



NORTH CAROLINA REAL ESTATE COMMISSION Real Estate Bulletin

Volume 19

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Number 4

NEW RULES PROPOSED

The North Carolina Real Estate Commission is considering the adoption and amendment of the following rules affecting general brokerage practices and licensing requirements [NOTE: New or revised portions of rules are shown in **bold**]. If approved by the Commission, the new and amended rules will become effective July 1, 1989.

A.0104 LISTING CONTRACTS

(b) Every written listing contract shall contain a provision that the listed property be offered to all buyers, without respect to their race, color, religion, sex, national origin, handicap or familial status. Such provision shall be set forth in a clear and conspicuous manner which shall distinguish it from other provisions of the contract.

A.0105 ADVERTISING

(d) Business names. A broker or a salesman shall not include the name of a salesman or an unlicensed person in the name of a sole proprietorship, partnership or non-corporate business formed for the purpose of real estate brokerage.

A.0106 DELIVERY OF INSTRUMENTS

(a) Except as provided in Subsection (b) of this Rule, every broker or salesman shall immediately, but in no event later than five days from the date of execution, deliver to the parties thereto copies of any contract, offer, lease, or option affecting real property.

(b) A broker or salesman who has the express written authority to enter into leases or rental agreements on behalf of a property owner shall deliver to the owner, within thirty days from the date of execution, copies of leases or rental agreements when the tenancy is less than thirty days.

A.0107 HANDLING AND ACCOUNTING OF FUNDS

(h) A broker or salesman shall not disburse prior to closing any earnest money in his possession for any services performed in connection with a real estate transaction without the written consent of the parties.

A.0109 BROKERAGE FEES AND COMPENSATION

(a) A broker or salesman shall not receive, either directly or indirectly, any commission, rebate or other valuable consideration from a vendor or a supplier of goods and services for an expenditure made on behalf of his principal in a real estate transaction without the written consent of the broker's or salesman's principal;

(b) A broker or salesman shall not receive, either directly or indirectly, any commission,

rebate or other valuable consideration for services which he recommends, procures, or arranges relating to a real estate transaction for any party, without full disclosure to such party; provided, however, that nothing in this Rule shall be construed to permit a broker or salesman to accept any fee, kick-back, or other valuable consideration that is prohibited by the Real Estate Settlement Procedures Act of 1974 (12 USC 2601 et. seq.) or any rules and regulations promulgated by the United States Department of Housing and Urban Development pursuant to such Act.

(c) The commission is not a board of arbitration and has no jurisdiction to settle disputes between parties concerning such matters of contract as the rate of commissions, the division of commissions, pay of salesmen, and similar matters.

A.0112 OFFERS AND SALES CONTRACTS

(b) A broker or salesman acting as an agent in a real estate transaction shall not use a preprinted offer or sales contract form containing the provisions or terms listed below. A broker, salesman or anyone acting for or at the direction of the broker or salesman shall not insert or cause to be inserted the provisions or terms listed below into any preprinted form, even at the direction of the parties or their attorneys: [NOTE: The provisions relate to payment of brokerage fees and disclaimers of agent liability.]

A.0401 TIME AND PLACE

(a) Examinations for broker's and salesman's licenses will be scheduled at such times and places as determined by the executive director. Applicants will be scheduled for examination based on the date of application filing in accordance with the commission's published schedule of examination dates and application filing dates. Applicants will be given written notice of when and where to appear for examination.

(b) Except as provided in Subsection (d) of this Rule, an applicant who has been scheduled for a particular examination date will not be rescheduled for a later examination date unless a request to be rescheduled is made at least fifteen days in advance of the scheduled examination date. A scheduled examination

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NEW COMMISSION EMPLOYEES

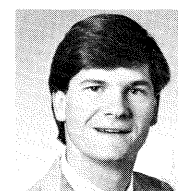
The Real Estate Commission is pleased to announce the recent employment of the following persons to its Raleigh staff:



Ann R. Britt has been employed as the Commission's *Examination and Licensing Coordinator* succeeding Miriam Baer who joined the Commission's legal staff. Ann holds a Bachelors degree, a Masters degree in Education/Counseling and a Doctorate in Adult Education. Ann has over ten years' experience in adult education and an extensive background in program development, testing and evaluation. In addition, she is a licensed real estate broker with four years experience in general real estate brokerage. In this expanded position, Ann will be responsible for coordinating the real estate license examination program as well as many aspects of the Commission's licensing operation.



