

**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 

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6  
7  
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 )  
13 GARY LYNN MOUNTAIN, )  
14 ) BAR ORDER  
15 ) (B&P Code § 10087)  
16 )  
17 )  
18 ) Respondent. )

19 TO: GARY LYNN MOUNTAIN (Respondent)  
20 10518 Sterling Blvd.  
21 Cupertino, CA 95014

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

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1 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

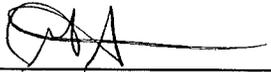
  
By WAYNE S. BELL  
Chief Counsel

**FILED**

**May 1, 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: )  
12 )  
13 GARY LYNN MOUNTAIN, )  
14 Respondent. )

NO. H-11349 SF

PRELIMINARY BAR ORDER  
AND NOTICE OF INTENTION  
TO ISSUE FINAL BAR ORDER

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

18 Pursuant to Section 10087 of the California Business and Professions Code  
19 (Code), you, Respondent, are hereby notified of the intention of the California Real Estate  
20 Commissioner (Commissioner) to issue a Bar Order pursuant to Section 10087(a) (2) of the Code  
21 on the following grounds:

22 On or about July 25, 2011, in the Superior Court of the State of California, County  
23 of Santa Clara, Case No. CC 941176, Respondent was convicted of violating Section  
24 25401/25540(b) of the California Corporations Code (Communications Containing Untrue  
25 Statements and Omissions of Material Fact), Section 484/487 of the California Penal Code  
26 (Grand Theft) and Section 25110/25540(a) of the California Corporations Code (Offer to Sell  
27 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

1 substantial relationship under Section 2910, Title 10, California Code of Regulations  
2 (Regulations), to the qualifications, functions, or duties of a real estate licensee and constituted  
3 grounds under Sections 490 and 10177(b) of the Code for suspension or revocation of all licenses  
4 and license rights of Respondent under Part 1 of Division 4 of the Business and Professions Code  
5 (Real Estate Law).

6           The events and circumstances leading to the conviction set forth above are that  
7 Respondent participated in an illegal scheme by purchasing two buildings for a nominal down  
8 payment while owing the bulk of the purchase price to the seller; created two limited liability  
9 companies called Coos Bay Central Avenue Property LLC (CBC) and Coos Bay Villas LLC  
10 (CBV); sold one building to CBC and one building to CBV at inflated prices and obtained  
11 \$950,000 of investor funds for CBC and \$250,000 of investor funds for CBV from co-workers,  
12 clients, fellow church members and friends. Respondent solicited funds from lenders by making  
13 a series of material misrepresentations and omissions regarding the actual purchase price of the  
14 buildings; the amount of Respondent's profit when he sold these buildings to CBC and CBV; the  
15 true condition of the buildings; and the fact that the building sold to CBV was subject to a large  
16 balloon payment. Respondent failed to spend investor money to improve the buildings as  
17 promised and embezzled hundreds of thousands of dollars from CBC and thus fraudulently  
18 appropriated funds belonging to other persons, Respondent employed fraud, deceit, falsehood or  
19 misrepresentation to achieve an end and did this with the intent of conferring a financial or  
20 economic benefit upon himself or with the intent or threat of doing substantial injury to the  
21 person or property of another.

22           On or about March 28, 2012, the Department filed its Accusation, in Department  
23 Case Number H-11348 SF, seeking discipline against the real estate salesperson license issued to  
24 Respondent, for the convictions identified above.

25           Please take notice that the Commissioner seeks to bar and prohibit Respondent for  
26 a period of thirty-six (36) months from the effective date of the Bar Order from engaging in any  
27 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,
- (D) 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.

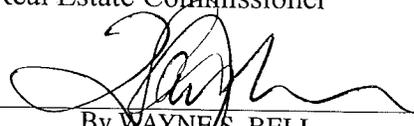
NOTICE OF RIGHT AND OPPORTUNITY FOR A HEARING

Pursuant to Section 10087 of the Code, you have the right to request a hearing under the California Administrative Procedure Act (Chapter 4.5 – commencing with Section 11400 of the Government Code). If you desire a hearing, you must submit a written request within fifteen (15) days after the mailing or service of this “Preliminary Bar Order and Notice of Intention to Issue Final Bar Order.” The request may be in any form provided it is in writing, includes your current return address, indicates that you want a hearing, is signed by you or on your behalf, and is mailed to the Department of Real Estate, P. O. Box 187007, Sacramento, California, 95818-7007, Attention Legal Section, or is delivered personally to the offices of the Department of Real Estate, 2201 Broadway, Sacramento, California.

If no hearing is requested within said fifteen (15) day time period, your failure to request a hearing shall constitute a waiver of the right to a hearing.

**YOU ARE IMMEDIATELY PROHIBITED FROM ENGAGING IN ANY BUSINESS ACTIVITY INVOLVING REAL ESTATE THAT IS SUBJECT TO REGULATION UNDER THE REAL ESTATE LAW.**

It is so ordered on this 26<sup>th</sup> day of April, 2012.

Real Estate Commissioner  
  
By WAYNE S. BELL  
Chief Counsel