kers package for $800. Subsequent investigation of the school's records determined that approximately 200 people had purchased certificates without ever attending class.

Following its investigation, DRE revoked the school's continuing education course approval. DRE has also issued a Notice of Accusation to revoke Wei's personal real estate broker's license. Persons submitting license applications with course certificates from New Methods Institute will most likely be denied licenses. In addition, any licenses already issued and based on such certificates may be revoked following a hearing.

LEGISLATION:

The following is a status update on bills described in CRLR Vol. 9, No. 4 (Fall 1989) at page 99:

SB 910 (Vuich), which would appropriate $730,000 from the Education and Research Account in the Real Estate Fund to DRE as an advance, repayable as specified, in order to establish a regulatory structure for the licensing and certification of real estate appraisers, is pending in the Assembly Committee on Governmental Efficiency and Consumer Protection.

AB 527 (Hannigan) would enact several provisions regarding real estate appraisers. Among other things, this bill would enact the Real Estate Appraisers' Licensing and Certification Law; authorize the Real Estate Commissioner to appoint a Real Estate Appraisal Advisory Board to assist the DRE in the administration of the act; authorize a licensed real estate broker to appraise all types of real estate and real property in this state; specify standards and procedures for licensure as a real estate appraiser and certification as a state-certified real estate appraiser; specify provisions regarding disciplinary proceedings, examinations, licensing fees, and continuing education requirements; and require the DRE to commence accepting applications for appraiser licenses and certifications on January 1, 1991, and to commence issuing those licenses and certifications on July 1, 1991. At this writing, this bill is pending in the Senate Business and Professions Committee.

AB 2242 (Costa), which would include within the list of acts requiring licensure as a real estate broker assisting or offering to assist another in filing an application for conducting a business opportunity upon lands owned by the state or federal government, is pending in the Senate Business and Professions Committee.

SB 988 (Beverly), which would have expanded certain exemptions regarding real estate licenses, died in committee.

SB 1216 (Beverly), which would have enacted the Real Estate Appraisers Licensing and Certification Law, prohibiting a person from engaging in real estate appraisal activity without being licensed by DRE, died in committee.

AB 339 (Hauser), which would have required any person intending to offer subdivided land for sale or lease to disclose to DRE whether adjacent land is zoned for timberland production, died in committee.

LITIGATION:

In *Harrington v. Department of Real Estate*, No. F010192 (June 21, 1989), the Fifth District Court of Appeal upheld a trial court ruling affirming DRE's denial of a license application.

On May 22, 1986, appellant Robert W. Harrington applied for a salesperson's license with DRE. On September 9, 1986, DRE denied the application on two grounds. First, appellant had been previously convicted of contracting without a license and passing a worthless check, both of which DRE found are crimes of moral turpitude which bear a substantial relationship to the qualifications, functions, or duties of a real estate licensee. Second, appellant falsely answered a question on his application which sought information about previous denials, revocations, suspensions, or restrictions of professional/ business licenses. In 1983, appellant had been denied a license to sell automobiles by the Department of Motor Vehicles and had instead been given a probationary license. In 1984, the Insurance Commissioner had revoked appellant's insurance sales license. Appellant failed to adequately describe these actions when responding to the above- referenced questions on the real estate sales license application.

On November 11, 1986, appellant challenged DRE's denial at a hearing before an administrative law judge (ALJ). On December 11, 1986, the ALJ issued a proposed decision and findings, upholding DRE's denial of appellant's application for a license. Subsequently, the Real Estate Commissioner adopted the proposed decision and finding of the ALJ, and denied the license.

Pursuant to Code of Civil Procedure section 1094.5, appellant filed a writ of administrative mandamus in superior court on March 31, 1987. The court considered the entire administrative record, and the oral and written arguments of the parties. On February 29, 1988, judgment was entered in favor of DRE, denying appellant's writ in its entirety. Appellant then filed an appeal with the Fifth District. On June 21, 1989, the appellate court sustained the lower court's ruling. In its conclusion, the court noted the importance of honesty and integrity as qualifications for salesperson licensure. The court recognized that the public has a right to rely on the licensee's integrity in representing them, disclosing facts about property, and holding monies in fiduciary capacity. On September 21, 1989, the California Supreme Court ordered that the Fifth District's opinion be published.