Christopher B. Smith joins the Commission staff as a *Trust Account Auditor* succeeding Nancy Adams who left the Commission's employment after seven years of service. Chris received a Bachelors degree in Business Administration from North Carolina Central University. He then joined the Internal Revenue Service as an IRS Agent auditing individuals and corporations and later became a Special Agent conducting criminal investigations and reviewing financial records. As one of the Commission's two Trust Account Auditors, Chris will audit brokerage trust accounts in response to consumer complaints as well as conduct random trust account audits and inspections.



John Hilliard Zollicoffer, III has been named to the new position of *Information Officer*. Hill is a graduate of the University of North Carolina at Chapel Hill.

A licensed real estate broker, he was associated with a Durham real estate firm before joining the Real Estate Commission. As *Information Officer*, Hill will assume primary responsibility for answering the numerous telephone inquiries received each day from real estate licensees and consumers concerning the Real Estate Licence Law, the Commission's rules and general brokerage practices.

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REAL ESTATE BULLETIN

Published quarterly as a service to real estate licensees to promote a better understanding of the Real Estate License Law, Rules and Regulations, and proficiency in ethical real estate practice. The articles published herein shall not be reprinted or reproduced in any other publication without specific reference being made to their original publication in the North Carolina Real Estate Commission Real Estate Bulletin.

NORTH CAROLINA REAL ESTATE COMMISSION

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John H. Zollicoffer, III Information Off.
Anita R. Burt Cons. Prot. Officer
Ann R. Britt Exam/Lic. Coord.
Evelyn Johnston Education Coord.

* * * * *

Editor
Phillip T. Fisher

EXAM RESULTS

	Passed	Failed
NOVEMBER 1988		
Brokers	83	69
Salesmen	320	241
DECEMBER 1988		
Brokers	109	92
Salesmen	455	353
JANUARY 1989		
Brokers	154	106
Salesmen	682	411

NEW COMMISSION EMPLOYEES

(Continued from Page 1)



Anita R. Burt has been employed as *Consumer Protection Officer* to succeed Sonny Lamar who will be leaving the Commission this Spring. Anita holds a Bachelor's degree from Meredith College, a Masters degree from Ohio State University and a Doctorate from the University of Illinois. She also is a licensed real estate broker and a Graduate of the REALTORS Institute, with several years' experience in the general brokerage business. Anita will be responsible for reviewing documentation and answering questions regarding time share projects and sales, and will assist the Information Officer in processing consumer complaints against licensees.



Vickie U. Jordan joins the Commission staff as a *Legal Secretary*. Vickie previously worked for the Wake County Juvenile Court Counselors Office and the Wake County Sheriff's Department. Her duties with the Real Estate Commission involve providing secretarial support for the Commission's legal staff.



Brenda K. Hollings is the Commission's new *Assistant Records Specialist*. Before joining the Commission staff, Brenda was employed in various administrative and clerical capacities with the Shaw University Divinity School. In her new position, she will assist the Commission's clerical staff in maintaining records on its more than 80,000 licensees.

.....In other personnel news, the Commission recognized Director of Administration Mary Frances Whitley on having completed ten years' service with the Commission, and the Commission extended to former Trust Account Auditor Nancy Adams its appreciation for her seven years of dedicated service with the Commission as well as its sincere best wishes for success in the future. □

TRUST ACCOUNT SHORT COURSE CARAVAN

Registration Form

1. The Trust Account Short Course is designed to bring participants up to date on current laws, rules and procedures governing the handling of client funds and to assist real estate firms in developing good bookkeeping and recordkeeping practices.
2. Participation is limited to real estate licensees and trust account bookkeepers. (No unlicensed prelicensing students please.)
3. These courses are FREE. All the caravan courses listed below will start at 9:30 a.m. and will involve approximately 3 1/2 hours of instruction.
4. Registration forms must be received in the Commission Office at least 10 days prior to the course. Registrations will be confirmed in writing giving registrants more detailed information concerning the location of this course.

