipt of the facsimile copy  
9 by the Department shall be as binding on Respondents as if the  
10 Department had received the original signed stipulation.

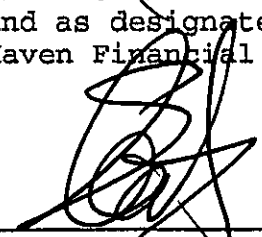
11  
12  
13 DATED: 4-21-09

  
14 NEW HAVEN FINANCIAL INC., a  
15 corporate real estate broker,  
16 BY: LAWRENCE S. RABINOFF D.O.,  
17 Respondent

18 DATED: 4-21-09

19 LAWRENCE S. RABINOFF, individually  
20 and as designated officer of New  
21 Haven Financial Inc., Respondent

22 DATED: 4/23/09

  
23 STEVEN MORRIS, ESQ.  
24 Attorney for Respondents  
25 Approved as to form and content

26 ///

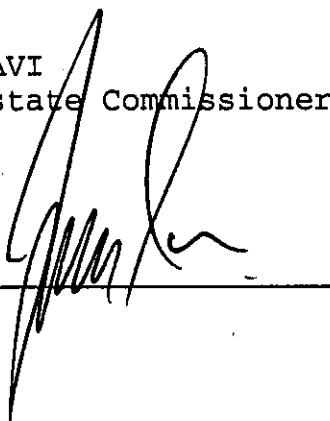
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\* \* \*

1    The foregoing Stipulation and Agreement is hereby  
2  
3 adopted as my Decision as to Respondents NEW HAVEN FINANCIAL INC.  
4 and LAWRENCE S. RABINOFF, individually and as designated officer  
5 of New Haven Financial Inc. and shall become effective at 12  
6 o'clock noon on \_\_\_\_\_ July 7, 2009.

7    IT IS SO ORDERED 5/25/09, 2009.

8  
9    JEFF DAVI  
10    Real Estate Commissioner



A handwritten signature in dark ink, appearing to read 'Jeff Davi', is written over a horizontal line. The signature is stylized with a large initial 'J' and a long, sweeping flourish.

ELLIOTT MAC LENNAN, SBN 66674  
Department of Real Estate  
320 West 4th Street, Ste. 350  
Los Angeles, California 90013-1105

Telephone: (213) 576-6911 (direct)  
-or- (213) 576-6982 (office)

**FILED**

OCT 16 2008

DEPARTMENT OF REAL ESTATE  
BY: *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \* \* \*

In the Matter of the Accusation of )

NEW HAVEN FINANCIAL INC.; )  
and, LAWRENCE S. RABINOFF, )  
individually and as designated )  
officer of New Haven Financial Inc., )

Respondents, )

No. H- 35387 LA

A C C U S A T I O N

The Complainant, Robin Trujillo, a Deputy Real Estate  
Commissioner of the State of California, for cause of Accusation  
against NEW HAVEN FINANCIAL INC. and LAWRENCE S. RABINOFF,  
individually and as designated officer of New Haven Financial  
Inc., alleges as follows:

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1.

1           The Complainant, Robin Trujillo, acting in her official  
2 capacity as a Deputy Real Estate Commissioner of the State of  
3 California, makes this Accusation against NEW HAVEN FINANCIAL  
4 INC. and LAWRENCE S. RABINOFF  
5

2.

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

10                           LICENSE HISTORY

11           3.

12           A. NEW HAVEN FINANCIAL INC. At all times mentioned,  
13 NEW HAVEN FINANCIAL INC. ("NHF") was licensed or had license  
14 rights issued by the Department of Real Estate ("Department") as  
15 a real estate broker. On July 28, 1994, NHF was originally  
16 licensed as a real estate broker by LAWRENCE S. RABINOFF as the  
17 designated officer.

18           B. LAWRENCE S. RABINOFF. At all times mentioned,  
19 LAWRENCE S. RABINOFF ("RABINOFF") was licensed or had license  
20 rights issued by the Department as a real estate broker. On  
21 September 16, 1989, RABINOFF was originally licensed as a real  
22 estate broker; and

23           C. At all times material herein, NHF was licensed by  
24 the Department as a corporate real estate broker by and through  
25 RABINOFF, as the designated officer and broker responsible,  
26 pursuant to Code Section 10159.2 of the Business and Professions  
27

1 Code for supervising the activities requiring a real estate  
2 license conducted on behalf NHF of by NHF's officers, agents and  
3 employees, including RABINOFF.

#### 4 BROKERAGE AND LICENSED ACTIVITIES

5 4.

