

FILED

JUL 20 2010

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

By *R. Henry*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of:)
12 KENNETH MARK DOOLITTLE and,)
13 MONTEREY BAY SECURITITES, INC.,)
14 Respondents)

DRE NO. H-2504 FR
OAH NO. 2009090993

BAR ORDER
(B&P Code § 10087)

15 TO: KENNETH MARK DOOLITTLE
16 1406 North Main Street, # 210
17 Meridian, ID 83642

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

22 Pursuant to the authority granted by Section 10087 of the Code, and after review
23 and consideration of the following facts, the Commissioner makes the following:

24 FINDINGS OF FACT

25 1. On or about September 11, 2009, the Department filed an Accusation
26 against Respondents, KENNETH MARK DOOLITTLE ("DOOLITTLE") and MONTEREY
27 BAY SECURITITES, Inc. ("MBS"). A true and correct copy of the Department's

1 September 11, 2009 Accusation is attached hereto as Exhibit "1" and incorporated herein by
2 reference. The Department's accusation alleged, *inter alia*:

3 1

4 On or about January 2, 2007, the California Department of Corporations
5 (hereinafter the "DOC") issued a Desist and Refrain Order for violations of Sections 25110,
6 25230 and 25401 of the California Corporations Code. The DOC ordered Respondents
7 DOOLITTLE and MBS cease conducting business activities that violated the California
8 Corporations Code, including, *inter alia*, offering for sale securities wherein the offers contained
9 material statements which were untrue or misleading and/or omitted material facts, all in
10 violation of Corporations Code Section 25401; that Respondent DOOLITTLE was doing
11 business as Respondent MBS and also was doing business as Monterey Bay Investments,
12 M Homes, Mobile Repo, Inc., Recycled Mobile Homes and/or Recycled Homes and was
13 conducting business as an investment advisor without first applying for and securing a certificate
14 from the DOC authorizing such activities, all in violation of Section 25230 of the California
15 Corporations Code. Further, the DOC ordered Respondents DOOLITTLE and MBS to quit
16 offering or selling securities until the offerings and sales had been qualified, under the California
17 Corporations Code or which were otherwise exempt from qualification.

18 2

19 On or about May 27, 2008, the DOC in OAH Case Number L-2007090318,
20 adopted, with minor typographical error corrections, the proposed decision of Administrative
21 Law Judge Mary-Margaret Anderson wherein Judge Anderson made, among other findings, the
22 following:

- 23 1. Respondent DOOLITTLE had moved Respondent MBS out of its office
24 located at 11 Seascapes Village, Aptos, California and was now receiving
25 mail through an Aptos post office box;
- 26 2. Respondent DOOLITTLE had relocated to the State of Idaho and was
27 operating out of the Idaho location;
3. In March 2005, the Department of Housing and Community
Development denied Respondents' DOOLITTLE and MBS application
for a license required to sell new manufactured homes within the state of
California;

- 1 4. Respondent DOOLITTLE failed to inform his clients of a 1997 NASD
2 (National Association of Securities Dealers) action concerning his failure
3 to disclose a pending San Mateo County Superior Court felony criminal
4 action on his NASD *Uniform Application for Securities Industry*
5 *Registration or Transfer* (Form U-4) required by the NASD. This
6 complaint resulted in a 2007 settlement wherein Respondents
7 DOOLITTLE and MBS withdrew their membership with the NASD;
- 8 5. Respondent DOOLITTLE failed to turn over certain Books and Records
9 to the DOC as requested by the DOC in connection with Respondents'
10 DOOLITTLE and MBS surrender of its Broker-Dealer license;
- 11 6. Between 1997 and 2005, Respondents' DOOLITTLE and MBS bought
12 and sold more than 500 manufactured homes with some being sold
13 outright, but with the vast majority sold with seller-provided financing
14 with funds obtained from private third party investors solicited by
15 Respondents DOOLITTLE and MBS by publishing a booklet entitled
16 *Recycled Housing Manufactured Home Promissory Note Mortgage*
17 *Program* and through advertisements seeking First Deed of Trust
18 investors;
- 19 7. Respondent DOOLITTLE indicated that *Recycled Housing* was a
20 fictitious business name of Respondent DOOLITTLE;
- 21 8. The funds received from investors were placed in a single bank account
22 in which the funds could sit for months without being invested and when
23 invested the investment, at times, was moved from one deed of trust
24 to another based solely upon the decision of Respondent DOOLITTLE;
- 25 9. Payments on the deeds of trust were made directly to Respondent
26 DOOLITTLE as the servicer of the notes;
- 27 10. During the hearing on the DOC accusation, Respondent DOOLITTLE
took the position his manufactured home sales and lending activities were
being conducted under his Department of Real Estate license and that
Recycled Housing was a d.b.a. under his Department of Real Estate
license;
11. Judge Anderson found that the activities of Respondent DOOLITTLE
and MBS were the offering and selling of securities for which a DOC
license was required; and,
12. Judge Anderson granted the DOC's request to bar Respondent
DOOLITTLE from the Securities Industry, finding that it was in the best
interest of the public.

