

FILED

DEC - 8 2010

DEPARTMENT OF REAL ESTATE

By K. Mar

BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Accusation of	)	
	)	Case No. H-2469 FR
PRADEEP BALI,	)	
	)	OAH No. 2010041438
Respondent.	)	
_____	)	

DECISION

The Proposed Decision dated October 28, 2010, of the Administrative Law Judge of the Office of Administrative Hearings is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

Pursuant to Section 11517(c)(2)(c) of the Government Code, the following correction is made:

Page 1, paragraph 3, under the Factual Findings of the Proposed Decision should be corrected in part to:

"3. On January 19, 2010, respondent was convicted in the United States District Court, Eastern District of California, in Case No. 1:09-CR-00170-001, on his...."

The Decision suspends or revokes one or more real estate licenses on grounds of the conviction of a crime, but also grants the right to a restricted real estate salesperson license to Respondent.

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The right to reinstatement of a revoked real estate license or to the reduction of a suspension is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

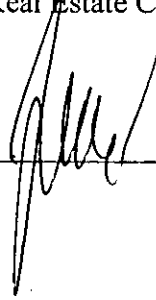
This Decision shall become effective at 12 o'clock noon on

DEC 29 2010

IT IS ORDERED

12/8/2010

JEFF DAVI  
Real Estate Commissioner



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FILED

DEC = 8 2010

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

by K. Mar

In the Matter of the Accusation Against:

Case No. H-2469 FR

PRADEEP BALI,

OAH No. 2010041438

Respondent.

**PROPOSED DECISION**

This matter was heard before Administrative Law Judge Dian M. Vorters, State of California, Office of Administrative Hearings, on October 4, 2010, in Sacramento, California.

John W. Barron, Department of Real Estate, represented complainant.

William C. Hahesy,<sup>1</sup> Attorney at Law, represented respondent who was present.

The case was submitted for decision on October 4, 2010.

**FACTUAL FINDINGS**

1. Complainant, Luke Martin, a Deputy Real Estate Commissioner of the State of California, filed the Accusation in his official capacity on April 6, 2010.

2. Pradeep Bali (respondent) is presently licensed and has licensing rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code, as a real estate broker. The Department issued respondent his real estate broker's license on December 12, 2005. His broker's license is in full force and effect and will expire on December 11, 2013, unless renewed.

3. On January 19, 2010, respondent was convicted in the United States District Court, Eastern District of ~~Columbia~~ <sup>California</sup>, in Case No. 1:09-CR-00170-001, on his August 17, 2009 plea of guilty, to violating Title 26, United States Code, Section 7201 (tax evasion), a

<sup>1</sup> William C. Hahesy, Attorney at Law, 225 West Shaw Avenue, Suite 105, Fresno, California 93704.

class D felony.<sup>2</sup> The court ordered respondent to serve six months in federal custody and 36 months on supervised release to include six months in home detention (with allowance for employment). Standard conditions of supervision included that respondent work regularly at a lawful occupation. Restitution was not ordered by the court in recognition of a civil agreement reached between respondent and the Internal Revenue Service (I.R.S.). Respondent began his term of incarceration on March 25, 2010, and was released on September 23, 2010. He will be on probation through September 2013.

The facts, as agreed to in the plea agreement, are that: On or about September 5, 2002, respondent knowingly submitted a false Form 1040 Individual Income Tax Return for the year 2000, in that the defendant falsely inflated certain losses, or did not report certain income, thereby creating a total tax loss in excess of \$50,000.

#### *Mitigation/Rehabilitation*

4. Respondent is 57 years of age and was born in India. He attended Dehli University for one year and the Indian Military Academy for two years during which time he earned his bachelors degree. He served in the Indian Army for 16 years during which time he earned his masters degree in management from the Defense Services Staff College. He retired as a commissioned officer with the rank of major.

