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Lincoln Savings and Loan, Volume II

Assembly Committee on Finance and Insurance

California Legislature

Assembly Committee on Finance and Insurance

STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA 94249-0001
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A COMPILATION OF TESTIMONY
AND EXHIBITS
ON THE SUBJECT OF

LINCOLN SAVINGS AND LOAN

for hearings held by the

ASSEMBLY FINANCE AND INSURANCE
SUBCOMMITTEE ON SAVINGS AND LOAN LAW AND REGULATION

PATRICK JOHNSTON, CHAIRMAN

August 31, 1989
November 29, 1989
December 20, 1989

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ASSEMBLY FINANCE AND INSURANCE
SUBCOMMITTEE ON SAVINGS AND LOAN LAW AND REGULATION

Hearing on the Subject of

THE SALE OF AMERICAN CONTINENTAL SUBORDINATE DEBENTURES TO LINCOLN SAVINGS AND LOAN CUSTOMERS

by

Chairman Patrick Johnston

on

November 29, 1989

State Capitol
Sacramento, California

ASSEMBLY FINANCE AND INSURANCE
SUBCOMMITTEE ON SAVINGS AND LOAN LAW AND REGULATION

November 29, 1989

State Capitol, Room 4202

CHAIRMAN PATRICK JOHNSTON: Good morning. My name is Patrick Johnston. I am chairman of the Assembly Finance and Insurance Committee and of the Subcommittee on Savings and Loan Law and Regulation.

The purpose of today's Subcommittee hearing is to study the role of the State Department of Savings and Loan in examining and supervising Lincoln Savings and Loan, the Department of Corporation's approval of the issuance of American Continental Corporation subordinate debentures, and allegations of improper influence of state regulators.

The sensational and costly failure of Lincoln Savings has a direct impact on this state. California residents are depositors in Lincoln and purchased subordinated debentures, unsecured and uninsured bonds issued by Lincoln's parent, American Continental Corporation. The State Department of Savings and Loan was the primary regulator of Lincoln and approved the sale of subordinated debentures in Lincoln branches. The Department of Corporations approved the sale of the subordinated debentures in California.

The failure of Lincoln and the reorganization of American Continental Corporation under bankruptcy laws have rendered over $200 million of the subordinated debentures worthless. The failure of Lincoln will cost the taxpayers of the United States over $2 billion.

Lincoln, as a California Savings and Loan Association, took advantage of the most liberal savings and loan law in the United States. The Chairman of American Continental Corporation is Charles Keating, Jr.

Federal and state regulators identified problems in Lincoln Savings including over valuation of assets, improper or questionable accounting practices, self-dealing, excessive investment and junk bonds, over concentration of loans and lack of adequate underwriting practices for investments in loans and other violations of law. The State Department of Savings and Loan examined Lincoln Savings or participated in examinations with federal regulators six times between 1984 and the failure of Lincoln in 1989.

Federal regulators based in San Francisco in 1987 recommended that Lincoln be placed into receivership or conservatorship and the Department of Savings and Loan concurred in that

recommendation. Lincoln Savings and American Continental Corporation were very aggressive in dealing with the regulators challenging their findings, obstructing access to documents and hiring accounting firms and law firms to also challenge the regulators.

Mr. Keating felt that the savings and loan regulators unnecessarily interfered with the ability of Lincoln to do business and that this interference led to Lincoln's demise.

In addition to the regulatory problems, purchasers of the subordinated debentures, or junk bonds are alleging fraud in the sales of those instruments and that they were misled as to the true nature of those instruments. Customers seeking to place funds into insured CD's may have been steered to the riskier subordinated debentures. A memo released Monday that Lincoln personnel may have participated in the sale of the instruments and that sale bonuses were paid to Lincoln and American Continental employees, both violations of state and federal law.

There are also allegations that political influence may have played a part in regulators dealings with Lincoln Savings and American Continental Corporation, even at the state level. The law firm used by American Continental Corporation to secure

approval for the subordinated debenture issuance has as one of its partners the chief fund raiser for the Governor of this state. The former Corporations Commissioner is a partner in that firm and the current commissioner was formerly employed by the firm.

We are here today to accept testimony concerning the role of the State Department of Savings and Loan and examining and supervising Lincoln Savings. What caused Lincoln to fail? When did the Department know about these problems. What did the Department do about these problems? To what extent did Lincoln Savings or American Continental cooperate with the Department?

We are going to look at the Department of Corporations approval of the issuance of the subordinate debentures. Our August 31st hearing touched on some of the issues surrounding these instruments. What information does the Department have access to in its review? What constitutes the fair just and equitable standard used by the Department in approving the issuance of the debentures? We will look at improper influence as alleged on state regulators. What impact did a politically well-connected law firm have on the regulators, if any? Were there attempts at improper influence?

Our witnesses today will appear in three panels. Panel one

will be William Crawford, Commissioner of Savings and Loan; Tommy Mar and Richard Newsom, Examiners for that Department.

Panel two will be Christine Bender, Commissioner of Corporations and Ronald Carruth and Robert Rifkin, Counsel for the Department.

Panel three will be Karl Samuelian and Franklin Tom, partners in Parker, Milliken, Clark, O'Hara and Samuelian, the law firm which represented American Continental in the subordinated debenture filings.

Mr. Crawford and Ms. Bender and Mr. Tom appeared before us last August in a hearing devoted solely to the issuance of the subordinated debentures. One of the results of this hearing will be ideas or suggestions for amendments to California Savings and Loan law to restrict some of the practices which led to the failure of Lincoln and other institutions. The Subcommittee will also prepare a report and will be released to the public.

The witnesses today will be sworn in as is our practice for investigation and oversight hearings. I will now request Mr. Miller from the Legislative Counsel's office to make some advisory comments to the witnesses and I should advise the public that all

the witnesses while subpoenaed as is our custom, appear here voluntarily and have not resisted in any manner the efforts by this Committee to receive their testimony. Mr. Miller.

MR. ROBERT MILLER: First, I would like to ascertain whether all the witnesses that the Chairman identified are all present. Mr. Crawford, Mr. Mar, Mr. Newsom, Ms. Bender, Mr. Carruth, Mr. Rifkin, Mr. Samuelian, and Mr. Tom?

All right. I am going to read to you a statement that is in the Government Code that explains your rights and responsibilities as a witness before a legislative committee. Section 9410 of the Government Code provides that a person sworn and examined before the Senate, the Assembly or a legislative committee cannot be held to answer criminally or be subject criminally to any penalty or forfeiture for any fact or act touching which he or she is required to testify other than for perjury committed in testifying or contempt. However, the Subcommittee will not require your testimony. The Subcommittee does not wish to be placed in a position where it can be claimed that you received immunity from any possible criminal prosecution because of your testimony before this Subcommittee. Because you are not being given immunity from criminal prosecution you have a constitutional right to refuse to testify before this Subcommittee. If you desire to waive this

right and to testify voluntarily, you will be given that opportunity subject to all of the following conditions.

If you do not wish to answer any question, you will so state. In the absence of such a statement, your answer to each question will be entirely voluntary. If you choose to testify, you will be sworn under oath and will be, therefore, subject to criminal prosecution for perjury committed in testifying. If you choose to so testify voluntarily, you are reminded that any self incriminating statements you make can be used against you in criminal proceedings. Mr. Chairman.

CHAIRMAN JOHNSTON: OK. I would like now to invite the first panel to come forward from the Department of Savings and Loan. Mr. Crawford, Mr. Mar, Mr. Newsom. If you would sit there and I am going to ask of each of the witnesses gives their individual testimony or we have specific questions that we use the podium. I would like to begin with Mr. Newsom, whom I believe has an opening statement.

MR. MILLER: Mr. Chairman, if I could. Do you want me to swear in....

MR. JOHNSTON: Yes, please.

MR. MILLER: I would like to ask each of you for the record whether or not you understood the statements that I read to you regarding your rights as a witness before this Committee. The other two gentlemen? Did you understand your rights as a witness, from the statements that I read before the Committee?

VOICE: I would (inaudible).

MR. MILLER: Mr. Chairman.

MR. JOHNSTON: I'm sorry. Mr. Mar?

MR. TOMMY MAR: I would like (inaudible).

MR. MILLER: Are you stating that you do not wish to testify voluntarily?

MR. MAR: I cannot volunteer to testify voluntarily because we have a law that says I can only cooperate with, you know, regulatory agency.

MR. MILLER: Mr. Chairman, if you compel the witness to testify, you compel him, you thereby grant him immunity from

criminal prosecution.

MR. JOHNSTON: I am going to rely on Mr. Crawford to indicate to his subordinate when it's appropriate for him to testify and when it may not be, in which case I suspect that either Mr. Crawford or Mr. Newsom could answer the questions.

MR. WILLIAM CRAWFORD: It is not my position to restrict the witnesses. I think they have to make their own judgment and I do not wish to substitute my judgment for theirs. I would prefer that they would answer as openingly as they can and if they see some impediment, that's their impediment. Not mine.

MR. JOHNSTON: Mr. Mar. If you do, you indicate to the committee and we will respect that.

MR. MAR: Let me try to clarify this. We have a law that says I may cooperate with, as far as I know, administrative investigative agency, I may be wrong. So for that purpose I would like to have your requirement to testify.

MR. JOHNSTON: Fine, we require you to testify.

MR. CRAWFORD: Why don't you require us all to testify, so

we're all protected.

MR. JOHNSTON: Certainly, we require you all to testify. That is why we subpoenaed you.

MR. CRAWFORD: Subpoenas should cover it, I think.

MR. JOHNSTON: That's right. I would think it covers it.

MR. CRAWFORD: Thank you.

MR. JOHNSTON: All right. Mr. Newsom.

MR. RICHARD E. NEWSOM: Thank you. My name is Richard E. Newsom and I am a senior

MR. MILLER: Mr. Chairman. Do you want to swear the witnesses? Do you want them to testify under oath?

MR. JOHNSTON: Yes.

MR. MILLER: Would each of you raise your right hand please. Do you solemnly swear that the testimony you are about to give before this Committee will be the truth, the whole truth and

nothing but the truth?

MESSRS. NEWSOM, MAR AND CRAWFORD: I do.

MR. MILLER: Would you state your name and title for the record, please.

MR. NEWSOM: Richard Newsom. Examiner IV Specialist with the California Department of Savings and Loan.

My name is Richard E. Newsom and I am a senior field examiner with the California Department of Savings and Loan based in San Francisco, California. I am here pursuant to a subpoena which was served yesterday. I understand the Committee has a complete copy of my testimony and all attached exhibits provided to the House Banking Committee on October 31, 1989, and I will attempt to briefly augment this testimony to avoid wasting this Committee's valuable time.

My first contact with American Continental Corporation, the holding company of Lincoln Savings and Loan Association occurred on September, 1988 which I was assigned to act as the examiner in charge of the holding company examination of ACC. As more specifically detailed in my Congressional testimony, I rapidly

changed priorities with the approval of Mr. Stelzer, the Department's examiner in charge of Lincoln, after I had identified a series of massive loan problems. One of these problem loans was Lincoln's Hotel Ponchartrain loan. It was readily apparent that there was a $20 million loss on this loan and that it involved flagrant, unsafe and unsound lending practices, even more flagrant violations of federal conflict of interest regulations and ACC's dissemination of inaccurate, incomplete and erroneous information in public disclosure statements. Based on the documents available, it was my opinion that the Ponchartrain transaction represented the willful misappropriation of $20 million in company assets, almost one quarter of ACC's net worth as of 9/30/88 for the benefit of insiders without a prayer of collection and with grossly misleading disclosures to the public. The documentation was overwhelming and clear to me, to state and federal savings and loan regulators, and eventually to the FDIC, who used this transaction in part to support a RICO suit. I was unable to determine the difference between the Hotel Ponchartrain transaction and what amounted to outright theft of $20 million, followed by lying to the shareholders and creditors to conceal the theft which I felt to be grounds for securities regulators taking action to stop subordinated debt sales.

It was my opinion that virtually no prudent and informed

investor would invest in ACC if advised of the magnitude of the misappropriation of company assets, the willful nature of the violation of regulations and breach of fiduciary duty by insiders. My concerns were immediately conveyed to Lincoln ACC management in a letter (Exhibit 2 to Congressional testimony), dated October 6, 1988 to management, I conveyed my concern that involvement, "involvement of so many officers, directors and affiliated parties in such a blatant violation of conflict of interest regulations reflects unfavorably on the integrity of the whole institution." As an interesting side note, one of the ACC officers involved in the transaction turned up as a proposed 23% acquirer of Lincoln as a part of the Rousselot group after I had referred the Ponchartrain transaction to the FBI. The Hotel Ponchartrain transaction involved what appeared to be clear cut errors and material admissions in public disclosures addressed in detail in Exhibits 1, 2 and 4 to my Congressional testimony. These exhibits were copies of the same documents that I had provided to a Department of Corporations official at the conclusion of the November 10, 1988 meeting between Department of Corporations personnel and Department of Savings and Loan personnel. The purpose of this meeting was to convey to the Department of Corporations general concerns about the viability of ACC as well as specific concerns about the Ponchartrain transaction and to seek assistance in stopping the subordinated debenture sales.

I advised the Corporations personnel, Morton Riff, Robert Rifkin and Ken Endo, of the specific disclosure problems on the Hotel Ponchartrain transaction and hoped it would justify Corporations' curtailment of subordinate debt sales. In addition to the documents provided at this meeting, Corporations officials were invited to review the box of documents supporting our criticism of the Ponchartrain transaction located in our Los Angeles offices.

The Department of Savings and Loan final draft of the cease and desist order against Lincoln and ACC was submitted to the State Attorney General's office for final review in December, 1988. The committee has a copy of this as an exhibit. This draft included an order requiring ACC, in essence, to stop misleading the public in public disclosure statements based on the finding that inaccurate and misleading statements appeared in ACC's public disclosure documents. These findings and the proposed order were deleted from the order finally issued, reportedly at the request of the Deputy Attorney General assigned to this matter. I was informed indirectly through Shirley Thayer in our Los Angeles legal division that the Deputy Attorney General felt that he lacked securities law expertise to effectively deal with any court challenge by ACC of the department's order.

I understand the Committee is considering changing savings and loan law. I hope this occurs because one of the catastrophic problems with major expansion of savings and loan powers was the virtual deletion of all significant conflict of interest prohibitions from the Savings Association. In effect, there is no specific state prohibition against insiders stealing from their own association. I would particularly like to thank Mr. Crawford and Mr. Bill Davis' assistance for their support through the last several months in bringing this whole matter to light.

Thank you very much.

MR. JOHNSTON: Mr. Newsom. To put your testimony in context. In November of 1986 the Department of Corporations approved the sale of $200 million in subordinated debentures, sometime referred to as junk bonds, by ACC through its principal subsidiary, Lincoln Savings. Is that correct?

MR. NEWSOM: I am not--my knowledge of this Lincoln particularly relates from September 1988 on.

MR. JOHNSTON: I understand. I believe that to be the fact and subsequent to that in May of 1988, an additional $150 million

in subordinated debentures was approved by the Department of Corporations for sale through Lincoln Savings and its parent ACC. You testify about the period following that in late 1988 where in your view there were significant problems with Lincoln and the Department issued a cease and desist order. Is that correct?

MR. NEWSOM: Yes.

MR. JOHNSTON: Would you summarize for the committee the degree of cooperation or lack of cooperation that you received from Lincoln at that time.

MR. NEWSOM: We had increasing levels of hostility and lack of cooperation as we moved forward. Initially they started relatively friendly in terms of the holding company examination. Fairly quickly the federal holding company examiners were doing an outstanding job of looking into things, and by mid-October I believe we were all of a consensus, both myself and the federal holding company examiners, that there were massive problems, that the subdebt should not have been approved by the Federal Home Loan Bank because the purpose of the subdebt did not make commercial sense to the holding company and we all had serious concerns about what was going to happen to the subdebt holders. Just about that time when we started to create hostility by asking specific

questions, Mr. Keating, Mr. Charles Keating came down to the examiner's area and essentially challenged the authority of the examiners to examine the holding company. In particular he addressed the federal holding company examiners based on the Memorandum of Understanding. Mr. Keating indicated he felt that they had no right to even be there and he also indicated that he felt that the holding company examination was going far afield of looking at matters specifically related to Lincoln. At that point he indicated something to the effect that he thought maybe he would throw all the examiners who were examining the holding company out of the examination. I asked him, "Does your threat apply to the State of California as much as we didn't sign the MOU." He said, "Well, yes." So I said well I think your attorney is going to be talking to our attorney because we have the right to examine the holding company. At that point he again said, "Well, why are you even examining it," and I responded to him that something, words to the effect, that one of the reasons we were looking at it was because people who we felt were not accurately informed regarding the condition of Lincoln or ACC were investing money in subordinated debt there, which on the other side was being used to support treasury stock purchases from insiders at what we perceived as being relatively high prices. That was reason enough for us to look at the whole thing because it didn't look right.

MR. JOHNSTON: Did you advise the Department of Corporations in your November meeting with Department of Corporations personnel of the impressions that you had, in the facts that you had at that time, which you have just testified to?

MR. NEWSOM: What I recall telling the Corporations personnel was that we had serious concerns that we felt the institution was probably busted, but it would take some time to prove it. We were in process of an examination. As an immediate effort to perhaps stop the subordinated debt sales, we felt the use of a disclosure issue would be a vehicle that they might use to assist us in stopping the subdebt. Some of the disclosure problems related back I believe to May 1988 and even earlier disclosures. One of the problems with the ACC disclosure is that we felt was many, nearly all their public reports, included a large number of references that were incorporated by reference to other documents. One of the problems they had was that they included a misleading, and erroneous statement. Very misleading and erroneous statement to the effect on the Hotel Ponchartrain that the transaction was on the same terms of conditions as afforded the general public, which was pure BS.

MR. JOHNSTON: That is a technical term.

MR. NEWSOM: Yes. (laughter) We use it sometimes in examinations, particularly at this place. But it seemed to us that the facts were overwhelming on this transaction and while we move forward and attempted to document the insolvency of the institution, that would be something the Corporations people, staff, could assist us with because we are not experts in securities law. We drafted our cease and desist order based upon unsafe and unsound issues that were within our Code and our plan was if they wanted to take us to court on it, we felt the public would benefit because if it ended up in a public court, the public would know what was going on. So we frankly felt we couldn't lose, getting it out to the public.

MR. JOHNSTON: Thank you. Questions from the members. Mr. Seastrand.

ASSEMBLYMAN ERIC SEASTRAND: You said that they were taking the money from the sales of these subordinated debentures and buying treasury stock?

MR. NEWSOM: Yes, they were buying stock from insiders. The treasury stock is essentially the stock that was outstanding in the American Continental that was held by insiders, Keating family

members and others.

MR. SEASTRAND: That is not treasury stock.

MR. NEWSOM: After it was acquired by American Continental, it is. American Continental was acquiring that stock back from the insiders....

MR. SEASTRAND: Were they paying market rates for it?

MR. NEWSOM: We looked at that in at least one or two instances. We saw that the quotes didn't make sense; that they were paid the actual close price was slightly over the quoted high for the day on the information we had. We weren't experts at securities matters and so we called up the SEC, approximately October 17, and explained to them what we thought we were finding and we weren't that skilled as far as nuances of securities law and obviously we needed help because these people were the state of the art and we were... this wasn't our place, but I think that answers your questions about treasury stock purchases. That is what they were doing.

MR. SEASTRAND: Well, they were buying stock to be treasury stock, then, and not buying treasury stock....

MR. NEWSOM: It was also generally restricted stock. The insiders stock was subject to specific restrictions so it was subject to limitations and open market sales, so the sale back to ACC was a perfect way to resolve the problem because if ACC bought it what they were doing, we asked them wait a second, how come you're paying top dollar for restricted stock. There should be a discount for restricted stock relative to market stock and the response was well we are retiring it all so it doesn't matter, which is I guess rational. But it seemed like the treasury stock purchases over time were heavily weighted towards sales from insiders. It seemed like when they wanted to go into the market, when the insiders wanted to sell was when American Continental seemed to want to go into the market to buy a lot of stock. That was addressed in detail in federal interim holding company examination report in mid-October which Kevin O'Connell of ORA told me was provided eventually to the SEC in November.

MR. JOHNSTON: Ms. Wright.

ASSEMBLYWOMAN CATHIE WRIGHT: Yes. I would like you to elaborate a little more on basically its your second full paragraph in which you mentioned the fact that you took your final draft of a cease and desist order to the Attorney General?

MR. NEWSOM: I didn't personally, but Shirley Thayer, our southern California attorney did.

MS. WRIGHT: Had the Attorney General went forward on the cease and desist order this whole thing could have been at least brought up publicly in December of 1988. Is that correct?

MR. NEWSOM: It was my feeling and I think shared by our internal northern California attorneys that this would have dropped an atomic bomb on their subdebt sales program. It would have been very, very difficult in terms of a potential criminal exposure to securities fraud to continue to sell subordinated debt after an order was outstanding against them telling them they were misleading the public and ordering them to stop. We felt that we weren't securities experts, but we felt that it would certainly cause them major delay and have to be disclosed and frankly, we didn't feel that they could tell the truth and really get anybody to buy this stuff if it came out.

MS. WRIGHT: And you're telling this committee that the, Attorney General Van de Kamp....

MR. NEWSOM: No not he ...but a deputy attorney general.

MS. WRIGHT: He is responsible for the Department, correct?

MR. NEWSOM: I assume so, yes.

MS. WRIGHT: Would say that because they didn't have the expertise they would not go forward with this?

MR. NEWSOM: Well, I wasn't there for that, and I am relaying what I was told from a meeting from our northern California counsel that heard Shirley Thayer respond back to the Commissioner. So what I suggest, it sounds incredible to me also, but...

MS. WRIGHT: It sure does to me....

MR. NEWSOM: ...But it you want to pursue that I think it might be worthwhile for you to talk to these people, both people involved who actually discussed that.

MS. WRIGHT: Because then my next question would be to you, if the Attorney General, his office, says to you that we don't have the expertise, so therefore we are not going to go forward with this proposal, what other avenue do you have? How else would

you get a cease and desist order if it would not be through the Attorney General?

MR. NEWSOM: The question would be issuing the order and I think it is getting into the area of issuing an order without the complete support of the agency that has to defend you in court, if they challenge it. I am not a complete expert in that area but I felt this was important enough to attempt to deliver it.

MS. WRIGHT: And then you didn't go any further with it?

MR. NEWSOM: I didn't sign the order. I was on vacation when this happened. As soon as the thing over the AG I was burned out and I figured we had it done and this happened while I was on vacation. I agree with you that I was very upset at it because I felt that indirectly it would immediately stop the subdebt sales and that for example in January I believe $10 million was sold and somebody from the House Banking Committee told me that the sales continued through February.

MS. WRIGHT: I certainly would like to hear the Attorney General's response to something such as this because I think it's unconscionable.

MR. JOHNSTON: Mr. Lancaster.

MR. BILL LANCASTER: Thank you, Mr. Chairman. I would like to go back to the marketing of these high risk instruments and that's exactly what they were. It's in effect been called junk bond but they had a very low priority and the only thing behind these particular instruments were supposedly the ability of American Continental in order to redeem them after everything else were paid. You could equate, I guess, to a second mortgage. The first mortgage has first claim, in effect.

The Department allowed these kinds of instruments to be sold on the premises and they issued permission for American Continental to come on the premises of Lincoln Savings and Loan and in some instances according to some testimony allowed the person selling these instruments to get behind the counter at Lincoln Savings and Loan. Now there is obviously an impression created. They were buying instruments that were fully guaranteed and insured. Is this common practice for the Department to allow this type of activity to go on in our savings and loan?

MR. NEWSOM: I am probably the wrong person to answer that as a field examiner. It would probably be better...

MR. JOHNSTON: Maybe we could hold that for Mr. Crawford, if we could, Mr. Lancaster.

MR. LANCASTER: I raise the question, Mr. Chairman, to this gentlemen, because he is the person who said he had all these circumstances surrounding these debentures and so it seems to me that whether the Attorney General did anything or anybody else did anything, the Department had the ability to go in and say "Stop selling these at Lincoln Savings and Loan."

MR. JOHNSTON: Again, I think those are the appropriate questions. What I would like to do if that is all the questions for this witness, is to ask Mr. Mar to testify and then Mr. Crawford on the policy issues and the powers of the Department. I think we ought to ask the kind of questions that you have. Thank you very much Mr. Newsom. Mr. Mar, would you come to the rostrum.

In your responsibilities to the Department of Savings and Loan, how did you become involved with Lincoln Savings and Loan?

MR. MAR: I went to work ....Lincoln. Get involved with it. What do you mean, how?

MR. JOHNSTON: Were you involved in the examination of

Lincoln Savings and Loan during any of the period between its sale to Mr. Keating in 1984 and its eventual demise in 1989?

MR. MAR: I was involved in the review of the 1986 joint examination and resolved problems related thereto.

MR. JOHNSTON: Let me ask you then specifically about that. You are talking about the Federal Home Loan Bank Board examination from the San Francisco office that began in March 1986. Is that correct?

MR. MAR: That plus the Department's examination report. I believe you are just reading the federal examination report.

MR. JOHNSTON: This is the federal report and there is a companion document. Is that correct? By the Department of Savings and Loan?

MR. MAR: We issue a separate report.

MR. JOHNSTON: Would you briefly summarize for the committee what the findings of your report were with respect to Lincoln at that time.

MR. MAR: I do not wish to recall by memory. It's in the document and I do not know that you want to ask me to ..

MR. JOHNSTON: Let me ask you to react to what the federal report said. Perhaps that will refresh your memory and you could tell me whether your report differed from this in any material way with respect to the conclusions. On page 2 of that report it says, "Examination of Lincoln Association and its subsidiaries disclose substantial problems. Deficiencies included violation of the direct investment limitation, concentration of investment geographically and in loans to a single borrower, underwriting weaknesses in loans, real estate and debt and equity securities investment, speculative options and forward commitment transactions, improper or questionable accounting practices, classified assets and other weaknesses. Predominant among the problems is the direct investment in violation which together with classified assets and required accounting adjustments has increased the association's net worth requirement and reduced net worth to the extent of producing a regulatory net worth violation. Net worth has been calculated to be below the regulatory standard by $111,000,000 as of September 30, 1986." Was your examination consistent with that conclusion in the federal report?

MR. MAR: Consistent? No, we ended our examination much

earlier. The federal stayed behind and they, in fact, I vaguely remember there were impressions they were doing two examinations instead of one. They didn't like the first result and they redid it in some other manner. I was involved in the July 3, 1986 meeting with the management with the federal.

MR. JOHNSTON: With the management of Lincoln?

MR. MAR: Of Lincoln.

MR. LINCOLN: And with the federal regulators?

MR. MAR: Yes. In that meeting what you have read there are not the same item. So, I think our examination ended maybe two or three or four months before then.

MR. JOHNSTON: Can you characterize your examination? Did you give Lincoln a clean bill of health?

MR. MAR: No, I would say not. We have submitted to you all the document necessary. I would be glad to answer questions on that ...

MR. JOHNSTON: Well, let me move forward to 1988, March,

April, May, the period in which Lincoln and its parent, ACC, had applied to the Department of Corporations for permission to sell and additional $150,000,000 of subordinated debentures. During that period of time, the Department of Corporations was reviewing that request, did you discuss with the Department of Corporations personnel the financial health of Lincoln Savings?

MR. MAR: In May of 1988?

MR. JOHNSTON: Yes.

MR. MAR: I may or may not have. I don't exactly recall. If I had it would be in the records.

MR. JOHNSTON: OK. Any other questions of this witness by members of the Committee? Thank you, Mr. Mar.

MR. MAR: You're welcome.

MR. JOHNSTON: Mr. Crawford? Mr. Crawford. We appreciate your continued cooperation with this Committee at the prior hearing and in obtaining information and your appearance here. At all times you have been most helpful to the Committee. To some degree I suspect we are going to ask you to repeat or at least

summarize comments that you have made on other occasions, but I would like to ask you to tell the Committee why Lincoln failed, in your judgment.

MR. CRAWFORD: Well, it's hard to say one reason but if I was to pick one reason I would have to say that probably the owner was a con-man and I just have to say that he was a dominant person, that believed that he was above the laws and regulations and that he was powerful and he had the juice and he could win. He could fight the regulators and win. He did a pretty good job of it.

MR. JOHNSTON: In 1984, Mr. Keating acquired Lincoln Savings and Loan, a California chartered institution. Is that correct? In February 1984...

MR. CRAWFORD: February 22, 1984.

MR. JOHNSTON: OK. At that time. According to the federal report Lincoln had at its primary market area Los Angeles County, Orange County, and portions of Ventura County, and Riverside County. Is that right?

MR. CRAWFORD: Correct. Twenty-six offices I think they had.

MR. JOHNSTON: And at that time according to testimony previously given to Congress, the head of ACC,...

MR. CRAWFORD: Charles Keating?

MR. JOHNSTON: Mr. Charles Keating represented to the Federal regulators certain things would occur in their taking over Lincoln. I would now like to cite the testimony of Michael Patriarcha of the Office of Thrift Supervision from the San Francisco office, before Congress. It says, "In its application to acquire Lincoln, ACC represented among other things that (1) the current senior management of Lincoln would not be replaced; (2) the acquisition would not alter the availability of credit services in the communities served by the association; and (3) care would be taken to avoid violations of the affiliated transaction regulations. These representations were important to us because (1) ACC management had no significant savings and loan experience; and (2) Lincoln's existing management had a good record under the Community Reinvestment Act of writing mortgages for mortgage deficient areas of southern California. Based on these representations, we expected that there would be few changes in management of Lincoln or in its operating strategy. Mr. Keating's frequent claim that he purchased Lincoln with the expectation of engaging in unlimited direct investments only to

have the government change the rules on him, is false. He told us from the outset that Lincoln would continue to be a home lender." In any event the testimony continues and says in part, "...Lincoln's residential lending activity virtually ceased after the acquisition."

Were those representations made to your Department?

MR. CRAWFORD: Yes, they were.

MR. JOHNSTON: And do you conclude that he violated those promises?

MR. CRAWFORD: Absolutely.

MR. JOHNSTON: To what extent did Lincoln participate in making home loans?

MR. CRAWFORD: Very little. As of, let see the date here, December 31, 1987, Lincoln had consumer loans of 15/100 of 1%, 1-to 4-family unit loans of 1.59%, multi-family loans for 2.19%, so that total consumer type lending they had in their portfolio at that date was 3.93%. Consumer dealings.

MR. JOHNSTON: During the period, then, from its acquisition by Mr. Keating in February of 1984 until its demise in 1989, effectively, how did your Department supervise Lincoln Savings?

MR. CRAWFORD: Aggressively and we did what we could do with the staff that we had and ...

MR. JOHNSTON: Did you have insufficient staff?

MR. CRAWFORD: ...with the laws that we had our staff, I'll give you an example. In 1977, January 1, 1977, we had 88 associations and 108 examiners. We had 20 more examiners than we had associations. I came to work February 11, 1985, January 1st, 1985 we had 100, we reversed this, we had 149 savings and loans and 53 examiners, so we had 96 fewer examiners than we had associations, so we went from 20 plus to to 96 minus. Right today, we have 115 associations, 80 examiners. We have 35 fewer examiners today than we have associations. So that's kind of the name of the game.

MR. JOHNSTON: So in performing your responsibilities you cite an insufficient number of examiners to cover the number of associations effectively.

MR. CRAWFORD: Well, basically, it's the change in the law. The laws are perverse. Garn-St. Germain says that you can loan 100% of value, the Nolan bill says you can put 100% of your assets in a single service corporation, do anything you want it to, April 12th of 1982, the Federal Home Loan Bank changed their rule where nobody can own more than 10% of the stock to where one guy could own 100% of the stock, and 1980, or so, they increased the deposit insurance, or 1982, from 40,000 to 100,000. And so brokered money went all over the country to whoever would pay the highest rate. So it was a perverse thing. It was out of control.

MR. JOHNSTON: It was out of control in your judgment by the time you became Commissioner in 1985.

MR. CRAWFORD: Yes, I would say so. It was out of control in the early 1980's. You know, I would say by 1984. You know by January of 1984, they recodified the law, they took out a lot of the conflict of interest rules and we didn't even have a right to rescind an acquisition of control. If the guy lied to us on the change of control, the law didn't provide that we had a right to rescind that change of control. The federals have always had it, but so many people have lied when they have acquired these associations. They all tell you they are going to be traditional and you know they got these ulterior motives or they wouldn't be

getting it. A friend of mine that had Patriarcha's job for a number of years, I think it was 1956, Palm Spring Savings opened and they agreed not to pay more than the prevailing rate in the community. They opened on Wednesday, Thursday they kicked the rate, Friday Jack went down there, closed them up and they opened as a branch of Santa Fe Federal on Monday morning. Well, we don't do that anymore. So laws kind of favor the entrepreneur that you can't take his property away from him without due process and due process sometimes almost leaves no process. And so that is just the way it is. Every time you want to take aggressive action you talk to your attorneys and they tell you, "Why do you want to do that?"

MR. JOHNSTON: What laws passed by this Legislature caused you difficulty and what recommendations would you have for us in changing those laws?

MR. CRAWFORD: Well, the Nolan bill says that, see, with Garn-St. Germain it was pretty hard to give them anything more than that. They said you could loan 100% of value, so what are you going to tell them. So, what we did or what they did in California, they took all the percentage of assets limitations out of the law to where you could only loan 1% on a single loan or 10% on a single project or tract. Now you could with permission of

the Commissioner you could put 100% of your assets in a single service corporation to do anything the Commissioner thought you had the expertise to do. And so a guy applied and he says I got the expertise to do this. Charlie says I got the expertise to acquire vacant land and develop new towns. And somebody believed he had it and gave him authority to put $900,550,000 into....

MR. JOHNSTON: Who's that somebody?

MR. CRAWFORD: Well, the Commissioner.

MR. JOHNSTON: Which Commissioner?

MR. CRAWFORD: Well, the one before me.

MR. JOHNSTON: What was that Commissioner's name?

MR. CRAWFORD: Larry Taggart.

MR. JOHNSTON: I see. And he approved the investment over $800,000,000....

MR. CRAWFORD: It was $900,550,000. I think that is the figure I saw.

MR. JOHNSTON: In a subsidiary.

MR. CRAWFORD: He had a number of subsidiaries and he went over to Phoenix and looked at them and said they got the expertise and that's it. And in October of 1984 he gave them the permission to move the books and records to Arizona, so we had a California state chartered institution that was...really its books and records were in Arizona. It had 17 corporations when it started and when they acquired it in February 22, 1984, by the end of 1984 they had 34 corporations and a few years later, or three years later they had about 54 corporations and that was 54 places to hide the smoking gun. You know, you did something over here, you did something over here and you couldn't see the transactions were related. In the meantime, our examiners were examining certain March 12, 1986, in Irvine and they were working from copies of documents in a place that was out of control. A place that didn't have underwriting procedures, policies, that were being followed. And a lot of times there wasn't an underwriting records, and a lot of times there weren't appraisals in the file. It was a mess.

MR. JOHNSTON: And Mr. Taggart, after he approved that $900,000,000 investment, then left his position. Is that correct?

MR. CRAWFORD: Well, he had left before I was contacted.

MR. JOHNSTON: Before you came on the job.

MR. CRAWFORD: Right.

MR. JOHNSTON: But shortly after he approved the Lincoln Savings investments then he left his position as Commissioner. Is that right?

MR. CRAWFORD: That is correct.

MR. JOHNSTON: All right. Then did you have any further dealings with him as Commissioner?

MR. CRAWFORD: No, I didn't have any dealings with him until he came back sometime in 1985 and he was forming Shelter Island Savings and Loan, and I think he wanted to see something about I don't know whether about getting insurance of accounts or changing the makeup of the control group or something. But I don't recall what it was.

MR. JOHNSTON: Well, in your examination was there record of

loans or investments made by Lincoln or its parent to any business involving Mr. Taggart?

MR. CRAWFORD: Well, I don't know of any loans involving him. I know they made an investment of I don't know how much. But they acquired about 19% of TCS enterprises.

MR. JOHNSTON: Is that in excess of $2,000,000.

MR. CRAWFORD: Yes, it was. They don't even need our approval for that. They could put up to 5% of their assets on something like that. They don't need any approval of us to do that.

MR. JOHNSTON: Yeh. Not coincidence, thought, shortly after leaving the Commissioner position to...

MR. CRAWFORD: I wouldn't want to comment on it.

MR. JOHNSTON: All right. I understand. So in terms of your oversight and regulation you point out a general staff shortage, you point out federal law and regulatory changes, state law changes that reduced in your judgment the ability of your Department to regulate and supervise a savings and loan that

wished to engage in speculative investments.

MR. CRAWFORD: Not only that we were, April 12th of 1983, I think we were down to 42 total employees in the Department and that included everybody. We were sending appraisers out to do examinations at that time.

MR. JOHNSTON: You said that the records were moved to Arizona and Mr. Newsom testified about the difficulty in examining some of those records. Was that a continuing problem?

MR. CRAWFORD: Absolutely. The reason I got upset in order to bring the books back, I found out he contributed $50,000 to the Attorney General of the State of Arizona when he was running for office unopposed. He raised 56,000, Charlie gave him 50. So I could just imagine me trying to take over this institution and going over to get my books and records. Not only that they had some fifth tier subsidiaries. The savings and loan had 32, I think there were 32 or 31 or 32 corporations, under the savings and loan that were owned by the savings and loan. Some of these were subs of subs of subs, you see. I can just imagine my going over there and telling him I want my books and records, you know, and they said, well talk to the Attorney General. I know him. Or serving a cease and desist order on him over there. Kind of

difficult.

MR. JOHNSTON: Who spoke to you represented Lincoln Savings in your dealings with that institution.

MR. CRAWFORD: They had a battery of people. That had 48 CPAs. They had 15 attorneys on staff, and I just lately learned they had employed 77 outside law firms. So there were unlimited number of people to deal with. They had experts on securities matters, had experts on everything. Real estate. If you wanted an expert, they had it.

MR. JOHNSTON: Were you contacted by other public officials, whether federal or state with respect to your efforts to regulate Lincoln?

MR. CRAWFORD: We had a very close relationship with the Federal Home Loan Bank of San Francisco. Jack Pullen who had Patriarcha's job was a close, personal friend of mine. I met Jim Cirona, he is an outstanding man that came out of the industry as President of Federal Home Loan Bank of San Francisco. Mike Patriarcha has an excellent background and we got to working with Federal Home Loan Bank in Washington, Ed Gray. And they didn't take any action regarding a California state chartered

institution, but what they tied us in on a conference call with San Francisco and with the Bank Board members when they took action. One of the might be in Texas, one of them might be in Boston, one's in Washington, but we are all tied in. We had excellent communication and we had no philosophical differences.

MR. JOHNSTON: Were there lobbyists registered here in Sacramento who represented Lincoln and your dealings with them?

MR. CRAWFORD: I would say there are lobbyists everywhere that were serving Lincoln. I can't tell you who they were but they were numerous.

MR. JOHNSTON: Were there members of the administration or the Governor's office who contacted you with respect to Lincoln.

MR. CRAWFORD: No one from the Governor's office ever contacted me about doing anything in connection with any savings and loan. None of my superiors ever told me what to do or suggested what I do. They let me regulate. They didn't tell their regulators how to regulate and they left me alone.

MR. JOHNSTON: Did members of Congress or members of the Legislature contact you on behalf of Lincoln?

MR. CRAWFORD: Well, yeh. Lincoln and a lot of others. Yes. We do have calls. People are telling us how good some constituent is, you know, that they hope...

MR. JOHNSTON: How would you respond to those inquiries made by this...

MR. CRAWFORD: We just go on to our business, and we say yes we will take it, and give them a fair shake, and we will give them consideration, and then we do what's right. That's it. Period.

MR. JOHNSTON: You do not feel that you were being pressured to do something that you would not otherwise do by any of those calls.

MR. CRAWFORD: No, I just knew what I had to do. If you lost, you lost. If you won, you won.

MR. JOHNSTON: Let me ask you then, during this period where your Department was in your judgment on top of the problems of Lincoln Savings and Loan...

MR. CRAWFORD: We were never on top of the problems of

Lincoln Savings. I have to stop you right there.

MR. JOHNSTON: All right.

MR. CRAWFORD: We were trying to get on top of the problems of Lincoln Savings but it was difficult to get your arms around them. They could write up their assets faster than you could write them down.

(laughter)

MR. JOHNSTON: With respect to your working with the Federal Home Loan Bank Board, in looking back on that period is there anything that you might have done that had you more resources that you did not do? Is there any enforcement action that could have been taken that was not taken?

MR. CRAWFORD: No, I think when we got to the point, I would say by 1986 and we were getting along with the examination, the stuffing of the files, you can't work with the people. We knew we couldn't work with them. They lied to us. They said they were going to run a traditional savings and loan. They lied to us. They said they took over a troubled institution. They lied to us. They said they were going to keep the present staff and augment

it. All the things they said they were going to do, they broke away and did something just the opposite and we believe they had that agenda before they started. So how do you reign in somebody who... I have a figure here between...they increased their savings by 343%, from 3/84 to 6/86. In 2 1/4 years they took in $2 billion worth of savings and in that same period they bought 45 properties, in Texas, Arizona, Colorado, and it's very difficult to get out, to try to figure out how to write those properties down.

MR. JOHNSTON: Let me ask you, Mr. Crawford, in a Federal Home Loan Bank Board memorandum from Mr. Cirona, that you cited one of the supervisory agents, there is an item under political matters. This is from a February, 1988 report, that after the California Commissioner imposed a directive on Lincoln, Lincoln attempted to get the Commissioner and his top aide fired.

MR. CRAWFORD: Well, that's his observation. We do have discussions and Ed Gray was getting beat up in Washington and the Federal Home Loan Bank was getting beat up and I kind of felt I was getting beat up, too. Charlie didn't want to just select one regulator, he didn't think any regulator knew what they were doing, so I know that Charlie was going behind the scenes saying that we need a more progressive Commissioner, less traditional.

It's kind of a subtle way of saying it but, you know, he had the juice, you know. That is the way it was. He didn't have it as far as the direct line from the Governor to me, though, because I'm still here. So that's the proof of the pudding, I think.

MR. JOHNSTON: OK. I'm almost finished and then I want to turn it over to you. I guess the policy question for this Legislature and this government is, does California charter mean anything anymore? Is there a point to state regulation? Are your efforts superfluous to the federal efforts particularly in light of the federal legislation?

MR. CRAWFORD: FIRREA, is I don't know, reform, restructuring of something else...but the main thing is consolidation. We have far too many players in the savings and loan industry and other states. It's a privatized profit and a socialized loss. The creditors bring no discipline to the marketplace. They're insured against loss, so they put their money where they can get the highest risk and where you get the highest return and where you get the highest return is somebody who is willing to take the highest risks. With the perverse accounting methods we have today, they just said they had to reel it in. They are saying now, maybe $300 billion is the loss. I saw an executive said 500, in a speech recently in the east. I don't know what the loss is.

Nobody knows how deep the pit is. But all that FSLIC gets back to the assets. And basically what FIRREA says is you cannot exceed the powers of a federal chartered institution. And so, why be a state charter and pay the state fee if you can't exceed what the federals can do and everybody's under the gun to raise their net worth. The only way you can raise your net worth is by earnings, or by selling stock, or by shrinking assets. You increase the percentage. So everybody's in a retrenching mode that doesn't meet the new capital requirements. Capital is king under the new FIRREA regulations.

MR. JOHNSTON: Is your Department a dinosaur?

MR. CRAWFORD: I've never had it asked me that directly, but the League has sent out a survey to see who wants to be a state chartered institution come next July 1st. It will be interesting to see what the responses are. I was asked to make a speech on the future of California state chartered institutions under FIRREA for the California League and I refused to make that speech. So maybe that's my answer.

MR. JOHNSTON: All right. Thank you very much. Mr. Seastrand.

MR. SEASTRAND: As I recall I don't remember the year, but I think it was probably around 1985/1986 in that period may have been as late as 1987, the Home Loan Bank had stopped issuing any FSLIC coverage for any charters from the State of California. They had requested that more auditors be put on staff. Was that ever accomplished?

MR. CRAWFORD: July 14, 1984, there was an agreement entered into, an equal staffing agreement, that was signed by the Federal Home Loan Bank, Cirona and Gray and it was signed by Kirk West and Larry Taggart. So that was an agreement to provide equal staffing. The Department has to be supported by assessments on the industry. They used to assess the big guys and the little guys only paid $100, the new ones. When I came to work it was 5,000 for the little guys. I increased it to 20,000. The Federal Home Loan Bank...we couldn't provide equal staffing with them. I'll tell you why we couldn't provide equal staffing. They didn't have an adequate staff, either. And the Office of Management and Budget would not give them more employees. They said deregulation meant fewer regulators, not more regulators. So with all these expanded powers, then we have fewer regulators and they had turnover in their staff. So what they did, they took all the employees out from under civil service and put them out to the branches and let them work directly for the branches of the

Federal Home Loan Bank, that is like private enterprise. They paid the price to get the analysts and the appraisers and the examiners they needed, they were paying much than we were. What is it about $14,000 more or something like that they were paying for...? Well, they got up to something like $14,000. Well, we had some of our employees went over there. So, under civil service we could never match them. Their budget was about $40,000,000 a year and ours was about $8,000,000 a year.

MR. SEASTRAND: As I recall, we are not talking about general funding expenditures here as far as putting on additional P Y's. But as I recall, that was part of the argument back then that nobody wanted to put on additional auditors because of the political concept of enlarging government and yet there was money paid for by the savings and loan that was available to hire people.

MR. CRAWFORD: No, that is not correct. Until 1975 there was no federal stock companies. In 1975 they passed a law that said you could have federal stock companies. In 1980, the Deposit Institution Deregulation Monetary Control Act, they put a provision in there that you could convert from state stock to a federal stock. Then we had Wellenkamp on the books. You know, 11/7/80 or 77 the due-on-sale clause was out. Fidelity Federal

went to court and they said it didn't apply to federal savings and loans. So, why would you, you a contract, you know in your note and in your deed of trust in large print, due-on-sale. So who would want to be a state-chartered institution when they couldn't enforce the due-on-sale if you could be a federal and could enforce it? And also, we had been beating them up a little bit socially and so, I think there are 32 institutions either converted to a federal charter or merged with federal institutions. And so we lost our assessment base and the Department went down to 42 employees. Now all you had to do is increase the assessment. We have increased the assessment from 76 cents to 99 cents to $1.04. Some people will leave for $30,000, convert to a federal. You can convert in a week to a federal charter. So all you have got to do is be a tough regulator and have a high assessment fee and you can kiss them good bye.

MR. SEASTRAND: As I can recall during that period of time, there were over 100 applications for state charters during that period of time. People that wanted to pay the fees so that you could meet your agreement with the Home Loan Bank as far as auditors were concerned, and yet they were never hired. In fact when was the last time any FSLIC insurance was approved for a state-chartered ...

MR. CRAWFORD: Well, if you really think about it, there are 51 licensing agencies in the country and one insurance agency. Now that doesn't make a lot of sense, having 51 people selling polices and one person paying off. So what they did, it just, they said there would be no new insurance of accounts unless you get equal staffing. Now if we raise the assessment, they would leave. Now the reason we got all the charters is because the powers. That was the thing. Now as soon as the feds came in and said nobody can exceed 10% on direct investment, that was the end of the powers. Let me mention this. The average in the industry on direct investment was 3%. The ones under 5% our old 6705 says you can put 5%. The ones under 5% were good, strong institutions. When you got 5 to 10 there were a number of them that were problems. When you got over 10, there were your problems. They said I proposed a tough new regulation on Lincoln, 20% that was proposed by the League. And we couldn't get it through. Well, what good was a 20% rule going to be if the feds had a 10% rule. That was just a public relations gesture to bring it down from what our law said of 100% to 20%. That's all it was.

MR. SEASTRAND: We are still not talking about what I am trying to get at.

MR. CRAWFORD: You are trying to get at the fact that

everybody wanted a charter and there were 201 charters processed before I came. When I came there were 68 laying there, and I turned down 67 of them. And there were 58 in Washington and 49 are still laying there and all we need is more charters. Forty-eight percent of the state-chartered institutions did not have a year to date profit as of October. Forty-eight percent. Now how many more do you want to grant? There are too many out there.

MR. SEASTRAND: I'm not saying I want to grant anything. All I'm trying to get at is why didn't...

MR. CRAWFORD: ...why didn't we increase our staff?

MR. SEASTRAND: Yes.

MR. CRAWFORD: All we have to do is increase their assessment to $1.50 or $2.00 ...

MR. SEASTRAND: What do these people pay. How much do they pay in fees that were applying these ...

MR. CRAWFORD: Well, $7,500 or something like that I think it got up to. But that is nothing. Anybody with three million

dollars could get a charter if they didn't have a criminal record. None of them knew how to run the business.

MR. SEASTRAND: So you are telling me there wasn't any money available though for to hire....

MR. CRAWFORD: We could have increased the assessment to $2.00 a thousand. They'd have all left. All the guys that were here that

MR. SEASTRAND: That wasn't the story that I heard during that time.

MR. CRAWFORD: What was the story?

MR. SEASTRAND: Well, they wanted the auditors, the folks that were supposed to look after these things, the people in the industry.

MR. CRAWFORD: Not 5 cents of this ever comes out of the budget. This State of California doesn't spend 5 cents and you are saying the industry wanted more charters. If you were in the industry....

MR. SEASTRAND: No, I didn't say I wanted more charters. I said they wanted more auditors.

MR. CRAWFORD: All they would had to do is call us up and say hey we are willing to pay $2.00 a 1,000 instead of 76 cents a 1,000 and we'd increase it. It is that simple. You could run them off. Newport Balboa Savings converted to a federal charter because they had to pay $30,000 to run the Department and they didn't use the powers. So if the state law gave you the power and the federal law took your powers away, it doesn't make any difference. You don't have the state powers anymore. That is what Keating was fighting about. That is what the big fight was.

MR. SEASTRAND: Did you come to us when you came here and asked to make recommendations to us as far as giving you what you sought as far as additional....

MR. CRAWFORD: We had 98 examiners or something like that when I came to work and we took it up to 137 employees on duty. We did build up the staff. We built up in 1987, we had 99 examiners. That was a pretty good build up. We have 49 in 1983, January of '83, so I increased the staff, sure. You have to remember when we went out to examine Lincoln Savings and Loan, we had one experienced examiner and two trainees. Two trainees. And

here is an outfit with 54 corporations and 90% of their activity of investing the money is over in Arizona and we go down to Irvine, California to examine this institution on duplicates you see.

MR. SEASTRAND: And you send down two trainees.

MR. CRAWFORD: Hell, that's all we had. The guy that was in charge in the office had 32 associations he was looking after. The supervising examiner that had Tommy Mar's job, Andy Chung, he had 32 associations he was looking after.

MR. JOHNSTON: OK. Ms. Wright.

MRS. WRIGHT: I am going to get back to the point of this business being transferred into Arizona. Did it not then become Arizona's situation? Could you not require Arizona to get in there and investigate the books, if you could not? Why not?

MR. CRAWFORD: American Continental Corporation was an Ohio corporation doing business in Arizona that owned a California state chartered savings and loan, that was gathering the savings from 29 offices in California and investing in the money in Arizona, Texas, Colorado, and they wanted to have their employees

where they were making their investments. They had two hotels, they had lots of vacant land and the people were close to the land and making the development. So he was just using the California institution as a funding source for his speculative investments in Texas and Arizona and Colorado, Louisiana. When we want to go out of state to appraise it, we have to get permission to go out of state. The old law provided I could hire CPA's. It didn't provide I could hire examiners or geologists or any other kind of experts. I can't hire outside counsel. I hire the AG at $72 an hour and they hire law firms from Washington and New York and Madison Avenue and it's not exactly a fair fight.

MS. WRIGHT: I still find it difficult to understand why you could not notify Arizona and have them in some way get in there and investigate or at least demand the return of the books.

MR. CRAWFORD: Look, they completed examination they started in March 12, 1986. We completed ours February 1987, the feds completed theirs March 1987. They were recommending receivership or conservatorship by April 1987 and we concurred in what they wanted to do. The Federal Home Loan Bank of San Francisco recommended receivership or conservatorship May 6, 1987, I think it was, or May 1st.

MS. WRIGHT: Then why wasn't it done?

MR. CRAWFORD: It went back to Washington, the powers of Garn. St. Germain to appoint a conservator without the consent of the Commissioner had expired, the Bank Board couldn't act. They had five sections of their law which they could take them. We had three sections of our law. Our law only provided for threatened insolvency or violation of Commissioner's orders. Their law also provided two more grounds. One was unsafe and unsound and the other one was dissipation of assets. I told you they could write up their assets faster than we could write them down and they had a national CPA firm that certified their financial statements. So, going to court and proving threatened insolvency was almost impossible. But we could prove unsafe and unsound. We could prove dissipation of assets and we could allege insolvency. I believe they were insolvent if we had really got in there and when Kenneth Leventhal finally got in, they found out of 15 transactions, they were all phony. Arthur Young was certifying the financial statements in 1986 and 1987 as being right. How do you attack that? You had to prove it in court. Not only that I had seized Universal Savings and the court made me turn it back. I had handwritten notes, 20-pages, that they had intended to take $10 million out of the institution. When they discovered that they were in at 10:00 o'clock in the morning. At 1:00 o'clock in

the afternoon we met the Federal Home Loan Bank. That night or the next morning we were in there. Two weeks later the judge said give it back because I couldn't prove we said that they committed to do something and what they had done they had conspired to do something and we couldn't prove the commitment. The judge would not let us use any facts that we acquired after we went into the institution. We had to stand on the grounds we had on the day we went in. So we had to turn it back. So with that type of experience, our lawyers want to be sure we dot the i's and cross the t's when we go in because they want to win. Almost to win you never get enough evidence to win. I mean to where your attorneys think you can win, you know, you have to go with a business judgment.

MS. WRIGHT: Tell me. Are there any other savings and loans? We have the spotlight on Lincoln, of course, but are there any other savings and loans that are practicing....

MR. CRAWFORD: We took over 51 since I have been there. I would say there are some others.

MS. WRIGHT: So would you maintain the ones that are left are pretty good?

MR. CRAWFORD: I said 48% of them aren't making a profit (inaudible) so how good is that? We have 22 of the 75 largest publicly-traded companies in the State of California. Six of those are making a double digit return on equity; 10% or more. Those six are selling for book value or better. Now what do you do with the ones that are selling for less than book? You give somebody a wedding present and that is the taxpayer. That is the way it is.

MR. JOHNSTON: OK. Mr. Lancaster, then Mr. Brown.

MR. LANCASTER: Mr. Chairman. First of all I would like to share your comments regarding Mr. Crawford's testimony. He has always testified before this committee with great candor and we appreciate that very much and his great cooperation. I have heard a lot of stories and read a lot about the problems that Lincoln Savings and Loan had, and you have hit it right upon the nail, of course, when you said that they were actually selling these junk bonds in California. The money was going elsewhere, in, effect and being utilized to develop other than single-family residences in other states. To get back to my question again that I asked earlier because it seems to me it is a critical part of your responsibility, not you personally, but the Department's responsibility to make sure that these kinds of junk bonds are not

necessarily sold where the people feel that they are getting an investment that is guaranteed or insured. I understand that there was permission granted to ACC to lease property on their Lincoln Savings and Loan property for the purpose of selling these debentures. They were sold sometimes, I'm told, behind the counter in lieu of a deposit being made in the savings and loan, which was fully guaranteed. I wondered if this is the policy of the Department of Savings and Loan to allow this to occur. Has it occurred in the past? Is it occurring now? Why does it happen?

MR. CRAWFORD: The California law does not provide that the Commissioner has any authority to approve the sale of subordinated debt. The only thing that the Commissioner has the right to approve is the inclusion that subordinated debt in net worth. Generally that is why you would sell subordinated debt is to increase your net worth. They did not believe they even needed our approval. They got a permit to sell the stock in November 1986, December 1986 some of our supervising examiners saw the ad, told them they needed our approval. We had a debate in January that they said it was called a de minimis lease and the federal regulation provided they didn't need the federal's approval or our approval. They interpreted that as being our approval. We said no you need it. We approved it in January 1986, of 1987. January of 1987.

MR. LANCASTER: $200 million worth. Is that correct?

MR. CRAWFORD: No, we didn't approve any amount. Oh yes, we did have a limit. The lease was an 18-month lease that they had, the sublease. We said it was for the period or the $200 million, whichever expired first. Mr. Davis and I did not know about it until February of 1988. We were coming to work and we heard it on the radio, the ad, and we came unglued. We got to the office and we found out we had the sublease and we had the approval of the sublease and they had the permit to sell the stock. There were conditions in the sublease and there were conditions in the permit and we said go out and find out if they are following the conditions of the permit and the conditions of the sublease. We sent examiners out and we sent relatives out, friends that were older people that would go to two or three branches and ask questions and get their brochure and the prospectus and all that kind of thing. We found out they were doing it by the book. By May of 1988, the Federal Home Loan Bank of Washington was beginning to get ready to act and the Federal Home Loan Bank in San Francisco sent me a stack of documents or papers about two or three inches high. It was stamped "Confidential, Do Not Copy." they asked my consent. They were having a fight with Washington for taking over the institution. I wrote a letter to Jim Cirona

concurring in their recommendation for receivership or conservatorship.

MR. LANCASTER: Excuse me for interrupting. This was the time that the Washington office took the authority away from the San Francisco office.

MR. CRAWFORD: They took it away July 1, 1987, as far as I am concerned. They couldn't go in there. They couldn't do anything. They wanted to send Kenneth Leventhal in. They said don't do it. When somebody tells you not to do something when you are examining an institution to me they have taken the authority away from you. This was now where we also wrote a letter to the Federal Home Loan Bank Board in Washington concurring in that recommendation. With this documentation that I had I thought it was time to stop the sale of subdebt and we had a meeting with the Department of Corporations sometime during the month of May. We told them that we could not give them the documents that the Federal Home Loan Bank had sent us. But we could tell them. And so we told them. That is why we had the meeting. We told them what was in there. That we didn't want subdebt being sold and we were recommending receivership or conservatorship. Now we didn't know whether Washington would act on it or not and they didn't. The next day after that meeting I put an order out that said that the sublease

was up either August 1st or when that $200 million was gone. I think $167 million was gone. There was $33 million left. Whenever they hit that goal, that was the end of the line. They came in and debated with us. June 10 we gave them an order or letter that said this is filed. They appealed till about the end of June and our attorney sent them a letter and said, "Hey, you have 60 days from June 10 to file a lawsuit." And they never filed a lawsuit. Sometime in July or by August 1, 1988, they were not supposed to sell subdebt in any Lincoln Savings office. We said they could sell it on street corners...

(inaudible)

Yeh. They could not sell it in the Lincoln offices.

MR. LANCASTER: Well, am I incorrect then when I understood $150 million of this particular type of instrument was authorized to be sold on Lincoln premises?

MR. CRAWFORD: No, they were not authorized. In December '88 we got a call from Lisa Morrell, a reporter in Arizona, that said the Commissioner had acted, they were selling CD's in some American Continental subsidiary offices in Arizona and that she gave an order to stop, that they were operating branches over

there without a license. She said she called. She got to investigating and she called and said they touted the subdebt. That the teller, she called regarding the CD's certificates of deposit, she called Lincoln offices and they said but we do have a higher rate. Like let's say it was 8% on the CD's. We can offer 9 or 10 or 11. They did say it was not insured. We didn't like the fact that they were touting it and we gave them an order. We went out and we sent our examiners out that same day and we told them to stop. We gave them a letter and told them to stop.

MR. LANCASTER: Well, Mr. Crawford, I agree. I am glad that you acted that way. But my problem with this whole premise initially was that we had 23,000 I guess it was people who bought these things in California, the tune of about $200 million that are now worthless in effect, worth very few pennies,

MR. CRAWFORD: Right.

MR. LANCASTER: I really am convinced that even though they may have adhered to the total law, these were not sophisticated buyers that normally buy these things.

MR. CRAWFORD: Absolutely. Absolutely.

MR. LANCASTER: Consequently, they probably felt they were being insured because they are on the premises they were fully aware that was insured instruments available to them. I really would like to know from you, Mr. Crawford...I frankly don't like that practice.

MR. CRAWFORD: I agree.

MR. LANCASTER: I would like to know if we are able to legislate in that field. I keep going back to the Chairman's question about the dinosaur problem. In your opinion, do we have the ability to legislate in that field to stop that type of activity.

MR. CRAWFORD: Frankly, I think it is all going to go away, but I want to tell you, there is an outfit called Southmark that has a subsidiary that's insolvent. The parent is bankrupt. They have blanket authority, last time I looked, they had blanket authority to sell deferred annuities in any savings and loan office in the country.

MR. LANCASTER: Federal authority?

MR. CRAWFORD: Yeh. And there are 24 savings and loans in

the State of California that are offering either stock...

MR. LANCASTER: Well, that was my next question. Are they doing a state-chartered organizations?

MR. CRAWFORD: There are state charters and federal charters offering stock, brokerage services in the offices and they have one person in charge of it. There are still uninsured products being sold in savings and loan offices.

MR. LANCASTER: We ran into this problem with Western Money Thrift or whatever it was, and they all led us to believe that they were thoroughly covered on insurance based upon the California Guaranty Corporation. We straightened that one out, but not without costing about $60 million.

MR. CRAWFORD: Right.

MR. LANCASTER: The fact of the matter is can't you by regulation issue instructions now that where these instruments are sold in state charters that they must have neon lights, if necessary to say these are not insured.

MR. CRAWFORD: Frankly, you couldn't get an approval for a

sublease to do this from. I could tell you that right now. There is no way that anybody could get approval of a sublease to do this activity from me. The same way with direct investment. I don't care what the direct investment regulations said. They had to apply to me and I turned them down. I don't know if people have the expertise to do things, so I say, I don't have the expertise to tell if you have the expertise, therefore, the answer is no.

MR. LANCASTER: Thank you, Mr. Chairman. I have one other comment I would like to make and that is that once you have found out that the books of Lincoln Savings was transferred to Arizona, you returned them to California. Is that correct?

MR. CRAWFORD: Yes, it took about 3 orders. It took a letter, then an order, then another order, and then another order.

MR. LANCASTER: My question didn't get backed to legislation. It's obvious to me, Mr. Chairman, and members of the Committee, there is a need for state legislation to prohibit this type of activity of transferring books of state chartered savings and loans to other states. Because I don't understand why that even should be allowed.

MR. CRAWFORD: I can tell you that I gave approval to Sears

Corporation to transfer the Sears Savings Bank, to transfer their records back to Chicago, but I kind of feel kind of safe with Sears, you see. I told them I didn't want to do it.

MR. LANCASTER: But you had, you know, I can say in effect that you have Arthur Young, you had somebody else saying that this was the greatest thing since rubber tires, there was no problem with them. But the fact of the matter is with Sears you are probably right, then why would even that happen?

MR. CRAWFORD: I'll tell you why I gave it to Sears. I told them I would setting a precedent here. I'm ordering Lincoln to bring theirs back and giving you approval to go to Chicago. I said I can't do that. And they said, well we want to keep a state charter, we think we may want to use it sometime. We only have one office in Glendale and we are paying you $250,000 a year to run the Department and you don't have anything to do with us. I said, well that's kind of a good deal, so (laughter) they got approval. That's the only one.

MR. JOHNSTON: Mr. Brown, then we are going to move on.

ASSEMBLYMAN DENNIS BROWN: Thank you, Mr. Chairman. I just want to briefly return to this issue that Mr. Newsom mentioned in

his statement regarding this cease and desist order that Mrs. Wright questioned about. Do you believe that the Attorney General's office in this state could have and should have acted differently regarding that draft that you submitted to them last December and what effect would that have had on the situation if they had acted differently?

MR. CRAWFORD: I am not a lawyer, but I want to tell you. This Ponchartrain Hotel deal started back in 1984. It was written up in the 1986 exam, the SEC knows about the thing. SEC is the securities grandfather, or whatever you want to call it. I think it's kind of their problem. We don't prosecute many things in state court or anything frankly. They wind up being prosecuted in federal court cause they get on a calendar sooner, and I think the penalties are greater and I think the statute of limitations is longer and so most of these things wind up going to federal court.

MR. BROWN: But this was submitted by your Department to the AG's office.

MR. CRAWFORD: Once we submit it, it's just like turning things over to the FBI or U. S. Attorney.

MR. BROWN: No one in your Department had any more follow up

on it once it was submitted?

MR. CRAWFORD: If they want any more information, we give it to them.

MR. BROWN: It's currently in their hands after that?

MR. CRAWFORD: They know the law better than we know the law. They are our lawyer.

MR. BROWN: So you don't have any opinion really yourself on whether or not their actions on this would have made any difference on ....

MR. CRAWFORD: A lot of other people's actions could have ...

MR. BROWN: I'm not asking about anybody else...

MR. CRAWFORD: I know, but I can't make a judgment on the Attorney General's office...I really can't make a judgment.

MR. BROWN: OK. That's all I want to know. Thank you.

MR. JOHNSTON: Let me just ask you, I forgot before to, there

have been reports that there were bonuses paid to ACC employees and Lincoln employees in connection with their sale of these subordinate debentures. Can you comment on that?

MR. CRAWFORD: We don't know about it and all we know is what we read in the paper. When we found out that they were touting it in Lincoln Savings offices in December, we got a letter from Ray Fidel, the president of the company instructing all the employees not to tout the securities, the subdebt. That it was given. I might add one other thing. We put in a whistle blowing issuance from the Commissioner, I think it was 1986, and once a year in January when they send in their 107 report, under penalty of perjury, they have to send in a form that says their board of directors notified the officers to notify all their employees the name and address and phone number of the independent auditor, the Department of Savings and Loan and the Federal Home Loan Bank and that they are urged to blow the whistle if they see anything wrong going on in the institution. We got one of those in January of 1989 from Lincoln Savings. Any employee of Lincoln Savings who wanted to blow the whistle knew where to blow it.

MR. JOHNSTON: OK. Thank you very much, Mr. Crawford.

I would like to now invite the officials from the Department

of Corporations to come up. Mr. Carruth and Commissioner Bender and Mr. Rifkin. What I would like to do is first of all ask Mr. Miller if he would swear in the witnesses and then I have some questions for Mr. Carruth and then some questions for the Commissioner and if there are additional comments that your representatives want to make, we will certainly permit them to do so. Mr. Miller.

MS. CHRISTINE BENDER: My question is procedural, how you would like to handle this. My staff has contacted yours about some opening remarks that I'm prepared to make.

MR. JOHNSTON: We will then, if you have opening remarks and you would like to make them first, we will permit you to do so. OK? Mr. Miller.

MR. MILLER: Good morning. Were each of you present in the room when I read you the statement of rights and responsibilities as a witness? And did each of you understand that statement of rights and responsibilities? Do each of you wish to testify voluntarily under those conditions? Would each of you state your name and title for the record please?

MESSRS. CARRUTH AND RIFKIN, MS. BENDER: I am Ronald Carruth,

Senior Corporations Counsel. I am Robert L. Rifkin, Senior Corporations Counsel. I am Christine Bender, Commissioner of Corporations.

MR. MILLER: Would each of you raise your right hand. Do you solemnly swear that the testimony you are about to give before this Committee will be the truth, the whole truth and nothing but the truth?

(responses: yes)

MR. JOHNSTON: Ms. Bender. Would you stand at the rostrum please and we do appreciate your opening statement, your appendices, and your back up documentation, but we are receiving it right at this moment so we will review it but it is difficult for us to have digested it. We will respond to your opening statement based on the knowledge we have at this point. We will rely on you to summarize whatever is in this, if it's necessary to answer any of the questions.

MS. BENDER: That's fine, Mr. Johnston. I included the appendices because I refer to them and I assumed that the Committee might want to have, at a more leisurely moment, time to review them. There are in addition, three things that I think

have been passed out to each member of the Committee. My opening statement, answers to the questions which the Committee propounded to me by letter of November 21, and an appendix as well that includes some potential suggestions dealing with this situation.

MR. JOHNSTON: It would have been helpful to have them earlier, but I understand we are all busy people so we will rely...

MS. BENDER: The questions from the Committee didn't really reach my office until about a week ago, so it was difficult to get it done earlier. I apologize for the lack of notice to the Committee.

MR. JOHNSTON: We will rely on your testimony to summarize what are in those recommendations.

MS. BENDER: It is, of course, a legitimate inquiry as to why the Department of Corporations did not prevent the offer and sale of debentures by American Continental Corporation, and I am here to discuss precisely that issue. However, when the subcommittee held its first hearing in August, I stated that the real story here was the failure of a savings institution, Lincoln Savings and Loan Association, and the problems caused by that failure. I also

stated, in response to a question from Chairman Johnston about how I felt about the situation involving American Continental and Lincoln, that I felt frustrated. An analysis of the facts and the testimony of the recent federal hearings on Lincoln's failure confirms these statements.

I do not want anyone to think that the Department took a passive view of our responsibilities regarding ACC's debenture offerings. To my knowledge, no application has ever received greater scrutiny by our Department. We reviewed ACC's financial position and required them to provide evidence of ability to pay on the debentures both on a consolidated basis with Lincoln and on an unconsolidated basis without the savings and loan. We have required ACC to answer 21 specific concerns about the offering. We contacted the Department of Savings and Loan, the Federal Home Loan Bank Board in Washington, D. C., the Federal Home Loan Bank in San Francisco, and the federal Securities and Exchange Commission regarding Lincoln and ACC and were unable to obtain any usable evidence that ACC's financial position was other than as represented in the prospectus or the other filings made with us. I described all of these actions in my testimony at the first subcommittee hearing.

The Department also kept its ears open for complaints from

investors. We received none prior to ACC's bankruptcy filing, and the Department of Savings and Loan informed us that they received none before that time. I find this fact curiously significant. News reports indicate that perhaps 23,000 individuals purchased debentures over a two and one-half year period. The basic claim now is that the purchasers thought they were investing in a certificate of deposit, a CD, not a subordinate debenture, and that they did not know what subordinated debentures were. However, I must assume that these individuals did know what CDs were and knew that withdrawals could be made from a CD upon payment of penalty. With 23,000 bondholders, I also must assume that some number of them, over that two and one-half year period, asked to withdraw their money only to be told that withdrawals could not be made on debentures. And in fact, testimony by some of the bondholders at the recent federal hearings on the closing of Lincoln confirms this conclusion. However, no one complained--not to Savings and Loan where one would have expected them to start, and not to our Department, where one would expect them to have been referred.

We had a complete absence of evidence available to us. The concerns that we had or that were raised to us about ACC revolved about Lincoln, ACC's primary asset. We knew Lincoln was closely regulated at both the federal and state levels. However, in the

course of our review of ACC's securities applications and our contacts with savings and loan regulators, we were never able to uncover any concrete evidence that ACC would not be able to continue to be able to make payments on the debentures as scheduled.

With respect to federal regulation, I am aware, of course, that the Federal Home Loan Bank of San Francisco recommended in 1987 that the Federal Home Loan Bank Board take over Lincoln. However, the Federal Home Loan Bank Board not only overruled the San Francisco Bank, but agreed in 1988--along with FSLIC--not to take any administrative or enforcement action against Lincoln, ACC or any of their affiliates, officers or directors on the basis of the report issued in connection with the San Francisco Bank's 1986 through 1987 examination of Lincoln and as far as I am aware, did not require any write-down of Lincoln's assets at that time. These facts are set forth in an Agreement dated May 20, 1988 and a Memorandum of Understanding dated May 20, 1988 among Lincoln, the Federal Home Loan Bank Board and FSLIC.

In April of this year, less than a year after the signing of the Agreement and the MOU, the Federal Home Loan Bank and FSLIC found it necessary to put Lincoln into conservatorship because of unsafe and unsound practices. By August, they put Lincoln into

receivership because of insolvency and now must fund what ultimately may be a $2.5 billion loss. The Federal Home Loan Bank Board has never informed the Department of Corporations as to why this result was not foreseen in Washington, D. C. or why, despite our contacts with the Federal Home Loan Bank Board from April through December of 1988 about ACC and Lincoln, the Federal Home Loan Bank Board never provided us with any usable evidence about these companies or indicated any expectation that a takeover would be required. I must assume that the conditions that existed in August of this year evidencing insolvency had existed in April and even earlier. And if so, federal savings and loan regulators could have taken over Lincoln earlier.

As I will discuss later, the actions of the Federal Home Loan Bank Board regarding Lincoln put the Department of Corporations in a position such that we could not challenge ACC's debenture offering on the basis of its financial statements. I will also discuss later the other major securities regulation issue here, which is the issue of fraud.

Now the Department of Savings and Loan did inform us in 1988 as Commissioner Crawford has testified, of gut-level concerns that they had about Lincoln and ACC. They provided us in good faith with statements of their impressions, but they were aware that

they did not provide sufficient objective evidence to support a finding against ACC. A Department of Savings and Loan file memorandum of that May, 1988 meeting that was referred to a few minutes ago between representatives of the Department of Savings and Loan and our Department states in part that..."Department of Corporations personnel questioned us (that is Savings and Loan) extensively on our impressions of ACC and Lincoln and were interested in objective evidence which they may use in a hearing in case they were to turn down ACC's request. I don't know whether we were able to provide enough objective evidence to serve their purpose."

In mid-1988 ACC expressed its intent to renew the arrangement by which ACC leased space in Lincoln branches to offer and sell the debentures. I am aware that Department of Savings and Loan initially informed ACC that the lease arrangement would not be renewed because of concerns over ability to pay. However, shortly thereafter Savings and Loan revised its position, concluding that they could not say whether ACC had the ability to pay off the debentures but denying the renewal on other grounds.

It appears, and it appeared very recently to me, that Savings and Loan may have generated certain evidence in the latter half of 1988 and early 1989 indicating concerns involving ACC. For

example, at the federal hearing Mr. Newsom referred to an interim report of examination of ACC and Lincoln dated October 14, 1988. Further in early November, 1988, the Department of Savings and Loan decided to issue a cease and desist order against Lincoln and ACC, which was issued on December 21, 1988. Mr. Mar referred to a separate state examination of Lincoln that was concluded in February, 1987, separate from the Federal San Francisco Home Loan Bank report dated May, 1987. On February 10, 1989, Savings and Loan sent Lincoln a letter regarding its examination of Lincoln and its subsidiaries as of July 1, 1988. The letter discussed Department of Savings and Loan's findings and recommendations, and among other things, gave Lincoln 30 days to provide written evidence that potential losses had been reviewed to determine the need for recognizing and recording valuation allowances, i.e., write downs of the values of assets. We have also very recently seen a copy of a Department of Savings and Loan file note to the effect that December 31, 1988 the Federal Home Loan Bank Board had disapproved Lincoln's authority to sell the debentures in 1989, that they had disapproved their debt budget. We didn't receive copies of any of these items. Not of the interim report, the cease and desist letter, the separate February, 1987 report of examination, the February 10, 1989 letter, nor the file note to the effect that the 1989 debt budget authority had been disapproved until two weeks ago, mid-November 1989.

At this point I must address allegations of influence peddling in connection with our review of this matter because of the representation of ACC by Karl Samuelian and Franklin Tom. I can't say it more strongly. These allegations are totally false. The press has tried to use colorful language regarding this representation. For example, calling it "lobbying." But the facts are not so exciting. Both Mr. Samuelian and Mr. Tom are known in the legal community for having a corporate and securities practice, so it is not at all out of the ordinary for them to represent a client such as ACC. It is not as though their typical practice involves something like land use planning and they suddenly represented ACC in a securities matter before the Department of Corporations. Further, Mr. Tom's and Mr. Samuelian's representation of ACC before the Department occurred on precisely the same terms as any other lawyer's presentation of any other client. I was never asked to give, and certainly never granted, any favors for, or special treatment of, ACC. The one meeting which I attended with ACC personnel or its counsel was also attended by four other members of the Department. The staff was involved in every step of the process, recommended every decision, and no staff decision was ever overruled.

Finally, before turning my attention to the investors in ACC,

who are the people who have suffered real harm in all of this, I would like to comment upon the Lincoln hearings that the U. S. House of Representatives Committee on Banking Finance and Urban Affairs has just concluded. The Department has been cooperating with that Committee and its inquiry and a substantial portion of the exhibits that I provided to you is a copy of our correspondence with Chairman Gonzalez. The federal hearings have developed the discussion of a number of significant issues. In the area of securities regulation, an analysis of the actions of federal securities regulators is quite instructive. The SEC registered ACC's debenture offering, reviewing the prospectus and the related financial information in the process. Although the SEC enforces a difference type of law, a full disclosure law and not merit regulation as in California, the SEC's two primary concerns were the same as ours--the financial condition of ACC and allegations of fraud.

SEC Chairman Richard Breeden testified at the congressional hearings that his agency faced a major hurdle regarding the financial statements. Specially, Mr. Breeden testified that--in the face of clean opinions from ACC's outside accountants and the ratification by the Federal Home Loan Bank Board and FSLIC of those opinions in the May 20, 1988 Agreement and MOU that I referred to earlier--the staff of the SEC did not believe that any

court would uphold regulatory action by the SEC on the basis of financial statements.

The Department of Corporations faced precisely the same problem and reached the identical conclusion. We were not in a position to dispute the financial condition of ACC based upon concerns about Lincoln with which the Federal Home Loan Bank Board and FSLIC did not agree.

With respect to concerns about securities fraud, again the SEC and the Department of Corporations faced identical problems. Chairman Breeden testified that no one complained to the SEC about the debentures prior to ACC's bankruptcy filing. No one complained to the Department of Corporations prior to that time, and at the time we were reviewing ACC's application, the Department of Savings and Loan informed us that one one had complained to them. Out of perhaps 23,000 bond purchases made over a two and one-half year period, no one who thought they purchased a CD and found out they really had purchased an uninsured, unsecured debenture apparently thought there was worth complaining about. We did not even get constituent referrals from state Senators or Assembly Members.

I do not offer the examples of the problems faced by the SEC

to minimize the responsibilities of the Department of Corporations in reviewing ACC's debenture offerings. However, I do think it is quite instructive to note that the SEC, in the discharge of its duties, reached the same conclusions on the ACC file and for the same reasons as the Department of Corporations.

At the beginning when I spoke I noted my frustration in this matter, and nowhere is it more evidence that with regard to the bondholders, the individuals who invested in ACC and who have sustained major personal losses.

The Department has authority to enforce administrative civil and criminal provisions under the Corporate Securities Law of 1968. We are investigating the debenture sales but we need the bondholders to contact us and give us all the facts involved in the offer and sale of the debentures to them. This will be a fact-intensive process and it will take significant time and effort, but we are committed and I want to assure you that we are committed to pursuing the investigation and that we have not lost sight of the bondholders.