6 At all times mentioned, in the City of Calabasas,  
7 County of Los Angeles, NHF acted as a real estate broker and  
8 conducted licensed activities within the meaning of:

9 A. Code Section 10131(d). NHF operated a mortgage and  
10 loan brokerage; and

11 B. In addition, NHF conducted broker-controlled  
12 escrows through its escrow division under the exemption set forth  
13 in California Financial Code Section 17006(a)(4) for real estate  
14 brokers performing escrows incidental to a real estate  
15 transaction where the broker is a party and where the broker is  
16 performing acts for which a real estate license is required.

#### 17 MORTGAGE LOAN AND BROKER ESCROW AUDIT

18 5.

19  
20 On September 24, 2008, the Department completed an  
21 audit examination of the books and records of NHF pertaining to  
22 the mortgage loan and broker-escrow activities described in  
23 Paragraph 4 that require a real estate license. The audit  
24 examination covered a period of time beginning on March 1, 2005,  
25 2006 to January 31, 2008. The audit examination revealed  
26 violations of the Code and the Regulations as set forth in the  
27

1 following paragraphs, and more fully discussed in Audit Report LA  
2 070290 and 070295 and the exhibits and work papers attached to  
3 said audit report.

4 TRUST ACCOUNTS

5 6.

6 At all times mentioned, in connection with the  
7 activities described in Paragraph 4, NHF accepted or received  
8 funds in trust ("trust funds") from or on behalf of buyers,  
9 sellers, borrowers and escrow holders. Thereafter NHF made  
10 disposition of such funds. From time to time herein mentioned  
11 during the audit period, said trust funds were deposited and/or  
12 maintained by NHF in the bank accounts as follows:

13  
14 "New Haven Financial Inc.  
15 Account No. 7601002673"  
16 Union Bank of California  
P.O. Box 512380  
Los Angeles, CA 90051-0380 (escrow trust account)

17  
18 "New Haven Financial Inc.  
19 Account No. 1290067479"  
20 Union Bank of California  
P.O. Box 512380  
Los Angeles, CA 90051-0380 (loan servicing trust account)

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1 VIOLATIONS OF THE REAL ESTATE LAW  
2 MORTGAGE LOAN AND BROKER ESCROW AUDIT

3 7.

4 In the course of activities described in Paragraphs 4  
5 and 6, above, and during the examination period described in  
6 Paragraph 5, Respondents NHF and RABINOFF, acted in violation of  
7 the Code and the Regulations in that they:

8 (a) Permitted, allowed or caused the disbursement of  
9 trust funds from the loan servicing trust account where the  
10 disbursement of funds reduced the total of aggregate funds in  
11 escrow trust account, to an amount which, on January 31, 2008,  
12 was \$1,939.65, less than the existing aggregate trust fund  
13 liability of NHF to every principal who was an owner of said  
14 funds, without first obtaining the prior written consent of the  
15 owners of said funds, as required by Code Section 10145 and  
16 Regulations 2832.1, 2950(g) and 2951.

17  
18 (b) Failed to notify investors Sherman and Symonds that  
19 borrower Yniguez had defaulted on her loan, in violation of Code  
20 Section 10233(c)(1).

21 (c) The bank accounts for the broker escrow and loan  
22 servicing were not in the name of the broker as trustee at a bank  
23 or other financial institution, nor designated as trust accounts,  
24 in violation of Code Section 10145 of the Code and Regulations  
25 2832(a), 2950(d) and 2951

26 ///

1 (d) No separate trust fund beneficiary records were  
2 maintained for the unidentified and unaccounted for trust funds  
3 in the loan servicing trust account in the amount of \$2,000, in  
4 violation of Code Section 10145 and Regulations 2831.1, 2950(d)  
5 and 2951.

6 (e) Charged financed points and fees in excess of  
7 \$1,000 or 6% of the original principal balance, exclusive of  
8 points and fees in the three (3) covered loan transactions for  
9 borrowers Yniguez, Goeckner and Ray, in violation of Financial  
10 Code Section 4979.6 of the Predatory Lending Act.

11 (f) Failed to provide Consumer Caution and Home  
12 Ownership Counseling Notice no later than three business days  
13 prior to signing of the loan documents in the Yniguez, Goeckner  
14 and Ray covered loan transactions, in violation of Financial Code  
15 Section 4973(k)(1) of the Predatory Lending Act.

16 (g)(1) Permitted and/or caused the disbursement of  
17 trust funds to credit report companies on the representation that  
18 these amounts were needed to pay for credit report fees, which  
19 payments exceeded the actual costs of these services.

20 Respondents did not disclose to borrowers Yniguez, Rhodes,  
21 Balderas-Gallardo, Keshishi, Metcalf, Goeckner and Ray these  
22 "mark-ups" of said trust funds, did not obtain their consent to  
23 these "mark-ups". Respondents retained the difference between  
24 the amounts paid and the actual costs of the services, in  
25 violation of Code Sections 10176(a) and 10176(g); and  
26  
27



1 (g)(2) Failed to disclose in writing to all parties  
2 including borrowers Anaya, Rhodes, Balderas-Gallardo, Keshishi,  
3 Metcalf, Arredondo, Goeckner and Cohen of NHF's financial  
4 interest and ownership of its escrow division, as required by  
5 Code Section 10176(g) and Regulation 2950(h).