5. Respondent and his family immigrated to the United States (U.S.) in 1991. His mother and brother were already living in the San Francisco Bay area. He has been married to his wife, Harpreet Bali, for 36 years. They have two daughters who attended high school in Fresno. Their oldest daughter, Bhavna Bali (age 32), is a physician, currently interning at the Children's Hospital at the University of California, Los Angeles (UCLA). Their second daughter, Beneka Bali (age 30), graduated from West Point Military Academy, and is an engineer. Respondent is proud of his daughters. He noted that Beneka has been celebrated in India as the first Indian female ever to graduate from West Point. He described his wife as loving and kind.

6. After arriving in the U. S., respondent worked in retail sales and management, and purchased a video store, a saddlery business, and a limousine company. He explained that in 2000 he was busy running the companies and did not have an accountant. He did not have proper bookkeeping systems in place and consequently could not account for all revenue. In 2001 or 2002 he filed for bankruptcy. He testified that this matter is presently cleared up. In 2003, he sold the companies, closed the limousine business, and obtained his real estate salesperson license. In 2005, respondent obtained his real estate broker license and opened Starr Realty. In October 2009, respondent purchased a franchise from Realty

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<sup>2</sup> Title 26 United States Code section 7201 states: "Any person who willfully attempts in any manner to evade or defeat any tax imposed by this title or the payment thereof shall ... be guilty of a felony ...."

World and opened Realty World Starr.<sup>3</sup> Mrs. Bali is a licensed real estate broker in California. She currently manages Realty World Starr which employs approximately 14 agents.

7. Respondent was charged with filing false income tax information in 2002. For seven years, from 2002 to 2009, respondent attempted to settle the tax evasion charge. The experience drained his finances due to mounting legal and accounting fees. Respondent wrote in his Confidential Interview Information Statement that he ultimately pled guilty to the charge to avoid harassment of his wife and children. At hearing, he explained that by "avoid harassment" he meant that he sought to protect his family from protracted IRS demands for information. He is in the process of negotiating a payment schedule with the IRS on his balance of \$78,000. At hearing he took full responsibility for the lack of safeguards that led to the underreporting. He admitted his error with humility and sincerity. His testimony overall was honest, candid, and respectful. Since his release, he has been working at Realty World Starr and First Continental, a mortgage company, doing office tasks that do not require a license.

8. For the last four years, respondent has instituted and maintained processes to ensure full compliance with the tax code. In 2006, his company hired a full-time certified public accountant (C.P.A.). The accountant is located in Fresno and can access respondent's books remotely from his office. The accountant performs monthly bookkeeping and handles all revenue, payroll, commission checks, and bank statements. Additionally, as a Realty World franchise, respondent's company benefits from regular training and guidance for brokers and agents, corporate reviews of business practices, and state of the art technology. Respondent also employs a full-time receptionist whose duty includes checking files for compliance. Respondent testified that he did not want to take any more chances with violations of any nature.

9. Respondent attends church regularly and is on the Board of Directors of the Hindu Temple of Fresno. For two years, respondent was chair of an interchurch volunteer committee that coordinated up to 70 volunteers for children's and community events. Respondent resigned the chair position prior to starting his sentence but still volunteers 30 to 40 hours a month. Mrs. Bali serves as secretary on the volunteer committee.

10. Of his time in custody, respondent testified that it was hard. He found that being separated from his family and not working was difficult. He used the time to exercise and write a personal memoir. His memoir covers his immigration to America, the hardships he faced, and how he struggled to earn a living and educate his children. He stated, "It was my dream." He intends to publish the book which is currently being printed.

11. Respondent seeks to continue with his real estate career. He has no other record of conviction. His desire is to keep working and helping the community.

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<sup>3</sup> Respondent's corporation is Realty World Starr, which is intentionally spelled with three "r" letters.

