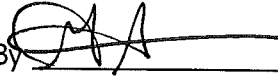


FILED

July 19, 2012

DEPARTMENT OF REAL ESTATE

By  \_\_\_\_\_

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of

GARY LYNN MOUNTAIN,

Respondent.

)  
) H-11348 SF  
)  
)  
)  
)  
)

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on May 7, 2012, and the findings of fact set forth herein, which are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits; and (3) other evidence.

This Decision revokes a real estate license on grounds of the conviction of crimes.

The right to reinstatement of a revoked real estate license is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of Respondent.

FINDINGS OF FACT

1.

On March 27, 2012, E. J. Haberer, II, made the Accusation in his official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent, and Notice of Defense were mailed, by certified mail, return receipt requested, to Respondent's last known mailing address on file with the Department on March 28, 2012.

On May 8, 2012, no Notice of Defense having been received or filed herein within the time prescribed by Section 11506 of the Government Code, Respondent's default was entered herein.

2.

Respondent is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (herein "the Code") as a real estate salesperson.

3.

On or about July 25, 2011, in the Superior Court of the State of California, County of Santa Clara, Case No. CC 941176, Respondent was convicted of violating Section 25401/25540(b) of the California Corporations Code (Communications Containing Untrue Statements and Omissions of Material Fact), Section 484/487 of the California Penal Code (Grand Theft) and Section 25110/25540(a) of the California Corporations Code (Offer to Sell and Sale of Unqualified Security-Issuer Transaction), all felonies and crimes which bear a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

#### DETERMINATION OF ISSUES

1.

Cause for disciplinary action against Respondent exists with reference to the convictions set out in Paragraph 3, above, pursuant to Sections 490 and 10177(b) of the Code.

2.

The standard of proof applied was clear and convincing proof to a reasonable certainty.

#### ORDER

The Department of Real Estate having met its burden of proof, it is hereby ordered that all licenses and licensing rights of Respondent GARY LYNN MOUNTAIN, under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon on AUG 08 2012.

DATED: July 6, 2012

Real Estate Commissioner



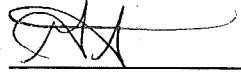
By WAYNE S. BELL  
Chief Counsel

FILED

May 8, 2012

1 Department of Real Estate  
2 P. O. Box 187007  
3 Sacramento, CA 95818-7007  
4 Telephone: (916) 227-0789

DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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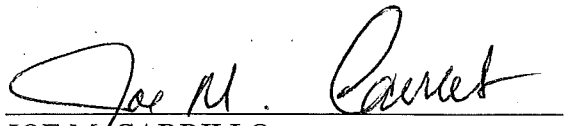
11 In the Matter of the Accusation of )  
12 GARY LYNN MOUNTAIN, ) NO. H-11348 SF  
13 Respondent. ) DEFAULT ORDER  
14 )

15 Respondent, GARY LYNN MOUNTAIN, having failed to file a Notice of  
16 Defense within the time required by Section 11506 of the Government Code, is now in default.  
17 It is, therefore, ordered that a default be entered on the record in this matter.

18 IT IS SO ORDERED May 7, 2012

20 Real Estate Commissioner

21  
22 By:

  
23 JOE M. CARRILLO  
24 Regional Manager  
25  
26  
27