1 3

2 The findings of fact in Department of Corporations, Case Number L2007090318,
3 and the January 2, 2007 Department of Corporations' Desist and Refrain Order identified above
4 include findings that Respondents DOOLITTLE and/or MBS violated California Corporate
5 Securities Laws, including, but not limited to, Sections 25212, 25401, 25230, 25224, and, 25110
6 of the California Corporations Code.

7 4

8 In addition, in its May 27, 2008 Decision, the Department of Corporations,
9 pursuant to California Corporations Code Section 25213, barred Respondents DOOLITTLE and
10 MBS from future employment in the securities industry.

11 5

12 The aforementioned California Corporations Code violations and Department of
13 Corporations Debarment give rise to grounds for suspension or revocation of Respondents'
14 DOOLITTLE and MBS broker licenses pursuant to Section 10177(n) of the California Business
15 and Professions Code.

16 6

17 In addition, the acts and/or omissions identified above, and contained within the
18 Department of Corporations Decision in OAH Case Number L-2007090318 and the Department
19 of Corporation's January 2, 2007 Desist and Refrain Order, if committed by a real estate licensee
20 in the context of the representation of real estate clients, would constitute grounds for suspension
21 or revocation of a real estate license pursuant to the provisions of Section 10176 (i) of the Code
22 and Section 2832, Title 10, of the California Code of Regulations (the "Regulations").

23 7

24 Further, Respondent DOOLITTLE, as the designated officer/broker of Respondent MBS
25 was required to exercise reasonable supervision and control over the activities of Respondent
26 MBS. These duties included, but were not limited to, insuring that the Respondent MBS
27 complied with relevant California Corporation Code Sections. Respondent DOOLITTLE failed

1 to exercise reasonable supervision and control over the activities of Respondent MBS as
2 evidenced by the disciplinary action taken by the Department of Corporations against
3 Respondent MBS, as identified above; all in violation of Section 10159.2 of the Code which
4 constitutes cause for suspension or revocation of all licenses and license rights of Respondents
5 DOOLITTLE and MBS under Section 10177(d) of the Code.

6 3. On May 13, 2010, in the Oakland Office of the Department of
7 Administrative Hearings after proper notice being given to Respondents DOOLITTLE and MBS
8 and having failed to appear and/or otherwise seek a continuance and/or object to the hearing on
9 the Department's Accusation, a default hearing was held wherein the Department presented
10 evidence in support of the Department's Accusation. The Department was represented by
11 Kenneth C. Espell, Real Estate Counsel. No one appeared on behalf of Respondents
12 DOOLITTLE and/or MBS.

13 4. On or about June 14, 2010, the Court issued its *Proposed Decision*
14 recommending that Respondent KENNETH MARK DOOLITTLE's real estate broker license be
15 revoked outright and that Respondent Monterey Bay Securities, Inc.'s corporate real estate
16 broker license be revoked outright. The court further ruled that an *Order of Debarment* be
17 issued. On or about July 19, 2010, the Commissioner adopted the proposed decision as his
18 decision in this matter. A true and correct copy of the Commissioner's Decision dated July 19,
19 2010 is attached hereto as Exhibit "2" and is incorporated herein by reference.

20 CONCLUSIONS OF LAW

21 Based on the aforementioned findings set forth above, the Commissioner has
22 determined that:

- 23 (A) A Bar Order is in the public interest;
- 24 (B) Respondent has knowingly committed violations of the Real Estate Law;
- 25 and,
- 26 (C) Respondent's violations of the Real Estate Law have caused material
27 damage to the public.

