

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187000
3 Sacramento, CA 95818-7000
4 Telephone: (916) 227-0789
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F I L E D
NOV 10 1999

DEPARTMENT OF REAL ESTATE

By Shelly Ely

8 BEFORE THE
9 DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)
13 MOUNTAIN-PACIFIC FINANCIAL INC.,) NO. H-2484 SD
14 GEOFFREY MOUNTAIN, and)
15 WILLIAM GABRIEL MORAN,) STIPULATION AND AGREEMENT
Respondents.)

16 It is hereby stipulated by and between MOUNTAIN-
17 PACIFIC FINANCIAL INC., GEOFFREY MOUNTAIN, and WILLIAM GABRIEL
18 MORAN, represented by David S. Bright, Attorney at Law; and the
19 Complainant, acting by and through Deidre L. Johnson, Counsel
20 for the Department of Real Estate, as follows for the purpose
21 of settling and disposing the Accusation filed on March 2,
22 1999, in this matter:

23 1. All issues which were to be contested and all
24 evidence which was to be presented by Complainant and Respondents
25 at a formal hearing on the Accusation, which hearing was to be
26 held in accordance with the provisions of the Administrative
27 Procedures Act (APA), shall instead and in place thereof be

1 submitted solely on the basis of the provisions of this
2 Stipulation and Agreement.

3 2. Respondents have received, read and understand the
4 Statement to Respondent, and the Discovery Provisions of the APA
5 filed by the Department of Real Estate in this proceeding.

6 3. On March 15 and 17, 1999, Respondents filed Notices
7 of Defense pursuant to Section 11505 of the Government Code for
8 the purpose of requesting a hearing on the allegations in the
9 Accusation. Respondents hereby freely and voluntarily withdraw
10 their respective Notices of Defense. Respondents acknowledge
11 that they each understand that by withdrawing said Notices of
12 Defense they will each thereby waive their rights to require the
13 Commissioner to prove the allegations in the Accusation at a
14 contested hearing held in accordance with the provisions of the
15 APA, and that they will waive other rights afforded to them in
16 connection with the hearing, such as the right to present
17 evidence in defense of the allegations in the Accusation and the
18 right to cross-examine witnesses.

19 4. Respondents, pursuant to the limitations set forth
20 below, hereby each admit that the factual allegations pertaining
21 to them in Paragraphs I through VI of the Accusation filed in
22 this proceeding are true and correct and the Real Estate
23 Commissioner shall not be required to provide further evidence of
24 such allegations.

25 5. Without admitting the truth of the allegations
26 pertaining to them contained in Paragraphs VII through X of the
27 Accusation, Respondents stipulate that they will not interpose a

1 defense thereto. This Stipulation is based on the factual
2 allegations contained in the Accusation. In the interests of
3 expedience and economy, Respondents choose not to contest these
4 allegations, but to remain silent and understand that, as a
5 result thereof, these factual allegations pertaining to them,
6 without being admitted or denied, will serve as a basis for the
7 disciplinary action stipulated to herein. The Real Estate
8 Commissioner shall not be required to provide further evidence to
9 prove said factual allegations.

10 6. It is understood by the parties that the Real
11 Estate Commissioner may adopt the Stipulation and Agreement as
12 the decision in this matter thereby imposing the penalty and
13 sanctions on the real estate licenses and license rights of the
14 Respondents as set forth in the below "Order". In the event
15 that the Commissioner in his discretion does not adopt the
16 Stipulation and Agreement, it shall be void and of no effect,
17 and Respondents shall each retain the right to a hearing and
18 proceeding on the Accusation under all the provisions of the
19 APA and shall not be bound by any admission or waiver made
20 herein.

21 8. The Order or any subsequent Order of the Real
22 Estate Commissioner made pursuant to this Stipulation and
23 Agreement shall not constitute an estoppel, merger or bar to
24 any further administrative or civil proceedings by the Department
25 of Real Estate with respect to any matters which were not
26 specifically alleged to be causes for accusation in this
27 proceeding.