I wish to attend the following Trust Account Short Course:

- ☐ Wilmington (April 24) ☐ Fayetteville (April 26) ☐ Asheville (May 2)
☐ New Bern (April 25) ☐ Charlotte (May 1) ☐ Greensboro (May 3)

Name: _____ Bus. Phone: () _____

Address: _____ City _____ Zip _____

I am a: ☐ real estate licensee ☐ trust account bookkeeper ☐ other _____

Mail to N.C. Real Estate Commission, P.O. Box 17100, Raleigh, NC 27619-7100

MONTHLY TRUST ACCOUNT SHORT COURSE IN RALEIGH

Primary Date

March 14
April 11
May 9
June 13

Overflow Date

March 21
April 18
May 16
June 20

All Raleigh courses start at 1:00 p.m. and end at approximately 4:30 p.m.

1. To register for the course, telephone the Real Estate Commission's Education Department (919-733-9580) at least 10 days prior to the course. Please have your real estate license number (if any) handy! Registrations will be confirmed in writing giving registrants more detailed information concerning the location of the course.
2. Registrations will be accepted on a first-come, first-served basis. After the course scheduled for the "Primary Date" is full, additional registrants will be scheduled for the "Overflow Date."

APPRAISER REGULATION UPDATE

The North Carolina Real Estate Commission's proposals regarding the regulation of real estate appraisers will be considered at the current Session of the General Assembly. The Commission's "two-tiered" plan requiring appraisers to hold real estate licenses and creating a program whereby appraisers may become state-certified, has received the support of various prominent appraisal organizations and the North Carolina Association of REALTORS.

Following is a summary of some of the major provisions of the Commission's proposal:

- I. After June 30, 1990, require real estate (broker or salesman) license to appraise real estate.
 - A. Exceptions
 1. Government employees.
 2. Employees of banks, savings and loan associations and savings banks, and credit unions.
 3. Tax appraisers certified by NC Department of Revenue.
 4. Employees appraising real estate for their corporate employers.
 - B. Persons who violate real estate license law while appraising real estate would be subject to disciplinary action.
- II. Increase education requirements for real estate licenses as follows:
 - A. Salesman license—From 30 to 60 class hours to provide for needed additional instruction in appraisal and other real estate subjects.
 - B. Broker license—From 120 to 150 class hours to provide for additional appraisal course.
- III. Require one member of Real Estate Commission to be real estate appraiser.
- IV. Effective October 1, 1990, institute voluntary program for real estate brokers and salesmen who wish to become "state certified" real estate appraisers.
 - A. Must complete program to use the term "state certified" or other term implying state certification.
 - B. Additional appraisal education, experience and examination required
 1. Residential certification—75 class hours and two years appraisal experience, or equivalent.
 2. General certification—165 class hours and two years appraisal experience, or equivalent.
 - C. Up to 12 hours per year continuing education could be required.
 - D. Pre-certification and continuing education courses (if any) must be approved by Commission.
 - E. Certification fees (\$100-\$150) and renewal fees (\$50-100) would finance program.
- V. Appraisal Advisory Committee created to provide technical expertise to the Commission.

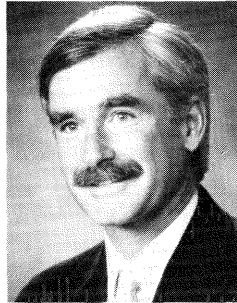
Copies of the proposed legislation may be obtained without charge by contacting the Real Estate Commission Office. □

EDUCATION NEWS

REAL ESTATE EDUCATOR CONFERENCE

The Real Estate Commission, in cooperation with the North Carolina Real Estate Educators Association (NCREEA), is sponsoring the 1989 North Carolina Real Estate Educator Conference (formerly called "Instructor Workshop") on April 10-11, 1989 in Raleigh. This annual conference is intended primarily for the benefit of Commission-approved preclicensing course instructors; however, other persons involved with real estate education are invited to attend on a space-available basis.

The featured speaker at this year's conference will be John Reilly of Honolulu, Hawaii (see photo). Mr. Reilly, who is President-Elect of the [National] Real Estate Educators Association (REEA), is a prominent real estate author and is considered to be the country's leading expert on Real Estate Agency Law. He is author of the popular reference book *The Language of Real Estate* and the book *Agency Relationships in Real Estate*, as well as co-author of other real estate books.