## LEGAL CONCLUSIONS

### *Applicable Statutes and Regulations*

1. Pursuant to Business and Professions Code section 490, “[a] board may suspend or revoke a license on the ground that the licensee has been convicted of a crime, if the crime is substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued. A conviction within the meaning of this section means a plea or verdict of guilty or a conviction following a plea of nolo contendere.”

2. Business and Professions Code section 10177, subdivision (b), provides that the real estate commissioner may suspend or revoke a real estate license when a real estate licensee has “[e]ntered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of, a felony, or a crime substantially related to the qualifications, functions, or duties of a real estate licensee, ... .”

3. California Code of Regulations, title 10, section 2910, subdivision (a), provides that in consideration of whether a license should be denied, suspended, or revoked, a crime or act is substantially related to the qualifications, functions or duties of a licensee if it involves:

- (3) Willfully attempting to derive a personal financial benefit through the nonpayment or underpayment of taxes, assessments or levies duly imposed upon the licensee or applicant by federal, state, or local government.

[¶]...[¶]

- (8) Doing of any unlawful act with the intent of conferring a financial or economic benefit upon the perpetrator or with the intent or threat of doing substantial injury to the person or property of another.

### *Cause for Discipline*

4. Respondent’s conviction for tax evasion, as set forth in Factual Finding 3, is substantially related to the qualifications, functions and duties of a real estate licensee as defined in California Code of Regulations, title 10, section 2910, subdivisions (a)(3) and (8). The offense requires a showing that the defendant acted willfully and knowingly with the specific intent to evade his income tax obligation, that there was a tax deficiency, and that there was an affirmative act constituting the evasion. (*United States v. Daniels* (5th Cir. 1980) 617 F.2d 146.) The evidence is sufficient to support a finding of willful intent required pursuant to California Code of Regulations, title 10, subdivision (a)(8).

5. Clear and convincing evidence to a reasonable certainty established cause for discipline of respondent’s license and licensing rights pursuant to Business and Professions

Code sections 490 and 10177, subdivision (b), in conjunction with California Code of Regulations, title 10, section 2910, subdivisions (a)(3) and (8), by reason of Legal Conclusion 4.

### *Rehabilitation*

6. The department has developed guidelines for use in evaluating the rehabilitation of a licensee, which are set forth in California Code of Regulations, title 10, section 2912. Relevant criteria include: the passage of not less than two years from the most recent substantially related conviction, payment of fines/restitution, expungement of the conviction, completion of or early discharge from probation/parole, abstinence from use of controlled substances or alcohol, payment of fines, correction of business practices, new and different social relationships, stability of family life and fulfillment of parental responsibilities, enrollment in educational or training courses, significant and conscientious involvement in community programs/church, and any change in attitude from that which existed at the time of the incident in question. (Cal. Code. Regs., tit. 10, § 2912, subds. (a)-(m).)

7. In consideration of these criteria, respondent's criminal history consists solely of his January 2010 conviction for federal tax evasion. Though the plea occurred only ten months ago, the tax return in question was filed eight years ago in 2002. In the interim, respondent attempted to settle the criminal case and reach a restitution agreement with the IRS. Respondent subsequently obtained his real estate salesperson and broker licenses. There has been no other cause for discipline of his real estate licenses.

As a condition of supervised release, respondent is required to maintain gainful employment. He seeks a restricted real estate broker license in order to more fully contribute to his family business. Substance abuse is not an issue. He has the support of his wife and family. He has corrected the business practices that contributed to the error by retaining a full-time C.P.A./bookkeeper. As a franchisee of Realty World, added protections are built in. Finally, great weight is given to respondent's attitude demonstrated at hearing. His testimony evidenced a desire for right conduct, a willingness to admit his mistakes, a strong work ethic, and humility. His accomplishments, including his military service, his volunteer work, and his occupation while in custody, support a finding that he will continue to contribute in a positive way to the real estate community.

8. The context in which the crime or acts were committed goes to the question of weight to be accorded the offending conduct in considering the disciplinary action to be taken. (Cal. Code Regs., tit. 10, § 2910, subd. (c).)

