

FILED
SEP - 9 2004
DEPARTMENT OF REAL ESTATE

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)
W. E. GRANT CREDIT CONSTRUCTION,)
INC. and ETHEL LUCILE NEILON,)
individually and as designated)
officer of W. E. Grant Credit)
Construction, Inc.,)
Respondents.)

No. H-28649 LA

L-2000090120

DECISION

The Proposed Decision dated July 20, 2004,
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.

This Decision shall become effective at 12 o'clock
noon on September 29, 2004.

IT IS SO ORDERED

September 2, 2004

JOHN R. LIBERATOR
Acting Real Estate Commissioner

John R. Liberator

**BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

In the Matter of the Accusation against:) Agency No. H-28649 LA
)
W. E. GRANT CREDIT CONSTRUCTION,)
Inc. and <u>ETHEL LUCILE NEILON</u> ,) OAH No. L-2000090120
Individually and as designated officer of)
W. E. Grant Credit Construction, Inc.,)
)
Respondents.)
)

PROPOSED DECISION

This case was tried before Paul M. Hogan, Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California on November 6, 2003 with respect to allegations contained in an Accusation filed on behalf of the above named department solely as to respondent Ethel Lucile Neilon.¹

Complainant was represented by staff counsel Chris Leong. Neither respondent Ethel Lucile Neilon nor her attorney, Robert M. Hindin, appeared in the evidentiary hearing conducted on November 6. The proof of service for the Notice of Hearing was checked, and it was determined that service was legally sufficient. At Complainant's request, the matter proceeded by default.

Complainant presented documentary evidence to prove up a prima facie basis for discipline of the licenses and/or licensing rights of respondent Neilon. This proposed decision will take up first Ms. Neilon's license history with the department, secondly the procedural background leading up to a departmental audit and the resulting administrative proceeding, and thirdly the formal findings on the substantive issues in the case.

Findings of Fact

Respondent's license history

1. Ethel Lucile Neilon ("Respondent") was first issued a real estate broker's license on April 1, 1983. On November 13, 1990, this license was revoked for cause, and a restricted broker's license was issued to her. The license discipline was based on respondent's unauthorized use of her individual license in transactions for which a corporate

¹ Allegations pertaining to the corporate respondent were settled separately.

real estate license was required and/or for her business's using, without prior authorization by the department, the corporate name as a personal "doing business as" name. The restricted broker's license expired on June 13, 2003.

2. On October 4, 1994, Respondent was issued a restricted officer license for her present co-respondent, W. E. Grant Credit Construction. This license expired on January 31, 2003.

3. Notwithstanding the expiration or lapsing of a license by operation of law or by order or decision by the department or a court of law, the department retains jurisdiction to institute disciplinary proceedings against such licensee, or to render a decision suspending or revoking such license. (Bus. & Prof. Code, section 10103)

Procedural background of this action

4. Respondent was initially represented in these proceedings by her attorney, Robert M. Hindin. Neilson was never available to complainant's investigators. In April of 2000, she was reported to be ill and not to have been to her business offices since the middle of 1999. On August 23, 2001, respondent's attorney represented that Respondent had suffered a stroke, was bed-ridden and required 24 hour-a-day care. Mr. Hindin ventured his opinion that respondent would not renew her license and that she was then incapable of functioning as a real estate broker. He then informally moved for an order to take her case "... off calendar based on her physical and mental incapacity."

5. On May 16, 2003, complainant filed a request for setting, which was served on Mr. Hindin. On June 4, 2003, a Notice of Continued Hearing, setting the case for hearing on November 6, 2003 was filed and served on both Mr. Hindin and Respondent.

6. On November 6, 2003, the matter came on for hearing. Respondent did not personally appear, nor did anyone appear in her behalf. Counsel for complainant presented evidence sufficient to establish a prima facie prove-up of the material allegations against respondent. The matter was submitted subject to further inquiry about Respondent's current status.

7. On June 2, 2004, counsel for both parties, and the undersigned Administrative Law Judge conferred by phone. On that date Respondent had been in a coma for six months; however, no action has been taken on Mr. Hindin's request for an order placing Respondent's case off-calendar because of her alleged incapacity, and no evidence had been presented in regard to Respondent's medical condition. Complainant's counsel renewed his request for a proposed decision, based on evidence submitted at the November 6, 2003 default hearing. The matter now stands submitted for decision.

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Findings on the Accusation

8. Thomas McCrady is a Deputy Real Estate Commissioner of the State of California and filed and served the Accusation in this matter solely in his official capacity.