FUTURE MEETINGS:

To be announced.

DEPARTMENT OF SAVINGS AND LOAN

Commissioner: William J. Crawford
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The Department of Savings and Loan (DSL) is headed by a commissioner who has "general supervision over all associations, savings and loan holding companies, service corporations, and other persons" (Financial Code section 8050). DSL holds no regularly scheduled meetings, except when required by the Administrative Procedure Act. The Savings and Loan Association Law is in sections 5000 through 10050 of the California Financial Code. Departmental regulations are in Chapter 2, Title 10 of the California Code of Regulations (CCR).

MAJOR PROJECTS:

Proposed Regulatory Changes. In November, the Commissioner proposed to amend section 103.304, Chapter 2, Title 10 of the CCR, in order to update the statutory references within the regulation. References to repealed Financial Code sections in provisions related to acquisition of control of a savings and loan association or savings and loan holding company will be deleted and replaced with current Code sections brought about by the recodification of

Savings Association Law effective January 1, 1984 (Chapter 1091, Statutes of 1983). In addition, the fee for filing an application for acquisition of control will be increased from $750 to $7,500. DSL considers the increase necessary to more adequately cover the costs incurred by DSL in processing the applications, and to place such costs on the person filing the application rather than on all savings associations through annual assessments paid to DSL. Public comments were invited until December 18.

New Federal Capital Requirements. On November 6, the federal Office of Thrift Supervision (OTS) announced new and more strict capital standards for the nation's S&Ls, in keeping with the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA), the comprehensive S&L bailout bill signed by President Bush on August 9. (See CRLR Vol. 9, No. 4 (Fall 1989) pp. 99-100 for background information.) Under the new standards which took effect on December 7, S&Ls are required to have, at a minimum, tangible capital (actual net worth) equal to 1.5% of assets, core capital (net worth) equal to 3% of assets, and risk- based capital (reserves tied to credit risk) equal to 6.4% of assets. By 1994, all S&Ls must have risk-based capital equal to 8% of the aggregate value of risk-weighted assets.

The tougher capital standards are intended to make the S&L system safer by providing an incentive for S&L owners to be more prudent lenders, since they will be risking more of their own money. It will also provide a larger buffer of private money between S&L losses and government deposit insurance funds. OTS, however, estimates that 800 of the nation's 2,600 thrifts will not be able to meet the new standards. Approximately 300 of these S&Ls are expected to fail, while several hundred others will simply take longer to comply. Other thrifts may be able to quickly meet the standards by shrinking their balance sheets or retaining profits. Those thrifts which cannot meet capital standards by 1994 will face closure. OTS is planning to launch a "match-making" program to encourage merger and acquisition of weak S&Ls with stronger partners without government assistance. Insufficiently capitalized S&Ls were to advise the government by mid-January as to how they plan to comply with the new standards or otherwise face operating restrictions.

The Lincoln Savings Scandal Continues. State and federal officials continue to investigate—and to be investigated about—the collapse of the Irvine-based Lincoln Savings and Loan Association, the costliest thrift failure in the nation's history. Federal regulators seized Lincoln on April 14, 1989, the day after its parent company, American Continental Company, filed for Chapter 11 bankruptcy in Arizona. In August, federal regulators declared Lincoln insolvent and put it in receivership.

On September 15, federal regulators filed suit in U.S. District Court in Phoenix, charging the former owners of Lincoln with fraudulent and illegal activities. A federal accounting study found that more than half of Lincoln's reported profits since 1984 were accounted for improperly. The suit claims that the illegal activities cost Lincoln more than $1.1 billion and also financed the political activities of Lincoln owner Charles H. Keating, Jr. State and federal investigations are focusing on Keating's use of political influence in Sacramento and Washington to protect his financial companies.

