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JAN - 9 2008

DEPARTMENT OF REAL ESTATE

By B. Contreras

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of	)	No. H-4725 SAC
	)	
AMARVEER SINGH DHILLON,	)	
	)	
Respondent.	)	
	)	
	)	

ORDER DENYING RECONSIDERATION

On November 13, 2007, a Decision was rendered in the above-entitled matter to become effective on December 10, 2007.

On December 5, 2007, Respondent requested a stay for the purpose of filing a petition for reconsideration of the Decision of November 13, 2007, and the effective date was stayed to January 9, 2008.

In that Respondent has not submitted a petition for reconsideration, I find no good cause to reconsider the Order of November 13, 2007, and reconsideration is hereby denied.

IT IS SO ORDERED 1-9-08

JEFF DAVI  
Real Estate Commissioner

[Signature]



FILED

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BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By H. Contreras

\* \* \*

In the Matter of the Accusation of )  
AMARVEER SINGH DHILLON, )  
Respondent. )

NO. H-4725 SAC  
OAH NO. N-2007050152

DECISION

The Proposed Decision dated October 24, 2007, 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.

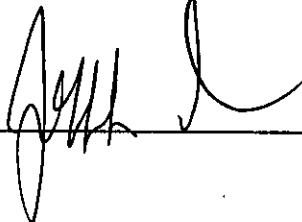
The Decision suspends or revokes one or more real estate licenses on grounds of the conviction of a crime.

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 December 10, 2007.

IT IS SO ORDERED 11-13-07

JEFF DAVI  
Real Estate Commissioner

  
\_\_\_\_\_

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

AMARVEER SINGH DHILLON,  
  
Respondent.

Case No. H-4725 SAC

OAH No. 2007050152

**PROPOSED DECISION**

On July 27, 2007, at Sacramento, California, this matter was heard before David A. Peters, Administrative Law Judge, Office of Administrative Hearings, State of California.

Mary F. Clark, Counsel, Department of Real Estate, State of California, represented the complainant.

Respondent, Amarveer Singh Dhillon (respondent), was present and was represented by Gary Garfinkle, Attorney at Law.

Oral and documentary evidence was received. The matter remained open to permit the parties to file written closing arguments. Complainant's closing argument was filed on August 16, 2007. Respondent's closing argument was filed on September 10, 2007. Complainant's final argument was filed on September 24, 2007. The matter was submitted and the record closed on September 24, 2007.

**FACTUAL FINDINGS**

1. On March 5, 2007, complainant Charles W. Koenig, a Deputy Real Estate Commissioner, Department of Real Estate, (Department), State of California, made the accusation against respondent in his official capacity.
2. Respondent is presently licensed and has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code), as a real estate salesperson.
3. On October 30, 2006, in the Superior Court of the State of California, County of Sacramento, respondent was convicted, on a jury verdict of guilty, of a violation of Penal Code section 273.5, subdivision (a) (corporal injury on a spouse), as a misdemeanor.

4. The Court suspended imposition of sentence and placed respondent on formal probation for three years on terms and conditions. The terms and conditions included, but were not limited to: 30 days in the county jail (21 days served through work furlough), completion of a court approved batterer's treatment program, completion of 40 hours of community service, and payment of fines, fees and restitution of approximately \$1,303.

5. The facts and circumstances of respondent's criminal conduct that led to his criminal conviction arose on May 2, 2006. Respondent returned home from work and found his wife asleep in the bedroom. Respondent wanted his wife to fix their daughter something to eat. When respondent's wife refused to get up to fix the food, respondent tapped her face five or six times with his open hand. After respondent left the room his wife locked herself in the bedroom. Respondent opened the bedroom door using a small key. Respondent's wife was standing behind the door when respondent willfully opened the door hitting his wife in the nose. She sustained a bloody nose and began to cry. Respondent's wife called the police to complain about respondent's conduct. After calling the police, she took the children and went to Kaiser Hospital for treatment of her injured nose.