9. At all times herein mentioned, respondent was licensed or had, and now has, license rights under the Real Estate Law as a real estate broker.

10. At all times herein mentioned, in Los Angeles County, California, for compensation or in expectation of compensation, respondent engaged with the public in the real estate loan business, wherein borrowers and lenders of loans secured by interests in real property were solicited and negotiated on behalf of borrowers and lenders.

11. Beginning on or about April 12, 2000 and continuing through the present, respondent has failed to retain and to make available for examination and inspection by a designated representative of the Commissioner all documents Respondent had obtained during the prior three years that were executed or acquired by respondent in connection with transactions for which a real estate license was required. Such documents include, but are not limited to, the following:

a. Complete copies of loan files and escrow file documents on transactions involving Jennifer Turner and Terri LaBlanc;

b. All records showing compensation in any manner paid or expected to be paid to all persons employed by W. E. Grant Credit Construction, Inc. (licensed and unlicensed)

12. On or about August 6, 1996, in case number H-22657 LA, an Accusation was filed against respondent. On October 22, 1990, a Decision was rendered granting respondent a restricted broker license. In the case, grounds existed pursuant to Business and Professions Code section 10177(d) to revoke respondent's license because of violations of Business and Professions Code sections 10130 and 10159.5. On August 14, 1995, an Order Denying Reinstatement of License was filed in the same case.

Conclusions of Law

By reason of the foregoing facts it is determined that grounds exist for the suspension or revocation of respondent's licenses and licensing right under Business and Professions Code Section 10177(d) and 10148; however, in light of the whole record, the public interest may be protected by issuance of the following order revoking respondent's licenses and licensing rights, but allowing the issuance to her of a restricted real estate broker's license upon terms and conditions pursuant to section 10156.7 of the Business and Professions Code.

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Order

All licenses and licensing rights of respondent Ethel Lucile Neilon under the Real Estate Law are revoked; provided, however, she may then apply for a restricted real estate broker license, and such license shall be issued to respondent pursuant to section 10156.5 of the Business and Professions Code if respondent makes application therefore, pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days of the effective date of this Decision, and complies with the provisions of the five express conditions precedent set forth below as paragraphs 1 through 5 of this order. The restricted license then issued to respondent shall be subject to all of the provisions of section 10156.7 of the Business and Professions Code and to such other and further conditions as may be imposed by the Commissioner in the exercise of a reasonable discretion, including, but not limited to, the following, all under the authority of section 10156.6 of the Code:

Conditions precedent:

Each of the following five requirements (paragraphs 1 through 5 below) is a condition precedent to the issuance or creation of any license or licensing right under the Real Estate Law to respondent, and all five conditions must be met before issuance to her of any license or incidental rights.

1. Before submitting an application for a restricted license, respondent shall undergo and complete a psychiatric evaluation (and psychological testing, if deemed necessary) by a state-licensed, board certified psychiatrist, who shall consider any information provided by the Commissioner and any other information the psychiatrist deems relevant, and shall furnish a written evaluation report to the Commissioner. Psychiatric evaluations conducted prior to the effective date of this Decision shall not be accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all psychiatric evaluations and psychological testing.

2. Moreover, before submitting such an application, respondent shall also undergo a medical evaluation by a state-licensed physician who shall consider any information provided by the Commissioner and any other information the evaluating physician deems relevant and shall furnish a medical report to the Commissioner. Medical evaluations conducted prior to the effective date of this Decision shall not be accepted towards the fulfillment of this requirement. Respondent shall pay the cost of all medical evaluations and testing.

3. Respondent shall not act as a real estate broker until notified by the Commissioner that the Commissioner has determined Respondent to be mentally and medically fit to safely act as a real estate broker.

4. If the professionals who examine and evaluate respondent recommend psychiatric, psychological or medical treatment for her and the Commissioner determines that those recommendations should be followed, respondent

shall, within 30 calendar days of being informed of that decision, submit to the Commissioner for prior approval the name and qualifications of a treating therapist or physician of respondent's choice. Upon approval of the treating therapist or physician, respondent shall, within 15 calendar days, undertake treatment and shall continue such treatment until further notice from the Commissioner or the termination of probation, whichever first occurs. Respondent shall have the treating therapist or physician submit quarterly reports to the Commissioner indicating whether or not the respondent is capable of doing business as a licensed real estate broker in a manner consistent with public safety. Respondent shall provide the Commissioner with any and all medical records pertaining to treatment, that the Commissioner deems necessary. Respondent shall pay the cost of medical and psychiatric treatment.