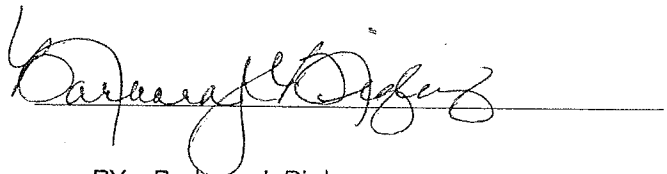
1 NOW, THEREFORE, IT IS ORDERED that pursuant to the authority of Sections
2 10086 and 10087 of the Code, KENNETH MARK DOOLITTLE is hereby barred and prohibited
3 for a period of thirty-six (36) months from the effective date of this Bar Order, from engaging in
4 any of the following activities in the State of California:

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

14 THIS BAR ORDER IS EFFECTIVE IMMEDIATELY.

15 It is so ordered on 7/19/2010.

17 JEFF DAVI
18 Real Estate Commissioner

19 
20 _____

21 BY: Barbara J. Bigby
22 Chief Deputy Commissioner

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JUL 23 2009

DEPARTMENT OF REAL ESTATE

R. 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 BEFORE THE DEPARTMENT OF REAL ESTATE
8 STATE OF CALIFORNIA

9 * * *

10 In the Matter of the Accusation of)	H-2406 FR
)	
11)	<u>ACCUSATION and</u>
12 KENNETH MARK DOOLITTLE and,)	<u>NOTICE OF INTENT TO ISSUE</u>
13 MONTEREY BAY SECURITIES, INC.,)	<u>ORDER OF DEBARMENT</u>
)	
14 Respondents,)	

15 The Complainant, JOHN SWEENEY, in his official capacity as a Deputy Real
16 Estate Commissioner of the State of California, for cause of Accusation against Respondents
17 KENNETH MARK DOOLITTLE ("DOOLITTLE") and MONTEREY BAY SECURITIES,
18 INC., ("MBS"), is informed and alleges as follows:

19 THE RESPONDENTS

20 1

21 Respondent DOOLITTLE is presently licensed and/or has license rights under the
22 Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) (hereinafter "the
23 Code") as a real estate broker.

24 2

25 Respondent MBS is presently licensed and/or has license rights under the Real
26 Estate Law and is licensed by the Department of Real Estate (hereafter "the Department") as a
27 corporate real estate broker. Respondent MBS is currently a suspended California corporation
and therefore is not authorized to conduct business within the State of California.



Whenever reference is made in an allegation in this Accusation to an act or omission of Respondent MBS, such allegation shall be deemed to mean that the officers, directors, employees, agents and real estate licensees employed by or associated with Respondent MBS committed such act or omission while engaged in the furtherance of the business or operations of Respondent MBS and while acting within the course and scope of their corporate authority and employment.

At all times herein mentioned, Respondent DOOLITTLE was and is the designated officer/broker of Respondent MBS. Pursuant to Sections 10159.2 and 10177(h) of the Code, as the designated officer/broker of Respondent MBS, Respondent DOOLITTLE was at all times mentioned herein responsible for the supervision of the activities of the officers, agents, real estate licensees and employees of Respondent MBS.

At all times mentioned, Respondents DOOLITTLE and MBS engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate brokers in the State of California within the meaning of Sections 10131(d) and 10131(e) of the Code, including the operation and conduct of a mortgage loan brokerage business with the public wherein Respondents solicited private money lenders and private borrowers for loans secured directly or collaterally by liens on real property or a business opportunity, and wherein such loans were arranged, negotiated, processed, and consummated by Respondent on behalf of others and wherein promissory notes or interests therein were sold or purchased on behalf of another or others for compensation or in expectation of a compensation.

