

FILED
JUL 12 2001

DEPARTMENT OF REAL ESTATE

By Shelly Ely

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)

DONNA M. NEW,)

Respondent.)

No. H-2440 SD

ORDER GRANTING REINSTATEMENT OF LICENSE

On May 4, 1999, an Order was rendered herein revoking the real estate broker license of Respondent, but granting Respondent the right to the issuance of a restricted real estate salesperson license. A restricted real estate salesperson license was issued to Respondent on June 17, 1999, and Respondent has operated as a restricted licensee without cause for disciplinary action against Respondent since that time.

On June 21, 2000, 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.

///

1 I have considered the petition of Respondent and the
2 evidence and arguments in support thereof including Respondent's
3 record as a restricted licensee. Respondent has demonstrated to
4 my satisfaction that Respondent meets the requirements of law for
5 the issuance to Respondent of an unrestricted real estate broker
6 license and that it would not be against the public interest to
7 issue said license to Respondent.

8 NOW, THEREFORE, IT IS ORDERED that Respondent's
9 petition for reinstatement is granted and that a real estate
10 broker license be issued to Respondent if Respondent satisfies
11 the following conditions within nine months from the date of this
12 Order:

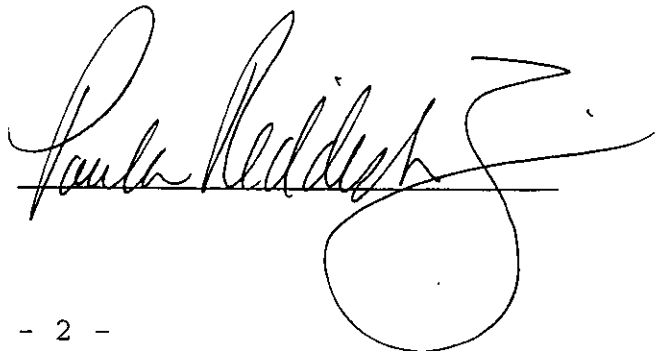
13 1. Submittal of a completed application and payment of
14 the fee for a real estate broker license.

15 2. Submittal of evidence of having, since the most
16 recent issuance of an original or renewal real estate license,
17 taken and successfully completed the continuing education
18 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
19 for renewal of a real estate license.

20 This Order shall be effective immediately.

21 DATED: June 29, 2001

22 PAULA REDDISH ZINNEBANN
23 Real Estate Commissioner

24
25
26
27


DEPARTMENT OF REAL ESTATE
P. O. Box 187000
Sacramento, CA 95818-7000
Telephone: (916) 227-0789

DEPARTMENT OF REAL ESTATE

By Jan Rumbold

* * *

In the Matter of the Accusation of)
DONNA M. NEW,) NO. H-2440 SD
Respondent.) STIPULATION AND AGREEMENT

It is hereby stipulated by and between DONNA M. NEW (hereinafter "Respondent") and her attorney of record, WHITE and BRIGHT by David S. Bright, and the Complainant, acting by and through David B. Seals, Counsel for the Department of Real Estate; as follows, for the purpose of settling and disposing of the Accusation filed on September 25, 1998, in this matter:

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondent at a formal hearing on the Accusation, which hearing was to be held in accordance with the provisions of the Administrative Procedure Act (APA) (Government Code Section 11500 et seq.), shall instead and in place thereof be submitted solely on the basis of the provisions of this Stipulation and Agreement.

1 2. Respondent has received, read and understands the
2 Statement to Respondent, the Discovery Provisions of the APA, and
3 the Accusation filed by the Department of Real Estate in this
4 proceeding.

5 3. On October 14, 1998, Respondent filed a Notice of
6 Defense pursuant to Section 11505 of the Government Code for the
7 purpose of requesting a hearing on the allegations in the
8 Accusation. Respondent hereby freely and voluntarily withdraws
9 said Notice of Defense. Respondent acknowledges that she
10 understands that by withdrawing said Notice of Defense she waives
11 her right to require the Commissioner to prove the allegations in
12 the Accusation at a contested hearing held in accordance with the
13 provisions of the APA and that she waives other rights afforded to
14 her in connection with the hearing such as the right to present
15 evidence in defense of the allegations in the Accusation and the
16 right to cross-examine witnesses.