MR. JOHNSTON: Thank you, Commissioner. You might stay there and we might as well deal with your testimony at this time. Your testimony today amplifies the position you took at our prior

hearing which is that in your view you had no choice but to approve the sale of the subordinate debentures, that you had, in the words of your own Chief Deputy's memo in 1989, no evidence that would sustain the burden of proof required to find that the sale of American Continental Corporation subordinated debentures were unfair, unjust or inequitable. That is the nature of your testimony. You said then and now that you discharged your responsibilities in 1988 when ACC and Lincoln wanted to sell an additional $150 million of subordinate debentures by contacting the Federal Home Loan Bank Board and our own Department of Savings and Loan.

MS. BENDER: Yes, that was a substantial part of our review.

MR. JOHNSTON: Right. And you heard the testimony at the prior hearing and today by Mr. Crawford with respect to the extensive examinations and oversight and regulatory efforts made by their Department with respect to Lincoln.

MS. BENDER: Yes, I have been present both times. I have heard Mr. Crawford's testimony.

MR. JOHNSTON: Does that serve to change your opinion about the quality of that information? You seem to minimize it, both in

written comments and in your staff's later justification of your approval of these bonds.

MS. BENDER: Mr. Johnston, I am certainly not trying to minimize it. What I got out of what Mr. Crawford said this morning, Commissioner Crawford, was that he felt the same kind of frustration that we did. That he had wanted to take action against Lincoln and felt that he didn't have the basis for doing so. That they felt that there were problems but they knew they couldn't prove it.

MR. JOHNSTON: Well, I don't think that was his testimony as a matter of fact and I don't thinks that is what the examination show. You are familiar are you not with the 1986 San Francisco Federal Home Loan Bank Board examination?

MS. BENDER: Yes, I am.

MR. JOHNSTON: You are familiar with the conclusions that I read that they reach with respect to violation of the direct investment limitation, their net worth violations.

MS. BENDER: I am not certain that I focusing exactly on the latter, I am familiar with the report.

MR. JOHNSTON: Well, if you look through that document that is rather interesting where they have the association on page 3, according to this document, is a net operating loss of approximately $3.6 million and on page 4 there were substantial write downs because of improperly capitalized interest and expenses that was almost $5 million. There was improperly reported profit noted in interest and fee reversals for joint ventures that we misclassified as loans. Identified appraised losses to date, $135 million. You looked at all that, didn't you?

MS. BENDER: Mr. Johnston. This isn't the Savings and Loan Department exam that you are referring to?

MR. JOHNSTON: This is the Federal Home Loan Bank Board's examination.

MS. BENDER: We received a copy of that about mid-April 1988. That was ...

MR. JOHNSTON: Right. Precisely at the time that you were reviewing the request for an additional $150 million.

MS. BENDER: That is right. Now, Mr. Johnston, the

chronology here is that we had audited financial statements of the company for 1987 which included a clean opinion, which is to say that the independent certified public accountants thought that the financial condition of the company as set forth in its financial statements complied with generally accepted accounting principles. We had as of April 1988 a report contradictory to that from the San Francisco Home Loan Bank. We knew that there was a dispute between ACC and the Federal Home Loan Bank that was in effect being refereed by their superiors, the Federal Home Loan Bank Board in Washington, D. C., and we told the applicant that we couldn't make a decision and certainly not a favorable one until those issues had been resolved favorably. May 20, 1988 the Federal Home Loan Bank Board in Washington, D. C. and FSLIC signed an agreement with the company that said that, in effect nullifying that entire report and providing that they would do a new examination...

MR. JOHNSTON: Let's deal with that. What you are telling the Committee then, is that your position and your Department's position was not an independent appraisal, but it was consistent with the position taken by a number of U. S. Senators and apparently by Mr. Danny Wall in saying that this was somehow a spat between the Honorable Charles Keating and the regulators in San Francisco and you were going to wait 'till it was refereed and

ignore the evidence presented in examinations not only by the Federal Home Loan Bank Board but by our own Department of Savings and Loan, as testified to today, that there was substantial problems.

MS. BENDER: Mr. Johnston, the way I would look at it would be if I contacted Mr. Suchil and asked him for your position on a particular matter and he told me what it was and I later contacted you and said Mr. Suchil is wrong, here is my position. I think I would have to rely on what you told me your position was and so from the Federal Home Loan Bank Board in Washington, D. C. overruled their district office in San Francisco. We as state security regulator had no basis to challenge their finding.

MR. JOHNSTON: Your testimony is that you had no basis to deny the issuance of these bonds despite your review of the Federal Home Loan Bank Board examination and our own Department of Savings and Loan? Don't you have any independent authority? Didn't you just say that you do a merit review as opposed to simply a paper review that the SEC or disclosure review?

MS. BENDER: We do. Although in this instance the concern was the financial condition of the company.

MR. JOHNSTON: Right. Well how about the raw land that was overvalued as stated on page 11 in Arizona? What about the investments in Gulf Broadcasting Corporation? The money invested in a hostile takeover of Crown-Zellerbach? How about the Ivan Bosky investments? Did those all meet your standards.

MS. BENDER: Mr. Johnston, again what I can say is that there was a dispute between the district office and the supervisory office in Washington over what was the correct treatment of Lincoln.

MR. JOHNSTON: It is your Department's review extraneous to the process of selling bonds in California?

MS. BENDER: I don't think it is, no.

MR. JOHNSTON: What's the point of doing it if you are simply going to defer to some federal agency?

MS. BENDER: Mr. Johnston, the Corporate Securities Law specifically authorizes the Department to rely on the opinions of experts and in this instance with independent certified public accounts, whose opinion was confirmed by the chief regulator for this institution I think I had no basis for relying on a report of

a district office that had been overruled by the chief federal regulator in this instance.

MR. JOHNSTON: It was concurred in by your colleague, Mr. Crawford in the Department of Savings and Loan. Did that matter to you?

MS. BENDER: Of course we took that into account. In addition we as I think I said in August and as I set forth in the exhibits that I provided to you this morning, we asked the company to go at great lengths to answer 21 questions that we had about their financial condition and their ability to repay.

MR. JOHNSTON: Did you also have Mr. Cirona from the Federal Home Loan Bank Boards letter to the prior chairman, Mr. Gray, pointing out Lincoln's lack of cooperation and citing problems like loan underwriting and appraisal deficiencies, heavy direct investment in real estate development, origination of large real estate acquisition, development construction loans, heavy concentration of loans investments by type and location, essentially no single-family home lending, heavy and often speculative...

MS. BENDER: Mr. Johnston, I don't know what you're reading

from.

MR. JOHNSTON: Well, I am reading from the testimony to the House Banking Committee that cites directly Mr. Cirona's memorandum to the Federal home Loan Bank Board.

MS. BENDER: Excuse me, Mr. Johnston, whose testimony are you reading from. I don't think I have that.

MR. JOHNSTON: Mr. Patriarchia's of the San Francisco office of the Federal Home Loan Bank Board.

MS. BENDER: I don't have a copy of that.

MR. JOHNSTON: All right. I'll make....But you do know about the memo that you submitted to the committee dated March 13, 1989, which is a recitation of your Department's review of the bond approval. Right?

MS. BENDER: Yes.

MR. JOHNSTON: It is interesting as we move through this and obviously Mr. Tom has often cited and occasionally, Mr. Samuelian is representing American Continental, but as we move through this

we see frequent references to unaudited, company-prepared consolidation balance sheet and other unaudited financial reports.

MS. BENDER: Mr. Johnston, what page are you on?

MR. JOHNSTON: How about page 32 in the middle, unaudited reports there. Page 34, unaudited financial statements and adjustments submitted by American Continental. On 35 we have an audited consolidated financial statement.

MS. BENDER: Mr. Johnston, I would like to be able to refer to this but I am having trouble finding where you are. Is it pages that are numbered at the bottom?

MR. JOHNSTON: Yeh. But on the top it would be page 4, page 6, page 7

MS. BENDER: Of which document?

MR. JOHNSTON: Of your Department's memo to Wayne Simon, Chief Deputy Commissioner, March 13, 1989.

MS. BENDER: It is pages 6 and 7 at the top?

MR. JOHNSTON: Right. Also on page 7 at the bottom, this is a memo that cited from your senior examiner Mr. Endo, that cites favorable and unfavorable factors. OK? The auditors report was unqualified. Well, we now know from Mr. Crawford, and perhaps your Department couldn't be expected to know, that that report was inaccurate and has been discredited. But in any event, point number 2 in the favor of ACC is quote, "Although the Federal Home Loan Bank Board expressed concern over Lincoln Savings and Loan, no drastic steps have been taken against the S&L association." However, then Mr. Endo of your Department cites unfavorable factors. ACC's consolidated balance sheet reflects certain investments that value $150 million in excess of estimated market value. Interest bearing liabilities exceed interest earning assets by approximately $1 million. American Continental, a holding company, may not be able to upstream cash from Lincoln Savings and Loan as it had been. Assets include $622 million in less than investment grade debt security. I mean this is your Department.

MS. BENDER: Now Mr. Johnston, this, I think, is very important because this memo has been referred to in the press frequently as a warning from my staff that was ignored and I am very glad to have an opportunity to describe to you what this was and what we did with it. Mr. Endo is a senior examiner with the

Department. In the course of our review of the company, we asked him to review the financial statements and so these were questions he had an concerns he had that needed to be addressed in the course of the review of the application. Subsequent to that date, Mr. Rifkin, who was the staff counsel on the file, wrote a letter to the applicant's counsel indicating...

MR. JOHNSTON: Who was that?

MS. BENDER: Mr. Rifkin, who is right here.

MR. JOHNSTON: No, who was the applicant's counsel?

MS. BENDER: Parker, Milliken, Clark, O'Hara and Samuelian....indicating 21 questions that the Department needed to have answered regarding the company's ability to repay the debentures and addressing many of the concerns that are set forth in Mr. Endo's note. The company subsequently filed with us and amendment to its application which was verified and signed under penalty of perjury which provided a lengthy discussion of the forces available to ACC both on a consolidated and on an unconsolidated basis at the holding company level alone of assets or cash or assets readily convertible into cash available to pay on the debentures. So we certainly did not ignore Mr. Endo's

memo.

MR. JOHNSTON: And on April 25 according to your memo, Mr. Mar, who had previously appeared here on behalf of the Department of Savings and Loan, met with Mr. Rifkin and Mr. Endo and according to your memo (1) he was worried about the valuation given to hotels owned by ACC and Lincoln, appeared to be $114 million loss on the two hotels; (2) indicated there was a $30-$40 million overvaluation on the loan. Further down, it says Lincoln Savings and Loan was highly risky. And then on page 11 we have another unaudited report. It seems to me that what you did was, you took the warnings offered by your own subordinates and asked Mr. Samuelian and Mr. Tom to present a response and once that was presented by representatives of the parent corporation, under penalty of perjury, you accepted it.

MS. BENDER: Mr. Johnston, when concerns are raised I don't know what else to do other than to ask for answers or explanations in regard to them.

MR. JOHNSTON: Given all that was known in 1988, and testified to by the Department of Savings and Loan, of the uncooperative nature of ACC and the unreliability of their information, why would you accept it at face value?

MS. BENDER: I don't think we did accept it at face value. I think we asked an awful lot of questions of the company. We also had reports from an independent certified public accountant which is to apply generally accepted accounting principles and we had the concurrence in those financial statements of the Federal Home Loan Bank Board in Washington, D. C. As Chairman Breeden testified in Washington, the SEC was really in the same position we were. Once that happened, they really were not in a position to dispute the financial position ....

MR. JOHNSTON: Yes, I did hear your testimony. On May 18, there was a meeting with Department of Corporations staff and Department of Savings and Loan staff, in which according to a memo from the Department of Savings and Loan, they say our staff has expressed serious doubts about the ability of ACC to service the debts being created and to pay them off at maturity. We are very concerned about the practice of selling the securities at Lincoln offices and the chance of buyers having the misleading impression they're investing in insured savings. But interestingly enough, on the second page of that memo, written by the Department of Savings and Loan, it says that one of the Corporations Commissioner's representatives opined that the whole affair looks like a Ponzi Scheme borrowing from the current debenture buyers to

pay off the earlier buyers.

MS. BENDER: Mr. Johnston, this is a memo that Mr. Cochett quoted from at the last hearing and at the time I didn't have it and Mr. Crawford stated at the hearing that he couldn't disclose it. Since then I have gotten a copy of it and I'll tell you my staff don't remember making that statement.

MR. JOHNSTON: Would you call that an inaccurate characterization of the financial dealings of ACC?

MS. BENDER: Excuse me.

MR. JOHNSTON: Does the term Ponzi Scheme fit the bill?

MS. BENDER: Ponzi Scheme, Mr. Chairman, is where the only source of funds to pay off older investors is new investments. In this instance, there were in fact existing debenture holders and there were other sources of cash available to the company. They detailed their net cash flow, the assets that they had at the holding company level which they could either sell or refinance. They discussed at that point the tax sharing agreement was not in question. They had a potential for dividend payments. There were a number of sources of cash available to it, so that it was not...

MR. JOHNSTON: So in your view there was additional ways they could repay the bondholders?

MS. BENDER: We wouldn't have issued a qualification unless we thought so.

MR. JOHNSTON: But isn't it the case that if you start with a small savings and loan and continue to grow very rapidly that you are able to pay off the debt in the short run, but maybe in the long run the institution goes over the cliff. Isn't that what happened with Lincoln? So simply saying that they had ....

MS. BENDER: There have been all sorts of allegations as to what went wrong with Lincoln, you know.

MR. JOHNSTON: But your testimony last time, as I recall, was that you relied heavily on the fact that ACC had previously honored its commitments to pay its debts.

MS. BENDER: They had an unblemished track record. That is correct.

MR. JOHNSTON: But isn't it also the case where you have an

institution that is growing rapidly, that is pulling in brokered deposits by offering high interest rates, that with that money in the short run they can pay their bills, but in the long run they can't.

MS. BENDER: Well, I guess Mr. Johnston, what we were looking at was their audited financial statements which indicated that they had...

MR. JOHNSTON: Audited by whom?

MS. BENDER: Arthur Young.

MR. JOHNSTON: Arthur Young.

MS. BENDER: Yes.

MR. JOHNSTON: So you relied on Arthur Young but not on the Department of Savings and Loan or the San Francisco office of the Federal Home Loan Bank Board?

MS. BENDER: We consulted with the Department of Savings and Loan, and we consulted as well with the San Francisco Home Loan Bank. But in answer to your question, this was the company that

had a positive net worth and which had earnings, so that I don't think we could have determined that in fact they were about to go over the cliff as you put it.

MR. JOHNSTON: From 1985 on the regulators had found substantial problems and had documented those problems and you evaluated that and found it insufficient. Isn't the conclusion really that as long as the perpetrator of the fraud on 23,000 Californians was still free that you had to allow them to sell more worthless paper? In other words, your testimony is until they were shut down and out of business there was no proof that they couldn't pay off their bond obligations?

MS. BENDER: My testimony is that until we had usable evidence to the effect that they were not going to be able to do that. For example, a requirement of a write down in the value of their assets...an order to that effect, a cease and desist order. We certainly did not have anything of that nature provided to us. Now as I say, I have learned that within the last two weeks that Savings and Loan did issue a cease and desist order to Lincoln, and I think it is because they may not share results of regulatory examinations, I am not exactly sure why, but we weren't told about that or given a copy of it and we didn't know about the February 10, 1989 letter that was written in which Lincoln was given 30

days to provide a reason why their assets wouldn't need to be written down. Those were in my view formal actions of the Department of Savings and Loan which would have given us a leg to stand on. We didn't know about those.

MR. JOHNSTON: Do you think that there is something amiss in the cooperation between the Department of Savings and Loan and your Department?

MS. BENDER: Absolutely not. I think, in fact, that they bent over backwards to be cooperative as they knew it within the bounds of the law and I think from what I can tell that they were constrained by restrictions on sharing information related to regulatory examinations with us. I am certain that they didn't want to keep it from us. They have very clearly indicated that they wanted all this information in the open.

MR. JOHNSTON: At the last hearing I asked if you had any recommendations for change in the law with respect to the standard that you use in approving bond sales. Do you have any recommendations to this committee at this time about changes in the law?

MS. BENDER: I have made a number of suggested improvements

or approaches that the Legislature could consider. That is what is in the appendix. That goes to the kinds of securities that are being sold. I note the fact, Mr. Johnston, you're considering changing the savings and loan law to prohibit these unlimited direct investments which I think everyone concedes was the reason Lincoln became a problem. But I also think that I would support a review of the information sharing statutes between state regulators to make certain that when somebody else knows something they can share it with another interested regulator.

MR. JOHNSTON: Thank you. That is a good recommendation. We appreciate that. Any questions by the members? Thank you, Ms. Bender. Mr. Carruth. I'm sorry, I keep looking at Mr. Rifkin. I had a...

MR. RONALD CARRUTH: The name is Carruth.

MR. JOHNSTON: Carruth?

MR. CARRUTH: Yes.

MR. JOHNSTON: I would like to draw your attention to the transcript of our last hearing. On page....

MR. CARRUTH: That would be fine, but I don't have it.

MR. JOHNSTON: You don't have it. Let me tell you what the issue was here.

MR. CARRUTH: Give me the page number please.

MR. JOHNSTON: Specifically page 47 at the bottom, and to set it context, you may recall if you were at the hearing that...

MR. CARRUTH: I was not.

MR. JOHNSTON: OK. Well, Mr. Franklin Tom, the former Commissioner now an attorney and for a time, yes, now an attorney in private practice Ms. Wright, is that an attorney as well? But shortly after he left his post as Commissioner of Corporations in March of 1987, within the first month he contacted you, he testified, in order to request that you ship the ACC/Lincoln file from the San Francisco office to the Los Angeles office. Is that correct?

MR. CARRUTH: He made that request and I granted that request. It was a very reasonable request and it was good for the people of California to have that file transferred for a couple of

reasons. Number one, the Lincoln Savings offices were mainly in southern California. American Continental is located in Phoenix, that is closer to our Los Angeles office also, and it is more cost efficient to the State of California to handle these files from the LA office than it is from Pasadena because it is a lot less expensive to call Pasadena from LA than it is from San Francisco.

MR. JOHNSTON: OK. What I am interested in is your confirming letter on March 24 to Mr. Tom. A very brief letter that says, "Dear Mr. Tom: At your request we have shipped our files in this corporation to the Los Angeles office" and so forth. Paragraph 2, "If earnings continue to decline we may be unable to grant an open qualification in the future for the applicant's debt. Accordingly, future take downs may need to be qualified on a suitability basis."

When I asked Mr. Tom about that statement in your letter, his response was he, meaning you, gratuitously included the statement regarding his concern, that is yours, about the deteriorating financial condition of American Continental. Was it gratuitous that you included that statement or had you previous conversations with Mr. Tom that would cause you to interact with him on the condition of ACC?

MR. CARRUTH: At the time Mr. Tom called I had the pending application. You will note carefully in my March 24 letter that there is carbon copy on that sent to Joseph Martinez who is the attorney representing the applicant at Parker Milliken. What I was doing was letting both of them know (a) I shipped the file and changed the file number and (2) since both were with the same firm and since when I talked to Franklin and let him know I was shipping this, I also let him know of my concerns on the trend of what I was seeing and that it could be a problem in the future. There is no reason not to let both of them know.

MR. JOHNSTON: Well, what's at stake here, of course, is that there is a regulatory ethics prohibition on the Commissioner going before his previous agency in a representative capacity with a client that he had or his department had dealings with when he was Commissioner. And Mr. Tom's statement was that his contact with you was a purely ministerial contact. I'm not familiar with that phrase being used in law and regulation. Are you?

MR. CARRUTH: I don't know what he meant by ministerial. I would say that his call certainly was procedural. He didn't ask me what I thought of the application, but since he was with the law firm that represented the applicant, I let him know what I was thinking.

MR. JOHNSTON: So your assumption was that Mr. Tom as well as Mr. Martinez of the firm were representing ACC and Lincoln.

MR. CARRUTH: If Mr. Tom calls and asks to have the file transferred, I assume he is representing them in making that request.

MR. JOHNSTON: Uh-hmm. Thank you very much. Are there any other questions by the members? OK. I think that concludes the Committee's questions of the witnesses of the Department of Corporations. Yes. Mr. Rifkin? You sure can, would you stand up there please and introduce yourself for the record.

MR. ROBERT L. RIFKIN: My name is Robert L. Rifkin, and I am the Senior Corporations Counsel for the Department of Corporations and I thank you for the opportunity to let me be here and to speak. I have worked for the Department for over 30 years and I am an old timer. I graduated in 1956 from UCLA Law School. I read in the press that I am a personal friend, a social friend of Mr. Karl Samuelian. I would like to say that in the 30 odd years that I have been away from law school, I have had no social, personal or any kind of relationship with Mr. Samuelian or Mr. Franklin Tom or anybody at his law firm. In fact the class I

graduated, in I only finished the last two years of it. I was in another class and I went into the Army, and since the press put me down as a close personal buddy or whatever it is, it just isn't so. I went to school with John Arguelles, who because a Supreme Court Justice, Joan Dempsey Klein, appellate judge. I went to school with many judges, both here in California and in other states and heads of major corporations and I have made it a practice all during the time that I have worked for the Department never to handle any files of any friends, relatives, and I have disqualified myself in any occasion where I have had a file. So in this situation, there was no conflict of interest whatsoever. I just wanted to clear the record on that. And I am willing to ask any questions.

MR. JOHNSTON: Thank you. The issue which you addressed is not one that I am aware of or not one that concerns me.

(Inaudible)

Yes. We only have two more witnesses. My intent was to finish up. No we are going to go until 1:00 o'clock unless we have reason to extend the question period. Thank you very much, Commissioner and your staff. I would like to ask Mr. Franklin Tom, Mr. Karl Samuelian to come forward.

MR. FRANKLIN TOM: Mr. Chairman, could we have one minute? Mr. Samuelian has a personal matter.

MR. JOHNSTON: Sure. Is there any reason why we can't address some questions to Mr. Tom?

UNIDENTIFIED: NO.

MR. JOHNSTON: Mr. Miller, would you swear in the witness. Mr. Tom, if you would come to the podium please.

MR. MILLER: Mr. Tom, I believe you were present in the room when I read the statement regarding your rights as a witness as set forth in the Government Code and do you understand your rights and responsibilities as a witness, and do you agree to testify voluntarily under the conditions stated?

MR. TOM: Yes I was. Yes.

MR. MILLER: Would you raise your right hand please. Do you solemnly swear that the testimony that you are about to give before this Committee will the truth, the whole truth, and nothing but the truth?

MR. TOM: I do.

MR. MILLER: Would you state your name for the record and your present position please?

MR. TOM: My name is Franklin Tom and I'm a partner in the law firm in Los Angeles by the name of Parker, Milliken, Clark, O'Hara & Samuelian.

MR. JOHNSTON: Mr. Tom, thank you for being with us. You testified previously before this Committee and our questions today, or at least the Chair's questions, are a follow-up to your testimony in which, if you recall, we were interested to know the sequence in which you moved from the Department of Corporations to a private law firm, and at what point you began to represent the client, namely American Continental and Lincoln Savings. As I recall, you left the Department in March of 1987. Is that correct?

MR. TOM: February 28th.

MR. JOHNSTON: February 28. The March 24th letter to you that was previously cited from Mr. Carruth cites a conversation

that you had had prior to March 24th, so within the first three weeks of your leaving the Department you called the Department to discuss the change in file from--to move the file from San Francisco to the Los Angeles office. That was your testimony?

MR. TOM: That was yes. And if you'll, may I elaborate on that since some of the members here today were not here at the previous hearing. At the time, that is in mid or late March, 1987, ACC, American Continental Corporation, had been a client of my firm for some time, and in connection with the debenture qualification of the Department of Corporations, I believe several filings had already been made by the firm as lawyer for the corporation prior to my return to the law firm. After my return to the law firm, there occurred another event which required a filing with the Department. That filing was not to be timely made because of an inadvertent delay in the transmittal of the necessary documents, really the core of the filing, called a post effective amendment, from ACC's securities counsel in New York City that prepared that document, to our firm. The process was that that law firm would prepare the document, send it to us, we would thereby be notified that a California filing was required. We would accompany it with the necessary additional California material that had to be filed with the DOC. Once that package was prepared, we would send it to Phoenix for signature. It was

returned to us in Los Angeles and filed again in San Francisco at the Department of Corporations for it to be processed. That was obviously a lengthy and cumbersome procedure and resulted in delays in filing which affected the coordination of federal and state filings as contemplated by federal and state laws, securities laws. I made the suggestion to Mr. Martinez, who was a lawyer, still is a lawyer at our firm, who was handling it and was complaining about this delay process, that we could reduce that delay, certainly, by having the file removed to the Los Angeles office since I was not aware, and he was not aware, of any particular circumstance, reason or convenience that that file should be processed in San Francisco, since neither the client nor...there simply was no reason why that file should be in San Francisco as opposed to Los Angeles. Which is why the request was made to Mr. Carruth to have the file removed to the Los Angeles office.

And Mr. Chairman, with your indulgence, if I might at this point, I'd like to make a clarification or amendment to my previous testimony because it was inaccurate in one regard and it relates to this contact. At the time that I testified in August, I stated that that contact with Mr. Carruth was the only contact that I had with the Department on this file during the one year period. At that time, that was the only contact that I

remembered, but in the intervening months, as a result of civil litigation, there are approximately a dozen lawsuits that are now pending as a result of the failure of ACC, with the bankruptcy of ACC and the lawsuits revolving around the debenture sales. My lawyers and I have had an opportunity to review a considerable amount of documents, and in the course of that review it appears there was a second contact that I made at or around the same time, within a one day period I believe it was; it may have even been the same day as my call to Mr. Carruth, and that was a call to Mr. Baker, who is an Assistant Commissioner at the Department of Corporations. The purpose of that call was apparently to secure a prompt consideration of the application that was then on file in Mr. Carruth's office because of this delay process. So that for the same reason, this cumbersome delay, that I asked Mr. Carruth if the file could be removed to Los Angeles, I asked Mr. Baker if that file could be given prompt consideration so it could be better coordinated with the federal filing. So I apologize to the Committee or the Subcommittee for that in August I inadvertently testified that my contact with Mr. Carruth was my only contact. In fact there were two contacts, one with Mr. Carruth and one with Mr. Baker.

MR. JOHNSTON: We appreciate that being brought to our attention. Would you care to revise your characterization then of

your contact with the Department of Corporations as purely ministerial?

MR. TOM: As a matter of fact, I would not. I think they're the same thing really. First of all, it arose out of the same circumstances as I've explained. The second is that it is the same type of procedural, administrative, or I think I used the word ministerial action, that I characterized the removal of the file. In other words, neither of those two acts had anything to do with the merits of the case. I wasn't asking that the file be considered favorably, I wasn't arguing any point in favor of my client, I wasn't responding to any point that had been propounded by the Department as a concern, that required a response on behalf of the issuer. These were all...

MR. JOHNSTON: Surely, Mr. Tom you were not asking the Department for prompt consideration of ACC's matter in order for them to reject it, were you?

MR. TOM: I was asking for prompt consideration so that their decision would be prompt. This is a...

MR. JOHNSTON: But you were the advocate for ACC.

MR. TOM: The distinction I am drawing is the difference between a procedural request and a substantive request, and let me explain that a bit. By a procedural request I mean having a file moved from one place to another, having the file handled more expediently than might otherwise be the case, which is the type of request that the Department gets every day from numerous lawyers and handles and grants and routinely if just cause is shown and those are what I would call procedural type requests. It doesn't ask that the permission, the qualification, the permit be granted or considered favorably at all or even to respond to any question that the Department might have.

MR. JOHNSTON: I appreciate those fine distinctions that operate in your intellect; of course, Mr. Carruth just testified that he assumed that you were representing ACC and consequently he communicated to you in writing about the substance of ACC's application. And in fact, the regulatory provision barring the revolving door by public officials, talks about a representative capacity and representing ACC were Mr. Carruth's words. So from a regulator's point of view, he saw your actions as considerably related to the entirety of the ACC matter.

MR. TOM: Well, I believe what he testified to was the following. First, that he, well he didn't know what I meant by a

ministerial act. He did deem it to be a procedural request which is the distinction...

MR. JOHNSTON: Then he went on to tell you about the problem with the assets, the valuation of the assets, right?

MR. TOM: That's correct, and I believe that he testified that he stated that in a single letter that was addressed to me and copied to my associate.

MR. JOHNSTON: Why didn't Mr. Martinez make those routine ministerial contacts since he was working on the file, as you testified to?

MR. TOM: He and I were together talking about the problem. I was the one who made the suggestion that maybe this would be the way in which to reduce the amount of delay associated with the file.

MR. JOHNSTON: Things might move a little faster if the former Commissioner called his subordinates?

MR. TOM: No. The Department handles these kinds of requests constantly. It grants them upon reasonable, if they're reasonable

requests, and I believe that the Department has testified consistently with that.

MR. JOHNSTON: And you were familiar at the time with the prohibition on contacting agencies, although there appears to be no penalty currently in law for doing so, but you were aware that that was your testimony?

MR. TOM: Yes.

MR. JOHNSTON: And so your other contacts, other than the one that was cited previously, and the one you made us aware of today, did not occur until March of 1988, in other words twelve months after leaving office.

MR. TOM: That's right. There were no other contacts with the Department by me. There were by other people in my firm, principally Mr. Martinez, exclusively by him, between March of 1987 and March of 1988.

MR. JOHNSTON: You stressed that the reason for moving the file was in order to expedite the papers that had to come from the New York law firm of ACC to your law firm, and then ultimately to the Department of Corporations.

MR. TOM: To take away that one last step, which was to get the documents up to San Francisco which would be an additional day's delay after they had been received by our office.

MR. JOHNSTON: Were you familiar at the time or subsequent to today's testimony by Mr. Crawford of the extreme resistance on the part of ACC in requests by the Department of Savings and Loan to receive information that they needed to do their examination, their movement of their records out of state to Arizona, for instance?

MR. TOM: First of all, I have to qualify what I'm about to say because as I or my lawyers stated last time, because I am limited to not revealing attorney-client communications which would be communications between myself or other members of my law firm and ACC or Lincoln, I can't speak to those sorts of conversations and discussions. What I was aware of that is a matter of, I think, public record is that there was a substantial dispute between the regulators, federal and state on the one hand, and Lincoln Savings on the other. That was clearly the case. There were several lawsuits filed, I mean pending in Washington, D.C., against the federal regulators at various times during this period.

MR. JOHNSTON: Was the law firm in New York, Kay, Scholer, Fierman, Hayes and Handler?

MR. TOM: It was, yes.

MR. JOHNSTON: And are you familiar with the letter dated August 8, 1986 from the Federal Home Loan Bank Board, Mr. B.J. Davis, in the San Francisco office, responding to that law firm's request that all information related to the examination of Lincoln Savings be routed through that New York office?

MR. TOM: Excuse one moment please. I'm sorry, I'm not familiar with that letter.

MR. JOHNSTON: Well, I'll supply it to you. But the point here is that you're testimony is that you sought to be very cooperative and respond to the Department of Corporations when information was requested, but the history of your client is quite different according to Mr. Crawford and according to federal regulators and in fact there seemed to be a tendency to move documents around. First to Arizona, and then to attempt the extraordinary procedure, extraordinary is the words of the Home Loan Bank Board, to route every request for information on a

regulated financial institution through a New York office and to justify it to those attorneys.

MR. TOM: Well, Mr. Chairman, I can't comment on something I don't know anything about. And so anything I would say regarding that is speculative. Let me simply say that I could not act and I can't conduct myself on the basis of letters like this that no doubt exist, but which I don't know about, or didn't know about at the time.

MR. JOHNSTON: Thank you very much for your testimony. Is there any questions by any other members? OK. I would like to invite Mr. Samuelian to come to the podium, and Mr. Miller, would you swear in the witness?

MR. MILLER: Mr. Samuelian, I believe you were present in the room when I read the statement regarding your rights and responsibilities as a witness before this Subcommittee?

MR. KARL SAMUELIAN: I was.

MR. MILLER: Do you fully understand those statements?

MR. SAMUELIAN: Yes, I do.

MR. MILLER: Do you wish to testify voluntarily under those conditions?

MR. SAMUELIAN: I do.

MR. MILLER: Would you raise your right hand please. Do you solemnly swear that the testimony you are about to give this Committee will be the truth, the whole truth and nothing but the truth?

MR. SAMUELIAN: I do.

MR. MILLER: Would you state your name and occupation for the record please.

MR. SAMUELIAN: My name is Karl M. Samuelian. I am an attorney in Los Angeles, California. I would like to read a statement. May I do that?

MR. JOHNSTON: Sure. You are most welcome, Mr. Samuelian.

MR. SAMUELIAN: My name is Karl Samuelian. I am 57 years of age, and was born in Philadelphia, Pennsylvania.

I attended the University of California at Los Angeles, from which I received a Bachelor of Arts degree, majoring in Political Science, in 1953. I attended and graduated from the UCLA Law School in June, 1956, and was admitted to practice law in California in January 1957.

Following graduation from law school and for a period of five years, I was employed as a Senior Trial Lawyer in the Chief Counsel's office of the Internal Revenue Service, first in Chicago and then in Los Angeles. Since 1962, I have been with the law firm which is presently known as Parker, Milliken, Clark, O'Hara & Samuelian. Initially, I was an associate attorney in the firm. I was admitted as a partner in January of 1966. I have been a senior partner in the firm since 1976. I am the head of the firm's business and corporations section. I am currently the managing partner of the firm.

I met George Deukmejian for the first time at a church banquet in 1971. The first time I assisted George Deukmejian in the raising of campaign funds was in July of 1978, when a fund-raising dinner was held in my home in conjunction with his campaign for the Office of Attorney General of California. I served as one of several state finance co-chairmen in George

Deukmejian's 1982 gubernatorial campaign. I served as statewide finance chairman of George Deukmejian's 1986 gubernatorial campaign. In 1988, I served as the California Republican Party's Victory '88 finance chairman to help raise funds for the 1988 elections. I am currently serving as statewide finance chairman for the California Republican Party.

I first met Charles Keating, Jr. in the early part of November of 1985. I was introduced to Mr. Keating by Mr. Thomas C. Stickel of San Diego. Prior to my introduction to Mr. Keating, I had not talked to him, I had not heard about him, and I had not read about him. Insofar as I am aware, neither Mr. Keating nor any company with which he was affiliated had made any political contributions to the campaigns of George Deukmejian prior to 1986.

American Continental acquired Lincoln Savings and Loan in 1984. In late 1985 the law firm of which I am a partner was retained to represent Lincoln Savings. In late 1986 the firm was retained to represent American Continental Corporation.

Other than the performance of legal work on behalf of Lincoln Savings and American Continental Corporation, neither my firm nor I have had any relationship or affiliation with Charles H. Keating, Jr., Lincoln Savings and Loan, American Continental

Corporation or related entities. Neither my firm nor I have owned any stock in American Continental Corporation. We have not represented Mr. Keating or any member of his family personally. Neither my firm nor I have had any business dealings with Charles H. Keating, Jr., Lincoln Savings, American Continental, or related entities, other than the performance of legal work, as previously indicated. I am not and have never been an associate of Charles Keating, Jr., as indicated in a recent Los Angeles Times article.

There have been allegations in the press relating to my role as an advisor to, and fundraiser for, Governor Deukmejian. I have engaged in these activities because I believe in the Governor and because I believe I have the right and responsibility to provide the support and advice I have provided. The allegations or insinuations, however, that these activities have in any way been related or connected to the legal services I and my firm have provided to American Continental and Lincoln are false. The facts are as follows:

Fundraising for George Deukmejian's 1986 gubernatorial campaign began early in 1985. The heaviest fundraising for this campaign took place in 1986. In 1987, there were two major fundraising events held by the Deukmejian Campaign Committee. During the period January 1, 1985 through December 31, 1987, the

Deukmejian Campaign Committee received $15,074,880.36 in political contributions.

At some point in late 1985 or early 1986 Mr. Keating indicated that that he would be interested in supporting the Governor and asked that I notify him of future fundraising events. Mr. Keating was thereafter notified of fundraising events, some of which officers of American Continental or Lincoln attended and some of which they did not, and Mr. Keating, members of his family, American Continental, Lincoln, subsidiary corporations and their officers did make contributions to Governor Deukmejian's campaign. The amounts of these contributions appearing in some media outlets have not been accurate. Neither Mr. Keating, nor any of such persons or entities, made any contributions to the Deukmejian Campaign Committee prior to 1986. During the period January 1, 1986 through December 31, 1987, the following contributions were made to the Deukmejian Campaign Committee by the individuals and entities indicated:

Charles H. Keating, Jr.	$ 7,000
Charles H. Keating, III	5,000
Lincoln Savings and Loan	30,000
American Continental Corporation	20,000
Subsidiary Corporations	40,000
Other officers of either of the organizations	28,000
for a total of	$130,000

Of the total of $130,000, $120,000 was made in 1986 and

$10,000 in 1987. In addition to the above $130,000, Mr. Conley Wolfswinkel contributed $20,000, by purchasing a table at each of two events, to the Deukmejian Campaign Committee in 1986. Subsequent to Mr. Wolfswinkel's contributions, I learned that he had had some business dealings with American Continental Corporation or one of its affiliates.

An integral part of the 1988 Republican Party's Victory '88 fundraising activities was the "Team 100" program. This was a program similar to a program instituted by the Democratic Party under which individuals or entities contributed in the aggregate $100,000 to either the Republican National Committee or a State Republican Party. Throughout the country, there were approximately 250 members of Team 100, of whom 55 were from the California area. Inasmuch as I was the California Victory '88 finance chairman, a number of the California Team 100 contributions remitted their contributions through me. Mr. Charles H. Keating, Jr., was one of the 55 individuals from the California area to join Team 100. Mr. Keating's $100,000 Team 100 contribution was made by the payment of $75,000 by American Continental Corporation to the California Republican Party and a credit in the amount of $25,000, consisting of a $20,000 contribution previously made to the Presidential Trust and a $5,000 contribution made to a Victory '88 fundraising event.

While I have served as a fund raiser for, and advisor to, Governor Deukmejian, I have never coupled contributions to the Governor's campaign with the exercise of political influence on behalf of clients of my firm or other contributors. Since George Deukmejian became Governor of California, I have not discussed with him the legal services that my firm was providing to its clients, and I have made it a practice not to advise the Governor of the identity of any clients of our firm. I did not discuss with George Deukmejian the legal services my firm was providing to American Continental or Lincoln Savings.

As a legal representative of American Continental Corporation and Lincoln Savings and Loan I and my firm have provided legal advice to, and have represented, these entities before the California Department of Corporations and the California Department of Savings and Loan. At no time during this representation did I, or other members of my firm, attempt to improperly exert influence on these regulatory authorities based on my political activities described above. We served as lawyers for American Continental and Lincoln and I believe we provided these services in an ethical and appropriate manner. Thank you.

MR. JOHNSTON: Thank you very much, Mr. Samuelian. We

appreciate your testimony. With respect to your statement just to make clear for the record, Mr. Thomas Stickel of San Diego who introduced Mr. Keating to you. Is that the same individual who is in partnership with Mr. Larry Taggart shortly after Mr. Taggart left the Department of Savings and Loan, and whom Lincoln Savings invested over $2 million shortly after he left the firm and after approving $900,000 of investment?

MR. SAMUELIAN: I am not familiar with Mr. Stickel's relationship with Larry Taggart. I have read in the newspapers about the investment that was made by Lincoln or a related entity in TCS but I have no first-hand knowledge of either one.

MR. JOHNSTON: Did you in your capacity as an advisor to the Governor recommend Mr. Taggart be appointed the Department of Savings and Loan Commissioner?

MR. SAMUELIAN: No, I did not. I did not know Mr. Taggart before he became Commissioner.

MR. JOHNSTON: The individual family member Mr. Charles Keating, III, one of whom you cite as having made a contribution to the Deukmejian campaign committee, he was a vice president, was he not of ACC?

MR. SAMUELIAN: I think he was an officer, his title exactly, I don't know.

MR. JOHNSTON: Was he the individual who in a three-year period rocketed from a minimum wage busboy to a million-dollar vice president in his Dad's company?

MR. SAMUELIAN: I have no information about that. I know nothing about that.

MR. JOHNSTON: OK. Did you in your capacity as an advisor to the Governor recommend Mr. Tom's appointment?

MR. SAMUELIAN: Mr. Tom expressed an interest in being Commissioner of Corporations. He filed his application. He asked if I would recommend him to the Governor and I said that I would. Mr. Tom has been with my firm, in my judgment he was a very capable individual. He was a graduate of UCLA with a masters degree in business, had a law degree and I felt that I could not think of a person better qualified to be Commissioner of Corporations than Franklin Tom. And I did recommend him.

MR. JOHNSTON: Would that apply also to Ms. Bender, the

Deputy Commissioner and subsequently Mr. Tom's successor?

MR. SAMUELIAN: Ms. Bender's situation was a little bit different. After she had served as Chief Deputy and after Mr. Tom left, she expressed an interest in being Commissioner of Corporations. She had already been there for close to four years and I told her that I would recommend her because she, too, in my judgment, was very qualified, very highly qualified. She's a Wellesley graduate, undergraduate, she is a Harvard law graduate, she worked in my law firm, and I was very impressed with her and I felt that it would be very difficult to find people qualified like Franklin Tom or Christine Bender to take that position.

MR. JOHNSTON: Once they assumed their positions as Commissioner of Corporations and Deputy Commissioner, your firm was contacted by Mr. Keating? Is that right? Representatives of ACC and Lincoln Savings?

MR. SAMUELIAN: Right.

MR. JOHNSTON: Why would they have hired your firm, do you believe?

MR. SAMUELIAN: I don't know why they hired our firm. I had

never heard of Mr. Keating, didn't know who he was. Why he hired our firm, we should ask him.

MR. JOHNSTON: Well, we've invited him, but of course, he is in Arizona and hasn't responded.

MR. SAMUELIAN: We are a reputable law firm in Los Angeles. We have been there for over 50 years. We've practiced in the corporate and securities area and in the business area. We are very qualified as are many other law firms. Why he hired, why he picked on our firm, I can't answer that.

MR. JOHNSTON: I would stipulate to the fact that your firm is well regarded and in fact this Committee has had the opportunity to see Mr. O'Hara of your firm donate services to the state in an extraordinarily helpful manner. So we have a good impression of your firm. But the pattern of Mr. Keating's influence, is it not, is to make substantial contributions to Democrats and to Republicans, and to hire people like Mr. Greenspan, to invest in people like Mr. Taggart, and to offer people like Mr. Ed Gray a job, to offer the wife of the San Francisco regulator a job, and out of the fine firms, of course, to select yours, which included as two of its former members, the Corporations Commissioner, the Deputy Commissioner, who would have

to approve the sale of their subordinated debentures.

MR. SAMUELIAN: As I indicated earlier, at the time I met Charlie Keating, I had not met, I had heard nothing about him, as far as I was concerned he was a total stranger and I didn't know him from Joe Blow. So I knew nothing about what pattern he may have had, what kind of political contributions he had been making. I had no information about that. I had no reason to think that he was not an honorable person and ...

MR. JOHNSTON: Is that your judgment now?

MR. SAMUELIAN: I am not prepared to express any judgment, other than what I have already said.

MR. JOHNSTON: Well, in taking on a client and working with that client, do you make any judgment as to the reliability of that client's representations to government agencies?

MR. SAMUELIAN: At no time during my representation of Mr. Keating or Lincoln or American Continental, did I ever have any reason to suspect that there was any wrongdoing. At no time.

MR. JOHNSTON: You were not aware of the pattern of

resistance cited by federal regulators and by Mr. Crawford of the Department of Savings and Loan to requests for information and the critical evaluations that were forthcoming from those agencies?

MR. SAMUELIAN: I was aware of the fact that both agencies were very vigorous in their enforcement and Mr. Keating at times expressed.... I can't get into what Mr. Keating may have said. That is privileged.

MR. JOHNSTON: OK. Well, you certainly are an attorney of note and we appreciate the right as the Governor said for you to carry out your occupation as you see fit. But you also have a semi-public role that you have identified for yourself in your testimony as a trusted advisor of the Governor and one that has meant that he agreed with your recommendation of the Corporations Commissioner appointment of Mr. Tom. Do you find it all embarrassing that this company that you represented will now cost the taxpayers $2 billion, particularly given your closeness with the Governor who is noted for his fiscal responsibility?

MR. SAMUELIAN: I am not happy about it but I'm not embarrassed by it in the sense that I was acting in good faith all along and as I indicated I had no knowledge about any of Mr. Keating's activities prior to being retained by him. As far as

the Governor is concerned, I have religiously for ten years separated my business matters from my assistance for the Governor. I have been a volunteer for him for over ten years and I have just avoided in any way getting my business matters mixed up with anything to do with the Governor's office.

MR. JOHNSTON: Surely, your closeness to the Governor is known to virtually everyone, though, including his appointees.

MR. SAMUELIAN: Well, I'm sure that many of them know me. Yes.

MR. JOHNSTON: And that would not disqualify you certainly from representing a client but don't you think that you have to be as pure as Caesar's wife in representing controversial clients before agencies headed by your former associates?

MR. SAMUELIAN: I've tried to be.

MR. JOHNSTON: There was a report cited in the Federal Home Loan Bank testimony before Congress that there was an effort to remove Mr. Crawford as the Savings and Loan Commissioner and his deputy, Mr. Davis. The allusion seems to be to you. Could you comment on that?

MR. SAMUELIAN: I have absolutely no information about any attempt by Mr. Keating to remove Mr. Crawford.

MR. JOHNSTON: Or by yourself?

MR. SAMUELIAN: Not by me.

MR. JOHNSTON: The 23,000 Californians who have lost their investments because Lincoln became insolvent, what would you say to them?

MR. SAMUELIAN: I appreciate the problem. It is a horrible problem, but I don't feel that our firm or our representation was responsible in any way for it and that we were acting in good faith and ....

MR. JOHNSTON: Good faith is sort of a legal term. I'm not suggesting that you violated any of the ethics as a lawyer, but simply as a person who makes a judgment about what clients to take and what ones not to take, I would guess that were you asked, you would not represent the business of people known to be international drug smugglers.

MR. SAMUELIAN: I certainly would not and as I indicated earlier, the time I met Charlie Keating I had no information whatsoever which was in any way derogatory or which would give me any reason to question....

MR. JOHNSTON: I respect that. That was 1985. It is now 1989 and along the way there were many investigations and I guess would have to conclude that the criticisms made by Mr. Crawford and the federal regulators were proven to be correct. Is that your conclusion?

MR. SAMUELIAN: I don't think I'm qualified to comment on that.

MR. JOHNSTON: Well, do you agree with Mr. Keating in his testimony, well his comment after he took the Fifth Amendment, that the failure of Lincoln was all the regulators' fault.

MR. SAMUELIAN: I don't wish to comment on that either.

MR. JOHNSTON: OK. Well, we appreciate your testimony, Mr. Samuelian.

MR. SAMUELIAN: Thank you.

MR. JOHNSTON: Any questions by any of the Committee members? Ms. Wright.

MS. WRIGHT: In the representation of your law firm, was it a situation that any of the partners became directly in contact with one of their clients? In other words, is it possible that saying Mr. Keating was... became a client of your firm, but not necessary that each and everyone of your members, or your member, that they themselves would come directly in contact with that client?

MR. SAMUELIAN: Many of the lawyers in our firm would have worked on Lincoln matters, worked largely with Lincoln or American Continental's legal staff.

MS. WRIGHT: In other words, it's quite possible that you could have Mr. Keating as a client and still you yourself would never constantly have been in contact and knew each and every item that your firm is dealing with.

MR. SAMUELIAN: It's possible, but I was retained at the outset, and I felt a responsibility to the client. I delegated as much as I could as a managing partner but there were also times when I felt that it was my responsibility.

MS. WRIGHT: So that you were in contact with him from time to time?

MR. SAMUELIAN: Yes.

MS. WRIGHT: When you got involved in a situation where you possibly were seeing some of these reports both from the Commissioner on Savings and Loan and the Corporations Commissioner and then with the federal, did you ever feel that possibly there was going to be a problem here? That you should relieve your firm of the contract or the retainer with Mr. Keating, or did you feel that it was a different situation where you were still the client and the attorney relationship and therefore was basically you were going to advise him in regard....

MR. SAMUELIAN: We were rendering advice as we were being consulted. As I indicated earlier, I did not reach a point in my mind that I felt there were any irregularities and that therefore I should cease to represent these two companies. We have not represented them since the bankruptcy proceedings.

MS. WRIGHT: In other words, it is a possibility for you to have client in which he can go off on his own and do basically

whatever he feels he wants to do, and that doesn't necessarily have to come back and be a reflection on your advice to him, if he has not come forth and asked for that advice?

MR. SAMUELIAN: That is correct.

MR. JOHNSTON: OK. Thank you very much for your testimony. This will conclude the witnesses that we have invited and this will conclude this hearing. The Committee will make a report but before we conclude, we have a request from Ms. Bender, the Commissioner of Corporations to make a brief final statement. We would like to invite you up to make that statement to the podium.

MS. BENDER: Mr. Johnston, I apologize for keeping the Committee beyond what would have been the conclusion. It is not a final statement, it has been pointed out to me that it was an omission from my earlier statement and in order to have it made under oath and part of the record, I would like to read that one paragraph. It has to do with the statements I was making about the false allegations of influence peddling in this matter.

It is true that Karl Samuelian has been a fundraiser for Governor Deukmejian. However, no one from the Governor's office ever called our Department about ACC or Lincoln while we were

reviewing the application or indeed prior to the bankruptcy. We were never asked by anyone in the Business, Transportation and Housing Agency as to how we were going to rule on ACC's application or what factors we were considering. In fact, the only statement that anyone at the agency ever made to anyone in the Department on this subject was that we should look at the filing closely, do what was right and enforce the law.

Thank you Mr. Johnston.

MR. JOHNSTON: Thank you Ms. Bender. And thank you Committee members. This hearing is adjourned.

STATEMENT BY KARL SAMUELIAN

AT ASSEMBLY FINANCE AND INSURANCE

SUBCOMMITTEE ON SAVINGS AND LOAN LAW

AND REGULATION HEARING - NOVEMBER 29, 1989

(1) My name is Karl M. Samuelian. I am 57 years of age, and was born in Philadelphia, Pennsylvania.

(2) I attended the University of California at Los Angeles, from which I received a Bachelor of Arts degree, majoring in Political Science, in 1953. I attended and graduated from the UCLA Law School in June 1956, and was admitted to practice law in California in January 1957.

(3) Following graduation from law school and for a period of five years, I was employed as a Senior Trial Lawyer in the Chief Counsel's office of the Internal Revenue Service, first in Chicago and then in Los Angeles. Since 1962, I have been with the law firm which is presently known as Parker, Milliken, Clark, O'Hara & Samuelian. Initially, I was an associate attorney in the firm. I was admitted as a partner on January 1, 1966. I have been a senior partner in the firm since 1976. I am the head of the firm's Business and Corporations section. I am currently the Managing Partner of the firm.

(4) I met George Deukmejian for the first time at a church banquet in 1971. The first time I assisted George Deukmejian in the raising of campaign funds was in July of 1978, when a fund-raising dinner was held at my home in conjunction with his campaign for the office of Attorney General of California. I served as one of several State Finance Co-Chairmen in George Deukmejian's 1982 gubernatorial campaign. I served as Statewide Finance Chairman of George Deukmejian's 1986 gubernatorial campaign. In 1988, I served as the California Republican Party's Victory '88 Finance Chairman to help raise funds for the 1988 elections. I am currently serving as Statewide Finance Chairman of the California Republican Party.

(5) I first met Charles Keating, Jr. in the early part of November, 1985. I was introduced to Mr. Keating by Mr. Thomas C. Stickel of San Diego. Prior to my introduction to Mr. Keating, I had not talked to him, I had not heard about him, and I had not read about him. Insofar as I am aware, neither Mr. Keating nor any company with which he was affiliated had made any political contributions to the campaigns of George Deukmejian prior to 1986.

(6) American Continental acquired Lincoln Savings and Loan in 1984. In late 1985 the law firm of which I am a partner was retained to represent Lincoln Savings. In late 1986 we were retained to represent American Continental Corporation.

(7) Other than the performance of legal work on behalf of Lincoln Savings and American Continental Corporation, neither my firm nor I have had any relationship or affiliation with Charles H. Keating, Jr., Lincoln Savings and Loan, American Continental Corporation or related entities. Neither my firm nor I have owned any stock in American Continental Corporation. We have not represented Mr. Charles H. Keating, Jr. or any member of his family personally. Neither my firm nor I have had any business dealings with Charles H. Keating, Jr., Lincoln Savings, American Continental Corporation or related entities, other than the performance of legal work, as previously indicated. I am not and have never been an "associate" of Charles H. Keating, Jr., as indicated in a recent "Los Angeles Times" article.

(8) There have been allegations in the press relating to my role as an advisor to and fund raiser for Governor Deukmejian. I have engaged in these activities because I believe in the Governor and because I believe I have the right and responsibility to provide the support and advice I have provided. The allegations or insinuations however that these activities have in any way been related or connected to the legal services I and my firm have provided to American Continental and Lincoln are false. The facts are as follows:

(A) Fund-raising for George Deukmejian's 1986 gubernatorial campaign began early in 1985. The heaviest fund-raising for this campaign took place in 1986. In 1987, there were two major fund-raising events held by the Deukmejian Campaign Committee. During the period January 1, 1985 through December 31, 1987, the Deukmejian Campaign Committee received $15,074,880.36 in political contributions.

(B) At some point in late 1985 or early 1986 Mr. Keating indicated that he would be interested in supporting the Governor and asked that I notify him of future fund-raising events. Mr. Keating was thereafter notified of fund-raising events, some of which officers of American Continental or Lincoln attended and some of which they did not, and Mr. Keating, members of his family, American Continental, Lincoln, subsidiary corporations and their officers did make contributions to Governor Deukmejian's Campaign. The amounts of these contributions appearing in some media outlets have not been accurate. Neither Mr. Keating nor any of such persons or entities made any contributions to the

Deukmejian Campaign Committee prior to 1986. During the period January 1, 1986 through December 31, 1987, the following contributions were made to the Deukmejian Campaign Committee by the individuals and entities indicated:

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Other officers	28,000
	$130,000

Of the total of $130,000, $120,000 was made in 1986 and $10,000 in 1987. In addition to the above $130,000, Mr. Conley Wolfswinkel contributed $20,000 (by purchasing a table at each of two events) to the Deukmejian Campaign Committee in 1986. Subsequent to Mr. Wolfswinkel's contributions, I learned that he had had some business dealings with American Continental Corporation or one of its affiliates.

(C) An integral part of the 1988 Republican Party's Victory '88 fund-raising activities was the "Team 100" program. This was a program similar to a program instituted by the Democratic Party under which individuals (or entities) contributed in the aggregate $100,000 to either the Republican National Committee or a State Republican Party. Throughout the country, there were approximately 250 members of Team 100, of whom 55 were from California. Inasmuch as I was the California Victory '88 Finance Chairman, a number of the California Team 100 contributors remitted their contributions through me. Mr. Charles H. Keating, Jr. was one of the 55 individuals from the California area who joined Team 100. Mr. Keating's $100,000 Team 100 contribution was made by the payment of $75,000 by American Continental Corporation to the California Republican Party and a credit in the amount of $25,000, consisting of a $20,000 contribution previously made to The Presidential Trust and a $5,000 contribution made to a Victory '88 fund-raising event.

(9) While I have served as a fund raiser for and advisor to Governor Deukmejian, I have never coupled contributions to the Governor's Campaign with the exercise of political influence on behalf of clients of my firm or other contributors. Since George Deukmejian became Governor of California, I have not discussed with him the legal services my firm was providing to its clients, and I have made it a practice not to advise the Governor of the identity of my

clients. I did not discuss with George Deukmejian the legal services my firm was providing to American Continental Corporation or Lincoln Savings and Loan.

(10) As a legal representative of American Continental Corporation and Lincoln Savings and Loan I and my firm have provided legal advice to and have represented these entities before the California Department of Corporations and the California Department of Savings and Loan. At no time during this representation did I or other members of my firm attempt to improperly exert influence on these regulatory authorities based on my political activities described above. We served as lawyers for American Continental and Lincoln and I believe we provided these services in an ethical and appropriate manner.

My name is Richard E. Newsom and I am a senior field examiner with the California Department of Savings and Loan based in San Francisco, California. I am here pursuant to a subpena which was served yesterday.

I understand the committee has a complete copy of my testimony and all attached exhibits provided to the House Banking Committee on October 31, 1989, and I will attempt to briefly augment this testimony to avoid wasting this committee's valuable time.

My first contact with American Continental Corporation (ACC), the holding company of Lincoln Savings and Loan Association, occurred in September 1988 when I was assigned to act as the Examiner-in-Charge of the holding company examination of ACC. As more specifically detailed in my congressional testimony, I rapidly changed priorities with the approval of Mr. Stelzer, the Department's Examiner-in-Charge of Lincoln, after I had identified a series of massive loan problems.

One of these problem loans was Lincoln's Hotel Pontchartrain loan. It was readily apparent that there was a $20 million loss on this loan and that it involved flagrant unsafe and unsound lending practices; even more flagrant violations of federal conflict of interest regulations; and ACC's dissemination of inaccurate, incomplete and erroneous information in public disclosure statements. Based on the documents available, it was my opinion that the Pontchartrain transaction represented a willful misappropriation of $20 million in company assets (almost one-quarter of ACC's net worth as of 9/30/88) for the benefit of insiders, without a prayer of collection and with grossly misleading disclosures to the public. The documentation was overwhelming and clear to me, to State and Federal Savings and Loan regulators and eventually to the FDIC who used this transaction in part to support a RICO suit.

I was unable to discern the difference between the Hotel Pontchartrain transaction and what amounted to outright theft of $20,000,000 followed by lying to the shareholders and creditors to conceal the theft, which I felt would be grounds for securities regulators taking action to stop subordinated debt sales. It was my opinion that virtually no prudent and informed investor would invest in ACC, if advised of the magnitude of the misappropriation of company assets, the willful nature of the violation of regulations, and breach of fiduciary duty by insiders.

My concerns were immediately conveyed to Lincoln/ACC management. In a letter (Exhibit 2 to congressional testimony) dated October 6, 1988, to management I conveyed my concern that "Involvement of so many officers, directors, and affiliated parties in such a blatant violation of conflict of interest

regulations reflects unfavorably on the integrity of the whole institution." As an interesting side note, one of the ACC officers involved in the transaction turned up as a proposed 23% acquirer of Lincoln as part of the Rousselot group, after I had referred the Pontchartrain transaction to the FBI.

The Hotel Pontchartrain transaction involved what appeared to be clearcut errors and material omissions in public disclosures addressed in detail in Exhibit 1, 2 & 4 to my congressional testimony. These exhibits were copies of the same documents that I had provided to a Department of Corporations official at the conclusion of a November 10, 1988, meeting between Department of Corporations personnel and Department of Savings and Loan personnel. The purpose of this meeting was to convey to the Department of Corporations general concerns about the viability of ACC as well as specific concerns about the Pontchartrain transaction, and to seek assistance in stopping the subordinated debenture sales. I advised Corporations personnel (Morton Riff, Robert Rifkin, and Ken Endo) of the specific disclosure problems on the Hotel Pontchartrain transaction and hoped it would justify Corporations' curtailment of subordinated debt sales. In addition to the documents provided at this meeting, Corporations officials were invited to review the box of documents supporting our criticism of the Pontchartrain transaction located in our Los Angeles offices.

The Department of Savings and Loan's final draft of a cease and desist order against Lincoln and ACC was submitted to the State Attorney General's office for final review in December 1988. This draft included an order requiring ACC, in essence, to stop misleading the public in public disclosure statements based on the finding that inaccurate and misleading statements appeared in ACC's public disclosure documents. These findings and the proposed order were deleted from the order finally issued, reportedly at the request of the Deputy Attorney General assigned to this matter. I was informed indirectly through Shirley Thayer in our L.A. Legal Division that the Deputy Attorney General felt that he lacked securities law expertise to effectively deal with any court challenge by ACC of the Department's order.

I understand the Committee is considering changing the Savings Association Law. I hope this occurs because one of the catastophic problems with the major expansion of Savings and Loan powers was the virtual deletion of all significant conflict of interest prohibitions from the Savings Association Law. In effect, there is no specific state prohibition against insiders stealing from their own association.

Richard E. Newsom

BEFORE THE

DEPARTMENT OF SAVINGS AND LOAN

CONFIDENTIAL

In the Matter of:	)	
	)	
LINCOLN SAVINGS AND LOAN ASSOCIATION	)	California Financial Code
18200 VON KARMAN	)	ORDER TO CEASE AND DESIST
IRVINE, CALIFORNIA 94714	)	
-AND-	)	Section 8200
AMERICAN CONTINENTAL CORPORATION	)	
2735 EAST CAMELBACK ROAD	)	
PHOENIX, ARIZONA 85016	)	
_____	)	

WHEREAS: Pursuant to Section 8152 of the California Financial Code (CFC), the Commissioner of the Department of Savings and Loan, State of California (the "Commissioner") has received information resulting from the examinations of the practices and operations of Lincoln Savings and Loan Association ("Lincoln") and American Continental Corporation (ACC). ("Lincoln" and "ACC" shall be understood to include all of their subsidiaries unless a contrary meaning is apparent.) Included in the information received by the Commissioner were the following facts:

1. Lincoln is authorized to operate a California savings and loan association under the supervision of the Commissioner;

2. ACC, an Ohio corporation, is a registered Savings and Loan Loan Holding Company under the supervision of the Commissioner;

3. Charles R. Keating, Jr. is chairman of the board of directors of ACC, owns 22% of its stock, and is a director of a number of subsidiaries of Lincoln; and

4. Charles R. Keating III is executive vice president of and owns 13% of the stock of ACC, and is an officer and/or director of a number of ACC's subsidiaries, including Lincoln and its subsidiaries.

Based on the above-referenced examinations and reports, the Commissioner finds that the following practices and operations, when taken as a whole, result in Lincoln and ACC engaging in unsafe and unsound business practices.

Transaction with Affiliated Persons

Through its subsidiary[1], Lincoln funded a $20 million unsecured loan to a limited partnership (Hotel Pontchartrain Limited Partnership, hereinafter "Pontchartrain"), of which another Lincoln subsidiary[2] was the only general partner and of which the limited partners include Charles Keating, Jr., Charles Keating III (his son and then director of Phoenician Financial Corporation), and other officers and directors of Lincoln, its parent (First) and affiliates. This loan involves a number of unfavorable characteristics which demonstrate unsafe and unsound practices or violations of SAL Section 7450 and Federal Insurance Regulations ("I.R.") Sections 563.43 and 571.7 (12 C.F.R. Sections 563.43, 571.7), including but not limited to the following:

1. Below market rate of interest, given the risk characteristics and terms which require no principal or interest payments for five years;

2. Pontchartrain had a negative partner's capital when the unsecured loan was committed and funded;

3. Pontchartrain had a history of operating losses prior to and after the loan was funded;

4. The loan represents a conflict of interest transaction in which affiliated persons of Lincoln personally benefitted, in violation of I.R. Sections 563.43 and 571.7;

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[1] Phoenician Financial Corporation, a wholly-owned subsidiary of Lincoln, incorporated in California.

[2] The Crescent Hotel Group of Michigan, Inc., a wholly-owned 2nd tier subsidiary of Lincoln, incorporated in Michigan.

5. The purposes of this unsecured loan were to cover Pontchartrain's operating losses and cash flow deficits. Pontchartrain's only major asset, the Pontchartrain Hotel, was already encumbered by a secured loan with another lender. The amount committed under the unsecured loan when added to the amount of the secured loan substantially exceeded the appraised value of this asset; and

6. Lincoln established a loss reserve on the Pontchartrain loan for accrued interest which exceeded $3,000,000.

Furthermore, public disclosure statements[3] lacked complete and accurate disclosures regarding the above-referenced Pontchartrain transaction, which in addition to being potential securities law violations, may result in liability to ACC, and thereby may adversely affect the safety and soundness of Lincoln. Material omissions and/or inaccuracies in these reports include:

1. Failure to disclose that the Pontchartrain Hotel was heavily encumbered by a $35 million mortgage with another lender;

2. Failure to disclose a $5 million guarantee by ACC of the $35 million first mortgage held by another lender on the Pontchartrain Hotel. (An additional $9 million secured guarantee was later provided by ACC in 1988.)

3. Failure to disclose the below market interest rate, the preferential terms, and the unsafe and unsound risk characteristics of the above-referenced Pontchartrain loan.

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[3] Proxy material dated April 8, 1988, a 10-K report dated December 31, 1987, and offering circulars for $300 million in subordinated debt filed with the SEC on April 14, 1988.

4. Investors and potential investors were advised in one report[4] that: "Management believes that the terms of the transactions set forth in the preceding paragraphs were as favorable to the company as those which could be obtained in similar transactions with unaffiliated parties". This statement is misleading given the facts of the transaction; and

5. Due to an error (described as "typographical" by ACC's counsel), ACC's proxy statement dated April 8, 1988 erroneously disclosed that ACC and a subsidiary advanced a total of $6 million to a limited partnership in which officers and directors had an interest, when in fact the total amount advanced was $16 million under the $20 million line of credit hereinbefore referenced.

Other High Risk Loan Concentrations

Loans to RA Homes, Inc.

On June 30, 1987, Lincoln made an unsecured loan (No. 91077) in the amount of $30 million to RA Homes, Inc. Under the terms of the note, Lincoln agreed to subordinate its loan to virtually all other unsecured creditors, notwithstanding the fact RA Homes' financial condition was extremely weak. RA Homes had a nominal stated net worth of $3.2 million as of October 31, 1987, in relation to stated liabilities of $134.2 million. Financial statements as of October 31, 1986, also reflected a nominal net worth of $1.2 million, with stated liabilities of $80.5 million. Net worth as of April 30, 1987 totaled $2.2 million. Due to operating losses, the company's financial condition has deteriorated, with stated net worth of $2.4 million compared to liabilities of $208 million as of July 31, 1988. The liabilities of RA Homes represent primarily secured creditors. In spite of the weak financial condition of the company, Lincoln did not obtain personal guarantees from the company's principals.

The loan terms are extremely liberal calling for interest only payments through 1992, at which time quarterly principal payments start and subsequently increase, with a $20 million balloon payment due in 1997. The stated source of repayment on the subject loan was

[4] ACC's April 8, 1988 Proxy Statement, Page 7.

income of RA Homes. However, the historical income from operations of RA Homes, as was known or should have been known to Lincoln at the time the loan was made, was not adequate to meet the interest and scheduled principal payments on the $30 million at the stated rate of 13%.

Loan No. 91087 to RA Homes, secured by land in Arizona, was extended and increased from approximately $27 million to $46 million on July 11, 1988, which resulted in an unsafe and unsound loan-to-value ratio of 100%, given the financial condition of the borrower and the size of exposure to Lincoln.

As of June 30, 1988, total loans to RA Homes equalled approximately $79.5 million, or about one-third of Lincoln's net worth, which represents an unsafe and unsound concentration of unsecured or thinly collateralized loans to such a financially weak company.

Loans to Southmark Corporation and Affiliates

Lincoln and/or its subsidiaries made a series of loans to and investments in Southmark Corporation, its subsidiaries, and affiliates totaling approximately $108 million. Of this amount, approximately $49.5 million has been collateralized by stock in closely held or wholly-owned subsidiaries and affiliates of Southmark.

Lincoln made three of the above loans totaling $12.5 million on distressed property owned by Southmark and its subsidiaries in June 1988. The properties are apartment buildings in depressed parts of the country and are characterized by high vacancy, cash flow problems, deferred maintenance and deterioration according to Lincoln's own analysis. According to Lincoln's own loan underwriting presentations, the $12.5 million in loans exceeded the current $8.9 million appraised values of the properties by $3.6 million . Stock which was pledged as additional security for these new loans consisted of restricted and unregistered stock valued at $4.5 million in a Southmark affiliate and is of reduced and questionable marketability, according to Lincoln's own loan agreements. The level of collateral protection afforded these loans is unsafe and unsound due to the unfavorable characteristics of the collateral, the thin collateral margin, the known financial difficulties of Southmark, and the large Lincoln exposure to Southmark.

Lincoln's multiple borrower list as of June 30, 1988 indicates an unsafe and unsound concentration of loans to Southmark, its affiliates and subsidiaries in the amount of $98.8 million, particularly in light of Lincoln's knowledge of Southmark's deteriorating financial condition as evidenced by Southmark's Form 10-Q report dated March 31, 1988.

Conclusion

Based on the forgoing findings and allegations, the Commissioners concludes that Lincoln, ACC, and its named subsidiaries have engaged in unsafe and unsound business practices.

ORDER

THEREFORE, pursuant to the provisions of CFC Section 8200, the Commissioner orders Lincoln, ACC, any of their subsidiaries, and their directors, officers employees and agents, to CEASE AND DESIST from the following:

1. Making loans, representing either new or additional extensions of credit, to Pontchartrain, R. A. Homes, Inc. and Southmark Corporation, or any of their subsidiaries, directors, officers, or other affiliates.

2. Making loans or creating concentrations of credit to any borrowers contrary to CFC Section 7450.

3. Making loans or entering into transactions of any kind that violate I.R. Section 563.43 or I.R. Section 571.7 dealing with conflicts of interest.

4. Permitting erroneous, incomplete, misleading or inaccurate information of any kind to be included in public reports (including Form 10-Q), offering circulars, proxy materials or any other public information. This order includes, but is not limited to, material omissions regarding related or affiliated person transactions.

5. Making unsecured loans to borrowers which have deficit or inadequate net worth to prudently support reasonable expectations of repayment consistent with CFC Section 7450.

FURTHER, the Commissioner orders the board of directors of Lincoln and ACC to fully exercise their fiduciary duty consistent with CFC Section 6150.

FURTHERMORE, Lincoln and ACC are directed to apply to the Commissioner for exceptions, waivers, adjustments or relief from any provision of this Order which they believe is detrimental to the best interest of the Association or detrimental to the best interest of the public.

This Order shall be effective immediately upon service.

_____ _____

DATED:

WILLIAM D. DAVIS
Chief Deputy Savings and Loan Commissioner
600 South Commonwealth Avenue, Suite 1502
Los Angeles, CA 90005

WDD:hs

cc: Darrel W. Dochow, ORA

Receipt is hereby acknowledged by:

_____
Name (Typed or Printed)

_____
Signature

_____
Corporate Title

_____
Date

OPENING STATEMENT
OF
COMMISSIONER OF CORPORATIONS
CHRISTINE W. BENDER
BEFORE THE ASSEMBLY FINANCE AND INSURANCE
SUBCOMMITTEE ON SAVINGS AND LOAN LAW AND REGULATIONS

NOVEMBER 29, 1989

It is a legitimate inquiry as to why the Department of Corporations ("the Department") did not prevent the offer and sale of debentures by American Continental Corporation ("ACC"), and I am here to discuss precisely that issue. However, when this Subcommittee held its first hearing in August, I stated that the real story here was the failure of a savings institution, Lincoln Savings and Loan Association ("Lincoln"), and the problems caused by that failure. I also stated, in response to a question from Chairman Johnston about how I felt about the situation involving ACC and Lincoln, that I felt frustrated. An analysis of the facts and of testimony at the recent federal hearings on Lincoln's failure confirms those statements.

I. Facts

A. The Department's Action and Review

I do not want anyone to think that the Department took a passive view of our responsibilities regarding ACC's debenture offerings. To my knowledge, no application has ever received greater scrutiny by our Department. We reviewed ACC's financial position and required them to provide evidence of ability to pay on the debentures both on a consolidated basis with Lincoln and on an unconsolidated basis without the savings and loan (see Exhibit 1). We required ACC to answer 21 specific concerns about the offering (see Exhibits 2 and 1). We contacted the Department of Savings and Loan ("DSL"), the Federal Home Loan Bank Board in Washington, D.C. ("the FHLBB"), the Federal Home Loan Bank in San Francisco ("the San Francisco Bank"), and the federal Securities and Exchange Commission ("the SEC") regarding Lincoln and ACC and were unable to obtain any useable evidence that ACC's financial position was other than as represented in the prospectus or the other filings made with us. I described all of these actions in my testimony at the first Subcommittee hearing on this subject (see Exhibit 3).

The Department also kept its ears open for complaints from investors. We received none prior to ACC's bankruptcy filing, and the DSL informed us that they received none before that time. I find this fact curiously significant. News reports indicate that

perhaps 23,000 individuals purchased debentures over a two and one-half year period. The basic claim now is that the purchasers thought they were investing in a certificate of deposit ("CD"), not a subordinated debenture, and that they did not know what subordinated debentures were. However, I must assume that these individuals did know what CDs were and knew that withdrawals could be made from a CD upon payment of a penalty. With 23,000 bondholders, I also must assume that some number of them, over that two and one-half year period, asked to withdraw their money only to be told that withdrawals could not be made on debentures. In fact, testimony at the recent federal hearings on the closing of Lincoln confirms this conclusion. However, no one complained--not to DSL where one would have expected them to start, and not to our Department, where one would expect them to have been referred.

B. The Absence of Evidence

The concerns that we had or that were raised to us about ACC revolved about Lincoln, ACC's primary asset. We knew that Lincoln was closely regulated at both the federal and state levels. However, in the course of our review of ACC's securities applications and our contacts with savings and loan regulators, we were never able to uncover any concrete evidence that ACC would not be able to continue to make payments on its debentures as scheduled.

1. Federal Regulation of Lincoln

I am aware that the San Francisco Bank recommended in 1987 that the FHLBB take over Lincoln. However, the FHLBB not only overruled the San Francisco Bank, but agreed in 1988--along with the Federal Savings and Loan Insurance Corporation ("FSLIC")--not to take any administrative or enforcement action against Lincoln, ACC or any of their affiliates, officers or directors on the basis of the report issued in connection with the San Francisco Bank's 1986-87 examination of Lincoln ("the 1987 San Francisco Bank Report") and, as far as I am aware, did not require any write-down of Lincoln assets at that time. These facts are set forth in an Agreement dated May 20, 1988 ("the Agreement") and a Memorandum of Understanding dated May 20, 1988 ("the MOU") among

Lincoln, the FHLBB and FSLIC (see Exhibits 4 and 5).

In April of this year, less than a year after the signing of the Agreement and the MOU, the FHLBB and FSLIC found it necessary to put Lincoln into conservatorship because of unsafe and unsound practices. By August, they put Lincoln into receivership because of insolvency and now must fund what ultimately may be a $2.5 billion loss. The FHLBB has never informed the Department as to why this result was not foreseen in Washington, D.C. or why, despite our contacts with the FHLBB from April through December of 1988 about ACC and Lincoln, the FHLBB never provided us with any useable evidence about these companies or indicated any expectation that a takeover would be required. I must assume that the conditions that existed in August of this year evidencing insolvency had existed in April and even earlier. If so, federal savings and loan regulators could have taken over Lincoln earlier.

As I will discuss later in my testimony, the actions of the FHLBB regarding Lincoln put the Department of Corporations in a position such that we could not challenge ACC's debenture offering on the basis of its financial statements. I also will discuss later the other major securities regulation issue involved here, the allegation of fraud.

2. State Regulation of Lincoln

DSL did inform us in 1988 of gut-level concerns that they had about Lincoln and ACC. They provided us in good faith with statements of their impressions, but they were aware that they did not provide sufficient objective evidence to support a finding against ACC. A DSL file memorandum of a May 18, 1988 meeting between representatives of our Department and DSL (Exhibit 6) states in part:

> [Department of] Corporations personnel questioned us extensively on our impressions of ACC and Lincoln and were interested in objective evidence which they may use in a

> hearing in case they were to turn down ACC's request. I don't know whether we were able to provide enough objective evidence to serve their purpose.
>
> (Emphasis added.)

In mid-1988 ACC expressed its intent to renew the arrangement by which ACC leased space in Lincoln branches to offer and sell the debentures. I am aware that DSL initially informed ACC that the lease arrangement would not be renewed because of concerns over ability to pay (see Exhibit 7). However, shortly thereafter DSL revised its position, concluding that they could not say whether ACC had the ability to pay off the debentures but denying renewal on other grounds. (see Exhibit 8).

It appears that DSL may have generated certain evidence in the latter half of 1988 and early 1989 indicating concerns involving ACC. For example, in testimony at the federal hearings on the closing of Lincoln, Richard E. Newsom, a Savings and Loan Senior Examiner, referred to an interim report of examination of ACC and Lincoln dated October 14, 1988 (see Exhibit 9). Further, in early November, 1988, DSL appears to have decided to issue a cease and desist order against Lincoln and ACC, which was issued on December 21, 1988. On February 10, 1989, DSL sent Lincoln a letter regarding its examination of Lincoln and its subsidiaries as of July 11, 1988. The letter discussed DSL's findings and recommendations and, among other things, gave Lincoln 30 days to provide written evidence that potential losses had been reviewed to determine the need for recognizing and recording valuation allowances--i.e., write-downs of the values of the assets. We did not receive copies of this interim report, the cease and desist order or the February 10, 1989 letter until approximately two weeks ago.

C. Allegations of Influence Peddling

At this point, I must address allegations of influence peddling in connection with our review of this matter because of the representation of ACC by Karl Samuelian and Franklin Tom. The allegations are totally false.

The press has tried to use colorful language regarding this representation--for example, calling it "lobbying"--but the facts are not so exciting. Both Mr. Samuelian and Mr. Tom are known in the legal community for having a corporate and securities practice, so it is not at all out of the ordinary for them to represent a client such as ACC. It is not as though their typical practice involves something like land use planning and they suddenly represented ACC before the Department of Corporations. Further, Mr. Tom's and Mr. Samuelian's representation of ACC before the Department occurred on precisely the same terms as any other lawyer's representation of any other client. I was never asked to give, and certainly never granted, any favors for or special treatment of ACC. The one meeting which I attended with ACC personnel or its counsel was also attended by four other members of the Department. The staff was involved in every step of the process, recommended every decision, and no staff recommendation was ever overruled.

It is true that Karl Samuelian has been a fund-raiser for Governor Deukmejian. However, no one from the Governor's Office ever called our Department about ACC or Lincoln while we were reviewing the application, or indeed, prior to the bankruptcy. We were never asked by anyone in the Business, Transportation and Housing Agency as to how we were going to rule on ACC's application or what factors we were considering. In fact, the only statement anyone at that Agency ever made to anyone in the Department on this subject was that we should look at the filing closely, do what was right, and enforce the law.

D. The Federal Hearings

Finally, before turning my attention to the investors in ACC--the people who have suffered real harm in all of this--I would like to comment upon the Lincoln hearings that have been held by U.S. House of Representatives Committee on Banking, Finance and Urban Affairs. The Department has been cooperating with that Committee in its inquiry and I have attached a copy of our correspondence with Chairman Gonzalez to my prepared statement (see Exhibit 10).

The federal hearings have developed the discussion of a number of significant issues. In the area of securities regulation, an analysis of the actions of federal securities regulators is quite instructive. The SEC registered ACC's debenture offering, reviewing the prospectus and the related financial information in the process. Although the SEC enforces a full disclosure law, not merit regulation, the SEC's two primary concerns were the same as ours--the financial condition of ACC and allegations of fraud.

