

**UNITED STATES OF AMERICA**  
**before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 62888 / September 10, 2010**

**ACCOUNTING AND AUDITING ENFORCEMENT**  
**Release No. 3183 / September 10, 2010**

**ADMINISTRATIVE PROCEEDING**  
**File No. 3-14040**

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<b>In the Matter of</b>	:	<b>ORDER INSTITUTING ADMINISTRATIVE</b>
	:	<b>PROCEEDINGS PURSUANT TO RULE</b>
<b>DAVID N. KENNEALLY, CPA</b>	:	<b>102(e) OF THE COMMISSION’S RULES OF</b>
<b>(inactive),</b>	:	<b>PRACTICE, MAKING FINDINGS, AND</b>
	:	<b>IMPOSING REMEDIAL SANCTION</b>
<b>Respondent.</b>	:	
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**I.**

The Securities and Exchange Commission (“Commission”) deems it appropriate and in the public interest that public administrative proceedings be, and hereby are, instituted against David N. Kenneally (“Kenneally” or “Respondent”) pursuant to Rule 102(e)(3)(i) of the Commission’s Rules of Practice.<sup>1</sup>

**II.**

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the

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<sup>1</sup> Rule 102(e)(3)(i) provides, in relevant part, that:

The Commission, with due regard to the public interest and without preliminary hearing, may, by order, . . . suspend from appearing or practicing before it any . . . accountant . . . who has been by name . . . permanently enjoined by any court of competent jurisdiction, by reason of his or her misconduct in an action brought by the Commission, from violating or aiding and abetting the violation of any provision of the Federal securities laws or of the rules and regulations thereunder.

Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission's jurisdiction over him and the subject matter of these proceedings, and the findings contained in Section III.3. below, which are admitted, Respondent consents to the entry of this Order Instituting Administrative Proceedings Pursuant to Rule 102(e) of the Commission's Rules of Practice, Making Findings, and Imposing Remedial Sanctions ("Order"), as set forth below.

### III.

On the basis of this Order and Respondent's Offer, the Commission finds that:

1. Kenneally, age 47, is a resident of Rossmoor, California. Kenneally was New Century Financial Corporation's ("New Century") controller (July 2005 to March 2007) and assistant controller (July 2003 to July 2005). Kenneally is licensed as a CPA in California, but his license is inactive.

2. New Century was a real estate investment trust with its principal executive offices in Irvine, California. New Century's stock was registered with the Commission pursuant to Section 12(b) of the Securities Exchange Act of 1934 ("Exchange Act") and traded on the New York Stock Exchange until it was delisted on March 13, 2007. On April 2, 2007, New Century filed for Chapter 11 bankruptcy protection. On July 15, 2008, the bankruptcy court entered an order confirming a liquidation plan effective August 1, 2008, which provided for the transfer of all remaining assets to a liquidating trust for the benefit of unsecured creditors. After all distributions have been made, the liquidating trustee will file a certificate of dissolution on behalf of New Century.

3. On December 7, 2009, the Commission filed a complaint against Kenneally in SEC v. Morrice, Civil Action No. CV 09-1426 DDP (FMOx), in the United States District Court for the Central District of California. On August 17, 2010, a final judgment was entered by consent against Kenneally, permanently enjoining him from future violations of Sections 10(b) and 13(b)(5) of the Exchange Act, 15 U.S.C. §§ 78j(b) and 78m(b)(5), and Rules 10b-5, 13b2-1, and 13b2-2 thereunder, 17 C.F.R. §§ 240.10b-5, 240.13b2-1, and 240.13b2-2, and from aiding and abetting violations of Section 13(a) of the Exchange Act, 15 U.S.C. §78m(a), and Rules 12b-20, 13a-11, and 13a-13 thereunder, 17 C.F.R. §§ 240.12b-20, 240.13a-11, and 240.13a-13.

4. The Commission's complaint alleges, among other things, that in the second and third quarters of 2006, Kenneally, contrary to Generally Accepted Accounting Principles, implemented changes to New Century's method for estimating its loan repurchase obligation and failed to ensure that New Century's backlog of pending loan repurchase requests were properly accounted for, resulting in an understatement of New Century's repurchase reserve and a material overstatement of New Century's financial results. The complaint alleges that Kenneally, by his conduct, violated Sections 10(b) and 13(b)(5) of the Exchange Act and Rules 10b-5, 13b2-1, and 13b2-2 thereunder, and aided and abetted New Century's violations of Section 13(a) of the Exchange Act and Exchange Act Rules 12b-20, 13a-11, and 13a-13 thereunder.

#### IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanction agreed to in Respondents' Offer.

Accordingly, it is hereby ORDERED, effective immediately, that:

A. Kenneally is suspended from appearing or practicing before the Commission as an accountant.

B. After three years from the date of this order, Respondent may request that the Commission consider his reinstatement by submitting an application (attention: Office of the Chief Accountant) to resume appearing or practicing before the Commission as:

1. a preparer or reviewer, or a person responsible for the preparation or review, of any public company's financial statements that are filed with the Commission. Such an application must satisfy the Commission that Respondent's work in his practice before the Commission will be reviewed either by the independent audit committee of the public company for which he works or in some other acceptable manner, as long as he practices before the Commission in this capacity; and/or

2. an independent accountant. Such an application must satisfy the Commission that:

(a) Respondent, or the public accounting firm with which he is associated, is registered with the Public Company Accounting Oversight Board ("Board") in accordance with the Sarbanes-Oxley Act of 2002, and such registration continues to be effective;

(b) Respondent, or the registered public accounting firm with which he is associated, has been inspected by the Board and that inspection did not identify any criticisms of or potential defects in the respondent's or the firm's quality control system that would indicate that the respondent will not receive appropriate supervision;

(c) Respondent has resolved all disciplinary issues with the Board, and has complied with all terms and conditions of any sanctions imposed by the Board (other than reinstatement by the Commission); and

(d) Respondent acknowledges his responsibility, as long as Respondent appears or practices before the Commission as an independent accountant, to comply with all requirements of the Commission and the Board, including, but not limited to, all requirements relating to registration, inspections, concurring partner reviews and quality control standards.

C. The Commission will consider an application by Respondent to resume appearing or practicing before the Commission provided that his state CPA license is current and he has resolved all other disciplinary issues with the applicable state boards of accountancy. However, if state licensure is dependent on reinstatement by the Commission, the Commission will consider an application on its other merits. The Commission's review may include consideration of, in addition to the matters referenced above, any other matters relating to Respondent's character, integrity, professional conduct, or qualifications to appear or practice before the Commission.

By the Commission.

Elizabeth M. Murphy  
Secretary

Service List

Rule 141 of the Commission's Rules of Practice provides that the Secretary, or another duly authorized officer of the Commission, shall serve a copy of the Order Instituting Administrative Proceedings Pursuant to Rule 102(e) of the Commission's Rules of Practice, Making Findings, and Imposing Remedial Sanctions ("Order"), on the Respondent and his legal agent.

The attached Order has been sent to the following parties and other persons entitled to notice:

Honorable Brenda P. Murray  
Chief Administrative Law Judge  
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