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DEPARTMENT OF REAL ESTATE

By Juan Antonio

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
NARINDER PAUL SINGH MAHAL,)	No. H-1324 FRESNO
Respondent.)	

ORDER DENYING REINSTATEMENT OF LICENSE

On July 7, 1997, a Decision was rendered herein revoking the real estate broker license of Respondent.

On October 1, 1999, Respondent petitioned for reinstatement of said real estate broker license, and the Attorney General of the State of California has been given notice of the filing of said petition.

I have considered Respondent's petition and the evidence and arguments in support thereof. Respondent has failed to demonstrate to my satisfaction that Respondent has undergone sufficient rehabilitation to warrant the reinstatement of Respondent's unrestricted real estate broker license.

///

1 The Decision in this matter found that Respondent,
2 while licensed as a real estate broker, had committed a crime
3 involving bribery, fraud, deceit, falsehood or misrepresentation.

4 Given the violations found and the fact that Respondent
5 has not engaged as a broker in the operation of a real estate
6 brokerage business or otherwise acted in a fiduciary capacity,
7 Respondent has not established that he has complied with Section
8 2911 (j), Title 10, California Code of Regulations. Consequently,
9 I am not satisfied that Respondent is sufficiently rehabilitated
10 to receive an unrestricted real estate broker license.

11 Additional time and evidence of correction as a restricted real
12 estate broker is necessary to establish that Respondent is
13 rehabilitated.

14 I am satisfied, therefore, that it will not be
15 against the public interest to issue a restricted real estate
16 broker license to Respondent.

17 NOW, THEREFORE, IT IS ORDERED that Respondent's
18 petition for reinstatement of his real estate broker license is
19 denied.

20 A restricted real estate broker license shall be issued
21 to Respondent pursuant to Section 10156.5 of the Business and
22 Professions Code, if Respondent satisfies the following
23 conditions within nine (9) months from the date of this Order:

24 1. Submittal of a completed application and payment of
25 the fee for a restricted real estate broker license.

26 2. Submittal of evidence of having, since the most
27 recent issuance of an original or renewal real estate license,

1 taken and successfully completed the continuing education
2 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
3 for renewal of a real estate license.

4 The restricted license issued to Respondent shall be
5 subject to all of the provisions of Section 10156.7 of the
6 Business and Professions Code and to the following limitations,
7 conditions and restrictions imposed under authority of Section
8 10156.6 of that Code:

9 A. The restricted license issued to Respondent may be
10 suspended prior to hearing by Order of the Real Estate
11 Commissioner in the event of Respondent's conviction or plea of
12 nolo contendere to a crime which is substantially related to
13 Respondent's fitness or capacity as a real estate licensee.

14 B. The restricted license issued to Respondent may be
15 suspended prior to hearing by Order of the Real Estate
16 Commissioner on evidence satisfactory to the Commissioner that
17 Respondent has violated provisions of the California Real Estate
18 Law, the Subdivided Lands Law, Regulations of the Real Estate
19 Commissioner or conditions attaching to the restricted license.

20 C. Respondent shall not be eligible to apply for the
21 issuance of an unrestricted real estate license nor the removal
22 of any of the limitations, conditions or restrictions of a
23 restricted license until two (2) years have elapsed from the date
24 of the issuance of the restricted license to respondent.

25 ///

26 ///

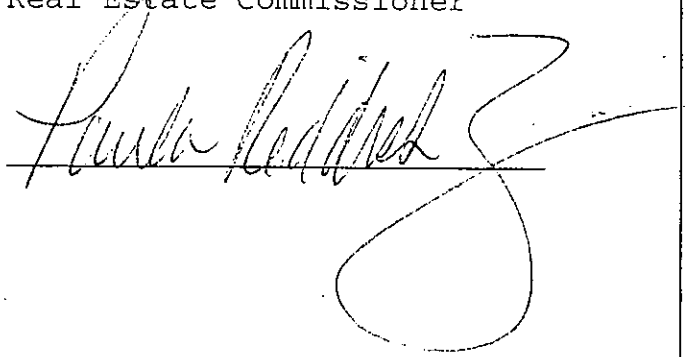
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This Order shall become effective at 12 o'clock
noon on March 30, 2001.