The scandal has enveloped five U.S. senators, including Senator Alan Cranston, who has acknowledged soliciting $850,000 from Keating for several voter registration groups that the senator supports. At this writing, the five senators are now under investigation by the FBI for their efforts to lobby at the federal level on behalf of Keating. Their conduct is also the subject of a review by the Senate Ethics Committee, which has hired an independent counsel, as well as the U.S. Department of Justice. The focus of these examinations is whether the senators interceded because of Keating's $1.46 million in donations to their campaign funds and favorite causes, and whether the senators improperly delayed the seizure of Lincoln or hindered regulators' efforts to police Keating's operations.

The Federal Home Loan Bank Board's (FHLBB) regional staff in San Francisco recommended that Lincoln be declared insolvent and taken over on May 1, 1987. However, 23 months and 14 days passed before FHLBB finally seized Lincoln. As a result, the federally guaranteed cost of paying back Lincoln's depositors went up $1.3 billion, to $2.5 billion.

The senators met with FHLBB Chair Edwin Gray, as well as with members of the agency's San Francisco staff, in April 1987 during the final stages of staff's extensive audit. The senators apparently lobbied on Lincoln's behalf, although Cranston now asserts that he only encouraged a hasty resolution of the Lincoln case. Gray, who is now the chief accuser in the case, left his post on July 1, 1987; he was succeeded by M. Danny Wall, who transferred responsibility for investigating Lincoln from the San Francisco staff to his own headquarters in Washington, D.C., and failed to seize Lincoln until April 1989.

In sworn testimony before the House Banking Committee, which conducted weeks of hearings on the Lincoln scandal last fall, field examiners who took part in a second audit of Lincoln claimed that the top regulators in Washington had imposed unusual conditions which hampered their investigation. The second team of federal auditors was not allowed to see the first report prepared by FHLBB officials in San Francisco, nor was it permitted to see the original documents, only copies. The Committee chair has also accused Wall of trying to influence the testimony of two regulators in the San Francisco office who recommended the seizure of Lincoln in 1987, when he summoned them to Washington on October 10 to have their testimony reviewed with an agency lawyer before appearing in front of the Committee.

At the state level, Governor Deukmejian has received $130,000 in campaign contributions from Keating, and the Governor's chief fundraiser, Karl Samuelian, subsequently intervened with state regulators to gain approval for American Continental to sell junk bonds at Lincoln Savings branches. Samuelian is a partner in a Los Angeles law firm which represents Keating's companies.

Former DSL Commissioner Lawrence W. Taggart was recently called to testify before the House Banking Committee. As Deukmejian's appointed DSL Commissioner during 1983-84, Taggart approved Keating's original application to acquire Lincoln Savings, despite the fact that Keating had been cited by the Securities and Exchange Commission in 1979 for receiving illegal loans and using corporate funds for the personal benefit of insiders.

Taggart also made a ruling favorable to Lincoln in late 1984, a month before

he officially left his state office to joint TCS Enterprises, a financial firm in San Diego. Taggart approved Lincoln's request to transfer $800 million to its subsidiaries a few days before a new federal rule went into effect forcing S&Ls to limit direct investments to 10% of their assets. TCS then received a $2.9 million investment from Lincoln three weeks after Taggart joined the firm. Former FHLBB chair Gray, who had proposed the new rule, accused Taggart of "lining up [future] clients rather than regulating." Taggart has denied any "quid pro quo" in his actions while he held public office.

In Sacramento, the Assembly Finance and Insurance Committee is investigating the state's role in the failure of Lincoln Savings and, more specifically, how American Continental won approval from state agencies to sell high-risk uninsured junk bonds, which are now worthless, through Lincoln's 29 branch offices. The state Department of Corporations approved the request to sell $250 million worth of unsecured and uninsured corporate securities in May 1988. It was the second such bond issue approved by state regulators.