SEC Chairman Richard Breeden testified at the congressional hearings that his agency faced a major hurdle regarding the financial statements. Specifically, Mr. Breeden testified that--in the face of clean opinions from ACC's outside accountants and the ratification by the FHLBB and FSLIC of those opinions in the May 20, 1988 Agreement and MOU--the staff of the SEC did not believe that any court would uphold regulatory action by the SEC on the basis of the financial statements. The Department of Corporations faced precisely this same problem and reached the identical conclusion. We were not in a position to dispute the financial condition of ACC based upon concerns about Lincoln with which the FHLBB and FSLIC did not agree.

Regarding concerns of securities fraud, again the SEC and the Department of Corporations faced identical problems. Chairman Breeden testified that no one complained to the SEC about the debentures prior to ACC's bankruptcy filing. No one complained to the Department of Corporations prior to that time, and, at the time we were reviewing ACC's applications, the Department of Savings and Loan informed us that no one had complained to them. Out of perhaps 23,000 bond purchases made over a two and one-half year period, no one who thought they purchased a CD and found out they really had purchased an uninsured, unsecured debenture thought there was anything worth complaining about. We did not even get constituent referrals from state Senators or Assembly Members.

I do not offer the examples of the problems faced by the SEC to minimize the responsibilities of the Department of Corporations in reviewing ACC's debenture offerings. However, I think it is quite instructive to

note that the SEC, in the discharge of its duties, reached the same conclusions on the ACC file for the same reasons as the Department of Corporations.

II. The Investors in ACC

At the beginning of this statement, I noted my frustration in this matter, and nowhere is it more evident than with regard to the bondholders, the individuals who invested in ACC and who have sustained major personal losses.

The Department has authority to enforce administrative, civil and criminal provisions under the Corporate Securities Law of 1968 ("the CSL"). We are investigating the debenture sales, but we need help. Specifically, we need the bondholders to contact us and give us all of the facts involved in the offer and sale of the debentures to them. This will be a fact-intensive process and it will take significant time and effort, but we are committed to pursuing the investigation. I want to assure you that we have not lost sight of the bondholders.

THE SIX SETS OF QUESTIONS
ASKED BY CHAIRMAN JOHNSTON

At this point, Mr. Chairman, let me answer the six questions or sets of questions that you previously provided to me.

Question 1.

The first set of questions asks about the "fair, just and equitable" standard and the method or place of marketing the debentures.

(a) The Sales on Lincoln Premises.

These questions raise an issue as to whether, in applying the CSL, the Department considered the fact that offers and sales of the debentures were made in Lincoln offices. Under the CSL, we consider various issues about the nature of the offering, as I will describe in a moment, but we have no jurisdiction over the place that the securities are sold. In this regard, I note that our jurisdiction or the lack of it is identical to that of federal securities regulators, as testified to by SEC Chairman Richard Breeden earlier this month at congressional hearings on the closing of Lincoln.

(b) Efforts to Ensure the Investors Knew What They Were Purchasing.

The Department is concerned about the nature of securities offerings, and we took a number of steps to be sure that prospective investors in the ACC debentures knew what was being offered to them. First, we reviewed the prospectus to be sure that it set forth, in bold-face block capital letters on the cover, the fact that the debentures were offered only by ACC, were not savings accounts or deposits of Lincoln and were not insured by FSLIC. We also made sure that the prospectus disclosed other relevant issues such as the fact that the offering was not underwritten and the nature of Lincoln's business and investments. Both of these issues were discussed in the "Special Factors" section of the prospectus.

Second, because of concerns raised by DSL, we wanted to be sure that people were getting the prospectus and that no misrepresentations were being made as to the nature of the offering or the unavailability of FSLIC insurance. We sent out one of our own investigators, who returned with a prospectus, a business card of the sales agent indicating clearly that he was employed by ACC (not Lincoln), and a report that no representations were made contrary to those in the prospectus. DSL informed us that they had made at least half a dozen similar spot checks in different Lincoln offices, with identical results to ours. We checked our enforcement records and found that no one had complained to us about the ACC offering, and we learned

from DSL that no one had complained to them.

Third, we reviewed ACC's advertising. After spotting some advertisements which we had not reviewed, we contacted ACC solely on our own initiative to require changes. These changes included the deletion of every reference to Lincoln except one. The one reference we allowed noted that an ACC representative could be contacted at a Lincoln office (as allowed by DSL). However, we required, immediately after that reference to Lincoln, inclusion of a statement in bold-face type that the debentures were not insured by FSLIC. If prospective investors read only the cover of the prospectus, if they read only the bold-face print on that cover or only the bold-face print in the newspaper advertisements, then they knew the debentures were not insured.

I also would like to discuss ACC's use of sales agents. This approach, an issuer selling its own securities, is permitted under the CSL and Department rules, and ACC, as far as we could determine at the time, complied with those rules. For example, pursuant to Rule 260.141.30, ACC informed us in their applications of the names of the individuals who would be acting as sales agents and of the name of the person supervising them. Further, in accordance with Rule 260.141.31, ACC also filed an issuer's bond with the Department in this regard. We are, of course, looking into recent allegations that ACC used Lincoln employees to sell the debentures and offered them bonuses.

Question 2.

The second question asks not only about the fair, just and equitable standard but also about the standards that apply to the issuance of a stop order, suspension or revocation by the Department. In sum, these additional standards address something also implicit in the fair, just and equitable standard, the fact that fraudulent offerings cannot be permitted and, once discovered, must be stopped.

The Department of Corporations continued to review ACC's debenture offering following the issuance of the one-year qualification on May 26, 1988. We did this because we knew several parties were investigating Lincoln or ACC on various issues. Our primary concern was ACC's ability to pay on the debentures. If there was concrete evidence of inability to pay, we wanted to find it. If there were other facts that raised concerns, we needed to know those, too.

We had the greatest number of contacts with DSL. When they asked what we would need to stop the offering, we told them that

we would want to know if DSL was requiring any significant write-downs of Lincoln assets, whether they had issued a report of their own as to Lincoln's financial condition other than their concurrence in the 1987 San Francisco Bank Report (which had been overruled by the FHLBB), whether DSL had issued any cease and desist orders to Lincoln, or anything of that nature. We were provided with nothing of this sort.

DSL was certainly not the only other party that we contacted to find evidence of fraud or other problems. In addition to a number of meetings, phone conferences, and written contacts with DSL, we had the same types of contacts on at least eight occasions with the SEC, on seven occasions with the FHLBB, twice with the San Francisco Bank, once with the Federal Reserve, and once with the U.S. Attorney's Office in Los Angeles. The only significant documentation we received from these other agencies was from the FHLBB, and that was a copy of the 1987 San Francisco Bank Report, which we received on April 18, 1988. However, the FHLBB and FSLIC overruled that report very shortly thereafter through the May 20, 1988 Agreement and MOU.

I found all of these contacts to be quite frustrating. At one point in December of 1988, while we were investigating ACC to see if we should revoke their qualification, the SEC would not even hold a phone conference with us without a written request for access to records, and the SEC explicitly stated to us in writing that they would not "be in a position to express any conclusions, judgments or recommendations concerning the securities or accounting issues" because, despite their on-going investigation of ACC, they had "not reached any conclusions or made any enforcement recommendations in this matter." DSL told us many similar things about their inability to dispute financial statements or substantiate rumors, and the U.S. Attorney was unable to tell us anything because all of his information had come from the grand jury.

Question 3.

The third set of questions asks whether ACC cooperated with the Department's regulatory efforts and whether ACC opposed any investigation or request for information.

As far as the Department's inquiries to ACC are concerned, ACC answered every inquiry. For example, on April 29, 1988, Robert L. Rifkin sent ACC a letter which listed 21 separate questions. ACC responded to all 21 items in a verified filing--a filing made under penalty of perjury--made on May 18, 1988. Further, although ACC was not pleased that only a 60-day

qualification was allowed on March 29, 1988, or that the Department would not consider the typical one-year qualification until ACC's audited financials for 1987 had been filed with us, ACC accepted the Department's decision and promptly filed the additional application required by us. The 1987 financials, which included a clean opinion from ACC's independent certified public accountants, were filed with the Department on March 31, 1988 as part of ACC's Form 10-K.

As far as our "investigation" of ACC was concerned--the inquiries about ACC and Lincoln that we made to other parties--I am not sure ACC even knew about them. We did not advise ACC or its counsel that we were making such inquiries.

Question 4.

Question 4 asks whether the Department of Corporations had access to the examination reports of federal and state savings and loan regulators and whether those reports indicated problems with valuation of assets.

The only examination report we ever received was the 1987 San Francisco Bank Report, in which DSL concurred. As far as I am aware, there has never been an independent examination report completed by DSL. It was not until this month that we received a copy of an Interim Report dated October 14, 1988 that DSL prepared regarding ACC and Lincoln. There has been no other federal report on Lincoln--certainly none that was ever provided to the Department of Corporations--prior to ACC's bankruptcy or the takeover of Lincoln. All of this is true despite the fact that our Department was in contact with the FHLBB and DSL about ACC and Lincoln at least through February, 1989.

The Department received the 1987 San Francisco Bank Report from the FHLBB on April 18, 1988, after we had allowed a 60-day qualification to go effective but during our review of the one-year qualification application. This report did raise questions as to the valuation of assets. However, the report conflicted with the audited financial statements and, significantly, was being reviewed by the FHLBB in Washington, D.C. with the intent of resolving any disputes on that score between Lincoln and the FHLBB, Lincoln's primary regulator.

We took the 1987 San Francisco Bank Report quite seriously and informed ACC that we would not allow the one-year qualification to go effective unless the dispute over that report was resolved favorably. That resolution was provided to us on May 24, 1988 in the form of the May 20, 1988 Agreement and MOU

and could not have been more favorable to ACC. In those documents, the FHLBB, Lincoln's primary federal regulator, and FSLIC, the insurance fund for billions of dollars of Lincoln's deposits, agreed not to take any administrative or enforcement action against ACC or Lincoln or any of their officers, directors or affiliates and did not require Lincoln to write-down any of its assets. These documents overruled the 1987 San Francisco Bank Report and essentially ratified the report of the independent certified public accountants.

Question 5.

Question 5 asks about the Department's ability to hire experts, appraisers or others to review financial information submitted to us.

The Department does have authority, under Section 25150 of the CSL and Rule 260.150, to hire engineers, appraisers, or other experts. Section 25150 also authorizes the Commissioner to "accept and act upon the opinions, appraisement and reports of any engineers, appraisers or other experts which may be presented by an applicant on any question of fact concerning or affecting the securities proposed to be offered and sold."

With regard to ACC, the key issues were its financial condition and valuation of its assets or the assets of Lincoln, ACC's primary subsidiary. As a result, we required ACC to submit audited financials for 1987 before we would even consider a one-year qualification for the debenture offering. We also contacted the FHLBB and DSL for concrete evidence of problems such as write-downs of assets, cease and desist orders, or regulatory examinations that conflicted with the audited financials. We were never provided with any such information other than the 1987 San Francisco Bank Report. However, by the May 20, 1988 Agreement and MOU, that report was overruled by both the FHLBB, Lincoln's primary federal regulator, and by FSLIC, the insurance fund for billions of dollars in Lincoln's deposits. Further, as I have already noted, by those documents both the FHLBB and FSLIC essentially ratified the audited financial statements. There were no experts whom I believed, based on what we knew at that time, we could have hired with any greater expertise.

It is also extremely important to note that, while independent certified public accountants are paid by the companies they audit, accountants are not advocates for their clients. They are independent accountants, and their responsibility is to determine whether the company's financial statements accurately reflect the financial condition of the

company. In making this determination, accountants must apply generally accepted accounting principles. Further, in securities offerings accountants have a significant incentive to be accurate. Under Section 25504.2 of the CSL, accountants face joint and several liability to the purchaser of the security for any losses incurred by that purchaser if the accountants' report contained material omissions or misstatements and the purchaser relied thereon.

Question 6.

Question 6 includes several inquiries about the Department's conflict of interests rule, specifically focusing on paragraph (e) of Rule 260.607.

The first two parts of Question 6 ask about the meaning of the term "representative capacity" and the types of contacts that would be permitted under Rule 260.607(e). The term "representative capacity" is not defined in the rule, nor is it defined in the SEC's conflict of interests rule (which provided a model for ours), and I think that is because its meaning is relatively self-evident. Someone would appear before the Department in a representative capacity if he or she represented a party--made substantive contact with the Department on behalf of a party--with regard to something that was or might be at issue. Non-substantive contacts--contacts not relating to any issue, not trying to influence any decision or the application of any statute or rule--would not be covered by Rule 260.607(e). For example, and without attempting to provide an exhaustive list, requests for public information would not be covered because they do not relate to any substantive questions in an application, nor would requests for the transfer of a file or for a priority in processing be covered, again because there would be no effect on the issues to be considered. These are all procedural, non-substantive requests.

The latter two parts of Question 6 inquire as to the penalties for violating Rule 260.607(e) and who may enforce that provision. Possible penalties for the violation of any provision of the CSL or the rules thereunder include: (a) injunctions against the violation (Section 25530 of the CSL); (b) civil penalties (Section 25535); and (c) criminal penalties for willful violations (Section 25540). The Department may enforce the civil and injunctive portions of these provisions, and may refer evidence of any violation of the CSL or Department rules to the district attorney of the county in which the violation occurred (Section 25533).

APPENDIX:
POLICY ISSUES APPLICABLE TO
ACC/LINCOLN-TYPE SITUATIONS

One of the issues that we have been debating within the Department of Corporations--and that I hope everyone has been debating--is whether this situation was preventable and, if so, how. I think that almost all of the policy issues involved are so broad as to permit resolution only by the Legislature and the Governor, acting as the elected representatives of all Californians. However, these issues are of great concern to the Department and fall within areas where we have great levels of expertise.

As always, our Department stands ready to work with the Legislature on any proposal and to provide an analysis of the likely benefits and burdens. To help initiate this process, if it has not already begun, or to help move it along, if it is in process, below are listed several approaches that might have prevented this situation. The benefit is relatively self-evident, the prevention of one type of transaction. The burdens require further analysis, such as whether legitimate transactions also would be prevented.

1. Prohibit the Offer or Sale of Any Uninsured Products in the Office of Any Savings and Loan. This approach might not prevent the problem. As nearly as I can tell, perhaps tens of millions of dollars of ACC's debentures were sold after ACC stopped leasing space in Lincoln offices. Further, to the extent the problem exists, it also exists for banks, credit unions, and industrial loan companies. Unless such a prohibition were applied to all of these types of financial institutions, savings and loans would be put at a major competitive disadvantage and the problem would not be solved. A blanket prohibition on the sale of products not covered by federal insurance--including, for example, annuities or mutual funds--in any financial institution would force a major restructuring of the operations of those institutions in California.

2. Prohibit the Offer or Sale of Securities Issued by an Affiliate of a Savings and Loan in the Offices of the Savings and Loan. The Legislature may wish to consider this approach, and I note in this regard that the bondholders who testified at the recent federal hearings focused heavily on the aura of security surrounding savings and loans and the existence of federal insurance. However, for the reasons discussed in Paragraph 1, above, this approach might not prevent the problem. Further, to the extent that this approach would address a concern about a conflict of interest in sales by an affiliate of a savings institution to a depositor of that institution, I must note the fact that, as I understand things, a significant number of the

purchasers of ACC's debentures were not Lincoln depositors at the time of purchase.

3. Prohibit the Offer or Sale of Securities Issued by an Affiliate of a Savings and Loan to Any Depositor at the Savings and Loan. This approach might have reduced, but would not have prevented, the problem. As noted in Paragraph 2, above, it appears that a substantial number of the purchasers of ACC debentures were not Lincoln depositors prior to the time they purchased the debentures. Further, this approach raises a number of difficult problems. For example, if a bond purchaser subsequently became a depositor, as occurred with a significant number of the ACC debenture purchasers, would that investor/depositor be permitted to purchase additional bonds or roll any bonds over at maturity?

4. Prohibit the Sale of Uninsured Securities Offered in the Office of a Financial Institution Unless the Purchaser Signs a Notice Acknowledging the Fact that the Securities are not Covered by Federal Insurance. This approach probably would not have changed much of anything in the ACC situation. The debenture purchasers signed a purchase agreement which was part of the prospectus package. If the purchasers did not read the prospectus, I doubt they would have read a notice about the unavailability of FSLIC insurance that, almost certainly, would have been included in or signed at the same time as the purchase agreement.

5. Allow a Cooling-Off Period After the Purchase of an Uninsured Security in which the Purchase May Be Cancelled by the Purchaser. Such an approach would be similar to the right provided under some statutes for consumer purchases. One would expect the cooling-off period to be relatively short, three to five business days, for example.

   This approach is subject to at least two initial criticisms. First, to the extent the purchasers of ACC's debentures did not read or did not get a prospectus, there is no reason to believe they would have changed their minds regarding the purchase. Second, this approach is far too broad. It would, for example, apply to purchases of common stock and would give the consumer an absolute right to rescind a sale after three or five days if the price of the stock went down. Even if only applied to debt instruments, this approach would give the consumer an absolute right to rescind a sale during the specified time merely because interest rates went up and a better deal was suddenly available.

6. Prohibit Any Securities Offerings Which Do Not Involve an Underwriter. There are at least two considerations applicable here. First, there is no reason to believe that such an approach would prevent problems like this. Much has been made of the fact that underwriters bring an independent, third-party review to securities offerings. But underwriters would not have added any expertise in this situation. The problem here was financial, and underwriters, in making their review, rely on the audited financials issued by the accountants. Further, unlike accountants, who must apply generally accepted accounting principles on a consistent basis, there is no body of generally accepted underwriting principles to bind the underwriters.

A second problem with this sixth possible approach is that the extent to which it would be applied is unclear. For example, it is quite common for partnerships to offer and sell their own securities without an underwriter. In addition, many other, smaller public offerings do not involve an underwriter. Such an approach might have unintended effects on those types of businesses. Even if this approach were applied only to corporations, the Legislature would have to balance the benefits with the burdens. While not common, it is also not unusual for issuers to sell their own securities, such as debt securities, under a "shelf registration" procedure. Such an approach would prohibit all such activities, not just the ones that ultimately cause losses for the investing public. The Legislature also would have to determine whether such a prohibition would apply to all securities offerings--including those exempt from review by the Department of Corporations--or only to those offerings that must be qualified with the Department.

7. Prohibit the Sale of Uninsured Securities to Anyone Over a Certain Age or Under a Certain Income or Net Worth Level. Some of the purchasers of the ACC debentures were senior citizens on limited incomes, and this approach might have protected them. However, it raises several serious concerns.

First, it is too broad. Not only would it have prevented the sales of ACC debentures to a particular class of people, but it would prevent the sales of other securities, such as blue chip or utility stocks with relatively stable prices and attractive dividends. Second, it would dictate to a

certain sector of the population that they are too old or too poor to be able to make their own decisions.

One aspect of this approach does have some appeal. The Department currently applies it, not with regard to age but with regard to standards of income and net worth, when securities are offered in businesses that present special risks. However, the types of special risks that typically concern us are things like securities issued by some start-up companies or by takeover vehicles--where there are no assets and no track record of performance--or partnerships with complicated tax, profit-sharing and cash flow provisions. In these instances, if an investor has no experience or cannot hire an experienced advisor, there is no fair chance that the investor will understand the investment. The situation is very different with regard to companies with years of operating history and securities that are no more complicated than a promise to pay.

8. Shift the Burden of Proof in a Qualification by Coordination to the Applicant (Require the Applicant to Prove that the Offering Is Fair, Just and Equitable). This approach is subject to two criticisms. First, there is no guarantee that it would have changed the results in ACC's applications. The Department's inquiry into the offering--evidenced by, among other things, the requests for additional information and the requirement that the one-year qualification would not be issued until the dispute over the 1987 San Francisco Bank Report was resolved in Lincoln's favor--did much to shift the burden back to ACC. Further, there are now allegations and other indications of willful fraud. A shift in the burden of proof will not stop someone intent on fraud.

The second criticism of this approach relates to the burden of regulation compared to its benefit. The Department receives approximately 1500 applications for qualification by coordination every year. The states and the SEC have worked together to be sure that there is a workable process by which nationwide or multi-state offerings may occur with simultaneous offerings in every state, and the Legislature agreed, in passing the Corporate Securities Law in 1968, that this approach should be followed in California. A shift in the burden of proof back to the applicant in California likely would mean that the offering would not be cleared in California by the time it was ready to proceed elsewhere. In many cases, the offering would proceed without the involvement of California investors or, because of California's importance in the capital markets, the

offering might not proceed at all. This approach thus could disrupt the capital formation process for thousands of companies and the legitimate investment prospects of an untold number of Californians. The Legislature would have to balance this burden against any likely benefits of this approach.

9. Prohibit or Restrict Savings and Loans from Speculative or Excessive Non-Traditional Investments. This approach might have prevented the insolvency of Lincoln and the resulting collapse of ACC. As I understand things, the Assembly Finance and Insurance Committee is drafting legislation in this regard.

EXHIBIT 1

Applicant hereby amends its Application for Qualification by Coordination heretofore filed with the Department of Corporations on March 31, 1988 to reflect the registration by Applicant of an additional $300 million of Subordinate Debentures, of which Applicant seeks to qualify hereby $150 million. In connection therewith, Applicant incorporates herein by this reference the following documents attached hereto as Exhibits A-1, A-2 and A-3:

1. Form S-2 Registration Statement filed with the SEC on April 14, 1988 covering the registration of $300 million of Subordinate Debentures (marked to reflect changes from current Registration Statement covering $200 million offering);

2. Pre-Effective Amendment No. 1 to Form S-2 Registration Statement filed with the SEC on May 9, 1988 (marked to reflect changes from Exhibit A-1);

3. Form T-1, Statement of Eligibility and Qualification under the Trust Indenture Act of 1939, filed with the SEC on May 9, 1988.

Applicant hereby further amends its Application for Qualification by Coordination heretofore filed with the Department on March 31, 1988 to incorporate therein the information requested by the Department in its letter to the Applicant dated April 29, 1988. The information set forth below is numbered to correspond with the requests contained in the Department's letter.

Item 1 - Debt Regulations; Sources of Cash.

a. Debt Regulations

Section 260.140 provides that the standards set forth in Article 4 "are intended to furnish guidelines in the situations covered for the exercise of the Commissioner's discretion relating to the qualification . . ." [Emphasis Added]. The Applicant has not provided for a sinking fund nor has it restricted the creation of liens on its property or the creation of other funded debt, beyond those significant restrictions imposed by state and federal savings and loan regulations. Furthermore, the Applicant believes such provisions are unnecessary and inappropriate in view of the following facts:

1) Subordinated Debt Is An Accepted Financing Medium in the Marketplace. The use of unsecured and other subordinated debt is a common financing mechanism in corporate capitalizations, particularly with seasoned companies, and such securities have been readily accepted in the public and institutional marketplace. Many such issues have been qualified in California, and numerous others are

issued in reliance upon exemptions in the Corporate Securities Act and the regulations thereunder. Indeed, the need for sinking funds and similar devices is often an indication of inherent financial weakness rather than financial strength.

2) The Applicant Has An Unblemished Record of Financial Success. It is important to bear in mind Applicant's long history of proven financial capability. It has been in business on a consistently profitable basis since its formation in 1976. Of at least equal importance is the fact that Applicant enjoys a very significant positive net cash flow which enables it to more easily handle debt service than would be the case in most nonfinancial companies of equal size relative to earning power and capital. "Net cash flow" is defined as net income increased by non-cash expenses and decreased by non-cash income. The following schedule shows Applicant's net earnings and cash flow during each of the five years 1983 to 1987:

	(in thousands)				
	1983	1984	1985	1986	1987
Net Earnings	$19,119	$20,513	$ 42,542	$ 24,233	$ 19,327
Cash Flow	$29,909	$58,638	$176,429	$108,984	$116,446

3) Applicant's History Shows Its Capability to Discharge and Handle Debt. Applicant has demonstrated its capability to handle substantial debt, as evidenced by the data discussed below in Item 1.b.2)b).

In its entire corporate history, Applicant has never defaulted in the payment of interest, failed to make any principal payment when due and/or at maturity. In fact, Applicant has frequently prepaid its corporate indebtedness to take advantage of lower prevailing market rates in certain periods or for other reasons. In the past three years (1985-87), principal prepayments of over $750 million in the aggregate have been made. (See the chart in b.2(b) of this Item 1.)

4) Applicant's Strong Financial Performance Can Be Independently Validated. For the past two years, Forbes magazine has rated the financial performance of numerous U.S. corporations. Attached hereto as Exhibits 1.a.1 and 1.a.2 are excerpts from the two most recent ratings, respectively (Applicant was not rated in the financial companies category in the earlier year), which shows that Applicant was rated no lower than fourth place in the nation in each industry category in which it was included. These ratings are based upon a number of empirical financial criteria, and the

results validate the Applicant's position that it is a seasoned company with strong financial performance.

5) Applicant's Issuance of Subordinate Debentures of Varying Maturities Has the Financial Effect of a Sinking Fund. The Subordinate Debentures are issuable, in accordance with their terms, in series with varying maturities ranging from one to ten years. Applicant has taken this flexibility into account by varying the maturities on its debt, and accordingly, has issued Subordinate Debentures in virtually every annual maturity within the permissible range as evidenced in the schedule set forth herein in Item No. 5.

The practical effect of spreading the maturities is that the entire issue, which as of April 30, 1988 totalled $166,569,000, is payable over the ten year "life" of the issue in a manner similar to the way that a sinking fund or mandatory prepayment provision would operate.

6) FHLBB Approval of 1988 Debt Budget. As a result of the acquisition of Lincoln Savings, the Applicant's issuance of debt is subject to FHLBB approval. Approval is generally sought by filing an annual budget in November for debt to be issued during the following fiscal year; the budget submitted to the FHLBB for approval describes the general purposes for the debt expected to be issued (for instance, working capital, real estate acquisitions or refinancing) and the maximum amount of debt to be issued during the year. The Applicant's 1988 debt budget has been approved by the FHLBB and would, in Applicant's opinion, enable Applicant to proceed to issue the Subordinate Debentures sought to be qualified hereby.

7) Applicant's Record of Financial Achievement Makes It Inappropriate to Apply the Features of Section 260.140.4. Applicant is a publicly held corporation with over $5 billion in assets, shareholders' equity in excess of $140 million, annual revenues of over $700 million and annual net earnings exceeding $19 million. Against these facts and taking into account the other facts set forth above, Applicant contends that it is neither "normal" nor "appropriate" to apply the provisions of Section 260.140.4 of the California Administrative Code which, by its very terms, reserves to the Commissioner the discretion to apply or not apply them depending upon the circumstances.

b. Sources of Cash for Repayment

In the event that the Applicant were to retire the Subordinate Debentures and the remainder of its long-term debt, it

would have a number of alternative and cumulative sources on which to draw including, but not limited to, the following:

1) Cash From Lincoln Savings

a) Dividends

Since acquisition of Lincoln Savings, Applicant has received $5 million of dividends from Lincoln Savings. In addition, as of March 31, 1988 approximately $72,000,000 of retained earnings were available for the payment of dividends without violation of regulatory capital requirements or Applicant's agreement with the FHLBB, as described below.

The ability of Lincoln Savings to pay dividends on its common stock is restricted by FHLBB regulations and by an agreement with the FHLBB entered into in connection with the acquisition of Lincoln Savings by the Applicant. Under that agreement, without prior written approval from the FHLBB, dividends paid by Lincoln Savings in any fiscal year are limited to 50% of its net income for that fiscal year, provided that any dividends permitted under this limitation may be deferred and paid in a subsequent year, subject to the provision that in no event may dividends be paid which, in fact or in the opinion of the FHLBB, would cause Lincoln Savings to fail to meet its minimum capital requirements.

Until the resolution of issues related to the FHLBB's 1986 examination, Lincoln Savings has agreed with the FHLBB not to pay dividends to Applicant. Upon execution of the Memorandum of Understanding or the entering into of a similar agreement with the FHLBB, however, Lincoln Savings could resume the payment of dividends subject to the above described limitations.

b) Tax Sharing Payments

During 1986, Lincoln Savings and Applicant entered into a tax sharing agreement in which Lincoln Savings remits to Applicant the amount of federal income tax measured by the total provision for such taxes computed, for financial reporting purposes, on a stand alone basis, and Applicant remits to Lincoln a corresponding amount for tax benefits resulting from pre-tax losses of Lincoln Savings (see Item No. 21 for discussion of Tax Allocation Agreement).

Through December 31, 1987, Lincoln Savings had paid approximately $90 million in tax sharing payments to Applicant. On a consolidated basis, Applicant pays only a corporate alternative minimum tax due to net operating loss carry-forwards totaling $110 million at December 31, 1987

(see Note O to Applicant's December 31, 1987 financial statements contained in its 1987 Annual Report).

c) Earnings

Since its acquisition by applicant in February 1984, Lincoln Savings' pre-tax and net earnings are summarized as follows:

Year	Pre-Tax Earnings (000s)	After Tax Earnings (000s)
1984	$ 17,436	$12,436
1985[1/]	100,350	79,850
1986[1/]	81,689	48,958
1987[1/]	63,150	41,020

1/ See p. 15 of Prospectus dated April 6, 1988.

d) Summary

Tax sharing payments and available but unpaid dividends from Lincoln Savings totaled approximately $162 million in the four-year period Applicant has owned and operated Lincoln Savings. On a per year basis, the available cash from Lincoln Savings would average over $40 million. In addition, future earnings of Lincoln Savings will increase the available dividend flow to Applicant.

2) Cash From Non-Lincoln Subsidiaries

a) Asset Sales

As discussed in Item 16 below, included in Exhibit 16.1 is a balance sheet as of December 31, 1987 which reflects the segregation of Applicant and Lincoln Savings. A brief description at December 31, 1987 of each asset category available for payment of the Subordinate Debentures is summarized below:

(i) Cash on hand and short-term cash investments ($86.2 million). (Principally cash investments and 90-day U.S. Treasury bills.) (See Item 7 below.)

(ii) Loans receivable secured by real estate ($43.0 million). (Represents seller financing on the sale of Applicant-owned property principally in Phoenix, Arizona and Denver, Colorado.)

(iii) Unleveraged real estate ($27.2 million). (Represents unencumbered residential and commercial property -- located principally in Phoenix, Arizona and Denver, Colorado.)

(iv) Marketable equity securities ($11.4 million). (Represents unleveraged investments in corporate equity securities.)

(v) Mortgages and mortgage-backed certificates ($8.0 million). (Represents residual mortgages and GNMA certificates owned by American Continental Mortgage, Applicant's wholly-owned mortgage banking subsidiary.)

The foregoing categories represent over $97 million of highly liquid investments (categories (i) and (iv)), $52 million of loans receivable (categories (ii) and (v)) and over $27 million of unencumbered real property, totalling over $176 million, or more than the entire principal balance of Subordinate Debentures outstanding at March 31, 1988.

b) Debt Retirement

Applicant's long-term debt may be retired through refinancing. A history of Applicant's public debt financing is summarized as follows:

Year Issued	Amount Issued	Type of Security	Amount Currently Outstanding
1976	$ 12,000,000	Convertible debentures	$ -0-
1981	7,875,000	Senior debentures	-0-
1982	22,500,000	Subordinated debentures	-0-
1983	125,000,000	Senior debentures	31,050,000
1983	21,250,000	Common stock	21,250,000
1983	56,250,000	Preferred stock	40,191,000
1985	50,000,000	Senior sub. notes	7,818,000
1986	25,000,000	Senior debentures	25,000,000
1986	25,000,000	Senior debentures	25,000,000
1987	14,752,000	Preferred stock	14,752,000
1981-1985	651,501,000	Mortgage-backed bonds	85,958,000
	$1,011,128,000		$251,019,000

Approximately $750,000,000 of debt has been retired during the 3-year period from 1985 through 1987. All of this debt has been repaid in cash (including the convertible debentures) through refinancing, and internally generated cash. The foregoing demonstrates Applicant's proven capability to retire and refinance debt.

Item 2 - Collateralization of Subordinate Debentures.

It is not practicable for Applicant to restructure the Subordinate Debentures as a secured debt using specified real property as collateral. The Applicant is an experienced purchaser, seller and developer of real property. It has utilized its experience in real estate to acquire and develop a substantial number of properties, some of which it has sold and some of which it continues to develop and hold. However, unlike a manufacturing company owning its facilities, Applicant does not hold its real estate as a fixed asset but more in the nature of inventory. lt buys land, develops it, and sells it. Consequently, collateralizing debts with this real estate inventory, where the maturity of the debt and the holding period of the inventory cannot be matched, is impracticable. Moreover, Applicant cannot collateralize debt with fungible real estate holding owned from time to time, in a manner analogous to an accounts receivable collateralized loan, because Applicant's real estate is not fungible.

Much of Applicant's real estate, as reflected on its consolidated financial statements, is held by subsidiaries including Lincoln Savings and its subsidiaries. Since the ownership of the real estate is in the hands of companies other than the issuer of the Subordinate Debentures, it is not possible to match the real estate to the debt. Federal and state savings and loan regulations prohibit the encumbering of real property for parent company debt.

The yields offered by Applicant on the Subordinate Debentures reflect the unsecured and subordinate nature of the securities. It is appropriate for Applicant to offer the securities at favorable yields to the purchaser as a result of these characteristics. Correspondingly, a more senior or secured debt would entitle the Applicant to reduce the yield.

Item 3 - Elevating Seniority of Subordinate Debentures.

Restructuring the debt to make it senior debt is equally impractical. Applicant's existing loan agreements contain covenants restricting the issuance of senior debt to others. As stated in item 2 above, the yield on the securities would also be adversely affected by any increase in their priority position.

It should also be noted that granting a senior position to the securities to be qualified hereunder will have the effect of adversely affecting the position of existing holders of Subordinate Debentures. Applicant's plan to issue the securities to be qualified hereunder on the basis proposed in this Applicant will preserve the equal status of such securities with the outstanding Subordinate Debentures.

Item 4 - Appraised Value of Certain Property.

It is Applicant's understanding that the appraisals of real property requested by the Department of Corporations are those appraisals which have been made on real property which Applicant has identified as being an alternative source for repayment of the Subordinate Debentures and which are the subject of a dispute with the FHLBB. Although Applicant initially indicated that it might look to the liquidation of certain of the real estate investments of Lincoln Savings' subsidiaries as an alternative source for repayment of the Subordinate Debentures, Applicant has determined at this time not to target any such properties as alternative sources for repayment. The assets which are included in the "sale of assets" alternative discussed above in Item 1.b.2)a) are non-Lincoln Savings assets and are, therefore, not the subject of the appraisal disputes between Applicant and the FHLBB.

In view of the fact that no appraisal disputes have arisen concerning the ACC-owned real estate investments which have been identified as an alternative source for repayment and because such assets comprise a relatively small portion of the assets and other sources that Applicant has identified above, Applicant believes that it is unnecessary to provide appraisals of such real estate.

Item 5 - Repayment of Subordinate Debentures.

The maturities and the amount issued and outstanding of the Applicant's Subordinate Debentures as of April 30, 1988 are set forth as follows:

Maturity Date	Total Outstanding (in thousands)
1988	$ 19,926
1989	44,609
1990	44,509
1991	10,316
1992	4,521
1993	16,255
1994	9,093
1995	-
1996	-
1997	17,340
Total	$166,569

The average maturity of the Subordinate Debentures at April 30, 1988 was 3.1 years.

See Item No. 1 above for a discussion of Applicant's sources of cash and ability to pay the principal and interest arising from the sale of the Subordinate Debentures.

There are no restrictions on Applicant's ability to retire the Subordinate Debentures prior to the retirement of Applicant's senior debt.

Item 6 - Dividends From Lincoln Savings.

See Item No. 1 above.

Item 7 - Capital Contributions to Lincoln Savings.

The present capital position of Lincoln Savings is very strong. The regulatory net worth of Lincoln Savings of $252,525,000 at December 31, 1987 is equal to 6.7% of regulatory liabilities, which compares very favorably to the Federal Home Loan Bank Board requirement of 3%.

In connection with Lincoln Savings' discussions with the Federal Home Loan Bank Board to resolve the 1986 examination by the Bank Board, Applicant has offered to make a cash contribution of $10,000,000 toward the capital of Lincoln Savings as a part of a complete resolution of that examination. The $10,000,000 contribution would be funded from the Applicant's existing cash and cash equivalent investments which, as of December 31, 1987 based upon the financial statements of Applicant less Lincoln Savings and its subsidiaries (see Exhibit 16.1), was as follows:

	(in thousands)
Cash	$11,865
Repurchase Agreements	14,407
Treasury Bills	59,976
TOTAL	$86,248

Since such a cash contribution would be premised upon a complete resolution of the 1986 examination, Lincoln Savings' current undertaking to the FHLBB to refrain from paying dividends to Applicant pending such resolution would expire. Accordingly, Lincoln Savings would have the capacity without prior regulatory approval to pay dividends to Applicant in an amount up to $72,000,000. Lincoln Savings has made no determination whether to cause a dividend to be paid in such event and, if so, in what amount.

If Applicant were to make the $10,000,000 contribution to Lincoln Savings, such a capital infusion would support deposit growth at Lincoln Savings of $200,000,000 based upon a

conservative 5% capital to liabilities ratio. This in turn will provide Lincoln with additional investable assets of $200,000,000 and the profits earned therefrom.

Item 8 - Use of Proceeds.

Proceeds from the sale of Subordinate Debentures issued under the $200 million shelf registration to date have been used to retire approximately $114 million face amount of its 10-3/4% Senior Notes due 1990 and 14-3/4% Senior Subordinated Notes due 1995. The remainder of the proceeds of the Subordinate Debentures, or $52 million, have been used for general corporate purposes. Thus, approximately 69% of the proceeds from the sale of Subordinate Debentures has been used for refinancing of existing corporate indebtedness and 31% represents additional net indebtedness.

The present Amendment seeks authority to issue up to $150 million of the Subordinate Debentures. Applicant anticipates that it will sell approximately $150 million of the $300 million registered with the SEC during the twelve month period running from the date of the issuance by the Department of Corporations of an order declaring Applicant's amended Application for Qualification by Coordination effective. Applicant intends to apply the proceeds it receives from sales of its Subordinate Debentures made during such 12-month period (a) to retire all or a portion of the remaining $31,050,000 principal amount of the 10 3/4% Senior Notes and $7,818,000 principal amount of 14 3/4% Senior Subordinated Notes, (b) to refinance the Subordinate Debentures previously issued having maturity dates in 1988 and 1989, (c) to reduce short-term indebtedness, and (d) to use for working capital and other general corporate purposes. Applicant expects that the proportion of the proceeds it receives from the sale of its Subordinate Debentures which are applied to retire or refinance its existing debt will remain consistent with the preceding year.

Item 9 - Capital Contributions.

See Item No. 7 above.

Item 10 - FHLBB Examination.

The FHLBB completed its 1986 examination report of Lincoln Savings in April, 1987. The examination report sets forth in detail the regulatory matters raised by the FHLBB during the examination. Lincoln Savings believes that the report is in error in all material respects and in June, 1987 responded in writing to the issues raised in the report. Management of Lincoln Savings and Applicant have been engaged in negotiations with FHLBB personnel since approximately July 1987 to resolve issues raised in the 1986 examination. Those negotiations led to the

preparation by the parties of a Memorandum of Understanding. The Memorandum contemplates the following:

> " . . . agreement by Lincoln Savings to book specific reserves with respect to certain identified real property (these reserves are reflected in the Company's consolidated financial statements at December 31, 1987); an increase in Lincoln Savings' capital requirement to include a "contingency factor" to reflect specific amounts related to identified assets; a $10,000,000 cash contribution by the Company to the capital of Lincoln Savings; an undertaking by Lincoln Savings to use its best efforts to sell $50,000,000 of its preferred stock or subordinated debt in 1988; an increase in Lincoln Savings' "contingency factor" capital requirement with respect to a portion of its equity risk investments (provided that such increase does not cause Lincoln Savings' net worth requirement to exceed six percent of total regulatory liabilities); subject to compliance with the other terms of the memorandum, permission for Lincoln Savings to maintain aggregate equity risk investments in amounts up to one-third of its total assets; agreement by Lincoln Savings to submit a three-year business plan and to advise Lincoln Savings' Principal Supervisory Agent of modifications of, or deviations from, the plan; an undertaking by Lincoln Savings to comply with its specified practices and procedures with respect to lending practices, loan underwritings and investment underwriting; and an undertaking by Lincoln Savings to continue to improve its underwriting procedures regarding loans and corporation debt securities."

While management of Applicant and Lincoln Savings believe that agreement on the Memorandum of Understanding will be reached, there is no assurance that the FHLBB will approve the Memorandum of Understanding in the form submitted. On May 5, 1988, Applicant was ~~advised~~ by FHLBB personnel that a modified version of ~~the~~ terms of the Memorandum of Understanding would be proposed by the FHLBB. Applicant has been orally advised that the provisions of the Memorandum of Understanding which have been proposed to be revised affect and relate only to supervisory issues and will not affect the financial condition of Lincoln Savings or Applicant.

Item 11 - Hotel Properties

The book value of the Crescent Hotel of Phoenix and The Phoenician Resort as reflected on the financial statements of Applicant at December 31, 1987, is approximately $205,000,000. As discussed more fully below, in June, 1987, Applicant sold a 45% interest in the two properties to an unrelated third party. This 45% minority interest is separately reflected on Applicant's December 31, 1987 balance sheet as "Minority Interest in Hotel Operations" in the amount of $92,902,000.

In June, 1987, a forty-five percent interest in the two properties was sold to an unrelated third party for cash in the amount of $173,650,000 which included $74,486,000 of funds placed into escrow to cover the remaining cost of completion for The Phoenician Resort. The Applicant recorded a $12,880,000 gain on the sale; $1,570,000 of the gain is deferred and will be recognized as The Phoenician Resort is completed.

Applicant is in possession of appraisals of the hotel properties, performed months ago, by appraisers retained by it and by the FHLBB. None of the appraisals reflect the current plans and concept for The Phoenician Resort and thus they are inapposite in determining the fair market value of the hotel properties. What is pertinent, however, is the cash sale by Applicant of a 45% interest as aforesaid. This transaction is much more current than the appraisals and is based upon the current configuration of The Phoenician Resort. It provided for cash payment of the purchase price plus a cash escrow of the minority shareholder's proportionate share of the remaining construction costs. Based upon that price, the hotel properties have an indicated combined total value of in excess of $350,000,000 at completion.

Item 12 - Comments of Securities and Exchange Commission.

Pursuant to a formal order of investigation, the Securities and Exchange Commission ("SEC") issued three subpoenas on December 23, 1987, January 12, 1988 and January 22, 1988, respectively. The principal information requested of Applicant in the subpoenas is: the policies, procedures, and practices used to establish and review the adequacy of the allowances for loan losses, real estate owned, and real estate investments and actual loans which reflect such allowances; certain identifying information related to the accounts of Applicant's officers and directors; and documents related to the purchases and sales of debt and equity securities and options of particular entities. Applicant has supplied the SEC with the information requested in the subpoenas.

As set forth in all the subpoenas, "[t]his inquiry should not be construed as an indication by the SEC or its staff that any violation of law has occurred," but is simply a fact-finding investigation. The SEC inquiry requests information relating principally to issues raised in the 1986 FHLBB examination of Lincoln Savings, although the SEC's investigation is not limited to the time period covered by the 1986 FHLBB examination. The FHLBB completed its 1986 examination report of Lincoln Savings in April 1987. The examination report sets forth in detail the regulatory matters raised by the FHLBB during the examination. Lincoln Savings believes that the report is in error in all material respects and in June 1987 responded in writing to the issues raised in the report. Lincoln Savings is currently

negotiating with the FHLBB to resolve all issues outstanding before them. With respect to the SEC investigation as well, Applicant believes that there is no basis for this investigation and that there are no material misstatements in any of its financial statements.

Attached hereto as Exhibits 12.1, 12.2, 12.3 and 12.4, respectively, are the three subpoenas referenced above and a letter from the SEC's Division of Corporation Finance related to the registration statement on Form S-2 filed with the SEC on April 25, 1988.

Attached hereto as Exhibits 12.5 and 12.6 and incorporated herein by this reference are copies of the correspondence between the SEC's Division of Corporate Finance and the Applicant relating to Applicant's Registration Statement covering the $300 million offering. In response to an oral comment by the SEC, Applicant amended its Registration Statement to clarify the scope of the SEC's investigation (see p. 33 of Amendment No. 1 to Registration Statement filed on May 9, 1988 - Exhibit A-2 hereto). No other written comments from the Division of Corporate Finance have been received by Applicant.

Item 13 - Forecasts.

Applicant has not prepared any such forecasts.

Item 14 - Unsold amounts of Subordinate Debentures.

As of April 30, 1988, $166,569,000 of Subordinate Debentures had been sold under the Applicant's $200 million shelf registration, leaving $33,431,000 unsold. In addition, Applicant is hereby applying to qualify the offer and sale of $150 million of Subordinate Debentures of which a substantial amount will be used to repay existing Subordinate Debentures (See Item 8 hereof).

Item 15 - Duplicate Application.

A duplicate copy of the pending Application was delivered to the Department of Corporations under cover of letter dated May 3, 1988 from our counsel. An additional copy of this Amendment is also filed herewith.

Item 16 - Pro Forma Financial Statements for Applicant (ex-Lincoln Savings).

A balance sheet as of December 31, 1987 and Statements of Operations for the 12-month periods ended December 31, 1985, 1986 and 1987 which reflect the audited results of Applicant (consolidated), Lincoln Savings (consolidated) and Applicant (consolidated) exclusive of audited Lincoln Savings are attached

hereto as Exhibit 16.1 and are incorporated herein by this reference. Attached hereto as Exhibit 16.2 and incorporated herein by this reference are Statements of Changes in Financial Position (SCFP) for the years ended December 31, 1987, 1986 and 1985 which represent the SCFP from the parent-only financial statements included in the Company's annual filings on Form 10-K. The format of Exhibit 16.2 differs from the balance sheets and income statements submitted in Exhibit 16.1 because of the differences between the consolidated SCFP and Lincoln Savings' SCFP (principally the result of "netting" changes in certain asset and liability accounts in the Applicant's consolidated filing). Said statements do not include certain subsidiaries of Applicant which would have been included in Applicant's consolidated financial statements exclusive of Lincoln Savings and its subsidiaries, but such subsidiaries not so included are not individually or in the aggregate material to the Applicant's financial position.

Item 17 - Schedule of Maturities.

The scheduled long-term debt maturities of Applicant, as of April 30, 1988, including the Subordinate Debentures, are set forth in the following table.

	(in thousands)		
Maturity Date	Subordinate Debentures	Other Debt	Total Debt
1988	$ 19,926	$ 2,556	$ 22,482
1989	44,609	3,898	48,507
1990	44,509	37,724	82,233
1991	10,316	8,878	19,194
1992	4,521	3,125	7,646
1993	16,255	2,960	19,215
1994	9,093	3,019	12,112
1995	___	10,883	10,883
1996	___	805	805
1997	17,340	___	17,340
After 1997	___	136,581	136,581
	$166,569	$210,429	$376,998

Item 18 - Sources for Repayment and Use of Proceeds.

The sources of funds available for the payment of Applicant's debts are discussed in Item No. 1. Applicant intends to continue to retire existing debt, as discussed in Item 8 hereof, at approximately the same rate as it has in the past.

Item 19 - Other Financial Statements.

Consolidated Balance Sheet at March 31 and February 29, 1988 and March 31 and December 31, 1987 and Statement of Operation of Lincoln Savings for the months of March and February, 1988 and March, 1987 and for the quarters ended March 31, 1987 and 1988 are attached hereto as Exhibit 19.1 and incorporated herein by this reference. Attached hereto as Exhibits 19.2.1 through 19.2.7, respectively, and incorporated herein by this reference are Federal Home Loan Bank Board Thrift Financial Reports filed by Lincoln Savings with the FHLBB for the month of December, 1987 and the following months of 1987 and 1988: January, February and March.

In response to the Department's further request in its letter of May 3, 1988, attached hereto as Exhibit 19.3 are the audited financial statements of Lincoln Savings for the years 1986 and 1987.

Item 20 - Form 10-Q.

Applicant's March 31, 1987 and 1988 Forms 10-Q are attached hereto as Exhibits 20.1 and 20.2, respectively, and are incorporated herein by this reference.

Item 21 - Tax Sharing Agreement.

Like certain other transactions between federally-insured institutions and their affiliates, an agreement between Lincoln Savings and Applicant providing for equitable sharing of tax liability requires the approval of the FHLBB, pursuant to 12 C.F.R. Section 584.3(a)(7).

Applicant and Lincoln submitted a proposed Tax Preparation and Allocation Agreement (the "Agreement") to the FHLBB on January 24, 1986. After discussions with the FHLBB and incorporation of FHLBB comments, the revised Agreement, as executed by the parties on March 14, 1986, was formally approved by the FHLBB on April 2, 1986. Department of Savings and Loan approval was not required, although the Department was advised of the application and the subsequent Agreement.

The Applicant has duly caused this application to be signed on its behalf by the undersigned, thereunto duly authorized.

AMERICAN CONTINENTAL CORPORATION

By: Judy J. Wischer
Judy J. Wischer
President
(Title)

I certify under penalty of perjury under the laws of the State of California that I have read this application and the exhibits thereto and know the contents thereof, and that the statements therein are true and correct.

Executed at Phoenix, Arizona on the 3rd day of May, 1988.

Judy J. Wischer
Judy J. Wischer

Applicant hereby amends its Application for Qualification by Coordination heretofore filed with the Department of Corporations on March 31, 1988 to reflect the registration by Applicant of an additional $300 million of Subordinate Debentures, of which Applicant seeks to qualify hereby $150 million. In connection therewith, Applicant incorporates herein by this reference the following documents attached hereto as Exhibits A-1, A-2 and A-3:

1. Form S-2 Registration Statement filed with the SEC on April 14, 1988 covering the registration of $300 million of Subordinate Debentures (marked to reflect changes from current Registration Statement covering $200 million offering);

2. Pre-Effective Amendment No. 1 to Form S-2 Registration Statement filed with the SEC on May 9, 1988 (marked to reflect changes from Exhibit A-1);

3. Form T-1, Statement of Eligibility and Qualification under the Trust Indenture Act of 1939, filed with the SEC on May 9, 1988.

Applicant hereby further amends its Application for Qualification by Coordination heretofore filed with the Department on March 31, 1988 to incorporate therein the information requested by the Department in its letter to the Applicant dated April 29, 1988. The information set forth below is numbered to correspond with the requests contained in the Department's letter.

Item 1 - Debt Regulations; Sources of Cash.

a. Debt Regulations

Section 260.140 provides that the standards set forth in Article 4 "are intended to furnish guidelines in the situations covered for the exercise of the Commissioner's discretion relating to the qualification . . ." [Emphasis Added]. The Applicant has not provided for a sinking fund nor has it restricted the creation of liens on its property or the creation of other funded debt, beyond those significant restrictions imposed by state and federal savings and loan regulations. Furthermore, the Applicant believes such provisions are unnecessary and inappropriate in view of the following facts:

1) Subordinated Debt Is An Accepted Financing Medium in the Marketplace. The use of unsecured and other subordinated debt is a common financing mechanism in corporate capitalizations, particularly with seasoned companies, and such securities have been readily accepted in the public and institutional marketplace. Many such issues have been qualified in California, and numerous others are

issued in reliance upon exemptions in the Corporate Securities Act and the regulations thereunder. Indeed, the need for sinking funds and similar devices is often an indication of inherent financial weakness rather than financial strength.

2) The Applicant Has An Unblemished Record of Financial Success. It is important to bear in mind Applicant's long history of proven financial capability. It has been in business on a consistently profitable basis since its formation in 1976. Of at least equal importance is the fact that Applicant enjoys a very significant positive net cash flow which enables it to more easily handle debt service than would be the case in most nonfinancial companies of equal size relative to earning power and capital. "Net cash flow" is defined as net income increased by non-cash expenses and decreased by non-cash income. The following schedule shows Applicant's net earnings and cash flow during each of the five years 1983 to 1987:

	(in thousands)				
	1983	1984	1985	1986	1987
Net Earnings	$19,119	$20,513	$ 42,542	$ 24,233	$ 19,327
Cash Flow	$29,909	$58,638	$176,429	$108,984	$116,446

3) Applicant's History Shows Its Capability to Discharge and Handle Debt. Applicant has demonstrated its capability to handle substantial debt, as evidenced by the data discussed below in Item 1.b.2)b).

In its entire corporate history, Applicant has never defaulted in the payment of interest, failed to make any principal payment when due and/or at maturity. In fact, Applicant has frequently prepaid its corporate indebtedness to take advantage of lower prevailing market rates in certain periods or for other reasons. In the past three years (1985-87), principal prepayments of over $750 million in the aggregate have been made. (See the chart in b.2(b) of this Item 1.)

4) Applicant's Strong Financial Performance Can Be Independently Validated. For the past two years, Forbes magazine has rated the financial performance of numerous U.S. corporations. Attached hereto as Exhibits 1.a.1 and 1.a.2 are excerpts from the two most recent ratings, respectively (Applicant was not rated in the financial companies category in the earlier year), which shows that Applicant was rated no lower than fourth place in the nation in each industry category in which it was included. These ratings are based upon a number of empirical financial criteria, and the

results validate the Applicant's position that it is a seasoned company with strong financial performance.

5) Applicant's Issuance of Subordinate Debentures of Varying Maturities Has the Financial Effect of a Sinking Fund. The Subordinate Debentures are issuable, in accordance with their terms, in series with varying maturities ranging from one to ten years. Applicant has taken this flexibility into account by varying the maturities on its debt, and accordingly, has issued Subordinate Debentures in virtually every annual maturity within the permissible range as evidenced in the schedule set forth herein in Item No. 5.

The practical effect of spreading the maturities is that the entire issue, which as of April 30, 1988 totalled $166,569,000, is payable over the ten year "life" of the issue in a manner similar to the way that a sinking fund or mandatory prepayment provision would operate.

6) FHLBB Approval of 1988 Debt Budget. As a result of the acquisition of Lincoln Savings, the Applicant's issuance of debt is subject to FHLBB approval. Approval is generally sought by filing an annual budget in November for debt to be issued during the following fiscal year; the budget submitted to the FHLBB for approval describes the general purposes for the debt expected to be issued (for instance, working capital, real estate acquisitions or refinancing) and the maximum amount of debt to be issued during the year. The Applicant's 1988 debt budget has been approved by the FHLBB and would, in Applicant's opinion, enable Applicant to proceed to issue the Subordinate Debentures sought to be qualified hereby.

7) Applicant's Record of Financial Achievement Makes It Inappropriate to Apply the Features of Section 260.140.4. Applicant is a publicly held corporation with over $5 billion in assets, shareholders' equity in excess of $140 million, annual revenues of over $700 million and annual net earnings exceeding $19 million. Against these facts and taking into account the other facts set forth above, Applicant contends that it is neither "normal" nor "appropriate" to apply the provisions of Section 260.140.4 of the California Administrative Code which, by its very terms, reserves to the Commissioner the discretion to apply or not apply them depending upon the circumstances.

b. Sources of Cash for Repayment

In the event that the Applicant were to retire the Subordinate Debentures and the remainder of its long-term debt, it

would have a number of alternative and cumulative sources on which to draw including, but not limited to, the following:

1) Cash From Lincoln Savings

a) Dividends

Since acquisition of Lincoln Savings, Applicant has received $5 million of dividends from Lincoln Savings. In addition, as of March 31, 1988 approximately $72,000,000 of retained earnings were available for the payment of dividends without violation of regulatory capital requirements or Applicant's agreement with the FHLBB, as described below.

The ability of Lincoln Savings to pay dividends on its common stock is restricted by FHLBB regulations and by an agreement with the FHLBB entered into in connection with the acquisition of Lincoln Savings by the Applicant. Under that agreement, without prior written approval from the FHLBB, dividends paid by Lincoln Savings in any fiscal year are limited to 50% of its net income for that fiscal year, provided that any dividends permitted under this limitation may be deferred and paid in a subsequent year, subject to the provision that in no event may dividends be paid which, in fact or in the opinion of the FHLBB, would cause Lincoln Savings to fail to meet its minimum capital requirements.

Until the resolution of issues related to the FHLBB's 1986 examination, Lincoln Savings has agreed with the FHLBB not to pay dividends to Applicant. Upon execution of the Memorandum of Understanding or the entering into of a similar agreement with the FHLBB, however, Lincoln Savings could resume the payment of dividends subject to the above described limitations.

b) Tax Sharing Payments

During 1986, Lincoln Savings and Applicant entered into a tax sharing agreement in which Lincoln Savings remits to Applicant the amount of federal income tax measured by the total provision for such taxes computed, for financial reporting purposes, on a stand alone basis, and Applicant remits to Lincoln a corresponding amount for tax benefits resulting from pre-tax losses of Lincoln Savings (see Item No. 21 for discussion of Tax Allocation Agreement).

Through December 31, 1987, Lincoln Savings had paid approximately $90 million in tax sharing payments to Applicant. On a consolidated basis, Applicant pays only a corporate alternative minimum tax due to net operating loss carry-forwards totaling $110 million at December 31, 1987

(see Note O to Applicant's December 31, 1987 financial statements contained in its 1987 Annual Report).

c) Earnings

Since its acquisition by applicant in February 1984, Lincoln Savings' pre-tax and net earnings are summarized as follows:

Year	(000s) Pre-Tax Earnings	After Tax Earnings
1984	$ 17,436	$12,436
1985 1/	100,350	79,850
1986 1/	81,689	48,958
1987 1/	63,150	41,020

1/ See p. 15 of Prospectus dated April 6, 1988.

d) Summary

Tax sharing payments and available but unpaid dividends from Lincoln Savings totaled approximately $162 million in the four-year period Applicant has owned and operated Lincoln Savings. On a per year basis, the available cash from Lincoln Savings would average over $40 million. In addition, future earnings of Lincoln Savings will increase the available dividend flow to Applicant.

2) Cash From Non-Lincoln Subsidiaries

a) Asset Sales

As discussed in Item 16 below, included in Exhibit 16.1 is a balance sheet as of December 31, 1987 which reflects the segregation of Applicant and Lincoln Savings. A brief description at December 31, 1987 of each asset category available for payment of the Subordinate Debentures is summarized below:

(i) Cash on hand and short-term cash investments ($86.2 million). (Principally cash investments and 90-day U.S. Treasury bills.) (See Item 7 below.)

(ii) Loans receivable secured by real estate ($43.0 million). (Represents seller financing on the sale of Applicant-owned property principally in Phoenix, Arizona and Denver, Colorado.)

(iii) Unleveraged real estate ($27.2 million). (Represents unencumbered residential and commercial property -- located principally in Phoenix, Arizona and Denver, Colorado.)

(iv) Marketable equity securities ($11.4 million). (Represents unleveraged investments in corporate equity securities.)

(v) Mortgages and mortgage-backed certificates ($8.0 million). (Represents residual mortgages and GNMA certificates owned by American Continental Mortgage, Applicant's wholly-owned mortgage banking subsidiary.)

The foregoing categories represent over $97 million of highly liquid investments (categories (i) and (iv)), $52 million of loans receivable (categories (ii) and (v)) and over $27 million of unencumbered real property, totalling over $176 million, or more than the entire principal balance of Subordinate Debentures outstanding at March 31, 1988.

b) Debt Retirement

Applicant's long-term debt may be retired through refinancing. A history of Applicant's public debt financing is summarized as follows:

Year Issued	Amount Issued	Type of Security	Amount Currently Outstanding
1976	$ 12,000,000	Convertible debentures	$ -0-
1981	7,875,000	Senior debentures	-0-
1982	22,500,000	Subordinated debentures	-0-
1983	125,000,000	Senior debentures	31,050,000
1983	21,250,000	Common stock	21,250,000
1983	56,250,000	Preferred stock	40,191,000
1985	50,000,000	Senior sub. notes	7,818,000
1986	25,000,000	Senior debentures	25,000,000
1986	25,000,000	Senior debentures	25,000,000
1987	14,752,000	Preferred stock	14,752,000
1981-1985	651,501,000	Mortgage-backed bonds	85,958,000
	$1,011,128,000		$251,019,000

Approximately $750,000,000 of debt has been retired during the 3-year period from 1985 through 1987. All of this debt has been repaid in cash (including the convertible debentures) through refinancing, and internally generated cash. The foregoing demonstrates Applicant's proven capability to retire and refinance debt.

Item 2 - Collateralization of Subordinate Debentures.

It is not practicable for Applicant to restructure the Subordinate Debentures as a secured debt using specified real property as collateral. The Applicant is an experienced purchaser, seller and developer of real property. It has utilized its experience in real estate to acquire and develop a substantial number of properties, some of which it has sold and some of which it continues to develop and hold. However, unlike a manufacturing company owning its facilities, Applicant does not hold its real estate as a fixed asset but more in the nature of inventory. lt buys land, develops it, and sells it. Consequently, collateralizing debts with this real estate inventory, where the maturity of the debt and the holding period of the inventory cannot be matched, is impracticable. Moreover, Applicant cannot collateralize debt with fungible real estate holding owned from time to time, in a manner analogous to an accounts receivable collateralized loan, because Applicant's real estate is not fungible.

Much of Applicant's real estate, as reflected on its consolidated financial statements, is held by subsidiaries including Lincoln Savings and its subsidiaries. Since the ownership of the real estate is in the hands of companies other than the issuer of the Subordinate Debentures, it is not possible to match the real estate to the debt. Federal and state savings and loan regulations prohibit the encumbering of real property for parent company debt.

The yields offered by Applicant on the Subordinate Debentures reflect the unsecured and subordinate nature of the securities. It is appropriate for Applicant to offer the securities at favorable yields to the purchaser as a result of these characteristics. Correspondingly, a more senior or secured debt would entitle the Applicant to reduce the yield.

Item 3 - Elevating Seniority of Subordinate Debentures.

Restructuring the debt to make it senior debt is equally impractical. Applicant's existing loan agreements contain covenants restricting the issuance of senior debt to others. As stated in item 2 above, the yield on the securities would also be adversely affected by any increase in their priority position.

It should also be noted that granting a senior position to the securities to be qualified hereunder will have the effect of adversely affecting the position of existing holders of Subordinate Debentures. Applicant's plan to issue the securities to be qualified hereunder on the basis proposed in this Applicant will preserve the equal status of such securities with the outstanding Subordinate Debentures.

Item 4 - Appraised Value of Certain Property.

It is Applicant's understanding that the appraisals of real property requested by the Department of Corporations are those appraisals which have been made on real property which Applicant has identified as being an alternative source for repayment of the Subordinate Debentures and which are the subject of a dispute with the FHLBB. Although Applicant initially indicated that it might look to the liquidation of certain of the real estate investments of Lincoln Savings' subsidiaries as an alternative source for repayment of the Subordinate Debentures, Applicant has determined at this time not to target any such properties as alternative sources for repayment. The assets which are included in the "sale of assets" alternative discussed above in Item 1.b.2)a) are non-Lincoln Savings assets and are, therefore, not the subject of the appraisal disputes between Applicant and the FHLBB.

In view of the fact that no appraisal disputes have arisen concerning the ACC-owned real estate investments which have been identified as an alternative source for repayment and because such assets comprise a relatively small portion of the assets and other sources that Applicant has identified above, Applicant believes that it is unnecessary to provide appraisals of such real estate.

Item 5 - Repayment of Subordinate Debentures.

The maturities and the amount issued and outstanding of the Applicant's Subordinate Debentures as of April 30, 1988 are set forth as follows:

Maturity Date	Total Outstanding (in thousands)
1988	$ 19,926
1989	44,609
1990	44,509
1991	10,316
1992	4,521
1993	16,255
1994	9,093
1995	-
1996	-
1997	17,340
Total	$166,569

The average maturity of the Subordinate Debentures at April 30, 1988 was 3.1 years.

See Item No. 1 above for a discussion of Applicant's sources of cash and ability to pay the principal and interest arising from the sale of the Subordinate Debentures.

There are no restrictions on Applicant's ability to retire the Subordinate Debentures prior to the retirement of Applicant's senior debt.

Item 6 - Dividends From Lincoln Savings.

See Item No. 1 above.

Item 7 - Capital Contributions to Lincoln Savings.

The present capital position of Lincoln Savings is very strong. The regulatory net worth of Lincoln Savings of $252,525,000 at December 31, 1987 is equal to 6.7% of regulatory liabilities, which compares very favorably to the Federal Home Loan Bank Board requirement of 3%.

In connection with Lincoln Savings' discussions with the Federal Home Loan Bank Board to resolve the 1986 examination by the Bank Board, Applicant has offered to make a cash contribution of $10,000,000 toward the capital of Lincoln Savings as a part of a complete resolution of that examination. The $10,000,000 contribution would be funded from the Applicant's existing cash and cash equivalent investments which, as of December 31, 1987 based upon the financial statements of Applicant less Lincoln Savings and its subsidiaries (see Exhibit 16.1), was as follows:

	(in thousands)
Cash	$11,865
Repurchase Agreements	14,407
Treasury Bills	59,976
TOTAL	$86,248

Since such a cash contribution would be premised upon a complete resolution of the 1986 examination, Lincoln Savings' current undertaking to the FHLBB to refrain from paying dividends to Applicant pending such resolution would expire. Accordingly, Lincoln Savings would have the capacity without prior regulatory approval to pay dividends to Applicant in an amount up to $72,000,000. Lincoln Savings has made no determination whether to cause a dividend to be paid in such event and, if so, in what amount.

If Applicant were to make the $10,000,000 contribution to Lincoln Savings, such a capital infusion would support deposit growth at Lincoln Savings of $200,000,000 based upon a

conservative 5% capital to liabilities ratio. This in turn will provide Lincoln with additional investable assets of $200,000,000 and the profits earned therefrom.

Item 8 - Use of Proceeds.

Proceeds from the sale of Subordinate Debentures issued under the $200 million shelf registration to date have been used to retire approximately $114 million face amount of its 10-3/4% Senior Notes due 1990 and 14-3/4% Senior Subordinated Notes due 1995. The remainder of the proceeds of the Subordinate Debentures, or $52 million, have been used for general corporate purposes. Thus, approximately 69% of the proceeds from the sale of Subordinate Debentures has been used for refinancing of existing corporate indebtedness and 31% represents additional net indebtedness.

The present Amendment seeks authority to issue up to $150 million of the Subordinate Debentures. Applicant anticipates that it will sell approximately $150 million of the $300 million registered with the SEC during the twelve month period running from the date of the issuance by the Department of Corporations of an order declaring Applicant's amended Application for Qualification by Coordination effective. Applicant intends to apply the proceeds it receives from sales of its Subordinate Debentures made during such 12-month period (a) to retire all or a portion of the remaining $31,050,000 principal amount of the 10 3/4% Senior Notes and $7,818,000 principal amount of 14 3/4% Senior Subordinated Notes, (b) to refinance the Subordinate Debentures previously issued having maturity dates in 1988 and 1989, (c) to reduce short-term indebtedness, and (d) to use for working capital and other general corporate purposes. Applicant expects that the proportion of the proceeds it receives from the sale of its Subordinate Debentures which are applied to retire or refinance its existing debt will remain consistent with the preceding year.

Item 9 - Capital Contributions.

See Item No. 7 above.

Item 10 - FHLBB Examination.

The FHLBB completed its 1986 examination report of Lincoln Savings in April, 1987. The examination report sets forth in detail the regulatory matters raised by the FHLBB during the examination. Lincoln Savings believes that the report is in error in all material respects and in June, 1987 responded in writing to the issues raised in the report. Management of Lincoln Savings and Applicant have been engaged in negotiations with FHLBB personnel since approximately July 1987 to resolve issues raised in the 1986 examination. Those negotiations led to the

preparation by the parties of a Memorandum of Understanding. The Memorandum contemplates the following:

> " . . . agreement by Lincoln Savings to book specific reserves with respect to certain identified real property (these reserves are reflected in the Company's consolidated financial statements at December 31, 1987); an increase in Lincoln Savings' capital requirement to include a "contingency factor" to reflect specific amounts related to identified assets; a $10,000,000 cash contribution by the Company to the capital of Lincoln Savings; an undertaking by Lincoln Savings to use its best efforts to sell $50,000,000 of its preferred stock or subordinated debt in 1988; an increase in Lincoln Savings' "contingency factor" capital requirement with respect to a portion of its equity risk investments (provided that such increase does not cause Lincoln Savings' net worth requirement to exceed six percent of total regulatory liabilities); subject to compliance with the other terms of the memorandum, permission for Lincoln Savings to maintain aggregate equity risk investments in amounts up to one-third of its total assets; agreement by Lincoln Savings to submit a three-year business plan and to advise Lincoln Savings' Principal Supervisory Agent of modifications of, or deviations from, the plan; an undertaking by Lincoln Savings to comply with its specified practices and procedures with respect to lending practices, loan underwritings and investment underwriting; and an undertaking by Lincoln Savings to continue to improve its underwriting procedures regarding loans and corporation debt securities."

While management of Applicant and Lincoln Savings believe that agreement on the Memorandum of Understanding will be reached, there is no assurance that the FHLBB will approve the Memorandum of Understanding in the form submitted. On May 5, 1988, Applicant was advised by FHLBB personnel that a modified version of the terms of the Memorandum of Understanding would be proposed by the FHLBB. Applicant has been orally advised that the provisions of the Memorandum of Understanding which have been proposed to be revised affect and relate only to supervisory issues and will not affect the financial condition of Lincoln Savings or Applicant.

Item 11 - Hotel Properties

The book value of the Crescent Hotel of Phoenix and The Phoenician Resort as reflected on the financial statements of Applicant at December 31, 1987, is approximately $205,000,000. As discussed more fully below, in June, 1987, Applicant sold a 45% interest in the two properties to an unrelated third party. This 45% minority interest is separately reflected on Applicant's December 31, 1987 balance sheet as "Minority Interest in Hotel Operations" in the amount of $92,902,000.

In June, 1987, a forty-five percent interest in the two properties was sold to an unrelated third party for cash in the amount of $173,650,000 which included $74,486,000 of funds placed into escrow to cover the remaining cost of completion for The Phoenician Resort. The Applicant recorded a $12,880,000 gain on the sale; $1,570,000 of the gain is deferred and will be recognized as The Phoenician Resort is completed.

Applicant is in possession of appraisals of the hotel properties, performed months ago, by appraisers retained by it and by the FHLBB. None of the appraisals reflect the current plans and concept for The Phoenician Resort and thus they are inapposite in determining the fair market value of the hotel properties. What is pertinent, however, is the cash sale by Applicant of a 45% interest as aforesaid. This transaction is much more current than the appraisals and is based upon the current configuration of The Phoenician Resort. It provided for cash payment of the purchase price plus a cash escrow of the minority shareholder's proportionate share of the remaining construction costs. Based upon that price, the hotel properties have an indicated combined total value of in excess of $350,000,000 at completion.

Item 12 - Comments of Securities and Exchange Commission.

Pursuant to a formal order of investigation, the Securities and Exchange Commission ("SEC") issued three subpoenas on December 23, 1987, January 12, 1988 and January 22, 1988, respectively. The principal information requested of Applicant in the subpoenas is: the policies, procedures, and practices used to establish and review the adequacy of the allowances for loan losses, real estate owned, and real estate investments and actual loans which reflect such allowances; certain identifying information related to the accounts of Applicant's officers and directors; and documents related to the purchases and sales of debt and equity securities and options of particular entities. Applicant has supplied the SEC with the information requested in the subpoenas.

As set forth in all the subpoenas, "[t]his inquiry should not be construed as an indication by the SEC or its staff that any violation of law has occurred," but is simply a fact-finding investigation. The SEC inquiry requests information relating principally to issues raised in the 1986 FHLBB examination of Lincoln Savings, although the SEC's investigation is not limited to the time period covered by the 1986 FHLBB examination. The FHLBB completed its 1986 examination report of Lincoln Savings in April 1987. The examination report sets forth in detail the regulatory matters raised by the FHLBB during the examination. Lincoln Savings believes that the report is in error in all material respects and in June 1987 responded in writing to the issues raised in the report. Lincoln Savings is currently

negotiating with the FHLBB to resolve all issues outstanding before them. With respect to the SEC investigation as well, Applicant believes that there is no basis for this investigation and that there are no material misstatements in any of its financial statements.

Attached hereto as Exhibits 12.1, 12.2, 12.3 and 12.4, respectively, are the three subpoenas referenced above and a letter from the SEC's Division of Corporation Finance related to the registration statement on Form S-2 filed with the SEC on April 25, 1988.

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Item 13 - Forecasts.

Applicant has not prepared any such forecasts.

Item 14 - Unsold amounts of Subordinate Debentures.

As of April 30, 1988, $166,569,000 of Subordinate Debentures had been sold under the Applicant's $200 million shelf registration, leaving $33,431,000 unsold. In addition, Applicant is hereby applying to qualify the offer and sale of $150 million of Subordinate Debentures of which a substantial amount will be used to repay existing Subordinate Debentures (See Item 8 hereof).

Item 15 - Duplicate Application.

A duplicate copy of the pending Application was delivered to the Department of Corporations under cover of letter dated May 3, 1988 from our counsel. An additional copy of this Amendment is also filed herewith.

Item 16 - Pro Forma Financial Statements for Applicant (ex-Lincoln Savings).

A balance sheet as of December 31, 1987 and Statements of Operations for the 12-month periods ended December 31, 1985, 1986 and 1987 which reflect the audited results of Applicant (consolidated), Lincoln Savings (consolidated) and Applicant (consolidated) exclusive of audited Lincoln Savings are attached

hereto as Exhibit 16.1 and are incorporated herein by this reference. Attached hereto as Exhibit 16.2 and incorporated herein by this reference are Statements of Changes in Financial Position (SCFP) for the years ended December 31, 1987, 1986 and 1985 which represent the SCFP from the parent-only financial statements included in the Company's annual filings on Form 10-K. The format of Exhibit 16.2 differs from the balance sheets and income statements submitted in Exhibit 16.1 because of the differences between the consolidated SCFP and Lincoln Savings' SCFP (principally the result of "netting" changes in certain asset and liability accounts in the Applicant's consolidated filing). Said statements do not include certain subsidiaries of Applicant which would have been included in Applicant's consolidated financial statements exclusive of Lincoln Savings and its subsidiaries, but such subsidiaries not so included are not individually or in the aggregate material to the Applicant's financial position.

Item 17 - Schedule of Maturities.

The scheduled long-term debt maturities of Applicant, as of April 30, 1988, including the Subordinate Debentures, are set forth in the following table.

	(in thousands)		
Maturity Date	Subordinate Debentures	Other Debt	Total Debt
1988	$ 19,926	$ 2,556	$ 22,482
1989	44,609	3,898	48,507
1990	44,509	37,724	82,233
1991	10,316	8,878	19,194
1992	4,521	3,125	7,646
1993	16,255	2,960	19,215
1994	9,093	3,019	12,112
1995	—	10,883	10,883
1996	—	805	805
1997	17,340	—	17,340
After 1997	—	136,581	136,581
	$166,569	$210,429	$376,998

Item 18 - Sources for Repayment and Use of Proceeds.

The sources of funds available for the payment of Applicant's debts are discussed in Item No. 1. Applicant intends to continue to retire existing debt, as discussed in Item 8 hereof, at approximately the same rate as it has in the past.

Item 19 - Other Financial Statements.

Consolidated Balance Sheet at March 31 and February 29, 1988 and March 31 and December 31, 1987 and Statement of Operation of Lincoln Savings for the months of March and February, 1988 and March, 1987 and for the quarters ended March 31, 1987 and 1988 are attached hereto as Exhibit 19.1 and incorporated herein by this reference. Attached hereto as Exhibits 19.2.1 through 19.2.7, respectively, and incorporated herein by this reference are Federal Home Loan Bank Board Thrift Financial Reports filed by Lincoln Savings with the FHLBB for the month of December, 1987 and the following months of 1987 and 1988: January, February and March.

In response to the Department's further request in its letter of May 3, 1988, attached hereto as Exhibit 19.3 are the audited financial statements of Lincoln Savings for the years 1986 and 1987.

Item 20 - Form 10-Q.

Applicant's March 31, 1987 and 1988 Forms 10-Q are attached hereto as Exhibits 20.1 and 20.2, respectively, and are incorporated herein by this reference.

Item 21 - Tax Sharing Agreement.

Like certain other transactions between federally-insured institutions and their affiliates, an agreement between Lincoln Savings and Applicant providing for equitable sharing of tax liability requires the approval of the FHLBB, pursuant to 12 C.F.R. Section 584.3(a)(7).

Applicant and Lincoln submitted a proposed Tax Preparation and Allocation Agreement (the "Agreement") to the FHLBB on January 24, 1986. After discussions with the FHLBB and incorporation of FHLBB comments, the revised Agreement, as executed by the parties on March 14, 1986, was formally approved by the FHLBB on April 2, 1986. Department of Savings and Loan approval was not required, although the Department was advised of the application and the subsequent Agreement.

The Applicant has duly caused this application to be signed on its behalf by the undersigned, thereunto duly authorized.

AMERICAN CONTINENTAL CORPORATION

By: Judy J. Wischer
Judy J. Wischer

President
(Title)

I certify under penalty of perjury under the laws of the State of California that I have read this application and the exhibits thereto and know the contents thereof, and that the statements therein are true and correct.

Executed at Phoenix, Arizona on the 3rd day of May, 1988.

Judy J. Wischer
Judy J. Wischer

STATE OF CALIFORNIA — GEORGE DEUKMEJIAN, Governor

DEPARTMENT OF CORPORATIONS

Los Angeles, California
April 29, 1988

IN REPLY REFER TO

FILE NO 304 5211

Mr. Franklin Tom
Attorney at Law
Parker, Milliken, Clark,
O'Hara & Samuelian
333 South Hope Street, 27th Floor
Los Angeles, CA 90071-1488

Reference: AMERICAN CONTINENTAL CORPORATION

Dear Mr. Tom:

This is to confirm the telephone conversation of April 27, 1988, wherein Supervising Counsel Morton L. Riff, Ken Endo, and I, requested applicant to submit a verified amendment to its application of March 31, 1988, in response to the following:

1. Directing your attention to Section 260.140.4 Title 10 Administrative Code, please show compliance therewith with respect to the sale and issuance of the subordinated debentures. What are the sources of cash to meet the debt maturities?

2. Please indicate whether the applicant could restructure the offering by means of securing the debt with specified real property.

3. Is it possible for applicant restructure the offering to make the debts superior to other debts?

4. It is requested that copies of appraisals of the real property discussed in our telephone conversation of April 25, 1988 be submitted.

5. Applicant was requested to make a showing as to its ability to pay the principal and interest on the indebtedness arising from the sale of the debentures. Also please comment upon the restrictions of paying off the subordinated debentures prior to retiring senior debts of applicant.

6. Please indicate whether Lincoln Savings and Loan Association will be able to pay dividends to American Continental Corporation pursuant to Federal Home Loan Bank Board restrictions.

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7. Indicate what happens if the parent has to make contributions to Lincoln Savings and Loan Association. How does this impact the applicant? How are the contributions to be made?