DATED: February 6, 2001

PAULA REDDISH ZINNEMANN
Real Estate Commissioner



BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation)
Against:) No. H-1324 FRESNO
)
NARINDER PAUL SINGH MAHAL,) OAH No. N-9703212
)
)
Respondent.)

PROPOSED DECISION

On May 14, 1997, in Sacramento, California, Catherine B. Frink, Administrative Law Judge, Office of Administrative Hearings, State of California, heard this matter.

David B. Seals, Counsel, represented the complainant.

Respondent was present and represented himself.

Evidence was received, the record was closed and the matter was submitted.

FINDINGS OF FACT

I

The complainant, Dolores Vazquez-Ramos, a Deputy Real Estate Commissioner of the State of California, filed the Accusation in her official capacity.

II

Narinder Paul Singh Mahal ("respondent") is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code, as a real estate broker.

III

On February 22, 1994, in the United States District Court, Northern District of California, respondent was convicted of violation of Title 18, United States Code, section 201(b)(1)(C) (Bribery of a public official), a felony.

The facts and circumstances underlying the conviction are that, on October 12, 1990, respondent knowingly, willfully and corruptly gave approximately \$20,000 to Immigration and Naturalization Service Chief Legalization Officer Gregory Ward, a public official, with the intent to influence an official act, namely the issuance of Temporary Work Authorization Cards, INS Form I688-A.

Between May of 1987 and November of 1988, the United States Immigration and Naturalization Service ("INS") permitted individuals to apply for United States citizenship under an amnesty program. After the amnesty period expired, lawsuits were initiated by various groups which were seeking to extend the amnesty filing period for certain eligible groups. As a result of a decision by the Ninth Circuit Court of Appeals, eligible immigrants were permitted to apply for temporary work authorization cards while awaiting a final ruling on their applications under the amnesty program. The Salinas office of the INS was one of the few offices that remained open to accommodate the court order.

In early June of 1990, the Federal Bureau of Investigations ("FBI") was apprised by INS officials that Gregory Ward, the Chief Legalization Officer at the Salinas INS office, had been offered a bribe by two men of East Indian descent in exchange for work authorization cards. As a result, the FBI set up a "sting" operation in which Ward was permitted to accept bribes, while secretly tape recording conversations with the alleged bribers. By late September 1990, word had circulated in the East Indian community that work permits were "for sale" at the Salinas office of the INS. The FBI investigation culminated with the arrest of 12 persons (including respondent) on October 31, 1990, with warrants for 10 more. During the four-month investigation, Ward received more than \$1 million in bribe money and approximately 1,300 applications for work permits.

IV

The crime of which respondent was convicted involved moral turpitude and is substantially related to the qualifications, functions and duties of a real estate licensee pursuant to Title 10, California Code of Regulations, section 2910.

In Clerici v. DMV (1990) 224 Cal.App.3d 1016, 1027, the court described moral turpitude as "any crime or misconduct committed without excuse, or any 'dishonest or immoral' act not necessarily a crime. (In re Higbie (1972) 6 Cal.3d 562, 569)." The court further stated that, "Crimes which reveal a defendant's dishonesty, general 'readiness to do evil,' bad character or moral depravity involve moral turpitude. (People v. Castro (1985) 38 Cal.3d 301, 315; People v. Hunt (1985) 169 Cal.App.3d 668, 674)." In Rice v. Alcoholic Beverage etc. Appeals Bd. (1979) 89 Cal.App.3d 30, 37, the court held that moral turpitude

is "inherent in crimes involving fraudulent intent, intentional dishonesty for purposes of personal gain or other corrupt purpose...." Bribery of a public official involves acts of dishonesty and fraudulent intent, thereby constituting a crime of "moral turpitude" within the meaning of Business and Professions Code section 10177(b).