Twenty-three thousand individual investors who bought the uninsured American Continental bonds at the Lincoln Savings branches lost over $200 million. Last April, a group of elderly investors, representing the 23,000, filed a class action suit against American Continental in Orange County Superior Court. The group contends that they were victims of fraud. In early July, the attorney for the group also filed an additional claim against the state Department of Corporations for its "reckless disregard of warnings." In hearings before the Assembly committee, the attorney for the investors said Department of Corporations documents show that the agency knew American Continental Corporation was one billion dollars in debt when it approved the request to sell the $250 million in uninsured corporate securities.

Both the current and former Department of Corporations Commissioners appointed by Governor Deukmejian have worked for the law firm which represents Keating's companies, the same Los Angeles firm in which Samuelian, the Governor's chief campaign fundraiser, is a partner. Former Department of Corporations Commissioner Franklin Tom, who worked for Samuelian's firm before and after his state service, approved the first bond issuance through Lincoln Savings as Commissioner, and then represented American Continental before the Department in the second bond sale. Current Department of Corporations Commissioner Christine Bender, who approved the second bond issue, was also previously associated with Samuelian's law firm.

State Attorney General John Van de Kamp has launched a criminal investigation into allegations that the bonds were sold by Lincoln employees who were not licensed to sell securities. He has also appointed the Los Angeles District Attorney's Office to investigate the state's role in the collapse of Lincoln Savings.

In addition, the state Board of Accountancy has begun a field investigation into audits of Lincoln Savings and Loan Association. The Board will investigate two major accounting firms which audited Lincoln to determine the nature of any auditing failures and whether gross negligence took place during the course of the audits.

Bond Sales Restricted. On December 28, the DSL Commissioner issued an order, effective immediately, that the retail sale of subordinated debentures (junk bonds) issued by a state or federal association, S&L holding company, or any of their subsidiaries is an unsafe and unsound practice and is prohibited in all S&L offices. The order does not completely prohibit the sale of junk bonds by S&Ls, but does ban their sale on the premises of S&L offices. The order was prompted by allegations arising from the Lincoln Savings scandal that S&L customers confuse uninsured junk bonds sold at branch offices with insured deposits.

LEGISLATION:

The following is a status update on bills described in CRLR Vol. 9, No. 4 (Fall 1989) at page 100:

SB 1213 (Keene) would expressly exempt, until January 1, 1992, those persons or employees thereof doing business under any law relating to bank subsidiaries, bank holding companies and their subsidiaries, savings banks or savings associations and their subsidiaries, and savings bank or savings association holding companies and their subsidiaries, from the application of specified provisions of law to prohibited real estate acts. This bill is pending in the Assembly Ways and Means Committee.

SB 476 (Robbins), which would specify that time deposits include certificates of deposit, is pending in the Assembly Finance and Insurance Committee.

SJR 21 (Watson), which memorializes the President and Congress to include anti-redlining provisions in any bailout of savings and loan associations, is pending in the Assembly Finance and Insurance Committee.

The following bills have died in committee: *AB 643 (Calderon)*, which would have required banks, credit unions, savings associations, and industrial loan companies to provide handicap access to automated teller machines after July 1, 1990; *AB 2401 (Chacon)*, which would have provided tax credits for banks, savings and loan institutions, and mortgage lenders equal to the amount of interest and fee income earned from loans which are secured by residential property located in a low-income area within the state; *AB 2452 (Bane)*, which would have made investments by savings and loan associations or savings banks subject to authorization by specific provisions of law if the investment has not received previous approval in writing by the Savings and Loan Commissioner; *SB 590 (Vuich)*, which would have made technical, clarifying changes in provisions specifying the maximum percentage of assets that an association may invest in particular loans for agriculture, business, commercial, or corporate purposes; *SB 988 (Beverly)*, which would have expanded the list of specified financial institutions which are exempted, under current law, from real estate licensure and certain provisions applicable to real estate brokers and real estate securities dealers, to include bank subsidiaries, bank holding companies and their subsidiaries, savings banks and their subsidiaries, savings and loan association subsidiaries, holding companies of savings banks and savings and loan associations, and subsidiaries of those holding companies; and *SB 1540 (Keene)*, which would have created a new division in the Financial Code providing for the establishment, operation, and supervision of California savings banks, as defined and specified, to take effect January 1, 1991.