

FILED

FEB - 4 2010

DEPARTMENT OF REAL ESTATE

By K. Mar

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

BALBIR SINGH DHILLON,

Respondent.

No. H-10697 SF

OAH No. 2009060871

DECISION AFTER REJECTION

On August 26, 2009, in Oakland, California, Ruth S. Astle, Administrative Law Judge, Office of Administrative Hearings, State of California (hereinafter "OAH"), heard this matter.

On September 10, 2009, the Administrative Law Judge (hereinafter "ALJ") submitted a Proposed Decision recommending the revocation of the real estate broker license of Respondent BALBIR SINGH DHILLON (hereinafter "Respondent"), and granted the right to a restricted broker license. I declined to adopt the Proposed Decision as my Decision. Pursuant to Section 11517(c) of the Government Code of the State of California, Respondent was served with notice of my determination not to adopt the Proposed Decision of the Administrative Law Judge along with a copy of said Proposed Decision. Respondent was notified the case would be decided by me upon the record, the transcript of proceedings held on August 26, 2009, and upon any written argument offered by Respondent and Complainant.

1 Respondent and Complainant submitted written argument.

2 I have given careful consideration to the record in this case including the transcript of
3 proceedings held on August 26, 2009, and the written arguments.

4 The following shall constitute the Decision of the Real Estate Commissioner in this
5 proceeding:

6 FACTUAL FINDINGS

7 1. E. J. Haberer II made the accusation in his official capacity as a Deputy Real
8 Estate Commissioner.

9 2. Respondent is presently licensed and has license rights under the Real Estate
10 Law as a real estate broker.

11 3. On April 25, 2007, in the Superior Court of California, County of Kern, Case
12 No. S-1500-CV-256135, a civil matter, the court affirmed a \$51,000 judgment against respondent
13 and ordered a "share payment" of \$132,842 against Respondent.

14 In August 2002, Respondent, plaintiff in the civil matter, and others purchased a
15 convenience store. Respondent failed to disclose the fact he took a \$51,000.00 commission by
16 representing the purchase price was \$51,000.00 higher than it actually was. After a bench trial,
17 the court found Respondent breached his fiduciary duty to his business partners by failing to
18 disclose the commission, while rejecting other causes of action. Plaintiff appealed the judgment,
19 primarily on the valuation of his interest in the partnership, and the Court of Appeal upheld the
20 trial court's decision, including the \$51,000.00 judgment, on January 28, 2009.

21 4. Respondent fully satisfied the judgment against him on May 8, 2009.

22 5. Respondent has been active in his community. He was on the board of the
23 Revolving Loan Fund for the City of San Jose and served as vice chairman of the fund in 2008.
24 He has also given his time to Evergreen Valley College, the Filipino American Community
25 Development Council, and to the Punjabi community in the San Jose area.

26 ///

27 ///

1 6. Respondent is active in his religious community. He has donated his
2 commission back to the community for a transaction he handled for Sikh Gudwara San Jose
3 Temple.

4 7. Two witnesses testified at the hearing to Respondent's good character and his
5 good reputation in the community.

6 8. Respondent presented some evidence of rehabilitation. However, it has only
7 been eight (8) months since the judgment against Respondent. While Respondent claims to take
8 responsibility for his mistake in judgment; at the same time Respondent argues he disagrees with
9 the factual determination and amount of damages awarded. This does not show Respondent has
10 truly accepted responsibility for his actions. For these reasons, it would not be in the public's best
11 interests to allow Respondent to continue working as a real estate licensee.

12 LEGAL CONCLUSIONS

13 1. By reason of the matters set forth in Finding 3, cause for disciplinary action
14 exists pursuant to Business and Professions Code section 10177.5 (judgment based on
15 misrepresentation/deceit).

16 2. The matters set forth in Findings 4, through 8, have been considered in
17 making the following order.

18 ORDER

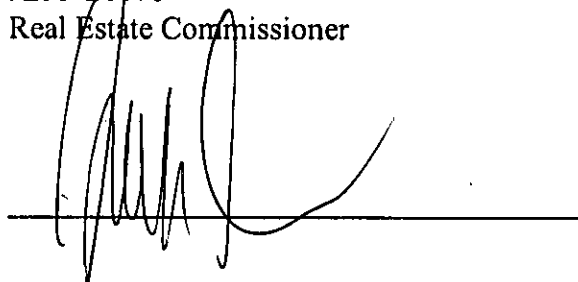
19 All licenses and licensing rights of Respondent BALBIR SINGH DHILLON under the
20 Real Estate Law are revoked.

21 This Decision shall become effective at 12 o'clock noon on **FEB 25 2010**

22 IT IS SO ORDERED 2-2-10

23 JEFF DAVI
24 Real Estate Commissioner

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FILED

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DEPARTMENT OF REAL ESTATE

By H. Mar

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

BALBIR SINGH DHILLON,

Respondent.

No. H-10697 SF

OAH No. 2009060871

NOTICE

TO: BALBIR SINGH DHILLON, Respondent.

YOU ARE HEREBY NOTIFIED that the Proposed Decision herein dated September 10, 2009, of the Administrative Law Judge is not adopted as the Decision of the Real Estate Commissioner. A copy of the Proposed Decision dated September 10, 2009, is attached for your information.

In accordance with Section 11517(c) of the Government Code of the State of California, the disposition of this case will be determined by me after consideration of the record herein including the transcript of the proceedings held on August 26, 2009, any written argument hereafter submitted on behalf of Respondent and Complainant.