In the present matter, respondent's record-keeping system in 2000 was inadequate and contributed to the submission of erroneous figures in 2002. For four years, respondent has retained the services of a full-time C.P.A. for the range of accounting services needed to properly document revenue/expenses, payroll, and banking. He is part of an established and

respected franchise. As such, it is reasonable to believe that the circumstances underlying the offense will not reoccur.

### *Conclusion*

9. At hearing, respondent was sincere, candid, and forthright in articulating his errors in judgment, the lessons he has learned, and the changes he has made. In consideration of all of the facts and circumstances, it would not be contrary to the public interest to allow him to transact business as a real estate salesperson, with appropriate restrictions and conditions.

### ORDER

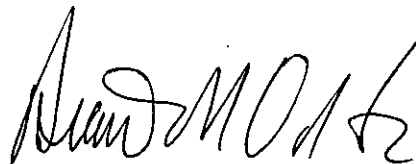
All licenses and licensing rights of respondent Pradeep Bali under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson license shall be issued to respondent pursuant to Section 10156.5 of the Business and Professions Code if respondent makes application therefor and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this decision. The restricted license issued to respondent shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

1. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner in the event of respondent's conviction or plea of nolo contendere to a crime which is substantially related to respondent's fitness or capacity as a real estate licensee.
2. The restricted license issued to respondent may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.
3. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor for the removal of any of the conditions, limitations or restrictions of a restricted license until three (3) years have elapsed from the effective date of this decision.
4. Respondent shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker on a form approved by the Department of Real Estate which shall certify:



- (a) That the employing broker has read the decision of the Commissioner which granted the right to a restricted license; and
- (b) That the employing broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.
5. Respondent shall, within nine months from the effective date of this decision, present evidence satisfactory to the Real Estate Commissioner that respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until the Respondent presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.
6. Realty Starr, Inc. shall maintain the services of a full-time certified public accountant at all times that respondent is employed by or affiliated with Realty Starr and/or its subsidiaries.

Dated: October 28, 2010



DIAN M. VORTERS  
Administrative Law Judge  
Office of Administrative Hearings

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6  
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FILED

APR - 6 2010

DEPARTMENT OF REAL ESTATE

By K. Max

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \*\*\*

11 In the Matter of the Accusation of )  
12 ) No. H-2469 FR  
13 PRADEEP BALI, )  
14 Respondent. ) ACCUSATION

15  
16 The Complainant, LUKE MARTIN, a Deputy Real Estate Commissioner of the  
17 State of California, for cause of Accusation against PRADEEP BALI, (hereinafter  
18 "Respondent"), is informed and alleges as follows:

19 1

20 The Complainant makes this Accusation in his official capacity.

21 2

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

25 3

26 On or about January 19, 2010, in the United States District Court, Eastern District  
27 of California, Case No. 09-CR-00170-001, Respondent was convicted of violating 26 United

1 States Code Section 7201 (Tax Evasion), a felony and a crime which bears a substantial  
2 relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications,  
3 functions or duties of a real estate licensee.

4 4

5 The facts alleged in Paragraph 3, above, constitute a cause under Sections 490  
6 (Conviction of Crime) and 10177(b) (Conviction of Crime Substantially Related to  
7 Qualifications, Functions or Duties of Real Estate Licensee) of the Code for suspension or  
8 revocation of all licenses and license rights of Respondent under the Real Estate Law.

9 WHEREFORE, Complainant prays that a hearing be conducted on the allegations  
10 of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary  
11 action against all licenses and license rights of Respondent under the Code, and for such other  
12 and further relief as may be proper under the provisions of law.

13  
14 *LSMarti*

15 \_\_\_\_\_  
16 LUKE MARTIN  
Deputy Real Estate Commissioner

17 Dated at Fresno, California,  
18 this 1<sup>st</sup> day of April, 2010.