8. Kindly indicate more specifically how applicant has been using the funds coming from the sale of the debentures. Does it intend to continue to use incoming funds in the same manner?

9. Please indicate what contributions are to be made from the applicant to Lincoln Savings and Loan Association and where the funds are to be obtained? Indicate specifically what is to be expected of the applicant in making contributions to the savings and loan pursuant to any agreement with the Federal Home Loan Bank Board.

10. Please indicate the outcome and discussions with the Federal Home Loan Bank Board resulting in any agreement.

11. Please submit information as to what values the Crescent Hotel of Phoenix and the Phoenician Resort are reflected in the financial statements as of 12-31-87. In addition, please indicate the appraised values of such properties and names of those who made the appraisals.

12. Please submit copies of comments from the Securities and Exchange Commission as indicated in our telephone conversation.

13. If applicant has any forecast, it wishes to submit such would be helpful.

14. Please indicate the maximum principal amount of debentures which remain to be sold pursuant to the authority now being requested. Will that $200,000,000 principal amount set forth in the prospectus be reduced by the amount heretofore issued?

15. Kindly submit duplicate copies of the application and exhibits. As indicated, these will be forwarded to the Savings and Loan Department.

16. With respect to financials, it is requested applicant submit financials which are not consolidated and would be exclusive of that of Lincoln Savings and Loan Association. These financials would be inclusive of American Continental Corporation and subsidiaries. If applicant can not submit non-consolidated financials, it may file applicant's

consolidated financials including that of its subsidiaries exclusive of Lincoln Savings and Loan Association, as of 12-31-87, and consolidated income statements for two or three years.

17. Please submit a schedule of maturities of the debts of applicant by year for the entire term that the subordinated debentures will be outstanding.

18. Please identify the sources available for the payment of applicant's debts. Also indicate whether any portion of the proceeds from the proposed debenture offering will be used to reduce the debts of the applicant.

19. With respect to Lincoln Savings and Loan Association, the Department requests quarterly statements which are current for the period January 1988 through March 1988, and for the earlier period of January 1987 through March 1987 be submitted. In addition the "call" report - the monthly reports for the period indicated above is requested.

20. The 10-Q pertaining to applicant's financials - consolidated or not - is requested if not already submitted. Applicant did submit some information on 4-27-88, but the notes therto were <u>not</u> submitted.

21. Please submit further information concerning the tax sharing payments from Lincoln Savings and Loan Association to applicant. Apparently applicant has tax loss carry forwards against which the earnings of Lincoln Savings are being offset. Please advise whether this is being done pursuant to a written agreement among the consolidated entities and whether there are statutory limitations imposed by any regulatory agencies such as the Department of Savings and Loan, or the Federal Home Loan Bank Board.

Mr. Franklin Tom
Re: AMERICAN CONTINENTAL CORPORATION File No. 304 5211

Kindly submit the above information to this office within 10 days from the date hereof in the form of a verified amendment to the application.

Sincerely,

ROBERT L. RIFKIN
Senior Corporations Counsel
(213) 736-2496

RLR:ijh/33

000411

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STATE OF CALIFORNIA GEORGE DEUKMEJIAN, Governor

DEPARTMENT OF CORPORATIONS

Los Angeles, California
May 3, 1988

IN REPLY REFER TO

FILE NO. 304 5211

Mr. Franklin Tom
Attorney at Law
Parker, Milliken, Clark,
O'Hara & Samuelian
333 South Hope Street, 27th Floor
Los Angeles, CA 90071-1488

Reference: AMERICAN CONTINENTAL CORPORATION

Dear Mr. Tom:

This supplements my April 29, 1988 letter.

1. Please file the audited Financial Statements of Lincoln Savings for the year ended December 31, 1987 and;

2. Please file consolidated financials (balance sheet and income statement and statement of changes in financial position) of applicant for the year ended December 31, 1987 excluding Lincoln Savings. Also please file these financials for 1986 and 1985. This is in clarification of Item 16 of my April 29, 1988 letter.

Kindly file this information as part of the verified amendment requested in my April 29, 1988 letter.

Sincerely,

ROBERT L. RIFKIN
Senior Corporations Counsel
(213) 736-2496

RLR:ijh/5

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LOS ANGELES 90005-4091
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SAN DIEGO 92101-3697
1350 FRONT STREET
(619) 237-7341

SAN FRANCISCO 94102-5389
1390 MARKET STREET
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COMMISSIONER OF CORPORATIONS'
OPENING STATEMENT
BEFORE THE
SAVINGS AND LOAN LAW AND REGULATION SUBCOMMITTEE
OF THE
ASSEMBLY COMMITTEE ON FINANCE AND INSURANCE

AUGUST 31, 1989

Despite appearances to the contrary, this hearing is about a failed financial institution, Lincoln Savings and Loan Association ("Lincoln"). I am here to discuss the review by the Department of Corporations ("the Department") of several debt offerings made by Lincoln's parent, American Continental Corporation ("ACC"). In fact, when I learned that this hearing would be held, I wrote to Chairman Johnston stating my intention to be here and volunteering my cooperation in responding to allegations that the Department did not properly review ACC's filings.

An examination of the facts will demonstrate that the Department made an extensive review of ACC's filings and acted in the only way possible concerning them. We actively sought to protect the investing public through that review--as I will discuss in a moment--and also: (a) by imposing certain requirements on ACC to ensure that investors would have the most current information possible; (b) by requiring changes in ACC's advertising so investors would not be led to believe that they were investing in insured certificates of deposit; and (c) by making our own undercover investigation of ACC's sales practices to determine how the debt was being offered.

The Department's Review of ACC's Filings

Let me briefly review the situation surrounding ACC's filings.

ACC's debt offerings were qualified with the Department and also were registered with the federal Securities and Exchange Commission. In such situations, the Corporate Securities Law of 1968 ("the CSL") requires that the Department allow a qualification to become effective unless we find that the offering is not fair, just and equitable.

In the case of a debt offering, the most important fairness standard is the likelihood that the debt holders will be paid all principal and interest due to them. We never were able to find--prior to ACC's bankruptcy filing--that ACC would not be able to make such payments.

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ACC filed various documents with us, but the most important were its financial statements and related documentation. On their face, those materials had several strong points. For example, they showed: (a) shareholders' equity of over $136,000,000 as of December 31, 1987; (b) net earnings of over $19,000,000 for 1987; and (c) more importantly, that funds from tax savings, from the sale or refinancing of real estate, and from possible dividends from Lincoln would be available to meet ACC's debt servicing needs. Further, ACC's financial position was confirmed by its independent certified public accountants, who gave an unqualified opinion.

Despite these positive prospects, we were concerned that reality might not support appearances because the Department of Savings and Loan had raised concerns to us about Lincoln, ACC's major subsidiary. We took these concerns very seriously and, as a result, reviewed ACC's financials quite closely, trying to poke holes in them whenever any issue existed. When, in April of 1988, we received ACC's audited financial statements for the year ended December 31, 1987, we questioned ACC almost immediately regarding the possibility that various assets had values significantly below the values indicated and also regarding Lincoln's ability to pay dividends. We found, among other things: (a) that the Federal Home Loan Bank Board ("the Bank Board") had agreed that no write-downs would be required for Lincoln's real estate holdings; (b) that separate and apart from Lincoln, ACC had a substantial body of cash assets and assets readily convertible into cash from which it could pay its debts; (c) that ACC had retired $750,000,000 in debt from 1985 through 1987, frequently prepaying that debt; and (d) that the Bank Board had agreed to allow Lincoln to pay up to $72,000,000 in dividends to ACC in certain circumstances.

We contacted the Department of Savings and Loan, the Bank Board, and various other government agencies to see if they had any information contradicting ours. They had none. Although we sometimes were given ill-defined verbal concerns, when we asked for specific representations in writing, we were given nothing. Even when we asked only for oral proof of specific rumors, we were never told anything more than that investigations were under way and nothing could be substantiated yet. Under these circumstances, we had no choice under the CSL but to allow the qualification to go effective. This was true even though we spent hundreds of hours of staff time reviewing ACC's filings in 1988 and put ACC through what was the most extensive review process ever in my experience at the Department.

Recently, evidence has been developing that something was wrong at Lincoln, but that evidence is of very recent origin. A Kenneth Leventhal and Company report summary now indicates that Lincoln and ACC were able to thwart effective regulation through a combination of various factors, such as: (a) hostility toward savings and loan regulators; (b) the use or abuse of technically correct but substantively wrong accounting principles; and (c) the use of a holding company structure. Had this evidence been available when we were reviewing ACC's filings, it certainly would have added serious concerns to our review. Had the Department of Savings and Loan or the Bank Board been able to develop this information before ACC's bankruptcy filing, we would have used that information in our review. It is impossible to say, after the fact, to what extent such information would have affected our review, but we never had an opportunity to consider such factors.

Allegations of Influence Peddling

Complaints of influence peddling also have been made concerning this matter. These are empty allegations. No one in the Governor's Office ever contacted the Department concerning ACC or Lincoln. The only contacts from the Business, Transportation and Housing Agency involved concerns about Lincoln raised by Savings and Loan Commissioner Crawford. No one in that Agency ever made any direction to the Department on this subject other than: (a) pay close attention to ACC's filings; (b) enforce the law; and (c) do what is right. These three factors indeed outline all of the actions taken by the Department.

Our file amply reflects that ACC's applications went through the Department's normal review procedures. Review started with a staff counsel. To the extent any issues were raised to me, they were raised up through normal channels. More importantly, at each level of the review, the recommendation was confirmed to allow the qualification to go effective. No unusual procedures were used--other than the depth of our inquiry--and no staff recommendations were overruled.

Response to Specific Questions

At this point, let me answer the six written questions that Chairman Johnston previously submitted to me on this matter. I also have copies of various documents that I would like to present for inclusion in the Committee's records in order to give a fair sampling of the depth of our review. I do not propose to submit all of the relevant documents, however, as one of the Committee's consultants previously has reviewed all of our files on this subject.

AMERICAN CONTINENTAL CORPORATION

1. The first question asks about the procedures followed in reviewing ACC's applications in 1986 and 1987. I assume Chairman Johnston's question also applies to the year 1988.

ACC's applications were for qualification by coordination. This means that the offerings also were registered with the federal Securities and Exchange Commission ("the SEC") and, under our Corporate Securities Law, had to go effective unless we found that they were <u>not</u> fair, just and equitable.

All of the applications went through the same review process. However, as we became aware of news reports indicating possible problems at Lincoln and ACC and of concerns of other regulators, we increased the level of scrutiny.

The basic review process is fairly simple in structure. The application is assigned to a staff counsel. The counsel reviews the filings, asks questions of the applicant and requests changes as necessary. When the counsel is satisfied that all appropriate disclosures have been made and that there is no basis which would support a claim that the offering was not fair, just and equitable, the qualification will go effective.

The applications and amendments filed in 1986 and 1987 went through this process pretty much as I have just described it. By 1987, we were following ACC's earnings picture, but the situation at that time raised no special issues and, in each case, staff counsel recommended that the qualifications go effective.

In 1988, the situation changed somewhat. Because of concerns raised by Savings and Loan Commissioner Crawford concerning Lincoln and various press articles which raised issues concerning ACC, we reviewed ACC's outstanding qualification. As a result, we required ACC to file two new applications in March, 1988, one of which went effective in that month (but only for a period of 60 days) and the other of which we did not allow to go effective until the end of May. Our intent to increase the level of our scrutiny is evidenced by the fact that we required those filings, and our review became quite intense regarding the second filing, focusing particularly on ACC's financial statements. However, we were never able to establish that the offerings were not fair, just and equitable. In each case, staff counsel recommended that the qualifications go effective, and the Supervising Counsel and Assistant Commissioner for Securities Regulation concurred in these recommendations. In addition, for each of these applications, the Securities

Regulation Division reviewed for me or for my Chief Deputy why the qualification was allowed to go effective and why we did not have the authority to deny the applications.

2. The second question involves the standards or criteria applied in reviewing ACC's applications.

My discussion of the first question answers the general aspects of this question. Let me now discuss the specific aspects which relate to these debt offerings.

The key fairness standard for debt offerings is the ability of the issuer to make payments of principal and interest. We reviewed the financial statements filed by ACC, including audited financials, and found that ACC had assets and earnings that would support the necessary payments. We also reviewed ACC's track record and found that ACC had paid principal and interest of hundreds of millions of dollars on debt over a period of several years. Thus, on the basis of ACC's financials and other documents filed, we found no grounds upon which to claim that ACC would not be able to make all required payments.

Under normal circumstances, our inquiry would have ended at this point, but in 1988 we pushed the inquiry much farther. We tried to poke holes in ACC's financials and asked them to answer numerous questions in this regard. In each case, ACC gave us answers or additional reasonable discussion which supported their ability to pay principal and interest.

3. The third question asks about the standards or criteria that the SEC would have applied in reviewing ACC's registration statement and asks for a comparison to the Department's review procedures.

If you want to know about the standards the SEC applies, you will have to ask that agency. However, as a matter of general information, the SEC enforces a disclosure law. This means that the applicant must accurately disclose all material items regarding the securities offering, and, technically speaking, the SEC requires disclosure in a prescribed format. The Department also requires the same type of full disclosure but does not prescribe the format. Unlike the Department, the SEC does not apply a fair, just and equitable standard.

I cannot tell you whether or to what extent the SEC reviewed ACC's filings. As I said, you will have to ask someone from the SEC if you want to really know what they did and did not do. As I understand things, the SEC may give a filing

anything from a full review to no review or employ other procedures, as they see fit. We make our own review and it is the same review regardless of the status granted at the SEC. However, had the SEC declined to register ACC's debentures, we certainly would have inquired as to why and we could not have qualified the offering as a coordination.

4. Chairman Johnston's fourth question asks about the information the Department relied upon in reviewing ACC's applications.

The Department reviewed the application, prospectus, registration statement, audited financial statements, exhibits, and supplemental information submitted by ACC on its own and at our request. These materials included, among other things, a textual discussion of all aspects of the offering and all relevant risk factors as well as audited financial information provided by ACC's independent certified public accountants. We also reviewed information obtained from the Department of Savings and Loan, the Federal Home Loan Bank Board, and the SEC concerning ACC and Lincoln.

5. Question 5 asks whether subordinated debentures are routinely sold by an issuer directly to customers without use of an underwriter.

It is very common for securities offerings to be made through underwriters, but this is not always the case. In fact, with the advent of the "shelf registration" of securities with the SEC in 1983, offerings made by issuers on their own have become practicable. Further, nothing in the fairness standard which we apply requires the use of an underwriter. Whether an underwriter is used is one factor, but only one factor, to consider in regulating securities offerings, and the absence of an underwriter here did not indicate an absence of fairness.

From the viewpoint of a purchaser of debentures, use of an underwriter may be a benefit because it adds review of the securities offering by an independent third party--someone other than the issuer or the purchaser. This benefit lasts only for the duration of the offering. However, there are other ways to achieve the same type of benefit. For example, debentures are issued pursuant to an indenture, and there is a trustee appointed to look out for the interests of the debentureholders. This is indeed the case with ACC's debentures; First National Bank of Cincinnati acted as trustee. The trustee has a fiduciary duty to look out for the interests of the debentureholders for as long as any

debentures remain outstanding, not just while they are being sold.

6. Chairman Johnston's last question asks whether the Department was in contact with other state and federal regulators regarding ACC.

The answer is absolutely yes. After the Department of Savings and Loan raised concerns to us concerning Lincoln and ACC, we were in contact with them regularly on these matters. We also initiated contact with: (a) the Federal Home Loan Bank in San Francisco; (b) the Federal Home Loan Bank Board in Washington, D.C.; (c) the SEC in San Francisco; and (d) the SEC in Washington, D.C. Ultimately, we even contacted the U.S. Attorney's Office in Los Angeles and the Federal Reserve Board in Washington, D.C. concerning various issues involving ACC. We received virtually no information that we did not already have. The SEC and the Bank Board gave us nothing which we could use to act against ACC. The U.S. Attorney's Office informed us that they could not provide any information to us because their information came from the grand jury. The Federal Reserve Board informed us that they had no regulatory interest in what they considered to be a minor technical matter that we referred to them.

State of California

Memorandum

To : WAYNE SIMON
Chief Deputy Commissioner

Date : March 13, 1989

File No.: 304 5211

Subject : AMERICAN CONTINENTAL CORPORATION

From : Department of Corporations
JERRY L. BAKER, Assistant Commissioner
MORTON L. RIFF, Supervising Counsel
ROBERT L. RIFKIN, Senior Corporations Counsel
KEN ENDO, Senior Examiner

SUMMARY

All offerings of subordinated debentures by American Continental Corporation discussed in this memorandum were registered under the Federal Securities Act of 1933 with the Securities & Exchange Commission. These offerings were qualified by coordination in California pursuant to Section 25111 of the California Corporate Securities Law. Under this procedure the Commissioner of Corporations must make an affirmative finding that the transaction is unfair, unjust or inequitable in order to prevent the qualifications from becoming effective. This shifts the burden to the Commissioner to act and to make an affirmative determination that the transactions will not be permitted.

In connection with the subordinated debenture offerings of American Continental Corporation it was concluded that this burden of proof could not be met even though the staff responsible for processing the applications was uneasy about the transactions because of stories in the media about the viability of American Continental Corporation and its subsidiary, Lincoln Savings and Loan Association, and because of concerns of other regulatory agencies which have continuing jurisdiction over Lincoln Savings and Loan Association about its viability.

In an effort to secure evidence that would sustain the burden of proof required to deny the applications for qualification, several contacts were made with other regulatory bodies, namely; the Department of Savings and Loan, the Federal Home Loan Bank Board and the Securities & Exchange Commission. There was a general concern expressed by these agencies about the valuation of the assets reflected on the consolidated financial statements of American Continental Corporation. However, no tangible evidence was obtained that would have materially impacted the presentation in the financial statements reviewed by the Department of Corporations which led to the conclusion that American Continental Corporation could service the principal and interest on its subordinated debt issues.

Since a substantial percentage of the assets reflected on American Continental Corporation's consolidated financial statements is in real estate, a substantial part of which is in undeveloped land in the Phoenix area, the company is vulnerable to any softening of the real estate market in that area. However, the Department of Corporations was unable to disprove the value attributed to this real estate contained in their certified financial statements filed with their verified application. Therefore the Department of Corporations was unable to sustain a finding that the issuance of the subordinated debentures was unfair, unjust and inequitable.

CHRONOLOGY

The following is a chronology of events occurring over the last year in connection with the processing of filings by this issuer:

Mar 22, 1988 A memo from Senior Corporations Counsel Wallace M. Wong to Chief Deputy Commissioner Wayne Simon. This memo contains a history of events in this application describing what occurred from the filing of the application on October 10, 1986, to the filing of Post-Effective Amendment Number 5 on November 17, 1987, which was declared effective November 23, 1987. Senior Corporations Counsel Robert L. Rifkin was the counsel who reviewed the Post-effective Amendment Number 5. The qualification which Post-effective Amendment Number 5 was to amend, expired November 3, 1987. An expired qualification cannot be post-effectively amended. Accordingly, Post-Effective Amendment Number 5, filed 14 days after the expiration of the 12 month period was an inappropriate application. The Post-Effective Amendment Number 5 was declared effective on November 23, 1987. Senior Corporation Counsel Robert L. Rifkin inadvertently confused post-effective Amendment Number 5 with an attempt to Post-effectively amend a qualification to offer preferred stock which he had granted on June 1, 1987. American Continental Corporation should have filed an application for a qualification as opposed to an application for a post-effective amendment. It should have paid a fee based on an application for a qualification as opposed to a fee for a post-effective amendment.

Mar 24, 1988 Conference telephone call to Franklin Tom, American Continental Corporation's local counsel, with Commissioner of Corporations Christine W. Bender, Chief Deputy Wayne Simon, Assistant Commissioner Jerry L. Baker, Senior Corporation Counsel Wallace M. Wong, and Senior Corporation Counsel Robert L. Rifkin participating in the call which concerned the effect of American Continental Corporation's post-effective amendment number 5.

Mar 24, 1988 Senior Corporations Counsel Robert L. Rifkin advised American Continental Corporation's local counsel, Attorney Joseph Martinez and Attorney Franklin Tom of the problem regarding post-effective amendment number 5 as described above. At or about this time discussions were held among members of the Department of Corporations and the conclusion was that under Corporations Code Section 25700 of the Corporations Code, the Department could not pre-date any authority, the Department of Corporations would not seek enforcement action against American Continental Corporation and it was left up to American Continental Corporation to decide for itself what it would do with respect to sales of debentures made under the circumstances of the Post-Effective Amendment Number 5 described above. Corporations Code Section 25700 provides that no provision of this law imposing any liability applies to any act done or omitted in good faith in conformity with any rule, form, permit, order, or written interpretive opinion of the Commissioner, or any such opinion of the Attorney General, notwithstanding that the rule, form, permit order, or written interpretive opinion may later be amended or rescinded or be determined by judicial or other authority to be invalid for any reason.

Mar 25, 1988 A meeting was held with Attorney Franklin Tom and other counsel from the local law firm to discuss American Continental Corporation's request for authority to sell debentures. Those present from the Department were Chief Deputy Wayne Simon, Assistant Commissioner Jerry L. Baker, Supervising Counsel Morton L. Riff, Senior Corporation Counsel Robert L. Rifkin, and Senior Corporations Counsel Wallace M. Wong.

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Approximately Mar 25-29 1988	Attorneys Franklin Tom, Karl Samuelian and Joseph Martinez met with Commissioner of Corporations Christine W. Bender, Chief Deputy Wayne Simon, Assistant Commissioner Jerry L. Baker, Supervising Counsel Morton L. Riff and Senior Corporations Counsel Robert L. Rifkin.
Mar 28, 1988	Application by Coordination was filed requesting authority to sell subordinated debentures in the amount of $200 million. The Section 25111 coordination application filed March 28, 1988 included as an exhibit, American Continental Corporation's prospectus dated June 26, 1987 with selected condensed income statement data and balance sheet data of American Continental Corporation for years 1982 through 1986. Also included in the prospectus were selected financial data of Lincoln Savings and Loan Association for years 1984, 1985 and 1986. Also submitted as exhibits were the third quarter (9 months ended September 30, 1987) Form 10-Q of American Continental Corporation which contain unaudited consolidated financial statements of American Continental Corporation for the 9 months ended September 30, 1987. Unaudited company-prepared consolidated balance sheet and income statements for the year ended December 31, 1987 were also filed. These financial statements were discussed in Examiner Ken Endo's memo to Senior Corporations Counsel Robert L. Rifkin dated April 3, 1988.
Mar 29, 1988	A two-hour telephone conversation with Andrew Liggett, Chief Financial Officer of American Continental Corporation on March 29, 1988 with Supervising Counsel Morton L. Riff, Senior Corporations Counsel Robert L. Rifkin and Senior Examiner Ken Endo. The discussion concerned Mr. Liggett's explanation as to asset sources which may be used to pay the American Continental Corporation's debentures.
Mar 29, 1988	Telephone conversation with Attorney Franklin Tom and Commissioner of Corporations Christine W. Bender, Chief Deputy Wayne Simon, Assistant Commissioner Jerry L. Baker, Supervising Counsel Morton L. Riff, Senior Corporations Counsel Robert L. Rifkin, Senior Examiner Ken Endo. The

discussion primarily focussed on whether the Department of Corporations would grant a short term authority to sell debentures.

Mar 29, 1988 Authority was granted effective March 29, 1988 through May 29, 1988 to sell debentures as requested by the March 28, 1988 application.

a. Prior to granting the 60 day extension, an analysis was made of American Continental Corporation's ability to meet its debt service requirement. Consideration was given to the negotiations with the Federal Home Loan Bank Board which required that a contingency factors account in Lincoln Savings and Loan Association was to be increased, that $10 million was to be given to Lincoln Savings and Loan Association by American Continental Corporation, that Lincoln Savings and Loan Association would attempt to make a $50 million preferred share offering, that Lincoln Savings and Loan Association and its subsidiaries have substantial real estate which may have had market values in excess of the historical cost values carried on Lincoln Savings and Loan Association's balance sheet, that American Continental Corporation could pay-off its debt by not only selling real estate, but by refinancing, and the receipt of payment of $65 million in dividends from Lincoln Savings and Loan Association to American Continental Corporation, and by virtue of the net operating loss carry forwards American Continental Corporation has with respect to the tax savings.

b. The factors noted in the paragraph above were considered by Senior Corporations Counsel Robert L. Rifkin, Supervising Counsel Morton L. Riff and Senior Examiner Ken Endo. Senior Corporations Counsel Robert L. Rifkin recommended the 60 day qualification authority. The recommendation was reviewed and approved by Assistant Commissioner Jerry L. Baker, after being submitted by Supervising Counsel Morton L. Riff and Senior Corporations Counsel Robert L. Rifkin. The Department rejected a request to pre-date any

authority, and concluded that enforcement action against American Continental Corporation was not warranted for sales of subordinated debentures during the period of time it believed it had qualification authority to sell in California.

Mar 31, 1988 A new application for authority to sell $200 million in subordinated debentures was filed by American Continental Corporation.

Apr 1, 1988 Letter was received by Senior Corporations Counsel Robert L. Rifkin from American Continental Corporation summarizing American Continental Corporation's ability to service its debt and to retire the debt on maturity. This letter was written by the Chief Financial Officer Andrew Liggett of American Continental Corporation and contains a detailed summary of American Continental Corporation's ability to meet its debt service.

Apr 3, 1988 Memo to Senior Corporations Counsel Robert L. Rifkin from Senior Examiner Ken Endo concerning the consolidated net worth of American Continental Corporation as of December 31, 1987 based on unaudited financial statements and adjustments thereto considering appreciation of certain properties and investments. The memo indicated that American Continental Corporation's consolidated book net worth of $136 million as of December 31, 1987, less intangible assets of $106 million results in a tangible net worth of $30 million, which if added to unrealized appreciation of assets totalling $300 million provided by Andrew Liggett, Chief Financial Officer of American Continental Corporation, will result in an adjusted tangible net worth of $330 million.

Apr 6, 1988 Senior Corporations Counsel Robert L. Rifkin called Savings and Loan Association Department Supervising Examiner Tommy Mar and Savings and Loan Association Department Chief Deputy Bill Davis at their respective offices to discuss the applications to sell subordinated debentures pending with the Department of Corporations, and to obtain whatever information they could give him in the Department's processing thereof. Both

gentlemen were unavailable.

Apr 7, 1988 — A call was made by Senior Corporations Counsel Robert L. Rifkin to Savings and Loan Department Chief Deputy Bill Davis, and was referred to the Commissioner of Savings and Loan Department William Crawford who advised Mr. Rifkin of problems encountered in his Department's analysis of American Continental Corporation's (and Lincoln Savings and Loan Association's) financials. The problems were: 1. That a hotel was being carried on the books at a value of $56 million, but is really not worth more than $23,500,000. 2. He indicated there was a hotel in Scottsdale, Arizona which cost $163,000 per room to build, and the rates being charged should bring in $165 per room, and what was being charged per room was considerably less than should be charged to service that cost. 3. There was $800 million invested in vacant land which said was much too high. 4. He requested we send him copies of the financials we had, so he could compare them with the financials filed with the Department of Savings and Loan. 5. He agreed to meet with Senior Corporations Counsel Robert L. Rifkin and Senior Examiner Ken Endo.

Approximately Apr 4-7 1988 — Audited consolidated financial statements of American Continental Corporation for the year ended December 31, 1987 were filed sometime between April 4, 1988 and April 7, 1988. These statements were used in Senior Examiner Ken Endo's memo to Senior Corporations Counsel Robert L. Rifkin dated April 7, 1988.

Apr 7, 1988 — Pre-Effective Amendment Number 1 to the March 31, 1988 application was filed containing certain financial information.

Apr 7, 1988 — Memo to Senior Corporations Counsel Robert L. Rifkin from Senior Examiner Ken Endo which lists favorable and unfavorable factors as the result of reviewing audited consolidated financial statements of American Continental Corporation. Favorable factors mentioned were: 1. Auditors' report was unqualified.
2. Although Federal Home Loan Bank Board expressed concern over Lincoln Saving and Loan Association, no drastic steps have been taken against Lincoln

Saving and Loan Association. Unfavorable factors mentioned included: 1. American Continental Corporation's consolidated balance sheet reflects certain investments at values $155 million in excess of estimated market value, 2. Interest bearing liabilities exceed interest earning assets by approximately $1,086 million at December 31, 1987, 3. American Continental Corporation, a holding company, may not be able to upstream cash from Lincoln Savings and Loan Association, a regulated wholly-owned subsidiary and, 4. Assets include $622 million in less than investment grade debt securities.

Apr 8, 1988 — Post-Effective Amendment Number 1 to the application heretofore made effective on March 29, 1988 was filed by American Continental Corporation. This amendment incorporated by reference the applicant's most recent prospectus filed with its March 31, 1988 application. This amendment application was considered by Chief Deputy Wayne Simon, Assistant Commissioner Jerry L. Baker, Supervising Counsel Morton L. Riff and Senior Examiner Ken Endo and Senior Corporations Counsel Robert L. Rifkin.

Apr 11, 1988 — There was issued on this date an Order Declaring Effectiveness of Amendment to Qualification heretofore effective March 29, 1988 which amendment was filed on April 8, 1988. The amendment contained an updated prospectus.

Apr 13, 1988 — April 13, 1988 letter was received by Senior Corporations Counsel Robert L. Rifkin from Attorney Joseph Martinez containing revised advertisements for American Continental Corporation debentures. The advertisements were revised as requested by the Department of Corporations to reflect that the debentures are not insured by the FSLIC.

Apr 13, 1988 — American Continental Corporation's Prospectus dated April 7, 1988 was filed on April 13, 1988. This Prospectus contains selected income statement data and selected balance sheet data of American Continental Corporation for years 1983 through 1987. Selected financial data of Lincoln Savings and Loan Association for years 1985, 1986 and 1987 are also included. These financials were

reviewed by Senior Examiner Ken Endo but no written memo was prepared.

Apr 13, 1988 Chief Deputy Bill Davis of the Department of Savings and Loan was called by Senior Corporations Counsel Robert L. Rifkin who was advised he was out of town.

Apr 15, 1988 Senior Corporation Counsel Robert L. Rifkin spoke to Mr. Davis' secretary and advised her he was sending to him a copy of post-effective amendment number 4, filed with the Security and Exchange Commission, and a 10-K.

Apr 15, 1988 Commissioner of Savings and Loan Association William Crawford called Senior Corporations Counsel Robert L. Rifkin, and advised that Supervising Examiner Tommy Mar of his Department was analyzing the Lincoln Savings and Loan Association, American Continental Corporation financials, and that he and Department of Corporations Senior Examiner Ken Endo should get together and compare notes.

Apr 18, 1988 An April 13, 1988 letter was received on this date from Staff Attorney Beth N. Mizuno of the Federal Home Loan Bank Board, Washington D.C., addressed to Senior Corporations Counsel Robert L. Rifkin. Pursuant to the April 9 request of Deputy Director Stephen Hershkowitz, Office of Enforcement, Federal Home Loan Bank Board, Washington, D.C., there was enclosed a copy of the examination report of Lincoln Savings and Loan Association as of March 3, 1987 by the Federal Home Loan Bank Board.

Apr 20, 1988 Senior Corporations Counsel Robert L. Rifkin called Department of Savings and Loan Association Supervising Examiner Tommy Mar for the purpose of setting up a meeting with him and with Senior Examiner Ken Endo of the Department of Corporations. He was not in, and was not expected to be in his office until April 25, 1988. A message was left with his secretary with respect to the desire of Mr. Rifkin to setup the meeting.

Apr 25, 1988 Letter dated April 22, 1988 from Attorney Joseph G. Martinez, filed on April 25, 1988, addressed to Senior Corporations Counsel Robert L. Rifkin

enclosing three copies of prospectus supplement which relates to a new series of debentures to be offered by the company. This series of debentures is to be offered pursuant to the order of the Department dated March 29, 1988 as amended by the Department's order dated April 11, 1988.

Apr 25, 1988 Supervising Examiner Tommy Mar of the Department of Savings and Loan met with Senior Corporations Counsel Robert L. Rifkin and Senior Examiner Ken Endo of the Department of Corporations. He indicated:

1. He was very worried about the valuation given to hotels (by American Continental Corporation-Lincoln Savings and Loan Association). There appeared to be a $114 million loss on the two hotels.

2. He indicated there was a $30 million-$40 million over valuation on land.

3. He had not completed the analysis of Lincoln Savings and Loan Association's financial condition.

4. He believed that American Continental Corporation will work something out with the Federal Home Loan Bank Board sometime after the presidential election.

5. He indicated that the Seattle office of the Federal Home Loan Bank Board will analyze Lincoln Savings and Loan Association's financials because the Eleventh Federal District in San Francisco which normally does such analysis, has "not been even handed" according to authorities in the Washington, D.C.,office of the Federal Home Loan Bank Board. The reassignment was made after urging by certain U.S. Senators to have the Seattle office perform that task.

6. Lincoln Savings and Loan Association was highly risky.

7. He believed the Attorney General will not bring any law suits because the Federal Home Loan Bank Board report is too old.

Apr 27, 1988 There was filed on this date, April 27, 1988, a letter from Attorney Joseph G. Martinez containing an unaudited consolidated balance sheet of American Continental Corporation for the periods ending March 31, 1988 and December 31, 1987. Also enclosed was an unaudited consolidated statement of operations for the first quarter ended March 31, 1988 and 1987. This letter pointed out that American Continental Corporation was compiling unconsolidated financials which reflected American Continental Corporation's operation separate from Lincoln Savings and Loan. American Continental Corporation also was preparing a detailed analysis of those assets that would be candidates for sale if necessary in order to repay the outstanding debentures.

Apr 29, 1988 A letter was sent to Attorney Franklin Tom by Senior Corporations Counsel Robert L. Rifkin outlining a total of twenty-one inquiries relating to the pending application to qualify the $200 million subordinated debenture offering. The purpose of the letter was to confirm a telephone conversation on April 27, 1988 wherein Supervising Counsel Morton L. Riff, Senior Corporations Counsel Robert L. Rifkin and Senior Examiner Ken Endo requested applicant to submit a verified amendment to their application of March 31, 1988 in response to various points of information needed. The twenty-one items in the letter related to their ability to pay principal and interest on the indebtedness, relationships between Lincoln Savings and Loan and American Continental Corporation, upstreaming and downstreaming of monies, use of funds, outcome of discussions with regulatory agencies, requests for financials, and request for miscellaneous information.

May 3, 1988 A letter was sent to Attorney Franklin Tom by Senior Corporations Counsel Robert L. Rifkin requesting audited financial statements of Lincoln Savings and Loan Association for the year ended December 31, 1987 and requesting consolidated financials (balance sheets and income statements and statements of changes in financial position) of American Continental Corporation for the year ended December 31, 1987 excluding Lincoln Savings. In addition, Mr. Rifkin requested the same

financial information for 1986 and 1985. The purpose of this letter was to clarify item 16 of the April 29, 1988 letter.

May 4, 1988 — A memo from Senior Corporations Counsel Robert L. Rifkin to Savings and Loan Commissioner William Crawford, enclosing a copy of the applications and exhibits filed by American Continental Corporation with the Department of Corporations. Mr. Rifkin asked for representations from the Department of Savings and Loan as soon as possible.

May 17, 1988 — The following financial statements were submitted with a letter dated May 16, 1988 from Attorney Joseph G. Martinez to Senior Corporations Counsel Robert L. Rifkin in conformity with a prior telephone conversation:

1. Balance sheet (December 31, 1987) and statement of operations (1986 and 1987) showing consolidated American Continental Corporation, Lincoln Savings and Loan Association and American Continental Corporation net of Lincoln Savings and Loan Association. These were not audited.

2. Lincoln Savings and Loan Association balance sheet (March 1988 vs. March 1987) and statement of operations for the months of February and March 1988 and for the first quarter of 1988 compared to March 1987 and the first quarter of 1987.

3. Federal Home Loan Bank Board Thrift Financial Reports for Lincoln Savings and Loan Association for the months of January, February, March and December 1987 and for January, February and March 1988.

4. Lincoln Savings and Loan Association audited consolidated financial statements for the years ended December 31, 1987 and December 31, 1988.

5. Form 10-Q filed by American Continental Corporation for the quarter ended March 31, 1988. Unaudited consolidated financial statements of American Continental Corporation for the three months ended March

31, 1988 are contained therein.

May 18, 1988 With the pre-effective amendment Number 2 to Section 25111 application dated March 31, 1988, the following financial statements were filed:

1. Form 10-Q of American Continental Corporation containing unaudited consolidated financial statements of American Continental Corporation for the three months ended March 31, 1988.

2. Balance sheet (December 31, 1987) and statement of operations (1985, 1986 and 1987) showing Consolidated American Continental Corporation, Lincoln, and American Continental Corporation net of Lincoln Savings and Loan Association. These statements are not audited.

3. Audited financial statements of Lincoln Savings and Loan Association for years ended December 31, 1986 and December 31, 1987. The auditors' opinion thereon is unqualified.

4. Unaudited Consolidated financial statements of Lincoln Savings and Loan Association for three months ended March 31, 1988.

5. Federal Home Loan Band Board Thrift Financial Reports for Lincoln Savings and Loan Association for months January, February, March and December 1987 and January, February and March 1988.

May 18, 1988 A meeting was held with the Commissioner of Savings and Loan Association William Crawford in his office. Present were Department of Corporations staff members; Chief Deputy Wayne Simon, Assistant Commissioner Jerry L. Baker, Supervising Counsel Morton L. Riff, Senior Corporations Counsel Robert L. Rifkin, and Senior Examiner Ken Endo and seven members of the staff of the Savings and Loan Association Commissioner. There was a general discussion concerning the financial condition of Lincoln Savings and Loan Association and American Continental Corporation. The Savings and Loan Department Commissioner and his staff gave an overview of the financial

problems facing those entities.

May 23, 1988 The following data were submitted on May 23, 1988. No letter of transmittal was located. 1. Schedule of Real Estate Sales 1984-1988 of American Continental Corporation. 2. American Continental Corporation's analysis of Core Earnings for first quarter 1987/1988. 3. Operating results of American Continental Corporation with and without Lincoln Savings and Loan Association for three months ended March 31, 1988.

May 23, 1988 Attorney Franklin Tom, Robert Kielty, Chief Counsel of American Continental Corporation, Jack Anderson, Accountant, and Andy Liggett, Chief Financial Officer of American Continental Corporation met with Assistant Commissioner of Corporations Jerry L. Baker, Supervising Counsel Morton L. Riff, Senior Corporations Counsel Robert L. Rifkin, and Senior Examiner Ken Endo to respond to questions on how American Continental Corporation would be able to service its debt.

May 26, 1988 Qualification authority issued on this date authorizing applicant to sell an aggregate of not to exceed $200 million of subordinated debentures as it requested in its application filed on March 31, 1988.

The primary issue considered by the Department in connection with the qualification issued on May 26, 1988 was the ability of American Continental Corporation to service the payments of principal and interest on debentures already sold and those to be sold under the qualification authority issued on May 26, 1988.

SUMMARY OF EVENTS LEADING TO THE MAY 26, 1988 QUALIFICATION AUTHORITY:

A. A number of meetings were held among members of the Department of Corporations - Supervising Counsel Morton Riff, Senior Corporations Counsel Robert L. Rifkin, and Senior Examiner Ken Endo to discuss the issues raised in the application.

B. There were discussions with the Supervising Examiner from the Savings and Loan Department, Tommy Mar, (April 25, 1988

& May 18, 1988) Monica Gawett, (April 21, 1988) Supervisory Analyst of the Federal Home Loan Bank Board, San Francisco, Chief Deputy of the Savings and Loan Department, Bill Davis (April 7, 1988 & May 18, 1988), Savings & Loan Commissioner William Crawford (April 7, 1988 & April 15, 1988 & May 18, 1988) Steve Hershkowitz (April 8, 1988 & April 22, 1988) Deputy Director, Office of Enforcement Federal Home Loan Bank Board, Washington, D.C., Dale Granata (April 7, 1988 & April 18, 1988 & April 19, 1988) Securities and Exchange Commission, Washington, D.C., William L. Robinson, (April 8, 1988) Office of Regulatory Policy and Oversight and Supervision of Federal Home Loan Bank Board, Gladwin Gains, (April 22, 1988), Assistant Director Securities and Exchange Commission, Attorney Joseph Martinez (April 7, 1988 & April 8, 1988 & April 25, 1988), Franklin Tom April 25, 1988 & May 3, 1988 and May 17, 1988 & May 23, 1988).

C. In discussions with the Savings and Loan Commissioner, the Department was advised that their audit being conducted at the main office of Lincoln Savings and Loan Association, the subsidiary of American Continental Corporation, was in the early stages and that no action would be taken against American Continental Corporation.

D. American Continental Corporation submitted data to the Department to show that it had substantial liquid funds available to make payment on the principal balance of its subordinated debentures outstanding as of March 31, 1988. In addition, it was represented to the Department that American Continental Corporation had not defaulted in payment of interest on its debt, and has frequently prepaid such interest. The Department took into consideration the fact that American Continental Corporation had at that time $5 billion in assets, shareholders equity an excess of $136 million, annual revenues of over $700 million, and earnings exceeding $19 million for the year ended December 31, 1987, all on a consolidated basis.

E. The Department reviewed an agreement with the Federal Home Loan Bank Board. As a result American Continental Corporation was not required to make additional write-downs of its substantial real estate investments, but was required to inject an additional $10 million of capital into its subsidiary Lincoln Savings and Loan Association by way of a preferred stock offering by October 1, 1988. In addition, Lincoln Savings and Loan Association was to use its best efforts to raise additional capital by trying to sell between $50,000,000 and $150,000,000 of subordinated debt by June 30, 1989.

F. The Department was aware of many articles written in various newspapers concerning the financial condition of American Continental Corporation and its business activities, but the Department recognized that not one of the federal or state agencies having continuing regulatory oversight initiated any action to close down Lincoln Savings and Loan Association or took any other action against American Continental Corporation.

May 27, 1988 Memorandum by Senior Corporations Counsel Robert L. Rifkin to Commissioner of Savings and Loan William J. Crawford. This memorandum advised that the Department of Corporations granted authority on May 26, 1988 to sell debentures. The memorandum thanked Commissioner Crawford's staff for help and cooperation in connection with matters pertaining to the filing. There was attached to the memorandum the registration statement filed April 14, 1988 and Amendment Number 1, filed May 19, 1988 with the Securities & Exchange Commission.

May 27, 1988 Submitted with Attorney Joseph G. Martinez's letter of May 27, 1988 was American Continental Corporation's Prospectus dated May 23, 1988 which contain substantially the same financials as those contained in the Prospectus dated April 7, 1988 mentioned above.

June 6, 1988

A. Senior Corporations Counsel Robert L. Rifkin prepared a memorandum explaining the reasons and justifications for the granting of the qualification authority.

B. Senior Corporations Counsel Robert L. Rifkin's June 6, 1988 memorandum discussed the primary concern i.e. whether or not American Continental Corporation had the ability to make good on payments of principal and interest on the debentures heretofore sold and those to be sold under the qualification and the memorandum discussed the basis the considerations leading to the conclusion to grant the qualification authority.

June 8, 1988 Post-Effective Amendment Number 1 filed on June 8, 1988 - this amendment involves additional supplementary information to be added to the

prospectus containing various descriptions of the debentures including the interest rate and redemption prices.

June 10, 1988 Memorandum was written ordering the preparation of an order declaring the application filed on June 8, 1988 effective. The memorandum reflects that applicant is merely updating its prospectus by the supplement.

June 13, 1988 On this date an Order Declaring Effectiveness of Amendment to Qualification was issued making the Post-Effective Amendment Number 1 effective.

Aug 25, 1988 Post-Effective Amendment Number 2 was filed on this date. This amendment is also of a clarifying nature clarifying what remains to be sold pursuant to its authority.

Sept 1, 1988 Memorandum in Department's files by Senior Corporations Counsel Robert L. Rifkin reflected that the August 25, 1988 filing is a clarification of unused authority. The clarification is included in the supplement to the prospectus.

Sept 6, 1988 Order Declaring Effectiveness of amendment to qualification filed on August 25, 1988.

Oct 14, 1988 A letter was received by Senior Corporations Counsel Robert L. Rifkin from the law firm of Parker Milliken, Clark O'Hara and Samuelian, from Attorney Joseph G. Martinez enclosing three copies of prospectus supplements dated October 10, 1988 for three new series of new debentures.

Oct 27, 1988 A letter from Attorney Joseph G. Martinez to Senior Corporations Counsel Robert L. Rifkin with an attached copy of a letter which American Continental Corporation intended to mail to current holders of Series G-1 debentures in connection with the offer by American Continental Corporation to such holders of a new series of debentures. Also enclosed with the letter are copies of the Series G-1 prospectus supplement which is marked to reflect the form of the Series G-12 prospectus supplement to be distributed, the form of a purchase agreement to be executed by purchasing debenture-holders and a brochure describing currently available debentures. The

letter pointed out that all of the documents described above together with the most recent prospectus, annual report and form 10-Q for the second quarter will be delivered to the current holders of the Series G-1 debentures. In addition the letter advised the documents enclosed with the letter do not constitute an amendment to American Continental Corporation's application for qualification or its registration.

Oct 28, 1988 Attorney Joseph G. Martinez submitted a letter with three copies of the prospectus supplement dated October 27, 1988 covering a new series of the offering (Series G-12).

Nov 1, 1988 Senior Corporations Counsel Robert L. Rifkin sent a letter to Joseph G. Martinez acknowledging supplemental information filed October 27, 1988 and October 28, 1988. Mr. Rifkin advised Mr. Martinez that if the October 27 and 28 information is material to the qualification previously issued then that information should be filed as a post-effective amendment thereto.

Nov 17, 1988 A memo was written from Senior Corporations Counsel Robert L. Rifkin to Assistant Commissioner Jerry Baker Supervising Counsel Morton L. Riff and Senior Examiner Ken Endo describing a meeting they had in the office of the Commissioner of Savings and Loan Association on November 10, 1988, at which time there was discussed the purchase of two hotels by American Continental Corporation and the effects of these purchase on the financial condition of American Continental Corporation.

Nov 29, 1988 Letter from Joseph G. Martinez to Senior Corporations Counsel Robert L. Rifkin enclosing three copies of prospectus supplement dated November 28, 1988 for new Series G-13. Attorney Martinez points out that as with all of the prior filings of prospectus supplements, the enclosed prospectus supplement does not amend the currently effective registration statement and does not cause an amendment to the application for qualification previously declared effective pursuant to orders of the Department of Corporations dated May 26, 1988, June 13, 1988 and September 6, 1988.

Nov 30, 1988 The November 29, 1988 letter from Joseph G. Martinez with prospectus supplement was filed on November 30, 1988, and updated information pertaining to its continuous shelf offering of subordinated debentures of American Continental Corporation, as to series and interest.

Dec 7, 1988 Letter dated December 7, 1988 from the Securities & Exchange Commission was written to Assistant Commissioner Jerry L. Baker indicating to him that his letter of December 5, 1988 requesting access to their files had been granted.

Dec 7, 1988 A schedule was prepared which reflects a chronological sequence of transactions and events relating to the Pontchartrain Hotel involving American Continental Corporation or any of its affiliates. This schedule was prepared by Senior Examiner Ken Endo at the request of Assistant Commissioner Jerry L. Baker. The reason for preparing this schedule was due to concern over a possible related-party transaction in the sale of a property acquired for $19.5 million on December 31, 1984, sold to a possible related party on March 29, 1985 for $37 million, having been appraised at $37 million. Additional loans were made thereon by American Continental Corporation after an appraisal in excess of $44 million.

Dec 12, 1988 A memorandum dated this date was written by Senior Corporations Counsel Robert L. Rifkin to Assistant Commissioner Jerry L. Baker describing a telephone conversation approximately on that date regarding American Continental Corporation with the Securities & Exchange Commission and the Federal Home Loan Bank Board requesting any information the Department of Corporations could get regarding any investigations concerning any misleading information or lack of material information in American Continental Corporation's prospectuses. Certain transactions were discussed including the purchase of a hotel, the interest of the Securities & Exchange Commission in the accounting treatment, the methods of valuing the hotel, and anticipations of financial benefits from the hotel.

Dec 15, 1988 At the request of Assistant Commissioner Jerry L. Baker, Senior Examiner Ken Endo requested

personnel of the Department of Savings and Loan to provide copies of American Continental Corporation's 10-Q reports for the first and second and third quarters of 1988 and a "Holding Company Report" dated October 19, 1988 of American Continental Corporation. After numerous attempts a Savings and Loan Department Examiner by the name of Eddie Spralia was reached who provided only the 10-Q report for the third quarter ended September 31, 1988, copies of which were distributed to Assistant Commissioner Jerry L. Baker, Supervising Counsel Morton L. Riff, Supervising Counsel Alan Weinger and Senior Corporations Counsel Robert L. Rifkin. The reason for the request was to obtain updated financial data of American Continental Corporation.

Dec 19, 1988 — On December 19, 1988, Senior Corporations Counsel Wallace M. Wong directed a memorandum to Chief Deputy Wayne Simon, Assistant Commissioner Jerry L. Baker, Supervising Counsel Morton L. Riff, and Senior Corporations Counsel Robert L. Rifkin, which summarized his December 19, 1988 discussions with Laura Homer of the Federal Reserve Board, Washington, D.C., over whether there was a violation of Reg G by American Continental Corporation's making loans to its shareholders in order to allow them to convert margin accounts to cash accounts as such practice was described in an article in the December 26, 1988 issue of Forbes Magazine. He was advised no action had been initiated, and that the magazine article did not provide sufficient facts for determination regarding any violation of Reg G. She observed that if the margin accounts were converted to true cash accounts, the shares in those accounts normally would not be subject to any security interest. Accordingly, any loans made by American Continental Corporation may be uncollateralized or collateralized by assets other than shares in the account.

Dec 21, 1988 — A December 20, 1988 letter from Attorney Joseph G. Martinez was filed on December 21, 1988, addressed to Senior Corporation Counsel Robert L. Rifkin and enclosing three copies of a prospectus supplement dated December 14, 1988 for four new series of debentures (Series 8-12, G-14, G-15, and H-12). Attorney Martinez pointed out that as with

the prior filings of prospectus supplements, the enclosed prospectus supplements do not amend the currently effective registration statement and do not cause an amendment to the application for qualification previously declared effective pursuant to the orders of the Department of Corporations dated May 26, 1988, June 13, 1988 and September 6, 1988.

Jan 6, 1989 — A memo was issued by Supervising Counsel Morton L. Riff to Los Angeles and San Diego counsel, telling them that any inquiries received by them (by telephone or in person) regarding American Continental Corporation should be referred to Senior Corporations Counsel Robert L. Rifkin for handling. Assistant Commissioner Jerry L. Baker was copied and so was Supervising Counsel Michael Broady in the San Francisco office.

Feb 6, 1989 — There was filed on this date a February 2, 1989 letter from Attorney Joseph Martinez to Senior Corporations Counsel Robert L. Rifkin. This letter enclosed three copies of prospectus supplements dated January 30, 1989 for two new series of debentures (Series G-17 and H-14). Attorney Martinez states that the prospectus supplements do not amend the currently effective registration statement and do not cause an amendment to the application for qualification previously declared effective pursuant to orders of the Department of Corporations dated May 26, 1988, June 13, 1988 and September 6, 1988.

Feb 15, 1989 — A meeting was held at the offices of the Department of Savings and Loan at their request. Those present at the meeting included Assistant Commissioner Jerry L. Baker from the Department of Corporations and Commissioner William Crawford, Chief Deputy Bill Davis and three staff members of the Department of Savings and Loan and a representative of the Federal Home Loan Bank Board. The subject of the meeting was what information was necessary for the Department of Corporations to revoke the qualification of American Continental Corporation to sell its subordinated debentures. Those present were informed by Assistant Commissioner Jerry L. Baker that in order to revoke the American Continental Corporation's qualification, evidence would have

to be obtained that would sustain a finding that the securities were being sold in violation of the anti-fraud provisions of the Corporate Securities Law so that the burden of proof that the sale of the subordinated debentures to investors was unfair, unjust and inequitable could be sustained. Representatives of the Savings and Loan Department repeated certain unsubstantiated rumors about the shaky financial condition of American Continental Corporation. The meeting was interrupted by a confidential phone call from the Federal Home Loan Bank Board and the meeting was not reconvened.

Feb 20, 1989 Jerry L. Baker, Assistant Commissioner of the Department of Corporations placed a call to Chief Deputy Bill Davis of the Department of Savings and Loan regarding the February 15, 1989 meeting. This phone call was returned by Bill Davis later that week who indicated at that time that they were unable to substantiate any of the rumors concerning undisclosed financial problems at American Continental Corporation.

Feb 23, 1989 Memo from Senior Examiner Ken Endo to Supervising Counsel Morton L. Riff concerning results of a telephone conversation with Supervising Examiner Tommy Mar of Department of Savings and Loan. The telephone call was made at the request of Assistant Commissioner Jerry L. Baker as a result of an internal February 16, 1989 meeting. Tommy Mar advised in the conversation that he has nothing in writing but heard rumors such as:

1. Federal Home Loan Bank Board is now requiring Lincoln Savings and Loan Association to cease its income tax sharing plan with American Continental Corporation.

2. The State of Arizona may have forced American Continental Corporation to cease selling debentures in Arizona.

3. There will probably be a delay in American Continental Corporation issuing its 1988 audited financial statements because "Feds" dragged their feet in the approval of change in auditors.

4. American Continental Corporation may have encountered a cash shortage in late 1987 or

early 1988 due to early retirement of some of its debts, and

5. Both American Continental Corporation and Lincoln Savings and Loan Association may be using delay tactics in providing current financial data to regulatory agencies due to financial problems being encountered by both American Continental Corporation and Lincoln Savings and Loan Association.

It should be clear that the above are rumors and not necessarily facts.

Mar 6, 1989 A telephone call was made by Assistant Commissioner Jerry L. Baker of the Department of Corporations to Terree Bowers of the United States Attorney's office in Los Angeles. The call was made as a result of newspaper articles appearing March 2, 1989 in the Los Angeles Times and Wall Street Journal in which Terree Bowers disclosed that a fraud investigation of Lincoln Savings and Loan Association was under way by the United States Attorney's office. Inquiry was made as to whether the US Attorney's office had any information that would impact the Department of Corporations ability to revoke their qualification to sell subordinated debentures in this state. Terree Bowers indicated that he could not share any information as it had been obtained by grand jury subpoena. He indicated that he did not believe that their inquiry was in areas different from other regulatory agencies having oversight over the activities of Lincoln Savings and Loan or American Continental Corporation. He was requested to call Assistant Commissioner, Jerry L. Baker if they developed any information that would be relevant to the revocation of American Continental Corporation's qualification authority at the earliest time there was no legal impediment to sharing such information.

CONCLUSION

There was no evidence that would sustain the burden of proof required to find that the sale of the American Continental Corporation's subordinated debentures was unfair, unjust or inequitable at the time of the issuance of the qualification and there has been no useable evidence developed since the qualification that would support its revocation. The Department is continuing to monitor the qualification and developments discussed in the media and by those regulatory agencies having continuing oversight over Lincoln Savings and Loan Association and its parent, American Continental Corporation.

JLB/MLR/RLR/KE/ijh/wp

State of California

Memorandum

To : WAYNE SIMON
Chief Deputy Commissioner

Date : March 23, 1989

File No.: 304 5211

Subject: AMERICAN CONTINENTAL CORPORATION

From : Department of Corporations

JERRY L. BAKER, Assistant Commissioner
MORTON L. RIFF, Supervising Counsel
KEN ENDO, Senior Examiner

Summary Chronology

This memorandum supplements the chronology contained in the March 13, 1989 memorandum addressed to you. The following is a chronology of the history of American Continental Corporation (hereinafter "ACC") before the Department of Corporations (hereinafter "Department") from September 18, 1978 to March 22, 1988 (where the March 13, 1989 memorandum begins):

By way of background, ACC was incorporated in 1974 in Ohio. Since its initial filing for qualification (authority) to issue securities in 1981, it has been and still is in the real estate business. On February 22, 1984, Lincoln Savings and Loan Association was acquired by ACC for approximately $51,000,000.

Between 1978 and March 22, 1988, ACC filed a number of notices and applications for qualification to sell debentures, notes and shares and applications for authority to amend qualifications.

The following summarizes the actions of the Department in responding to ACC's requests for qualification (including amendments) to sell securities and notices filed from 1978 to March 22, 1988:

1. On September 18, 1978, ACC filed a Notice under Section 25101(b) of the Corporations Code naming its 7% convertible subordinated debentures due July 15, 1991 and common stock in order to allow these outstanding securities to trade.

2. On approximately November 4, 1981, it appears that an Order Consenting to the Withdrawal of Application was issued at the request of ACC (this conclusion is based on information in a file memorandum; a copy of the order could not be located due to the age of the file). The application requested qualification for the sale of debentures.

3. On approximately August 11, 1982, it appears that an Order Consenting to the Withdrawal of Application was issued at the request of ACC (this conclusion is based on information in a file memorandum; a copy of the order could not be located due to the age of the file). The application

requested qualification for the sale of debentures.

4. On approximately September 20, 1982, it appears that a qualification (permit) was issued authorizing the exchange of notes for shares (this conclusion is based on information in a file memorandum; a copy of the permit could not be located due to the age of the file).

5. On approximately December 2, 1982, it appears than an Order Consenting to the Withdrawal of Application was issued at the request of ACC (this conclusion is based on information in a file memorandum; a copy of the order could not be located due to the age of the file). The application requested qualification of unsecured debt securities.

6. On August 19, 1983, an Order Consenting to Withdrawal of Application was issued. The application requested qualification of units consisting of notes, shares of common stock and warrants to purchase common stock. The order was issued at the request of ACC.

7. On August 25, 1983, ACC filed a Notice under Section 25101(b) covering its common stock and its 10 3/4 percent senior notes in order to allow these outstanding securities to trade.

8. On April 18, 1985, qualification was granted for the sale of senior subordinated notes due 1996, pursuant to a Section 25111 coordination application filed on February 21, 1985.

9. On April 21, 1986, qualification was granted for the sale of senior debentures pursuant to a Section 25111 coordination application filed February 7, 1986.

10. On May 23, 1986, qualification was granted for the sale of senior debentures pursuant to a Section 25111 coordination application filed on May 19, 1986.

11. On November 3, 1986, qualification was granted for the sale of subordinated debentures pursuant to a Section 25111 coordination application filed on October 10, 1986.

12. On December 23, 1986, an Order Declaring Effectiveness of Amendment to Qualification was issued. This order amended the qualification effective on November 3, 1986 to update financial information and increase dollar amount of securities qualified.

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13. On March 24, 1987, an Order Declaring Effectiveness of Amendment to Qualification was issued. This order amended the qualification effective on November 3, 1986, as amended, to update financial information and apparently add certain series of debentures.

14. On May 8, 1987, an Order Declaring Effectiveness of Amendment to Qualification was issued. This order amended the qualification effective apparently on November 3, 1986, as amended, to reflect the receipt of a Federal Home Loan Bank Board report apparently by Lincoln Savings and Loan Association.

15. On May 15, 1987, an Order Declaring Effectiveness of Amendment to Qualification was issued. This order amended the qualification effective on November 3, 1986, as amended, to reflect a change in its plan of distribution of debentures to include existing holders of securities as offerees.

16. On June 1, 1987, a telegram was sent by Senior Corporations Counsel Robert L. Rifkin to ACC to declare effective as of May 18, 1987 the qualification for the sale of cumulative convertible preferred stock described in the application filed on April 10, 1987 pursuant to Section 25111. Even though the telegram was dated June 1, 1987 the qualification was made effective on an earlier date (May 18, 1987) apparently due to certain difficulties resulting from the file changing its location from the Department's San Francisco office to its Los Angeles office.

17. On November 23, 1987, an Order Declaring Effectiveness of Amendment to Qualification was issued; it was signed by Senior Corporations Counsel Robert L. Rifkin. See the summary and the chronology contained in the memorandum dated March 13, 1989 addressed to you for a description of the problems with respect to the November 23, 1987 Order Declaring Effectiveness of Amendment to Qualification.

JLB/MLR/KE:ijh/wp

STATE OF CALIFORNIA — GEORGE DEUKMEJIAN Governor

DEPARTMENT OF CORPORATIONS

Los Angeles, California
April 29, 1988

IN REPLY REFER TO

FILE NO 304 5211

Mr. Franklin Tom
Attorney at Law
Parker, Milliken, Clark,
O'Hara & Samuelian
333 South Hope Street, 27th Floor
Los Angeles, CA 90071-1488

Reference: AMERICAN CONTINENTAL CORPORATION

Dear Mr. Tom:

This is to confirm the telephone conversation of April 27, 1988, wherein Supervising Counsel Morton L. Riff, Ken Endo, and I, requested applicant to submit a verified amendment to its application of March 31, 1988, in response to the following:

1. Directing your attention to Section 260.140.4 Title 10 Administrative Code, please show compliance therewith with respect to the sale and issuance of the subordinated debentures. What are the sources of cash to meet the debt maturities?

2. Please indicate whether the applicant could restructure the offering by means of securing the debt with specified real property.

3. Is it possible for applicant restructure the offering to make the debts superior to other debts?

4. It is requested that copies of appraisals of the real property discussed in our telephone conversation of April 25, 1988 be submitted.

5. Applicant was requested to make a showing as to its ability to pay the principal and interest on the indebtedness arising from the sale of the debentures. Also please comment upon the restrictions of paying off the subordinated debentures prior to retiring senior debts of applicant.

6. Please indicate whether Lincoln Savings and Loan Association will be able to pay dividends to American Continental Corporation pursuant to Federal Home Loan Bank Board restrictions.

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000449

7. Indicate what happens if the parent has to make contributions to Lincoln Savings and Loan Association. How does this impact the applicant? How are the contributions to be made?

8. Kindly indicate more specifically how applicant has been using the funds coming from the sale of the debentures. Does it intend to continue to use incoming funds in the same manner?

9. Please indicate what contributions are to be made from the applicant to Lincoln Savings and Loan Association and where the funds are to be obtained? Indicate specifically what is to be expected of the applicant in making contributions to the savings and loan pursuant to any agreement with the Federal Home Loan Bank Board.

10. Please indicate the outcome and discussions with the Federal Home Loan Bank Board resulting in any agreement.

11. Please submit information as to what values the Crescent Hotel of Phoenix and the Phoenician Resort are reflected in the financial statements as of 12-31-87. In addition, please indicate the appraised values of such properties and names of those who made the appraisals.

12. Please submit copies of comments from the Securities and Exchange Commission as indicated in our telephone conversation.

13. If applicant has any forecast, it wishes to submit such would be helpful.

14. Please indicate the maximum principal amount of debentures which remain to be sold pursuant to the authority now being requested. Will that $200,000,000 principal amount set forth in the prospectus be reduced by the amount heretofore issued?

15. Kindly submit duplicate copies of the application and exhibits. As indicated, these will be forwarded to the Savings and Loan Department.

16. With respect to financials, it is requested applicant submit financials which are not consolidated and would be exclusive of that of Lincoln Savings and Loan Association. These financials would be inclusive of American Continental Corporation and subsidiaries. If applicant can not submit non-consolidated financials, it may file applicant's

consolidated financials including that of its subsidiaries exclusive of Lincoln Savings and Loan Association, as of 12-31-87, and consolidated income statements for two or three years.

17. Please submit a schedule of maturities of the debts of applicant by year for the entire term that the subordinated debentures will be outstanding.

18. Please identify the sources available for the payment of applicant's debts. Also indicate whether any portion of the proceeds from the proposed debenture offering will be used to reduce the debts of the applicant.

19. With respect to Lincoln Savings and Loan Association, the Department requests quarterly statements which are current for the period January 1988 through March 1988, and for the earlier period of January 1987 through March 1987 be submitted. In addition the "call" report - the monthly reports for the period indicated above is requested.

20. The 10-Q pertaining to applicant's financials - consolidated or not - is requested if not already submitted. Applicant did submit some information on 4-27-88, but the notes therto were <u>not</u> submitted.

21. Please submit further information concerning the tax sharing payments from Lincoln Savings and Loan Association to applicant. Apparently applicant has tax loss carry forwards against which the earnings of Lincoln Savings are being offset. Please advise whether this is being done pursuant to a written agreement among the consolidated entities and whether there are statutory limitations imposed by any regulatory agencies such as the Department of Savings and Loan, or the Federal Home Loan Bank Board.

Mr. Franklin Tom
Re: AMERICAN CONTINENTAL CORPORATION File No. 304 5211

Kindly submit the above information to this office within 10 days from the date hereof in the form of a verified amendment to the application.

Sincerely,

ROBERT L. RIFKIN
Senior Corporations Counsel
(213) 736-2496

RLR:ijh/33

P-40

000452

PARKER, MILLIKEN, CLARK, O'HARA & SAMUELIAN
A PARTNERSHIP INCLUDING A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
333 SOUTH HOPE STREET, 27TH FLOOR
LOS ANGELES, CALIFORNIA 90071-1488
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JOHN B. MILLIKEN (1893-1981)
RALPH KOHLMEIER (1900-1976)

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TELECOPIER (213) 683-6669

WRITER'S DIRECT DIAL NUMBER:
(213) 683-6662

May 17, 1988

DEPARTMENT OF CORPORATIONS
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LOS ANGELES OFFICE

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Robert L. Rifkin,
Senior Corporations Counsel
DEPARTMENT OF CORPORATIONS
600 South Commonwealth Avenue
16th Floor
Los Angeles, CA 90005-4091

Re: American Continental Corporation
File No. 304-5211

Dear Mr. Rifkin:

Enclosed are two copies, one of which is manually signed, of Pre-Effective Amendment No. One to Application dated March 31, 1988, for Qualification by Coordination of the Subordinate Debentures of American Continental Corporation ("ACC"). Our amendment responds to the comments made in your letter dated April 29, 1988. One additional copy of the amendment is for your use to facilitate review at the Departments of Corporations or Savings and Loan.

In addition to responding to your comments, we have taken this opportunity to amend the application to amend and clarify the dollar amount of ACC Subordinate Debentures being qualified. As of April 30, 1988, there are

$166,569,000 principal amount of such securities outstanding. On the basis of the previous maximum authorization of $200,000,000, the unissued portion as of that date amounted to $33,431,000. Since that date, additional amounts have been sold, so that at the time the pending Application becomes qualified, little unissued authority will remain. Accordingly, Applicant is amending its Application for an additional authorization of $150,000,000. Upon the effectiveness of the amended Application, Applicant intends to commence to sell the first series of the new authority. As more fully explained in Item 8 of the enclosed amendment, Applicant anticipates selling approximately $150,000,000 during the first year of qualification (out of a maximum issue of $300,000,000), of which over $100,000,000 will be to refinance existing indebtedness. Thus, during the next year of qualification, the net increase in indebtedness resulting from this issue is expected to be less than $50,000,000 in a corporation with an asset base exceeding $5,000,000,000.

To implement this change referred to in the preceding paragraph, Applicant has prepared and files as part of this amendment a revised registration statement which has been marked to show the changes from the registration statement filed with the Application dated March 31, 1988. The only material changes are (1) those made to reflect the additional authorized amount of Subordinate Debentures and (2) the disclosure on the pending investigation of the Securities and Exchange Commission ("SEC"). The latter change has been made as a result of an oral comment received from the SEC staff.

The new registration statement was originally filed with the SEC on April 14, 1988, substantially earlier than would ordinarily be the case based upon Applicant's intended schedule for the utilization of such financing, in order to anticipate the uncertain timing for review at the SEC given the pendency of the SEC's investigation. Amendment No. One was filed May 9, 1988. We note that Rule 260.111.1 states that the application should have been filed with the Department within 20 days following the original SEC filing. Applicant regrets that it has not observed this requirement,

and requests the Commissioner's order waiving same. Applicant waives the automatic effectiveness provisions of subdivision (c) of Section 25111 of the Corporate Securities Law of 1968.

We also note that the Commissioner's order for the existing qualification expires by its terms on May 29, 1988. Since this termination date is in the middle of the Memorial Day holiday, and given the shortage of time remaining to review the amendment, we respectfully suggest that it may be in the Department's and Applicant's best interests for the Department to amend the Commissioner's order to extend the effectiveness through June 3, 1988, the following Friday. We regret that we were unable to file this amendment earlier to allow the Department more review time, but the extensiveness of the Department's comments, as well as intervening other matters, consumed an unanticipated number of days.

Please contact Joe Martinez at 683-6583 or the undersigned at 683-6662 if you require any additional material or have any questions. Moreover, we and representatives of Applicant are available to meet with you at any time to assist in this matter.

Very truly yours,

Franklin Tom

FT/pjb

cc: Robert J. Kielty, Esq.
David I. Thompson, Esq.

(Department of Corporations Use Only)

Fee Paid _____

Receipt No _____

Initial Review _____

Deficiency Letters _____

Effective Date _____

Orders Issued _____

DEPARTMENT OF CORPORATIONS
RECEIVED
MAY 13 1988
LOS ANGELES OFFICE

DEPARTMENT OF CORPORATIONS
FILE NO
304-5211
(Insert file number of previous filings of Applicant before the Department, if any)

FEE: $0
(To be completed by Applicant)

Date of Application May 17, 1988

DEPARTMENT OF CORPORATIONS
STATE OF CALIFORNIA
FACING PAGE

APPLICATION FOR QUALIFICATION OF SECURITIES, UNDER THE CORPORATE SECURITIES LAW OF 1968, BY *(Check Only One)*

☒ COORDINATION	SECTION 25111	☐ POST-EFFECTIVE	AMENDMENT NUMBER 2 TO APPLICATION FILED UNDER SECTION 25111 DATED March 31, 1988
☐ NOTIFICATION	SECTION 25112		
☐ PERMIT	SECTION 25113		
☐ PERMIT	SECTION 25121		
☐ NEGOTIATING PERMIT	SECTION 25102(c)	☒ PRE-EFFECTIVE	

This application is for an ☒ open or ☐ limited offering qualification as defined in Section 260.001 of the rules (check as applicable)

1. Name of applicant

AMERICAN CONTINENTAL CORPORATION

2. (a) Is applicant a corporation, partnership, trust or other entity? Corporation
(b) State of incorporation or jurisdiction under which organized? Ohio
(c) If a corporation, is applicant in good standing in the State of its incorporation? (Indicate "yes" or "no") Yes
(d) Is applicant a registered investment company? (Indicate "yes" or "no") No

3a. Address of principal executive office of applicant.

Number and Street	City	State	Zip Code
2735 East Camelback Rd.	Phoenix,	Arizona	85016

b. Is the principal location of applicant's books and records at the address of the principal executive office, above? (Indicate "yes" or "no"). If "no", provide address:

Number and Street	City	State	Zip Code
YES			

4. Name and address of person to whom correspondence regarding this application should be addressed.
FRANKLIN TOM, ESQ.; PARKER, MILLIKEN, CLARK, O'HARA & SAMUELIAN
333 South Hope St., Ste. 2700, Los Angeles, CA 90071-1488

5.

(a) Description of Securities (See instructions on reverse side)	(b) Total number of shares or units of each class of securities being qualified in California (e.g., "20,000")	(c) Proposed maximum offering price per unit (e.g., "$10")	(d) Proposed maximum aggregate offering price for securities being qualified in California (e.g., "200,000") Note: Fee calculated on total of this column	(e) Does a public market exist for this class of securities? (Indicate "yes" or "no." If "yes," insert CUSIP number.)
Subordinate debentures	$150,000,000	100% of face amount	$150,000,000	No

6. Consideration to be paid for securities: if cash, state "cash", or if other than cash and the aggregate value is ascribed thereto by the Board of Directors of the issuer so state (e.g., "Real Property, $100,000," or "Assets of a going business, $50,000.").

Inapplicable

7. There is no adverse order, judgment or decree entered in connection with the offering by any State regulatory authority, any court or the Securities and Exchange Commission, except as follows: *(If none, so state)*

None

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000456

Applicant hereby amends its Application for Qualification by Coordination heretofore filed with the Department of Corporations on March 31, 1988 to reflect the registration by Applicant of an additional $300 million of Subordinate Debentures, of which Applicant seeks to qualify hereby $150 million. In connection therewith, Applicant incorporates herein by this reference the following documents attached hereto as Exhibits A-1, A-2 and A-3:

1. Form S-2 Registration Statement filed with the SEC on April 14, 1988 covering the registration of $300 million of Subordinate Debentures (marked to reflect changes from current Registration Statement covering $200 million offering);

2. Pre-Effective Amendment No. 1 to Form S-2 Registration Statement filed with the SEC on May 9, 1988 (marked to reflect changes from Exhibit A-1);

3. Form T-1, Statement of Eligibility and Qualification under the Trust Indenture Act of 1939, filed with the SEC on May 9, 1988.

Applicant hereby further amends its Application for Qualification by Coordination heretofore filed with the Department on March 31, 1988 to incorporate therein the information requested by the Department in its letter to the Applicant dated April 29, 1988. The information set forth below is numbered to correspond with the requests contained in the Department's letter.

Item 1 - Debt Regulations; Sources of Cash.

a. Debt Regulations

Section 260.140 provides that the standards set forth in Article 4 "are intended to furnish guidelines in the situations covered for the exercise of the Commissioner's discretion relating to the qualification . . ." [Emphasis Added]. The Applicant has not provided for a sinking fund nor has it restricted the creation of liens on its property or the creation of other funded debt, beyond those significant restrictions imposed by state and federal savings and loan regulations. Furthermore, the Applicant believes such provisions are unnecessary and inappropriate in view of the following facts:

1) Subordinated Debt Is An Accepted Financing Medium in the Marketplace. The use of unsecured and other subordinated debt is a common financing mechanism in corporate capitalizations, particularly with seasoned companies, and such securities have been readily accepted in the public and institutional marketplace. Many such issues have been qualified in California, and numerous others are

issued in reliance upon exemptions in the Corporate Securities Act and the regulations thereunder. Indeed, the need for sinking funds and similar devices is often an indication of inherent financial weakness rather than financial strength.

2) The Applicant Has An Unblemished Record of Financial Success. It is important to bear in mind Applicant's long history of proven financial capability. It has been in business on a consistently profitable basis since its formation in 1976. Of at least equal importance is the fact that Applicant enjoys a very significant positive net cash flow which enables it to more easily handle debt service than would be the case in most nonfinancial companies of equal size relative to earning power and capital. "Net cash flow" is defined as net income increased by non-cash expenses and decreased by non-cash income. The following schedule shows Applicant's net earnings and cash flow during each of the five years 1983 to 1987:

	(in thousands)				
	1983	1984	1985	1986	1987
Net Earnings	$19,119	$20,513	$ 42,542	$ 24,233	$ 19,327
Cash Flow	$29,909	$58,638	$176,429	$108,984	$116,446

3) Applicant's History Shows Its Capability to Discharge and Handle Debt. Applicant has demonstrated its capability to handle substantial debt, as evidenced by the data discussed below in Item 1.b.2)b).

In its entire corporate history, Applicant has never defaulted in the payment of interest, failed to make any principal payment when due and/or at maturity. In fact, Applicant has frequently prepaid its corporate indebtedness to take advantage of lower prevailing market rates in certain periods or for other reasons. In the past three years (1985-87), principal prepayments of over $750 million in the aggregate have been made. (See the chart in b.2(b) of this Item 1.)

4) Applicant's Strong Financial Performance Can Be Independently Validated. For the past two years, Forbes magazine has rated the financial performance of numerous U.S. corporations. Attached hereto as Exhibits 1.a.1 and 1.a.2 are excerpts from the two most recent ratings, respectively (Applicant was not rated in the financial companies category in the earlier year), which shows that Applicant was rated no lower than fourth place in the nation in each industry category in which it was included. These ratings are based upon a number of empirical financial criteria, and the

results validate the Applicant's position that it is a seasoned company with strong financial performance.

5) Applicant's Issuance of Subordinate Debentures of Varying Maturities Has the Financial Effect of a Sinking Fund. The Subordinate Debentures are issuable, in accordance with their terms, in series with varying maturities ranging from one to ten years. Applicant has taken this flexibility into account by varying the maturities on its debt, and accordingly, has issued Subordinate Debentures in virtually every annual maturity within the permissible range as evidenced in the schedule set forth herein in Item No. 5.

The practical effect of spreading the maturities is that the entire issue, which as of April 30, 1988 totalled $166,569,000, is payable over the ten year "life" of the issue in a manner similar to the way that a sinking fund or mandatory prepayment provision would operate.

6) FHLBB Approval of 1988 Debt Budget. As a result of the acquisition of Lincoln Savings, the Applicant's issuance of debt is subject to FHLBB approval. Approval is generally sought by filing an annual budget in November for debt to be issued during the following fiscal year; the budget submitted to the FHLBB for approval describes the general purposes for the debt expected to be issued (for instance, working capital, real estate acquisitions or refinancing) and the maximum amount of debt to be issued during the year. The Applicant's 1988 debt budget has been approved by the FHLBB and would, in Applicant's opinion, enable Applicant to proceed to issue the Subordinate Debentures sought to be qualified hereby.

7) Applicant's Record of Financial Achievement Makes It Inappropriate to Apply the Features of Section 260.140.4. Applicant is a publicly held corporation with over $5 billion in assets, shareholders' equity in excess of $140 million, annual revenues of over $700 million and annual net earnings exceeding $19 million. Against these facts and taking into account the other facts set forth above, Applicant contends that it is neither "normal" nor "appropriate" to apply the provisions of Section 260.140.4 of the California Administrative Code which, by its very terms, reserves to the Commissioner the discretion to apply or not apply them depending upon the circumstances.

b. Sources of Cash for Repayment

In the event that the Applicant were to retire the Subordinate Debentures and the remainder of its long-term debt, it

would have a number of alternative and cumulative sources on which to draw including, but not limited to, the following:

1) Cash From Lincoln Savings

a) Dividends

Since acquisition of Lincoln Savings, Applicant has received $5 million of dividends from Lincoln Savings. In addition, as of March 31, 1988 approximately $72,000,000 of retained earnings were available for the payment of dividends without violation of regulatory capital requirements or Applicant's agreement with the FHLBB, as described below.

The ability of Lincoln Savings to pay dividends on its common stock is restricted by FHLBB regulations and by an agreement with the FHLBB entered into in connection with the acquisition of Lincoln Savings by the Applicant. Under that agreement, without prior written approval from the FHLBB, dividends paid by Lincoln Savings in any fiscal year are limited to 50% of its net income for that fiscal year, provided that any dividends permitted under this limitation may be deferred and paid in a subsequent year, subject to the provision that in no event may dividends be paid which, in fact or in the opinion of the FHLBB, would cause Lincoln Savings to fail to meet its minimum capital requirements.