Written argument of Respondent to be considered by me must be submitted within 15 days after receipt of the transcript of the proceedings of August 26, 2009, at the

1 Oakland office of the Department of Real Estate unless an extension of the time is granted for
2 good cause shown.

3 Written argument of Complainant to be considered by me must be submitted
4 within 15 days after receipt of the argument of Respondent at the Oakland office of the
5 Department of Real Estate unless an extension of the time is granted for good cause shown.

6 DATED: _____

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8 JEFF DAVIS
Real Estate Commissioner
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BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of Accusation of:

BALBIR SINGH DHILLON,

Respondent.

Case No. H-10697 SF

OAH No. 2009060871

PROPOSED DECISION

Administrative Law Judge Ruth S. Astle, State of California, Office of Administrative Hearings, heard this matter in Oakland, California, on August 26, 2009.

Richard K. Uno, Counsel, represented complainant.

Respondent Balbir Singh Dhillon was present and was unrepresented.

Submission of the matter was deferred to September 8, 2009, for receipt of proof of satisfaction of the judgment against respondent, which was received, and considered. The matter was submitted on September 8, 2009.

FACTUAL FINDINGS

1. E. J. Haberer II made the accusation in his official capacity as a Deputy Real Estate Commissioner.

2. Balbir Singh Dhillon (respondent) is presently licensed and has license rights under the Real Estate Law as a real estate broker.

3. On April 25, 2007, in the Superior Court of California, County of Kern, Case No. S-1500-CV-256135, a civil matter, the court affirmed a \$51,000 judgment against respondent and ordered a "share payment" of \$132,842 against respondent.

The judgment was based on an allegation that respondent breached his fiduciary duty to a buyer by making a private arrangement with the seller to increase the price of the property so that he could receive a \$51,000 windfall commission. The court did not find respondent responsible under any other cause of action.

4. Respondent fully satisfied the judgment against him on May 8, 2009. He has taken responsibility for the judgment and acted in a responsible manner.

5. Respondent has been very active in his community. He was on the board of the Revolving Loan Fund for the City of San Jose and served as vice chairman of the fund in 2008. He has also given his time to Evergreen Valley College, the Filipino American Community Development Council, and to the Punjabi community in the San Jose area.

6. Respondent is active in his religious community. He has donated his commission back to the community for a transaction he handled for Sikh Gudwara San Jose Temple.

7. Two witnesses testified at the hearing to respondent's good character and his good reputation in the community. It would not be against the public interest to allow respondent to continue as a broker with a restricted license.

LEGAL CONCLUSIONS

1. By reason of the matters set forth in Finding 3, cause for disciplinary action exists pursuant to Business and Professions Code section 10177.5 and section 490 (judgment based on misrepresentation/deceit).

2. The matters set forth in Findings 4, through 7, have been considered in making the following order.

ORDER

All licenses and licensing rights of Balbir Singh Dhillon under the Real Estate Law as a real estate broker are hereby revoked. However, a restricted real estate broker license shall be issued to Respondent pursuant to Business and Professions Code section 10156.5 if respondent makes application therefore 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 Business and Professions Code section 10156.7 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.

- not
rebutted*
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 years have elapsed from the effective date of this Decision.
 4. 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.

DATED: _____

9/10/09

Ruth S. Astle

RUTH S. ASTLE
Administrative Law Judge
Office of Administrative Hearings

1 RICHARD K. UNO, Counsel (SBN 98275)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007
5 Telephone: (916) 227-2380

FILED

JUN 2 2009

DEPARTMENT OF REAL ESTATE

By K. Mar

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

11 In the Matter of the Accusation of)
12 BALBIR SINGH DHILLON,) H-10697 SF
13 Respondent.) ACCUSATION
14)

15 The Complainant, E. J. HABERER, II, a Deputy Real Estate Commissioner of
16 the State of California, for cause of Accusation against BALBIR SINGH DHILLON, (hereinafter
17 "Respondent"), is informed and alleges as follows:

1

19 Complainant makes this Accusation against Respondent in his official capacity.

2

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

3

25 On or about April 25, 2007, in the Superior Court of the State of California,
26 County of Kern, Case No. S-1500-CV-256135, a civil matter, the Court affirmed a \$51,000
27 judgment against Respondent and ordered a Share Payment of \$132,842 against Respondent.

1 The complaint alleged that Respondent breached his fiduciary duty by making a private
2 arrangement with the seller to increase the price of the property so that he could receive a
3 \$51,000 windfall commission. The complaint additionally alleged that Respondent knowingly
4 countenanced persistent and pervasive fraud, mismanagement or abuse of authority pursuant to
5 section 1800 of the California Corporations Code.

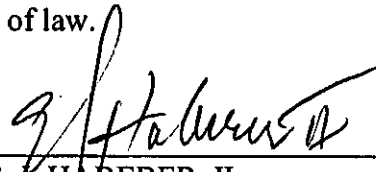
6 4

7 On January 28, 2009, the California Court of Appeals, Fifth District affirmed the
8 decision set forth in paragraph 3, above. Remittitur was issued by the Court of Appeals on
9 March 30, 2009.

10 5

11 The facts alleged in Paragraph 3, above, constitute cause under Section 10177.5
12 and Section 490 of the Code for the revocation of Respondent's real estate broker license under
13 the Real Estate Law.

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

18
19 
20 E. J. HABEBER, II
Deputy Real Estate Commissioner

21 Dated at Oakland, California,
22 this 28th day of May, 2009.