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Counterdefendant  
Odie Lopp

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*Amelia R. ...*  
CLERK

DISTRICT COURT  
CLARK COUNTY, NEVADA

ODIE LOPP, )  
 )  
Plaintiff- )  
Counterdefendant, )  
 )  
vs. )  
 )  
A. C. BINGHAM a/k/a ALTON CLARK )  
BINGHAM a/k/a ALTON C. BINGHAM )  
a/k/a CLARK BINGHAM, A. C. )  
BINGHAM & ASSOCIATES and DOES I )  
through X, inclusive, )  
 )  
Defendant- )  
Counterclaimant. )

CASE NO. A 236835  
DEPARTMENT NO. XI  
CIVIL DOCKET S

ORDER STRIKING AMENDED ANSWER  
AND COUNTERCLAIM, GRANTING  
SUMMARY JUDGMENT, AND JUDGMENT

Date of Scheduled Hearing: April 3, 1991  
Time of Scheduled Hearing: 9:00 A.M.

The motions of the plaintiff-counterdefendant, ODIE  
LOPP ("Lopp"), for summary judgment and to strike the amended  
answer and counterclaim of the defendant-counterclaimant, A. C.



1 "CLARK" BINGHAM ("Bingham"), having been served and filed on  
2 March 8, 1991, and Bingham having failed to file any timely  
3 written opposition to either motion as required by EDCR 2.20(b)  
4 and the motions having been considered on their merits without  
5 oral argument pursuant to EDCR 2.23(b); the Court, having  
6 reviewed the two motions, Bingham's untimely opposition of  
7 March 29, 1991, and the pleadings on file, finds:

8 (1) Lopp duly served Bingham with a set of Interrogatories, a set  
9 of Request for Production of Documents, and a set of Request for  
10 Admission of Facts on January 25, 1991; (2) Bingham failed to  
11 serve any answers or objections to the Interrogatories as  
12 required by NRCP 33(a); (3) Bingham failed to file any written  
13 response to the Request for Production of Documents and failed to  
14 produce any documents as required by NRCP 34(b); (4) Bingham  
15 failed to file timely answers or objections to the Request for  
16 Admission of Facts as required by NRCP 36(a) the content of which  
17 are now conclusively established; (5) Lopp duly served Bingham on  
18 March 8, 1991, with a Motion for Summary Judgment and Motion to  
19 Strike Amended Answer and Counterclaim; (6) Bingham failed to  
20 serve and to file any timely written opposition to the Motion for  
21 Summary Judgment and Motion to Strike Amended Answer and Counter-  
22 claim as required by EDCR 2.20(b); (7) Bingham's failure to file  
23 any timely written opposition is an admission on his part that  
24 the two motions are meritorious; (8) while acting as Lopp's  
25 accountant and while obligated to exercise the utmost good faith  
26 and honesty towards Lopp, Bingham forged Lopp's name to the  
27 May 7, 1984, letter to Nevada Title Company which enabled him to  
28 withdraw and to convert \$676,720.68 then being held in escrow for

1 Lopp; (9) Lopp did not authorize Bingham to withdraw any of his  
2 funds at Nevada Title Company and did not authorize Bingham to  
3 pledge any of his funds as security for the personal loans  
4 Bingham made at Valley Bank of Nevada; (10) Bingham breached his  
5 fiduciary duty to Lopp by unlawfully, fraudulently, and deceit-  
6 fully converting \$676,720.68 of Lopp's funds; (11) of the  
7 \$676,720.68 Bingham converted, he has repaid \$200,000 to Lopp;  
8 (12) Bingham's use of Lopp's funds arose out of his conversion of  
9 those funds and not as a result of any joint venture agreement;  
10 and good cause appearing:

11 NOW, THEREFORE IT IS HEREBY ORDERED AND ADJUDGED:

12 1. The April 3, 1991, 9:00 A.M. scheduled hearing  
13 date of the two pending motions is removed from the calendar.

14 2. Bingham's Amended Answer and Counterclaim are  
15 stricken.

16 3. Lopp's Motion for Summary Judgment is granted, and  
17 Lopp is awarded a Judgment against Bingham as follows:

18 (a) For compensatory damages in the sum  
19 of \$476,720.68 with prejudgment interest at  
20 the rate of twelve percent (12%) per annum on  
21 \$676,720.68 from May 7, 1984, to January 8,  
22 1985, in the sum of \$53,822 and with pre-  
23 judgment interest at the rate of twelve  
24 percent (12%) per annum on \$476,720.68 from  
25 January 9, 1985, to March 31, 1991, in the  
26 sum of \$356,064.63 for a total sum of  
27 \$886,607.31;

28 (b) For punitive damages in the sum of

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\$1,430,162;

(c) Interest at the rate of twelve percent (12%) per annum shall accrue on the above sums from April 1, 1991, until paid; and

(d) Lopp is awarded his costs against Bingham.

DATED this 1st day of April, 1991.

*[Signature]*  
DISTRICT JUDGE

SUBMITTED BY:

JOHN D. O'BRIEN, ESQ., and  
DONALD J. CAMPBELL, ESQ.

By *[Signature]*  
JOHN D. O'BRIEN #833  
DONALD J. CAMPBELL #1216  
Attorneys for Plaintiff-  
Counterdefendant  
Valley Bank Plaza, Suite 1009  
300 South Fourth Street  
Las Vegas, Nevada

CERTIFIED COPY

The document to which this certificate is attached is a full, true and correct copy of the original on file and of record in my office.

DATE: MAR 12 1992

LORETTA FOGAY, County Clerk and Clerk of the Eighth Judicial District Court, in and for the County of Clark, State of Nevada.

By *[Signature]* Deputy

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FILED AND RECORDED AT REQUEST OF  
John D. O'Brien, Ltd.  
July 1, 1992  
AT 01 MINUTES PAST 1 O'CLOCK  
P.M. IN BOOK 101 OF OFFICE  
RECORDS, PAGE 588-590 LINCOLN  
COUNTY, NEVADA.

YURIKO SETZER  
COUNTY CLERK  
By *[Signature]* Deputy