The Department has developed a criteria of substantial relationship which is contained in Title 10, California Code of Regulations, section 2910 and which provides in pertinent part as follows:

"(a) When considering whether a license should be denied, suspended or revoked on the basis of the conviction of a crime, or on the basis of an act described in Section 480(a)(2) or 480(a)(3) of the Code, the crime or act shall be deemed to be substantially related to the qualifications, functions or duties of a licensee of the Department within the meaning of Sections 480 and 490 of the Code if it involves:

".....

"(4) The employment of bribery, fraud, deceit, falsehood or misrepresentation to achieve an end."

As previously noted, bribery is an act of dishonesty. As the court held in Golde v. Fox, (1979) 98 Cal.App.3d 167, 176, "Honesty and truthfulness are two qualities deemed by the Legislature to bear on one's fitness and qualification to be a real estate licensee. If appellant's offense reflects unfavorably on his honesty, it may be said to be substantially related to his qualifications. [Citations.]" A broker is a potential fiduciary and acts for others in a confidential capacity. A bribery conviction is clearly related to the honesty and integrity of an occupation which requires public trust and confidence. The public is entitled to expect the licensee to have demonstrated "a degree of honesty and integrity in order to have obtained such a license." (Golde v. Fox, supra, 98 Cal.App.3d at p. 178.)

V

As a consequence of his conviction, respondent was sentenced to 15 months in federal prison, to be followed by a three-year period of supervised release, subject to the standard terms and conditions of supervision. Respondent was further ordered to pay a \$2,000 fine.

Respondent was incarcerated for one year at Hemet Federal Prison Camp, a minimum security facility. Respondent

then was released to a halfway house for approximately three months, where respondent was permitted to work during the day. Respondent has completed payment of the \$2,000 fine. Respondent will remain on supervised release/probation until October 10, 1998.

VI

After his release from the halfway house, respondent worked as a real estate loan officer for Republic Mortgage from October 1995 to around January 1996, and with Transvale Mortgage Corporation in Fresno from February 1996 to August 1996. Since that time, respondent has been attempting to re-establish himself as a real estate broker. Respondent has been working at Subway Sandwiches while working in the real estate field part-time. Respondent has been involved with the real estate profession since 1971.

VII

At hearing, respondent contended that the INS "invited" the bribery of a government official by "advertising" in the newspaper that work permits were being "sold." He later stated that he read newspaper articles which led him to believe that the work permits were for sale. However, the newspaper article offered into evidence by respondent in support of this contention cannot be reasonably interpreted as describing any solicitation by the government of payment for work permits. On the contrary, the article highlights the fact that undocumented aliens were being victimized by unscrupulous notaries and others who were charging \$2,000 to \$3,000 to complete paperwork for a so-called "new amnesty." Respondent's testimony that he did not know if his actions were legal or illegal is not credible.

VIII

The Department has developed criteria for rehabilitation pursuant to Business and Professions Code section 482(b), which are set forth in Title 10, California Code of Regulations, section 2912. More than two years have passed since respondent's conviction, and respondent has completed payment of his \$2,000 fine. However, respondent has more than a year remaining to complete his criminal probation/supervised release, and he has not obtained early discharge from probation. Respondent has not enrolled in educational or vocational training courses for economic self-improvement since his criminal conviction, and the evidence did not establish whether respondent has formed new or different social or business relationships from those existing at the time respondent engaged in his criminal activity. The evidence also did not establish whether respondent is involved in community, church or privately-sponsored programs designed to provide social benefits or to ameliorate social problems. Most importantly, respondent's testimony at hearing

attempting to justify his criminal actions demonstrated that he has not experienced a change in attitude from that which existed at the time of the commission of the criminal acts in question.