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3. In March 2005, the Department of Housing and Community Development denied Respondents' DOOLITTLE and MBS application for a license required to sell new manufactured homes within the state of California;
4. Respondent DOOLITTLE failed to inform his clients of a 1997 NASD (National Association of Securities Dealers) action concerning his failure to disclose a pending San Mateo County Superior Court felony criminal action on his NASD *Uniform Application for Securities Industry Registration or Transfer* (Form U-4) required by the NASD. This complaint resulted in a 2007 settlement wherein Respondents DOOLITTLE and MBS withdrew their membership with the NASD;
5. Respondent DOOLITTLE failed to turn over certain Books and Records to the DOC as requested by the DOC in connection with Respondents' DOOLITTLE and MBS surrender of its Broker-Dealer license;
6. Between 1997 and 2005, Respondents' DOOLITTLE and MBS bought and sold more than 500 manufactured homes with some being sold outright, but with the vast majority sold with seller-provided financing with funds obtained from private third party investors solicited by Respondent's DOOLITTLE and MBS by publishing a booklet entitled *Recycled Housing Manufactured Home Promissory Note Mortgage Program* and through advertisements seeking First Deed of Trust investors;
7. Respondent DOOLITTLE indicated that *Recycled Housing* was a fictitious business name of Respondent DOOLITTLE;
8. The funds received from investors were placed in a single bank account in which the funds could sit for months without being invested and when invested the investment, at times, was moved from one deed of trust to another based solely upon the decision of Respondent DOOLITTLE;
9. Payments on the deeds of trust were made directly to Respondent DOOLITTLE as the servicer of the notes;
10. During the hearing on the DOC accusation, Respondent DOOLITTLE took the position his manufactured home sales and lending activities were being conducted under his Department of Real Estate license and that *Recycled Housing* was a d.b.a. under his Department of Real Estate license;
11. Judge Anderson found that the activities of Respondent DOOLITTLE and MBS were the offering and selling of securities for which a DOC license was required; and,

12. Judge Anderson granted the DOC's request to bar Respondent DOOLITTLE from the Securities Industry, finding that it was in the best interest of the public.

8

The findings of fact in Department of Corporations, Case Number L2007090318, and the January 2, 2007 Department of Corporations' Desist and Refrain Order identified in paragraph 6, above, include findings that Respondents' DOOLITTLE and/or MBS violated California Corporate Securities Laws, including, but not limited to, Sections 25212, 25401, 25230, 25224, and, 25110 of the California Corporations Code.

9

In addition, in its May 27, 2008 Decision, the DOC, pursuant to California Corporations Code Section 25213, barred Respondents DOOLITTLE and MBS from future employment in the securities industry.

10

The aforementioned California Corporations Code violations and DOC Debarment give rise to grounds for suspension or revocation of Respondents' DOOLITTLE and MBS broker licenses pursuant to Section 10177(n) of the California Business and Professions Code.

11

In addition, the acts and/or omissions identified in Paragraphs 6 through 9, above, and contained within the DOC Decision in OAH Case Number L-2007090318 and the DOC's January 2, 2007 Desist and Refrain Order if committed by a real estate licensee in the context of the representation of real estate clients, would constitute grounds for suspension or revocation of a real estate license pursuant to the provisions of Section 10176 (i) of the Code and Section 2832, Title 10, of the California Code of Regulations (the "Regulations").

12

Further, Respondent DOOLITTLE, as the designated officer/broker of Respondent MBS was required to exercise reasonable supervision and control over the activities of Respondent

1 MBS. These duties included, but were not limited to, insuring that the Respondent MBS
2 complied with relevant California Corporation Code Sections. Respondent DOOLITTLE failed
3 to exercise reasonable supervision and control over the activities of Respondent MBS as
4 evidenced by the disciplinary action taken by the Department of Corporations against
5 Respondent MBS, as identified in Paragraphs 6 through 9 above; all in violation of Section
6 10159.2 of the Code which constitutes cause for suspension or revocation of all licenses and
7 license rights of Respondents DOOLITTLE and MBS under Section 10177(d) of the Code.

8 NOTICE OF INTENT TO ISSUE ORDER OF DEBARMENT

9 13

10 The facts alleged in Paragraphs 6 through 9, and 12, above, subject Respondents
11 DOOLITTLE AND MBS to the issuance of an Order of Debarment pursuant to Section 10087 of
12 the Code. Pursuant to Section 10087(b) of the Code, you, Respondents DOOLITTLE and MBS,
13 are hereby notified of the intention of the Commissioner to issue an Order of Debarment
14 pursuant to Section 10087(a) of the Code should the facts alleged herein support findings that an
15 Order of Debarment be issued.

