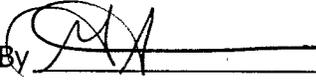


FILED

May 22, 2012

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187000
3 Sacramento, CA 95818-7000
4 Telephone: (916) 227-0789

DEPARTMENT OF REAL ESTATE

By  _____

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Bar Order of:)	NO. H-11349 SF
)	
12 GARY LYNN MOUNTAIN,)	<u>BAR ORDER</u>
)	(B&P Code § 10087)
13)	
14 _____)	
Respondent.)	

15 TO: GARY LYNN MOUNTAIN (Respondent)
16 10518 Sterling Blvd.
Cupertino, CA 95014

17 Pursuant to Section 10087(b) of the California Business and Professions Code
18 (hereinafter "the Code"), Respondent, failed to request a hearing in writing within fifteen (15)
19 days of service of the *Preliminary Bar Order and Notice of Intention to Issue Final Bar Order*,
20 filed and served upon Respondent on May 1, 2012, pursuant to the authority granted the
21 Commissioner under Section 10087 of the Code. After review and consideration of the relevant
22 facts herein, the Commissioner makes the following Findings of Facts and Conclusions of Law:

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FINDINGS OF FACT

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3 1. On or about July 25, 2011, in the Superior Court of the State of California,
4 County of Santa Clara, Case No. CC 941176, Respondent was convicted of violating Section
5 25401/25540(b) of the California Corporations Code (Communications Containing Untrue
6 Statements and Omissions of Material Fact), Section 484/487 of the California Penal Code
7 (Grand Theft) and Section 25110/25540(a) of the California Corporations Code (Offer to Sell
8 and Sale of Unqualified Security-Issuer Transaction), all felonies and crimes which bear a
9 substantial relationship under Section 2910, Title 10, California Code of Regulations, to the
10 qualifications, functions, or duties of a real estate licensee and constitute grounds under Sections
11 490 and 10177(b) of the Code for suspension or revocation of all licenses and license rights of
12 Respondent.

13 2. The events and circumstances leading to the conviction set forth above are
14 that Respondent participated in an illegal scheme by purchasing two buildings for a nominal
15 down payment while owing the bulk of the purchase price to the seller; created two limited
16 liability companies called Coos Bay Central Avenue Property LLC (CBC) and Coos Bay Villas
17 LLC (CBV); sold one building to CBC and one building to CBV at inflated prices and obtained
18 \$950,000 of investor funds for CBC and \$250,000 of investor funds for CBV from co-workers,
19 clients, fellow church members and friends. Respondent solicited funds from lenders by making
20 a series of material misrepresentations and omissions regarding the actual purchase price of the
21 buildings; the amount of Respondent's profit when he sold these buildings to CBC and CBV; the
22 true condition of the buildings; and the fact that the building sold to CBV was subject to a large
23 balloon payment. Respondent failed to spend investor money to improve the buildings as
24 promised and embezzled hundreds of thousands of dollars from CBC and thus fraudulently
25 appropriated funds belonging to other persons, Respondent employed fraud, deceit, falsehood or
26 misrepresentation to achieve an end and did this with the intent of conferring a financial or
27

1 economic benefit upon himself or with the intent or threat of doing substantial injury to the
2 person or property of another.

3 3. By soliciting loans from at least fourteen (14) victims for the purchase of
4 and improvements to real property that Respondent did not intend to, nor did perform,
5 Respondent caused material damage to the public.

6 CONCLUSIONS OF LAW

7 Based on the findings set forth above in paragraphs 1 through 3, the
8 Commissioner determines that Respondent has been convicted of an offense reasonably related
9 to the qualifications, functions, or duties of a real estate licensee pursuant to Section 2910 of the
10 Regulations.

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BAR ORDER

NOW, THEREFORE, IT IS ORDERED, pursuant to the authority of Sections 10086 and 10087 of the Code, GARY LYNN MOUNTAIN, is hereby barred and prohibited for a period of thirty-six (36) months from the effective date of this Bar Order, from engaging in any of the following activities in the State of California:

- (A) Holding any position of employment, management, or control in a real estate business;
- (B) Participating in any business activity of a real estate salesperson or a real estate broker;
- (C) Engaging in any real estate related business activity on the premises where a real estate salesperson or real estate broker is conducting business; and, participating in any real estate related business activity of a finance lender, residential mortgage lender, bank, credit union, escrow company, title company, or underwritten title company.

THIS BAR ORDER IS EFFECTIVE IMMEDIATELY.

IT IS SO ORDERED

May 20, 2012

Real Estate Commissioner



By WAYNE S. BELL
Chief Counsel