6. The crime for which respondent was convicted, corporal injury on a spouse, involves moral turpitude. Respondent was convicted, after a jury trial, of a misdemeanor violation of Penal Code section 273.5, subdivision (a), which provides in pertinent part, "Any person who willfully inflicts upon a person who is his or her spouse, former spouse, cohabitant, former cohabitant, or the mother or father of his or her child, corporal injury resulting in a traumatic condition, is guilty of a felony." Penal Code section 273.5, subdivision (c) defines "traumatic condition" as follows: "As used in this section, traumatic condition means a condition of the body, such as a wound or external or internal injury, whether of a minor or serious nature, caused by physical force." In *People v. Rodriguez* (1992) 5 Cal.App.4th 1398, 1402, the court held that Penal Code section 273.5 is a crime that involves moral turpitude: "To violate Penal Code section 273.5 the assailant must, at the very least, have set out, successfully, to injure a person of the opposite sex in a special relationship for which society rationally demands, and in which the victim, for these reasons among others, may be especially vulnerable. To have joined in, and thus necessarily to be aware of, that special relationship and then to violate it willfully and with the intent to injure, necessarily connotes the general readiness to do evil that has been held to define moral turpitude." (citations omitted.) In 1999, the Court of Appeal, Fourth Appellate District, in two cases *People v. Thurston* (1999) 71 Cal.App.4th 1050 and *People v. Campbell* (1999) 76 Cal.App.4th 305, found that the *Rodriguez* court was mistaken in finding the Penal Code section 273.5 included as one of its elements a specific intent to injure the victim. In *Thurston* and *Campbell* the court concluded that Penal Code section 273.5 is a general intent crime. The court in *Thurston* and *Campbell* did not overrule the holding in *Rodriguez* that Penal Code section 273.5 is a crime that involves moral turpitude.

7. Respondent's misdemeanor conviction for violation of Penal Code section 273.5, subdivision (a) (corporal injury on a spouse) is for a crime that bears a substantial relationship to the qualifications, functions, or duties of a real estate licensee, within the meaning of the Department's Criteria of Substantial Relationship, California Code

of Regulations, title 10, section 2910, subdivision (a)(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). The jury found that respondent's willful infliction of corporal injury upon his wife resulted in a traumatic condition. Respondent's wife was hit in the nose resulting in her going to the hospital for treatment. Respondent's willful infliction upon his wife of corporal injury resulting in a traumatic condition created a threat of doing substantial injury to his wife within the meaning of the Department's Criteria of Substantial Relationship. Being hit in the nose with a door resulting in bleeding is a substantial injury within the meaning of the Department's Criteria of Substantial Relationship.

8. Respondent is 40 years of age. He is married and has two children, a son ten years of age and a daughter four years of age. In 1988 respondent obtained a Bachelor of Science Degree in electronics from Gualbarga University, Haharstra, India. Respondent has worked as a real estate salesperson for the past five years. He is currently working for real estate broker Robert Tuan Tran Do. Respondent holds an insurance agents license from the Department of Insurance and a contractor's license from the Contractors State License Board. He is also licensed with the California Secretary of State's Office as a Notary Public. Respondent's wife is a full-time student in the nursing program at American River College and works part-time for Kaiser Hospital as a medical assistant.

9. Respondent presented limited evidence of rehabilitation. He testified on his own behalf, but called no additional witnesses. He placed in evidence a letter signed by Officer Hollis Thomas, Sacramento County Sheriff's Department, Work Release Facility, dated November 21, 2006, addressed to respondent. Mr. Thomas described the approval of respondent's application for the Sheriff's Work Furlough/Home Detention Program and the terms and conditions of the program. Respondent also placed in evidence a letter from Georgine Brunelle, Deputy Probation Officer, County of Sacramento, dated May 15, 2007, addressed to respondent. Ms. Brunelle states that respondent has been cooperative with the Probations Department and has been compliant with the terms of his probation. The letter documents that as of May 1, 2007, respondent had completed 23 sessions of a Batterer's Treatment Program. Ms. Brunelle also stated that, as of March 19, 2007, respondent's fines and fees had been paid in full. At the time of the hearing respondent had finished his 40 hours of community service and had completed the Batterer's Treatment Program. Following respondent's successful completion of the terms and conditions of his probation described above, he was released from formal probation and placed on informal probation. Respondent is scheduled to remain on probation until 2009.

10. Respondent is not fully rehabilitated. He does not take full responsibility for his conduct in connection with the acts leading to his criminal conviction, but rather blames his wife for the incident. He failed to present any evidence from his employer, family members, friends or other persons familiar with his previous conduct and with subsequent attitudes and behavioral patterns. Respondent's conviction is recent and he remains on probation. Respondent is not eligible at this time for expungement of his criminal conviction. More time is needed for respondent to demonstrate his complete rehabilitation.

11. Respondent has completed the court ordered batterers program and has learned to control his temper. His relationship with his wife has improved and he is gainfully employed and providing support to his wife and children. Respondent presented sufficient evidence of rehabilitation to establish that it would not be against the public interest to allow respondent to be licensed as a real estate salesperson, with restrictions.