1 DETERMINATION OF ISSUES

2 By reason of the foregoing stipulations, admissions and
3 waivers, and for the purpose of settlement of the pending Accusation
4 as to Respondents without a hearing, it is stipulated and agreed
5 that the following determinations of issues shall be made:

6 I

7 The acts and/or omissions of Respondent MOUNTAIN-
8 PACIFIC FINANCIAL INC., as stipulated above constitute grounds
9 for disciplinary action against the real estate broker
10 corporation license and license rights of Respondent under the
11 provisions of Section 10137 of the Code.

12 II

13 The acts and/or omissions of Respondent GEOFFREY
14 MOUNTAIN as stipulated above constitute grounds for disciplinary
15 action against the real estate broker and officer licenses and
16 license rights of Respondent under the provisions of Section
17 10177(h) of the Code.

18 III

19 The acts and/or omissions of Respondent WILLIAM GABRIEL
20 MORAN as stipulated above violate Section 10130 of the Code and
21 constitute grounds for disciplinary action against the real
22 estate salesperson license and license rights of Respondent under
23 the provisions of Sections 10137 and 10177(d) of the Code.

24 ORDER

25 I

26 A. All real estate license(s) and license rights of
27 Respondent GEOFFREY MOUNTAIN shall be suspended for a

1 period of thirty (30) days from the effective date of the
2 Decision.

3 B. Said suspension shall be stayed for a period of one (1) year
4 upon the following terms and conditions:

5 1. Respondent shall obey all laws, rules and regulations
6 governing the rights, duties and responsibilities of a
7 real estate licensee in the State of California; and,

8 2. That no final subsequent determination be made, after
9 hearing or upon stipulation, that cause for disciplinary
10 action occurred within twelve (12) months of the
11 effective date of this Decision. Should such a
12 determination be made, the Commissioner may, in his
13 discretion, vacate and set aside the stay order and
14 reimpose all or a portion of the stayed suspension.
15 Should no such determination be made, the stay imposed
16 herein shall become permanent.

17 II

18 A. All real estate licenses and license rights of Respondent
19 MOUNTAIN-PACIFIC FINANCIAL INC., and WILLIAM GABRIEL MORAN
20 shall be suspended for a period of thirty (30) days from the
21 effective date of the Decision.

22 B. The first fifteen (15) days of said suspension as to each
23 Respondent are stayed for a period of one (1) year on the
24 condition that no cause for disciplinary action against that
25 Respondent occurs within one (1) year from the effective date
26 of the Decision. If the Real Estate Commissioner determines
27 that further cause for disciplinary action against each

1 Respondent's license has occurred within one (1) year from
2 the effective date of the Decision, the stay of suspension
3 hereby granted to that Respondent, or such portion of the
4 stay as the Real Estate Commissioner shall deem appropriate,
5 shall be vacated. If no further cause for disciplinary
6 action occurs within said time period, the stay hereby
7 granted to that Respondent shall become permanent.

8 C. If each Respondent petitions the Department in writing
9 pursuant to Section 10175.2 of the Code prior to the
10 effective date of the Decision, the remaining fifteen (15)
11 days of said suspension shall be stayed as to that Respondent
12 upon the following conditions:

13 (1) The respective Respondent shall pay a monetary
14 penalty pursuant to Section 10175.2 of the Code at
15 the rate of \$100 for each day of suspension for a
16 total maximum monetary penalty of \$ 1,500.00.

17 (2) Said payment shall be in the form of a cashier's
18 check or certified check made payable to the
19 Recovery Account of the Real Estate Fund. Said
20 check must be received by the Department prior to
21 the effective date of the Decision in this matter.

22 (3) No further cause for disciplinary action against
23 the real estate license of the respective
24 Respondent occurs within one (1) year from the
25 effective date of the Decision.