5. If, prior to the completion of the time period of restricted licensure, respondent is found to be physically or mentally incapable of resuming the practice of real estate without restrictions, the Commissioner shall retain continuing jurisdiction over respondent's license and period of restricted licensure shall be extended until the Commissioner determines that respondent is physically and mentally capable of resuming the practice of real estate without restrictions.

Restrictions:

a. 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, or upon 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.


b. 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 years have elapsed from the effective date of this decision.

c. The period of time that respondent is not practicing real estate shall not be counted toward completion of the term of license restriction.

d. Respondent shall, within nine months of the effective date hereof, present evidence to the satisfaction of the commissioner that she 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.

July 20, 2004


PAUL M. HOGAN
Administrative Law Judge
Office of Administrative Hearings

SAC

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
W. E. GRANT CREDIT CONSTRUCTION, INC.)
and ETHEL LUCILE NEILON, individually)
and as designated officer of W. E.)
Grant Credit Construction, Inc.,)

Respondent(s)

Case No. H-28649 LA

OAH No. L-2000090120

FILED
JUN - 4 2003
DEPARTMENT OF REAL ESTATE

NOTICE OF CONTINUED HEARING ON ACCUSATION

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on THURSDAY, NOVEMBER 6, 2003, at the hour of 9:00 A.M., 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: June 4, 2003

By

Chris Leong
CHRIS LEONG, Counsel

cc: Ethel Lucile Neilon
Robert Marc Hindin, Esq.
L.A. Audits/Oh
Sacto.
OAH

SAC

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
W. E. GRANT CREDIT CONSTRUCTION, INC.)
and ETHEL LUCILE NEILON, individually)
and as designated officer of W. E.)
Grant Credit Construction, Inc.,)

Respondent(s)

Case No. H-28649 LA

OAH No. L-2000090120

FILED
DEC 13 2002
DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

By Chris Leong

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on THURSDAY, APRIL 24, 2003, at the hour of 9:00 A.M., 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.

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DEPARTMENT OF REAL ESTATE

Dated: December 13, 2002

By Chris Leong
CHRIS LEONG, Counsel

cc: Ethel Lucile Neilon
Robert Marc Hindin, Esq.
Sacto.
OAH

1 Department of Real Estate
2 320 West Fourth Street, Suite 350
3 Los Angeles, California 90013-1105
4 Telephone: (213) 576-6982
5 Direct: (213) 576-6910

FILED
AUG 15 2001
DEPARTMENT OF REAL ESTATE

By CS

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12) NO. H-28649 LA
13 W. E. GRANT CREDIT CONSTRUCTION,)
14 INC. and ETHEL LUCILE NEILON,) L-2000090120
15 individually and as designated)
16 officer of W. E. Grant Credit)
17 Construction, Inc.,)
18 Respondents.)

16 STIPULATION AND AGREEMENT

17 It is hereby stipulated by and between W. E. GRANT
18 CREDIT CONSTRUCTION, INC. (hereinafter "Respondent"),
19 represented by Robert Marc Hindin, Esq., and the Complainant,
20 acting by and through Chris Leong, Counsel for the Department
21 of Real Estate, as follows for the purpose of settling and
22 disposing of the Accusation filed on July 20, 2000, in this
23 matter. The matter of Ethel Lucile Neilon will be handled
24 separately.

25 1. All issues which were to be contested and all
26 evidence which was to be presented by Complainant and
27 Respondent at a formal hearing on the Accusation, which

1 hearing was to be held in accordance with the provisions of
2 the Administrative Procedure Act, shall instead and in place
3 thereof be submitted solely on the basis of the provisions of
4 this Stipulation and Agreement.

5 2. Respondent has received, read and understands
6 the Statement to Respondent, the Discovery Provisions of the
7 Administrative Procedure Act and the Accusation, filed by the
8 Department of Real Estate in this proceeding.

9 3. On August 15, 2000, Respondent filed a Notice of
10 Defense pursuant to Section 11505 of the Government Code for
11 the purpose of requesting a hearing on the allegations in the
12 Accusation. Respondent hereby freely and voluntarily
13 withdraws said Notice of Defense. Respondent acknowledges
14 that it understands that by withdrawing said Notice of Defense
15 it will thereby waive its right to require the Commissioner to
16 prove the allegations in the Accusation at a contested hearing
17 held in accordance with the provisions of the Administrative
18 Procedure Act and that Respondent will waive other rights
19 afforded to it in connection with the hearing, such as the
20 right to present evidence in defense of the allegations in the
21 Accusation and the right to cross-examine witnesses.