17 4. This Stipulation is based on the factual allegations
18 contained in the Accusation. In the interests of expedience and
19 economy, Respondent chooses not to contest these allegations, but
20 to remain silent and understands that, as a result thereof, these
21 factual allegations, without being admitted or denied, will serve
22 as a prima facie basis for the disciplinary action stipulated to
23 herein. The Real Estate Commissioner shall not be required to
24 provide further evidence to prove said factual allegations.

25 5. It is understood by the parties that the Real Estate
26 Commissioner may adopt the Stipulation and Agreement as his
27 Decision in this matter, thereby imposing the penalty and

1 sanctions on Respondent's real estate license and license rights
2 as set forth in the below "Order". In the event that the
3 Commissioner in his discretion does not adopt the Stipulation and
4 Agreement, it shall be void and of no effect, and Respondent shall
5 retain the right to a hearing and proceeding on the Accusation
6 under all the provisions of the APA and shall not be bound by any
7 admission or waiver made herein.

8 6. The Order or any subsequent Order of the Real
9 Estate Commissioner made pursuant to this Stipulation and
10 Agreement shall not constitute an estoppel, merger or bar to any
11 further administrative or civil proceedings by the Department of
12 Real Estate with respect to any matters which were not
13 specifically alleged to be causes for accusation in this
14 proceeding.

15
16 DETERMINATION OF ISSUES

17 By reason of the foregoing stipulations and waivers, and
18 solely for the purpose of settlement of the pending Accusation
19 without a hearing, it is stipulated and agreed that the following
20 determination of issues shall be made:

21 I

22 The conduct of the Respondent, as alleged in the
23 Accusation, constitutes cause for the suspension or revocation of
24 the real estate license and license rights of Respondent under the
25 provisions of Section 10177(d) of the California Business and
26 Professions Code (hereinafter the "Code").

27 ///

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7

DONNA M. NEW 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 Order. 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:

- 14
15
16
17
18
19
20
21
22
23
24
25
26
27

- 1 3. Respondent shall not be eligible to apply for the
2 issuance of an unrestricted real estate license nor
3 for the removal of any of the conditions,
4 limitations or restrictions of a restricted license
5 until 1 year has elapsed from the effective date of
6 this Order.
- 7 4. Respondent shall submit with any application for
8 license under an employing broker, or any
9 application for transfer to a new employing broker,
10 a statement signed by the prospective employing real
11 estate broker on a form approved by the Department
12 of Real Estate which shall certify:
- 13 (a) That the employing broker has read the Decision
14 of the Commissioner which granted the right to
15 a restricted license; and,
- 16 (b) That the employing broker will exercise close
17 supervision over the performance by the
18 restricted licensee relating to activities for
19 which a real estate license is required.
- 20 5. Respondent shall, within six months from the effective
21 date of this Order, take and pass the Professional
22 Responsibility Examination administered by the
23 Department including the payment of the appropriate
24 examination fee. If Respondent fails to satisfy this
25 condition, the Commissioner may order suspension of
26 Respondent's license until Respondent passes the
27 examination.

4/23/99

DATED



DAVID B. SEALS, Counsel
DEPARTMENT OF REAL ESTATE

* * *

I have read the Stipulation and Agreement, have discussed it with my counsel, and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and I willingly, intelligently and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

4/19/99

DATED



DONNA M. NEW, Respondent

I have reviewed the Stipulation and Agreement as to form and content and have advised my client accordingly.

4/16/99

DATED



DAVID S. BRIGHT
Attorney for Respondent

1 * * *

2 The foregoing Stipulation and Agreement is hereby
3 adopted by the Real Estate Commissioner as his Decision and Order
4 and shall become effective at 12 o'clock noon on
5 June 17, 1999.
6

7 IT IS SO ORDERED May 4, 1999.

8 JOHN R. LIBERATOR
9 Acting Real Estate Commissioner

10
11 John R. Liberator
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
DEC 29 1998

DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

DONNA M. NEW

Case No. H-2440 By Shelly Clay

OAH No. L-1998100303

Respondent

SECOND CONTINUED
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, 1350 Front Street, Suite 6022,

San Diego, California 92101

on Wednesday--February 17, 1999, at the hour of 9:00 AM,
or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of
hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten
(10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days
will deprive you of a change in the place of the hearing.