26 (4) If the respective Respondent fails to pay the
27 monetary penalty in accordance with the terms and

1 conditions of the Decision, the Commissioner may,
2 without a hearing, order the immediate execution
3 of all or any part of the stayed suspension, in
4 which event, that Respondent shall not be entitled
5 to any repayment nor credit, prorated or
6 otherwise, for money paid to the Department under
7 the terms of this Decision.

8 (5) If the respective Respondent pays the monetary
9 penalty and if no further cause for disciplinary
10 action against the real estate license(s) of that
11 Respondent occurs within one (1) year from the
12 effective date of the Decision, the stay hereby
13 granted in this subparagraph C. to that Respondent
14 shall become permanent. If the Real Estate
15 Commissioner determines that further cause for
16 disciplinary action against the respective
17 Respondent's license has occurred within one
18 (1) year from the effective date of the Decision,
19 the stay of suspension hereby granted to that
20 Respondent, or such portion of the stay as the
21 Real Estate Commissioner shall deem appropriate,
22 shall be vacated.

23
24 October 23, 1999
25 DATED

24 Deidre L. Johnson
25 DEIDRE L. JOHNSON
26 Counsel for the Complainant

27 * * *

1 I have read the Stipulation and Agreement, have
2 discussed it with my counsel or understand that I have the right
3 to consult with counsel, and its terms are understood by me and
4 are agreeable and acceptable to me. I understand that I am
5 waiving rights given to me by the California Administrative
6 Procedure Act, and I willingly, intelligently and voluntarily
7 waive those rights, including the right of requiring the
8 Commissioner to prove the allegations in the Accusation at a
9 hearing at which I would have the right to cross-examine
10 witnesses against me and to present evidence in defense and
11 mitigation of the charges.

MOUNTAIN-PACIFIC FINANCIAL, INC.
Respondent

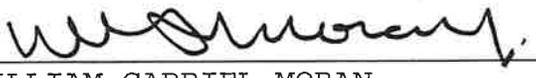
12
13
14 10/7/99
DATED

By: 
GEOFFREY MOUNTAIN, President

15
16
17 10/7/99
DATED


GEOFFREY MOUNTAIN, Respondent

18
19
20 10/8/99
DATED


WILLIAM GABRIEL MORAN
Respondent

21
22
23 APPROVED AS ^{DAB} TO FORM:
24 9-23-99
DATED


DAVID S. BRIGHT
Attorney for Respondent

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The foregoing Stipulation and Agreement is hereby
adopted as my Decision and shall become effective at 12 o'clock
noon on November 30, 1999.

IT IS SO ORDERED November 2, 1999.

JOHN R. LIBERATOR
Acting Real Estate Commissioner

John R. Liberator

1 DEIDRE L. JOHNSON, Counsel
2 State Bar No. 66322
3 Department of Real Estate
4 P. O. Box 187000
5 Sacramento, CA 95818-7000
6
7 Telephone: (916) 227-0789

FILED
MAR 02 1999

DEPARTMENT OF REAL ESTATE

By Juan Luna

8 BEFORE THE
9 DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)
13 MOUNTAIN-PACIFIC FINANCIAL INC.,) NO. H-2484 SD
14 GEOFFREY MOUNTAIN, and)
15 WILLIAM GABRIEL MORAN,) ACCUSATION
16 Respondents.)

17 The Complainant, J. Chris Graves, a Deputy Real Estate
18 Commissioner of the State of California, for cause of Accusation
19 against MOUNTAIN-PACIFIC FINANCIAL INC., GEOFFREY MOUNTAIN, and
20 WILLIAM GABRIEL MORAN, is informed and alleges as follows:

21 I

22 The Complainant, J. Chris Graves, a Deputy Real Estate
23 Commissioner of the State of California, makes this Accusation
24 against Respondents in his official capacity and not otherwise.