22 4. In the interest of expedience and economy,
23 Respondent chooses not to contest the factual allegations in
24 Paragraphs 1 through 7, (except Paragraph 5, 1) b. and c. of
25 the Accusation, but to remain silent and understands that, as
26 a result thereof, these factual statements, without being
27 admitted or denied, will serve as a prima facie basis for the



1 disciplinary action stipulated to herein. The Real Estate
2 Commissioner shall not be required to provide further evidence
3 to prove such allegations.

4 5. It is understood by the parties that the Real
5 Estate Commissioner may adopt the Stipulation and Agreement as
6 her Decision in this matter, thereby imposing the penalty and
7 sanctions on Respondent's real estate license and license
8 rights as set forth in the "Order" below. In the event that
9 the Commissioner in her discretion does not adopt the
10 Stipulation and Agreement, it shall be void and of no effect,
11 and Respondent shall retain the right to a hearing and
12 proceeding on the Accusation under all the provisions of the
13 Administrative Procedure Act and shall not be bound by any
14 admission or waiver made herein.

15 6. The Order or any subsequent Order of the Real
16 Estate Commissioner made pursuant to this Stipulation and
17 Agreement shall not constitute an estoppel, merger or bar to
18 any further administrative or civil proceeding by the
19 Department of Real Estate with respect to any matters which
20 were not specifically alleged to be causes for accusation in
21 this proceeding.

22 DETERMINATION OF ISSUES

23 By reason of the foregoing stipulations, admissions
24 and waivers and solely for the purpose of settlement of the
25 pending Accusation without a hearing, it is stipulated and
26 agreed that the following Determination of Issues shall be
27 made:

1 The acts and omissions of Respondent, described in
2 Paragraphs 1 through 7 (except Paragraph 5, 1) b. and c. of
3 the Accusation, are a violation of Section 10148 of the
4 California Business and Professions Code ("Code"), which is
5 cause for the suspension or revocation of all real estate
6 licenses and license rights of Respondent under the provisions
7 of Section 10177(d) of the Code.

8 ORDER

9 WHEREFORE, THE FOLLOWING ORDER is hereby made:

10 All licenses and licensing rights of Respondent
11 W. E. GRANT CREDIT CONSTRUCTION, INC. under the Real Estate
12 Law are suspended for a period of ninety (90) days from the
13 effective date of this Decision; provided, however, the first
14 thirty (30) days of the ninety (90) day suspension shall be
15 permanently stayed upon condition that:

16 1. Respondent pays a monetary penalty pursuant to
17 Section 10175.2 of the Business and Professions Code at the
18 rate of \$50.00 for each day of the suspension for a total
19 monetary penalty of \$1,500.00.

20 2. Said payment shall be in the form of a cashier's
21 check or certified check made payable to the Recovery Account
22 of the Real Estate Fund. Said check must be received by the
23 Department prior to the effective date of the Decision in this
24 matter.

25 3. The remaining sixty (60) days of the ninety (90)
26 day suspension shall be stayed on the condition that no
27 further cause for discipline of the license and license rights

1 of Respondent shall occur within two (2) years from the
2 effective date of the Decision in this matter.

3 4. If Respondent fails to pay the monetary penalty
4 in accordance with the terms and conditions of the Decision,
5 the Commissioner may, without a hearing, order the immediate
6 execution of all or any part of the stayed suspension in which
7 event the Respondent shall not be entitled to any repayment
8 nor credit, prorated or otherwise, for money paid to the
9 Department under the terms of this Decision.

10 5. If Respondent pays the monetary penalty and if
11 no further cause for disciplinary action against the real
12 estate license of Respondent occurs within two (2) years from
13 the effective date of the Decision, the ninety (90) day stay
14 hereby granted shall become permanent.

15 DATED:

7/24/01

CHRIS LEONG

CHRIS LEONG, ESQ.