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 and pay his or her costs. The
interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: December 29, 1998

By David B. Seals
DAVID B. SEALS Counsel

FILED
NOV 20 1998

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

Shelly Ely

In the Matter of the Accusation of

DONNA M. NEW

Case No. H-2440 SD

OAH No. L-1998100303

Respondent

FIRST CONTINUED
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, 1350 Front Street, Suite 6022,

San Diego, California 92101

on Friday--January 8, 1999, at the hour of 10:00 AM,
or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

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 and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

Dated: November 20, 1998

DEPARTMENT OF REAL ESTATE

By

David B. Seals
DAVID B. SEALS

Counsel

FILED
NOV 3 1998
DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

By Shelly Ely

In the Matter of the Accusation of

DONNA M. NEW

} Case No. H-2440 SD
OAH No. L-1998100303

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, 1350 Front Street, Room 6022,

San Diego, California 92101

on Monday--November 30, 1998, at the hour of 9:00 AM,
or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

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 and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

Dated: November 3, 1998

DEPARTMENT OF REAL ESTATE

By David B. Seals
DAVID B. SEALS Counsel

1 DAVID B. SEALS, Counsel
2 State Bar No. 69378
3 Department of Real Estate
4 P. O. Box 187000
5 Sacramento, CA 95818-7000
6
7 Telephone: (916) 227-0789
8

FILED
SEP 25 1998
DEPARTMENT OF REAL ESTATE

By Jean R. Smith

9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)
13 DONNA M. NEW,) No. H-2440 SD
14 Respondent.) ACCUSATION

15 The Complainant, J. Chris Graves, a Deputy Real Estate
16 Commissioner of the State of California, for cause of Accusation
17 against DONNA M. NEW, (hereinafter Respondent), is informed and
18 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 estate
23 broker.

24 II

25 The Complainant, J. Chris Graves, a Deputy Real Estate
26 Commissioner of the State of California, makes this Accusation in
27 his official capacity and not otherwise.



1 III

2 On or about January 24, 1997, Respondent submitted an
3 application to American Savings (hereinafter "American") for a
4 loan to purchase the real property located at 10819 Riesling
5 Drive, San Diego 92131.

6 IV

7 On or about January 24, 1997, Respondent submitted an
8 application to American for a loan to purchase the real property
9 located at 2323 Locust Street, San Diego.

10 V

11 In connection with both of the loan applications
12 referred to in Paragraphs III and IV Respondent was required to
13 submit copies of her tax returns. However, the tax returns
14 submitted by Respondent to American reflected substantially more
15 income than those submitted to the Internal Revenue Service.

16 VI

17 The actions of Respondent as alleged in Paragraph V
18 above were dishonest or fraudulent and were known or should have
19 been known by Respondent to be dishonest or fraudulent at the
20 times they were made.

21 VII

22 On the basis of the false tax returns submitted to
23 American the loan applications referred to in Paragraphs III and
24 IV were approved and funded. If American had known that the true
25 facts and that the submitted returns were fraudulent they would
26 not have approved the loans.

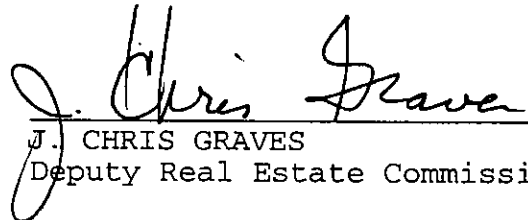
27 ///



VIII

By reason of the facts alleged above, Respondent has committed acts and/or omissions that constitute fraud and/or dishonest dealing, and constitute grounds for disciplinary action under the provisions of Section 10177(j) of the Code.

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.


J. CHRIS GRAVES
Deputy Real Estate Commissioner

Dated at San Diego, California,
this 23rd day of September, 1998.