25 II

26 Respondents MOUNTAIN-PACIFIC FINANCIAL INC., GEOFFREY
27 MOUNTAIN, and WILLIAM GABRIEL MORAN are presently licensed and/or

1 have license rights under the Real Estate Law, Part 1 of Division
2 4 of the California Business and Professions Code (hereafter the
3 Code).

4 III

5 At all times herein mentioned, Respondent MOUNTAIN-
6 PACIFIC FINANCIAL INC. (hereafter MPFI) was and is licensed by the
7 Department of Real Estate (hereafter the Department) as a real
8 estate broker corporation, doing business as RE/MAX ASSOCIATES and
9 MOUNTAIN PACIFIC MORTGAGE.

10 IV

11 At all times herein mentioned, Respondent GEOFFREY
12 MOUNTAIN (hereafter MOUNTAIN) was and is licensed by the
13 Department of Real Estate (hereafter the Department) as a real
14 estate broker, and as the designated broker officer of MPFI.

15 V

16 On or about November 8, 1997, the real estate
17 salesperson license of WILLIAM GABRIEL MORAN (hereafter MORAN)
18 expired. At no time herein between about November 8, 1997, and
19 June 27, 1998, was MORAN licensed by the Department as either a
20 real estate broker or salesperson. On or about June 27, 1998,
21 MORAN was licensed by the Department as a real estate salesperson.

22 VI

23 At all times herein mentioned, Respondent MPFI
24 engaged in the business of, acted in the capacity of, advertised
25 or assumed to act as a real estate broker within the State of
26 California, for or in expectation of compensation, including
27 the operation and conduct of a residential real property sales

1 business with the public wherein buyers and sellers were
2 solicited, and sales and purchases of real property were
3 negotiated and consummated.

4 VII

5 During the period from at least November 8, 1997 to
6 June 27, 1998, when MORAN's license was expired, Respondent MORAN
7 was employed or associated with MPFI and performed activities for
8 MPFI for which a real estate license is required, for or in
9 expectation of compensation. MORAN solicited and/or negotiated
10 sales and purchases of real property and was paid commissions by
11 MPFI in various transactions, including but not limited to the
12 following:

13

14 CLOSE OF ESCROW	BUYER	PROPERTY	COMMISSION
16 2/6/98	HALL	6191 Rancho Mission Road, #213, San Diego	\$ 974.46
18 6/11/98	TANNOURI	1840 Paradise Street, San Diego	\$2,244.37
19 6/19/98	MARK	1579 Apache Drive, #C San Diego	\$2,543.62
21 6/24/98	PEREZ	11231 Corte Playa Modero, San Diego	\$4,693.52

22

23 VIII

24 The acts and/or omissions of Respondent MORAN as alleged
25 above violate Section 10130 of the Code, and constitute grounds
26 for disciplinary action against MORAN pursuant to Sections 10137
27 and 10177(d) of the Code.

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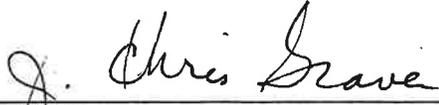
IX

The above acts and/or omissions of MPFI in employing and/or compensating MORAN, when MORAN was not duly licensed by the Department, violate Section 10130 of the Code, and constitute grounds for disciplinary action against MPFI pursuant to Sections 10137 and 10177(d) of the Code.

X

As the designated officer of MPFI, MOUNTAIN failed to supervise the activities conducted on behalf of MPFI by its officers and employees as necessary to secure full compliance with the provisions of the Real Estate Law, and in particular failed to supervise and/or maintain systems for licensing and compensation of agents, such that the above violations occurred. Said acts and/or omissions constitute grounds for disciplinary action against MOUNTAIN pursuant to Section 10177(h) of the Code.

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof a decision be rendered imposing disciplinary action against all licenses and license rights of Respondents under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), and for such other and further relief as may be proper under other provisions of law.



J. CHRIS GRAVES
Deputy Real Estate Commissioner

Dated at San Diego, California,
this 1st day of March, 1999.