

FILED

JUL 26 2010

DEPARTMENT OF REAL ESTATE

By L. Henry

1 KENNETH C. ESPELL, Counsel (SBN 178757)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007
5 Telephone: (916) 227-0789
6 -or- (916) 227-0868 (Direct)
7

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) H- 10972 SF
12)
13 ANDREW BOSQUE,) NOTICE OF INTENTION
14 Respondent.) TO ISSUE BAR ORDER;
15) AND BAR ORDER
) (B&P Code §10087)

16 TO: ANDREW BOSQUE, ("Respondent")
17 2924 Prairie Lane
18 San Jose, CA 95127

19 Pursuant to Section 10087(b) of the California Business and Professions Code
20 (hereinafter "the Code"), you are hereby notified of the intention of the California Real Estate
21 Commissioner (hereinafter "Commissioner") to issue a Bar Order pursuant to Section 10087(a)
22 of the California Business and Professions Code.

23 Pursuant to the authority granted to the Commissioner by Section 10087 of the
24 Code, and after review and consideration of:

- 25 1. On or about June 15, 1993, Respondent was admitted to practice law in
26 the State of California by the California State Bar, State Bar License Number 164656.

27 ///
///

1 2. On or about December 3, 2008, after giving Respondent fair notice of the
2 pending charges and being afforded the opportunity to request to be heard and other due process
3 protections, the State Bar Court of California in Case Number 05-0-02313 LMA entered a
4 *Default Decision and Order of Involuntary Inactive Enrollment* (“Decision”) recommending to
5 the California Supreme Court that Respondent be disbarred from the practice of law within the
6 State of California. The State Bar Court Decision was based upon the findings that Respondent
7 committed 13 counts of professional misconduct including: (1) failure to perform services
8 competently; (2) failing to communicate; (3) charging an unconscionable fee; (4) committing an
9 act of moral turpitude, involving concealment; (5) failing to return client files; (6) failing to
10 return unearned fees; (7) failing to render an accounting; (8) committing acts of moral turpitude,
11 involving misappropriation of client funds of at least \$19,252.00; and (9) failing to promptly
12 pay client funds. On or about June 16, 2009, the California Supreme Court in Case Number
13 S172330 adopted the Decision and disbarred Respondent.

14 3. The aforementioned acts of malfeasance if committed by a real estate
15 licensee in the context of the representation of real estate clients, would constitute grounds for
16 suspension or revocation of a real estate license pursuant to the provisions of Sections 10177(f)
17 (revocation of license by another agency of the state), 10177(g) (demonstrated negligence or
18 incompetence), 10176(i) (other conduct which demonstrates fraud or dishonest dealing), and
19 10177(j) (conduct that constitutes fraud or dishonest dealing) of the Code and Section 2832,
20 Title 10, of the California Code of Regulations (improper trust handling).

21 4. After giving Respondent fair notice of the pending charges and being
22 afforded the opportunity to request to be heard and other due process protections, on or about
23 October 3, 2000, in California Supreme Court Case Number S090316, the Supreme Court
24 adopted the stipulated agreement between the State Bar of California and Respondent entered
25 into in State Bar Court Case Number 97-O-13319. As a result of this stipulation, Respondent
26 was suspended from the practice of law for one year with all but 60 days stayed, and
27

1 Respondent was placed on two (2) years probation (along with other terms and conditions) on
2 the grounds that for more than three (3) years Respondent deprived a client and the California
3 Department of Health Services of money to which they were entitled.

4 5. As a result of the aforementioned State Bar of California bar discipline,
5 on or about January 28, 2010, an Accusation in Department of Real Estate Case Number
6 H- 10838 SF was filed against respondent alleging that the aforementioned State Bar discipline
7 was grounds for California Department of Real Estate discipline. A true and correct copy of this
8 accusation is attached hereto as Exhibit "1" and is incorporated herein by reference.

9 6. Respondent having been properly served with the accusation and
10 Respondent having failed to timely file a Notice of Defense, a default decision revoking
11 Respondent's real estate license was signed by the Commissioner of the Department of Real
12 Estate with an effective date of June 28, 2010. A true and correct copy of the Commissioners
13 Decision is attached hereto as Exhibit "2" and is incorporated herein by reference, and as a
14 result thereof:

15 The Commissioner finds that:

16 (A) A Bar Order is in the public interest;

17 (B) Respondent has knowingly committed violations of the Real Estate Law;
18 and,

19 (C) Respondent's violations of the Real Estate Law have caused material damage
20 to the public.

21 NOW, THEREFORE, IT IS ORDERED, pursuant to the authority of Section
22 10087 of the Code, you, ANDREW BOSQUE, be, and hereby are, barred and prohibited for a
23 period of thirty-six (36) months from the effective date of this Bar Order, from engaging in any
24 of the following activities in the State of California:

25 (A) Holding any position of employment, management, or control in a real estate
26 business;

27 ///

///

- 1 (B) Participating in any business activity of a real estate salesperson or a real
2 estate broker;
- 3 (C) Engaging in any real estate related business activity on the premises where a
4 real estate salesperson or real estate broker is conducting business; and,
- 5 (D) Participating in any real estate related business activity of a finance lender,
6 residential mortgage lender, bank, credit union, escrow company, title
7 company, or underwritten title company.

8 NOTICE OF RIGHT AND OPPORTUNITY FOR A HEARING

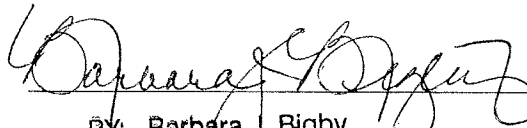
9 Pursuant to Section 10087 of the Code, you have the right to request a hearing
10 under the California Administrative Procedure Act (Chapter 4.5 – commencing with Section
11 11400 of the Government Code). If you desire a hearing, you must submit a written request
12 within fifteen (15) days after the mailing or service of this “Notice of Intention to Issue Bar
13 Order; and Bar Order.” The request may be in any form, provided it is in writing, includes your
14 current return address, indicates that you want a hearing, is signed by you or on your behalf, and
15 is delivered or mailed to the Department of Real Estate, P. O. Box 187007, Sacramento,
16 California, 95818-7007, Attention Legal Section, or is delivered personally to the offices of the
17 Department of Real Estate, 2201 Broadway, Sacramento, California, 95818-7007.

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

20 THIS BAR ORDER IS EFFECTIVE IMMEDIATELY.

21 It is so ordered on 4-23-2010.

22 JEFF DAVI
23 Real Estate Commissioner

24 
25 BY: **Barbara J. Bigby**
26 Chief Deputy Commissioner
27