16 WHEREFORE, Complainant prays that a hearing be conducted on the
17 allegations of this Accusation and Notice of Intention to Issue Order of Debarment, and that
18 upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and
19 license rights of Respondent under the Code and, in addition, an Order of Debarment issue
20 against Respondent pursuant to Section 10087 of the Code, and for such other and further relief
21 as may be proper under other provisions of law.

22
23 
24 JOHN SWEENEY
Deputy Real Estate Commissioner

25 Dated at Fresno, California,
26 this 7th day of July, 2009.

CRITERIA OF REHABILITATION (Revocation)

RE 574 (Rev. 10/03)

Your real estate license has been revoked or suspended by the Real Estate Commissioner based wholly or in part upon (1) a criminal conviction, or (2) an act involving dishonesty, fraud or deceit done with intent to substantially benefit yourself or another or with the intent or threat of substantially injuring another or property, or (3) an act which if done by a real estate licensee would be grounds for revocation of that license, or (4) upon the grounds that you knowingly made a false statement of fact required to be revealed in the application for such license. The reason(s) for the revocation or suspension is set forth in the attached Decision.

Set forth below is the Criteria of Rehabilitation. These criteria have been developed by the Department of Real Estate as guidelines to assist you to establish a rehabilitation program and in the preparation of your case should you petition in the future for reinstatement of your license or for a reduction of your penalty.

Not all of the factors listed in the Criteria will be applicable in the case of every revoked or suspended license nor will each applicable factor necessarily be given equal weight in evaluating a person's rehabilitation. Each person must decide which of these factors are applicable to his or her case and should then take appropriate steps toward rehabilitation to the end of satisfying the Real Estate Commissioner that it would not be against the public interest to grant reinstatement of the license or a reduction of the penalty.

2912. Criteria of Rehabilitation (Revocation or Suspension). The following criteria have been developed by the department pursuant to Section 482(b) of the Business and Professions Code for the purpose of evaluating the rehabilitation of a licensee against whom an administrative disciplinary proceeding for revocation or suspension of the license has been initiated on account of a crime committed by the licensee.

- (a) The passage of not less than two years from the most recent criminal conviction that is "substantially related" to the qualifications, functions or duties of a licensee of the department. (A longer period will be required if there is a history of criminal convictions or acts substantially related to the qualifications, functions or duties of a licensee of the department.)
- (b) Restitution to any person who has suffered monetary losses through "substantially related" acts or omissions of the licensee.
- (c) Expungement of the conviction or convictions which culminated in the administrative proceeding to take disciplinary action.
- (d) Expungement or discontinuance of a requirement of registration pursuant to provisions of Section 290 of the Penal Code.
- (e) Successful completion or early discharge from probation or parole.
- (f) Abstinance from the use of controlled substances or alcohol for not less than two years if the criminal conviction was attributable in part to the use of a controlled substance or alcohol.
- (g) Payment of any fine imposed in connection with the criminal conviction that is the basis for revocation or suspension of the license.

- (h) Correction of business practices responsible in some degree for the crime or crimes of which the licensee was convicted.
- (i) New and different social and business relationships from those which existed at the time of the commission of the acts that led to the criminal conviction or convictions in question.
- (j) Stability of family life and fulfillment of parental and familial responsibilities subsequent to the criminal conviction.
- (k) Completion of, or sustained enrollment in, formal educational or vocational training courses for economic self-improvement.
- (l) Significant and conscientious involvement in community, church or privately-sponsored programs designed to provide social benefits or to ameliorate social problems.
- (m) Change in attitude from that which existed at the time of the commission of the criminal acts in question as evidenced by any or all of the following:
 - (1) Testimony of applicant.
 - (2) Evidence from family members, friends or other persons familiar with the licensee's previous conduct and with subsequent attitudes and behavioral patterns.
 - (3) Evidence from probation or parole officers or law enforcement officials competent to testify as to applicant's social adjustments.
 - (4) Evidence from psychiatrists or other persons competent to testify with regard to neuropsychiatric or emotional disturbances.
 - (5) Absence of subsequent felony or misdemeanor convictions that are reflective of an inability to conform to societal rules when considered in light of the conduct in question.