6 (h) Failed to retain a true and correct copy of a  
7 Department of Real Estate approved Mortgage Loan Disclosure  
8 Statements signed by the broker for borrowers Yniguez, Anaya,  
9 Balderas-Gallardo, Keshishi, Metcalf, Goeckner and Ray, as  
10 required by Code Section 10240 and Regulation 2840.

11 (i) Failed to retain a statement wherein the investors  
12 indicate whether or not the investment in the multi-investor  
13 loans that exceeded ten percent (10%) of the investors adjusted  
14 gross income or ten percent (10%) of the investors net worth, as  
15 required by each investor of whom meets one or both of the  
16 aforesaid suitability standards and qualifications, evidenced by  
17 a statement signed by the investor charged, and retained by NHF  
18 for four years, in violation of Code Section 10238(f)(1) with  
19 respect to borrowers Yniguez, Rhodes, Balderas-Gallardo,  
20 Keshishi, Metcalf and Arredondo.  
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DISCIPLINARY STATUTES AND REGULATIONS  
MORTGAGE LOAN AND BROKER ESCROW AUDIT

8.

The conduct of Respondents NHF and RABINOFF described in Paragraph 7, above, violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
7(a)	Code Section 10145 and Regulations 2832.1, 2950(g) and 2951
7(b)	Code Section 10233(c)(1)
7(c)	Code Section 10145 and Regulations 2832(a), 2950(d) and 2951
7(d)	Code Section 10145 and Regulations 2831.1, 2950(d) and 2951
7(e)	Financial Code Section 4979.6
7(f)	Financial Code Section 4973(k)(1)

1 7(g) Code Sections 10176(a) and 10176(g)  
2 and Regulation 2950(h)

3  
4  
5 7(h) Code Section 10240 and Regulation  
6 2840

7  
8  
9 7(i) Code Section 10238(f)(1)

10 The foregoing violations constitute cause for the suspension or  
11 revocation of the real estate license and license rights of NHF  
12 and RABINOFF, under the provisions of Code Sections 10176(a) for  
13 substantial misrepresentation, 10176(c) for a continued and  
14 flagrant course of misrepresentations or making of false promises  
15 through real estate agents or salespersons, 10176(g) for  
16 undisclosed compensation, 10177(d) for violations of the Real  
17 Estate Law, 10177(g) for negligence or incompetence.

18 MISREPRESENTATION

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20 9.

21 Respondents NHF and RABINOFF intentionally engaged in  
22 the conduct above set forth in Paragraph 7. Alternatively,  
23 Respondents NHF and RABINOFF engaged in deceit by way of  
24 negligent misrepresentation, in violation of and Code Sections  
25 10176(a) for misrepresentation, 10176(i) for fraud and dishonest  
26 dealing and/or 10177(g) for negligence or incompetence.

27 ///

10.

1 The overall conduct of Respondents NHF and RABINOFF  
2 constitutes negligence or incompetence. This conduct and  
3 violation are cause for the suspension or revocation of the real  
4 estate license and license rights of Respondents NHF and RABINOFF  
5 pursuant to Code Section 10177(g).  
6

11.

7 The overall conduct of Respondent RABINOFF constitutes  
8 a failure on his part, as officer designated by a corporate  
9 broker licensee, to exercise the reasonable supervision and  
10 control over the licensed activities of NHF as required by Code  
11 Section 10159.2, and to keep NHF in compliance with the Real  
12 Estate Law, and is cause for the suspension or revocation of the  
13 real estate license and license rights of RABINOFF pursuant to  
14 the provisions of Code Section 10177(h).  
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1 WHEREFORE, Complainant prays that a hearing be  
2 conducted on the allegations of this Accusation and that upon  
3 proof thereof, a decision be rendered imposing disciplinary  
4 action against the license and license rights of Respondents NEW  
5 HAVEN FINANCIAL INC. and LAWRENCE S. RABINOFF, under the Real  
6 Estate Law (Part 1 of Division 4 of the Business and Professions  
7 Code) and for such other and further relief as may be proper  
8 under other applicable provisions of law.

9 Dated at Los Angeles, California

10 this 10 day of October 2008.   
11 Deputy Real Estate Commissioner

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21  
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23  
24 cc: New Haven Financial Inc.  
25 c/o Lawrence S. Rabinoff D.O.  
26 Robin Trujillo  
27 Sacto  
Audits - Darryl M. Thomas  
Kimberly Wessler