## LEGAL CONCLUSIONS

1. Business and Professions Code section 490, provides:

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. Any action which a board is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when an order granting probation is made suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

2. Business and Professions Code section 10177, subdivision (b), provides:

The commissioner may suspend or revoke the license of a real estate licensee, or may deny the issuance of a license to an applicant, who has done any of the following, or may suspend or revoke the license of a corporation, or deny the issuance of a license to a corporation, if an officer, director, or person owning or controlling 10 percent or more of the corporation's stock has done any of the following:

(b) Entered a plea of guilty or nolo contendere to, or been found guilty of, or been convicted of, a felony or a crime involving moral turpitude, and the time for appeal has elapsed or the judgment of conviction has been affirmed on appeal, irrespective of any order granting probation following the conviction, suspending the imposition of sentence, or of a subsequent order under Section 1203.4 of the Penal Code allowing the licensee to withdraw his or her plea of guilty and to enter a plea of not guilty, or dismissing the accusation or information.

3. Grounds exist for disciplinary action against respondent pursuant to Business and Professions Code section 10177, subdivision (b), in conjunction with Business and Professions Code section 490, by reason of the matters set forth in Factual Findings 3, 6 and 7. Respondent was convicted of corporal injury on a spouse, a crime that involves moral turpitude, and a crime which bears a substantial relationship to the qualifications, functions, or duties of a real estate licensee.

4. California Code of Regulations, title 10, section 2912, sets forth criteria for 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.

5. Applying the relevant criteria for rehabilitation and in consideration of Factual Findings 1 through 11, respondent has not demonstrated adequate rehabilitation to continue to be a licensed as real estate salesperson on an unrestricted basis. Respondent's conviction is recent and he remains on probation. "Since persons under the direct supervision of correctional authorities are required to behave in an exemplary fashion, little weight is generally placed on the fact that the bar applicant did not commit additional crimes or continue addictive behavior while in prison or while on probation or parole." (Citations omitted.) *In Re Gossage* (2000) 23 Cal.4th 1080, 1099. Respondent has successfully completed the court ordered batterers program, but he continues to blame his wife for the incident resulting in his criminal conviction. Despite respondent's need to demonstrate additional rehabilitation it is not against the public interest to allow respondent to continue as a real estate salesperson on a restricted basis.

#### ORDER

All licenses and licensing rights of respondent Amarveer Singh Dhillon 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 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 the 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 two (2) 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 respondent presents such evidence. The Commissioner shall afford respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

DATED: October 24, 2007



DAVID A. PETERS  
Administrative Law Judge  
Office of Administrative Hearings

1 MARY F. CLARKE, Counsel (SBN 186744)  
2 Department of Real Estate  
3 P. O. Box 187000  
4 Sacramento, CA 95818-7000  
5 Telephone: (916) 227-0789  
6 -or- (916) 227-0780 (Direct)

FILED  
MAR 30 2007

DEPARTMENT OF REAL ESTATE

By K. Contreras

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

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11 In the Matter of the Accusation of )  
12 AMARVEER SINGH DHILLON, ) NO. H-4725 SAC  
13 Respondent. ) ACCUSATION  
14 \_\_\_\_\_ )

15 The Complainant, CHARLES W. KOENIG, a Deputy Real  
16 Estate Commissioner of the State of California, for cause of  
17 Accusation against AMARVEER SINGH DHILLON (herein "Respondent"),  
18 is informed and alleges as follows:

19 I

20 At all times herein mentioned, Respondent was and now  
21 is licensed and/or has license rights under the Real Estate Law,  
22 Part 1 of Division 4 of the Business and Professions Code  
23 (herein "Code") as a real estate salesperson.

24 II

25 The Complainant, CHARLES W. KOENIG, a Deputy Real  
26 Estate Commissioner of the State of California, makes this  
27 Accusation in his official capacity.

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III

On or about October 30, 2006, in the Superior Court of the State of California, County of Sacramento, Respondent was convicted of the crime of Corporal Injury On A Spouse in violation of Penal Code Section 273.5(a), a misdemeanor and a crime involving moral turpitude which bears a substantial relationship under Section 2910 of Chapter 6, Title 10, California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

IV

The facts alleged above constitute cause under Sections 490 and 10177(b) of the Code for suspension or revocation of all licenses and license rights of Respondent under the Real Estate Law.

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 Respondent 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.

  
CHARLES W. KOENIG  
Deputy Real Estate Commissioner

Dated at Sacramento, California  
this 5<sup>th</sup> day of March, 2007.