Counsel for Complainant


17 * * *

18 I have read the Stipulation and Agreement, have
19 discussed it with my counsel, and its terms are understood by
20 me and are agreeable and acceptable to me. I understand that
21 I am waiving rights given to me by the California
22 Administrative Procedure Act (including but not limited to
23 Sections 11506, 11508, 11509 and 11513 of the Government
24 Code), and I willingly, intelligently and voluntarily waive
25 those rights, including the right of requiring the
26 Commissioner to prove the allegations in the Accusation at a
27 hearing at which we would have the right to cross-examine

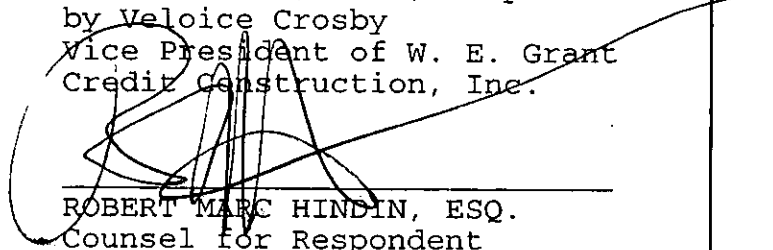
1 witnesses against me and to present evidence in defense and
2 mitigation of the charges.

3 Respondent can signify acceptance and approval of
4 the terms and conditions of this Stipulation and Agreement by
5 faxing a copy of the signature page, as actually signed by
6 Respondent, to the Department at the following telephone/fax
7 number (213) 576-6917. Respondent agrees, acknowledges and
8 understands that by electronically sending to the Department a
9 fax copy of his actual signature as it appears on the
10 Stipulation and Agreement, that receipt of the faxed copy by
11 the Department shall be as binding on Respondent as if the
12 Department had received the original signed Stipulation and
13 Agreement.

14 DATED: 6/6/2001


W. E. GRANT CREDIT
CONSTRUCTION, INC., Respondent
by Veloice Crosby
Vice President of W. E. Grant
Credit Construction, Inc.

15
16
17
18 DATED: 6/6/2001


ROBERT MARC HINDIN, ESQ.
Counsel for Respondent

19
20 * * *

21
22 The foregoing Stipulation and Agreement is hereby
23 adopted as my Decision in this matter and shall become
24 effective at 12 o'clock noon on September 4, 2001 .

25 IT IS SO ORDERED August 7, 2001

26 PAULA REDDISH ZINNEBANN
Real Estate Commissioner

542

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
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W. E. GRANT CREDIT CONSTRUCTION, INC.)
and ETHEL LUCILE NEILON, individually)
and as designated officer of W. E.)
Grant Credit Construction, Inc.,)

Respondent(s)

Case No. H-28649 LA

OAH No. L-2000090120

FILED
MAR 28 2001
DEPARTMENT OF REAL ESTATE

AMENDED NOTICE OF HEARING ON ACCUSATION, CA

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on WEDNESDAY, JUNE 6, 2001, at the hour of 9:00 A.M., 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.

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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: March 28, 2001

By

Chris Leong
CHRIS LEONG, Counsel

cc: W. E. Grant Credit Construction, Inc.
Ethel Lucile Neilon
Robert Marc Hindin, Esq.
Sacto.
OAH

5AC

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of)
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W. E. GRANT CREDIT CONSTRUCTION, INC.)
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Case No. H-28649 LA
OAH No. L-2000090120

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MAR 21 2001
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DEPARTMENT OF REAL ESTATE

Dated: March 21, 2001

By Chris Leong
CHRIS LEONG, Counsel

cc: Ethel Lucile Neilon
Robert Marc Hindin, Esq.
Sacto.
OAH

SAC

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
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Respondent(s)

Case No. H-28649 LA

OAH No. L-2000090120

FILED
OCT - 6 2000
DEPARTMENT OF REAL ESTATE

AMENDED NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on TUESDAY, NOVEMBER 21, 2000, at the hour of 9:00 A.M., 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.

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DEPARTMENT OF REAL ESTATE

Dated: October 6, 2000

By

CHRIS LEONG
CHRIS LEONG, Counsel

cc: W. E. Grant Credit Construction, Inc.
Ethel Lucile Neilon
Robert Hindin, Esq.
Sacto.
OAH

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
W. E. GRANT CREDIT CONSTRUCTION, INC.)
and ETHEL LUCILE NEILON, individually)
and as designated officer of W. E.)
Grant Credit Construction, Inc.,)
)
Respondent(s)

Case No. H-28649 LA

OAH No. L-2000090120

FILED
SEP 19 2000
DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

By C3

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on TUESDAY, NOVEMBER 21, 2000, at the hour of 9:00 A.M., 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: September 19, 2000