Until the resolution of issues related to the FHLBB's 1986 examination, Lincoln Savings has agreed with the FHLBB not to pay dividends to Applicant. Upon execution of the Memorandum of Understanding or the entering into of a similar agreement with the FHLBB, however, Lincoln Savings could resume the payment of dividends subject to the above described limitations.

b) Tax Sharing Payments

During 1986, Lincoln Savings and Applicant entered into a tax sharing agreement in which Lincoln Savings remits to Applicant the amount of federal income tax measured by the total provision for such taxes computed, for financial reporting purposes, on a stand alone basis, and Applicant remits to Lincoln a corresponding amount for tax benefits resulting from pre-tax losses of Lincoln Savings (see Item No. 21 for discussion of Tax Allocation Agreement).

Through December 31, 1987, Lincoln Savings had paid approximately $90 million in tax sharing payments to Applicant. On a consolidated basis, Applicant pays only a corporate alternative minimum tax due to net operating loss carry-forwards totaling $110 million at December 31, 1987

(see Note O to Applicant's December 31, 1987 financial statements contained in its 1987 Annual Report).

c) Earnings

Since its acquisition by applicant in February 1984, Lincoln Savings' pre-tax and net earnings are summarized as follows:

Year	(000s) Pre-Tax Earnings	After Tax Earnings
1984	$ 17,436	$12,436
1985[1/]	100,350	79,850
1986[1/]	81,689	48,958
1987[1/]	63,150	41,020

1/ See p. 15 of Prospectus dated April 6, 1988.

d) Summary

Tax sharing payments and available but unpaid dividends from Lincoln Savings totaled approximately $162 million in the four-year period Applicant has owned and operated Lincoln Savings. On a per year basis, the available cash from Lincoln Savings would average over $40 million. In addition, future earnings of Lincoln Savings will increase the available dividend flow to Applicant.

2) Cash From Non-Lincoln Subsidiaries

a) Asset Sales

As discussed in Item 16 below, included in Exhibit 16.1 is a balance sheet as of December 31, 1987 which reflects the segregation of Applicant and Lincoln Savings. A brief description at December 31, 1987 of each asset category available for payment of the Subordinate Debentures is summarized below:

(i) Cash on hand and short-term cash investments ($86.2 million). (Principally cash investments and 90-day U.S. Treasury bills.) (See Item 7 below.)

(ii) Loans receivable secured by real estate ($43.0 million). (Represents seller financing on the sale of Applicant-owned property principally in Phoenix, Arizona and Denver, Colorado.)

(iii) Unleveraged real estate ($27.2 million). (Represents unencumbered residential and commercial property -- located principally in Phoenix, Arizona and Denver, Colorado.)

(iv) Marketable equity securities ($11.4 million). (Represents unleveraged investments in corporate equity securities.)

(v) Mortgages and mortgage-backed certificates ($8.0 million). (Represents residual mortgages and GNMA certificates owned by American Continental Mortgage, Applicant's wholly-owned mortgage banking subsidiary.)

The foregoing categories represent over $97 million of highly liquid investments (categories (i) and (iv)), $52 million of loans receivable (categories (ii) and (v)) and over $27 million of unencumbered real property, totalling over $176 million, or more than the entire principal balance of Subordinate Debentures outstanding at March 31, 1988.

b) Debt Retirement

Applicant's long-term debt may be retired through refinancing. A history of Applicant's public debt financing is summarized as follows:

Year Issued	Amount Issued	Type of Security	Amount Currently Outstanding
1976	$ 12,000,000	Convertible debentures	$ -0-
1981	7,875,000	Senior debentures	-0-
1982	22,500,000	Subordinated debentures	-0-
1983	125,000,000	Senior debentures	31,050,000
1983	21,250,000	Common stock	21,250,000
1983	56,250,000	Preferred stock	40,191,000
1985	50,000,000	Senior sub. notes	7,818,000
1986	25,000,000	Senior debentures	25,000,000
1986	25,000,000	Senior debentures	25,000,000
1987	14,752,000	Preferred stock	14,752,000
1981-1985	651,501,000	Mortgage-backed bonds	85,958,000
	$1,011,128,000		$251,019,000

Approximately $750,000,000 of debt has been retired during the 3-year period from 1985 through 1987. All of this debt has been repaid in cash (including the convertible debentures) through refinancing, and internally generated cash. The foregoing demonstrates Applicant's proven capability to retire and refinance debt.

Item 2 - Collateralization of Subordinate Debentures.

It is not practicable for Applicant to restructure the Subordinate Debentures as a secured debt using specified real property as collateral. The Applicant is an experienced purchaser, seller and developer of real property. It has utilized its experience in real estate to acquire and develop a substantial number of properties, some of which it has sold and some of which it continues to develop and hold. However, unlike a manufacturing company owning its facilities, Applicant does not hold its real estate as a fixed asset but more in the nature of inventory. lt buys land, develops it, and sells it. Consequently, collateralizing debts with this real estate inventory, where the maturity of the debt and the holding period of the inventory cannot be matched, is impracticable. Moreover, Applicant cannot collateralize debt with fungible real estate holding owned from time to time, in a manner analogous to an accounts receivable collateralized loan, because Applicant's real estate is not fungible.

Much of Applicant's real estate, as reflected on its consolidated financial statements, is held by subsidiaries including Lincoln Savings and its subsidiaries. Since the ownership of the real estate is in the hands of companies other than the issuer of the Subordinate Debentures, it is not possible to match the real estate to the debt. Federal and state savings and loan regulations prohibit the encumbering of real property for parent company debt.

The yields offered by Applicant on the Subordinate Debentures reflect the unsecured and subordinate nature of the securities. It is appropriate for Applicant to offer the securities at favorable yields to the purchaser as a result of these characteristics. Correspondingly, a more senior or secured debt would entitle the Applicant to reduce the yield.

Item 3 - Elevating Seniority of Subordinate Debentures.

Restructuring the debt to make it senior debt is equally impractical. Applicant's existing loan agreements contain covenants restricting the issuance of senior debt to others. As stated in item 2 above, the yield on the securities would also be adversely affected by any increase in their priority position.

It should also be noted that granting a senior position to the securities to be qualified hereunder will have the effect of adversely affecting the position of existing holders of Subordinate Debentures. Applicant's plan to issue the securities to be qualified hereunder on the basis proposed in this Applicant will preserve the equal status of such securities with the outstanding Subordinate Debentures.

Item 4 - Appraised Value of Certain Property.

It is Applicant's understanding that the appraisals of real property requested by the Department of Corporations are those appraisals which have been made on real property which Applicant has identified as being an alternative source for repayment of the Subordinate Debentures and which are the subject of a dispute with the FHLBB. Although Applicant initially indicated that it might look to the liquidation of certain of the real estate investments of Lincoln Savings' subsidiaries as an alternative source for repayment of the Subordinate Debentures, Applicant has determined at this time not to target any such properties as alternative sources for repayment. The assets which are included in the "sale of assets" alternative discussed above in Item 1.b.2)a) are non-Lincoln Savings assets and are, therefore, not the subject of the appraisal disputes between Applicant and the FHLBB.

In view of the fact that no appraisal disputes have arisen concerning the ACC-owned real estate investments which have been identified as an alternative source for repayment and because such assets comprise a relatively small portion of the assets and other sources that Applicant has identified above, Applicant believes that it is unnecessary to provide appraisals of such real estate.

Item 5 - Repayment of Subordinate Debentures.

The maturities and the amount issued and outstanding of the Applicant's Subordinate Debentures as of April 30, 1988 are set forth as follows:

Maturity Date	Total Outstanding (in thousands)
1988	$ 19,926
1989	44,609
1990	44,509
1991	10,316
1992	4,521
1993	16,255
1994	9,093
1995	-
1996	-
1997	17,340
Total	$166,569

The average maturity of the Subordinate Debentures at April 30, 1988 was 3.1 years.

See Item No. 1 above for a discussion of Applicant's sources of cash and ability to pay the principal and interest arising from the sale of the Subordinate Debentures.

There are no restrictions on Applicant's ability to retire the Subordinate Debentures prior to the retirement of Applicant's senior debt.

Item 6 - Dividends From Lincoln Savings.

See Item No. 1 above.

Item 7 - Capital Contributions to Lincoln Savings.

The present capital position of Lincoln Savings is very strong. The regulatory net worth of Lincoln Savings of $252,525,000 at December 31, 1987 is equal to 6.7% of regulatory liabilities, which compares very favorably to the Federal Home Loan Bank Board requirement of 3%.

In connection with Lincoln Savings' discussions with the Federal Home Loan Bank Board to resolve the 1986 examination by the Bank Board, Applicant has offered to make a cash contribution of $10,000,000 toward the capital of Lincoln Savings as a part of a complete resolution of that examination. The $10,000,000 contribution would be funded from the Applicant's existing cash and cash equivalent investments which, as of December 31, 1987 based upon the financial statements of Applicant less Lincoln Savings and its subsidiaries (see Exhibit 16.1), was as follows:

	(in thousands)
Cash	$11,865
Repurchase Agreements	14,407
Treasury Bills	59,976
TOTAL	$86,248

Since such a cash contribution would be premised upon a complete resolution of the 1986 examination, Lincoln Savings' current undertaking to the FHLBB to refrain from paying dividends to Applicant pending such resolution would expire. Accordingly, Lincoln Savings would have the capacity without prior regulatory approval to pay dividends to Applicant in an amount up to $72,000,000. Lincoln Savings has made no determination whether to cause a dividend to be paid in such event and, if so, in what amount.

If Applicant were to make the $10,000,000 contribution to Lincoln Savings, such a capital infusion would support deposit growth at Lincoln Savings of $200,000,000 based upon a

conservative 5% capital to liabilities ratio. This in turn will provide Lincoln with additional investable assets of $200,000,000 and the profits earned therefrom.

Item 8 - Use of Proceeds.

Proceeds from the sale of Subordinate Debentures issued under the $200 million shelf registration to date have been used to retire approximately $114 million face amount of its 10-3/4% Senior Notes due 1990 and 14-3/4% Senior Subordinated Notes due 1995. The remainder of the proceeds of the Subordinate Debentures, or $52 million, have been used for general corporate purposes. Thus, approximately 69% of the proceeds from the sale of Subordinate Debentures has been used for refinancing of existing corporate indebtedness and 31% represents additional net indebtedness.

The present Amendment seeks authority to issue up to $150 million of the Subordinate Debentures. Applicant anticipates that it will sell approximately $150 million of the $300 million registered with the SEC during the twelve month period running from the date of the issuance by the Department of Corporations of an order declaring Applicant's amended Application for Qualification by Coordination effective. Applicant intends to apply the proceeds it receives from sales of its Subordinate Debentures made during such 12-month period (a) to retire all or a portion of the remaining $31,050,000 principal amount of the 10 3/4% Senior Notes and $7,818,000 principal amount of 14 3/4% Senior Subordinated Notes, (b) to refinance the Subordinate Debentures previously issued having maturity dates in 1988 and 1989, (c) to reduce short-term indebtedness, and (d) to use for working capital and other general corporate purposes. Applicant expects that the proportion of the proceeds it receives from the sale of its Subordinate Debentures which are applied to retire or refinance its existing debt will remain consistent with the preceding year.

Item 9 - Capital Contributions.

See Item No. 7 above.

Item 10 - FHLBB Examination.

The FHLBB completed its 1986 examination report of Lincoln Savings in April, 1987. The examination report sets forth in detail the regulatory matters raised by the FHLBB during the examination. Lincoln Savings believes that the report is in error in all material respects and in June, 1987 responded in writing to the issues raised in the report. Management of Lincoln Savings and Applicant have been engaged in negotiations with FHLBB personnel since approximately July 1987 to resolve issues raised in the 1986 examination. Those negotiations led to the

preparation by the parties of a Memorandum of Understanding. The Memorandum contemplates the following:

> " . . . agreement by Lincoln Savings to book specific reserves with respect to certain identified real property (these reserves are reflected in the Company's consolidated financial statements at December 31, 1987); an increase in Lincoln Savings' capital requirement to include a "contingency factor" to reflect specific amounts related to identified assets; a $10,000,000 cash contribution by the Company to the capital of Lincoln Savings; an undertaking by Lincoln Savings to use its best efforts to sell $50,000,000 of its preferred stock or subordinated debt in 1988; an increase in Lincoln Savings' "contingency factor" capital requirement with respect to a portion of its equity risk investments (provided that such increase does not cause Lincoln Savings' net worth requirement to exceed six percent of total regulatory liabilities); subject to compliance with the other terms of the memorandum, permission for Lincoln Savings to maintain aggregate equity risk investments in amounts up to one-third of its total assets; agreement by Lincoln Savings to submit a three-year business plan and to advise Lincoln Savings' Principal Supervisory Agent of modifications of, or deviations from, the plan; an undertaking by Lincoln Savings to comply with its specified practices and procedures with respect to lending practices, loan underwritings and investment underwriting; and an undertaking by Lincoln Savings to continue to improve its underwriting procedures regarding loans and corporation debt securities."

While management of Applicant and Lincoln Savings believe that agreement on the Memorandum of Understanding will be reached, there is no assurance that the FHLBB will approve the Memorandum of Understanding in the form submitted. On May 5, 1988, Applicant was advised by FHLBB personnel that a modified version of the terms of the Memorandum of Understanding would be proposed by the FHLBB. Applicant has been orally advised that the provisions of the Memorandum of Understanding which have been proposed to be revised affect and relate only to supervisory issues and will not affect the financial condition of Lincoln Savings or Applicant.

Item 11 - Hotel Properties

The book value of the Crescent Hotel of Phoenix and The Phoenician Resort as reflected on the financial statements of Applicant at December 31, 1987, is approximately $205,000,000. As discussed more fully below, in June, 1987, Applicant sold a 45% interest in the two properties to an unrelated third party. This 45% minority interest is separately reflected on Applicant's December 31, 1987 balance sheet as "Minority Interest in Hotel Operations" in the amount of $92,902,000.

In June, 1987, a forty-five percent interest in the two properties was sold to an unrelated third party for cash in the amount of $173,650,000 which included $74,486,000 of funds placed into escrow to cover the remaining cost of completion for The Phoenician Resort. The Applicant recorded a $12,880,000 gain on the sale; $1,570,000 of the gain is deferred and will be recognized as The Phoenician Resort is completed.

Applicant is in possession of appraisals of the hotel properties, performed months ago, by appraisers retained by it and by the FHLBB. None of the appraisals reflect the current plans and concept for The Phoenician Resort and thus they are inapposite in determining the fair market value of the hotel properties. What is pertinent, however, is the cash sale by Applicant of a 45% interest as aforesaid. This transaction is much more current than the appraisals and is based upon the current configuration of The Phoenician Resort. It provided for cash payment of the purchase price plus a cash escrow of the minority shareholder's proportionate share of the remaining construction costs. Based upon that price, the hotel properties have an indicated combined total value of in excess of $350,000,000 at completion.

Item 12 - Comments of Securities and Exchange Commission.

Pursuant to a formal order of investigation, the Securities and Exchange Commission ("SEC") issued three subpoenas on December 23, 1987, January 12, 1988 and January 22, 1988, respectively. The principal information requested of Applicant in the subpoenas is: the policies, procedures, and practices used to establish and review the adequacy of the allowances for loan losses, real estate owned, and real estate investments and actual loans which reflect such allowances; certain identifying information related to the accounts of Applicant's officers and directors; and documents related to the purchases and sales of debt and equity securities and options of particular entities. Applicant has supplied the SEC with the information requested in the subpoenas.

As set forth in all the subpoenas, "[t]his inquiry should not be construed as an indication by the SEC or its staff that any violation of law has occurred," but is simply a fact-finding investigation. The SEC inquiry requests information relating principally to issues raised in the 1986 FHLBB examination of Lincoln Savings, although the SEC's investigation is not limited to the time period covered by the 1986 FHLBB examination. The FHLBB completed its 1986 examination report of Lincoln Savings in April 1987. The examination report sets forth in detail the regulatory matters raised by the FHLBB during the examination. Lincoln Savings believes that the report is in error in all material respects and in June 1987 responded in writing to the issues raised in the report. Lincoln Savings is currently

negotiating with the FHLBB to resolve all issues outstanding before them. With respect to the SEC investigation as well, Applicant believes that there is no basis for this investigation and that there are no material misstatements in any of its financial statements.

Attached hereto as Exhibits 12.1, 12.2, 12.3 and 12.4, respectively, are the three subpoenas referenced above and a letter from the SEC's Division of Corporation Finance related to the registration statement on Form S-2 filed with the SEC on April 25, 1988.

Attached hereto as Exhibits 12.5 and 12.6 and incorporated herein by this reference are copies of the correspondence between the SEC's Division of Corporate Finance and the Applicant relating to Applicant's Registration Statement covering the $300 million offering. In response to an oral comment by the SEC, Applicant amended its Registration Statement to clarify the scope of the SEC's investigation (see p. 33 of Amendment No. 1 to Registration Statement filed on May 9, 1988 - Exhibit A-2 hereto). No other written comments from the Division of Corporate Finance have been received by Applicant.

Item 13 - Forecasts.

Applicant has not prepared any such forecasts.

Item 14 - Unsold amounts of Subordinate Debentures.

As of April 30, 1988, $166,569,000 of Subordinate Debentures had been sold under the Applicant's $200 million shelf registration, leaving $33,431,000 unsold. In addition, Applicant is hereby applying to qualify the offer and sale of $150 million of Subordinate Debentures of which a substantial amount will be used to repay existing Subordinate Debentures (See Item 8 hereof).

Item 15 - Duplicate Application.

A duplicate copy of the pending Application was delivered to the Department of Corporations under cover of letter dated May 3, 1988 from our counsel. An additional copy of this Amendment is also filed herewith.

Item 16 - Pro Forma Financial Statements for Applicant (ex-Lincoln Savings).

A balance sheet as of December 31, 1987 and Statements of Operations for the 12-month periods ended December 31, 1985, 1986 and 1987 which reflect the audited results of Applicant (consolidated), Lincoln Savings (consolidated) and Applicant (consolidated) exclusive of audited Lincoln Savings are attached

hereto as Exhibit 16.1 and are incorporated herein by this reference. Attached hereto as Exhibit 16.2 and incorporated herein by this reference are Statements of Changes in Financial Position (SCFP) for the years ended December 31, 1987, 1986 and 1985 which represent the SCFP from the parent-only financial statements included in the Company's annual filings on Form 10-K. The format of Exhibit 16.2 differs from the balance sheets and income statements submitted in Exhibit 16.1 because of the differences between the consolidated SCFP and Lincoln Savings' SCFP (principally the result of "netting" changes in certain asset and liability accounts in the Applicant's consolidated filing). Said statements do not include certain subsidiaries of Applicant which would have been included in Applicant's consolidated financial statements exclusive of Lincoln Savings and its subsidiaries, but such subsidiaries not so included are not individually or in the aggregate material to the Applicant's financial position.

Item 17 - Schedule of Maturities.

The scheduled long-term debt maturities of Applicant, as of April 30, 1988, including the Subordinate Debentures, are set forth in the following table.

	(in thousands)		
Maturity Date	Subordinate Debentures	Other Debt	Total Debt
1988	$ 19,926	$ 2,556	$ 22,482
1989	44,609	3,898	48,507
1990	44,509	37,724	82,233
1991	10,316	8,878	19,194
1992	4,521	3,125	7,646
1993	16,255	2,960	19,215
1994	9,093	3,019	12,112
1995	—	10,883	10,883
1996	—	805	805
1997	17,340	—	17,340
After 1997	—	136,581	136,581
	$166,569	$210,429	$376,998

Item 18 - Sources for Repayment and Use of Proceeds.

The sources of funds available for the payment of Applicant's debts are discussed in Item No. 1. Applicant intends to continue to retire existing debt, as discussed in Item 8 hereof, at approximately the same rate as it has in the past.

Item 19 - Other Financial Statements.

Consolidated Balance Sheet at March 31 and February 29, 1988 and March 31 and December 31, 1987 and Statement of Operation of Lincoln Savings for the months of March and February, 1988 and March, 1987 and for the quarters ended March 31, 1987 and 1988 are attached hereto as Exhibit 19.1 and incorporated herein by this reference. Attached hereto as Exhibits 19.2.1 through 19.2.7, respectively, and incorporated herein by this reference are Federal Home Loan Bank Board Thrift Financial Reports filed by Lincoln Savings with the FHLBB for the month of December, 1987 and the following months of 1987 and 1988: January, February and March.

In response to the Department's further request in its letter of May 3, 1988, attached hereto as Exhibit 19.3 are the audited financial statements of Lincoln Savings for the years 1986 and 1987.

Item 20 - Form 10-Q.

Applicant's March 31, 1987 and 1988 Forms 10-Q are attached hereto as Exhibits 20.1 and 20.2, respectively, and are incorporated herein by this reference.

Item 21 - Tax Sharing Agreement.

Like certain other transactions between federally-insured institutions and their affiliates, an agreement between Lincoln Savings and Applicant providing for equitable sharing of tax liability requires the approval of the FHLBB, pursuant to 12 C.F.R. Section 584.3(a)(7).

Applicant and Lincoln submitted a proposed Tax Preparation and Allocation Agreement (the "Agreement") to the FHLBB on January 24, 1986. After discussions with the FHLBB and incorporation of FHLBB comments, the revised Agreement, as executed by the parties on March 14, 1986, was formally approved by the FHLBB on April 2, 1986. Department of Savings and Loan approval was not required, although the Department was advised of the application and the subsequent Agreement.

The Applicant has duly caused this application to be signed on its behalf by the undersigned, thereunto duly authorized.

AMERICAN CONTINENTAL CORPORATION

By: Judy J. Wischer
Judy J. Wischer
President
(Title)

I certify under penalty of perjury under the laws of the State of California that I have read this application and the exhibits thereto and know the contents thereof, and that the statements therein are true and correct.

Executed at Phoenix, Arizona on the 3rd day of May, 1988.

Judy J. Wischer
Judy J. Wischer

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REPORT OF INDEPENDENT PUBLIC ACCOUNTANTS

AMERICAN CONTINENTAL CORPORATION AND SUBSIDIARIES

TO THE BOARD OF DIRECTORS AND SHAREHOLDERS OF AMERICAN CONTINENTAL CORPORATION:

We have examined the accompanying consolidated balance sheets of American Continental Corporation as of December 31, 1987 and 1986, and the related consolidated statements of operations, changes in shareholders' equity, and changes in financial position for the years then ended. Our examinations were made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances. The consolidated financial statements of American Continental Corporation for the year ended December 31, 1985 were examined by other auditors whose report dated January 21, 1986 expressed an unqualified opinion on those statements.

In our opinion, the 1987 and 1986 financial statements referred to above present fairly the consolidated financial position of American Continental Corporation as of December 31, 1987 and 1986, and the consolidated results of operations and changes in financial position for the years then ended, in conformity with generally accepted accounting principles applied on a consistent basis during the period and on a basis consistent with that of the year ended December 31, 1985, except for the change, with which we concur, in the method of accounting for income taxes as described in Note O to the consolidated financial statements.

ARTHUR YOUNG & COMPANY
Phoenix, Arizona
March 25, 1988

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ARTHUR ANDERSEN & CO.

PHOENIX, ARIZONA

To the Board of Directors and Shareholders
of AMERICAN CONTINENTAL CORPORATION:

We have examined the consolidated balance sheet (not included herein) of American Continental Corporation (an Ohio corporation) and subsidiaries as of December 31, 1985, and the related consolidated statements of operations, shareholders' equity and changes in financial position for the year then ended. Our examination was made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the financial statements referred to above present fairly the financial position of American Continental Corporation and subsidiaries as of December 31, 1985, and the results of their operations and changes in their financial position for the year then ended, in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year.

Arthur Andersen & Co.

ARTHUR ANDERSEN & CO.

Phoenix, Arizona,

January 21, 1986.

CONSOLIDATED BALANCE SHEETS

AMERICAN CONTINENTAL CORPORATION AND SUBSIDIARIES

		December 31,	
		1987	1986
Assets (in thousands except shares)	Cash and cash equivalents (including restricted cash of $97,928 and $71,590 at December 31, 1987 and 1986, respectively) (Note D)	$223,811	$125,292
	Securities purchased under agreements to resell (Note E)	45,073	255,789
	Investment securities—equity (cost: $202,899 and $110,089 at December 31, 1987 and 1986, respectively) (Note G)	169,070	97,457
	Investment securities—debt (estimated market value: $1,224,732 and $1,184,055 at December 31, 1987 and 1986, respectively) (Note G)	1,358,166	1,221,676
	Mortgage-backed certificates (estimated market value: $483,166 and $345,383 at December 31, 1987 and 1986, respectively) (Note F)	504,822	318,526
	Mortgage and other loans receivable, net (Note H)	1,170,197	987,827
	Mortgage loans accounted for as real estate investments or joint ventures (Note A)	69,757	97,714
	Other receivables (Note A)	154,448	261,832
	Real estate investments (Note I)	820,637	714,117
	Investment in and advances to unconsolidated affiliates (Note A)	60,525	87,516
	Property, buildings and equipment, net	292,173	163,703
	Prepaid expenses and other assets	120,266	130,503
	Excess of cost over net assets acquired, net (Note C)	106,252	109,184
		$5,095,197	$4,571,136
Liabilities and Shareholders' Equity	Savings deposits (Note J)	$3,374,531	$2,821,375
	Short-term borrowings (Note K)	364,669	73,796
	Accounts payable and accrued expenses	112,810	115,296
	Long-term debt (Note L)	814,505	1,241,879
	Policyholder liabilities (Note A)	182,897	172,247
	Deferred income taxes (Note O)	16,122	17,952
		4,865,534	4,442,545
	Commitments and contingencies (Note S)		
	Minority interest in hotel operations (Note A)	92,902	—
	Shareholders' equity:		
	Preferred stock, $1 par value, 19,998,000 shares authorized (Note N):		
	Exchangeable Preferred stock, Issued—1,607,620 shares in 1987 and 1,609,000 in 1986	40,191	40,225
	Convertible Preferred stock, Issued—147,519 shares in 1987	14,752	—
	Common stock, $.01 par value (Note A): Authorized—35,000,000 shares Issued—17,549,899 shares in 1987 and 12,253,871 shares in 1986	176	123
	Capital in excess of par value	11,261	19,530
	Marketable equity securities reserve (Note G)	(21,264)	(8,597)
	Retained earnings (Note M)	109,924	96,899
	Deferred compensation (Note Q)	(17,000)	(18,500)
	Less treasury stock, at cost (278,200 shares in 1987 and 165,900 shares in 1986)	(1,279)	(1,089)
		136,761	128,591
		$5,095,197	$4,571,136

The accompanying notes to consolidated financial statements are an integral part of these statements.

AMERICAN CONTINENTAL CORPORATION AND SUBSIDIARIES

	Years ended December 31.		
	1987	1986	1985
Real estate sales	$220,924	$296,039	$179,216
Interest and fees on savings association loans and mortgage-backed securities	162,275	134,450	160,872
Interest and fees from mortgage banking operations	29,604	87,873	102,616
Interest and dividends on investment securities	135,937	134,906	74,231
Gains on sale of securities and loans	102,663	73,477	116,681
Distributions from unconsolidated affiliates	1,243	55,952	3,448
Insurance premiums	33,174	56,203	—
Other income	32,465	13,552	10,393
	718,285	852,452	647,457
Cost of real estate sales	139,364	216,157	129,575
Current and future insurance benefits	35,657	58,720	—
Interest expense:			
Savings deposits	210,314	198,825	197,292
Mortgage banking operations	29,703	74,651	90,499
Borrowed funds	102,721	102,023	57,223
Selling, general and administrative expenses	154,002	126,146	93,383
Provision for losses	20,536	32,496	12,648
	692,297	809,018	580,620
Earnings from continuing operations before income taxes, extraordinary item and cumulative effect of a change in accounting for income taxes	25,988	43,434	66,837
Taxes on earnings (Note O)	12,612	12,601	13,500
Earnings from continuing operations before extraordinary item and cumulative effect of a change in accounting for income taxes	13,376	30,833	53,337
Extraordinary gain (loss)—early extinguishment of debt (net of income tax expense (benefit) of $1,763 in 1987 and ($6,601) in 1986)	2,876	(6,600)	—
Cumulative effect of a change in accounting for income taxes (Note O)	3,075	—	—
Earnings from continuing operations	19,327	24,233	53,337
Discontinued operations, net of income taxes (Note B):			
Loss on disposition	—	—	(3,028)
Earnings (loss) from operations	—	—	(7,767)
Net earnings	**19,327**	**24,233**	**42,542**
Less preferred stock dividends	(6,302)	(5,549)	(6,532)
Earnings applicable to common stock	**$13,025**	**$18,684**	**$36,010**
Per share earnings (loss) applicable to common stock			
Continuing operations before extraordinary item and cumulative effect of a change in accounting for income taxes	$ .39	$ 1.36	$ 2.35
Extraordinary item	.16	(.35)	—
Cumulative effect of a change in accounting for income taxes	.17	—	—
Discontinued operations	—	—	(.54)
	$ .72	$ 1.01	$ 1.81
Dividends per common share	$ —	$ .10	$ —

The accompanying notes to consolidated financial statements are an integral part of these statements.

CONSOLIDATED STATEMENTS OF CHANGES IN FINANCIAL POSITION

AMERICAN CONTINENTAL CORPORATION AND SUBSIDIARIES

Sources (Applications) of Funds — Continuing Operations (In thousands)	Years ended December 31, 1987	1986	1985
Earnings from continuing operations before extraordinary item and cumulative effect of a change in accounting for income taxes	$ 13,376	$ 30,833	$ 55,337
Add (deduct) items not affecting funds:			
Amortization and depreciation	9,456	6,684	4,256
Increase in deferred income taxes	14,375	5,400	13,500
Provision for losses	20,536	32,496	12,648
Interest credited to savings deposits	114,948	87,755	107,769
Capitalized interest, net	(56,862)	(40,957)	(16,880)
Capitalized overhead, net	(11,584)	(14,725)	(3,498)
Write-off of FSLIC secondary reserve	4,400	—	—
Amortization of loan discounts and other purchase accounting valuations, net	7,801	1,498	5,297
	116,446	108,984	176,429
Extraordinary item, net	2,876	(6,600)	—
Cumulative effect of a change in accounting for income taxes	3,075	—	—
Discontinued operations providing (requiring) funds, net	—	—	(21,295)
	122,397	102,384	155,134
Acquisition of subsidiaries, net of cash			
Investment securities	—	(65,938)	—
Loans receivable	—	(99,177)	—
Other, net	—	103,514	—
	—	(61,601)	—
Other Sources (Applications) of Funds			
Increase in savings deposits, excluding interest credited	438,208	326,662	619,845
Additional long-term borrowings	168,328	288,538	433,700
Increase (decrease) in short-term borrowings	290,873	(33,673)	(226,029)
(Increase) decrease in mortgage-backed securities	(186,296)	292,016	396,159
Sales of loans	56,563	111,559	287,435
Loan originations and purchases, net	(250,482)	(83,791)	(375,062)
Reduction of long-term debt	(595,702)	(409,337)	(81,237)
Increase in minority interest	92,902	—	—
(Increase) in real estate	(22,385)	(189,951)	(255,464)
(Increase) in investment securities, net	(23,334)	(865,970)	(207,523)
(Increase) in property, building and equipment	(137,926)	(108,951)	(24,348)
(Increase) decrease in other receivables	104,935	(165,116)	(50,421)
Increase in accounts payable, accrued expense and policyholders liabilities	8,164	188,248	30,584
Common and preferred stock dividends	(6,302)	(6,799)	(6,532)
Purchase of treasury stock, net	(8,182)	(10,413)	(5,890)
Issuance (redemption) of preferred stock, net of expenses	13,252	—	(16,022)
(Increase) decrease in deferred compensation	1,500	4,500	(23,000)
Other, net	32,006	1,558	3,543
	(23,878)	(660,920)	499,138
Net increase (decrease) in cash	**98,519**	(620,137)	654,272
Cash at beginning of year	**125,292**	745,429	91,157
Cash at end of year	**$223,811**	$125,292	$745,429

The accompanying notes to consolidated financial statements are an integral part of these statements.

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CONSOLIDATED STATEMENTS OF CHANGES IN SHAREHOLDERS' EQUITY

AMERICAN CONTINENTAL CORPORATION AND SUBSIDIARIES

(In thousands)

	Preferred Stock	Cumulative Convertible Preferred Stock	Common Stock	Capital in Excess of Par Value	Marketable Equity Securities Reserve	Retained Earnings	Deferred Compensation	Treasury Stock	Total
Balance, December 31, 1984	$ 56,250	$ —	$ 131	$ 33,597	$ —	$ 43,455	$ —	$ (553)	$132,880
Treasury stock purchased	—	—	—	—	—	—	—	(5,890)	(5,890)
Retirement of treasury stock	—	—	(8)	(6,127)	—	—	—	6,135	—
Common stock issued	—	—	—	25	—	—	—	—	25
Preferred stock purchased and retired	(16,025)	—	—	3	—	—	—	—	(16,022)
Preferred stock dividends	—	—	—	—	—	(6,532)	—	—	(6,532)
ESOP loan guarantee	—	—	—	—	—	—	(23,000)	—	(23,000)
Marketable equity securities reserve	—	—	—	—	(2,083)	—	—	—	(2,083)
Net Earnings	—	—	—	—	—	42,542	—	—	42,542
Balance, December 31, 1985	40,225	—	123	27,498	(2,083)	79,465	(23,000)	(308)	121,920
Treasury stock purchased	—	—	—	—	—	—	—	(10,413)	(10,413)
Retirement of treasury stock	—	—	(8)	(9,624)	—	—	—	9,632	—
Common stock issued	—	—	8	1,656	—	—	—	—	1,664
Common and preferred stock dividends	—	—	—	—	—	(6,799)	—	—	(6,799)
ESOP loan payments	—	—	—	—	—	—	4,500	—	4,500
Marketable equity securities reserve, net of tax	—	—	—	—	(6,514)	—	—	—	(6,514)
Net Earnings	—	—	—	—	—	24,233	—	—	24,233
Balance, December 31, 1986	40,225	—	123	19,530	(8,597)	96,899	(18,500)	(1,089)	128,591
Treasury stock purchased	—	—	—	—	—	—	—	(8,182)	(8,182)
Retirement of treasury stock	—	—	(9)	(7,983)	—	—	—	7,992	—
Common stock issued	—	—	2	363	—	—	—	—	365
Preferred stock dividends	—	—	—	—	—	(6,302)	—	—	(6,302)
ESOP loan payments	—	—	—	—	—	—	1,500	—	1,500
Preferred stock issued (retired), net of issuance expenses	(34)	14,752	—	(1,466)	—	—	—	—	13,252
Stock split	—	—	60	(60)	—	—	—	—	—
Income tax adjustment for stock option plans	—	—	—	877	—	—	—	—	877
Marketable equity securities reserve, net of tax	—	—	—	—	(12,667)	—	—	—	(12,667)
Net Earnings	—	—	—	—	—	19,327	—	—	19,327
Balance, December 31, 1987	$ 40,191	$ 14,752	$ 176	$ 11,261	$ (21,264)	$109,924	$ (17,000)	$ (1,279)	$136,761

The accompanying notes to consolidated financial statements are an integral part of these statements.

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AMERICAN CONTINENTAL CORPORATION AND SUBSIDIARIES

(A) ACCOUNTING POLICIES

The following accounting policies, together with those disclosed elsewhere in the consolidated financial statements, represent the significant accounting policies followed by American Continental Corporation (the "Company") and its subsidiaries.

Principles of Consolidation

The consolidated financial statements include the accounts of the Company and its majority-owned subsidiaries. All significant intercompany accounts and transactions have been eliminated.

Minority Interest

In June 1987, the Company sold, for cash, a 45% interest in the Crescent Hotel and The Phoenician Resort. Pursuant to the sale, each shareholder deposited into escrow its proportionate share of the estimated cost to complete the Resort (see Notes D and S). In connection with the sale, the Company recognized a gain on the sale of $12,880,000 of which $1,570,000 was deferred at December 31, 1987 and will be recognized as The Resort is completed.

Investment Securities

Marketable equity securities are stated at the lower of aggregate cost or estimated market value. Net unrealized losses on marketable equity securities, net of any related tax effect, are charged to shareholders' equity. Marketable debt securities are recorded at cost with any discount accreted or premium amortized by the interest method to the maturity of the security. Gain or loss on the sale of investments is calculated based on specific identification.

Mortgage Loans Accounted as Real Estate Investments or Joint Ventures

Certain loans contain provisions for payment of additional interest generally based on a percentage of net profits or net cash flow (as defined) or a fixed amount per unit from the project under development. Depending on the extent of the additional interest and other attributes of the transaction, certain loans are accounted for as if they were investments in joint ventures or investments in real estate. In such circumstances, certain loan fees and net interest income are deferred.

Other Receivables

Other receivables include contracts and proceeds receivable arising from the sale of real estate, subordinated notes in the process of settlement and accrued interest receivable. Interest rates on $83,344,000 of these assets range from 5% to 15% with maturities through 1997.

Property, Buildings and Equipment

Property, buildings and equipment are stated at cost. Depreciation is computed on the straight-line method over the estimated useful lives of the assets. The costs of maintenance and repairs are charged to expense as incurred. Depreciation expense related to continuing operations was $8,277,000, $6,684,000, and $3,880,000 in 1987, 1986 and 1985, respectively.

Per-Share Data

Per-share amounts are based upon the weighted average number of outstanding common shares and common share equivalents and reflect a 3-for-2 common stock split effected April 24, 1987. The weighted average number of shares and common equivalent shares used in computing primary earnings per common share for 1987, 1986 and 1985, was 18,279,984, 18,617,216 and 19,919,609 as adjusted for the 3-for-2 stock split. Fully-diluted earnings per share approximated primary earnings per share for each of the years presented.

Investment in and Advances to Unconsolidated Affiliates

Investments of $21,074,000 and $14,820,000 at December 31, 1987 and 1986, respectively, representing investments in 20% to 50% -owned companies are accounted for by the equity method. $39,451,000 and $72,696,000 at December 31, 1987 and 1986, respectively, representing investments in less than 20% -owned companies, are accounted for at cost.

The Company recorded a gain of approximately $37,000,000 in 1987 from the sale of 50 percent of its interest in a limited partnership accounted for as "Investment in Unconsolidated Affiliates." In 1986, the Company recognized $55,952,000 in cash distributions from limited partnership interests accounted for as "Investments in Unconsolidated Affiliates" resulting from the gain on liquidation of certain partnership assets.

AMERICAN CONTINENTAL CORPORATION AND SUBSIDIARIES

Insurance Operations

Future policy benefit liabilities are computed using assumptions as to future mortality, interest and withdrawals, at the time of policy issuance. American Founders Life Insurance Company uses the defined premium valuation method for business in force at the date of its acquisition. All future policy benefit liabilities for policies issued since that date are calculated on a net level premium method. Universal Life and annuities future policy benefit liabilities are determined based on the deposit method. The interest rate guarantee on such policies ranges from 4% to 4.5% for Universal Life and annuities.

Loan Fees

The Financial Accounting Standards Board issued Statement of Financial Accounting Standards No. 91, "Accounting for Nonrefundable Fees and Costs Associated with Originating or Acquiring Loans and Initial Direct Costs of Leases," in December 1986. The provisions of this statement will be applied prospectively to all lending transactions entered into by the Company beginning with 1988 and, in general, require the deferral and amortization of loan origination fees net of certain direct origination costs over the life of the related loans as an adjustment of yield, the effect of which has not been determined. Although the Company has not presently determined the effect of implementing the statement, it is expected to reduce the amount of loan origination fees recognized.

Futures Transactions

Realized gains and losses resulting from futures transactions entered into as, and also qualifying as, a hedge against the Company's exposure to interest rate or price risk are deferred and amortized, using the interest method, over the remaining life of the asset or liability which was hedged.

Provision For Losses

Valuation allowances for estimated losses are charged to operations when it is determined that the carrying value of the related asset is greater than net realizable value.

Reclassifications

Certain 1986 items have been reclassified to conform to the 1987 presentation.

(B) DISCONTINUED OPERATIONS

In the second quarter of 1985, the Company sold its homebuilding operation in Phoenix to two former officers of the Company (one of whom was also a former director) and commenced a program to phase out its remaining homebuilding operation in Denver. Substantially all of the net assets of discontinued operations have been liquidated. Revenues from discontinued operations were $30,425,000 and $190,893,000 in 1986 and 1985, respectively. Income tax benefits related to discontinued operations totaled $10,500,000 in 1985.

(C) ACQUISITION OF FIRST LINCOLN FINANCIAL CORPORATION AND MERICAN FOUNDERS LIFE INSURANCE COMPANY

The acquisitions of Lincoln Savings and Loan Association and American Founders Life Insurance Company were accounted for under the purchase method and, accordingly, all assets and liabilities acquired were adjusted to their estimated fair values as of the date of acquisition.

$69,834,000 of the excess of cost over the fair value of Lincoln Savings net assets is being amortized from 6 to 21 years using the straight-line method and $20,164,000 is being amortized over the estimated remaining lives of the long-term interest bearing assets acquired using the interest method. The remaining excess of cost over AFL net assets acquired is being amortized over 38 years.

AMERICAN CONTINENTAL CORPORATION AND SUBSIDIARIES

(D) CASH AND CASH EQUIVALENTS

Restricted cash at December 31, 1987 and 1986 includes cash pledged to secure borrowings, bond retirement reserve funds and transaction account reserve funds as required by the Federal Reserve Board. 1987 also includes $69,037,000 in an escrow account for the completion of The Phoenician Resort and $6,186,000 to secure various other obligations.

(E) SECURITIES PURCHASED UNDER AGREEMENTS TO RESELL

At December 31, 1987, the Company had purchased approximately $33,023,000 of various mortgage-backed securities and $12,050,000 of U.S. government securities under agreements to resell. The market value of the securities at December 31, 1987 approximated the Company's cost. The agreements called for interest rates from 5.5% to 7.25% and were converted to cash subsequent to year end. The securities were held by the counter-parties to the agreement.

(F) MORTGAGE-BACKED CERTIFICATES

American Continental Mortgage Company (ACM), the Company's mortgage banking subsidiary, sold a significant portion of the mortgages it originated by pooling such mortgages and selling GNMA certificates secured thereby to its wholly-owned finance subsidiaries. The finance subsidiaries financed the purchase of such mortgages through the sale of bonds collateralized by the mortgages (Note L). These GNMA certificates are carried at a cost which results in a yield approximately equal to the yield on the related bonds. Discounts are deferred and accreted to interest income using the interest method over the life of the mortgages.

The mortgage-backed bonds issued by ACM are redeemable by the bondholders under limited circumstances and are callable by the issuer under the conditions described in the indentures under which the bonds were issued. During 1987, ACM retired approximately $195,000,000 principal amount of bonds with proceeds from the sale of the underlying GNMA certificates. Approximately $23,452,000 principal amount of mortgage-backed bonds (secured by certificates with a market value of $23,588,000 at December 31, 1987) are callable in 1988 at 103% of par.

Mortgage-backed certificates at December 31, 1987 and 1986 are summarized as follows:

(In thousands)	December 31, 1987	1986
Certificates, securing mortgage-backed bonds issued by mortgage banking subsidiary, net of discounts of $908 in 1987 and $8,288 in 1986, market value of $35,262 in 1987 and $278,749 in 1986	$ 32,361	$251,391
Certificates, securing Eurobond debt and other borrowings, net of discount of $15,738 in 1987, market value of $447,904 in 1987	472,461	—
Others, market value of $66,634 in 1986	—	67,135
	$504,822	$318,526

Mortgage-backed certificates totaling $447,544,000 and $251,391,000 were pledged to secure borrowings at December 31, 1987 and 1986, respectively (see Note L).

AMERICAN CONTINENTAL CORPORATION AND SUBSIDIARIES

(G) INVESTMENT SECURITIES

Investment securities at December 31, 1987 and 1986 are summarized as follows:

(In thousands)	1987 Cost	1987 Estimated Market Value	1986 Cost	1986 Estimated Market Value
Certificates of deposit and commercial paper	$ 318,994	$ 318,994	$ 127,718	$ 127,718
Bonds:				
U.S. treasury and government agencies	422,243	345,035	727,927	701,433
Corporate	622,166	560,703	370,861	354,904
Allowance for possible losses	(5,237)	—	(4,900)	—
	1,039,172	905,738	1,093,958	1,056,337
Marketable equity securities:				
Preferred stock	48,055	45,075	32,761	31,407
Common stock	145,539	115,073	76,006	64,728
Warrants to purchase common stock	3,180	2,797	1,322	1,322
Other	6,125	6,125	—	—
Reserve for lower of cost or market	(33,829)	—	(12,632)	—
	169,070	169,070	97,457	97,457
Total investment securities	$1,527,236	$1,393,802	$1,319,133	$1,281,512

At December 31, 1987 and 1986, the unrealized gains and losses in the marketable equity securities portfolio were $5,691,000 and $39,520,000 and $3,741,000 and $16,373,000, respectively. Net realized gains on marketable equity securities for 1987 were approximately $22,000,000.

Investment securities totaling $805,951,000 and $863,555,000 were pledged to secure FHLB Advances, other borrowings and securities transactions at December 31, 1987 and 1986, respectively. (See Note L).

AMERICAN CONTINENTAL CORPORATION AND SUBSIDIARIES

MORTGAGE AND NS RECEIVABLE

Mortgage and other loans receivable are summarized as follows:

(In thousands)	December 31, 1987	1986
Mortgage-conventional	$ 235,931	$ 328,993
Mortgage-acquisition and development	760,572	482,717
Mortgage-construction	225,790	138,086
Commercial, consumer and other	262,441	208,840
	1,484,734	1,158,636
Less:		
Allowance for possible losses	(11,755)	(13,046)
Purchase accounting and other discounts	(1,613)	(5,091)
Undisbursed loan funds	(301,169)	(152,672)
	$1,170,197	$ 987,827

At December 31, 1986, the Company was servicing loans for others totaling approximately $294,207,000. During 1987, the Company sold servicing rights for all loans being serviced for others. The gain recognized on the sales was not significant.

The Company has the potential for additional revenues on approximately $231,000,000 of loans at December 31, 1987, representing participations in profits which may be realized upon the sale or refinancing of the related real property. Repayment of loans and realization of any additional revenues is generally expected to occur from the proceeds of construction or permanent financing obtained by the borrower, or from the sale of property. Additional interest resulting from such arrangements is recorded as interest income when it is earned.

At December 31, 1987, Lincoln Savings had outstanding unfunded loan commitments of approximately $317,464,000, including $301,169,000 of loans in process.

The change in allowance for possible loan losses is summarized as follows:

(In thousands)	1987	1986	1985
Balance at beginning of period	$13,046	$10,100	$ 789
Additional reserves	5,669	3,643	8,888
Charge-offs	(360)	(697)	—
Reclassification to other reserve categories	(6,600)	—	423
Balance at end of period	$11,755	$13,046	$10,100

AMERICAN CONTINENTAL CORPORATION AND SUBSIDIARIES

ESTATE
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Real estate consists of the following:

(In thousands)	December 31, 1987	1986
Land acquired for development	$590,674	$542,656
Land held for resale	170,306	123,981
Real estate acquired through foreclosure	78,450	55,955
Less: Allowance for possible losses	(18,793)	(8,475)
	$820,637	$714,117

Interest expense incurred on real estate is expensed until qualifying development activities are in process at which time interest is then capitalized. The Company capitalized interest relating to continuing operations of $65,406,000, $61,128,000 and $27,906,000 in 1987, 1986 and 1985, respectively. Real estate investments are stated at the lower of cost or estimated market.

The Company recognizes income from real estate sales in accordance with Statement of Financial Accounting Standards No. 66.

The change in allowance for possible losses is summarized as follows:

(In thousands)	1987	1986	1985
Balance at beginning of period	$ 8,475	$ 200	$380
Additional reserves	9,818	8,275	260
Charge-offs	(1,950)	—	(440)
Reclassifications from other reserve categories	2,450	—	—
Balance at end of period	$18,793	$8,475	$200

AMERICAN CONTINENTAL CORPORATION AND SUBSIDIARIES

(J) SAVINGS DEPOSITS

Savings deposits and weighted average interest rates at December 31, 1987 and 1986 are summarized as follows:

(In thousands)	1987		1986	
	Rate	Amount	Rate	Amount
Passbook	5.50%	$ 43,985	5.50%	$ 61,958
NOW accounts	5.20	110,745	5.21	120,562
Money market savings accounts	6.37	354,882	5.60	256,057
		509,612		438,577
Certificates:				
Retail	9.48	2,730,884	9.98	2,242,904
Jumbo	7.95	134,035	7.73	139,894
		2,864,919		2,382,798
	8.90%	$3,374,531	9.17%	$2,821,375

Maturities of savings certificates are summarized as follows:

1988	$1,388,288
1989	349,305
1990	290,173
1991	250,080
1992	200,650
After 1992	386,423
	$2,864,919

AMERICAN CONTINENTAL CORPORATION AND SUBSIDIARIES

(K) SHORT-TERM BORROWINGS

Short-term borrowings are summarized as follows:

(In thousands)	December 31, 1987	1986
Securities sold under agreements to repurchase, secured by U.S. Treasury obligations and GNMA certificates, interest at 6.875% to 8.5%	$226,995	$ —
Margin borrowings, secured by corporate stocks and bonds, interest at 9.00% to 9.25%	95,043	19,002
Notes payable to banks under revolving lines of credit, secured by mortgages on real estate and notes receivable, interest from prime + ½% to prime +2%	32,631	36,794
Note payable to bank under revolving line of credit, unsecured, interest at prime +1½%	10,000	7,000
Commercial paper	—	11,000
	$364,669	$73,796

At December 31, 1987, aggregate short-term borrowings were secured by $559,721,000 of assets.

At December 31, 1987 and 1986, compensating balance requirements totaled $608,000 and $2,084,000, respectively. Outstanding balances and the related weighted average interest rates on short-term borrowings are summarized as follows:

	December 31, 1987	1986	1985
Year-end balance	$364,669	$ 73,796	$107,469
Year-end weighted average interest rate	8.08%	10.79%	9.76%
Maximum amount outstanding at any month-end	$677,011	$355,542	$112,433
Average amount outstanding (total of month-end outstanding balances divided by 12)	$299,495	$205,408	$ 88,704
Weighted average interest rate (monthly weighted average interest rate times month-end balance divided by average amount outstanding)	7.65%	6.05%	8.30%

AMERICAN CONTINENTAL CORPORATION AND SUBSIDIARIES

(L) LONG-TERM DEBT

Long-term debt is summarized as follows:

(In thousands)	December 31, 1987	1986
Bonds payable, secured by mortgage-backed certificates and first mortgage loans, maturities from 1999 to 2015, interest from 11% to 14.75%	$ 87,982	$ 371,091
Senior notes and debentures, due 1990 and 2008, net of unamortized discounts of $3,954 in 1987 and $11,345 in 1986, interest from 10.75% to 12%	92,915	141,637
Collateralized floating rate notes, secured by investment securities, due 1999, interest payable semi-annually at LIBOR + ⅛ %	—	61,000
Collateralized floating rate notes, secured by investment securities, due 1995, interest payable quarterly at LIBOR + ⅛ % (7.625% at December 31, 1987)	275,000	275,000
Collateralized floating rate notes, secured by investment securities, due 2001, interest payable semi-annually at LIBOR + ⅛ % (8.25% at December 31, 1987)	100,000	100,000
Collateralized fixed rate notes, secured by investment securities, due 1992, interest at 4.875%	21,023	—
Notes payable, secured by real estate, payable on various dates to 1999, interest from 7.00% to 15.00%	62,735	123,385
Federal Home Loan Bank Advances, secured by investment securities and mortgage loans receivable, due 1994, interest at 12.99%	25,000	45,868
Senior subordinated notes, net of unamortized discount of $104 in 1987 and $542 in 1986, due 1995, interest at 14.75%	10,846	49,358
Subordinate debentures, maturities from 1988 to 1997, interest from 8.75% to 12.00%	92,627	2,496
Employee Stock Ownership Plan notes, secured by investment securities, guaranteed by the Company and a subsidiary of the Company (Note [illegible] interest at variable rates (5.49% at December 31, 1987), payable on various dates [illegible]995	17,000	18,500
Other, secured by real estate and property, plant and equipment, investment securities, and cash equivalents, payable on various dates to 2005, interest from 7.25% to 15.00%	29,377	53,544
	$814,505	$1,241,879

Maturities of long-term debt are summarized as follows:

(In thousands)

1988	$ 44,159
1989	20,385
1990	87,612
1991	21,631
1992	[illegible]
Thereafter	[illegible] 041
	$814,505

AMERICAN CONTINENTAL CORPORATION AND SUBSIDIARIES

LONG-TERM DEBT *(continued)*

At December 31, 1987, aggregate long-term debt was secured by $935,608,000 of assets.

The Senior Notes and Debentures consist of $47,050,000 of 10¼% Senior Notes, due August 1, 1990, and $49,819,000 of 12% Senior Debentures due 2001. The Notes and Debentures are redeemable at the option of the Company, in whole or in part, at any time after issuance, at par. There are no sinking fund principal payment requirements for the Senior Notes or Debentures.

The Subordinate Debentures consist of debentures issuable in series by the Company with various principal balances, interest rates and maturities. $92,627,000 principal amount has been issued in 18 series. Payment of principal and interest on the Subordinate Debentures is subordinated and subject to the prior payment in full of all senior indebtedness, as defined, of the Company. The Subordinate Debentures are callable at the option of the Company on or after May 1, 1987 at prices declining from 104.5% to par.

The Company may not (1) declare or pay any dividend on its capital stock (other than dividends or distributions payable in its capital stock), or (2) purchase, redeem or otherwise acquire or retire any of its capital stock if the aggregate amount expended for all such purposes subsequent to June 30, 1983 exceeds the sum of (a) 25% of the aggregate consolidated net income of the Company subsequent to June 30, 1983 and, (b) the aggregate net proceeds received by the Company from the issue or sale of capital stock of the Company. At December 31, 1987, the Company had $429,000 available for payment of dividends.

During 1987, approximately $439,000,000 of long-term debt was extinguished prior to scheduled maturities. The net after-tax gain of $2,876,000 resulted from the favorable rates at which the debt was repurchased. This gain has been classified as an extraordinary item in the Consolidated Statements of Operations.

At December 31, 1987, the Company was a party to interest rate exchange agreements covering liabilities with an aggregate principal balance of $100,000,000. These agreements provide for weighted average fixed interest payments of 10.02%. In return the Company receives variable interest rate payments based on the London Interbank Offering Rate (LIBOR). These agreements are secured by investment securities totaling $21,148,000. In August 1987, the Company consummated interest rate exchange agreements with another entity ("counter party") covering liabilities totaling $75,000,000 whereby the Company pays variable interest rates based on LIBOR. The counter party pays a weighted average fixed rate of 9.50%. The agreements are secured by U.S. Treasury securities of $15,063,000 and mature in 1996 and 1997.

During 1986, the Company entered into interest rate cap agreements covering liabilities aggregating $200,000,000. The Company paid an initial fee of $4,900,000, and is to be reimbursed to the extent that LIBOR exceeds 10%. The fee was deferred and is being amortized, using the straight line method, until maturity in 1991.

During 1987, the Company entered into a currency swap agreement in connection with the collateralized fixed rate notes. The counter party to the agreement will pay the Company 161,687,500 yen in August 1988 and will pay the Company 146,250,000 yen annually through August, 1991 and 3,146,250,000 yen in August 1992. The Company pays to the counter party $946,997 semi-annually through February, 1992 and $21,616,911 in August, 1992. All fees paid and received are deferred and then amortized or accreted using the straight-line method until maturity in 1992. The agreement is secured by investment securities totaling $25,784,000.

AMERICAN CONTINENTAL CORPORATION AND SUBSIDIARIES

(M) RETAINED EARNINGS

The Company's principal subsidiary Lincoln Savings (which represents 93% of consolidated total assets) is subject to FHLBB and California Commissioner of Savings and Loan regulations. Such regulations require, among other things, Lincoln Savings to meet certain net worth requirements. At December 31, 1987 and 1986, Lincoln Savings' management believes it met those statutory requirements (see Note S).

Without prior FHLBB approval, dividends paid by Lincoln Savings to the Company in any fiscal year are limited to 50% of net earnings of Lincoln Savings for that fiscal year provided that any deferred dividends under such limitation may be paid in a subsequent year and subject to the provision that in no event may dividends be paid which, in fact or in the opinion of the FHLBB, would cause Lincoln Savings to fail to meet its net worth requirements.

Dividend payments by the Company to its common shareholders are restricted by the terms of certain long-term debt covenants (see Note L). In addition, because the payment of dividends and transactions between the Company and Lincoln Savings are subject to FHLBB regulations, the Company does not rely on Lincoln Savings to fund potential dividend payments to its common shareholders.

(N) PREFERRED STOCK

In December 1983, the Company issued 2,250,000 shares of $3.44 Exchangeable Preferred Stock. This Preferred Stock is redeemable at the option of the Company, in whole or in part at a redemption price declining from 109% to par, and is exchangeable into Senior Notes at the option of the Company, in whole but not in part, commencing December 1, 1988. The Senior Notes will bear interest, payable semi-annually, at the greater of 13.76% or 1.25% of the U.S. Treasury ten year constant maturity rate at the time of the exchange and will mature 10 years from the date of issuance (see Note L). The liquidation preference of this Preferred Stock is $25 per share. Dividends on this Preferred Stock increase from $3.44 per annum to $4.44 per annum after June 1, 1994, and are payable quarterly. During 1987 the Company retired 1,380 shares of this Preferred Stock.

During 1987, the Company sold 147,519 shares of Cumulative Convertible Preferred Stock. This Preferred Stock is convertible at any time, at the option of the holder, into the Company's common stock. This Preferred Stock is redeemable at the option of the Company, in whole or in part, commencing April 1, 1989, at redemption prices declining from $106 per share to par. The liquidation preference is $100 per share. Dividends on this Preferred Stock are $10.00 per share annually increasing to the greater of 10% or prime + 5% per annum commencing April 1, 2002.

(O) INCOME TAXES

During the year the Company adopted Statement of Financial Accounting Standards No. 96 (SFAS 96) "Accounting for Income Taxes." This pronouncement requires, among other things, the recomputation of the Company's deferred tax liability as of January 1, 1987 to reflect the legislated reduction in the federal tax rate and its effect on the Company's ultimate tax liability. Due to the fact that the Company has significant tax net operating loss carryforwards, its tax liability and current year provision, substantially all of which is deferred, were computed using the rate which will be in effect in those future years in which the tax is estimated to be paid.

In applying the provisions of SFAS 96 the Company reduced its deferred tax liability as of January 1, 1987 by $3,075,000 and increased its current year income by the same amount. In addition, the current year tax expense was reduced by $1,975,000 ($.11 per share) due to the fact that the Company's tax net operating loss carryforwards defer the payment of the current year expense into future years where the tax rate is scheduled to be lower.

(O) INCOME TAXES *(continued)*

Total tax on earnings is comprised of (in thousands):

	1987	1986	1985
Current:			
State	$ 700	$ —	$ —
Federal	3,000	600	—
	3,700	600	—
Deferred:			
State	1,640	700	500
Federal	9,035	4,700	2,500
	10,675	5,400	3,000
Total tax expense	$ 14,375	$ 6,000	$ 3,000

Federal income taxes currently payable are the result of computing the Company's tax liability under the alternative minimum tax method (AMT). Payments of AMT can be carried forward and credited against the Company's future regular tax liability.

Income tax expense (benefit) is allocated to discontinued operations and extraordinary item based upon the incremental tax expense (benefit) by which each of these categories affected total tax expense.

Deferred tax expense resulted from the following (in thousands):

	1987	1986	1985
Difference between tax and financial statement accounting for:			
Installment sales	$ (7,571)	$ (34,126)	$ 3,452
Capitalized interest and overhead	(7,376)	16,948	(455)
Cash vs. accrual accounting	(4,731)	6,202	1,295
Reserves for losses	(6,302)	(5,431)	(2,665)
Equity investments	(4,774)	11,208	2,124
Recoverable alternative minimum tax	(3,000)	—	—
Other	(6,040)	(3,654)	(751)
Reduction of deferred taxes resulting from recognition of tax loss carryforward	50,469	14,253	—
	$ 10,675	$ 5,400	$ 3,000

Tax on earnings applicable to continuing operations before extraordinary item and the cumulative effect of a change in accounting for income taxes differed from the amount computed by applying the statutory Federal income tax rate due to the following (in thousands):

	1987		1986		1985	
	Amount	%	Amount	%	Amount	%
Statutory Federal income tax	$10,395	40 %	$19,980	46 %	$30,745	46 %
Net amortization (accretion) of discounts, premiums and goodwill	4,168	16	5,648	13	2,806	4
Differences in tax and financial reporting bases of assets sold	—	—	(10,422)	(24)	(22,056)	(33)
State income taxes	1,405	5	1,304	3	2,005	3
Capital gains rate differential and dividend exclusion	(1,494)	(5)	(3,909)	(9)	—	—
Adjustment of deferred tax liability due to change in accounting for income taxes	(1,559)	(6)	—	—	—	—
Miscellaneous other	(303)	(1)	—	—	—	—
	$12,612	49 %	$12,601	29 %	$13,500	20 %

AMERICAN CONTINENTAL CORPORATION AND SUBSIDIARIES

(O) INCOME TAXES *(continued)*

Net operating loss carryforwards for regular tax purposes at the end of 1987 approximated $110,000,000 and expire from 1992 through 2000. The Company files a consolidated Federal income tax return which includes substantially all majority-owned subsidiaries, except its life insurance and hotel subsidiaries. Investment tax credits are accounted for by the flow-through method.

(P) EMPLOYEE STOCK OPTION PLANS

In 1982 the Company adopted an Employee Stock Option Plan, intended to provide an incentive to officers and key employees of the Company and its subsidiaries to remain with the Company. The Board of Directors authorized the reservation of 4,500,000 shares of the Company's common stock for issuance under the Plan.

The following summarizes the stock option transactions for the two years ended December 31, 1987:

	Number Of Shares	Option Price
Outstanding at December 31, 1985	2,030,835	$ 1.04-$ 7.67
Granted	491,010	$ 6.67-$ 8.43
Exercised	1,145,250	$ 1.04-$ 6.50
Cancelled	17,625	$ 5.25-$ 8.92
Outstanding at December 31, 1986	1,358,970	$ 1.15-$ 8.43
Granted	213,500	$7.125-$10.00
Exercised	177,000	$ 1.15-$ 6.67
Cancelled	83,625	$ 5.42-$ 7.88
Outstanding at December 31, 1987	1,311,845	$ 3.33-$10.00
Exercisable at December 31, 1987	1,098,345	$ 3.33-$ 8.43

At December 31, 1987, there were 1,850,155 shares reserved for future grants. Of the 177,000 shares exercised during 1987, 147,000 were options exercised by officers of the Company.

In August, 1984, the Company's Board of Directors approved a Non-Statutory Stock Option Plan. In January 1986, the Company's Board of Directors adopted, and in February, 1986, the shareholders approved a 1986 Non-Statutory Stock Option Plan. Both Non-Statutory Stock Option Plans (the Stock Plans) provide an incentive to attract and retain the best personnel and provide key employees and directors incentive to contribute to the Company's success. A total of 7,500,000 of the Company's common shares are available for options to be granted under the Stock Plans.

AMERICAN CONTINENTAL CORPORATION AND SUBSIDIARIES

(P) EMPLOYEE STOCK OPTION PLANS *(continued)*

Options may be granted at a price not less than 100% of the market value at the date of grant and are exercisable at any time within a period of ten years from the date of grant.

Transactions involving the Stock Plans are summarized as follows:

	Number Of Shares	Option Price
Outstanding at December 31, 1986	6,590,250	$ 6.33-$11.33
Granted	1,270,000	$11.00-$12.00
Cancelled	729,000	$ 8.00-$11.33
Outstanding at December 31, 1987	7,131,250	

At December 31, 1987, there were 368,750 shares reserved for future grants.

(Q) EMPLOYEE BENEFIT PLANS

Pursuant to the Company's Employee Stock Ownership Plan (ESOP) contributions to the ESOP are made at the discretion of the Company, but generally cannot exceed 15% of all participant's compensation. These amounts may increase to 25% if the contributions are used to repay a loan made to the ESOP. Contributions to the plan during 1987, 1986, and 1985 were $2,631,000, $3,550,000, and $756,000 respectively.

During 1985 the ESOP borrowed $23,000,000 from outside lenders (the ESOP loans) and purchased 4,118,152 shares of the Company's common stock. The shares purchased by the ESOP are held by a trustee. On December 29, 1986, the ESOP sold 227,331 shares of common stock to the Company. The sale price was $7.92, the opening asked price on that date. The proceeds were used to repay the outstanding balance on one of the ESOP loans. The remaining ESOP loans are guaranteed by the Company. Interest on the ESOP loans is payable monthly at variable rates. Principal payments are due annually. The obligation related to the ESOP loans has been recorded as long-term debt and a like amount of deferred compensation has been recorded as a reduction of shareholders' equity in the accompanying consolidated balance sheet.

(R) RELATED PARTY TRANSACTIONS

In December 1984, a partnership consisting of certain officers and key executives of the Company purchased an income producing property developed and managed by a subsidiary of the Company. A portion of the purchase price was financed by a subsidiary of the Company. The note to the subsidiary was due December 14, 1987, bore interest at 11% (payable at maturity) and was secured by a second deed of trust on the property. In addition, the Company retained, under certain circumstances, a 10% interest in the net proceeds of any sale or refinancing. In December, 1987, the partnership revised the note to include accrued interest and to extend the maturity of the note to June 30, 1988 with an option to extend until December 31, 1988. The principal balance of the note is $4,367,558 with interest at prime +1%.

(R) RELATED PARTY TRANSACTIONS *(continued)*

During 1985, a subsidiary of the Company sold a hotel it had purchased to a limited partnership in which a subsidiary of the Company is the 1% general partner and in which some of the Company's officers and directors are limited partners. As of December 31, 1987, the ownership percentage of officers and directors in the limited partnership was 28%. The partnership units provided for cash downpayments with promissory notes payable over terms of four to six years. The loan terms given to officers and directors were the same as those offered to other investors. All investor promissory notes were backed by surety bonds and, as of December 31, 1987, all notes had been paid off by the limited partners. The Company recognized revenues and gross profits of $38,400,000 and $6,450,000, respectively, in 1985 from the sale of the hotel. At December 31, 1987, subsidiaries of the Company had advanced $15,000,000 to the partnership under a $20,000,000 revolving credit agreement for working capital requirements.

In April, 1986, a subsidiary of the Company developed and sold a retail shopping center to a limited partnership in which another subsidiary of the Company is general partner and certain officers and directors are limited partners. The ownership percentage at December 31, 1987 for the officers and directors was approximately 17%. The Company recorded revenues of $16,300,000 on the sale of this property. All gross profit on the sale was deferred in 1986, due to the Company's continuing involvement in the property, and was recognized in 1987.

In May, 1986, the Chairman purchased from a subsidiary of the Company its entire interest in a limited partnership for $3,450,000, resulting in a pre-tax gain of $1,275,000 for the Company. The price was determined by an independent third party and was based on the market value of the assets held by the limited partnership. The purchase price was payable $690,000 in cash and delivery of a promissory note for $2,760,000. The note is payable in seven annual installments of principal and interest commencing May 31, 1987. Interest on the note accrues at 10% per annum. At December 31, 1987, the outstanding principal balance was $2,477,100.

During the three-year period ending December 31, 1987, the Company and the ESOP purchased 1,341,878 shares and 1,014,561 shares, respectively, from the Chairman, directors, officers and key employees of the Company for an aggregate purchase price of $10,742,000 and $8,000,000, respectively. All purchases were completed at the closing bid price of the stock on the date of purchase.

(S) COMMITMENTS AND CONTINGENCIES

The Federal Home Loan Bank Board ("FHLBB") has concluded its examination of the financial condition and operations of Lincoln Savings. Their findings have been presented to the Company and the Company has taken exception in all material respects. The Company has proposed to resolve all issues outstanding between itself and the FHLBB by making certain adjustments to Lincoln Savings' net worth that include an additional $10,000,000 capital contribution and adjustments to the method by which Lincoln Savings calculates its regulatory capital requirement and its resultant effect on the amounts of assets which can be invested in various risk investments. No agreement has been reached. The SEC has issued a formal order of investigation relating principally to issues raised in the FHLBB examination report. The Company believes that the ultimate outcome of both the FHLBB and SEC examinations will not have a material adverse effect on its financial position and results of operations.

During the year the Company sold a 45% interest in both its Crescent Hotel and The Phoenician Resort. The Resort is currently under construction with an estimated completion date of October 1988. Pursuant to the sale agreement, at December 31, 1987 the Company had $69,037,000 on deposit in its escrow account to fund its pro-rata share of the estimated costs to complete The Resort. At December 31, 1987, the estimated costs to complete The Phoenician Resort were $109,000,000. In addition, in the event of cost overruns, the Company has agreed to fund such amounts unless otherwise agreed to in advance by its partner. The Company does not believe any significant cost overruns will occur.

The Company is guarantor on various letters of credit totaling $28,370,000 to secure Industrial Development Bonds and other obligations.

At December 31, 1987, the Company pledged approximately $10,099,000 of investment securities to a bank to secure revenue bonds issued to finance construction of a wastewater treatment facility.

(S) COMMITMENTS AND CONTINGENCIES *(continued)*

The Company has sold, with recourse, certain loans secured by real property. At December 31, 1987, approximately $82,585,000 of such loans remained outstanding.

At December 31, 1987, the Company had commitments to purchase and sell mortgage-backed securities of $20,000,000 and $25,000,000, respectively.

The Company is a 50% guarantor on a $22,000,000 line of credit provided to a joint venture of which the Company is a partner. At December 31, 1987 the joint venture had drawn $22,000,000 under such line of credit.

Rental expense for the Company relates to leased premises, primarily used by the Company's savings and loan branch office system and a 99 year land lease covering one of the Company's hotel properties. Rental expense, net of sublease rental income, amounted to $5,410,000, $4,351,000 and $3,862,000 in 1987, 1986 and 1985, respectively. The following is a schedule, by years, of future minimum rental payments net of sublease rental income, required under operating leases that have an initial or remaining term in excess of one year as of December 31, 1987.

Year	Amount
	(In thousands)
1988	$ 6,736
1989	5,878
1990	5,600
1991	5,538
1992	5,484
1993-2078	84,176
	$113,412

The Company is involved in a number of lawsuits incidental to its business. The Company believes that such proceedings, in the aggregate, will not have a material effect on the Company's financial position or results of operations.

(T) SEGMENT INFORMATION

Industry segment financial information is presented on page 28.

AMERICAN CONTINENTAL CORPORATION AND SUBSIDIARIES

UNAUDITED QUARTERLY INFORMATION

(In thousands, except per share data)

	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
1987				
Total revenue	$ 194,668	$ 159,868	$ 172,755	$ 190,994
Earnings (loss) from continuing operations before extraordinary item and cumulative effect of a change in accounting for income taxes	$ 7,465	$ 4,095	$ 5,037	$ (3,221)
Extraordinary gain (loss)—early extinguishment of debt, net	$ (2,113)	$ (1,280)	$ (2,766)	$ 9,035
Cumulative effect of a change in accounting for income taxes	$ 3,075	—	—	—
Net earnings	$ 8,427	$ 2,815	$ 2,271	$ 5,814
Per share earnings (loss) applicable to common stock				
Continuing operations	$ .32	$ .14	$ .19	$ (.28)
Extraordinary item	$ (.11)	$ (.07)	$ (.16)	$ .52
Cumulative effect of a change in accounting for income taxes	$ .16	—	—	—
	$ .37	$ .07	$ .03	$ .24

	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
1986				
Total revenue	$ 194,017	$ 250,542	$ 204,319	$ 203,574
Earnings from continuing operations before extraordinary item	$ 5,389	$ 10,755	$ 6,401	$ 8,288
Extraordinary item—early extinguishment of debt, net	$ (568)	$ (1,890)	$ (359)	$ (3,783)
Net earnings	$ 6,236	$ 9,674	$ 4,907	$ 3,416
Per share earnings (loss) applicable to common stock				
Continuing operations	$ .21	$ .50	$ .27	$ .39
Discontinued operations	.07	.04	(.06)	(.05)
Extraordinary item	$ (.03)	$ (.10)	$ (.02)	$ (.21)
	$ .25	$ .44	$ .19	$ .13

As a result of the early adoption of FASB 96 (see Note O), net earnings and earnings per share for the first, second, and third quarter were increased by $3,668,000 and $.19, $384,000 and $.02, and $110,000 and $.01, respectively. The Company recorded a pre-tax charge of $183 million in the fourth quarter 1987 due to general reserves established for real estate and lending operations.

EXHIBIT INDEX

Number	Description	Page
3.1	—Articles of Incorporation of the Company, as amended to May 1, 1980. Incorporated by reference to Exhibit 3 to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 1980. Certificate of Amendment of Articles of Incorporation of the Company dated May 19, 1982. Incorporated by reference to Exhibit 3.2 to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 1982. Certificates of Amendment to Articles of Incorporation of the Company dated August 17, 1983, December 8, 1983 and December 16, 1983. Incorporated by reference to Exhibit 3.3 to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 1983. Certificate of Amendment to the Articles of Incorporation of the Company dated May 18, 1987.	
3.2	—Composite Code of Regulations (By-laws) of the Company. Incorporated by reference to Exhibit 3 to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 1980. Amendments to Code of Regulations of the Company dated December 16, 1983 (Article II, ¶1) and January 31, 1984 (Article I, ¶2). Incorporated by reference to Exhibit 3.5 to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 1983. Amendment to Code of Regulations of the Company dated January 17, 1984 (Article I, ¶2). Incorporated by reference to Exhibit 3.6 to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 1984.	
10.1	—Registrant's 1982 Employee's Incentive Stock Option Plan. Incorporated by reference to Exhibit 10.30 to Registration Statement No. 2-79536, as filed with the SEC on September 27, 1982.	
10.2	—Registrant's Non-Statutory Stock Option Plan dated September 14, 1984. Incorporated by reference to Exhibit 10.4 to Registrant's Annual Report on Form 10-K for the fiscal year ended December 31, 1984.	
10.3	—Registrant's Non-Statutory Stock Option Plan dated February 26, 1986.	
10.4	—Loan and Pledge Agreement between Bankers Trust Company and Lincoln Savings and Loan Association dated January 16, 1985. Incorporated by reference to Exhibit 10.16 to the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 1984.	
10.5	—Letter dated August 21, 1979 addressed to ACM from the Government National Mortgage Association and form of Commitment to Guaranty Mortgage-Backed Securities of ACM from the Government National Mortgage Association. Incorporated by reference to Exhibit 10(b)(2)(xv) to Registration Statement No. 2-75785, as filed with the SEC on January 22, 1982.	
10.6	—Summary of Guaranty Agreement for Single-Family (Level Payment) Mortgage-Backed Certificates of the Government National Mortgage Association. Incorporated by reference to Exhibit 10(b)(2)(xvi) to Registration Statement No. 2-75785, as filed with the SEC on January 22, 1982.	
10.7	—Guaranty Agreement for Single Family Mortgage-Backed Certificates. Incorporated by reference to Exhibit 10(b)(2)(xvii) to Registration Statement No. 2-75785, as filed with the SEC on January 22, 1982.	

Number	Description	Page
10.8	—Warrant Agreement dated August 1, 1983 between the Company and Drexel Burnham Lambert Incorporated. Incorporated by reference to Exhibit 4.2 to Registration Statement No. 2-85222, as filed with the SEC on July 18, 1983.	
10.9	—Indenture dated as of August 1, 1983 between Registrant and Security Pacific National Bank, as Trustee. Incorporated by reference to Exhibit 4.1 to Registration Statement No. 2-85222, as filed with the SEC on July 18, 1983.	
10.10	—Amendment No. 1 to the Indenture dated as of February 6, 1985, between the Registrant, as Issuer, and Security Pacific National Bank, as Trustee.	
11.1	—Statement re computation of per share earnings.	
12.1	—Statement re computation of ratio of earnings to fixed charges and ratio of earnings to fixed charges without savings deposits.	
22.1	—List of Subsidiaries.	
24.1-24.4	—Consent of Independent Public Accountants for 1987 and 1986.	
24.5-24.8	—Consent of Independent Public Accountants for 1985.	
28.2	—Report of Independent Public Accountants on Schedules for 1985.	
28.3	—1987 Financial Statement Schedules	
	Schedule I—Marketable Securities	
	Schedule II—Amounts Receivable from Related Parties and Underwriters, Promoters, and Employees Other than Related Parties.	
	Schedule III—Condensed Financial Information of Registrant	
	Schedule VII—Guarantees of Securities of Other Issuers	
	Schedule VIII—Valuation and Qualifying Accounts	
	Schedule X—Supplementary Income Statement Information.	

Registrant has omitted instruments with respect to long-term debt of Registrant and its subsidiaries where the total amount of securities authorized thereunder does not exceed 10 percent of the total assets of Registrant and its subsidiaries on a consolidated basis; Registrant agrees to furnish a copy of each such instrument to the Commission upon request.

State of California

Memorandum

To : JANICE ROGERS BROWN
Deputy Secretary
Business, Transportation
and Housing Agency
1120 N Street, Room 2101
Sacramento, CA 95814

Date : June 15, 1988

File No.: ALPHA

Subject : AMERICAN CONTINENTAL CORPORATION

From : **Department of Corporations**

WAYNE SIMON
Chief Deputy Commissioner WS

Thank you for passing along the article in Grant's Interest Rate Observer on American Continental Corporation ("American Continental"). Because of the issues raised in that article and the questions previously raised by Bill Crawford, I thought you might want to know what our recent involvement has been with that corporation.

I think I told you that American Continental had filed an application for qualification by coordination to sell an additional $170,000,000 of debentures. After reviewing the application in detail and contacting a number of other state and federal agencies with regulatory oversight of American Continental or its Lincoln Savings and Loan Association subsidiary ("Lincoln Savings"), we granted the qualification on May 26, 1988. One of the primary reasons for this result was the showing by American Continental that it would be able to make payment of both principal and interest on its outstanding debentures and on the additional debentures.

Our contacts with other regulatory agencies were quite extensive. We received materials from and had discussions with the Federal Home Loan Bank of San Francisco, the Federal Home Loan Bank Board in Washington, D.C., the Department of Savings and Loan (including Bill Crawford, Bill Davis and Tommy Mar, an examiner working on Lincoln Savings) and the Securities and Exchange Commission. Although various of these agencies have begun investigations or raised issues concerning American Continental or Lincoln Savings, none has yet proven or concretely substantiated any claims which would have justified denial of American Continental's application.

We took all of the issues raised by other regulatory agencies quite seriously. We discussed these issues as well as others with American Continental (other issues arose during our review of the application and of various newspaper articles concerning American Continental, including the one you sent to me). Where we raised or reiterated a concrete concern, American Continental was able to provide information or otherwise make a showing supporting its application. I believe that this last point is important because, in an application for qualification by

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coordination, the Department of Corporations can deny the application only if the Department can find that the denial is in the public interest and that the proposed business of the issuer or the proposed issuance or sale of securities is not fair, just and equitable. Based upon our analysis and understanding of the facts and circumstances surrounding the application, we could not make such a finding.