Under all of the facts and circumstances, it would be contrary to the public interest to permit respondent to remain licensed by the Department either as a broker or salesperson, with or without a restricted license. By failing to take responsibility for his misconduct and attempting to blame others for his dishonesty, respondent showed a lack of appreciation of the seriousness of his wrongdoing or its connection to his fiduciary duties as a licensee of the Department.

DETERMINATION OF ISSUES

I

Clear and convincing evidence to a reasonable certainty establishes cause for discipline of respondent's license and license rights for violation of Business and Professions Code sections 490 and 10177(b) by reason of Findings III and IV.

II

The matters set forth in Findings V-VIII are considered in making the Order below.

ORDER

All licenses and license rights of respondent Narinder Paul Singh Mahal under the Real Estate Law are revoked pursuant to Determination of Issues I.

Dated: June 11, 1997

Catherine B. Frink

CATHERINE B. FRINK
Administrative Law Judge
Office of Administrative Hearings

FILED
MAR 28 1997

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

By Kathleen Contreras

In the Matter of the Accusation of

NARINDER PAUL SINGH MAHAL,

Case No. H-1324 FRESNO

OAH No. N-9703212

Respondent

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at _____
The Office of Administrative Hearings, 501 J Street, Suite 220,
Second Floor Hearing Rooms, Sacramento, California 95814

on Wednesday -- May 14, 1997, at the hour of 9:00 AM,
or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: March 28, 1997

By David B. Seals
DAVID B. SEALS Counsel

1 DAVID B. SEALS, Counsel
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000

5 Telephone: (916) 227-0789

FILED
FEB 19 1997
DEPARTMENT OF REAL ESTATE

By *Kathleen Contreas*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 NARINDER PAUL SINGH MAHAL,) NO. H-1324 FRESNO
13 Respondent.) ACCUSATION
14 _____)

15 The Complainant, Dolores Vazquez-Ramos, a Deputy Real
16 Estate Commissioner of the State of California for cause of
17 Accusation against NARINDER PAUL SINGH MAHAL (hereinafter
18 "Respondent") is informed and alleges as follows:

19 I

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

24 II

25 The Complainant, Dolores Vazquez-Ramos, a Deputy Real
26 Estate Commissioner of the State of California, makes this
27 Accusation in her official capacity.

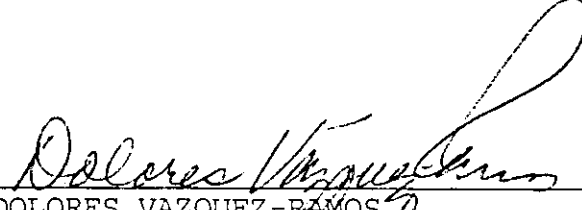
1 III

2 On or about February 22, 1994, in the United States
3 District Court, Northern District of California, Respondent was
4 convicted of violation of Title 18 United States Code Section
5 201(b)(1)(c) (Bribery of a Public Official), a felony and a crime
6 involving moral turpitude which is substantially related under
7 Section 2910, Title 10, California Code of Regulations to the
8 qualifications, functions or duties of a real estate licensee.

9 IV

10 The facts alleged above constitute cause under Sections
11 490 and 10177(b) of the Code for suspension or revocation of all
12 licenses and license rights of Respondent under the Real Estate
13 Law.

14 WHEREFORE, Complainant prays that a hearing be conducted
15 on the allegations of this Accusation and that upon proof thereof,
16 a decision be rendered imposing disciplinary action against all
17 licenses and license rights of Respondent under the Real Estate
18 Law (Part 1 of Division 4 of the Business and Professions Code),
19 and for such other and further relief as may be proper under other
20 provisions of law.

21
22 
23 DOLORES VAZQUEZ-RAMOS
24 Deputy Real Estate Commissioner

25
26 Dated at Fresno, California,
27 this 5th day of February, 1997.