By

CHRIS LEONG
CHRIS LEONG, Counsel

cc: W. E. Grant Credit Construction, Inc.
Robert Hindin, Esq.
Sacto.
OAH

1 CHRIS LEONG, Counsel (SBN 141079)
2 Department of Real Estate
3 320 West Fourth Street, Suite 350
4 Los Angeles, California 90013-1105

5 Telephone: (213) 576-6982
6 -or- (213) 576-6910 (Direct)

FILED
JUL 20 2000
DEPARTMENT OF REAL ESTATE

By CS

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

11 In the Matter of the Accusation of)

12 W. E. GRANT CREDIT CONSTRUCTION,)
13 INC. and ETHEL LUCILE NEILON,)
14 individually and as designated)
15 officer of W. E. Grant Credit)
16 Construction, Inc.)

NO.H-28649 LA

A C C U S A T I O N

Respondents.)

17 The Complainant, Thomas McCrady, a Deputy Real Estate
18 Commissioner of the State of California, for cause of Accusation
19 against W. E. GRANT CREDIT CONSTRUCTION, INC. (hereinafter
20 "GRANT") and ETHEL LUCILE NEILON, individually and as designated
21 officer of W. E. Grant Credit Construction, Inc. (hereinafter
22 "NEILON") (hereinafter sometimes both referred to as
23 "Respondents"), is informed and alleges as follows:

24 1.

25 The Complainant, Thomas McCrady, a Deputy Real Estate
26 Commissioner of the State of California, makes this Accusation
27 against Respondents in his official capacity.

2.

At all times herein mentioned, Respondent GRANT was and still is licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code and was and still is licensed by the Department of Real Estate of the State of California (hereinafter "Department") as a corporate real estate broker.

3.

At all times herein mentioned, Respondent NEILON was and still is licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code (hereinafter "Code"), and was and still is licensed by the Department as a real estate broker, individually and as designated officer of W. E. Grant Credit Construction, Inc.

4.

At all times herein mentioned, in Los Angeles County, California, Respondents, for compensation or in expectation of compensation, engaged in the real estate loan business with the public, wherein borrowers and lenders of loans secured by interest in real property were solicited and negotiated on behalf of borrowers and lenders.

5.

Beginning on or about April 12, 2000, and continuing through the present, Respondents have failed to retain and make available for examination and inspection by a designated representative of the Commissioner, all documents executed or obtained by Respondents in connection with transactions for

1 which a real estate license is required during the last three
2 years, including, but not limited to, the following:

3 1) Complete copies of loan files and escrow file
4 documents, including but not limited to Loan Applications,
5 Federal Truth-In-Lending Disclosure, Estimate of Closing
6 Cost, Final Settlement Statements, escrow instructions,
7 copy of the promissory note, copies of Deed of Trust,
8 Verification of Employment, Verification of Deposit and
9 file letters or notes on the following transactions:

10 a. Jesse Lucas (615 W. 59th Street, Los Angeles
11 90044).

12 b. Jennifer Turner (5507 Canister Ave., Alta Loma
13 91737).

14 c. Terri LaBlanc (5950 Camper Drive, Riverside
15 92509).

16 2) All records showing compensation in any manner
17 paid or expected to be paid to all persons employed by
18 W. E. Grant Credit Construction, Inc. (licensed and
19 unlicensed personnel).

20 A Subpena dated April 12, 2000, requesting these
21 documents was personally served on Respondents.

22 6.

23 The facts alleged above are grounds for the suspension
24 or revocation of Respondents' licenses under Code Section
25 10177(d) in conjunction with Code Section 10148.

26 /////

27 /////



Prior Discipline

7.

On or about August 6, 1996, in case number H-22657 LA, an Accusation was filed against Respondent NEILON. On October 22, 1990, a Decision was rendered granting Respondent a right to the issuance of a restricted broker license. Grounds existed in that case pursuant to Code Section 10177(d) to revoke Respondent's license because of violations of Code Sections 10130 and 10159.5. On August 14, 1995, an Order Denying Reinstatement of License filed in the same case.

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 Respondents, W. E. GRANT CREDIT CONSTRUCTION, INC. and ETHEL LUCILE NEILON, individually and as designated officer of W. E. Grant Credit Construction, Inc., 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 applicable provisions of law.

Dated at Los Angeles, California
this 20th day of July, 2000.

THOMAS MCCRADY

Deputy Real Estate Commissioner

cc: W. E. Grant Credit Construction, Inc.
Ethel Lucile Neilon
Thomas McCrady
Sacto.
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