If you would like a little more detail on the extent and particulars of our review, you may wish to read the attached memorandum from Jerry Baker to me.

WS:ad

cc: CHRISTINE W. BENDER
Commissioner

Stq of California

Memorandum

To : JANICE ROGERS BROWN
Deputy Secretary
Business, Transportation and
Housing Agency
1120 N Street, Room 2101
Sacramento, California 95814

Date : August 16, 1989

File No.:

Subject :

From : **Department of Corporations**
615 S. Flower Street
Los Angeles, California 90017

Attached is the memorandum we discussed concerning American Continental Corporation, Lincoln Savings and Loan Association ("Lincoln") and the problems defined by the recent review of Lincoln's accounting practices by Kenneth Leventhal & Company. Immediately preceding that memorandum is an Executive Summary of its explicit and implicit conclusions.

Wayne

WAYNE SIMON
Chief Deputy Commissioner
ATSS 640-6546

WS:ad
Attachment

cc: John Sullivan, Undersecretary

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ADM 547

EXECUTIVE SUMMARY

Kenneth Leventhal & Company ("Leventhal") recently issued a report on the accounting practices of Lincoln Savings and Loan Association ("Lincoln"). That report indicates how Lincoln and its parent, American Continental Corporation ("ACC"), were able to thwart effective regulation through a combination of the recalcitrance of former management in cooperating with regulators, the use or abuse of technically correct but substantively wrong accounting principles, the use of a holding company structure, and various other factors.

The hostility between ACC's management and government regulators is well documented. The Leventhal report clearly indicates the complexity of the purported treatment that ACC and Lincoln intended for various real estate transactions. The fact that Leventhal required several months to fully review just 15 transactions--and could review those transactions only after the former management of Lincoln was removed by the Federal Home Loan Bank Board ("the FHLBB")--illustrates the fact that no regulator could have carried out an effective audit of Lincoln when prior management was in place.

These problems extended not only to Lincoln but also to ACC. Lincoln was ACC's major asset, the driving force behind ACC's apparent profitability and its cash flow. By thwarting effective audits of Lincoln by state and federal savings and loan regulators while utilizing the accounting practices so soundly criticized by Leventhal, ACC thwarted just as effectively any meaningful review of ACC's financial position by state and federal securities regulators.

The net result of all of this has been the bankruptcy of ACC and the FHLBB's takeover of Lincoln. More tragic have been the effects on depositors whose lives have been disrupted and on the 23,000 purchasers of ACC debentures who may lose some or all of their investment.

State of California

Memorandum

To : JANICE ROGERS BROWN
Deputy Secretary
Business, Transportation and Housing Agency
Office of the Secretary
1120 N Street, Suite 2101
Sacramento, California 95814

Date : August 16, 1989

File No.: ALPHA

Subject : AMERICAN CONTINENTAL CORPORATION

From : Department of Corporations

WAYNE SIMON
Chief Deputy Commissioner WS

I recently received a 10-page summary of the Kenneth Leventhal & Company ("Leventhal") review of 15 selected real estate transactions involving Lincoln Savings and Loan Association ("Lincoln"). That review illustrates the extreme difficulty experienced by the Department of Corporations--and, I assume, the Department of Savings and Loan, the Securities and Exchange Commission, the Federal Home Loan Bank Board and other government regulators--in reviewing materials submitted by American Continental Corporation ("ACC") and/or Lincoln.

The Leventhal summary repeatedly indicates that ACC, Lincoln and their outside accountants were quite familiar with the accounting principles and standards applicable to the real estate transactions. Further, the summary clearly indicates that, although ACC, Lincoln and their advisers carefully followed the technicalities of those principles and standards, they did so without regard to the substantive treatment that should have applied.

I think all of this is quite relevant to the criticisms that have been leveled against our Department for not stopping the offer and sale of ACC debentures prior to ACC's bankruptcy filing. ACC filed a verified application for qualification of the securities together with audited financial statements prepared by an independent certified public accounting firm. The Department had, on the face of those materials, no reason to doubt their veracity and significant reason to assume that all of the information in those materials was truthful--misrepresentations or omissions in those materials, whether wilful or inadvertent, could subject the issuer, its directors, officers, employees and agents, and the accountants to administrative, civil or criminal proceedings for violation of the Corporate Securities Law of 1968 ("the CSL").

Despite the propriety of the documents filed with us on their face and the incentive for accuracy and truthfulness set forth in the CSL, the Department still did quite an intensive review of all of those materials. We were never able to come up with any evidence of misstatements or improprieties. The Leventhal report gives us the reasons why.

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In order for Leventhal to become knowledgeable enough to critique the accounting treatment given to various transactions, the following had to occur. First, the Federal Home Loan Bank Board had to take over Lincoln (i.e., the former management of Lincoln had to be removed so that it could not hinder the review or obfuscate issues identified by the reviewing agency). Second, with new management in control of Lincoln, Leventhal needed three to four months to review all of the documentation and paperwork involved in the transactions it was reviewing. In this context, it is easy to understand why some of the audits of federal regulatory authorities and the Department of Savings and Loan may have extended over not only months but years. Third, Leventhal had to restrict its review to only 15 real estate transactions. This restriction also supports the proposition that a thorough review of the Lincoln files by any regulator would require more than months and perhaps years.

Our review of ACC's debenture offerings was complicated even further. First, because we had jurisdiction only over ACC and only with regard to the securities offerings, we were not in a position to do our own audit of ACC, Lincoln and their accounting practices. Although I believe we would have been able to rely on the results of an audit conducted by the Department of Savings and Loan or the Federal Home Loan Bank Board, the discussion above clearly illustrates the impossible problems that they faced in trying to conduct such an audit. The net result is that ACC was able to use different accounting principles and practices, its corporate structure as a holding company, and its hostile relationship with savings and loan regulators as a means to shield itself from effective review by the Department of Corporations.

As I stated above, the Department made quite an extensive review of the ACC filings. We began raising issues such as ACC's earnings with ACC and its counsel even before ACC became the subject of press articles in 1988. We began to pay even greater attention to ACC in March of 1988, when Bill Crawford first raised concerns about Lincoln to you and to me. In fact, we responded immediately when Bill Crawford raised those concerns.

I believe that Bill raised his concerns about Lincoln to you and to me on a Thursday. The next day, on Friday, I relayed those concerns to Jerry Baker, the Assistant Commissioner in charge of the Securities Regulation Division, and asked that he have his staff review the ACC file. This review occurred immediately and was completed within a week, as discussed below. I also passed along to Jerry concerns that Bill Crawford had expressed about possible confusion involved in the offering of the debentures

(i.e., that Lincoln depositors might believe that they were putting their money in a certificate of deposit insured by the Federal Savings and Loan Insurance Corporation ("FSLIC") rather than in an uninsured debenture). Jerry relayed this concern to our Enforcement Division. On the following Monday, only the second business day after Bill Crawford had raised his concerns to me, we sent one of our investigators to a Lincoln branch to inquire about the debenture offering on an undercover basis. That investigation indicated that the debentures were being offered only as obligations of ACC, that the absence of FSLIC insurance was set forth on the cover page of the prospectus, and that there was no advertising in use indicating anything to the contrary.

As stated above, within one week of the date when Bill Crawford first raised his concerns about Lincoln to me, we completed a review of the ACC file. Although we did not have any substantive basis for revoking the permit pursuant which the debentures were being sold, we did find a technical error in the application (the error was based on the fact that we had approved a post-effective amendment which was filed after the time when the original permit had lapsed). We decided that we did not have the authority to extend the previous permit and immediately called ACC to inform them of that fact.

ACC immediately filed a new application with the Department. We processed that application on a priority basis because we believed that both ACC and the Department had made an error in applying for and extending an expired permit and the Department did not want to penalize ACC to the extent we had made a technical error. The priority review, however, was an in-depth review.

The Department granted a new permit on the basis of this filing but with a significant restriction. The permit was valid only for 60 days, not the one-year period which typically applies. As a result, ACC had to file yet another application which, although granted two months later for a period of one year, continued the Department's review process.

The Department's review of ACC's filings was continuous and in-depth. We reviewed all relevant materials before granting any permits and continued to review our actions in granting the last two permits even after we granted them. We solicited information not only from ACC and its advisers but also from the Department of Savings and Loan, the Securities and Exchange Commission in both Washington, D.C. and San Francisco, the Federal Home Loan Bank Board in Washington, D.C., the Federal Home Loan Bank in San Francisco, and the U.S. Attorney's Office in Los Angeles.

We expended, I believe, hundred of hours of staff time and the review process included, at various times, the Assistant Commissioner in charge of the Securities Regulation Division, the Chief Deputy Commissioner and the Commissioner of Corporations. Such high level review occurs only when special problems occur and indicates the level of concern about the offering within the Department. However, we never had a basis upon which we could deny the applications (the Commissioner would have to be able to prove that the offering was not fair, just and equitable), and no one in the Department ever concluded that we had any such basis for denial. The Leventhal report indicates why we did not have the information necessary and also why no other regulator had that information.

WS:jy

cc: Christine W. Bender, Commissioner
Jerry Baker, Assistant Commissioner,
Securities Regulation Division
G. W. McDonald, Assistant Commissioner,
Enforcement Division

EXHIBIT 4

Filed MAY 24, 1988 with the Delaware Corporations

AGREEMENT

This Agreement is made and effective this 20th day of May 1988 by and among Lincoln Savings and Loan Association, Irvine, California and its subsidiaries ("Lincoln") and the Federal Savings and Loan Insurance Corporation ("FSLIC") and the Federal Home Loan Bank Board ("FHLBB") acting through their designated agent ("Agent") the Executive Director of the Office of Regulatory Policy, Oversight and Supervision ("ORPOS").

WHEREAS, the Federal Home Loan Bank of San Francisco ("FHLBank-SF") conducted an examination of Lincoln in 1986 and 1987 which resulted in a report of examination dated April 20, 1987 ("1986 Examination");

WHEREAS, Lincoln believes that the 1986 Examination does not present a fair portrayal of the association's financial condition or operations as set out in Lincoln's written response to the 1986 Examination, but in the spirit of regulatory compliance and cooperation, Lincoln enters into this Agreement to resolve all of the issues raised by the 1986 Examination and the negotiations concerning it between Lincoln and ORPOS leading to this Agreement (except for the issues involving Lincoln's equity risk investments which are addressed in paragraphs 8 and 9 of this Agreement); and

WHEREAS, FSLIC and the FHLBB have agreed not to institute any administrative or enforcement proceedings against Lincoln as provided in paragraph 2 of a Memorandum of Understanding among the parties of even date (the "Memorandum") in return for Lincoln's consent to this Agreement;

NOW, THEREFORE, it is agreed among the parties as follows:

Regulatory Capital

1. Lincoln will comply with 12 C.F.R. §563.13, unless the Agent grants a waiver pursuant to an application.

2. By October 1, 1988, Lincoln will sell for cash to American Continental Corporation, its parent, $10 million of preferred stock that qualifies as a contribution to its regulatory capital.

3. By June 30, 1989, Lincoln will make reasonable and diligent efforts to sell a mininum of $50 million and a maximum of $150 million in securities that qualify as contributions to its regulatory capital. The FHLBB agrees to process Lincoln's application for approval of the securities expeditiously.

Adjustments to Regulatory Capital

4. Of existing reserves recorded at December 31, 1987, Lincoln has designated as specific for regulatory purposes $18,269,000 related to assets questioned in the 1986 Examination and Lincoln agrees to notify the Agent or its Principal Supervisory Agent ("PSA"), whichever is applicable, of any changes in such reserves and the reasons therefore.

Underwriting and Operating Procedures

5. (a) Lincoln will submit manuals describing its underwriting and operating procedures to the Agent within 60 days after execution of this Agreement. Lincoln will take into account any advice or recommendations offered by ORPOS about the contents of such manuals. Such manuals will address, among other things, the following:

i) appropriate underwriting principles, procedures and internal controls for real estate investments, equity, debt, government and mortgage-backed securities, and loans, included but not limited to obtaining adequate documentation on loans

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secured by real estate pursuant to 12 C.F.R. §563.17-1(c)(1);

ii) establishing appropriate lending limits for each geographic or economic area, borrower, and selected projects; and

iii) policies concerning transactions with affiliated persons, and procedures implementing those policies, to assure compliance with 12 C.F.R. §§563.41 and 563.43.

(b) Lincoln will provide the Agent, or the PSA, as appropriate, with at least two weeks written notice of any intended material modifications to or deviations from the manuals; such notice shall contain sufficient details so as to advise the Agent or the PSA of Lincoln's intended change and reason for such change; Lincoln shall take into account any advice or recommendations offered before implementing any such changes.

(c) Subject to modifications or deviations undertaken in accordance with the preceding paragraph, Lincoln shall comply with the provisions of its manuals.

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Business Plan

6. (a) Lincoln will prepare a business plan and submit it to the Agent within 60 days after execution of this Agreement. Lincoln will take into account any advice or recommendations offered by ORPOS about the business plan. This business plan will outline Lincoln's operations for the remainder of 1988 and calendar year 1989 and shall contain Lincoln's operational goals and objectives, as well as the assumptions and projections upon which such goals and objectives are based. The business plan also will outline:

-- Lincoln's evaluation of the likely economic environment and the opportunities for profitable investment within the environment;
-- Lincoln's proposed lending and investment goals and activities within the relevant period, and will provide approximate distribution percentages for its securities, real estate and lending investments;
-- Lincoln's anticipated deposit-gathering activities over the relevant period, including any contemplated expansion of its branch system, new products it may offer,

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or changes in the rates of interest it pays on customer's deposits;

-- Lincoln's strategies for managing its asset and liability portfolio, its service corporations, and its data processing facilities;

-- Lincoln's plans for growth or reduction of its liabilities and compliance with the regulatory liability growth restrictions;

-- Lincoln's anticipated asset growth in relation to capital and growth of capital;

-- Lincoln's plans to reduce aggregate investments in real estate;

-- Lincoln's long-range considerations about attracting outside directors to its Board; and

-- Lincoln's plans and proposals for compliance with its obligations under the Community Reinvestment Act of 1977.

(b) Lincoln will provide the Agent or the PSA, as appropriate, with at least two weeks' written notice of any intended material modifications to or deviations from the plan; such notice shall contain sufficient detail so as to advise the Agent or PSA of Lincoln's intended change and

reason for such change; Lincoln shall take into account any advice or recommendations offered before implementing any such change to its business plan.

(c) Subject to any modification or deviations undertaken in accordance with the preceding paragraph, Lincoln will comply with the provisions of its business plan.

Interim Period Agreements

7. Until the earlier of the completion of the new examination and resolution of any issues raised thereby or seven (7) months from the execution of this Agreement (the "Interim Period"), Lincoln will comply with 12 C.F.R. §563.13-1, and will not apply for approval of a written growth plan pursuant to 12 C.F.R. §563.13-1(c). However, Lincoln may submit applications during the Interim Period to the Agent for approval of the acquisition of another savings and loan association or the opening or acquisition of additional branch offices.

8. (a) During the Interim Period, Lincoln will not increase the dollar amount of its aggregate

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equity risk investments as of the date of execution of this Agreement, except that the increase in investment in real estate permitted in subparagraph (b) shall not be counted in such limitation. The definition of aggregate equity risk investments and the procedure for determining compliance with the limitation specified above shall be as set forth in 12 C.F.R. §563.9-8. Ten percent of the amount of Lincoln's equity risk investments in excess of $550 million will be added to Lincoln's contingency factor in making the calculation of its regulatory capital requirement pursuant to 12 C.F.R. §563.13. The increase in Lincoln's contingency factor resulting from compliance with this paragraph shall be in lieu of any incremental increase in Lincoln's capital requirement which might otherwise have been necessitated by Lincoln's aggregate equity risk investments.

(b) Lincoln will not increase the dollar amount of its investment in real estate, as defined in 12 C.F.R. §563.9-8(b)(6), as of the date of execution of this Agreement except for appropriate capitalization of costs and incurring expenses which are reasonable and necessary to

develop, improve and/or market existing real estate projects.

9. Paragraph 8 shall not prejudice the positions of the FHLBB and Lincoln as to whether 12 C.F.R. §563.9-8 is valid and whether certain of Lincoln's existing aggregate equity investments are "grandfathered" under either §563.9-8 or §563.13. Nevertheless, during the Interim Period, Lincoln will file an application for a waiver to allow it to maintain aggregate equity risk investments in an amount up to one third of its total consolidated GAAP assets, and the FHLBB will act on such application in conjunction with the resolution of the new examination provided for in paragraph 1 of the Memorandum.

10. During the Interim Period, Lincoln will not pay any dividends unless it notifies the Agent at least two weeks prior to the proposed payment and the Agent does not object.

11. Lincoln agrees to fully cooperate with and facilitate

the new examination and to comply with the provisions of paragraph 4 of the Memorandum.

Enforcement of Agreement

12. This Agreement has been arrived at through voluntary negotiations and accommodations between the parties. The enforcement of this Agreement will be undertaken by the FSLIC and the FHLBB only for material violations and only pursuant to the provisions of 12 U.S.C. §1730(e).

Federal Savings and Loan Insurance Corporation and Federal Home Loan Bank Board

By s/Darrel W. Dochow
Darrel Dochow
Executive Director
Office of Regulatory Policy, Oversight and Supervision

Lincoln Savings and Loan Association

By s/James J. Grogan
James J. Grogan
Vice President

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EXHIBIT 5

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is made and effective this 20th day of May 1988 by and among Lincoln Savings and Loan Association, Irvine, California and its subsidiaries ("Lincoln") and the Federal Savings and Loan Insurance Corporation ("FSLIC") and the Federal Home Loan Bank Board ("FHLBB") acting through their designated agent, the Executive Director of the Office of Regulatory Policy, Oversight and Supervision ("ORPOS").

WHEREAS, the Federal Home Loan Bank of San Francisco ("FHLB-S.F.") conducted an examination of Lincoln in 1986 and 1987 which resulted in a report of examination dated April 20, 1987 ("1986 Examination");

WHEREAS, Lincoln believes that the 1986 Examination does not present a fair portrayal of the association's financial condition or operations as set out in Lincoln's written response to the 1986 Examination;

WHEREAS, Lincoln has indicated its desire to acquire a savings and loan association in another FHLB Bank District and move its headquarters to that District; and

WHEREAS, FSLIC, the FHLBB, and Lincoln are desirous of amicably resolving all the issues outstanding as a result of the

1986 Examination and the negotiations concerning it between Lincoln and ORPOS leading to this Memorandum of Understanding (except for the issues involving Lincoln's equity risk investments which are addressed in paragraphs 8 and 9 of a separate Agreement between the parties of even date);

NOW THEREFORE, the following understandings have been reached among the parties:

1. FSLIC agrees to initiate and complete a new examination of Lincoln and submit a report of examination to Lincoln within seven (7) months from the execution of this Memorandum of Understanding, under the direction of ORPOS (the "new examination"). This examination will be performed by an examination team with no examiners from the FHLBank-S.F. It will be a regular, periodic FHLBB examination conducted in the ordinary course. It is the intention of the parties that the new examination will not rehash the findings in, or transactions, procedures or events covered by, the 1986 Examination and the negotiations concerning it between Lincoln and ORPOS leading to this Memorandum of Understanding; but rather will focus on the current situation at Lincoln and changes since the 1986 Examination. Lincoln agrees to fully cooperate with and facilitate the new examination.

2. In consideration for Lincoln's agreements set out in this Memorandum of Understanding, FSLIC and the FHLBB agree not to initiate any administrative or enforcement proceedings against Lincoln or its parents, affiliates, officers, directors, employees or agents relating to any findings in, or transactions, procedures or events covered by, the 1986 Examination and the negotiations concerning it between Lincoln and ORPOS leading to this Memorandum of Understanding. Lincoln agrees not to initiate any litigation against the FSLIC, the FHLBB or their members, employees or agents for actions taken through the date of this Memorandum of Understanding within the scope of their employment or official capacity.

3. FSLIC, the FHLBB and Lincoln agree to resolve all the issues described in or raised by the 1986 Examination and the negotiations concerning it between Lincoln and ORPOS leading to this Memorandum of Understanding (except for the issues involving Lincoln's equity risk investments which are addressed in paragraphs 8 and 9 of a separate Agreement between the parties of even date) by executing that Agreement to, inter alia, increase Lincoln's capital, decrease the risk profile of Lincoln's assets, and enhance its underwriting procedures.

4. In the spirit of regulatory cooperation during the new examination and in an effort to provide the FSLIC a better

understanding of Lincoln's current operations, ORPOS agrees to designate a senior examiner who will remain at Lincoln during the examination to facilitate such cooperation and understanding. Lincoln agrees to notify the Executive Director of ORPOS or his designee of any highly material and controversial contemplated transaction or event, prior to its consummation. Such notification shall be in writing unless the matter involves confidential or inside information. The failure to object to such transaction or event shall not under any circumstances be construed as approval of it by the FSLIC or the FHLBB. Lincoln also agrees to inform the designated senior examiner of any other significantly material transaction either before or within five business days after its consummation.

5. The parties will make every effort in good faith to promptly resolve any issues raised in the new examination, and will work together to discuss such issues at the earliest practicable time and develop procedures to resolve them reasonably and expeditiously. When the new examination is resolved, Lincoln will submit an application to the FHLBB to move its headquarters to a district in which it proposes to acquire a savings and loan association. Based on the nature of the new examination findings and Lincoln's resolution of any material issues arising from the new examination in a manner and in a form satisfactory to ORPOS, the FHLBB and the

FSLIC agree that Lincoln will be allowed to transfer its headquarters upon having made an appropriate application and having met normal requirements related to such a transfer. The FSLIC and FHLBB agree to act expeditiously on such an application. Upon such approval, all supervisory and examination authority over Lincoln will be transferred to the FHLBank for the new district.

6. From the date of the execution of this Memorandum of Understanding ORPOS will have exclusive supervisory and examination authority over Lincoln and will act as Lincoln's principal supervisory agent. ORPOS will continue in this capacity at least for a reasonable time after the new examination is completed so that any issues raised by the examination can be resolved and Lincoln's application to be transferred to a new district can be acted upon.

Federal Savings and Loan Insurance Corporation and Federal Home Loan Bank Board

By s/Darrel W. Dochow
Darrel Dochow
Executive Director,
Office of Regulatory Policy, Oversight and Supervision

Lincoln Savings and Loan Association

By s/James J. Grogan
James J. Grogan
Vice President

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EXHIBIT 6

MEMORANDUM

TO FILE: LINCOLN SAVINGS AND LOAN ASSOCIATION

RE: DSL MEETING WITH DEPT. OF CORPS. STAFF
May 18, 1988

FROM: ROBERT MORRIS

On May 18, 1988, several representatives of this Department (WJC, WDD, ACS, CM, WS, TM, RM) met with tne following individuals from the Corporations Commissioner's Office regarding the current application of American Continental Corporation to increase its issuance of subordinated debentures (to be offered for sale in offices of Lincoln Savings):

Wayne Simon ----Chief Deputy Commissioner
Jerry L. Baker--Assistant Commissioner
Morton Riff-----Supervising Counsel
Robt.Rifkin-----Senior Counsel
Ken Endo--------Senior Examiner

We presented evidence of ACC'S increasing reliance on borrowed money in its operations. Attached to this memorandum is a work paper schedule showing the increasing proportion of borrowings from 12/31/83 through 12/31/87. We also discussed the restraints on cash dividends from Lincoln to ACC under the new CEBA law, and the questions we have on the adequacy of existing valuation allowances on Lincoln's books, the impropriety of taking a significant "equity kicker" from a loan into income in 1987, and the concerns we have on the sizable capitalized interest and on the large remaining goodwill balance. Our staff has expressed serious doubts about the ability of ACC to service the debts being created and to pay them off at maturity. We are very concerned about the practice of selling the securities at Lincoln's offices and the chance of buyers having the misleading impression that they are investing in insured savings. We have drafted a letter advising Lincoln that the permission we had previously given to lease of Association premises to ACC for use in sales of the debentures was only effective for the shelf issue of $200 million, which is now nearly all sold.

Corporations personnel questioned us extensively on our impressions of ACC and Lincoln and were interested in objective evidence which they may use in a hearing in case they were to

turn down ACC's request. I don't know whether we were able to offer enough objective evidence to serve their purpose. They wanted to know specifically when we would be requiring any valuation allowances based on our recent appraisals, and the timing on any other accounting adjustments we might require. They inquired about the value of Lincoln stock in case it had to be liquidated in order to pay off the debentures.

It was interesting to note that one of the Corporations Commissioner's representatives opined that the whole affair looks like a "Ponzi Scheme" (borrowing from the current debenture buyers to pay off the earlier buyers).

cc WJC,WDD,ACS,CM,WS,TM REF LIBADMIN 124

American Continental Corporation and Subsidiaries

Comparison of Economic Capital Structure - (Creditors vs Stockholders' Interest)

1987 & 1983 (In millions of Dollars)

	12/31/87				12/31/86				12/31/85				12/31/84				12/31/83			
	With Goodwill		W/o Goodwill		With Goodwill		W/o Goodwill		With Goodwill		W/o Goodwill		With Goodwill		W/o Goodwill		With Goodwill		W/o Goodwill	
	Amt	%	Amt	%	Amt	%	Amt	%	Amt	%	Amt	%	Amt	%	Amt	%	Amt	%	Amt	%
Savings (FSLIC)	$3,525	66.2%	$3,525	67.62%	$3,821	61.7%	$3,821	63.3%	$2,409	58.5%	$2,409	64.4%	$1,680	51.9%	$1,680	53.9%	—	—	—	—
Short-term Debt Holders	365	7.2%	365	7.3%	764	16.2%	764	17.7%	107	2.6%	107	2.7%	333	10.3%	333	10.7%	38	4.5%	38	4.5
Long-term Debt Holders	815	16.0%	815	16.4%	1,442	23.2%	1,442	27.2%	1,363	33.1%	1,363	34.0%	1,010	31.2%	1,010	33.4%	619	73.3%	619	73.7
Trade Payable & other Liab.	310	6.1%	310	6.2%	306	6.7%	306	6.9%	117	2.8%	117	2.9%	82	2.5%	82	2.6%	63	7.5%	63	7.5
Minority Int. in Subs	93	1.8%	93	1.9%	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—	—
Subtotal	$4,958	97.3%	$4,958	99.4%	$4,463	97.2%	$4,463	99.6%	$3,993	97.0%	$3,993	99.7%	$3,105	95.9%	$3,105	99.6%	720	85.5%	720	85.8
Preferred Stockholders	55	1.1%	31*	0.6%	49	0.9%	19*	0.4%	40	1.0%	13*	0.3%	56	1.7%	14*	0.4%	56	6.6%	56	6.6
Common Stockholders	82	1.6%	—	—	88	1.9%	—	—	82	2.0%	—	—	77	2.4%	—	—	68	8.1%	68	7.6
	$5,095	100%	$4,989	100%	$4,511	100%	$4,482	100%	$4,115	100%	$4,006	100%	$3,238	100%	$3,119	100%	844	100%	844	100%
*Residual																				
Memo: Goodwill	$106		$106		$109		$109		$109		$109		$119		$119		$4		$4	

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EXHIBIT 7

STATE OF CALIFORNIA
DEPARTMENT OF SAVINGS AND LOAN
300 S. COMMONWEALTH AVENUE, LOS ANGELES, CA 90005-4065—(213) 736-2799
SUITE 3041, 1 SANSOME STREET, SAN FRANCISCO, CA 94104—(415) 557-3666

GEORGE DEUKMEJIAN, Governor

Los Angeles
June 10, 1988

Lincoln Savings and Loan Association
P.O. Box 29099
Phoenix, AZ 85038-9099

Attn: David I. Thompson, Corporate Counsel

Re: Renewal of Sublease to Facilitate the Sale of New Subordinated Debentures of American Continental Corporation (ACC) in Association Branch Offices

We have your letter of May 26, 1988, requesting approval, pursuant to Section 6503(b) of the Savings Association Law, to renew the above-referenced sublease arrangement. For sake of reference, our letter dated May 19, 1988, directs the Association upon completion of the sale of ACC's initial issuance to "...terminate the lease and occupancy of its premises by ACC in connection with the public sale of any new (emphasis added) issuances of its subordinated debentures."

Based upon our review of your current request and other financial data available to this Department, we hereby deny your application for the principal reason that ACC has failed to demonstrate its capacity and ability to service and redeem the proposed new issuance, except possibly by refinancing.

Robert Morris
ROBERT MORRIS
Assistant Savings and Loan Commissioner

RM:hs

cc: Darrel W. Dochow, Executive Director, ORPOS
Federal Home Loan Bank Board

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EXHIBIT 8

STATE OF CALIFORNIA — GEORGE DEUKMEJIAN, Governor

PARTMENT OF SAVINGS AND LOAN
S. COMMONWEALTH AVENUE, LOS ANGELES, CA 90005 (213) 736-2798
SUTTER STREET, SAN FRANCISCO, CA 94104 (415) 557-3666

Los Angeles
June 20, 1988

American Continental Corporation
P.O. Box 29099
Phoenix, Arizona 85038-9099

Lincoln Savings and Loan Association
P.O. Box 29099
Phoenix, Arizona 85038-9099

Attn: David I. Thompson, Corporate Counsel

Re: Renewal of Sublease to Facilitate the Sale of New Subordinated Debentures of American Continental Corporation (ACC) in Association Branch Offices

This is to acknowledge receipt of your letter of June 16, 1988, and our receipt and review of the information you presented at our meeting of June 14, 1988. Our decision denying permission for sublease of Lincoln offices for purpose of selling the ACC debentures remains in full force and effect.

As we indicated in our June 10 letter and orally conveyed to you in our June 14 meeting, our concern about ACC's ability to service and redeem the proposed new issuance is but one factor in our decision to deny your application. We agree that the Department of Corporations has jurisdiction over securities matters of ACC. However, this Department has responsibility for the operations of Lincoln Savings and Loan Association and the activities conducted in its offices.

Whether the debentures can and will be adequately serviced and repaid at maturity is, of course, not known at this time. However, in our opinion, the debentures represent high risk to the investor. It is clear to us from our experience during the period of sales of the first $200 million issuance that some investors believe the debentures are the obligations of Lincoln Savings. The very fact that the securities are offered on the premises of Lincoln tends to create the impression that Lincoln, a federally-insured institution, is associated with the securities and stands behind them. No amount of advertising and oral advice will remove this impression for

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some, and this matter is of concern to this Department. We, therefore, affirm our denial of your application. Sales of the debentures on the premises of Lincoln are to be discontinued as of completion of the original $200 million issuance or August 1, 1988, whichever is earlier.

Very truly yours,

William D. Davis
Chief Deputy Savings and Loan Commissioner

WDD:lfm

cc: Darrel W. Dochow, Executive Director, ORPOS
Federal Home Loan Bank Board

EXHIBIT 9

STATEMENT OF RICHARD E. NEWSOM
SAVINGS AND LOAN SENIOR EXAMINER
STATE OF CALIFORNIA
BEFORE THE U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

WASHINGTON, D.C. - OCTOBER 31, 1989

My name is Richard E. Newsom, Savings and Loan Senior Examiner for the State of California. I was appointed Examiner In Charge of American Continental Corporation (ACC) Group in September, 1988. This testimony and supporting exhibits are provided to the Committee pursuant to the subpoena dated October 26, 1989, which was issued on matters related to the American Continental Corporation (ACC) Group and Lincoln Saving and Loan Association (Lincoln).

I wish to thank the Committee for taking time to hear my testimony relative to experiences that occurred during the examination of Lincoln Savings and Loan and its parent company, American Continental Corporation (ACC) during the fall of 1988 and relative to other matters requested in your letter. I hope the Committee will forgive the brevity of this written testimony as I did not anticipate being called as a witness until a week ago. Nevertheless, I have attempted to prepare testimony and supporting exhibits which I submit to you.

I wish to thank you Mr. Chairman and each member of this committee for your courage, independence and desire to learn what happened at Lincoln.

I particularly wish to thank Commissioner Crawford of the California Department of Savings and Loan and Chief Deputy Commissioner William Davis for their leadership, support, and unswerving commitment to protection of the public.

In September, 1988, I was assigned to the Lincoln/ACC examination as the Examiner in Charge for the examination of American Continental Corporation initially in Irvine, California, and then in Phoenix. The assignment was, I believe, based on my general specialization in matters involving asset quality evaluation and conflicts of interest and almost 20 years banking and regulatory experience. For reasons I will describe later I became heavily involved in certain areas related to the examination of Lincoln. Because of the situation I observed at Lincoln, I made it a practice to attempt to commit important matters to writing and leave a record of what we knew, when we knew it, and who else knew it. My intention was to leave an audit trail and to accordingly encourage others to take appropriate actions. These exhibits are arranged in chronological order.

The question of whitewash has come up and I will attempt to let the exhibits speak for themselves as much as possible. I believe records of what we knew then and what we did with it are more valuable than testimony created after the fact.

You have asked for testimony regarding our contacts with Department of Justice. You will note that chronologically at the end of this short statement, there is a referral and attached documentation directed to the F.B.I. relating to noted political figures including the name of a member of this committee. We ask the committee, the press, and the public not to consider this an accusation of any criminal or even inappropriate activity. Information passed through our hands that was so sensitive but so unusual that I and other CDSL personnel felt it was imperative to pass it on uncensored to the appropriate law enforcement agencies to insure that in the future we could not be perceived as passively participating in a cover up.

Soon after my arrival at Lincoln in September 1988, I personally reviewed a loan file for the $20,000,000 unsecured loan involving the Hotel Ponchartrain. Because the loan was probably a loss, obviously unsafe and unsound, and involved flagrant conflict of interest contrary to Federal Regulation, I advised Mr. Stelzer, the State EIC of Lincoln, that the whole file should be copied and indexed for possible use in a future enforcement action. The following week I was in Phoenix and completed the analysis of this loan. Shortly after I arrived, Steve Scott, the federal Examiner in Charge of the Lincoln examination, advised me that his estimation of the total loan loss classifications for all of Lincoln's loans aggregated less than $10 million at that time. I responded to the effect, "what about the Hotel Ponchartrain? It's a $20 million loss in itself." Mr. Scott answered that he considered it only doubtful (which would require no specific loss reserve).

I was astonished and began to have serious concerns about the quality, objectivity or validity of the ORA loan examination.

I prepared a letter dated September 28, 1988, to the presidents of both Lincoln and ACC, with a copy to Mr. Scott, asking for Lincoln/ACC's position as to why the loan should not be considered a total loss. (See Exhibit 1). I received an inadequate response from ACC/Lincoln, and immediately prepared another letter to the same individuals relating to more serious issues. This second letter was delivered on October 8, 1988, with a copy delivered to Mr. Scott.

The October 8, 1989, letter (see Exhibit 2) regarding the Hotel Ponchartrain transaction addressed the "willful violation" of Federal conflict of interest regulations, the "breach of fiduciary duty by affiliated parties, association officers and directors", the "willful diversion of assets benefiting affiliated parties", the "material omission in related party disclosures" in 10-Ks and offering circular, and the preferential terms afforded related parties. The letter also notes that "in terms of plausible sources of repayment, the association appears to have already lost its $20,000,000 unsecured loan."

I provided a copy of both Exhibits #1 and #2 to the federal holding company examiners on site. I had become aware of the curtailment of tax sharing payments to ACC by Lincoln at the direction of ORA. I was extremely concerned about potential securities law violations and the propriety of ORA permitting uninsured subordinated debt securities to be sold directly to the public under FHLBB approval after it knew the primary source of cash to ACC was cut off and also that publi disclosures that had been passed through FHLBB were known to be inaccurate and misleading.

I raised my concerns about the disclosure problems with Alex Barabalak (FHLBB EIC of ACC). A telephone call was arranged on or about October 13, 1988, between Mr. Barabalak, Mr. Scott, Kevin O'Connell (ORA), myself and a federal securities attorney. Elements of that conversation are included in my interim report of examination dated October 14, 1988, (Exhibit 3) which was transmitted to our LA office, Mr. Stelzer our EIC at Lincoln, and to the federal holding company examiners in Phoenix. California concerns over ORA's permitting continued sub-debt sales was specifically discussed. There appeared to be a reluctance on the part of ORA to refer the matter to the SEC, which I suggested.

This interim report described a "bleak scenario", possibly "a liquidity crisis at the Holding Company as early as December 1988", and noted that "with tax sharing payments suspended by the FHLBB...and knowing what we know about inadequate, inaccurate and misleading information in 10-Ks, S-2 Registration Statements and proxy material as presented to ACC and Lincoln management in our October 6th letter we have to insure that this matter gets a coordinated speedy effort to avoid even the appearance that regulatory agencies permitted additional investors to get sucked in to probable or certain losses."

Concurrent with receiving Lincoln/ACC's response to the October 6, 1988 letter, I discussed with Mr. Robert Kielty, counsel at ACC, my concerns about material omissions in related party disclosures relative to the Ponchartrain Transaction. I followed up with a more comprehensive letter dated October 18, 1988 to Mr. Kielty (Exhibit 4) which addressed in detail the errors and omissions and concluded: "There appear to be material errors and omissions in past disclosures relevant to an investors perception over both financial matters and exercise of fiduciary responsibility by corporate insiders."

At approximately this time (mid-October) Commissioner Crawford authorized CDSL personnel to contact the Securities and Exchange Commission and to advise them of our concerns. Mr. Stelzer, Tommy Mar, and I telephonically contacted Barbara Gunn, an attorney at the SEC relative to Ponchartrain disclosure problems and other issues relative to treasury stock purchases.

On October 17, 1988, FHLBB and ORA officials (Steve Scott-FHLBB, Alvin Smuzynski-ORA, and Kevin O'Connell-ORA) presented their Lincoln status report and admitted to CDSL officials (including myself) at a meeting at our Los Angeles Office that their Findings at Lincoln Savings indicated serious supervisory concerns. One ORA official at the meeting stated that supervision of Lincoln would likely have to be transferred back to the 11th District. We also discussed information we had learned that Lincoln had suggested the possibility of converting to a federal charter. However, one of the ORA people indicated that such a conversion would not be permitted.

Around this same time, Charles Keating visited the examiners' area and challenged the authority of the federal holding company examiners to examine the holding company because he claimed that such an examination was not permitted by the Memorandum of Understanding. He asked why examiners were even looking at the non-S&L aspects of the holding company. My response to him was something to the effect that one of our concerns was that proceeds of the ACC sub-debt sales to the public were being used to purchase treasury stock in order to support ACC's stock price.

After the October 17, 1988, meeting I reviewed a major concentration of credit to RA Homes Inc. which also had a small loan at ACC. I obtained the tentative loan write-up from federal examiners which included the classification of a $30,000,000 unsecured line of credit as substandard. It quickly became apparent to me as evidenced in the attached Exhibit 5 that the asset was a loss. It was my opinion that the federal examiners' loan write-up was inadequate and superficial and did not reference current financial statements of the borrower showing continued deterioration. I telephoned Steve Scott in Seattle, discussed my concerns and followed up with a memo dated October 21, 1989. Included with my memo to Mr. Scott was a letter to Mr. Atchison, Executive VP at ACC, asking for an explanation as to why the transaction was not a loss. The memo to Mr. Scott indicates also that the "Transaction"..."already gives the phrase unsafe and unsound a new dimension" and recommends that Mr. Scott "re review the transaction." While I believe the narrative in the final federal report was slightly beefed up, the loan remained classified only substandard.

Finding a total of $50,000,000 in unsecured loans that appeared to be obvious losses in less than a month on the job, but learning that they were classified only doubtful or substandard by federal examiners, was intriguing to me, particularly since I had looked at only those two loans. Substandard and doubtful classification indicate serious problems and probable losses but do not require the establishment of specific loss reserves. The federal classification of the Ponchartrain was subsequently changed to loss.

I decided with the approval of Mr. Stelzer to largely ignore the holding company examination which was being conducted expertly by other competent and aggressive examiners (state and federal) and concentrated on identifying major loan losses and unsafe and unsound concentrations of credit that had been classified far too leniently by federal examiners or not classified at all. Mr. Stelzer sent me preliminary findings on individual loans to Southmark Corporation that had been prepared by our examiners in Irvine. Southmark was known to be having problems based on disclosures in its own 10-Q's and a recent federal examination. What I found was that new loans supported by poor collateral were being made by Lincoln even after Southmark disclosed cash flow problems and other serious problems in its 10-Q.

Loan and junk bond exposure to Southmark aggregated almost $129,000,000 and my analysis continued the work of our Irvine examiners. This is an incredible concentration of risk in one entity and substantially exceeded ACC's net worth. These loans were in my opinion all problem assets, unsafe and unsound, and apparently exceeded the federal loan to one borrower limits by over $40,000,000. This analysis was provided to Lincoln on November 1, 1988, with a cover memo to Lincoln requesting a response. I forwarded my memo and analysis to Kevin O'Connell in Washington on the same day. These are all included in Exhibit 6.

My memo to O'Connell described the fact that the Southmark loans were not classified at all in the preliminary federal loan comments. I stated that "I am a new comer on this job however it appears to me that this institution's lending practices go beyond unsafe and unsound and that there appear to be major differences between tentative asset quality findings by state and federal examiners warranting discussion between the agencies." Southmark subsequently filed a Chapter XI bankruptcy proceeding. This memo also addressed the difference in classification on RA Homes which CDSL considered a $30,000,000 loss and which the FHLBB considered only substandard.

On or about November 4, 1988 I received a letter from Kaye, Scholer, Fierman, Hays, and Handler (Exhibit 7) responding to my letter to Mr Kielty regarding disclosure problems. We provided this response to FHLBB staff. The Kaye, Scholer response was inadequate in my opinion.

On November 10, 1988, CDSL personnel including myself, met with Department of Corporations personnel in LA in our offices. We raised our disclosure concerns regarding Ponchartrain and asked for assistance in stopping, if possible, the sub-debt sales. Copies of the Ponchartrain letters (Exhibits 1,2, and 4) were provided to them. Corporations personnel present were Morton Riff, Robert Rifken, and Ken Endo. Mr. Crawford, Mr. Davis, Mr. Mar, Mr. Stelzer, myself, and I believe other CDSL personnel attended this meeting.

At the November (I believe November 7, 1989) federal exit meeting with Lincoln personnel which I and numerous other CDSL personnel attended, Mr. Scott presented his preliminary findings to which I believe ACC/Lincoln personnel generally objected indicating that the findings had not been appropriately discussed or responses elicited from ACC/Lincoln. Mr. Barabalak of the FHLBB gave a brief status report on the status of the ACC holding company examination which I believe he described as slow due to non-cooperation by ACC employees. Mr. Keating responded to the effect that the holding company examiners were adversarial and antagonistic and that the examination had been going smoothly until they arrived. Mr. Barabalak responded to the effect that Mr. Tim Kruckenberg, the contact officer designated by Mr. Keating was being unresponsive to requests from examiners, and in one instance, at least, had essentially misled examiners. (Kruckenberg was present). Mr. Keating requested at that meeting that the FHLBB holding company examiners report to Mr. Scott, who Keating claimed was more reasonable. At the same meeting Mr. Keating advised the assembled state and federal regulators that if FSLIC took Lincoln it would cost FSLIC $2 billion.

The following day (approximately November 8, 1989) Mr. Stelzer advised me that Commissioner Crawford had directed that a cease and desist order be prepared and that I was delegated the task of doing it. I advised the FHLBB holding company examiners of my new assignment, and that I would be leaving the job. I advised them also that I felt the order would put pressure on ORA to do something.

I delivered the first draft of the cease and desist order to Commissioner Crawford's office on or about November 11, 1989. The Commissioner wanted it to be issued immediately and we discussed the strategy and logistics of preparing it, supporting it with documentation, and organizing a litigation package in anticipation of a challenge. We used the Ponchartrain, RA Homes, and Southmark loans and concentrations of credit as evidence of unsafe and unsound lending, violations of laws and regulations relative to prudent lending, conflicts of interest, and material omissions in public disclosures. Exhibit 9 is Draft 6 dated November 18, 1988. Exhibit 10 is the final signed order dated December 21, 1988. Intervening time was spent in editing, indexing and testing the order to the boxes of supporting documents. Unsafe and unsound assets included in this order totaled almost $250,000,000, many of which were not classified by federal regulators.

On or about November 14, 1988, CDSL mailed out a package of documents with cover letter to the SEC addressing possible securities laws problems. (Exhibit 8)

On February 23, 1989 a follow-up package was sent to the SEC (Exhibit 11).

On March 3, 1989, we sent Exhibit 12 to the F.B.I.referencing Hotel Ponchartrain, RA homes, and other Lincoln matters including a document that identified one of the principals of RA Homes as a long time former employee of U.S. Senator DeConcini.

Approximately the end of April, 1989, we became aware of a probable violation of our cease and desist order involving a wire transfer and violation of conflict of interest regulations that related to the repurchase of an unusual loan participation involving Gascon Development that benefitted ACC. This $6,000,000 problem occurred on March 31, 1989.

Approximately July 18, 1989, a follow-up package (Exhibit 13) was delivered to the FBI relative to possible dissipation of assets through charitable corporations possibly involving U.S. Senator Cranston. The documents also reflect the involvement of Ms. Pelosi on the board of one of the charitable corporations that apparently indirectly received ACC contributions. Please review the documents yourselves as we are not an agency that over sees political practices.

I am sure I have left out part of the Lincoln Story but time constraints existed in preparing for and providing you this testimony.

Richard E. Newsom

EXHIBIT 10

STATE OF CALIFORNIA · BUSINESS, TRANSPORTATION AND HOUSING AGENCY GEORGE DEUKMEJIAN, Governor

DEPARTMENT OF CORPORATIONS
OFFICE OF THE DEPUTY COMMISSIONER

615 S. FLOWER STREET, SUITE 1900
LOS ANGELES, CALIFORNIA 90017

November 15, 1989

IN REPLY REFER TO:

FILE NO. _____ _____

The Honorable Henry B. Gonzalez
Chairman
U.S. House of Representatives
Committee on Banking, Finance and Urban Affairs
One Hundred First Congress
2129 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Gonzalez:

In her absence, Commissioner Bender has asked that I answer your letter to her of November 8, 1989. The Commissioner and I have discussed the substance of this response by telephone.

Question 1. Under this heading, you asked three separate questions regarding a 1979 consent decree issued by the Securities and Exchange Commission ("the SEC") to Charles Keating.

-- Question 1(a): "Was your Department ever in contact with the SEC concerning the ACC subordinated debentures and, if so, did the SEC ever inform your Department of the consent decree?"

Answer: The Department was in contact with the SEC about the debenture offerings during most of 1988. The most extensive contacts were made in April and May of 1988, during the pendency of one of ACC's applications, and we had several other contacts with the SEC in the latter half of 1988 regarding specific issues involving ACC. However, the SEC never informed us of the consent decree. As indicated below, the Department learned of the consent decree from the press subsequent to ACC's bankruptcy filing, and we have since been provided with a copy by the SEC.

-- Question 1(b): "If not from the SEC, how and when did your Department first learn of the consent decree?"

Answer: The Department first learned of the consent decree from a reporter from The Orange County Register in April, 1989, several days after

ACC filed for bankruptcy.

-- Question 1(c): "If your Department had had early knowledge of the consent decree, would it have been a factor in any decisions made by your Department?"

Answer: The consent decree would have been a factor considered by the Department. We would have had to review the consent decree to determine what had occurred, why it was issued and whether there were any implications regarding the debenture offering.

Question 2. Question 2 includes two separate questions.

-- Question 2(a): "Did supervisory decisions by the Federal Home Loan Bank concerning Lincoln Savings and Loan Association influence any decisions made by your Department?"

Answer: Because Lincoln was ACC's primary asset, the actions of Lincoln's regulators and the agreements and understandings reached between Lincoln and the Federal Home Loan Bank Board in Washington, D.C. ("the FHLBB") were major factors considered by the Department. As indicated in the answers to Questions 2(b) and 3(a), the fact that the FHLBB had agreed that it would not take any administrative or enforcement actions against Lincoln, would conduct an entirely new examination, and, as far as I am aware, required no write-down of Lincoln's assets were major factors in ACC's favor.

-- Question 2(b): "Did your Department withhold making any decisions about the continuation of the bond sales until certain decisions were made by the Bank Board?"

Answer: The Department was aware of the report issued by the Federal Home Loan Bank of San Francisco ("the FHLB-SF") concerning its examination of Lincoln from March 13, 1986 to March 3, 1987 ("the 1987 FHLB-SF Report"), of the dispute between Lincoln and the FHLB-SF over that report, of the fact that the FHLBB had assumed regulatory jurisdiction over Lincoln in lieu of the FHLB-SF, and of the fact that the FHLBB indicated its intent to resolve the dispute over the 1987 FHLB-SF Report. The Department received

a copy of the 1987 FHLB-SF Report from the FHLBB on April 18, 1988.

The Department allowed ACC's application regarding the debentures filed on March 28, 1988 ("the First 1988 Application") to go effective on March 29, 1988, but limited its effectiveness to 60 days. On March 31, 1988, ACC filed another application to qualify the debentures ("the Second 1988 Application"), seeking the more traditional one-year qualification. The Department informed ACC that we would not allow the Second 1988 Application to go effective until the dispute over the 1987 FHLB-SF Report was resolved.

On May 24, 1988, the Department received conformed copies of an Agreement ("the Agreement") and a Memorandum of Understanding ("the MOU") among Lincoln, the FHLBB, and the Federal Savings and Loan Insurance Corporation ("FSLIC") resolving these issues (copies of the Agreement and the MOU are enclosed for your convenience). Among other things, these documents set forth the facts: (a) that FSLIC and the FHLBB had agreed not to institute any administrative or enforcement proceedings against Lincoln, ACC, or any of their affiliates (Agreement at 2; MOU at 3); and (b) that FSLIC would conduct a new examination of Lincoln essentially to supersede the 1987 FHLB-SF Report and such examination would be on a going forward basis that would not rehash the 1987 FHLB-SF Report (MOU at 2-3). On May 26, 1988, the Department allowed the Second 1988 Application to go effective.

Question 3. Question 3 concerns the unqualified opinions given to ACC by its independent certified public accountants for the years 1986 and 1987 and includes two separate questions.

-- Question 3(a): "Were these opinions factors in any decisions made by your Department?"

Answer: The opinions of the independent certified public accountants were significant factors in the Department's analysis of ACC's financial condition. Although not binding upon the Department, we rely upon such

opinions. The Department made a number of inquiries--to ACC and to others--and was never able to obtain proof that ACC's financial condition was other than as represented in the audited financial statements. Further, as far as I am aware, the FHLBB did not require Lincoln to write-down the value of any of its assets. As a result, since there was no dispute between ACC's independent certified public accountants and Lincoln's primary regulator with regard to Lincoln (ACC's primary asset), the accountants' opinions were very significant factors in the Department's evaluation of ACC's financial condition.

-- Question 3(b): "Based on all the information available today, what is your opinion of the performance of ACC's outside certified public accountants for these years?"

Answer: The Department was not able to obtain proof that ACC's financial condition was other than as represented in the audited financial statements at the time those statements were filed. An audit of 15 Lincoln transactions carried out by Kenneth Leventhal & Company ("Leventhal") for FSLIC and the FHLBB has raised some serious concerns about the opinions of ACC's outside certified public accountants. We are reviewing this matter.

The performance of ACC's outside accountants currently is the subject of a lawsuit in federal district court in Washington, D.C. The judge in this case has agreed to hear evidence on several of the transactions reviewed in the Leventhal report. This dispute is now before a judicial forum, with a determination to be made by a trier of fact, and the Department will follow this case with great interest.

Question 4. This question asks for a discussion of "whether your Department reviewed any advertising for the ACC subordinated debentures and, if so, whether your Department directed any changes in these advertisements, and for what reasons."

This issue has been addressed previously in letters dated October 24, 1989 and November 8, 1989 to Ellen Kotler of your staff. Copies of those letters are enclosed.

Question 5. Question 5 asks three separate questions concerning the effective dates of certain applications and amendments filed by ACC with the Department.

-- Question 5(a): "Did ACC have a qualification in effect to sell the subordinated debentures to the general public between November 3, 1987, and November 27, 1987?"

Answer: ACC had no qualification in effect from November 3, 1987 to November 23, 1987. An application to sell the debentures declared effective on November 3, 1986 expired on November 3, 1987 in accordance with Section 25114 of the California Corporate Securities Law of 1968 ("the CSL"), a copy of which is enclosed for your convenience. A post-effective amendment filed on November 17, 1987 regarding the debentures was not declared effective until November 23, 1987.

-- Question 5(b): "If a qualification was not in effect, would ACC have been in violation of any regulations if it had sold the debentures to the general public during the above time period?"

Answer: The CSL requires that every offer or sale of securities in California be qualified with our Department or be exempt from the qualification requirement. No qualification was in effect from November 3, 1987 to November 23, 1987. Thus, unless an exemption was available, any offer or sale of the debentures during this period would have violated the CSL. I am unaware of any exemption applicable for public offerings such as ACC's debenture offering.

-- Question 5(c): "Did ACC sell any subordinated debentures to the general public between November 3, 1987, and November 27, 1987; if so, would your 3Department regard this as a serious matter?"

Answer: The Department does not receive reports of sales, so I cannot answer the first part of this question. If non-exempt offers or sales did occur without an effective qualification, such offers or sales would have violated the CSL, and the Department cannot sanction a violation of the CSL. The degree to which any such violation would be serious would depend upon all of the facts and circumstances involved, including whether the violation of the CSL appeared to be willful or inadvertent, the likelihood that the qualification would have been allowed to go effective given the historical record of filings and orders involving the applicant, and a balancing of the likely public benefits at the time of an enforcement action against one particular company as compared to enforcement action against other companies in violation or apparent violation of the CSL.

* * * * *

I hope this material answers all of your questions in full.

Very truly yours,

WAYNE SIMON
Chief Deputy Commissioner

WS:jy
Enclosures

Filed MAY 24, 1988 with the Dept of Corporations

AGREEMENT

This Agreement is made and effective this 20th day of May 1988 by and among Lincoln Savings and Loan Association, Irvine, California and its subsidiaries ("Lincoln") and the Federal Savings and Loan Insurance Corporation ("FSLIC") and the Federal Home Loan Bank Board ("FHLBB") acting through their designated agent ("Agent") the Executive Director of the Office of Regulatory Policy, Oversight and Supervision ("ORPOS").

WHEREAS, the Federal Home Loan Bank of San Francisco ("FHLBank-SF") conducted an examination of Lincoln in 1986 and 1987 which resulted in a report of examination dated April 20, 1987 ("1986 Examination");

WHEREAS, Lincoln believes that the 1986 Examination does not present a fair portrayal of the association's financial condition or operations as set out in Lincoln's written response to the 1986 Examination, but in the spirit of regulatory compliance and cooperation, Lincoln enters into this Agreement to resolve all of the issues raised by the 1986 Examination and the negotiations concerning it between Lincoln and ORPOS leading to this Agreement (except for the issues involving Lincoln's equity risk investments which are addressed in paragraphs 8 and 9 of this Agreement); and

WHEREAS, FSLIC and the FHLBB have agreed not to institute any administrative or enforcement proceedings against Lincoln as provided in paragraph 2 of a Memorandum of Understanding among the parties of even date (the "Memorandum") in return for Lincoln's consent to this Agreement;

NOW, THEREFORE, it is agreed among the parties as follows:

Regulatory Capital

1. Lincoln will comply with 12 C.F.R. §563.13, unless the Agent grants a waiver pursuant to an application.

2. By October 1, 1988, Lincoln will sell for cash to American Continental Corporation, its parent, $10 million of preferred stock that qualifies as a contribution to its regulatory capital.

3. By June 30, 1989, Lincoln will make reasonable and diligent efforts to sell a mininum of $50 million and a maximum of $150 million in securities that qualify as contributions to its regulatory capital. The FHLBB agrees to process Lincoln's application for approval of the securities expeditiously.

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Adjustments to Regulatory Capital

4. Of existing reserves recorded at December 31, 1987, Lincoln has designated as specific for regulatory purposes $18,269,000 related to assets questioned in the 1986 Examination and Lincoln agrees to notify the Agent or its Principal Supervisory Agent ("PSA"), whichever is applicable, of any changes in such reserves and the reasons therefore.

Underwriting and Operating Procedures

5. (a) Lincoln will submit manuals describing its underwriting and operating procedures to the Agent within 60 days after execution of this Agreement. Lincoln will take into account any advice or recommendations offered by ORPOS about the contents of such manuals. Such manuals will address, among other things, the following:

i) appropriate underwriting principles, procedures and internal controls for real estate investments, equity, debt, government and mortgage-backed securities, and loans, included but not limited to obtaining adequate documentation on loans

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secured by real estate pursuant to 12 C.F.R. §563.17-1(c)(1);

ii) establishing appropriate lending limits for each geographic or economic area, borrower, and selected projects; and

iii) policies concerning transactions with affiliated persons, and procedures implementing those policies, to assure compliance with 12 C.F.R. §§563.41 and 563.43.

(b) Lincoln will provide the Agent, or the PSA, as appropriate, with at least two weeks written notice of any intended material modifications to or deviations from the manuals; such notice shall contain sufficient details so as to advise the Agent or the PSA of Lincoln's intended change and reason for such change; Lincoln shall take into account any advice or recommendations offered before implementing any such changes.

(c) Subject to modifications or deviations undertaken in accordance with the preceding paragraph, Lincoln shall comply with the provisions of its manuals.

Business Plan

6. (a) Lincoln will prepare a business plan and submit it to the Agent within 60 days after execution of this Agreement. Lincoln will take into account any advice or recommendations offered by ORPOS about the business plan. This business plan will outline Lincoln's operations for the remainder of 1988 and calendar year 1989 and shall contain Lincoln's operational goals and objectives, as well as the assumptions and projections upon which such goals and objectives are based. The business plan also will outline:

-- Lincoln's evaluation of the likely economic environment and the opportunities for profitable investment within the environment;
-- Lincoln's proposed lending and investment goals and activities within the relevant period, and will provide approximate distribution percentages for its securities, real estate and lending investments;
-- Lincoln's anticipated deposit-gathering activities over the relevant period, including any contemplated expansion of its branch system, new products it may offer,

or changes in the rates of interest it pays on customer's deposits;

-- Lincoln's strategies for managing its asset and liability portfolio, its service corporations, and its data processing facilities;

-- Lincoln's plans for growth or reduction of its liabilities and compliance with the regulatory liability growth restrictions;

-- Lincoln's anticipated asset growth in relation to capital and growth of capital;

-- Lincoln's plans to reduce aggregate investments in real estate;

-- Lincoln's long-range considerations about attracting outside directors to its Board; and

-- Lincoln's plans and proposals for compliance with its obligations under the Community Reinvestment Act of 1977.

(b) Lincoln will provide the Agent or the PSA, as appropriate, with at least two weeks' written notice of any intended material modifications to or deviations from the plan; such notice shall contain sufficient detail so as to advise the Agent or PSA of Lincoln's intended change and

reason for such change; Lincoln shall take into account any advice or recommendations offered before implementing any such change to its business plan.

(c) Subject to any modification or deviations undertaken in accordance with the preceding paragraph, Lincoln will comply with the provisions of its business plan.

Interim Period Agreements

7. Until the earlier of the completion of the new examination and resolution of any issues raised thereby or seven (7) months from the execution of this Agreement (the "Interim Period"), Lincoln will comply with 12 C.F.R. §563.13-1, and will not apply for approval of a written growth plan pursuant to 12 C.F.R. §563.13-1(c). However, Lincoln may submit applications during the Interim Period to the Agent for approval of the acquisition of another savings and loan association or the opening or acquisition of additional branch offices.

8. (a) During the Interim Period, Lincoln will not increase the dollar amount of its aggregate

equity risk investments as of the date of execution of this Agreement, except that the increase in investment in real estate permitted in subparagraph (b) shall not be counted in such limitation. The definition of aggregate equity risk investments and the procedure for determining compliance with the limitation specified above shall be as set forth in 12 C.F.R. §563.9-8. Ten percent of the amount of Lincoln's equity risk investments in excess of $550 million will be added to Lincoln's contingency factor in making the calculation of its regulatory capital requirement pursuant to 12 C.F.R. §563.13. The increase in Lincoln's contingency factor resulting from compliance with this paragraph shall be in lieu of any incremental increase in Lincoln's capital requirement which might otherwise have been necessitated by Lincoln's aggregate equity risk investments.

(b) Lincoln will not increase the dollar amount of its investment in real estate, as defined in 12 C.F.R. §563.9-8(b)(6), as of the date of execution of this Agreement except for appropriate capitalization of costs and incurring expenses which are reasonable and necessary to

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develop, improve and/or market existing real estate projects.

9. Paragraph 8 shall not prejudice the positions of the FHLBB and Lincoln as to whether 12 C.F.R. §563.9-8 is valid and whether certain of Lincoln's existing aggregate equity investments are "grandfathered" under either §563.9-8 or §563.13. Nevertheless, during the Interim Period, Lincoln will file an application for a waiver to allow it to maintain aggregate equity risk investments in an amount up to one third of its total consolidated GAAP assets, and the FHLBB will act on such application in conjunction with the resolution of the new examination provided for in paragraph 1 of the Memorandum.

10. During the Interim Period, Lincoln will not pay any dividends unless it notifies the Agent at least two weeks prior to the proposed payment and the Agent does not object.

11. Lincoln agrees to fully cooperate with and facilitate

the new examination and to comply with the provisions of paragraph 4 of the Memorandum.

Enforcement of Agreement

12. This Agreement has been arrived at through voluntary negotiations and accommodations between the parties. The enforcement of this Agreement will be undertaken by the FSLIC and the FHLBB only for material violations and only pursuant to the provisions of 12 U.S.C. §1730(e).

Federal Savings and Loan Insurance Corporation and Federal Home Loan Bank Board

By s/Darrel W. Dochow
Darrel Dochow
Executive Director
Office of Regulatory Policy, Oversight and Supervision

Lincoln Savings and Loan Association

By s/James J. Grogan
James J. Grogan
Vice President

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is made and effective this 20th day of May 1988 by and among Lincoln Savings and Loan Association, Irvine, California and its subsidiaries ("Lincoln") and the Federal Savings and Loan Insurance Corporation ("FSLIC") and the Federal Home Loan Bank Board ("FHLBB") acting through their designated agent, the Executive Director of the Office of Regulatory Policy, Oversight and Supervision ("ORPOS").

WHEREAS, the Federal Home Loan Bank of San Francisco ("FHLB-S.F.") conducted an examination of Lincoln in 1986 and 1987 which resulted in a report of examination dated April 20, 1987 ("1986 Examination");

WHEREAS, Lincoln believes that the 1986 Examination does not present a fair portrayal of the association's financial condition or operations as set out in Lincoln's written response to the 1986 Examination;

WHEREAS, Lincoln has indicated its desire to acquire a savings and loan association in another FHLB Bank District and move its headquarters to that District; and

WHEREAS, FSLIC, the FHLBB, and Lincoln are desirous of amicably resolving all the issues outstanding as a result of the

1986 Examination and the negotiations concerning it between Lincoln and ORPOS leading to this Memorandum of Understanding (except for the issues involving Lincoln's equity risk investments which are addressed in paragraphs 8 and 9 of a separate Agreement between the parties of even date);

NOW THEREFORE, the following understandings have been reached among the parties:

1. FSLIC agrees to initiate and complete a new examination of Lincoln and submit a report of examination to Lincoln within seven (7) months from the execution of this Memorandum of Understanding, under the direction of ORPOS (the "new examination"). This examination will be performed by an examination team with no examiners from the FHLBank-S.F. It will be a regular, periodic FHLBB examination conducted in the ordinary course. It is the intention of the parties that the new examination will not rehash the findings in, or transactions, procedures or events covered by, the 1986 Examination and the negotiations concerning it between Lincoln and ORPOS leading to this Memorandum of Understanding; but rather will focus on the current situation at Lincoln and changes since the 1986 Examination. Lincoln agrees to fully cooperate with and facilitate the new examination.

2. In consideration for Lincoln's agreements set out in this Memorandum of Understanding, FSLIC and the FHLBB agree not to initiate any administrative or enforcement proceedings against Lincoln or its parents, affiliates, officers, directors, employees or agents relating to any findings in, or transactions, procedures or events covered by, the 1986 Examination and the negotiations concerning it between Lincoln and ORPOS leading to this Memorandum of Understanding. Lincoln agrees not to initiate any litigation against the FSLIC, the FHLBB or their members, employees or agents for actions taken through the date of this Memorandum of Understanding within the scope of their employment or official capacity.

3. FSLIC, the FHLBB and Lincoln agree to resolve all the issues described in or raised by the 1986 Examination and the negotiations concerning it between Lincoln and ORPOS leading to this Memorandum of Understanding (except for the issues involving Lincoln's equity risk investments which are addressed in paragraphs 8 and 9 of a separate Agreement between the parties of even date) by executing that Agreement to, inter alia, increase Lincoln's capital, decrease the risk profile of Lincoln's assets, and enhance its underwriting procedures.

4. In the spirit of regulatory cooperation during the new examination and in an effort to provide the FSLIC a better

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understanding of Lincoln's current operations, ORPOS agrees to designate a senior examiner who will remain at Lincoln during the examination to facilitate such cooperation and understanding. Lincoln agrees to notify the Executive Director of ORPOS or his designee of any highly material and controversial contemplated transaction or event, prior to its consummation. Such notification shall be in writing unless the matter involves confidential or inside information. The failure to object to such transaction or event shall not under any circumstances be construed as approval of it by the FSLIC or the FHLBB. Lincoln also agrees to inform the designated senior examiner of any other significantly material transaction either before or within five business days after its consummation.

5. The parties will make every effort in good faith to promptly resolve any issues raised in the new examination, and will work together to discuss such issues at the earliest practicable time and develop procedures to resolve them reasonably and expeditiously. When the new examination is resolved, Lincoln will submit an application to the FHLBB to move its headquarters to a district in which it proposes to acquire a savings and loan association. Based on the nature of the new examination findings and Lincoln's resolution of any material issues arising from the new examination in a manner and in a form satisfactory to ORPOS, the FHLBB and the

FSLIC agree that Lincoln will be allowed to transfer its headquarters upon having made an appropriate application and having met normal requirements related to such a transfer. The FSLIC and FHLBB agree to act expeditiously on such an application. Upon such approval, all supervisory and examination authority over Lincoln will be transferred to the FHLBank for the new district.

6. From the date of the execution of this Memorandum of Understanding ORPOS will have exclusive supervisory and examination authority over Lincoln and will act as Lincoln's principal supervisory agent. ORPOS will continue in this capacity at least for a reasonable time after the new examination is completed so that any issues raised by the examination can be resolved and Lincoln's application to be transferred to a new district can be acted upon.

Federal Savings and Loan Insurance Corporation and Federal Home Loan Bank Board

By s/Darrel W. Dochow
Darrel Dochow
Executive Director,
Office of Regulatory Policy, Oversight and Supervision

Lincoln Savings and Loan Association

By s/James J. Grogan
James J. Grogan
Vice President

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STATE OF CALIFORNIA · BUSINESS, TRANSPORTATION AND HOUSING AGENCY GEORGE DEUKMEJIAN, Governor

DEPARTMENT OF CORPORATIONS
OFFICE OF THE DEPUTY COMMISSIONER

615 S. FLOWER STREET, SUITE 1900
LOS ANGELES, CALIFORNIA 90017

October 24, 1989

IN REPLY REFER TO:
FILE NO. _____ _____

Ms. Ellen Kotler
U.S. House of Representatives
Committee on Banking, Finance
and Urban Affairs
Rayburn House Office Building
Room B-303
Washington, D.C. 20515

Dear Ms. Kotler:

At our meeting on October 12, Commissioner Bender and I discussed with you a number of the aspects of the applications filed with the Department of Corporations ("the Department") by American Continental Corporation ("ACC"). In addition to the information provided at that meeting and in subsequent telephone discussions, you asked us to provide you with specific information regarding the eight subjects indicated below.

1. Contacts with Other Regulators Prior to March 17, 1988

You asked whether any state or federal regulatory agency--such as the California Department of Savings and Loan ("CDSL"), the Federal Home Loan Bank Board ("the FHLBB") or the Securities and Exchange Commission ("the SEC")--contacted the Department regarding ACC or Lincoln Savings and Loan Association ("LS&L") prior to the middle of March, 1988. As far as I am aware based on my discussions with the Department staff who worked on the file in 1987, 1988 and 1989, no agency made any such contact with the Department prior to March 17, 1988.

2. Contacts with Other Regulators On and After March 17, 1988

You asked for information as to the agencies with which the Department had contact regarding ACC and LS&L beginning in mid-March, 1988 and later, and you also asked who initiated those contacts.

Only one agency ever initiated contact with the Department concerning ACC or LS&L, and that was CDSL. The first contact from CDSL was made on March 17, 1988 by Commissioner of Savings and Loan William Crawford to me. After that date, both our Department and CDSL made a number of contacts with each other, some initiated by our Department and others initiated by CDSL.

Regarding other agencies, the following chart indicates the date on which the first contact was made. In each instance, the contact was initiated by our Department:

	Agency	Date of First Contact
1.	Federal Home Loan Bank, San Francisco	April 6, 1988
2.	Securities and Exchange Commission, Washington, D.C.	April 7, 1988
3.	Federal Home Loan Bank Board, Washington, D.C.	April 8, 1988
4.	Federal Reserve Board	December 19, 1988
5.	U.S. Attorney's Office, Los Angeles	March 6, 1989

With regard to the SEC and the FHLBB, our Department maintained or tried to maintain contact regarding ACC and LS&L throughout 1988 and into 1989. We were largely successful in maintaining those contacts in April and May of 1988, primarily because our Department initiated follow-up discussions to gather information in connection with the application of ACC which was allowed to go effective on May 26, 1988.

After May, 1988, the Department's only contacts with the SEC and the FHLBB were made as a result of our contacting them. Those agencies never volunteered any information to our Department and never contacted our Department except in response to inquiries made by us.

3. Offerings by Parents of Financial Institutions

You asked if we could estimate how many applications are filed with the Department per year to qualify the offering of securities issued by the parent of a financial institution such as a savings and loan association. Further, you asked whether, in the typical instance, the Department would contact the FHLBB with regard to an application filed by the parent of a savings and loan association.

The Department, of course, does not maintain statistics or a separate filing system for such applications. As a rough estimate only, I would say that the Department receives

approximately 40 such applications among the approximately 1,500 applications for qualification by coordination received each year.

Regarding contacts with the FHLBB concerning an application of a parent corporation of a savings and loan, the Department may make inquiries to the extent the file counsel or other personnel working on the file deem them appropriate. Thus, the Department has the discretion to contact the FHLBB in such instances. That discretion was exercised regarding ACC, although I am unaware of any other instances in which such inquiries have been made to the FHLBB.

4. Advertisements

We discussed the fact that the Department required certain changes to ACC's newspaper advertisements regarding the debentures, and you asked for copies of the advertisements that were changed.

I have enclosed copies of advertisements from March 1, 1988, March 31, 1988, early April, 1988, and approximately April 15, 1988 to indicate the changes made. As you will see, the advertisement from March 1, 1988 indicates that securities were being offered--specifically subordinate debentures--by ACC by means of a prospectus and prospectus supplement but includes at least three references to LS&L and fails to disclose that the debentures were not insured by the Federal Savings and Loan Insurance Corporation ("FSLIC"). The advertisements were revised several times, at our request, to eliminate all references to LS&L except for one indicating that ACC representatives could be contacted at LS&L branches. We also required the insertion, immediately after that reference to LS&L, of language stating that the debentures were not insured by FSLIC. These changes are evident in the advertisement from approximately April 15, 1988.

For your information and for purposes of comparison, I also have enclosed two advertisements from April 26, 1988. The first is ACC's newspaper advertisement regarding the debentures, and the second is LS&L's newspaper advertisement regarding its certificates of deposit.

5. Application Form; Disclosures by Officers and Directors

You asked for a copy of the application form that is used in a qualification by coordination, specifically focusing on the disclosures that are required for directors and officers.

Attached are Rule 260.110 (facing page for all applications) and Rule 260.111 (additional material required for applications for qualification by coordination), which you may wish to review in this regard.

With regard to your specific inquiry about disclosures concerning decrees of governmental agencies, please see Rule 260.111(b)(11)(e). As far as I am aware, ACC made no disclosures regarding the consent decree entered into between the SEC and Charles Keating.

6. Standard for Revocation of Orders and Permits

You asked as to the standard for revocation of an effective qualification under the Corporate Securities Law of 1968 (the "CSL"). Attached is Section 25140(a) of the CSL, which sets forth the applicable standard.

7. Complaints from Bondholders

You asked for copies of all complaint letters that the Department has received from ACC bondholders.

I have included copies of the six complaint letters received to date. Because of the privacy protection requirements of California's Information Practices Act, I have deleted all identifying information, including, for example, names, addresses, telephone numbers, social security numbers, taxpayer identification numbers and account numbers.

8. Department Inquiry Into Offering Practices

We informed you that the Department sent one of its investigators to a branch of LS&L to inquire, without identifying herself or her interest, about the debentures and to report back about the manner in which the debentures were being offered. The investigator received a prospectus and other information indicating that ACC, not LS&L, was offering the debentures and that they were not insured by FSLIC. Enclosed are a copy of the investigator's handwritten note on this subject and a copy of an advertising brochure given to her in addition to the prospectus and other related materials.

CDSL also informed us that they had sent several employees, friends and/or relatives to LS&L branches to make similar inquiries with similar results, although I do not recall the date

on which CDSL informed us of the results of their inquiries in this manner.

* * * *

I hope you find these materials to be helpful. Please do not hesitate to contact me if you need additional information on this matter.

Very truly yours,

WAYNE SIMON
Chief Deputy Commissioner

WS:lnc
Enclosures

cc: CHRISTINE W. BENDER
Commissioner of Corporations

"The problem ... formance," Carter said. The new party is making changes because it's been down and has been digging a bigger hole."

Carter said Pillsbury has experienced problems in its commercial food operations, which produce Green Giant vegetables, Jeno's pizza, Totino's pizza and Haagen-Dazs ...

... Lucas ... operating officer ... postmaster general for Pillsbury, will return to the company as president ... chief executive and ... director.

Lucas said Roth, who announced last ... that he was leaving the postal position to resume private business, was elected to the ...

$30-Million Facility

FARMINGTON, Conn. (UPI) — Emhart Corp. said it plans to invest $30 million in a new plant and equipment in Orange County, S.C., to manufacture golf club shafts.

The company said construction on the 275,000-square-foot plant is scheduled to begin this month.

... approximately $33 each.

If all outstanding shares ... purchased, the leveraged ... would total $1.23 billion. ... leveraged buyout, investors ... borrow heavily to buy out a ... and then pay off the debt with ... target company's cash flow ... sale of its assets.

Dart, which launched the ... takeover bid in January, ...

L.A. TIMES
TUE., 3/1/88
PAGE III-3

New Offerings

9.50% 1-YEAR

10.50% 2-YEAR

AMERICAN CONTINENTAL CORPORATION SUBORDINATE DEBENTURES

Minimum investment $2,000

Monthly interest

Offered exclusively in California

Eligible for Self-Directed IRAs

March 31, 1988

AMERICAN CONTINENTAL CORPORATION

American Continental Corporation Representative
c/o Lincoln Savings
16500 Von Karman Ave., Irvine, CA 92713

Please forward my copy of the American Continental Corporation Prospectus and the related Prospectus Supplement.

Name _____

Phone ( ) _____

Address _____

City _____ State _____ Zip _____

Please visit or call an American Continental Corporation representative today at a Lincoln Savings branch in California for details and a Prospectus. Or return the coupon below.

ALHAMBRA
300 E. Main St.
(818) 289-4343

ANAHEIM HILLS
5781 Santa Ana Canyon Rd.
(714) 974-4410

ARCADIA
300 E. Duarte Rd.
(818) 446-7080

BURBANK
3600 W. Vanowen Ave.
(818) 841-3700

CAMARILLO
2220 Pleasant Dr.
(805) 987-0502

CARLSBAD
1910 Impala Road
(619) 438-9130

ESCONDIDO
1550 E. Valley Parkway
(619) 747-8500

EQUITY
10345 Riverside Blvd.
(818) 827-3828

GLENDALE
100 S. Glendale Blvd.
(818) 247-8308

GRANADA HILLS
17951 Chatsworth St.
(818) 363-8041

HEMET
111 S. State St.
(714) 652-2781

HOLLYWOOD
7083 Hollywood Blvd.
(213) 466-8211

HUNTINGTON BEACH
7582 Edinger Ave.
(714) 841-4726

IRVINE EAST
2070 Barranca Pkwy.
(714) 559-4071

IRVINE
IRVINE CENTER
16500 Von Karman Ave.
(714) 854-4760

LAGUNA HILLS
23331 Moulton Pkwy.
(714) 855-4080

LAKEWOOD
5247 Hayetteck Ave.
(213) 920-4404

LOS ANGELES
330 N. Sixth St.
(213) 625-4131

MONTEBELLO CITY
1455 Reeves Blvd.
(213) 684-5554

RANCHO BERNARDO
16473 Bernardo Ctr. Dr.
(619) 451-6706

ROLLING HILLS
PENINSULA
29500 Hawthorne Blvd.
(213) 377-7577

SANTA ANA
131 N. Ross St.
(714) 547-0771

SANTA MONICA
1460 Fourth St.
(213) 451-9931

SHERMAN OAKS
13701 Riverside Dr.
(818) 783-3130

SUN CITY
28127 Bradley Rd.
(714) 679-6801

TORRANCE
21645 Hawthorne Blvd.
(213) 540-4222

TUSTIN
13231 Newport Ave.
(714) 730-0246

WESTLAKE VILLAGE
31255 Agoura Rd.
(818) 879-0461

WOODLAND HILLS
5959 Topanga Canyon Blvd.
(818) 346-1871

Los Angeles Edition
Copies of this Offering Circular may be obtained in any state in which this announcement may be lawfully distributed from the Commissioner of Corporations of the State of California, 3700 Wilshire Boulevard, Los Angeles, California 90010, and from American Continental Corporation, 16500 Von Karman, Irvine, California 92713.

000569

Offe

9.50% 1-YEAR

10.50% 2-YEAR

AMERICAN CONTINENTAL CORPORATION SUBORDINATE DEBENTURES

Minimum investment $2,000

Monthly interest

Offered exclusively in California

Eligible for Self-Directed IRAs

AMERICAN CONTINENTAL CORPORATION

American Continental Corporation Representative
c/o Lincoln Savings
18300 Von Karman Ave., Irvine, CA 92715

Please forward my copy of the American Continental Corporation Prospectus and the related Prospectus Supplement.

Name_____

Phone ( )_____

Address_____

City_____ State_____ Zip_____

...ary of a ...tion Savings ...ment in ...Bonds for ...state and a ...Prospectus. ...Or inform the ...salesperson below.

ALHAMBRA
...
(818) ...

ANAHEIM HILLS
...
Canyon Rd.
(714) ...

ANDREW
...
(818) ...

BURBANK
...
(818) ...

CHATSWORTH
...
(818) ...

CLAREMONT
...
(714) ...

CULVER CITY
...
(213) ...

ENCINO
...
(818) ...

FOUNTAIN VALLEY
...
(714) ...

GLENDALE
...
(818) ...

GRANADA HILLS
...
(818) ...

HEMET
...
(714) ...

HOLLYWOOD
...
(213) ...

HUNTINGTON BEACH
...
(714) ...

IRVINE EAST
...
(714) ...

IRVINE
...
(714) ...

LAGUNA HILLS
...
(714) ...

LAKEWOOD
...
(213) ...

LOS ANGELES
...
(213) ...

PASADENA CITY
...
(818) ...

RANCHO BERNARDO
...
(619) ...

ROLLING HILLS ESTATES
...
(213) ...

SANTA ANA
...
(714) ...

SANTA MONICA
...
(213) ...

SHERMAN OAKS
...
(818) ...

SIMI CITY
...
(805) ...

TORRANCE
...
(213) ...

TUSTIN
...
(714) ...

WEST LOS ANGELES
...
(213) ...

WOODLAND HILLS
...
(818) ...

Los Angeles locations open at 7:30 a.m. Open Saturdays at all locations except those in Bel Canto and Los Angeles. ©1988, American Continental Corporation

The Numb

1-800-652-BAN

ANAHEIM (714) 776-7
BEVERLY DOHENY
BEVERLY HILLS
Wilshire/Robertson (21
Wilshire/Camden (213)
BRENTWOOD (213) 8

35

Ad - picked up in Newspaper — NOT APPROVED IN THIS FORM

EARLY APRIL, 1988

FISHER

000570

This announcement is neither an offer to sell nor a solicitation of an offer to buy these securities. The offer is made only by the Prospectus and the related Prospectus Supplement.

DEPARTMENT OF CORPORATIONS
RECEIVED
APR 13 1988
LOS ANGELES OFFICE

MONTHLY INCOME.

9.50% 1-YEAR

10.50% 2-YEAR

AMERICAN CONTINENTAL CORPORATION SUBORDINATE DEBENTURES

Minimum investment $2,000

Offered exclusively in California

Eligible for Self-Directed IRAs

AMERICAN CONTINENTAL CORPORATION

American Continental Corporation Representative
18200 Von Karman Ave., Irvine, CA 92715

Please forward my copy of the American Continental Corporation Prospectus and the related Prospectus Supplement.

Name _____
Phone _____
Address _____
City _____ State _____ Zip _____

Please visit or call an American Continental Corporation representative today at a Lincoln Savings branch in California for details and a Prospectus. Or return the coupon below. These debentures are not insured by the FSLIC.

[redacted]

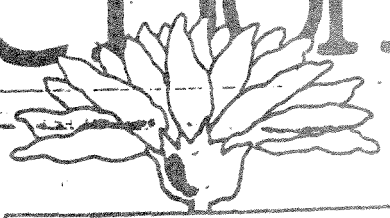
BLK 30X
WHITE REVERSED OUT

APPROXIMATELY 4-15-88

000571

L.A. TIMES
TUE., 4/26/88
BK. IV-3

Avoid Getting Stung En Route To The Honey.



An investor seeking to sweeten his pot these days may well encounter any number of sticky situations along the way.

An enticing mutual fund here.

A seductive stock there.

All very attractive. All holding the promise of great reward.

And all packing a potentially painful financial sting.

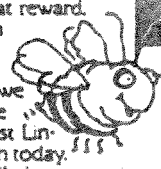
Reason enough, we feel, to talk with the folks at your nearest Lincoln Savings branch today.

They'll tell you all about our six-month $20,000 CD.

How it works industriously for you, with good, solid, competitive rates (just check the ads around you) locked in for a full six months.

How it busily gathers interest, compounding it each and every day.

And how it's backed by the resources and stability of a savings and loan that's made Southern California its home since 1929.

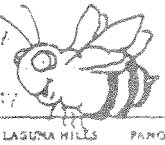


$20,000
Six-Month Certificate Of Deposit
Compounded Daily

Annual Rate	Annual Yield
7.40%	7.68%

So if you've got $20,000 or more hard-earned dollars currently gathering more dust than interest, make a beeline for your nearest Lincoln Savings today.

With the hard-working rates and sting-free stability our six-month $20,000 CD offers, your money is sure to blossom into a sweet little store of gold, indeed.



LINCOLN SAVINGS
A Subsidiary of American Continental Corporation

ALHAMBRA
ANAHEIM HILLS
ARCADIA
BURBANK
CAMARILLO
CARLSBAD
DOWNEY
ESCONDIDO
GLENDALE
GRANADA HILLS
HEMET
HOLLYWOOD
HUNTINGTON BEACH
IRVINE EAST
IRVINE ROLL CENTER
LAGUNA HILLS
LAKEWOOD
LOS ANGELES
PANORAMA CITY
RANCHO BERNARDO
ROLLING HILLS ESTATES
SANTA ANA
SANTA MONICA
SHERMAN OAKS
SUN CITY
TORRANCE
TUSTIN
WEST LOS ANGELES
WOODLAND HILLS

000573

principal of and/or the interest on a security exempted from the qualification requirements of the Code by virtue of Section 25100(a) provided:

(a) The security exempted from the qualification requirements of the Code by virtue of Section 25100(a) is an "investment grade security" as defined in subsection (a)(1) of Section 260.105.34 of these rules, or

(b) The issuer of the guarantee, letter of credit, standby purchase agreement, or similar security meets all of the following requirements:

(1) The issuer is the issuer of any security registered under Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*(g)) or exempted from such registration by Section 12(g)(2)(G) (15 U.S.C. 78*l*(g)(2)(G)) of the Act or, if the issuer is a bank, it is a member of the Federal Reserve System.

(2) The issuer has not during the past five years, or during the period of its existence if shorter, defaulted in the payment of any dividend or sinking fund installment on preferred shares, or in the payment of any principal, interest or sinking fund installment on any indebtedness for borrowed money.

(3) The issuer has net worth on a consolidated basis of at least 12 million dollars ($12,000,000) according to (A) its most recent available audited financial statement which may not be over 15 months old and (B) its most recent available unaudited financial statement as of a date subsequent to the audited statement;

(4) The issuer has had average net income, after all charges, including taxes and extraordinary losses and excluding extraordinary gains, of at least 10% of its then net worth for (A) its 5 most recent fiscal years, or during the period of its existence if shorter, and (B) its most recent fiscal year, as determined from the financial statements referred to in subsection (b)(3). In determining whether the issuer satisfies the requirements of subsection (b)(4) there may be included in the net income of any entity to whose assets such issuer, or a successor of such issuer, has succeeded by merger, consolidation or acquisition of assets, if such net income of such predecessor may, in accordance with generally accepted accounting principles, be consolidated with the income of the issuer.

ARTICLE 3. PROCEDURE FOR QUALIFICATION

Section
260.110. Form of Application—Facing Page
260.110.1. Form of Application
260.110.2. Signing of Application
260.110.3. Incorporation by Reference
260.110.4. Amendments to Applications
260.111. Application for Qualification by Coordination
260.111.1. Time for Filing Application
260.111.2. Application by Certain Investment Companies
260.112. Application for Qualification of Issuer Transaction by Notification
260.113. Application for Qualification by Permit
260.115. "Issuer" of Notes Secured by Real Property
260.121. Application for Qualification of Recapitalizations and Reorganizations
260.131. Application for Qualification of Nonissuer Transaction by Notification

260.110. Form of Application—Facing Page

All applications for qualification of the offer and sale of securities pursuant to Sections 25102(c), 25111, 25112, 25113 and 25121 of the Code shall have as the first page thereof a facing page in the following form containing the information therein specified:

(Department of Corporations Use Only)
Fee Paid $ _____
Receipt No. _____

Effective Date _____

DEPARTMENT OF CORPORATIONS
FILE NO.
(Insert file number of previous filings of Applicant before the Department, if any

FEE: _____
(To be completed by Applicant)
Date of Application: _____

DEPARTMENT OF CORPORATIONS
STATE OF CALIFORNIA

FACING PAGE

Application for qualification of securities, under the Corporate Securities Law of 1968, by (check only one):

( ) Coordination, Section 25111
( ) Notification, Section 25112
( ) Permit, Section 25113
( ) Permit, Section 25121
( ) Negotiating Permit, Section 25102(c)

( ) Post-Effective) Amendment
) Number _____
) To Application
) Filed Under
) Section _____
( ) Pre-Effective) Dated _____

This application is for an ( ) open or ( ) limited offering qualification as defined in Section 260.001 of the rules (Check as applicable).

1. Name of Applicant

2. (a) Is applicant a corporation, partnership, trust or other entity? _____
(b) State of incorporation or jurisdiction under which organized? _____

way of illustration, the filing fee for qualification of securities by coordination, notification, or permit, under Sections 25113 or 25121 is computed by taking /-th of 1% of the maximum aggregate offering price of securities being qualified in California, see appropriate column on facing page, and adding $100. Thus, a qualification for $275,250 would be computed by moving the decimal point three places to the left, $275.25, and adding $100 for a total of $375.25. However, the maximum filing fee, including the $100, is $1,750 for applications filed under Sections 25112, 25113, and 25121 and is $1,550 for applications filed under Section 25111.

Description of Securities Being Qualified. State title of each class of securities (e. g., $10 par value common stock) and include rights, warrants, options and convertible securities and the securities to be issued upon exercise or conversion thereof.

A Customer Authorization of Disclosure of Financial Records Form (Form No. QR 500.259) must also be filed as an exhibit to the application.

260.110.1. Form of Application

All applications for the offer and sale of securities shall be typewritten or printed in the English language on one side only of either legal or letter size paper.

260.110.2. Signing of Application

An application for the qualification of the offer and sale of securities pursuant to Section 25102(c), 25111, 25112, 25113, 25121 or 25131 of the Code should be signed by an officer or general partner of the applicant; however, it may be signed by another person holding a power of attorney for such purposes from the applicant and, if signed on behalf of the applicant pursuant to such power of attorney, should include as an additional exhibit a copy of said power of attorney or a copy of the corporate resolution authorizing the person signing to act on behalf of the applicant.

260.110.3. Incorporation by Reference

In lieu of answering any specific item in any of the forms in this Article, an applicant may incorporate the information called for by reference to any attached document or to any document currently on file with the Department. Such reference should indicate the pages or portion of the document where the information is located.

260.110.4. Amendments to Applications

An amendment to any application for qualification should contain only the information being amended by item number and should be verified in the form prescribed for the application. Each amendment should be accompanied by a facing page in the form prescribed by Section 260.110 of these rules on which the applicant shall insert the fact that the filing is an amendment and the number of the amendment.

260.111. Application for Qualification by Coordination

An applicant must comply with the requirements of subdivisions (a) and (b) of Section 25111 of the Code when filing an application for qualification by coordination. See also, Section 260.111.1 of these rules.

(a) In lieu of the form set forth in subsection (b), the Uniform Application to Register Securities (Form U-1) recommended by the Subcommittee on Uniform Forms of the Committee on State Regulation of Securities of the American Bar Association's Section of Corporation, Banking and Business Law will be accepted for an application for qualification by coordination. If Form U-1 is utilized, it must be signed and verified as provided in the form set forth in subsection (b) and it must contain the information required by the form set forth in subsection (b).

(b) An application for qualification of the offer and sale of securities by coordination shall, in addition to the facing page required by Section 260.110 of these rules, contain in the following form: — ...

8. Applicant hereby undertakes to forward to the Commissioner of Corporations all future amendments to the Registration Statement under the Securities Act of 1933 attached hereto as Exhibit A, other than an amendment which merely delays the effective date of the Registration Statement, promptly and in any event not later than the first business day after the day they are forwarded to or filed with the Securities and Exchange Commission, whichever first occurs.

9. A copy of the Registration Statement under the Securities Act of 1933, either two copies of the prospectus or two additional copies of the Registration Statement, a copy of the Underwriting Agreement, copies of any pension, retirement or other deferred compensation plan, contract or arrangement when securities to be issued pursuant to such plan, contract or arrangement are the subject of the application, is attached hereto as Exhibit A and incorporated herein by reference. Any of the exhibits (other than exhibits incorporated by reference) to the Registration Statement that are deemed necessary to evidence compliance with any of the Rules of the Commissioner contained in Title 10 of the California Administrative Code may be required to be submitted.

10. The Consent to Service of Process if required by Section 25165 of the California Corporations Code is attached hereto as Exhibit B. A Customer Authorization of Disclosure of Financial Records Form (Form No. QR 500.259) is attached hereto as Exhibit C.

11. If the applicant will employ agents (other than licensed broker-dealers) in connection with the sale of securities in California, the applicant must comply with Sections 260.141.30 and 260.141.31, Title 10, California Administrative Code, and furnish the following information.

a. The name and business address of each person who will represent the applicant as an agent in this state.

b. The name and business address of the officer or other official who will supervise such agents on behalf of the applicant.

c. A statement that all such agents employed in this state are employees of the applicant.

d. A statement of the compensation to be paid to such agents. A statement of the compensation to be paid to such supervisory personnel, other than their regular salaries if they are regular employees of the applicant.

e. Describe any order, judgment or decree of any governmental agency or administrator, or of any court of competent jurisdiction revoking or suspending for cause any license, permit or other authority of such agent or supervisory person or of any corporation of which he is an officer or director, to engage in the securities business or in the sale of a particular security or temporarily or permanently restraining or enjoining any such person or any corporation of which he is an officer or director from engaging in or continuing any conduct, practice, or employment in connection with the purchase or sale of securities, or convicting such person of any felony or misdemeanor involving a security or any aspect of the securities business, or of theft or of any felony.

f. A surety bond complying with Section 260.216.15, Title 10, California Administrative Code.

12. Pursuant to Section 25146 of the California Corporations Code and Section 260.146 of Title 10 of the California Administrative Code, applicant hereby undertakes, as long as required under the foregoing sections and subject to the exception therein contained, to file with the Commissioner: (a) within 120 days after the end of each fiscal year a report of financial condition and a related statement of income and expenses covering such fiscal year; and (b) within 90 days after the first six months of each fiscal year, a like report and statement covering such six months period.

(NOTE: The application must be signed and verified in the following manner.)

The applicant has duly caused this application to be signed on its behalf by the undersigned, thereunto duly authorized.

_____
(Applicant)

By _____

_____
(Title)

I certify (or declare) under penalty of perjury under the laws of the State of California that I have read this application and the exhibits thereto and know the contents thereof, and that the statements therein are true and correct.

Executed at _____ (Place) on _____ (Date) 19____

_____
(Signature)

260.111.1. Time for Filing Application

The time provided in Section 25111(b) of the Code for the filing of an application for qualification of the offer and sale of securities by coordination, provided such application has been on file with the Commissioner for at least ten business days, is hereby extended to permit the filing of such application on or before the twentieth business day following filing of the registration statement with the Securities and Exchange Commission. This time may be further extended by order of the Commissioner with respect to a particular application.

260.111.2. Application by Certain Investment Companies

(a) An investment company which qualifies for filing an application for qualification under Section 25111(d)(1) or (2) of the Code must file its application for qualification pursuant to that section and upon the form set forth in subsection (d). An investment company which does not qualify under Section 25111(d)(1) or (2) shall file its application pursuant to Section 260.111 and must set forth the particulars which preclude the company from filing under Section 25111(d)(1) or (2). In either case, a Customer Authorization of Disclosure of Financial Records Form (Form No. QR 500.259) must be attached as an exhibit to the application.

(b) For the purposes of this section and Section 25111(d)(1) of the Code, the term "the applicant has made no material change in its offering" means that the applicant has not initiated any material change in the terms of its securities or by the issuance of a new class of securities, in its

Section
25143. Postponement or suspension of effectiveness of qualification; notice; hearing.
25144. Vacation or modification of stop order.
25145. Records and reports of issuer.
25146. Reports required of issuer for 18 months after effective date of qualification.
25147. Sale of security qualified by permit; form of subscription or sale contracts; preservation of copy.
25148. Prospectus or proxy statement.
25149. Escrow; authority of commissioner to act as escrow holder.
25150. Opinions, appraisements and reports of engineers, appraisers or other experts.
25151. Consent to transfer of securities placed in escrow; procedure; consent not a qualification or exemption from qualification requirements.
25152 to 25157. Repealed.

§ 25140. Issuance of stop orders affecting qualification of securities; refusal to issue or suspension or revocation of permits; grounds

(a) The commissioner may issue a stop order denying effectiveness to, or suspending or revoking the effectiveness of, any qualification of securities under Section 25111, 25112 or 25131 or may suspend or revoke any permit issued under Section 25113 or 25122 if he finds (1) that the order is in the public interest and (2) that the proposed plan of business of the issuer or the proposed issuance or sale of securities is not fair, just, or equitable, or that the issuer does not intend to transact its business fairly and honestly, or that the securities proposed to be issued or the method to be used in issuing them will tend to work a fraud upon the purchaser thereof.

(b) The commissioner may refuse to issue a permit under Section 25113 unless he finds that the proposed plan of business of the applicant and the proposed issuance of securities are fair, just, and equitable, that the applicant intends to transact its business fairly and honestly, and that the securities which it proposes to issue and the methods to be used by it in issuing them are not such as, in his opinion, will work a fraud upon the purchaser thereof.

(c) The commissioner may refuse to issue a permit under Section 25122 unless he finds that the proposed plan of recapitalization or reorganization and the proposed issuance of securities are fair, just, and equitable to all security holders affected.

(d) Notwithstanding the provisions of subdivisions (a) and (b) of this section, the commissioner shall not have authority to issue any stop order or to refuse to issue or to suspend or revoke any permit on the basis that the price at which the security is to be offered is unfair, unjust or inequitable in any case where the security is being publicly offered for cash pursuant to a registration statement under the Securities Act of 1933 and the offering is the subject of a firm commitment underwriting by an underwriter or syndicate of underwriters all of whom are registered under the Securities Exchange Act of 1934. For the purposes of this subdivision a firm commitment underwriting means an underwriting pursuant to which the underwriter or syndicate of underwriters is committed to take up and pay for the securities subject only to the usual or customary conditions, but not including any "market out" or similar condition operative after the time of commencement of the offering. (A condition relating to the suspension of all trading on a national securities exchange, a banking holiday, war, civil insurrection, or the like is not a "market out" or similar condition within the meaning of this subdivision.) Nothing contained in this subdivision shall deny authority to the commissioner to issue a stop order or to refuse to issue or to suspend or revoke a permit because of unreasonable discounts, commissions or other compensation to underwriters, sellers or others, unreasonable promoters' profits or participations or unreasonable amounts or kinds of options.

(Added by Stats.1968, c. 88, § 2.)

Cross References

Qualification of securities,
Issuer transactions by coordination, see § 25111.
Issuer transactions by notification, see § 25112.
Issuer transactions by permit, see § 25113.
Issuer transactions effective date, see §§ 25113, 25122.
Nonissuer transactions, by notification, see § 25131.
Review of orders of commissioner, see § 25609.

§ 25141. Deposit in escrow as condition of qualification of securities

The commissioner may impose as a condition of qualification under Chapter 2 (commencing with Section 25110) or Chapter 3 (commencing with Section 25120) of this part conditions requiring the deposit in escrow of securities, imposing a legend condition restricting the transferability thereof, impounding the proceeds from the sale thereof, limiting the expense in connection with the sale thereof, requiring the waiver of assets, dividends or voting rights by the holders of promotional securities, or any other condition if the commissioner finds that without such condition the offering will be unfair, unjust or inequitable. The commissioner may in his discretion modify or remove any such conditions or any legend condition imposed by subdivision (h) of Section 25102 when in his opinion they are no longer necessary or appropriate.

(Added by Stats.1968, c. 88, § 2.)

Cross References

Commissioner as escrow holder, see § 25149.
Fee for acting as escrow holder, see § 25608.

§ 25142. Application for permit to issue exchange securities or to deliver other consideration; approval of terms and conditions; hearing

When application is made for a permit to issue securities or to deliver other consideration (whether or not the security or transaction is exempt from qualification or not required to be qualified) in exchange for one or more bona fide outstanding securities, claims, or property interests, or partly in such exchange and partly for cash, the commissioner is expressly authorized to approve the terms and conditions of such issuance and exchange or such delivery and exchange and the fairness of such terms and conditions, and is expressly authorized to hold a hearing upon the fairness of such terms and

STATE OF CALIFORNIA · BUSINESS, TRANSPORTATION AND HOUSING AGENCY GEORGE DEUKMEJIAN, Governor

DEPARTMENT OF CORPORATIONS
OFFICE OF THE COMMISSIONER

615 S. FLOWER STREET, SUITE 1900
LOS ANGELES, CALIFORNIA 90017

REFERRAL FROM
ELECTED OFFICIAL

IN REPLY REFER TO
FILE NO. _____ _____

September 6, 1989

Dear

has asked me to answer your letter to him of August 23, 1989 concerning American Continental Corporation ("ACC").

Your letter notes that you invested $17,000 in ACC. I assume that you did so by purchasing ACC's subordinated debentures. You inquire as to what can be done to help you get your money back.

Implicit in your letter is your belief that you were the victim of fraud in connection with the sale of those debentures. The Department of Corporations would be very interested in any proof that you can supply if you are alleging that you were the victim of securities fraud. If you would like to file a complaint, I have enclosed a form by which you should provide us with all of the relevant information.

Unfortunately, although our Department can investigate a claim of securities fraud and bring civil or criminal actions against ACC if we have proof of a violation of California's Corporate Securities Law of 1968, we have no power or authority to recover money for you. You may wish to consult with your attorney in order to determine the rights, if any, which you may have to enforce a claim against ACC or any other party.

I hope you find this information to be helpful.

Very truly yours,

CHRISTINE W. BENDER
Commissioner of Corporations

CWB:ad
Enclosure

000579

Aug 23, 1989

-and-

Reference: Charles Keating/American Continental -
- Corporation!

Gentlemen:

I will not belabor you with the historical events that pertain to the Individual/Corporation as referenced above! Both of you know it all too well!

What I want to know however, is what are the two of you going to do about rectifying the abuse to the investors in the failure of this firm!

Keating, and any others associated with his now defunct Firm, should go to jail, and/or required to repay, any/all funds/investments lost by we the depositors of this badly run "piggy bank"!

My wife and I, lost our entire life's savings, a total of seventeen thousand dollars, with the failure of the referen--ced Corporation!

That probably doesn't sound like a great deal of money to either one of you "public servants"! Especially, when it is a fact that you accepted some Eighty three thousand dollars ($83,000.00) "Campaign Funds", from Charles Keating, and you accepted One Hundred Fifty Thousand dollars ($150,000.00) in "Campaign Funds"!

What I want to know now, Politico's, is what efforts you are going to take to rectify this situation, and attempt to regain all us "little guys" money back!

American Continental is now in Chapter 11, whatever for the legal declaration of bankruptcy!

Both of you got elected!

Now what about us? - You both got $150.000.00, and $83,000.00 respectively!

What do we get back?

sincerely,

cc:

000580

DEPARTMENT OF CORPORATIONS

IN REPLY REFER TO

FILE NO _____ _____

GUIDELINES FOR COMPLETING THE COMPLAINT FORM

Before filling out the attached complaint form, please take the time to read these guidelines; they will help you to understand our functions, and we will be better able to understand and act on your complaint.

WHAT WE CAN DO:

a) We investigate complaints against persons, business entities, and corporations accused of violating the licensing or anti-fraud provisions of laws administered by the Department. We are empowered to bring administrative or civil actions to stop these violations, and, in appropriate cases, to refer matters to the District Attorneys' offices for criminal prosecution.

b) We investigate complaints for alleged violations of the following California laws:

Corporate Securities Law of 1968
Franchise Investment Law
Check Sellers, Bill Payers and Proraters Law
Commercial Finance Lenders Law
Consumer Finance Lenders Law
California Credit Union Law
Escrow Law
Industrial Loan Law
Personal Property Brokers Law
Trading Stamp Law
Health Care Service Plan Act of 1975
Security Owners Protection Law

WHAT WE CANNOT DO:

a) We cannot act as a court of law, so we cannot order that monies be refunded, contracts be cancelled, damages be awarded, etc. If you have this type of problem, you should consult an attorney.

b) We cannot give legal advice or act as your attorney.

ENF 500.448(4/87)

HOW YOU CAN HELP US:

a) Summarize your complaint using these guidelines: Include how you first learned of the investment (ad, personal contact).

1) Tell us WHAT happened. Start from the beginning. Be specific as to what was said and who said it.

2) Tell us WHO was present during these conversations or acts.

3) Tell us WHEN and WHERE these conversations/ acts took place.

4) Tell us WHEN and WHERE the money and agreements changed hands.

5) Tell us HOW you know the representations were false or HOW you know your money was misused.

b) Documentary evidence is especially important, therefore, you should photocopy all documents such as contracts, agreements, certificates, notes, trust deeds, correspondence, legible copies of the front and back of checks involved, escrow documents, advertising, etc., and attach them to the written complaint. (Please do not send originals; we cannot be responsible for their safekeeping.)

c) Type or print clearly in ink.

d) If you have any questions concerning this form, you may call the Department of Corporations Duty Investigator at (213) 736-2520 (Los Angeles) or (415) 557-3679 (San Francisco) during regular business hours.

e) Upon completion of all sections, please mail the form along with your supporting documents to:

Supervising Investigator
DEPARTMENT OF CORPORATIONS
615 SOUTH FLOWER STREET
LOS ANGELES, CA 90017

Supervising Investigator
Department of Corporations
Suite 810
1390 Market Street
San Francisco, CA 94102

Attachments

STATE OF CALIFORNIA
DEPARTMENT OF CORPORATIONS
COMPLAINT FORM

1. Your full name (print) (Identifies you as the Complainant)

Residence Address (Street, City, State and Zip Code)

Business Address (Street, City, State and Zip Code)

Occupation	Business Telephone Number	Residence Telephone Number

I DECLARE I HAVE A COMPLAINT AGAINST:

2. Full Name of business, company, firm, person

Street address of business (room number, suite number, or apt. number, if any)

City	State	Zip Code	Business Telephone Number

3. Full name of salesperson, agent or other representative

Employed By:

4. Have you had a previous business or personal relationship with the firm or any of its partners, officers, directors or controlling persons?

☐ No ☐ Yes ☐ Business ☐ Personal How Long _____

If yes, and the relationship was a business relationship, please provide exact name of entity invested in, amount invested and type of interest received and indicate the nature and duration of the relationship. If the relationship was personal, please indicate the nature and duration of the relationship and whom it was with.

5. Date(s) of transaction (investment)

How and when did you first hear of the investment opportunity (e.g. Ad in LA Times on _____, personal contact by _____)

Place(s) where transaction(s) occurred

Amount(s) Invested

6. Have you contacted the business or person regarding your complaint?

☐ No ☐ Yes

Date(s)

If YES, person(s) contacted

Results of contact

7. Have you filed this complaint with another law enforcement or consumer protection agency? If yes, provide name and address of agency, and the person handling it.

☐ No ☐ Yes

8. Have you or any other victims filed a civil action (lawsuit) in any court If yes, provide name of county/case number/date. Provide copy of court documents.

☐ No ☐ Yes

9. Are you willing to appear as a witness, be sworn, testify and be cross-examined concerning the allegations made in this complaint?

☐ No ☐ Yes

If No, give reasons

10. Please estimate your net worth including autos and house.

☐ $10,000 - 25,000 ☐ $50,000 - 100,000 ☐ $150,000 - 200,000

☐ $25,000 - 50,000 ☐ $100,000 - 150,000 ☐ $200,000 - over

11. Please explain in detail your previous investment experience. Indicate type of investment, amount invested and date of investment.

12. Did you rely on the business or financial experience of someone other than yourself. If yes, who? Please detail.

13. Copies of the following documents (as checked below are attached to, incorporated and made a part of this complaint.

Attached	Not Available	Type of Document
☐	☐	ADVERTISING MATERIALS
☐	☐	AGREEMENT/CONTRACT
☐	☐	PROMISSORY NOTE (if any)
☐	☐	CASH RECEIPT(S)
☐	☐	CANCELLED CHECK(S) (FRONT & BACK)
☐	☐	ESCROW INSTRUCTIONS, AMENDMENTS & CLOSING STATEMENTS, (if any)
☐	☐	COPIES OF ALL DOCUMENTS WHICH RELATE TO YOUR COMPLAINT AND WHICH ARE NOT LISTED ABOVE.

14. List names, addresses and phone numbers of other individuals who may have invested, or may have further knowledge of the investment.

15. In a brief statement tell us the full story beginning with date of first contact to present. Keep dates of events in sequence and include misrepresentations. (Refer to attached guidelines for further instructions.)

NOTE: Include full names of individuals, including all witnesses present during the transaction(s). Be factual. Try to answer the questions "who", "what", "where" and "when." Attach extra sheets if more space is needed.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING STATEMENTS AND PHOTOCOPIES OF ATTACHED DOCUMENTS ARE TRUE AND CORRECT.

Date

Signature of Complainant

NOTICE REQUIRED BY THE INFORMATION PRACTICES ACT OF 1977
(Section 1798.17 of the California Civil Code)

(a) The State of California, Department of Corporations, Enforcement Division, requests the information solicited by the forms attached to this notice.

(b) The Chief Administrative Officer, 1025 P Street, Sacramento, California 95814, (916) 445-5541, is responsible for the system of records and shall, upon request, inform an individual regarding the location of his or her records and the categories of any persons who use the information in those records.

(c) The records are maintained pursuant to one or more of the following statutes: Business and Professions Code Sections 17764, 17765.8, 17766.5, and 17771; Corporations Code Sections 25111, 25112, 25113, 25121, 25131, 25151, 25160, 25211, 25231, 25530, 25531, 25610, 27003, 27102, 27104, 27105, 31111, 31122, 31400, 31401, and 31502; Financial Code Sections 12201, 12204, 12216, 12220, 12300, 14151, 14201, 14250, 14252, 17201, 17209, 17209.1, 17213.5, 17400, 18115, 18117, 18146, 18345, 18347, 22201, 22206, 22400, 24201, 24206, 24210, 24400, 24601, 24614, 26201, 26206, 26210, 26400, 26601, 26614, 30006, 30204, 30205, 30206, 30217, and 30606; Health and Safety Code Sections 1344, 1351, 1351.1, 1352, and 1353; Government Code Sections 7470, 7473, and 7474.

(d) The submission of all items of information is voluntary.

(e) The Enforcement Division of the Department of Corporations does not contemplate taking official action against you to compel production of the requested information if all or any part of the requested information is not provided.

(f) The principal purposes within the Department of Corporations for which the information is to be used are as part of the process to determine whether (1) a license, qualification, registration, or other authority should be granted, denied, revoked, or limited in any way; (2) business entities or individuals licensed or regulated by the Department of Corporations are conducting themselves in accordance with the applicable laws; and/or (3) laws administered by the Department of Corporations are being or have been violated and whether administrative action, civil action, or referral to appropriate federal, state, or local law enforcement or regulatory agencies is appropriate.

(g) Any known or foreseeable disclosures of the information pursuant to subdivisions (e) or (f) of Section 1798.24 may include transfers to other federal, state, or local law enforcement or regulatory agencies.

(h) Subject to certain exceptions or exemptions, the Information Practices Act grants an individual a right of access to personal information concerning the requesting individual which is maintained by the Department of Corporations. However, Section 6254 of the Government Code provides that records of complaints to or investigations conducted by the Department of Corporations are exempt from disclosure except as required by law. Additionally, Section 1040 of the Evidence Code provides a privilege against disclosure of official information where a court determines that the necessity for confidentiality outweighs the public interest in disclosure.

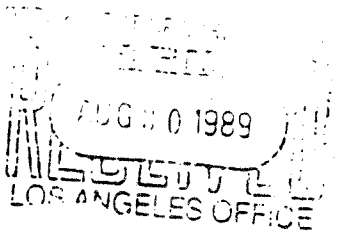
8/28/89

George Crawford
California Department of Corporations
615 South Flower Street
Los Angeles, California 90017

Dear sir:

On March 31, 1987 I went to Lincoln Savings and Loan, Granada Hills branch, to deposit $4,000.00 into an I.R.A account, $2,000.00 for 1986 and $2,000.00 for 1987. I was advised by Mr. Colignola at Lincoln Savings and Loan to roll over the $5,285.93 I had in another account and add it to the $4,000.00 I was depositing. I was told this would be the wise course to take since the interest rate would be 9.5%. There was a stipulation that I leave it in the account for five years. I was not told that it was not federally insured and I was not given a perspective.

Sincerely,



APRIL 21, 1987

DATE OF TRUST: APRIL 09, 1987

Dear Client:

We take this opportunity to formally advise you that we have established your DIRECTION RETIREMENT PLAN and are returning an accepted Agreement for your files.

All investments in this plan will be made in accordance with the instructions given directly to your Account Executive at

Should you have any questions concerning your plan, please contact your personal Account Executive.

We are confident that your decision to participate in Direction Retirement Plan offered in conjunction with your orokerage firm will prove to be both sound and wise. This is a unique opportunity to establish and build a retirement program with tax-sheltered funds.

Sincerely,

Retirement Accounts

Our records indicate your Social Security number and Date of Birth as noted below. If this is NOT correct return this letter with the corrections noted.

Social Security #

Date of Birth

C&T

Specializing in Prototype Retirement Plans

000591

To:

You recently opened a self-directed IRA through Lincoln Savings. You may or may not be aware of the various parties associated with your IRA. Let me explain the relationships.

Your Lincoln Savings representative arranged with to open your self-directed IRA with the trustee, (Federal Law requires a separate Trustee for these IRA's). is responsible for filing governmental IRA reports, but does not physically take possession of the bonds or handle the interest payments. The bonds are in your account. At the end of each month American Continental pays the interest due for the preceding month, i.e., the interest received at the end of May is the bond interest due for the month of April. This amount will appear on your June statement from.

Many people have several IRA's: one at a credit union, one at a bank, one with a mutual fund, and a self-directed IRA. Each of these has annual administrative costs. The most flexible IRA of all is the self-directed IRA. Most people are not aware that they can consolidate all of their various accounts into their self-directed IRA. By consolidating, you will receive one annual statement instead of several, and it is more economical. If consolidating your IRA's appeals to you, I can assist you in the process.

Our philosophy at is that retirement plans (i.e. IRA, Keogh, pensions) should contain only conservative investments. Your retirement account is not for speculative investments. At we have a wide spectrum of investments which meet our IRA criteria. I would be happy to discuss these with you.

I hope you found this explanation of your IRA helpful. If you have any questions regarding your account please call me toll-free on

In any case, I will be calling you soon to introduce myself.

Your

SIPC

Application for I' A

Check one ☐ NEW ☐ TRANSFER

Check one ☐ REGULAR IRA ☐ SPOUSAL IRA ☐ ROLLOVER IRA ☐ SIMPLIFIED EMPLOYEE PENSION

Please print. Also, where blocks are indicated print a single capital letter or number within each block.

1. NAME

SPOUSE'S NAME (IF SPOUSAL IRT)

with home address of:

ADDRESS

CITY

hereby adopt a Self-Directed Individual Retirement Trust and incorporate the following additional terms and conditions:

2.A YOUR DATE OF BIRTH YOUR SOCIAL SECURITY NO

Primary Beneficiary:

NAME RELATIONSHIP DATE OF BIRTH SOCIAL SECURITY NO

Additional Primary Beneficiary (unless indicated as Contingent Beneficiary):

NAME RELATIONSHIP DATE OF BIRTH SOCIAL SECURITY NO

2.B *Fill in only if Spousal IRT:*

SPOUSE'S DATE OF BIRTH ☐☐/☐☐/☐☐ SPOUSE'S SOCIAL SECURITY NO ☐☐☐-☐☐-☐☐☐☐

Primary Beneficiary:

NAME RELATIONSHIP DATE OF BIRTH SOCIAL SECURITY NO

Additional Primary Beneficiary (unless indicated as Contingent Beneficiary):

NAME RELATIONSHIP DATE OF BIRTH SOCIAL SECURITY NO

3.A *Rollover Contribution in the amount of $_____ (check payable to Trustee, is enclosed/will be forwarded. The securities on the attached list were part of the distribution.*

Rollover Contribution is from: _____
NAME OF COMPANY

3.B *My/Our individual contribution does not exceed the lesser of 100% of compensation or $2000 ($2250 if a spousal plan) or such limits as may be prescribed by law. If a Simplified Employee Pension, employer contributions will not exceed 15% of compensation or $30,000, whichever is less, or such limits as may be prescribed by law.*

4. *I/We appoint to serve as Trustee in accordance with the terms and conditions of this document and hereby acknowledge that I/We have read the Disclosure Statement contained herewith. I/We hereby certify that the above social security number(s) are true and correct. (Execute this Application and attach Acceptance Fee, see Fee Schedule.)*

By _____ *and by* _____ *Date* _____
APPLICANT'S SIGNATURE SPOUSE'S SIGNATURE (ONLY IF SPOUSAL IRT)

To be completed by Representative:

ACCOUNT EXECUTIVE AND FIRM INDIVIDUAL'S ACCOUNT NUMBER

TELEPHONE NUMBER SPOUSE'S ACCOUNT NUMBER (ONLY IF SPOUSAL IRT)

Approval of Trustee:

The foregoing Application is hereby approved by the Trustee this _____ *day of* _____ *19* _____

Attest _____ *by*

THREE COPIES TO TRUSTEE

American Continental Corporation
Subordinate Debentures

SERIES A-2

Principal Amount:	$9,000.00
Interest Rate:	9.500%
Date of Purchase:	MARCH 31, 1987
Due Date:	MARCH 31, 1992
Ref No:	

By signing this Direction Letter, the undersigned hereby directs [redacted], acting as Trustee, to purchase the Subordinate Debentures of American Continental Corporation in the Series and amount, and with the interest rate and maturity shown above. The undersigned acknowledges receipt of the Prospectus and Prospectus Supplement relating to the Subordinate Debentures and the latest Annual Report and Form 10-Q of American Continental Corporation and authorizes payment of interest to [redacted] as Trustee.

Debentures to be Registered in Name(s) of:

Tax ID No.:

Payment of Interest:
MAIL MONTHLY TO REGISTERED ADDRESS

Signature of Purchaser

Signature of Purchaser

PURCHASE INSTRUCTION TO: AMERICAN CONTINENTAL CORPORATION	ACCEPTANCE OF PURCHASE
You are hereby authorized to issue the above referenced Securities to the Trust Account and to deliver certificates evidencing such Securities to [redacted] as	American Continental Corporation accepts the Purchase of the Principal Amount of Debentures shown hereon.

AMC3

SIPC

MIDWEST STOCK EXCHANGE

				Codes				
AMCA292		1	27050	0	1	2	04/14/87	04/22/87

FOR THE ACCOUNT OF

	AMERICAN CONTINENTAL CORP SUB DEB SER A-2	9.5% 03/31/92

CORRECTION ENTRY DATE 04/15

YLD 9.500

100	9,000.00						9,000.00

NO PAY NEC CNFM ONLY

CUSTOMER

3328

DUPLICATE CONFIRMATION

RECEIPT

AMERICAN CONTINENTAL CORPORATION Phoenix, Az

SUBORDINATE DEBENTURE SERIES A-2
AT 9.500% DUE MARCH 31, 1992
PURCHASE AMOUNT $9,000.00

AMC 1

ACCOUNT #	R/R #	PAGE #	TELEPHONE #
		1	

THROUGH THE COURTESY OF:

1220 **

STATEMENT PERIOD 04/01/89 TO 04/28/89	BUYING POWER
SS OR ID #	TYPE - CASH

***** ACCOUNT PORTFOLIO *****

OPENING BALANCE	CLOSING BALANCE	MARKET VALUE	TOTAL FUND SHARE	TOTAL EVALUATION
$.90CR	$72.15CR	$0	$1,969.61	$2,041.76

***** DIVIDEND, INTEREST AND/OR CHARGE INFORMATION *****

DESCRIPTION	MONTHLY	YEAR TO DATE
INTEREST (REPORTABLE)	$71.25CR	$285.00CR
CORPORATE INTEREST	$71.25CR	$285.00CR

***** MONTHLY AND YEAR TO DATE PLAN SUMMARY *****

PLAN NAME @ $1.000 PER SHARE	OPENING BALANCE	CLOSING BALANCE	DIVIDEND/INTEREST MONTHLY	DIVIDEND/INTEREST YEARLY
CASH RESERVES	$1,955.50	$1,969.61	$14.11	$51.85

***** DAILY ACTIVITY REVIEW *****

DATE	TRANSACTION	DESCRIPTION	PRICE	AMOUNT
04 01	OPENING BALANCE			$.90CR
04 28	xBOND INTEREST	AMERICAN CONTINENTAL CORP SUB DEB SER A-2		$71.25CR
04 28	CLOSING BALANCE			$72.15CR

***** SUMMARY OF INVESTMENTS *****

	YOUR INVESTMENTS	CURRENT PRICE	MARKET VALUE	CURR. YIELD	EST. INCOME
9000	AMERICAN CONTINENTAL CORP SUB DEB SER A-2 APR87 09 500% MAR31 92RG	UNAVAILABLE			

DUPLICATE 000002-0000041430 END OF STATEMENT APRIL, 1989

FOR AN EXPLANATION OF SYMBOLS, PLEASE SEE REVERSE SIDE

PLEASE ADVISE YOUR REGISTERED REPRESENTATIVE IMMEDIATELY OF ANY DISCREPANCIES ON YOUR STATEMENT OR IF YOU CONTEMPLATE CHANGING YOUR ADDRESS. WHEN MAKING INQUIRIES, PLEASE MENTION YOUR ACCOUNT NUMBER AND ADDRESS ALL CORRESPONDENCE TO YOUR BROKER'S OFFICE. WE URGE YOU TO RETAIN THIS STATEMENT FOR USE IN PREPARING YOUR INCOME TAX RETURNS.

ACCOUNT CARRIED BY [illegible]

PRINTED IN U.S.A.

000597

It is agreed between
and the Customer

(1) That all transactions are subject to the constitution, rules, regulations, customs, usages, rulings and interpretations of the exchange or market, and its clearing house, if any, where the transactions are executed, and if not executed on any exchange, of the National Association of Securities Dealers Inc.

(2) That unless and until all obligations of the Customer to are discharged, may from time to time and without notice to the Customer pledge or repledge, hypothecate or rehypothecate, any or all securities now or hereafter held, purchased or carried by for the account of the Customer or deposited to secure the same, either separately or under circumstances which will permit the commingling thereof with securities carried for the account of other Customers, for any amount whatever, either more or less than the amount due thereon, whether under general loans of or otherwise, or may lend the same, or deliver the same on contracts for other Customers without having in its possession and control for delivery a like amount of similar securities.

(3) That will hold for your account securities purchased and proceeds of sales unless instructed otherwise.

(4) That unless the Customer indicates non-acquiescence in writing, this agreement shall inure to the benefit of the successors of by merger, consolidation or otherwise and its assigns and is authorized to transfer the account of the Customer to any such successors or assigns.

(5) That bonds and preferred stocks which are callable in part and which we hold for the Customers (except for those held in custodian accounts) are held in bulk segregation, and in the event of a call, the securities to be called will be selected by an automated random selection in which the probability of a Customer's holdings being selected in proportional to the holdings of all Customers of such securities held in bulk by us.

(6) That shall not be responsible for the destruction or loss of any securities, placed in the custody of a foreign bank, broker or other custodian, resulting from war, civil commotion, enemy action, governmental acts or other causes beyond the control of the depository or

(7) That in the absence of specific instructions to the contrary, orders for securities and options which are multi-listed will be directed to the marketplace which considers to be the primary market for that security.

As required by law reports to the Internal Revenue Service those dividends (indentified by an asterisk (*) on the statement), and registered bond interest (identified by a lozenge (□) on the statement) credited to your account during the year. The total dividend(s) and interest reported are indicated as year-to-date dividends and interest on the last statement received for the calendar year.

If this is a margin account, this is a combined statement of your general account and of a special miscellaneous account maintained for you under Section 4 (f) (6) of Regulation T issued by the Board of Governors of the Federal Reserve System. The permanent record of separate account, as required by Regulation T, is available for your inspection upon request.

A corporate affiliate of trades for its own account as an odd lot dealer, block positioner and/or arbitrageur, and at the time of your transactions it may have had either long or short positions in such securities, which may have been partially or completely hedged.

Trades made up to the "period ending" date but which settled thereafter will appear on your next monthly statement.

The closing credit balance, if any, appearing on the face of this statement, may be used in our business, subject to the limitations of 17 CFR Section 240.15c3-3 under the Securities Exchange Act of 1934. You do however, have the absolute right to receive, in the normal course of business, subject to open commitments in any of your accounts, any free credit balance to which you are entitled, any fully paid securities to which you are entitled, and any securities purchased on margin upon the full payment of any indebtedness to the Firm.

is a member of the Securities Investor Protection Corporation (SIPC). Under the protection of the Securities Investor Protection Act, the securities and cash of each "customer" of is protected up to $500,000 which includes a maximum of $100,000 in cash. As a free service to our "customers" has obtained, through an additional $2 million of protection per "customer" for securities held in your account.

A financial statement of this organization is available for your personal inspection at its offices, or a copy of it will be mailed upon your written request.

EXPLANATION OF SYMBOLS

N/A	Value not available for purposes of compiling this statement
N/N	Non-negotiable
N/N N/O	Non-negotiable securities held registered in your name
N/O	Held registered in your name
NOCC	Options Clearing Corp
RD	Bonds are changeable from coupon to registered and vice versa without charge
RG	Bonds registered for both principal and interest
*	Dividends reported to I R S
□	Registered bond interest reported to I R S

IRA

Dear IRA Participant:

The following is your IRA Trust Agreement. This is the legal document governing the IRA you have recently opened with as trustee.

Please keep this and the approved Application with your permanent records.

9/83

Self Directed Individual Retirement Trust (IRT)

ARTICLE I — INTRODUCTION
This Trust is established under the Code in order to create a fund out of which benefits shall be paid to individuals participating herein upon their retirement, disability, or other termination of employment; or in the event of death, to their Beneficiary.

ARTICLE II — DEFINITIONS
As used in this Trust, the following terms shall have the meaning hereinafter set forth, unless a different meaning is plainly required by the context:

2.1 Act shall mean the Employee Retirement Income Security Act of 1974 as amended.

2.2 Application shall mean the Application by which this Trust, as may be amended from time to time, is adopted by the Grantor. The statements contained therein shall be part of this Trust, as fully set forth herein.

2.3 Beneficiary shall mean the person or persons designated by the Grantor in the Application.

2.4 Code shall mean the Internal Revenue Code of 1954, as amended from time to time.

2.5 Compensation shall mean, for a self-employed individual, net earnings from self-employment to the extent such net earnings are derived from the individual's trade or business during the Trust Year but only if the personal services of such individual are a material income producing factor in the trade or business. Compensation, for an Employee who is not self-employed, shall mean total payments received during the Trust Year for personal services rendered to his/her Employer which is reportable on his/her W-2 Form, or successor form. Compensation shall include contributions made to this Trust by or for such individuals. Compensation may also include any amount includible in the individuals gross income under section 71 with respect to a divorce or separation instrument described in subparagraph (A) of section 71(b)(2) of the Code.

2.6 Disability shall mean the Grantor's inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or to be long-continued and indefinite duration and as further described in Code section 72 (m) (7).

2.7 Individual shall mean any person for whom contributions have been received by this Trust.

2.8 Grantor shall mean that person for whom contributions are made to this Trust, and if a Spousal IRA it shall also mean the spouse.

2.9 Trust Year shall mean the calendar year from January first (1st) to December thirty-first (31st) each year.

2.10 Regulations shall mean Federal Income Tax Regulations, as amended from time to time.

2.11 Trustee shall mean and any successor trustees under this Trust.

2.12 Trust shall mean this Trust established hereunder as it may from time to time hereafter be amended including the Application which is part of this Trust.

ARTICLE III — ELIGIBILITY
3.1 An eligible individual is any person who received Compensation for services rendered (including earned income of a self-employed individual) during the taxable year and is under 70½. An individual making a rollover contribution as described in 402 (a) (5), 402 (a) (7), 403 (a) (4), 403 (b) (8), 405 (d) (3), 408 (d) (3) or 409 (b) (3) (C), or an employer contribution to a SEP as described in 408(k) is also an eligible individual.

3.2 As a condition of the participation, the Grantor shall be required to consent, which consent need not be in writing, to the terms and conditions of this Trust, as may be amended from time to time.

ARTICLE IV — CONTRIBUTIONS
4.1 Each taxable year, an Individual may contribute on a periodic basis to this Trust an amount not to exceed the lesser of two thousand dollars ($2000) or one hundred percent (100%) of Compensation or two thousand two hundred and fifty dollars ($2250) if a Spousal IRA or such limits as may be prescribed by law. Under a Simplified Employee Pension (SEP) as described in section 408 (k) an individual's tax deduction for his/her Employer's contribution to the Trust can not be in excess of the lesser of fifteen percent (15%) or thirty thousand dollars ($30,000) of the Individual's Compensation for any taxable year.

4.2 Contributions made to this Trust shall be in cash. Grantor will specify investments to be made with contributions. All contributions so received together with the income therefrom and any other increment thereon (hereinafter referred to as the "Trust") shall be held, managed and administered by the Trustee pursuant to the terms of this Trust without distinction between principal and income and without liability for the payment of interest thereon. The Trustee shall not be responsible for the computation and collection of any contributions under the Trust and shall be under no duty to determine whether the amount of any contribution is in accordance with the Trust.

4.3 Except in the case of a rollover contribution as that term is described in Article VII, the Trustee will only accept cash and will not accept contributions on behalf of the Grantor in excess of $2000 or $2250 if a Spousal IRA, or such limits as may be prescribed by law for any taxable year. In the case of a SEP as described in Section 408(k), the Trustee will not accept Employer contributions on behalf of the Individual Grantor in excess of $30,000 or such limits as may be prescribed by law for any taxable year.

4.4 Contributions made to this Trust by the Grantor shall be made to, or for the account of, the Trustee no later than April 15 of the year following the year to which the contribution relates. Contributions by an Employer to a SEP must be made no later than three and one half months after the close of the Trust Year.

4.5 Contributions made to this Trust by or for a Grantor shall be fully vested and nonforfeitable at all times.

4.6 The Grantor shall direct the Trustee with respect to the investment of all contributions and the earnings therefrom under the Trust. Such direction shall be limited to securities obtainable through the Brokerage Firm designated in the Application (or any other stockbroker selected by the Grantor and approved by the Trustee) "over the counter" or on a recognized exchange without any duty to diversify. The Trustee may leave earnings on any securities so obtained with the Brokerage Firm designated in the Application (or any other stockbroker selected by the Grantor and approved by the Trustee) for reinvestment in accordance with the instructions of the Grantor. Notwithstanding the above, Grantor may direct contributions and earnings to be placed in a savings account or a Certificate of Deposit with an institution approved by the Trustee. See Article IX for Investments and Administration.

4.7 A Grantor shall not make contributions to this Trust in or after the taxable year

during which the Grantor attains age 70½ however contributions can be made for the spouse under age 70½

4.8 If a Grantor makes a contribution to this Trust which exceeds the lesser of one hundred percent (100%) of Compensation or two thousand dollars ($2000) or two thousand two hundred and fifty dollars ($2250) if a Spousal IRA or the lessor of fifteen percent (15%) or thirty thousand dollars ($30,000) if a SEP or such lesser as may be prescribed by law and it is deemed that the portion of such contribution which exceeds these limitations is not deductible for Federal Income Tax purposes then the non-deductible portion may be withdrawn by the Grantor Such withdrawal must be made prior to April 15 on which the Grantor is required to file his/her Federal Income Tax return

4.9 Any income earned on the nondeductible portion of such contributions must be withdrawn by the Grantor at the same time.

ARTICLE V — DISABILITY BENEFITS

If a Grantor becomes disabled prior to age 59½ such Grantor is vested to his/her entire interest which shall be paid to the Grantor becoming disabled within the meaning of Code section 72 (m) (7)

ARTICLE VI — DISTRIBUTION

6.1 The entire interest shall not be distributed to the Grantor prior to attaining the age of 59½, except on account of disability, death of the Grantor or Rollover. If any distribution is made before age 59½, Grantor must notify the Trustee in writing of his/her intended disposition of such distribution.

6.2 All or a portion of the entire interest must commence to be paid to the Grantor not later than the first day of April following the calendar year in which such Grantor attains age 70½.

6.3 If in any taxable year after which a Grantor attains the age of 70½, all or a portion of the entire interest of the Grantor is less than the minimum amount required to be distributed under the Article during such year, a fifty percent (50%) nondeductible excise tax, payable by the Individual shall be imposed on the amount by which the minimum amount required to be distributed during such year exceeds the amount actually distributed during the year.

6.4 Subject to the provisions hereof, the Trustee shall, from time to time on the written directions of the Grantor in accordance with the provisions of the Trust, make distributions out of the Trust to such individuals, in such manner, in such amounts and for such purposes as may be specified in such directions.

6.5 The Trustee shall not be liable to the proper application of any part of the Trust if distributions are made in accordance with the written directions of the Individual as herein provided, nor shall the Trustee be responsible for the adequacy of the Trust to meet and discharge any and all distributions and liabilities.

6.6 Not later than the period stated in 6.2 the Grantor shall direct in writing to the Trustee, to have the balance in the Trust account distributed in:

(a) a single sum payment

(b) equal or substantially equal monthly, quarterly or annual payments commencing not later than the period stated in 6.2 over the life of the Grantor.

(c) equal or substantially equal monthly, quarterly or annual payments commencing not later than the period stated in 6.2 over the joint lives of the Grantor and his/her beneficiary.

(d) equal or substantially equal monthly, quarterly or annual payments commencing not later than the period stated in 6.2 over a period certain not extending beyond the life expectancy of the Grantor, or

(e) equal or substantially equal monthly, quarterly or annual payments commencing by the end of such taxable year over a period certain not extending beyond the joint life and last survivor expectancy of the Grantor and his/her beneficiary.

Notwithstanding that distributions may have commenced pursuant to one of the above options, the Grantor may receive a distribution of the balance in the Trust at any time upon written notice to the Trustee.

6.7 If the Grantor fails to receive any of the methods of distribution described above on or before the first day of April following the calendar year in which he/she attains the age of 70½, distribution to the Grantor will be made prior to the close of such taxable year by a single sum payment.

6.8 If the Grantor elects a mode of distribution under 6.6 (b), (c), (d) or (e) above, the monthly, quarterly or annual payments will be determined by dividing the entire interest of the Grantor in the Trust at the beginning of each year by the life expectancy of the Grantor (or the joint life and last survivor expectancy of the Grantor and spouse, or the period specified under (d) or (e) (whichever is applicable) Use return multiples specified in section 1.72-9 of the Income Tax Regulations for life expectancy and joint and last survivor life expectancy. The life expectancy of Grantor and surviving spouse may be recalculated annually. In the case of any other designated Beneficiary, life expectancy will be calculated at the time payment first commences and payments for any twelve (12) consecutive month period will be based on such life expectancy minus the number of whole years passed since distribution first commenced.

6.9 If the Grantor dies after distributions have commenced but before the entire interest is distributed as provided above, the remaining portion of such interest will be distributed at least as rapidly as the method of distribution being used prior to the Grantor's death. If the Grantor dies before distribution of his/her interest commences, the Grantor's entire interest will be distributed in accordance with one of the following provisions. (a) If the Grantor's interest is payable to a Beneficiary and the Grantor has not stipulated payment to be made within five years or sooner, then the entire interest will be distributed in substantially equal installments over the life expectancy of the designated Beneficiary commencing no later than one (1) year after the date of the Grantor's death. The Beneficiary, however, may elect at any time to receive greater payments. (b) If the Beneficiary is the Grantor's spouse, the spouse may elect within the five year period commencing with the Grantor's death to receive equal or substantially equal payments over the life expectancy of the surviving spouse commencing at any date prior to the date on which the Grantor would have attained age 70½. The surviving spouse may accelerate the frequency of payments or amount of payments at any time. (c) If the Beneficiary is the Grantor's surviving spouse, the spouse may treat this account as his/her own IRA. This election will deem to have been made if such spouse makes a regular IRA contribution, makes a rollover to or from such account, or fails to elect any of the above options. (d) For the purpose of the above, calculations will be made by using the return multiples specified in section 1.72-9 of the Income Tax Regulations. Life expectancy of a surviving spouse may be recalculated annually. All other designated Beneficiaries life expectancy will be calculated at the time payment first commences and payments for any twelve consecutive month periods will be based on such life expectancy minus the number of whole years passed since distributions first commenced. If a joint life expectancy is computed using a non-spouse beneficiary, a minimum of 50% of the interest in the retirement account must be distributed during the life expectancy of the Grantor.

ARTICLE VII — ROLLOVER CONTRIBUTIONS

7.1 Any Individual who is a participant in a plan meeting the requirements of Section 401 (a) of the Code or a tax-deferred annuity meeting the requirements of Section 403 (b) of the Code or a bond purchase plan meeting the requirements of Section 405 (a) of the Code, or in another individual retirement trust meeting the requirements of Section 408 (a) of the Code, or in an individual retirement annuity meeting the requirements of Section 408 (b) of the Code may rollover cash or other property to the Trust from such plan, trust or annuity. Also, any Individual who receives a distribution from a qualified plan because of the death of their spouse as described in Section 402 (a) (7) of the Code may effect a rollover.

7.2 If the Trust or an employee's individual retirement account forming part of the employer's retirement trust has been disqualified because the Individual and/or his/her Beneficiary engaged in a prohibited transaction as defined in Act. Section 408, the Trust or such employee's account may not be rolled over to another individual retirement trust.

7.3 Only cash or other property from a plan as described above may be rolled over from such plan to this Trust.

7.4 If cash or other property attributable to contributions made by an employee to a plan meeting the requirements of Section 401 (a) of the Code are rolled over from such plan to the Trust, such cash or property shall be treated as an excess contribution and shall be subject to the excise tax on excess contributions.

7.5 In the event of rollovers from this Trust to another individual retirement trust meeting the requirements of Section 408 (a) of the Code or to an Annuity Contract meeting the requirements of Section 408 (b) of the Code, such rollovers shall only be made once a year.

7.6 A Grantor may rollover or transfer the entire interest, annuity contract, cash surrender values of insurance policies to another individual retirement trust meeting the requirements of Section 408 (a) of the Code or to an annuity contract meeting the requirements of Section 408 (b) of the Code.

7.7 Such rollover must be completed within sixty (60) days after the day on which the Grantor receives the payment or distribution.

ARTICLE VIII — DESIGNATION OF BENEFICIARY

8.1 Grantor shall designate a Beneficiary in the Application. Grantor may change Beneficiary designation by filing a written notice with the Trustee.

8.2 Such Beneficiary shall be entitled to the Grantor's entire interest in the event of death of the Grantor prior to complete distribution of the entire interest.

8.3 If the designation of a Beneficiary has not been made by the Grantor at the time of the death of the Grantor, the Beneficiary shall be the spouse of the Grantor, or if there is no spouse living at the time of the Grantor's death, the Beneficiary shall be the estate of the Grantor.

8.4 If the Beneficiary designated to receive payments hereunder is a minor or person of unsound mind, whether so formally adjudicated or not, the Trustee, in its discretion, may make such payment to such person as may be acting as parent, guardian, committee, conservator, trustee, or legal representative of such minor or incompetent and the receipt of any such person so selected by the Trustee shall be a full and complete discharge to the Trustee for any sums so paid.

8.5 If the Trustee is unable to make a payment to a Beneficiary hereunder within six months after any such payment is due, because the Trustee cannot ascertain the whereabouts or the identity of the Beneficiary by mailing to the last known address shown on the Trustee's records, and such Beneficiary has not written claim for such payment before the expiration of said six-month period, then the Trustee may deposit the Beneficiary's funds in a special savings account or money market mutual fund established in the name of the Trustee for such Beneficiary.

ARTICLE IX — INVESTMENTS AND ADMINISTRATION

9.1 The Trustee shall have the power and authority in the administration of this Trust to do all acts, including by way of illustration, but not in limitation of the powers conferred by law, the following:

(a) Pursuant to the Grantor's directions or agent, to invest and reinvest all or any part of the Trust in securities obtainable through the Brokerage Firm designated in the Application, either "Over the counter" or on a recognized exchange, and to invest in mutual funds, savings media and any lawful trust investment which is administratively acceptable to the Trustee without any duty to diversify and without regard to whether such property is authorized by the laws of any jurisdiction for trust investment.

(b) To hold part or all of the Trust Fund uninvested or, pursuant to directions of the Grantor to place the same in a savings account approved by the Trustee or purchase a Certificate of Deposit with an institution approved by the Trustee. However, the Trustee may, but need not, establish a program under which cash deposits in excess of a minimum set by it will periodically be invested in a savings account or money market mutual fund without direction of the Grantor or his/her agent and the terms of any such program may be determined and altered at the discretion of the Trustee.

(c) To employ suitable agents and counsel and to pay their reasonable expenses and compensations.

(d) To vote in person or by proxy upon securities held by the Trustee and to delegate its discretionary powers.

(e) Pursuant to the Grantor's directions or agent, to write covered listed call options against existing positions and to liquidate or close such option contracts and the purchase of put options on existing long positions (the same securities cannot be used to simultaneously cover more than one position); to exercise conversion privileges or rights to subscribe for additional securities and to make payments therefor.

(f) To consent to or participate in dissolutions, reorganizations, consolidations, mergers, sales, leases, mortgages, transfers or other changes affecting securities held by the Trustee.

(g) To leave any securities or cash for safekeeping or on deposit, with or without interest, with such banks, brokers and other custodians as the Trustee may select, and to hold any securities in bearer form or in the name of the banks, brokers and other custodians or in the name of the Trustee without qualification or description or in the name of any nominee; and

(h) To invest contributions for Grantor through the facilities of the Brokerage Firm designated in the Application (or equivalent facilities maintained by any other stockbroker selected by the Individual and approved by the Trustee);

(i) The Brokerage Firm named in the Application is designated by the Grantor with authority to provide the Trustee with instructions, via confirmations or otherwise, implementing his/her directions to the Brokerage Firm to purchase and sell securities for his/her account. Prior to the entry of any orders to purchase or sell securities in this account, Grantor shall approve beforehand all such orders and direct the Brokerage Firm to implement his/her instructions. Grantor authorizes the Trustee to honor trades within his/her account without obligation to verify prior authorizations of such trades. The Brokerage Firm shall receive advices of available cash in this account and shall forward confirmation of purchases and sales to the Trustee. Selling short and executing purchases in an amount greater than available cash are prohibited transactions. Investments in life insurance and collectibles are not permitted. All investments outside of the brokerage account shall be accompanied by additional written instructions.

9.2 Notwithstanding anything to the contrary contained in this Trust, the Trustee shall not make any investment or dispose of any investment held in the Trust, except upon the direction of the Grantor or his/her agent. No investments will be made in life insurance contracts nor will any assets be commingled.

9.3 The Trustee shall be under no duty to question any such direction of the Individual, to review any securities or other property held in the Trust, or to make suggestions to the Individual with respect to the investment, retention or disposition of any assets held in the Trust.

9.4 In accordance with Section 404 (c) under the Act and being that the Grantor exercises control over his/her assets in the Trust which provides for his/her individual account; such Grantor or their Beneficiary shall not be deemed to be a fiduciary by reason of such exercise, and no person who is otherwise a fiduciary shall be liable under the Trust for any loss, or by reason of any breach, which results from such Grantor's exercise of control.

9.5 The Grantor may appoint in writing an Investment Manager or Managers to manage (including power to acquire and dispose of) any assets of the Trust.

Any such Investment Manager shall be registered as an Investment Adviser under the Investment Advisers Act of 1940. If investment of the Trust is to be directed by an Investment Manager, the Grantor shall deliver to the Trustee a copy of the instruments appointing the Investment Manager and evidencing the Investment Manager's acceptance of such appointment, an acknowledgement by the Investment Manager that it is a fiduciary of the Trust, and a certificate evidencing the Investment Manager's current registration under said Act. The Trustee shall be fully protected in relying upon such instruments and certificate until otherwise notified in writing by the Grantor.

The Trustee shall follow the directions of the Investment Manager regarding the investment and reinvestment of the Trust, or such portion thereof as shall be under management by the Investment Manager. The Trustee shall be under no duty or obligation to review any investment to be acquired, held or disposed of pursuant to such directions nor to make any recommendations with respect to the disposition or continued retention of any such investment or the exercise or non-exercise of the powers. Therefore, and in accordance with Section 405 (d) (1) under the Act the Trustee shall have no liability or responsibility for acting or not acting pursuant to the direction of, or failing to act in the absence of any direction from, the Investment Manager, unless the Trustee knows that by such action or failure to act it would be itself committing or participating in a breach of fiduciary duty by the Investment Manager. The Grantor hereby agrees to indemnify the Trustee and hold it harmless from and against any claim or liability which may be asserted against the Trustee by reason of its acting or not acting pursuant to any direction from the Investment Manager or failing to act in the absence of any such direction.

The Investment Manager at any time and from time to time may issue orders for the purchase or sale of securities directly to a broker, and in order to facilitate such transaction, the Trustee upon request shall execute and deliver appropriate trading authorizations. Written notification of the issuance of each such order shall be given promptly to the Trustee by the Investment Manager, and the execution of each such order shall be confirmed by written advice via confirms or otherwise to the Trustee by the broker.

In the event that an Investment Manager should resign or be removed by the Grantor, the Grantor shall manage the investments pursuant to this Agreement unless and until the Trustee shall be notified of the appointment of another Investment Manager with respect thereto as provided in this Article.

The Trustee shall be under no duty to question any such direction of the Grantor or Investment Manager to review any securities or other property held in the Trust, or to make suggestions to the Grantor or Investment Manager with respect to the investment, retention or disposition of any assets held in the Trust Fund.

9.6 Notwithstanding anything herein contained to the contrary, the Trustee shall not lend at any part of the corpus or income of the Trust to, pay any compensation for personal services rendered to the Trust to, make any part of its services available on a preferential basis to, or acquire for the Trust any property, other than cash, from or sell any property to any Grantor or to any member of a Grantor's family, or to a corporation controlled by any Grantor through the ownership, directly or indirectly, of 50 percent or more of the total combined voting power of all classes of stock entitled to vote or 50 percent or more of the total value of shares of all classes of stock of such corporation.

9.7 All contributions made by the Grantor and all investments made with such contributions and the earnings thereon shall be credited to an account maintained for him/her by the Trustee.

Such account shall reflect the amounts contributed by the Individual. With respect to investments of contributions and the earnings thereon the account maintained by the trustee may consist of copies of regularly issued broker statement to the Trustee.

9.8 Within 90 days from the close of each Trust Year, the Trustee shall render an accounting valuating the assets at fair market value, to the Individual which account may consist of copies of regularly issued broker-dealer statements to the Trustee and copies of insurance company summary account statements supplied to the Trustee. In the absence of the filing in writing with the Trustee by the Grantor of exceptions or objections to any such account within sixty(60) days after the making of such accounting, the Grantor shall be deemed to have approved such account; and in such case, or upon the written approval of the Grantor of any such account, the Trustee shall be released, relieved and discharged with respect to all matters and things set forth in such account as though such account had been settled by the decree of a court of competent jurisdiction. No person other than the Grantor may require an accountang or bring any action against the Trustee with respect to the Trust or its actions as Trustee.

The Trustee shall have the right at any time to apply to a court of competent jurisdiction for judicial settlement of its accounts for determination of any questions of construction which may arise or for instructions. The only necessary party defendant to such action shall be the Grantor except that the Trustee may, if it so elects, bring in as party defendant any other person or persons.

9.9 The Trustee shall be fully protected in acting upon any instrument, certificate, or paper believed by it to be genuine and to be signed or presented by the proper person or persons, and the Trustee shall be under no duty to make any investigation or inquiry as to any statement contained in any such writing but may accept the same as conclusive evidence of the truth and accuracy of the statements therein contained.

9.10 The Trustee shall be under no duty to question any direction of a Grantor or his/her agent with respect to investments, to review any securities or other property held in trust or to make suggestions to the Grantor or his/her agent with respect to investment and the Trustee will not be liable for any loss which may result by reason of investments made by it in accordance with the directions of a Grantor or his/her agent.

9.11 Whenever the services of a stockbroker or a dealer are required, the Trustee shall engage the Brokerage Firm designated in the Application provided, however, the Trustee may in its discretion appoint another stockbroker or dealer selected by the Grantor to handle investments in securities under the Trust.

9.12 The surviving spouse and/or Beneficiary shall be bound by Article IX and Trust regarding investments and commingling of their interest. Provided however should the Beneficiary be a minor or in the discretion of the Trustee of unsound mind, the Trustee will liquidate the interest of such Beneficiary and hold such interest in an interest bearing account or money market account until distributed.

ARTICLE X — TRUSTEE COMPENSATION

10.1 The Trustee shall be paid such reasonable compensation as shall from to time be communicated to the Grantor by the Trustee, and such compensation shall be chargeable to the Grantor. The Grantor hereby covenants and agrees to pay the same.

10.2 The Trustee shall charge against the Grantor any taxes paid by it which may be imposed upon the Trust or the income thereof or upon which the Trustee is required to pay, as well as all expenses of administration of the Trust including commissions, and the Grantor hereby convenants and agrees to pay the same.

10.3 In the event the Grantor shall at any time fail to pay the Trustees compensation taxes and expenses, within a reasonable time after demand for such payment has been made by the Trustee on the Grantor, the Trustee will charge the Trust such fees, taxes and expenses and may liquidate such of the assets of the Trust for such purposes as in its sole discretion it shall determine. The custodian will collect such fees, taxes and expenses for the Trustee as so directed by the Trustee.

Notwithstanding the provisions of Article IX hereof all payments under this Article X and the liquidations of assets to obtain funds therefor may be made without the approval or direction of the Grantor if the Trust is not sufficient to satisfy these fees, taxes and expenses, then the Trustee will charge the Grantor for such unpaid fees, taxes and expenses.

ARTICLE XI — AMENDMENT AND TERMINATION

11.1 Each Grantor who adopts this Trust delegates to the Trustee the power to amend this Trust, including any retroactive amendments, by submitting a copy of such amendments to each Grantor, but only after receiving a favorable ruling or determination letter from the Commissioner of Internal Revenue Service that the Trust, as amended, continues to meet the requirements of Sections 408 of the Code. Each Individual shall be deemed to have consented to any and all such amendments.

The Grantor shall be permitted to revoke this Trust in writing within a period not to exceed seven (7) days after the date that this Trust was adopted by the Grantor. In the

11.2 An Individual or the Trustee shall not have the right to amend or terminate this Trust in such a manner as would cause or permit all or any part of the entire interest of the Grantor to be diverted for purposes other than their exclusive benefit or their Beneficiary. No Grantor shall have the right to sell, assign, discount or pledge as collateral for a loan any asset of this Trust.

11.3 An Individual shall have the right to terminate or partially terminate this Trust, at any time and from time to time, by delivering to the Trustee a signed copy of a statement of termination.

11.4 The Trustee may resign at any time upon thirty days' notice to the Grantor. The Trustee may be removed at any time by the Grantor upon thirty days' written notice to the Trustee. Upon resignation or removal of the Trustee, the Grantor shall appoint a successor Trustee which shall have the same powers and duties as are conferred upon the Trustee hereunder, and in default thereof, such successor Trustee may be appointed by a court of competent jurisdiction.

Upon the delivery by the resigning or removed Trustee to its successor Trustee of all property of the Trust, less such reasonable amount as it shall deem necessary to provide for its expenses, compensation and any taxes or advances chargeable or payable out of the Trust, the successor Trustee shall thereupon have the same powers and duties as are conferred upon the Trustee.

11.5 No successor Trustee shall have any obligation or liability with respect to the acts or omissions of its predecessors.

The actual appointment and qualification of a successor Trustee to whom the Trust assets may be transferred are conditions which must be fulfilled before the resignation or removal of the Trustee shall become effective. The transfer of the trust assets shall be made coincidentally with an accounting by the resigned or removed Trustee and such resigned or removed Trustee shall endorse, transfer, convey and deliver to the successor Trustee all of the funds, securities or other property then held by it under the Trust, together with such records as may be reasonably required in order that the successor Trustee may properly administer the Trust.

11.6 This Agreement and the Trust created hereby will be terminated in the case of complete distribution of the Trust.

11.7 The Trustee shall [illegible]ave the right to modify or to amend this Trust retroactively in such a manner as to deprive any Grantor or his/her Beneficiary of any benefit to which he/she may be entitled under this Trust by reason of contributions made prior to the modification or amendment, unless such modification or amendment is necessary to conform this Trust to, or satisfy the conditions of, any law, governmental regulation or ruling, or to permit this Trust to meet the requirements of Section 408 of the Code.

ARTICLE XII — MISCELLANEOUS

12.1 Notwithstanding anything to the contrary contained in this Trust or in any amendment thereto no part of the Trust other than such part as is required to pay taxes and administration expenses, shall be used for, or diverted to, purposes other than for the exclusive benefit of the Individuals, their Beneficiaries, or estates.

12.2 The Trustee shall not be liable for any act or omission made in connection with the Trust except for its intentional misconduct or negligence.

12.3 The terms and conditions of this Trust shall be applicable without regard to the community property laws of any state.

12.4 If the Grantor is married, the Compensation of the Grantor and any contributions made to the Trust under Article IV shall be determined without regard to the Compensation of the spouse of the Grantor.

12.5 Words used in the masculine shall apply to the feminine where applicable, and wherever the context of this Trust indicates the plural shall be read as the singular, and the singular as the plural.

12.6 The captions of Articles in this Trust are included for convenience only and shall not be considered a part of, or an aid to, the construction of this Trust.

12.7 This Trust created hereby shall be construed, regulated and administered under the laws of the State of Delaware, and any court accounting shall be in the courts of Delaware.

All contributions to the Trustees shall be deemed to take place in the State of Delaware.

12.8 This Trust may be executed in any number of counterparts, each one of which shall be deemed to be the original although the others shall not be produced.

000603

STATE OF CALIFORNIA · BUSINESS, TRANSPORTATION AND HOUSING AGENCY GEORGE DEUKMEJIAN, Governor

DEPARTMENT OF CORPORATIONS
OFFICE OF THE COMMISSIONER

615 S. FLOWER STREET, SUITE 1900
LOS ANGELES, CALIFORNIA 90017

REFERRAL FROM
ELECTED OFFICIAL

August 3, 1989

IN REPLY REFER TO
FILE NO. _____ _____

Dear

has asked me to answer your July 17 letter to him concerning American Continental Corporation ("ACC"). Your letter indicates that you purchased subordinated debentures issued by ACC and sets forth your claim that you were victimized by "fraudulent sales methods". In addition, you state that you believe that all of Charles Keating's holdings should be liquidated and the holders of the debentures paid back.

The Claims Set Forth in Your Letter

Regarding your claim of fraud, our Department would be very interested in any proof that you can supply. If you would like to file a complaint, I have enclosed a form by which you should provide us with all of the relevant information. Unfortunately, however, although our Department can investigate your claim and bring civil or criminal actions against ACC if we have proof of a violation of California's Corporate Securities Law of 1968 ("the CSL"), we have no power or authority to recover money for you. You may wish to consult with your attorney in order to determine the rights, if any, which you may have to enforce a claim against ACC or any other party.

Regarding your claim that Charles Keating's holdings should be liquidated, I note that ACC has filed for protection under the federal bankruptcy laws. The bankruptcy court will decide whether investors in the debentures will recover all, a portion or none of their investment.

Department Qualification of the Securities Offerings

Your letter also notes that the sale of these securities was qualified with our Department. Under the CSL, the fact that an offering has been qualified with the Department should not be taken to mean that the Commissioner of Corporations has passed in any way upon the merits of the qualification or recommended it. A copy of Section 25164 of the CSL--which sets forth specific language to that effect in the law--is enclosed for your information.

You may find helpful a discussion of the standards involved in our review of applications such as those filed by ACC. In addition to being qualified with the Department, the securities

were registered with the federal Securities and Exchange Commission ("the SEC"). Under the CSL, when securities are registered with the SEC, the Department must allow the offering to proceed in California unless we specifically find that the offering is not fair, just and equitable. Although, in hindsight, many people are questioning this offering, at the time each filing was made with the Department at least until the time of ACC's bankruptcy filing, there was no evidence that would have supported a finding that the offering was not fair, just and equitable.

In considering ACC's filings, the Department reviewed many things. The most important materials were ACC's financial statements. The review of financial statements focussed on ACC's ability to pay interest and principal on the debentures. The materials reviewed, including financial statements audited by ACC's independent certified public accountants, indicated that ACC could pay its debt obligations by selling or refinancing real estate (normal business activities for a real estate developer such as ACC), with dividends from its Lincoln Savings and Loan Association subsidiary and/or with funds from certain tax savings. As far as I am aware, ACC never missed a payment on the debentures prior to filing for bankruptcy and may have prepaid portions of previous series of debentures.

The Current Situation

The Department is following the situation closely. We are in contact with various parties to determine if there is any evidence indicating fraud in the offer and sale of the debentures; so far we have none. The Department will act to the extent we have a basis to do so under the laws we enforce, but, thus far, we have not been provided with any information from any source that would carry the burden of proof in showing a violation of the law.

I hope you find this information to be helpful.

Very truly yours,

CHRISTINE W. BENDER
Commissioner of Corporations

CWB:ad
Enclosure

cc:

may determine, having due regard to the public interest and the protection of investors.

(Added by Stats.1968, c. 88, § 2.)

§ 25163. Burden of proving exemption or exception

In any proceeding under this law, the burden of proving an exemption or an exception from a definition is upon the person claiming it.

(Added by Stats.1968, c. 88, § 2.)

Cross References

Burden of proof, see Evidence Code § 500 et seq.

§ 25164. Facts not constituting finding that document filed is true, complete or not misleading; unlawful representation; required statement on permit

(a) Neither (1) the fact that an application for qualification under this law has been filed nor (2) the fact that such qualification has become effective constitutes a finding by the commissioner that any document filed under this law is true, complete, or not misleading. Neither any such fact nor the fact that an exemption is available for a security or a transaction means that the commissioner has passed in any way upon the merits or qualifications of, or recommended or given approval to, any person, security or transaction (except as provided in Section 25142).

(b) It is unlawful to make or cause to be made to any prospective purchaser any representation inconsistent with subdivision (a) of this section.

(c) Every permit issued by the commissioner shall recite in bold type that the issuance thereof is permissive only and does not constitute a recommendation or endorsement of the securities permitted to be issued.

(Added by Stats.1968, c. 88, § 2.)

Cross References

Broker-dealer certificates, grounds for censure or denial, etc., see § 25212.

§ 25165. Appointment of commissioner as process agent; manner of service

Every applicant for qualification of the sale of securities under this law or every person filing an application or request for or notice of an exemption from qualification (other than a California corporation or a person licensed as a broker-dealer in this state) shall file with the commissioner, in such form as prescribed by rule, an irrevocable consent appointing the commissioner or his or her successor in office to be the applicant's or person's attorney to receive service of any lawful process in any noncriminal suit, action or proceeding against the applicant or person or the successor, executor or administrator thereof, which arises under this law or any rule or order hereunder after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. A person who has filed such a consent in connection with a previous qualification under this law (or application for a permit under any prior law if the application under this law states that such consent is still effective) need not file another. Service may be made by leaving a copy of the process in the office of the commissioner but it is not effective unless (1) the plaintiff, who may be the commissioner in a suit, action or proceeding instituted by him or her, forthwith sends notice of the service and a copy of the process by registered or certified mail to the defendant or respondent at the last address on file with the commissioner, and (2) the plaintiff's affidavit of compliance with this section is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

(Added by Stats.1968, c. 88, § 2. Amended by Stats.1982, c. 564, § 4.)

Cross References

Appointment of commissioner to receive service of process, see § 25550.
Certified copies, fee, see § 25608.
Consent to service of process, see § 25240.
Fees, see § 25608.
Process agent, see §§ 2105 to 2107, 2109.
Service of process.
  Domestic corporations, see §§ 1502 to 1505, 1700 et seq., 2011.
  Foreign corporations, generally, see §§ 2110, 2110.1, 2111, 2114.

§ 25166. False statements to commissioner

It is unlawful for any person willfully to make any untrue statement of a material fact in any application, notice, or report filed with the commissioner under this part or pursuant to subdivision (b) of Section 25507, or willfully to omit to state in any such application, notice, or report any material fact which is required to be stated therein.

(Added by Stats.1968, c. 88, § 2. Amended by Stats.1974, c. 1103, § 7.)

Cross References

Crimes, see § 25540.
Definitions.
  Agent, see § 25003.
  Commissioner, see § 25005.
  Sale or sell, see § 25017.
  Security, see § 25019.
Fraudulent and prohibited practices, see § 25400 et seq.
Fraudulent schemes, see § 25216.
Misrepresentations in statements or reports, see § 25245.
Self incrimination, see § 25531.

§ 25180. Repealed by Stats.1968, c. 88, § 1

Part 3

REGULATION OF AGENTS, BROKER-DEALERS AND INVESTMENT ADVISERS

Chapter		Section
1.	Exemptions	25200
2.	Licensing of Agents and Broker-Dealers	25210
3.	Licensing of Investment Advisers	25230
4.	General Provisions	25240

DEPARTMENT OF CORPORATIONS

GUIDELINES FOR COMPLETING THE COMPLAINT FORM

Before filling out the attached complaint form, please take the time to read these guidelines; they will help you to understand our functions, and we will be better able to understand and act on your complaint.

WHAT WE CAN DO:

a) We investigate complaints against persons, business entities, and corporations accused of violating the licensing or anti-fraud provisions of laws administered by the Department. We are empowered to bring administrative or civil actions to stop these violations, and, in appropriate cases, to refer matters to the District Attorneys' offices for criminal prosecution.

b) We investigate complaints for alleged violations of the following California laws:

Corporate Securities Law of 1968
Franchise Investment Law
Check Sellers, Bill Payers and Proraters Law
Commercial Finance Lenders Law
Consumer Finance Lenders Law
California Credit Union Law
Escrow Law
Industrial Loan Law
Personal Property Brokers Law
Trading Stamp Law
Health Care Service Plan Act of 1975
Security Owners Protection Law

WHAT WE CANNOT DO:

a) We cannot act as a court of law, so we cannot order that monies be refunded, contracts be cancelled, damages be awarded, etc. If you have this type of problem, you should consult an attorney.

b) We cannot give legal advice or act as your attorney.

STATE OF CALIFORNIA
DEPARTMENT OF CORPORATIONS
COMPLAINT FORM

1. Your full name (print) (Identifies you as the Complainant)

Residence Address (Street, City, State and Zip Code)

Business Address (Street, City, State and Zip Code)

Occupation	Business Telephone Number	Residence Telephone Number

I DECLARE I HAVE A COMPLAINT AGAINST:

2. Full Name of business, company, firm, person

Street address of business (room number, suite number, or apt. number, if any)

City	State	Zip Code	Business Telephone Number

3. Full name of salesperson, agent or other representative

Employed By:

4. Have you had a previous business or personal relationship with the firm or any of its partners, officers, directors or controlling persons?

☐ No ☐ Yes ☐ Business ☐ Personal How Long _____

If yes, and the relationship was a business relationship, please provide exact name of entity invested in, amount invested and type of interest received and indicate the nature and duration of the relationship. If the relationship was personal, please indicate the nature and duration of the relationship and whom it was with.

5. Date(s) of transaction (investment)

How and when did you first hear of the investment opportunity (e.g. Ad in LA Times on _____, personal contact by _____)

Place(s) where transaction(s) occurred

Amount(s) Invested

6. Have you contacted the business or person regarding your complaint?

☐ No ☐ Yes

Date(s)

If YES, person(s) contacted

Results of contact

7. Have you filed this complaint with another law enforcement or consumer protection agency? If yes, provide name and address of agency, and the person handling it.

☐ No ☐ Yes

8. Have you or any other victims filed a civil action (lawsuit) in any court If yes, provide name of county/case number/date. Provide copy of court documents.

☐ No ☐ Yes

9. Are you willing to appear as a witness, be sworn, testify and be cross-examined concerning the allegations made in this complaint?

☐ No ☐ Yes

If No, give reasons

10. Please estimate your net worth including autos and house.

☐ $10,000 - 25,000 ☐ $50,000 - 100,000 ☐ $150,000 - 200,000

☐ $25,000 - 50,000 ☐ $100,000 - 150,000 ☐ $200,000 - over

11. Please explain in detail your previous investment experience. Indicate type of investment, amount invested and date of investment.

12. Did you rely on the business or financial experience of someone other than yourself. If yes, who? Please detail.

13. Copies of the following documents (as checked below are attached to, incorporated and made a part of this complaint.

Attached	Not Available	Type of Document
☐	☐	ADVERTISING MATERIALS
☐	☐	AGREEMENT/CONTRACT
☐	☐	PROMISSORY NOTE (if any)
☐	☐	CASH RECEIPT(S)
☐	☐	CANCELLED CHECK(S) (FRONT & BACK)
☐	☐	ESCROW INSTRUCTIONS, AMENDMENTS & CLOSING STATEMENTS, (if any)
☐	☐	COPIES OF ALL DOCUMENTS WHICH RELATE TO YOUR COMPLAINT AND WHICH ARE NOT LISTED ABOVE.

14. List names, addresses and phone numbers of other individuals who may have invested, or may have further knowledge of the investment.

15. In a brief statement tell us the full story beginning with date of first contact to present. Keep dates of events in sequence and include misrepresentations. (Refer to attached guidelines for further instructions.)

NOTE: Include full names of individuals, including all witnesses present during the transaction(s). Be factual. Try to answer the questions "who", "what", "where" and "when." Attach extra sheets if more space is needed.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING STATEMENTS AND PHOTOCOPIES OF ATTACHED DOCUMENT ARE TRUE AND CORRECT.

Date

Signature of Complainant

NOTICE REQUIRED BY THE INFORMATION PRACTICES ACT OF 1977
(Section 1798.17 of the California Civil Code)

(a) The State of California, Department of Corporations, Enforcement Division, requests the information solicited by the forms attached to this notice.

(b) The Chief Administrative Officer, 1025 I Street, Sacramento, California 95814, (916) 445-5541, is responsible for the system of records and shall, upon request, inform an individual regarding the location of his or her records and the categories of any persons who use the information in those records.

(c) The records are maintained pursuant to one or more of the following statutes: Business and Professions Code Sections 17764, 17765.8, 17766.5, and 17771; Corporations Code Sections 25111, 25112, 25113, 25121, 25131, 25151, 25160, 25211, 25231, 25530, 25531, 25610, 27003, 27102, 27104, 27105, 31111, 31122, 31400, 31401, and 31502; Financial Code Sections 12201, 12204, 12216, 12220, 12300, 14151, 14201, 14250, 14252, 17201, 17209, 17209.1, 17213.5, 17400, 18115, 18117, 18146, 18345, 18347, 22201, 22206, 22400, 24201, 24206, 24210, 24400, 24601, 24614, 26201, 26206, 26210, 26400, 26601, 26614, 30006, 30204, 30205, 30206, 30217, and 30606; Health and Safety Code Sections 1344, 1351, 1351.1, 1352, and 1353; Government Code Sections 7470, 7473, and 7474.

(d) The submission of all items of information is voluntary.

(e) The Enforcement Division of the Department of Corporations does not contemplate taking official action against you to compel production of the requested information if all or any part of the requested information is not provided.

(f) The principal purposes within the Department of Corporations for which the information is to be used are as part of the process to determine whether (1) a license, qualification, registration, or other authority should be granted, denied, revoked, or limited in any way; (2) business entities or individuals licensed or regulated by the Department of Corporations are conducting themselves in accordance with the applicable laws; and/or (3) laws administered by the Department of Corporations are being or have been violated and whether administrative action, civil action, or referral to appropriate federal, state, or local law enforcement or regulatory agencies is appropriate.

(g) Any known or foreseeable disclosures of the information pursuant to subdivisions (e) or (f) of Section 1798.24 may include transfers to other federal, state, or local law enforcement or regulatory agencies.

(h) Subject to certain exceptions or exemptions, the Information Practices Act grants an individual a right of access to personal information concerning the requesting individual which is maintained by the Department of Corporations. However, Section 6254 of the Government Code provides that records of complaints to or investigations conducted by the Department of Corporations are exempt from disclosure except as required by law. Additionally, Section 1040 of the Evidence Code provides a privilege against disclosure of official information where a court determines that the necessity for confidentiality outweighs the public interest in disclosure.

July 17, 1989

RE: AMERICAN CONTINENTAL CORPORATION &
LINCOLN SAVINGS AND LOAN

Dear

We here in Southern California who were victimized by Charles Keating's freudulent sales methods implore you to intercede on behalf of the American Continental bondholders and to recommend the restitution of these funds to the victims.

All of Charles Keatings' holdings should be liquidated and the 22,000 bondholders should be paid back. Legally he should not be allowed to profit from his underhanded dealings.

The sale of the securities was approved by the state. This was emphasized in their sales promotion and we bought the bonds in good faith.

I am 75 years old and my wife is 70.

I have nerve damage and the residual effects of a broken neck and I am permanently disabled with spinal stenosis.

We need our money back for future health care. We have already lost three months of interest which they have not paid.

Please help us get what is ours.

Thank you.

Sincerely,

000615

STATE OF CALIFORNIA · BUSINESS, TRANSPORTATION AND HOUSING AGENCY GEORGE DEUKMEJIAN, Governor

DEPARTMENT OF CORPORATIONS
OFFICE OF THE COMMISSIONER

615 S. FLOWER STREET, SUITE 1900
LOS ANGELES, CALIFORNIA 90017

Los Angeles, California
July 19, 1989

IN REPLY REFER TO:

FILE NO. _____ _____

RE: AMERICAN CONTINENTAL CORPORATION

Dear

This is in response to your letter of June 29, 1989.

This department administers the state securities laws in California. In connection with that responsibility, the department reviewed certain bond offerings by American Continental Corporation (ACC).

Your letter raises serious questions concerning the integrity of the marketing effort in connection with the offer and sale of ACC bonds.

So that we may have all of the facts, please fill out the attached Complaint Form and return it to Senior Trial Counsel George Crawford at the Department of Corporations, 615 S. Flower Street, 19th Floor, Los Angeles, CA 90017.

Thank you for your cooperation in this matter.

Very truly yours,

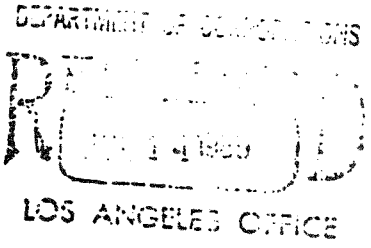
Christine W. Bender

CHRISTINE W. BENDER
Commissioner of Corporations

CWB:lh
Attachment

cc:

June 29, 1989



Christine W. Bender
Corporate Commisioner, State of California
615 South Flower 19th Floor
Los Angeles, CA 90017

Re:

Dear Ms. Bender:

As Trustee of the above employee pension plan, I find it necessary to state our position with regard to American Continental Corp. (hereafter referred to as A.C.C.) and our purchase of two issues of their Sub Debt. Bonds for our retirement plan.

In both cases our funds were on deposit in a guaranteed savings acccount with Lincoln Savings for many years. In fact they were originally with Far West Savings for many years, until Lincoln Savings took over that branch and all deposits became Lincoln Savings Accounts.

Upon maturity of our C.D. Account and seeking to remove funds to another Savings and Loan Institution which was offering a higher rate, I was contacted by the A.C.C. representative within the Lincoln Branch. This Representative then solicited my funds for the higher yielding A.C.C. Sub Debentures. I was told that these bonds were secure since the Corporation owns Lincoln Savings and Lincoln as we know is very sound financially. The obvious implication was that this investment is as sound as our existing guaranteed accounts. Hardly an arms-length solicitation, from within the branch.

The results are now obvious. A.C.C. is in bankruptcy and our investment is in jeopardy.

The age average of our individuals currently in the plan is 64 years, with one individual approaching 80 years and ready for retirement. Our investment in A.C.C. Bonds represents approximately 25% of the value of our plan. You can see how devastating an impact this will have on the employee retiring.

It was our understanding that there was a guaranteed connection between Lincoln and A.C.C. with regard to our investment, by virtue of their selling technique.

Hopefully, we can get some consideration with regard to recovering these funds. In as much as we are a small company, it has taken us many years of hard work to set aside these funds for retirement.

For your information, we are holding two different issues of their Sub Dept.

$100,000 of Series C-2 due 2/1997
$ 25,000 of Series C-2 due 1993

Your assistance and cooperation will be greatly appreciated.

Respectfully,

SDF:amb

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

STATE OF CALIFORNIA - BUSINESS, TRANSPORTATION AND HOUSING AGENCY GEORGE DEUKMEJIAN, Governor

DEPARTMENT OF CORPORATIONS
OFFICE OF THE COMMISSIONER

615 S. FLOWER STREET, SUITE 1900
LOS ANGELES, CALIFORNIA 90017

Los Angeles, California
July 19, 1989

IN REPLY REFER TO:
FILE NO. _____

RE: AMERICAN CONTINENTAL CORPORATION

Dear

This is in response to your letter of June 29, 1989.

This department administers the state securities laws in California. In connection with that responsibility, the department reviewed certain bond offerings by American Continental Corporation (ACC).

Your letter raises serious questions concerning the integrity of the marketing effort in connection with the offer and sale of ACC bonds.

So that we may have all of the facts, please fill out the attached Complaint Form and return it to Senior Trial Counsel George Crawford at the Department of Corporations, 615 S. Flower Street, 19th Floor, Los Angeles, CA 90017.

Thank you for your cooperation in this matter.

Very truly yours,

Christine W. Bender

CHRISTINE W. BENDER
Commissioner of Corporations

CWB:lh
Attachment

cc:

STATE OF CALIFORNIA
DEPARTMENT OF CORPORATIONS
COMPLAINT FORM

1. Your full name (print) (Identifies you as the Complainant)

Residence Address (Street, City, State and Zip Code)

Business Address (Street, City, State and Zip Code)

Occupation	Business Telephone Number	Residence Telephone Number

I DECLARE I HAVE A COMPLAINT AGAINST:

2. Full Name of business, company, firm, person (A.C.C. Bond Representative)
LINCOLN SAVINGS + AMERICAN CONTINENTAL Corp. 355 S. GRAND AV + 630 W. 6TH St L.A.

Street address of business (room number, suite number, or apt. number, if any)

355 S. GRAND + 630 W. 6TH St. LOS ANGELES CA.

City	State	Zip Code	Business Telephone Number
Los Angeles	Calif	90017	213-628-4131

3. Full name of salesperson, agent or other representative

NADIA BARTLAM (Customer Service Rep)

Employed By:

LINCOLN SAVINGS

4. Have you had a previous business or personal relationship with the firm or any of its partners, officers, directors or controlling persons?

☐ No ☒ Yes ☐ Business ☐ Personal How Long Approx 5 years

If yes, and the relationship was a business relationship, please provide exact name of entity invested in, amount invested and type of interest received and indicate the nature and duration of the relationship. If the relationship was personal, please indicate the nature and duration of the relationship and whom it was with.

In Jan 1987 I made initial purchase of $25,000 CD 11% 1990 American Continental Corp Sub-Debt. Funds were on deposit in C.D at Lincoln Savings. Representative within Lincoln Branch solicited my investment for Bonds in order to keep funds from being transferred to another Savings + Loan. I was assured that as the parent of Lincoln, it was as secure as my deposit. ENF 500.449

000620

5. Date(s) of transaction (investment)
JANUARY 1997

How and when did you first hear of the investment opportunity (e.g. Ad in LA Times on _____, personal contact by ~~American Continental Rep~~)
W/IN LINCOLN BRANCH.

Place(s) where transaction(s) occurred
LINCOLN SAVINGS DOWNTOWN L.A.

Amount(s) Invested
25,000
100,000) total $125,000

6. Have you contacted the business or person regarding your complaint?
☒ No ☐ Yes

Date(s)
_____

If YES, person(s) contacted

Results of contact

7. Have you filed this complaint with another law enforcement or consumer protection agency? If yes, provide name and address of agency, and the person handling it.
☒ No ☐ Yes

SENT A LETTER + FSLIC/FDIC PHOENIX ARIZONA ATTN: KATHLEEN WOO ESQ

8. Have you or any other victims filed a civil action (lawsuit) in any court If yes, provide name of county/case number/date. Provide copy of court documents.
☒ No ☐ Yes

AMERICAN CONTINENTAL CORP CURRENTLY IN CHAPTER 11 BANKRUPTCY

9. Are you willing to appear as a witness, be sworn, testify and be cross-examined concerning the allegations made in this complaint?
☐ No ☒ Yes

If No, give reasons

10. Please estimate your net worth including autos and house.

☐ $10,000 - 25,000 ☐ $50,000 - 100,000 ☐ $150,000 - 200,000

☐ $25,000 - 50,000 ☐ $100,000 - 150,000 ☒ $200,000 - over

11. Please explain in detail your previous investment experience. Indicate type of investment, amount invested and date of investment.

OUR FUNDS WERE ON DEPOSIT WITH THE WEST SAVINGS FOR OVER 10 YEARS AS A C.D. LINCOLN SAV TOOK OVER THE BRANCH & ALL ACCOUNTS. AS OUR C.D'S MATURED & WE WERE GOING TO REINVEST ELSEWHERE (ANOTHER S&L), WE WERE REFERRED TO A SERVICE REP FOR A.C.C. WITHIN THE BRANCH. THIS REP ASSURED US OF THE QUALITY ON BOND INVEST, IN DICATING, THAT A.C.C. OWNS LINCOLN & INVEST IS AS SECURE AS MONEY IN LINCOLN ACCT.

12. Did you rely on the business or financial experience of someone other than yourself. If yes, who? Please detail.

YES. THE A.C.C. REP WITHIN THE LINCOLN BRANCH. IMPLIED THAT BOND INVEST. WAS AS SECURE AS MONEY IN C.D., SINCE LINCOLN IS SOUND W/FUNDS GUARANTEED & A.C.C. OWNS LINCOLN. OBVIOUS IMPLICATION, HARDLY AN ARMS LENGTH SOLICITATION.

13. Copies of the following documents (as checked below are attached to, incorporated and made a part of this complaint.

Attached	Not Available	Type of Document
☐	☒	ADVERTISING MATERIALS
☐	☒	AGREEMENT/CONTRACT
☐	☒	PROMISSORY NOTE (if any)
☐	☒	CASH RECEIPT(S)
☐	☐	CANCELLED CHECK(S) (FRONT & BACK)
☐	☒	ESCROW INSTRUCTIONS, AMENDMENTS & CLOSING STATEMENTS, (if any)
☐	☒	COPIES OF ALL DOCUMENTS WHICH RELATE TO YOUR COMPLAINT AND WHICH ARE NOT LISTED ABOVE.

ONLY BOND CERTIFICATE AVAILABLE FOR VERIFICATION SOLICITATION MADE VIA OVER TELEPHONE. & OR/CANCELLED CHECKS SHOWING FUNDS COMING DIRECTLY FROM LINCOLN ACCT.

14. List names, addresses and phone numbers of other individuals who may have invested, or may have further knowledge of the investment.

IT IS MY UNDERSTANDING THAT THERE ARE OVER 20,000 INVESTORS IN THIS DEBENTURE

15. In a brief statement tell us the full story beginning with date of first contact to present. Keep dates of events in sequence and include misrepresentations. (Refer to attached guidelines for further instructions.)

NOTE: Include full names of individuals, including all witnesses present during the transaction(s). Be factual. Try to answer the questions "who", "what", "where" and "when." Attach extra sheets if more space is needed.

IN JANUARY OF 1987, WITH THE MATURITY OF ONE OF OUR ACCTS, THIS DOWNTOWN BRANCH OF LINCOLN SAVINGS (FORMERLY FIRST WEST SAVINGS) REFERRED US TO THE A.C.C. REP WITHIN THE BRANCH, AT WHICH TIME WE WERE SOLICITED IN THE PURCHASE OF SERIES C-2 1997 BONDS. WE WERE TOLD THAT THE INVESTMENT IS AS SECURE AS FUNDS IN ONE LINCOLN ACCT, SINCE THE BANK IS A PART OF THE A.C.C. GROUP. THE IMPORTANT POINT IS, THAT WE WERE NOT IN THE MARKET FOR, NOR WOULD WE HAVE PURCHASED THESE BONDS IF THEY SOLICITED US OUTSIDE THE BANK (AT ARMS LENGTH). WE NEVER BOUGHT BONDS OF THIS TYPE.

AGAIN IN JUNE OF 1987 WE HAD A C.D OF $100,000 MATURE. WE WERE GOING TO REMOVE FUNDS & INVEST AT A SAVINGS & LOAN WITH A HIGHER RATE. WE WERE AGAIN REFERRED TO AN A.C.C REP FROM WITHIN THE BANK. RECEIVED THE SAME ASSURANCES REGARDING QUALITY OF INVEST. I INFORMED THE REP THAT WE ALREADY PURCHASED $5K IN BONDS. I WAS AGAIN ASSURED OF THE QUALITY OF THE BOND INVEST & SHOULDN'T BE CONCERNED ABOUT INVESTING IN MORE BONDS. THE PARENT OF LINCOLN A.C.C. IS VERY SOUND & THE BONDS ASSETS ARE SOUND. AGAIN A DIRECT IMPLICATION THAT FUNDS ARE AS SAFE IN EITHER INVESTMENT. AGAIN WE PURCHASED BONDS, BY A DIRECT TRANSFER OF FUNDS FROM MATURED C.D. IT IS IMPORTA

to note that without the direct solicitation from within the Bank, we would not have purchased the Bonds as investment. The Bank was used as a forum to imply greater credibility to these Debentures. The solicitation of these instruments by a Coop other than Lincoln Savings Bank should not have been permitted. This method is unethical & most probably illegal, because of the lack of arms length in the solicitation between A.C.C. & Lincoln Savings & the Depositor. It was my understanding that Regulators were aware of this practice & did not take measures to stop these boiler room tactics. There should be some accountability on the part of the Govt for permitting this practice to continue.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING STATEMENTS AND PHOTOCOPIES OF ATTACHED DOCUMENTS ARE TRUE AND CORRECT.

8-9-95
Date

Signature of Complainant

NOTICE REQUIRED BY THE INFORMATION PRACTICE ACT OF 1977
(Section 1798.17 of the California Civil Code)

(a) The State of California, Department of Corporations, Enforcement Division, requests the information solicited by the forms attached to this notice.

(b) The Chief Administrative Officer, 1025 P Street, Sacramento, California 95814, (916) 445-5541, is responsible for the system of records and shall, upon request, inform an individual regarding the location of his or her records and the categories of any persons who use the information in those records.

(c) The records are maintained pursuant to one or more of the following statutes: Business and Professions Code Sections 17764, 17765.8, 17766.5, and 17771; Corporations Code Sections 25111, 25112, 25113, 25121, 25131, 25151, 25160, 25211, 25231, 25530, 25531, 25610, 27003, 27102, 27104, 27105, 31111, 31122, 31400, 31401, and 31502; Financial Code Sections 12201, 12204, 12216, 12220, 12300, 14151, 14201, 14250, 14252, 17201, 17209, 17209.1, 17213.5, 17400, 18115, 18117, 18146, 18345, 18347, 22201, 22206, 22400, 24201, 24206, 24210, 24400, 24601, 24614, 26201, 26206, 26210, 26400, 26601, 26614, 30006, 30204, 30205, 30206, 30217, and 30606; Health and Safety Code Sections 1344, 1351, 1351.1, 1352, and 1353; Government Code Sections 7470, 7473, and 7474.

(d) The submission of all items of information is voluntary.

(e) The Enforcement Division of the Department of Corporations does not contemplate taking official action against you to compel production of the requested information if all or any part of the requested information is not provided.

(f) The principal purposes within the Department of Corporations for which the information is to be used are as part of the process to determine whether (1) a license, qualification, registration, or other authority should be granted, denied, revoked, or limited in any way; (2) business entities or individuals licensed or regulated by the Department of Corporations are conducting themselves in accordance with the applicable laws; and/or (3) laws administered by the Department of Corporations are being or have been violated and whether administrative action, civil action, or referral to appropriate federal, state, or local law enforcement or regulatory agencies is appropriate.

(g) Any known or foreseeable disclosures of the information pursuant to subdivisions (e) or (f) of Section 1798.24 may include transfers to other federal, state, or local law enforcement or regulatory agencies.

(h) Subject to certain exceptions or exemptions, the Information Practices Act grants an individual a right of access to personal information concerning the requesting individual which is maintained by the Department of Corporations. However, Section 6254 of the Government Code provides that records of complaints to or investigations conducted by the Department of Corporations are exempt from disclosure except as required by law. Additionally, Section 1040 of the Evidence Code provides a privilege against disclosure of official information where a court determines that the necessity for confidentiality outweighs the public interest in disclosure.

STATE OF CALIFORNIA · BUSINESS, TRANSPORTATION AND HOUSING AGENCY GEORGE DEUKMEJIAN, Governor

DEPARTMENT OF CORPORATIONS
OFFICE OF THE COMMISSIONER

615 S. FLOWER STREET, SUITE 1900
LOS ANGELES, CALIFORNIA 90017

REFERRAL FROM
ELECTED OFFICIAL

IN REPLY REFER TO
FILE NO. _____ _____

May 17, 1989

Dear

I have reviewed your letter of May 4, 1989 regarding your constituents, Although their letter names the company involved as "American Continental Financial Services", I assume they mean American Continental Corporation ("ACC"), the parent company of Lincoln Savings and Loan Association ("LS&L").

At this point, I do not know what recourse, if any, may have. ACC's filing for protection under the federal bankruptcy laws, in and of itself, is not illegal. The bankruptcy court will decide whether will recover all, a portion or none of their investment.

I am aware that various newspaper articles have alleged that ACC or LS&L has or may have engaged in certain practices to mislead regulators, such as "cooking" the books. These allegations ultimately may or may not be proven, but, as of now, they are only allegations. The press also has reported the filing of certain law suits alleging fraud against various parties involved in the offer and sale of debentures by ACC. Similarly, these charges are, for the moment, only allegations which may or may not be proven.

The Levis may wish to consult with an attorney to determine what rights they may have. In addition, if can show that fraud was committed in connection with the sale of the debentures to them, the Department of Corporations ("the Department") would be interested in any proof to that effect. As you know, however, our Department has no power or authority to recover money for , but any such information would be quite helpful in determining whether the Department has any basis for a civil or criminal action against ACC in this matter.

000627

You may find additional discussion of the situation involving ACC and LS&L to be helpful.

Qualification of the Offering with the Department of Corporations

ACC filed several applications with the Department to qualify the offer and sale of the debentures, the most recent two of which were granted on March 29, 1988 and May 26, 1988. Although the Department heard various rumors concerning ACC and LS&L, we never had any basis upon which to deny qualification of these securities.

In addition to being qualified with the Department, these securities also were registered with the federal Securities and Exchange Commission ("the SEC"). Under the Corporate Securities Law of 1968, when securities are registered with the SEC, the Department must allow the offering to proceed in California unless we specifically find that the offering is not fair, just and equitable. Although, in hindsight, many people are questioning this offering, at the time each filing was made with the Department at least until the time of ACC's bankruptcy filing, there was no evidence that would have supported a finding that the offering was not fair, just and equitable.

In considering ACC's filings, the Department reviewed many things. The most important materials were ACC's financial statements. The review of financial statements focused on ACC's ability to pay interest and principal on the debentures. The materials reviewed, including financial statements audited by ACC's independent certified public accountants, indicated that ACC could pay its debt obligations by selling or refinancing real estate (normal business activities for a real estate developer such as ACC), with dividends from LS&L, and/or with funds from certain tax savings. As far as I am aware, ACC never missed a payment on the debentures prior to filing for bankruptcy and may have pre-paid portions of previous series of debentures.

Concerns of Other Regulators

The Department not only reviewed ACC's filings but also contacted other regulators. Contacts concerning ACC or LS&L were made with the State Department of Savings and Loan, the SEC in both Washington, D.C. and San Francisco, the Federal Home Loan Bank Board in Washington, D.C., the Federal Home Loan Bank in San Francisco, and the U.S. Attorney's Office in Los Angeles. Our discussions focused on the regulatory programs of and investigations initiated by these agencies with regard to ACC and LS&L. None of these agencies disclosed any information that

would have allowed us to deny ACC's applications to sell the debentures. In addition, none of these agencies had taken any significant action against ACC or LS&L under their regulatory or law enforcement programs, certainly before the bankruptcy filing.

ACC disclosed certain government investigations and disputes to prospective investors. For example, a basic prospectus filed with the SEC on June 3, 1988 disclosed the fact that the SEC had issued a formal order of investigation to ACC concerning a 1986 examination report issued by the Federal Home Loan Bank Board ("the FHLBB"). A dispute between ACC and the FHLBB also was disclosed with regard to that report and with regard to regulatory oversight by the Federal Home Loan Bank in San Francisco.

Protections for California Investors

The Department took various actions to protect prospective investors in California in addition to review of the securities filings. We required ACC to set forth clearly in its advertising that the debentures were obligations of ACC, not of LS&L, and that the debentures were not federally insured. In addition, this information was set forth in bold-face capital letters on the cover page of ACC's prospectus. Further, the Department required ACC to file several more applications than typically would be the case--applications typically are granted for one year but, for example, the application granted on March 29, 1988 was effective only for 60 days. We also required ACC to update information, including financial information, as soon as possible so that prospective investors would have as much current information as possible.

Sale of ACC Debentures in LS&L Offices

The debentures--ACC's debentures--were offered and sold in LS&L's offices for a significant period of time. Our Department has no authority over where ACC offered the debentures. The arrangement pursuant to which ACC leased space in LS&L offices which was used to sell the debentures was approved by the Department of Savings and Loan, and you may wish to contact that department with regard to this issue. However, please note that, as described above, the Department of Corporations required clear disclosure in advertising and in the prospectus that the debentures were obligations only of ACC and were not federally insured.

The Current Situation

As stated above, ACC recently has filed for protection under the U.S. bankruptcy laws. The Department is following the situation closely. We continue to contact other regulators to determine if they have any evidence relevant to the offer and sale of the debentures and the allegations of securities fraud; so far we have none. The Department will act to the extent we have a basis to do so under the laws we enforce but, thus far, the Department has not been provided with any information from any source that would carry the burden of proof in showing a violation of the law.

Very truly yours,

Christine W. Bender

CHRISTINE W. BENDER
Commissioner of Corporations

CWB:ad

4. 14. 1909.

TO

SIR.

I am 75 years old, and my wife 66, we live on "SOCIAL SECURITY."

Some a year ago we invest $45.000 at "AMERICAN CONTINENTAL FINANCIAL SERVICES, to have extra income. Now this company got bankrupt. We dont know to whom to turn to. We are little people, and this hurt us a lot in our income.

I am sure there are many people like us have invest like we had.

Please could you help us, to bring this problem to the public eye.

God bless you for this.

Sincerely.

May 4, 1989

Christine Bender, Commissioner
Department of Corporations
1107 Ninth Street, Room 800
Sacramento, California 95814

Dear Commissioner Bender:

Enclosed is a copy of a letter I have received from my valued constituents, who are understandably distressed over the bankruptcy of American Continental Financial Services. As you will note, had invested a great deal of money in this firm and have been struck a devastating financial blow by American Continental's bankruptcy.

I would very much appreciate your advice regarding this situation so I may advise my constituents of all recourse which may be available to them. It is extremely unfortunate that well-being is being threatened because of this severe loss and I am deeply concerned for their welfare.

Your early response will be greatly appreciated.

Sincerely

Enc.
cc:

STATE OF CALIFORNIA / GEORGE DEUKMEJIAN, Gov.

DEPARTMENT OF CORPORATIONS
Los Angeles, California
AUG 07 1989

IN REPLY REFER TO
FILE NO. 304 5211

Re: AMERICAN CONTINENTAL CORPORATION

Dear

This Department administers the state securities laws in California. In connection with that responsibility, we have received a copy of your letter of April 14, 1989, to concerning certain bond offerings by American Continental Corporation ("ACC").

Serious questions have been raised concerning the integrity of the marketing of the ACC bonds. We are particularly concerned with determining whether investors--before they invested--received a prospectus or were informed that the bonds were not federally insured.

So that we may have all of the facts concerning your investment, please fill out the attached Complaint form and return it to me at the Department of Corporations, 615 South Flower Street, 19th Floor, Los Angeles, California 90017.

Thank you for your cooperation in this matter.

Very truly yours,

Allen J. Wagner, Supervising Counsel

for GEORGE A. CRAWFORD
Senior Trial Counsel
(213) 620-4551

GAC:dlm/US
Attachment

cc:

LOS ANGELES 90017
615 S. FLOWER STREET, SUITE 1900
(213) 620-4511

SACRAMENTO 95814-3660
1115 11th STREET
(916) 445-7205

SAN DIEGO 92101-3687
1350 FRONT STREET
(619) 237-7341

SAN FRANCISCO 94103-3298
1390 MARKET STREET
(415) 557-3787

000633

STATE OF CALIFORNIA
DEPARTMENT OF CORPORATIONS
COMPLAINT FORM

1. Your full name (print) (Identifies you as the Complainant)

Residence Address (Street, City, State and Zip Code)

Business Address (Street, City, State and Zip Code)

Occupation	Business Telephone Number	Residence Telephone Number
Retired		

I DECLARE I HAVE A COMPLAINT AGAINST:

2. Full Name of business, company, firm, person

American Continental Corporation

Street address of business (room number, suite number, or apt. number, if any)

P.O. 29099

City	State	Zip Code	Business Telephone Number
Phoenix	Arizona	85038-9099	602-957-7170

3. Full name of salesperson, agent or other representative

Employed By:

4. Have you had a previous business or personal relationship with the firm or any of its partners, officers, directors or controlling persons?

☒ No ☐ Yes ☐ Business ☐ Personal How Long _____

If yes, and the relationship was a business relationship, please provide exact name of entity invested in, amount invested and type of interest received and indicate the nature and duration of the relationship. If the relationship was personal, please indicate the nature and duration of the relationship and whom it was with.

ENF 500.449

Date(s) of transaction (investment)	How and when did you first hear of the investment opportunity (e.g. Ad in LA Times on Lincoln Savings Bank, personal contact by)
October 21, 1988 March 31, 1988	

Place(s) where transaction(s) occurred: Lincoln Savings

Amount(s) Invested: $35,000 and $10,000.

Have you contacted the business or person regarding your complaint?	Date(s)
☐ No ☒ Yes	

If YES, person(s) contacted

Results of contact

We called but their offices were closed due to Their Bankruptcy

. Have you filed this complaint with another law enforcement or consumer protection agency? If yes, provide name and address of agency, and the person handling it.

☒ No ☐ Yes

. Have you or any other victims filed a civil action (lawsuit) in any court? If yes, provide name of county/case number/date. Provide copy of court documents.

☒ No ☐ Yes

). Are you willing to appear as a witness, be sworn, testify and be cross-examined concerning the allegations made in this complaint?

☐ No ☒ Yes

If No, give reasons

10. Please estimate your net worth including autos and house.

☐ $10,000 - 25,000	☐ $50,000 - 100,000	☐ $150,000 - 200,000
☐ $25,000 - 50,000	☒ $100,000 - 150,000	☐ $200,000 - over

11. Please explain in detail your previous investment experience. Indicate type of investment, amount invested and date of investment.

This is our 1st investment.

12. Did you rely on the business or financial experience of someone other than yourself. If yes, who? Please detail.

13. Copies of the following documents (as checked below are attached to, incorporated and made a part of this complaint.

Attached	Not Available	Type of Document
☒	☐	ADVERTISING MATERIALS
☒	☐	AGREEMENT/CONTRACT
☐	☐	PROMISSORY NOTE (if any)
☐	☒	CASH RECEIPT(S)
☒	☐	CANCELLED CHECK(S) (FRONT & BACK)
☐	☒	ESCROW INSTRUCTIONS, AMENDMENTS & CLOSING STATEMENTS, (if any)
☒	☐	COPIES OF ALL DOCUMENTS WHICH RELATE TO YOUR COMPLAINT AND WHICH ARE NOT LISTED ABOVE.

4. List names, addresses and phone numbers of other individuals who may have invested, or may have further knowledge of the investment.

5. In a brief statement tell us the full story beginning with date of first contact to present. Keep dates of events in sequence and include misrepresentations. (Refer to attached guidelines for further instructions.)

NOTE: Include full names of individuals, including all witnesses present during the transaction(s). Be factual. Try to answer the questions "who", "what", "where" and "when." Attach extra sheets if more space is needed.

I had my savings with Lincoln Savings, in The Van Nuys Branch. I saw a Brochure from American Continental corporation in The Van Nuys Branch. The brochure stated a bond for 10 1/2 % for two years. The date was March 31, 1988. I invested $10,000. ~~The~~ I received interest every month Thru my Lincoln Savings Account.

on october 21st, 1988. I saw a brochure for a bond for 12 1/2 %. I asked The Bank clerk, before I invested, The $25,000, how secure is This Bond; his reply was That American Continental ~~Lincoln~~ has 5 1/2 billion in Assets, and if The company would go bankrupt, The little investor would get their money first.

I am 75 years old, my wife is 67. This investment was extra income on our Social Security. The money we lost for This investment really hurt our financial condition. Please help us.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE FOREGOING STATEMENTS AND PHOTOCOPIES OF ATTACHED DOCUMENTS ARE TRUE AND CORRECT.

8.17.1989
Date

Signature of Complainant

PURCHASE AGREEMENT

AMERICAN CONTINENTAL CORPORATION
SUBORDINATE DEBENTURES SERIES E

Principal Amount:	$10,000.00
Interest Rate:	10.500%
Date of Purchase:	MARCH 31, 1988
Due Date:	FEBRUARY 1, 1990
Ref No:	

By signing this Purchase Agreement, the undersigned ("Purchaser") hereby purchases the Subordinate Debentures of American Continental Corporation in the Series and amount, and with the interest rate and maturity shown above. Purchaser acknowledges receipt of the Prospectus and Prospectus Supplement relating to the Subordinate Debentures and the latest Annual Report and Form 10-Q of American Continental Corporation and authorizes payment of interest pursuant to instructions given below.

Debentures to be Registered in Name(s) of:

1ST CHECK
MAY 28

Tax ID No.:

Payment of Interest:
DIRECT DEPOSIT TO LINCOLN ACCOUNT

Signature of Purchaser

ACCEPTANCE OF PURCHASE

American Continental Corporation accepts the Purchase of the Principal Amount of Debentures shown hereon.

American Continental Corporation

Authorized Representative

BTB 8/4/88 37

AMC 2

PURCHASE AGREEMENT

AMERICAN CONTINENTAL CORPORATION
SUBORDINATE DEBENTURES
SERIES A-11

Principal Amount:	$35,000.00
Interest Rate:	12.500%
Date of Purchase:	OCTOBER 21, 1988
Due Date:	DECEMBER 1, 1993
Ref No:	

By signing this Purchase Agreement, the undersigned ("Purchaser") hereby purchases the Subordinate Debentures of American Continental Corporation in the Series and amount, and with the interest rate and maturity shown above. Purchaser acknowledges receipt of the Prospectus and Prospectus Supplement relating to the Subordinate Debentures and the latest Annual Report and Form 10-Q of American Continental Corporation and authorizes payment of interest pursuant to instructions given below.

Debentures to be Registered in Name(s) of:

Tax ID No.:

Payment of Interest:

DIRECT DEPOSIT MONTHLY TO LINCOLN SAVINGS ACCOUNT

Signature of Purchaser

Signature of Purchaser

ACCEPTANCE OF PURCHASE

American Continental Corporation accepts the Purchase of the Principal Amount of Debentures shown hereon.

American Continental Corporation

Authorized Representative

818 894-9394

AMC 2

030641

LOCATIONS

Hemet
1111 S. State St.
Suite 100
Hemet, California 92343
(714) 652-5669

Laguna Hills
23601 Moulton Pkwy.
Suite 200
Laguna Hills, California 92653
(714) 830-4953

Open Monday - Friday 9:00 a.m. - 5:00 p.m.

Downey
10033 Paramount Blvd.
Downey, California 90240
(213) 928-4490

Lakewood
4013 Hardwick St.
Suite 5-A
Lakewood, California 90712
(213) 408-4669

Sherman Oaks
13739 Riverside Dr.
Sherman Oaks, California 91403
(818) 905-6657

Woodland Hills
5855 Topanga Canyon Blvd.
Suite 330
Woodland Hills, California 91367
(818) 703-7729

Arcadia
151 E. Duarte Rd.
Arcadia, California 91006
(818) 446-1904

Rancho Bernardo
16466 Bernardo Center Dr.
Suite 180
San Diego, California 92128
(619) 673-9352

HOURS
Open Monday - Thursday 9:00 a.m. - 5:00 p.m.
Friday 10:00 a.m. - 6:00 p.m.

This announcement is neither an offer to sell nor a solicitation of an offer to buy these securities. The offer is made only by the Prospectus and the related Prospectus Supplement.

9.75%
1-YEAR

10.75%
2-YEAR

12.50%
5-YEAR

AMERICAN CONTINENTAL CORPORATION
SUBORDINATE DEBENTURES

Monthly interest
No fees or commissions
Minimum investment $2,000

AMERICAN CONTINENTAL FINANCIAL SERVICES

These debentures are not insured by the FSLIC.

030642

000643

No. R-

$35000

AMERICAN CONTINENTAL CORPORATION

12½% SUBORDINATE DEBENTURES, SERIES A-11, DUE DECEMBER 1, 1993

AMERICAN CONTINENTAL CORPORATION, an Ohio corporation (the "Company"), hereby promises to pay to

CUSIP 025242 BY 3

SEE REVERSE FOR CERTAIN DEFINITIONS

96

, or registered assigns, the principal sum of

******35000****
*****35000*****
****35000******
35000****
35000******

THIRTY FIVE THOUSAND*****

DOLLARS

on December 1, 1993, together with all interest accrued to such date, and to pay interest on the unpaid portion of said principal sum at the rate of 12½% per annum, monthly on the twenty-eighth day of each calendar month, commencing from the Issue Date hereof, until the Company's obligation with respect to the payment of said principal sum shall be discharged.

REGISTERED

Dated: 10/21/1988

AMERICAN CONTINENTAL CORPORATION

Authenticated

STAR BANK, N.A., CINCINNATI

as Trustee

By

Authorized Signature

Attest:

By

Secretary

President

AMERICAN CONTINENTAL CORPORATION SEAL OHIO

No. R-

AMERICAN CONTINENTAL CORPORATION

$ *10000*

10½% SUBORDINATE DEBENTURES, SERIES H-1, DUE FEBRUARY 1, 1990

AMERICAN CONTINENTAL CORPORATION, an Ohio corporation (the "Company"), hereby promises to pay to

CUSIP 025242 BM 9

SEE REVERSE FOR CERTAIN DEFINITIONS

[redacted]

, or registered assigns, the principal sum of

TEN THOUSAND

DOLLARS

on February 1, 1990, together with all interest accrued to such date, and to pay interest on the unpaid portion of said principal sum at the rate of 10½% per annum, monthly on the twenty-eighth day of each calendar month, commencing from the Issue Date hereof, until the Company's obligation with respect to the payment of said principal sum shall be discharged.

REGISTERED

Dated: 03/31/88

AMERICAN CONTINENTAL CORPORATION

Authenticated

THE FIRST NATIONAL BANK OF CINCINNATI as Trustee

By

Authorized Signature

Attest:

AMERICAN CONTINENTAL CORPORATION SEAL OHIO

Secretary

By

President

00649

0000645

Department of Corporations
615 S. Flower St. Suite 1900
Los Angeles, CA 90017

STATE OF CALIFORNIA — GEORGE DEUKMEJIAN, Governor

DEPARTMENT OF CORPORATIONS

Los Angeles, California

IN REPLY REFER TO
FILE NO 304 5211

AUG 3 0 1989

Re: AMERICAN CONTINENTAL CORPORATION

Dear

At the oral request of your aide, enclosed herewith is a copy of a letter and complaint form sent to one of your constituents. Your office had previously sent us a copy of a letter of inquiry from

To determine whether there may have been violations of California's securities laws, including the anti-fraud provisions, we are attempting to obtain information from investors who purchased American Continental bonds. Should you receive inquiries from other constituents concerning their bonds, therefore, please have them contact the undersigned in writing.

Very truly yours,

GEORGE A CRAWFORD
Senior Trial Counsel
(213) 620-4551

GAC:rd/3

cc:

LOS ANGELES 90017
815 S FLOWER STREET SUITE 1900
(213) 620-6811

SACRAMENTO 95814 3860
1115 11th STREET
(916) 445-7205

SAN DIEGO 92101 3697
1350 FRONT STREET
(619) 237-7341

SAN FRANCISCO 94102 5349
1390 MARKET STREET
(415) 557-3787

JLB FILE COPY

STATE OF CALIFORNIA

DEPARTMENT OF CORPORATIONS

DEPARTMENT OF CORPORATIONS
615 SOUTH FLOWER STREET
LOS ANGELES, CA 90017

May 11, 1989

REFERRAL FROM
ELECTED OFFICIAL

Attention:

Dear

I have reviewed your letter of April 26, 1989 in which you enclosed a copy of a letter from one of your constituents, complained about an offering of debentures made by American Continental Corporation ("ACC"), the parent of Lincoln Savings and Loan Association ("LS&L"). His complaint seems to be based on the fact that he purchased some of those debentures and ACC recently has declared bankruptcy.

Qualification of the Offering with the Department of Corporations

ACC filed several applications with the Department of Corporations ("the Department") to qualify the offer and sale of the debentures, the most recent two of which were granted on March 29, 1988 and May 26, 1988. Although the Department heard various rumors concerning ACC and LS&L, we never had any basis upon which to deny qualification of these securities.

In addition to being qualified with the Department, these securities also were registered with the federal Securities and Exchange Commission ("the SEC"). Under the Corporate Securities Law of 1968, when securities are registered with the SEC, the Department must allow the offering to proceed in California unless we specifically find that the offering is not fair, just and equitable. Although, in hindsight, many people are questioning this offering, at the time each filing was made with the Department at least until the time of ACC's bankruptcy filing, there was no evidence that would have supported a finding that the offering was not fair, just and equitable.

In considering ACC's filings, the Department reviewed many things. The most important materials were ACC's financial statements. The review of financial statements focused on ACC's ability to pay interest and principal on the debentures. The materials reviewed, including financial statements audited by ACC's independent certified public accountants, indicated that ACC could pay its debt obligations by selling or refinancing real

000647

estate (normal business activities for a real estate developer such as ACC), with dividends from LS&L, and/or with funds from certain tax savings. As far as I am aware, ACC never missed a payment on the debentures prior to filing for bankruptcy and may have pre-paid portions of previous series of debentures.

Concerns of Other Regulators

The Department not only reviewed ACC's filings but also contacted other regulators. Contacts concerning ACC or LS&L were made with the State Department of Savings and Loan, the SEC in both Washington, D.C. and San Francisco, the Federal Home Loan Bank Board in Washington, D.C., the Federal Home Loan Bank in San Francisco, and the U.S. Attorney's Office in Los Angeles. Our discussions focused on the regulatory programs of and investigations initiated by these agencies with regard to ACC and LS&L. None of these agencies disclosed any information that would have allowed us to deny ACC's applications to sell the debentures. In addition, none of these agencies had taken any significant action against ACC or LS&L under their regulatory or law enforcement programs, certainly before the bankruptcy filing.

ACC disclosed certain government investigations and disputes to prospective investors. For example, a basic prospectus filed with the SEC on June 3, 1988 disclosed the fact that the SEC had issued a formal order of investigation to ACC concerning a 1986 examination report issued by the Federal Home Loan Bank Board ("the FHLBB"). A dispute between ACC and the FHLBB also was disclosed with regard to that report and with regard to regulatory oversight by the Federal Home Loan Bank in San Francisco.

Protections for California Investors

The Department took various actions to protect prospective investors in California in addition to review of the securities filings. We required ACC to set forth clearly in its advertising that the debentures were obligations of ACC, not of LS&L, and that the debentures were not federally insured. In addition, this information was set forth in bold-face capital letters on the cover page of ACC's prospectus (I must assume that received a copy of the prospectus as he refers to a "Data package" in his letter). Further, the Department required ACC to file several more applications than typically would be the case--applications typically are granted for one year but, for example, the application granted on March 29, 1988 was effective only for 60 days. We also required ACC to update information, including financial information, as soon as possible so that

prospective investors would have as much current information as possible.

Sale of ACC Debentures in LS&L Offices

states that the debentures--ACC's debentures--were offered and sold in LS&L's offices. For a significant period of time, this was true. Our Department has no authority over where ACC offered the debentures. The arrangement pursuant to which ACC leased space in LS&L offices which was used to sell the debentures was approved by the Department of Savings and Loan, and you may wish to contact that department with regard to this issue. However, please note that, as described above, the Department of Corporations required clear disclosure in advertising and in the prospectus that the debentures were obligations only of ACC and were not federally insured.

The Current Situation

As stated above, ACC recently has filed for protection under the U.S. bankruptcy laws. That action, in and of itself, is not illegal, nor does it violate the State's securities laws. Recent newspaper articles have alleged that ACC engaged in "cooking" its books to mislead regulators. These allegations ultimately may or may not be proven, but, as of now, they are only allegations. The press also has reported the filing of certain law suits alleging fraud against various parties involved in the offer and sale of the debentures. Similarly, these charges are, for the moment, only allegations which may or may not be proven.

The Department is following the situation closely. We continue to contact other regulators to determine if they have any evidence relevant to the offer and sale of the debentures and the allegations of securities fraud; so far we have none. The Department will act to the extent we have a basis to do so under the laws we enforce but, thus far, the Department has not been provided with any information from any source that would carry the burden of proof in showing a violation of the law.

Very truly yours,

Christine W. Bender

CHRISTINE W. BENDER
Commissioner of Corporations

CWB:ad

April 26, 1989

Ms. Christine Bender
Commissioner
DEPARTMENT OF CORPORATIONS
1107 Ninth Street, Room 800
Sacramento, California 95814

Dear Ms. Bender,

I have received the attached letter from one of my constituents.

It would be most helpful if your office would provide me with the history, background and current status of this individual's concern as well as your perspective, so that I might appropriately respond. Please direct any information to the attention of
at

Thank you in advance for your cooperation and assistance.

Sincerely,

Attachment

SUBJEXT:American Continental Corp./Lincoln Savings & Loan

Dear Sir;

During the latter part of 1987 and early part of 1988 I noticed advertisements in the Orange County Register and at a display in the loby of my branch of the Lincoln S & L,located at 5791 E.Santa Ana Canyon Rd.,Anaheim,Ca. concerning Bonds of the American Continental Corp.,parent of the Lincoln S & L. The newspaper advertisements did not mean anything to me,however the fact that these Bonds were being offered right in the loby of my bank attracted my attention. I stopped to talk to the person who was attending the display and asked a bunchof questions. I asked what they were. I was told that they were Bonds of the A.C.C, the owner of L. S & L. I asked how they were different from the CD's that I had had some of my funds in there at the bank. I was told it was just like the CD's but was a way for the bank to offer slightly higher interest rates to the bank customers than the Bank could with CD's. I was told that it was just like another account at the bank,that my funds would just be transfered within the bank from my regular savings accounts into the bond account. I asked a question concerning that thebonds were only being sold to Cal. residents and was told that the bonds had been approved by both the Cal. Commissioner of Corps. and the Commissioner of the Cal. S & L. plus the Federal Home Loan Bank Board. I was told all the information concerning the Bonds would be in the Data package supplied when I purchased a Bond. With all these assurances I purchased an $8,000 10 1/2 % Series H-1 Bond ,due 2-1-90 for my 4 grandchildren and a $40,000 10 1/2 % Series H-1 Bond,due 2-1-90 for myself. This was a total of $72,000. It was not as an investment, I wasn't buying stock or a junk bond from a stock broker. It was just a movement of funds within my bank and was expected to be as safe as the funds were where they were originally.

This was a total fraudulent activity by the management of American Continental Corp., Lincoln S & L and the specific people who were at the desks pushing these bonds. I,and I am sure all the others who purchased these bonds had no idea what was going on. We were completely hood winked by the fact that the bonds were being pushed within the bank , by the fact that there sale had been approved by the Federal and Cal. State authorities and by the directly misleading statements by the individuals who were directly approaching the Lincoln S & L customers. As far as i was led to believe this was a Lincoln S & L activity and my funds were staying right there at my branch of the Lincoln S & L. There was a full comingling of the American Continental and Lincoln S & L activities.

I charge that the full activity as perpetrated by American Continental Corp.,Lincoln S & L managements and their stafffs were a carefully planned fraudulent activity.

My next area of question concerns the [illegible] Corp. Commissioner Christin Dender and her staff and the Commissioner of the Dept. of S & L ,William Crawford and his staff. I became involved with these Bonds early in 1988 but I have recently read accounts that these so called authorities in Cal. and at the Fed. level were concerned about these bonds and Continental American Corp. much earlier. If this was the case how did the Cal. authorities allow these bonds to be sold so openly to the Lincoln S & L customers. Where were these civil servants and what were they think of when they approved these bonds for sale the way they were to us unsuspecting fools. What were my tax dollars buying,obviously not protection from a blatant fraudulent scheme.

I charge the Commissioners of the Cal. Dept of Corp. ,Christin Dender and her staff and Commissioner William Crawford of the Dept. of S & L and his staff with CRIMINAL NEGLIGENCE and they should so be charged.

I was wondering why the Federal Home Loan Bank Board had approved the sale of these Bonds to the Lincoln S & L customers the way they were. However after reading some of the articles in the Register I can understand why they would approve the sale and not do anything to stop the fraudulent activity. For every dollar that I and the other unsuspecting Lincoln S & L customers transfered from our Lincoln S & L accounts into these fraudulent Bonds the Federal Home Loan Bank Board would not have to protect these transfered dollars. The Federal Home Loan Bank Board could have very easily protected us suckers but they were only interested in making a good showing.

I charge the Federal Home Loan Bank Board with criminal negligence and they should so be charged by what ever agency that is supposed to protect the tax paying citizens from such negligence.

I have to appologize for the typing and incompleteness of this letter. I am not a trained typist plus I had a myocardinal infraction on 4-6-89 and was hospitalized at St. Joseph's Hospital in Orange thru 4-13-89. This has been a horrible experience and will continue until my grandchildrens and my funds are returned.

This letter will not be an exercise in futillity. I expect each and every recepient of this letter to take the maximum effort to correct the fraudulent activity by American Continental Corp.,the Lincoln S & L managemenys and staff plus somethine has to be done about the Cal. S & L and Dept of Corp. organizations and the deviousne: of the Federal Home Loan Bank Board.

Very truly yours.

STATE OF CALIFORNIA — GEORGE DEUKMEJIAN, Governo

DEPARTMENT OF CORPORATIONS
Los Angeles, California

AUG 17 1989

IN REPLY REFER TO
FILE NO. 304 5211

Re: AMERICAN CONTINENTAL CORPORATION

Dear

This Department administers the state securities laws in California. In connection with that responsibility, we have received a copy of your letter of April 19, 1989 to concerning certain bond offerings by American Continental Corporation ("ACC").

Your letter raises serious questions concerning the integrity of the marketing of the ACC bonds. We are particularly concerned with whether--before you invested--you received a prospectus or were informed that the bonds were not federally insured.

So that we may have all the facts concerning your investment, please fill out the attached Complaint form and return it to me at the California Department of Corporations, 615 South Flower Street, 19th Floor, Los Angeles, California 90017.

Thank you for your cooperation in this matter.

Very truly yours,

Edward L. Williams, Supervising Counsel

GEORGE A. CRAWFORD
Senior Trial Counsel
(213) 620-4551

GAC:dlm/U3
Attachment

cc:

090653

OFFICE MEMO

3 21 88

TO

Alan Wenger

ROOM NUMBER

FROM

Carol Fang

PHONE NUMBER 2450

SUBJECT American Continental Corp.

I went to Lincoln Savings at 630 W 6TH ST. Los Angeles. AMERICAN Continental Corp has a representative, Larry Goodwin who sits at his own desk. Goodwin gave me his card, a list of SUBORDINATED Debentures Month INTEREST PAYMENTS, a brochure and a large prospectus folder. The only other advertisement for American Continental was a large chart POSTER EXACTLY LIKE THE MONTHLY INTEREST PAYMENTS CHART IT WAS ON AN EASEL IN THE MIDDLE OF THE S&L.

Put your thoughts to work. Submit a **MERIT AWARD SUGGESTION.**

000651

AMERICAN
CONTINENTAL
CORPORATION

LAWRENCE GOODKIND
Investments

630 West Sixth Street
Los Angeles, CA 90017/(213) 628-4131

This announcement is neither an offer to sell nor a solicitation of an offer to buy these securities. The offer is made only by the Prospectus and the related Prospectus Supplement.

9.50% 1-YEAR

10.50% 2-YEAR

SUBORDINATE DEBENTURES

Minimum investment $2,000
Monthly interest
Offered exclusively in California
Eligible for Self-Directed IRAs

Visit our representatives at any Lincoln Savings

AMERICAN CONTINENTAL CORPORATION

These debentures are not insured by the FSLIC

000655

What is American Continental Corporation (ACC)?

A diversified financial holding company, with $5 billion in assets. Its eleven subsidiaries are involved in financial services, banking, real estate development, insurance, hotel operations, and equity investments. Its net worth at 9/30/87 was $139,989,000. It was listed in Forbes Magazine's 40th Annual Report on American Industry (Jan. '88).

Lincoln Savings and Loan is the largest subsidiary of ACC, the second largest savings and loan based in Orange County, and has a branch network from Ventura to San Diego counties.

ACC's stock is publicly traded with a NASDAQ ticker symbol of AMCC.

What is a fixed rate subordinate debenture?

A type of corporate bond that is unsecured and uninsured. The debenture holders' claim on assets is junior to other classes of creditors, but senior to common and preferred stockholders.

The interest rate is fixed, and interest is paid at specific intervals. The principal is paid upon maturity.

What are some features of ACC's Subordinate Debentures?

- monthly interest mailed to you, or directly deposited into your account
- no fees or commissions
- minimum investment of $2,000
- selection of maturities to choose from
- eligible for self-directed IRA
- fixed interest rates
- available in Lincoln Savings branches from ACC representatives

Can these bonds be redeemed prior to the maturity date?

These bonds are not traded on the secondary bond market, but they can be transferred to another individual. It's the responsibility of the debenture holder to determine a suitable price and locate the buyer. Secondly, ACC will redeem up to $25,000 principal amount of the debenture at par upon the death of a debenture holder. Finally, ACC has the right to redeem all or part of the bonds prior to maturity, and generally a premium (a stated percentage above the original principal investment) is paid.

How do I invest in the ACC Subordinate Debenture?

Visit or call an ACC representative at any Lincoln Savings branch to pick up a prospectus and related information. The representative will be happy to go over the information with you and answer all your questions. Should you choose to invest in the Subordinate Debenture, the ACC representative will fill out the purchase agreement, and you will begin earning interest on the date of your investment.

AMERICAN CONTINENTAL CORPORATION

SUBORDINATE DEBENTURES
MONTHLY INTEREST PAYMENTS

PRINCIPAL	1 Year 8.500%	2 Year 10.500%
$ 2,000	$ 15.83	$ 17.50
3,000	23.75	26.25
4,000	31.67	35.00
5,000	39.58	43.75
6,000	47.50	52.50
7,000	55.42	61.25
8,000	63.33	70.00
9,000	71.25	78.75
10,000	79.17	87.50
11,000	87.08	96.25
12,000	95.00	105.00
13,000	102.92	113.75
14,000	110.83	122.50
15,000	118.75	131.25
16,000	126.67	140.00
17,000	134.58	148.75
18,000	142.50	157.50
19,000	150.42	166.25
20,000	158.33	175.00
21,000	166.25	183.75
22,000	174.17	192.50
23,000	182.08	201.25
24,000	190.00	210.00
25,000	197.92	218.75
30,000	237.50	262.50
35,000	277.08	306.25
40,000	316.67	350.00
45,000	356.25	393.75
50,000	395.83	437.50
55,000	435.42	481.25
60,000	475.00	525.00
65,000	514.58	568.75
70,000	554.17	612.50
75,000	593.75	656.25
80,000	633.33	700.00
85,000	672.92	743.75
90,000	712.50	787.50
95,000	752.08	831.25
100,000	791.67	875.00

Rates are subject to change for subsequent series

990658

ALHAMBRA
300 E. Main St.
(at Chapel Ave.)
(818) 289-6343

ANAHEIM HILLS
5791 Santa Ana
Canyon Rd.
(at Imperial Hwy.)
(714) 974-4410

ARCADIA
200 E. Duarte Rd.
(at Second Ave.)
(818) 445-7080

BURBANK
3600 W. Verdugo Ave.
(at Hollywood Way)
(818) 841-3703

CAMARILLO
2300 Ponderosa Dr.
(at Arneill)
(805) 987-0902

CARLSBAD
1810 Marron Road
(North County Plaza
Shopping Center)
(619) 434-0138

DOWNEY
10033 Paramount
Blvd.
(at Florence Ave.)
(213) 927-2506

ESCONDIDO
1655 E. Valley Pkwy.
(next to Long's
Drug Store)
(619) 747-8100

GLENDALE
100 E. Glenoaks Blvd.
(at Brand Blvd.)
(818) 247-6306

GRANADA HILLS
17851 Chatsworth St.
(at Zelzah Ave.)
(818) 363-5041

HEMET
1111 S. State St.
(at Stetson)
(714) 652-2761

HOLLYWOOD
7050 Hollywood Blvd.
(near La Brea Ave.)
(213) 466-6211

**HUNTINGTON
BEACH**
7662 Edinger
(at Sher Lane)
(714) 841-1738

IRVINE
(Koll Center)
(Next to Irvine Marriott)
18200 Von Karman Ave.
(at Michelson)
(714) 553-0200

IRVINE
(Cross Roads Center)
3978 Barranca Pkwy.
(at Culver Drive)
(714) 559-5071

LAGUNA HILLS
23801 Moulton Pkwy.
(Moulton Parkway
Shopping Center)
(714) 586-4050

LAKEWOOD
5247 Hazelbrook Ave.
(Lakewood Shopping
Center near Wards)
(213) 630-1404

LOS ANGELES
630 W. Sixth St.
(at Hope)
(213) 628-4131

PANORAMA CITY
14526 Roscoe Blvd.
(near Van Nuys Blvd.)
(818) 894-9394

**ROLLING HILLS
ESTATES**
29920 Hawthorne Bl.
(at Crest)
(213) 377-7577

**RANCHO
BERNARDO**
16475 Bernardo Ctr. D
(In Bernardo Center)
(619) 451-6705

SANTA ANA
1631 N. Bristol St.
(at 17th St.)
(714) 547-0771

SANTA MONICA
1460 Fourth St.
(at Broadway)
(213) 451-9931

SHERMAN OAKS
13701 Riverside Dr.
(at Woodman Ave.)
(818) 783-3130

SUN CITY
28127 Bradley Rd.
(714) 679-6801

TORRANCE
21835 Hawthorne Blv
(across from Del Amo
Shopping Center)
(213) 540-4222

TUSTIN
13031 Newport Ave.
(Plaza La Fayette)
(714) 730-0245

WEST LOS ANGELE
11285 National Blvd.
(at Sawtelle Blvd.)
(213) 478-0481

WOODLAND HILLS
5995 Topanga Canyo
Blvd.
(at Oxnard St.)
(818) 348-151

Los Angeles location opens at 7:00 a.m.
Open Saturdays at all locations except Irvine and Los Angeles

STATE OF CALIFORNIA—BUSINESS AND TRANSPORTATION AGENCY GEORGE DEUKMEJIAN, Governor

DEPARTMENT OF CORPORATIONS
OFFICE OF THE COMMISSIONER
600 S. COMMONWEALTH AVENUE
LOS ANGELES, CALIFORNIA 90005
(213) 736-2741

FILE NO. _____

Los Angeles, California
November 8, 1989

Ms. Ellen Kotler
House Banking Committee
c/o General Accounting Office
1275 Market Street
San Francisco, CA 94103

Dear Ms. Kotler:

As you requested, attached are copies of letters to Robert Rifkin, Senior Corporations Counsel, dated March 31, 1988 and April 13, 1988 from the law firm of Parker, Milliken, Clark, O'Hara & Samuelian relating to revised advertisements of American Continental Corporation Subordinate Debentures.

These letters acknowledge previous oral discussions with the Department of Corporations personnel handling the file relating to the discontinuance of a prior form of advertisement and to a revision of the advertisement to reflect that the debentures were not insured by the FSLIC.

Very truly yours,

Christine W. Bender

CHRISTINE W. BENDER
Commissioner of Corporations

CWB:ijh
Attachments

000660

PARKER, MILLIKEN, CLARK, O'HARA & SAMUELIAN
A PARTNERSHIP INCLUDING A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
333 SOUTH HOPE STREET, 27TH FLOOR
LOS ANGELES, CALIFORNIA 90071-1488
TELEPHONE (213) 683-6500

FRANK W. CLARK JR
JOHN F. O'HARA
W. DICKERSON MILLIKEN
MARK TOWNSEND
N. MATTHEW GROSSMAN
KARL M. SAMUELIAN
ANTHONY T. OLIVER JR
FLOYD M. LEWIS
RICHARD L. FRANCK
EVERETT F. MEINERS
RICHARD A. CLARK
CLAIRE D. JOHNSON
JAMES R. ANDREWS*
FRANKLIN TOM
FRANK ALBINO
HOWLAND C. HONG
PAUL J. LIVADARY
WILLIAM H. EMER
DONALD M. ROBERTS
CARLO SIMA
STEPHEN T. HOLZER
LINDA S. RUSAMOW
MARGUERITE S. ROSENFELD
RICHARD G. ROBINS
SAMUEL M. SURLOFF
LESLIE W. MULLINS
WILLIAM V. MCTAGGART JR.
GARY A. MEYER
WILLIAM W. REID
CAMERON M. FABER
JOHN T. ROGERS, JR.
RICHARD M. ROSS
JAMES G. FAUST
REGINA SHANNEY-SABORSKY
ANDREW A. SCHNEIDERMAN
ROSANN E. TATE
JOSEPH G. MARTINEZ
ANN M. CARLEAF
CONSTANCE K. MURPHY
PAUL M. ROADARMEL
PETER L. REICH
LISA BILLINGTON
ARSINE E. PHILLIPS
KATHLEEN A. WILKINSON
MARTIN M. BURTON
ANN T. LINDENBAUM
MARK A. HAMMER
DARRYL C. WHITE
ROSA LINDA CRUZ
*A PROFESSIONAL CORPORATION

CLAUDE I. PARKER (1871-1952)
JOHN B. MILLIKEN (1889-1981)
RALPH KOHLMEIER (1900-1976)

OF COUNSEL
JOANNE B. STERN
C. PETER ANDERSON

TELEX: 67-4817
CODE "PARKERMILL LSA"
TELECOPIER (213) 683-6547
TELECOPIER (213) 683-6669

WRITER'S DIRECT DIAL NUMBER

March 31, 1988

VIA MESSENGER

Robert Rifkin, Esq.
Senior Corporations Counsel
Department of Corporations
600 So. Commonwealth Avenue
Los Angeles, CA 90005-4091

Dear Mr. Rifkin:

In accordance with the Department's request, American Continental Corporation has discontinued the use of the form of the advertisement appearing in the Los Angeles Times on March 29, 1988. A copy of the revised advertisement which American Continental Corporation intends to use in connection with the offering of its subordinate debentures is enclosed for the Department's information.

If you have any questions regarding the advertisements or any other matter, please do not hesitate to call me.

Very truly yours,

Joseph G. Martinez

JGM/kl
Encl.

7-262

000662

PARKER, MILLIKEN, CLARK, O'HARA & SAMUELIAN
A PARTNERSHIP INCLUDING A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
333 SOUTH HOPE STREET 27TH FLOOR
LOS ANGELES, CALIFORNIA 90071-1488
TELEPHONE (213) 683-6500

FRANK W. CLARK, JR.
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RICHARD L. FRANCIS
EVERETT F. MEINERS
RICHARD A. CLARK
CLAIRE D. JOHNSON
JAMES R. ANDREWS*
FRANKLIN TOM
FRANK ALBINO
NOWLAND C. HONG
PAUL J. LIVADARY
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CARLO SIMA
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MELISSA M. ALLAIN
ANDREW A. SCHNEIDERMAN
ROXANN E. TATE
JOSEPH G. MARTINEZ
FERNANDO VILLA
ANN M. OAKLEAF
CONSTANCE R. MURPHY
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ARBINE B. PHILLIPS
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ANN T. LINDENBAUM
MARK A. HANMER
DARRYL C. WHITE
ROSA LINDA CRUZ
*A PROFESSIONAL CORPORATION

CLAUDE I. PARKER (1897-1952)
JOHN B. MILLIKEN (1883-1961)
RALPH KOHLMEIER (1900-1978)

OF COUNSEL
JOANNE B. STERN
C. PETER ANDERSON

TELEX: 67-4817
CODE "PARKERMILL LSA"
TELECOPIER (213) 683-6647
TELECOPIER (213) 683-6669

WRITER'S DIRECT DIAL NUMBER

April 13, 1988

Robert Rifkin, Esq.
Senior Corporations Counsel
Department of Corporations
600 South Commonwealth Avenue
Los Angeles, California 90005-4091

Re: File No. 304-5211
American Continental Corporation
Debenture Offering

Dear Bob:

Enclosed is the revised advertisement for the American Continental Corporation Subordinate Debentures. In accordance with your discussions with Franklin Tom of our office and me, the advertisement has been revised to reflect the fact that the debentures are not insured by the FSLIC. It was our thought that since all references to Lincoln Savings and Loan Association, except one, have been eliminated from the advertisement, the reference to the debentures not being insured by the FSLIC should be inserted immediately after the sole reference to Lincoln Savings.

Also enclosed are three copies of the Prospectus, dated April 7, 1988 which A.C.C. intends to use in connection with the offering. Except for the addition of the date on its cover and rear pages, this Prospectus is identical to the Prospectus contained in the Amendment No. 3 to the Registration Statement filed with the

7-166

000665

Application filed on March 31, 1988 and incorporated by reference into the Post-Effective Amendment No. 1 to the Application filed on April 8, 1988.

Very truly yours,

Joseph G. Martinez

JGM/kl
Encls.

7-167

000664

This announcement is neither an offer to sell nor a solicitation of an offer to buy these securities. The offer is made only by the Prospectus and the related Prospectus Supplement.

DEPARTMENT OF CORPORATIONS
RECEIVED
APR 13 1988
LOS ANGELES OFFICE

MONTHLY INCOME.

9.50%
1-YEAR

10.50%
2-YEAR

AMERICAN CONTINENTAL CORPORATION SUBORDINATE DEBENTURES

Minimum investment $2,000

Offered exclusively in California

Eligible for Self-Directed IRAs

AMERICAN CONTINENTAL CORPORATION

American Continental Corporation Representative
18200 Von Karman Ave., Irvine, CA 92715

Please forward my copy of the American Continental Corporation Prospectus and the related Prospectus Supplement.

Name _____
Phone _____
Address _____
City _____ State _____ Zip _____

Please mail or call an American Continental Corporation representative today at a Lincoln Savings branch in California for details and a Prospectus. Or return the coupon below. These debentures are not insured by the FSLIC.

ALHAMBRA
300 E. Main St.
(818) 289-8341

ANAHEIM HILLS
8781 Santa Ana Canyon Rd.
(714) 998-6410

ARCADIA
300 E. Huntington Dr.
(818) 445-7961

BURBANK
3200 W. Magnolia Blvd.
(818) 841-3767

CAMARILLO
3288 Pleasant View Dr.
(805) 987-9888

CARLSBAD
1910 Harbor Drive
(619) 434-7148

CERRITOS
18551 S. Pioneer Boulevard
(213) 924-9400

DOWNEY
10333 Rosecrans Blvd.
(213) 861-7308

EL CERRITO
301 E. Cerrito Ave.
(415) 527-4726

ENCINO HILLS
17501 Ventura Blvd.
(818) 788-8041

FREMONT
1111 E. Stevenson Blvd.
(415) 657-7711

HOLLYWOOD
7000 Hollywood Blvd.
(213) 466-8821

HUNTINGTON BEACH
7662 Edinger Ave.
(714) 841-1700

IRVINE
9 Executive Circle
(714) 955-0171

IRVINE
IRVINE CENTER
15000 Von Karman Ave.
(714) 854-8700

LAGUNA HILLS
23041 Moulton Pkwy.
(714) 855-4040

LAKEWOOD
5301 Woodruff Ave.
(213) 865-1401

LOS ANGELES
555 W. Sixth St.
(213) 626-1477

PASADENA CITY
Walnut Avenue Office
(818) 564-1284

RANCHO BERNARDO
16975 Bernardo Center Dr.
(619) 451-6706

ROLLING HILLS ESTATES
Peninsula Center
(213) 377-7711

SANTA ANA
1901 W. Edinger Ave.
(714) 547-7711

SANTA MONICA
1440 Ocean Ave.
(213) 451-9961

SHERMAN OAKS
15301 Ventura Blvd.
(818) 783-3130

SUN CITY
27127 Bradley Rd.
(714) 679-6600

TORRANCE
21535 Hawthorne Blvd.
(213) 540-4272

TUSTIN
13011 Newport Ave.
(714) 730-2241

WEST LOS ANGELES
1900 Westwood Blvd.
(213) 475-7711

WOODLAND HILLS
5364 Canoga Ave.
(818) 704-7711

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000665

upon the day following the expiration of its prior qualification pursuant to this section or, if such qualification has expired, upon the first business day following the filing of the application pursuant to this subdivision. Nothing contained in this subdivision shall restrict the authority of the commissioner pursuant to Section 25140 or 25143.

(2) A unit investment trust which has not previously applied to qualify the sale of its securities pursuant to this section but which is substantially the same as one or more unit investment trusts previously qualified under this section by the same sponsor, shall file pursuant to this subdivision if it can make the statements specified below. An application filed pursuant to this subdivision shall contain the following information and be accompanied by the following documents, in addition to the information specified in Section 25160 and the consent to service of process required by Section 25165: (A) a statement that the applicant, in its organization, its plan of business, its securities and its offering, is substantially the same as a unit investment trust previously qualified under this section by the same sponsor; (B) a statement that such previously qualified unit investment trusts are in compliance with the terms of their qualifications and (C) a copy of its current registration statement under the Securities Act of 1933. If no stop order or orders under subdivision (a) of Section 25143 are in effect under this law, qualification of the sale of securities under this subdivision automatically becomes effective (and the security may be offered and sold in accordance with the terms of the application) at the moment the federal registration becomes effective or, if the registration is effective when the application is filed, upon the first business day following the filing of the application pursuant to this subdivision.

(Added by Stats.1968, c. 88, § 2. Amended by Stats.1970, c. 612, § 4; Stats.1972, c. 810, § 2; Stats.1980, c. 242, § 1; Stats.1982, c. 564, § 3; Stats.1984, c. 577, § 4.)

15 U.S.C.A. § 77a et seq.

Cross References

Contents of application, see § 25160.

§ 25112. Qualification by notification; application; contents; effective date

(a) Any security issued by a person which is the issuer of any security registered under Section 12 of the Securities Exchange Act of 1934 or issued by an investment company registered under the Investment Company Act of 1940, and which is not eligible for qualification under Section 25111, may be qualified by notification under this section.

(b) An application for qualification under this section shall contain such information and be accompanied by such documents as shall be required by rule of the commissioner, in addition to the information specified in Section 25160 and the consent to service of process required by Section 25165. For this purpose, the commissioner may classify issuers and types of securities.

(c) If no stop order or order under subdivision (a) of Section 25143 is in effect under this law, qualification of the sale of the securities under this section automatically becomes effective (and the securities may be offered and sold in accordance with the terms of the application as amended) at 12 o'clock noon California time of the 10th business day after the filing of the application or the last amendment thereto or at such earlier time as the commissioner determines.

(Added by Stats.1968, c. 88, § 2.)

Cross References

Contents of application, see § 25160.

§ 25113. Qualification by permit; application; contents; effective date

(a) All securities, whether or not eligible for qualification by coordination under Section 25111 or qualification by notification under Section 25112, may be qualified by permit under this section.

(b) An application for a permit under this section shall contain such information and be accompanied by such documents as shall be required by rule of the commissioner, in addition to the information specified in Section 25160 and the consent to service of process required by Section 25165. For this purpose, the commissioner may classify issuers and types of securities.

(c) Qualification of securities under this section becomes effective upon the commissioner issuing a permit authorizing the issuance of such securities.

(Added by Stats.1968, c. 88, § 2.)

Cross References

Advertising securities, see § 25002.
Articles of incorporation,
  Amendment of, see § 900 et seq.
  Filing of, see § 200.
Books of account, see § 1500.
Contents of application, see § 25160.
Exempt securities, see § 25100.
False statements, see § 1507.
Qualification, necessity of, see §§ 25120, 25130.
Sale of securities, see § 25017.
Securities, definition of, see § 25019.
Similar provisions,
  Agents and brokers, see § 25211.
  Investment counsel, see § 25231.
Verification of pleadings, see Code of Civil Procedure § 446.

§ 25114. Effective period of qualification

Every qualification under this chapter is effective for 12 months from its effective date, unless the commissioner by order or rule specifies a different period, except during the time an order under Section 25140 or subdivision (a) of Section 25143 is in effect.

(Added by Stats.1968, c. 88, § 2.)

§ 25115. Signing and verifying applications for qualification

Every application for qualification of an issuer transaction under this chapter shall be signed and verified by the issuer; every application for qualification of a nonissuer transaction under Section 25111 shall be signed and