John Reilly

The conference will also include a panel discussion by successful instructors on their "secrets for success" and presentations regarding the recent education program changes, proposed appraiser regulation, examination problem topics, and other areas of interest. The conference will close with an "open forum" to enable participants to ask questions and express viewpoints.

INSTRUCTOR DEVELOPMENT WORKSHOP

Immediately following the conference, the NCREEA will sponsor a comprehensive Instructor Development Workshop (IDW) on April 11-12. The senior instructor for this IDW will be Marie Spodek, who owns the Professional School of Real Estate in Charleston, South Carolina and holds the Designated Real Estate Instructor (DREI) designation from REEA. The IDW will begin at 1:00 on April 11 and end at 5:00 on April 12. All instructors who did not attend the IDW held in Greensboro last September are strongly urged to attend. Participation is limited to 50 persons.

EXAM QUESTION BANK EXPANDED

The Real Estate Commission has recently expanded its license examination question bank. In accordance with established procedures, a special committee of experienced

real estate educators and practitioners met on November 14-15, 1988, and reviewed proposed questions written by the Commission Staff and other question writers. The committee reviewed nearly 250 questions and approved over 200 new questions for addition to the question bank.

The members of the Exam Question Review Committee (see photo) were:

James A. Hagan, Asheville
Asheville-Buncombe Technical
Community College
Century 21 Accent Properties
Frederick B. O'Neal, Raleigh
Howard Perry & Walston, REALTORS
Wake Technical Community College
Linda L. Johnson, Boone
Appalachian State University
Walter D. Laroque IV, Kinston
Foster Realty
Lenoir Community College
L. Thomas Council, Fayetteville
Council Real Estate
Former Commission Member

Specialty Experts:

Dale A. Swift (Appraisal), Greensboro
John McCracken & Associates
Patrick K. Hetrick (Law), Buies Creek
Dean, Campbell University School of Law
Gayle Saunders (Finance), Raleigh
Mortgage Information Services



Exam Question Review Committee (left to right): Walter D. Laroque IV, James A. Hagan, Frederick B. O'Neal, Larry A. Outlaw, Linda L. Johnson, L. Thomas Council, Miriam J. Baer. [Specialty experts not pictured].

The committee's review was performed under the leadership of Miriam J. Baer, former Examination Coordinator, and Larry A. Outlaw, Director of Education and Licensing. This committee will meet again in the Spring of 1989 to review additional proposed examination questions. The Commission greatly appreciates the assistance of these "experts" as it continues to improve its examination program.

TRUST ACCOUNT COURSE CARAVAN

The Real Estate Commission will take its Trust Account Short Course "on the road" again this Spring. Licensees and trust account bookkeepers are urged to participate in these FREE courses when offered in their area. (See the registration form on page 2 for a list of locations and dates as well as registration instructions.)

This course is also offered monthly at the Commission offices in Raleigh. (See the box on page 2 for a list of dates and registration instructions.) □

REGISTRATION OF MORTGAGE BANKERS AND MORTGAGE BROKERS

The North Carolina General Assembly, during last summer's legislative session, enacted a law requiring certain mortgage bankers and brokers to register with the Commission of Banks. A "mortgage banker" is defined as a person or entity who, for compensation, either directly or indirectly advances, offers to advance or commits to advancing funds to an applicant for a residential mortgage loan. And a "mortgage broker" is considered to be a person or entity in the business of soliciting or offering to solicit, process, place or negotiate residential mortgage loans for others. In view of these rather broad definitions, the question has arisen as to whether real estate brokers and salesmen are subject to the registration requirement because of the acts and services which they perform for purchasers and sellers in the normal course of real estate transactions.

The law specifically exempts "any licensed real estate agent or broker who is performing those activities subject to the regulation of the North Carolina Real Estate Commission." However, the exemption does not apply if the agent or broker "receives direct compensation or income in connection with the placement of a mortgage loan" (emphasis added). The question then is whether the activities of a broker or salesman in a "typical" residential sales transaction constitute "placement" of a mortgage loan and whether the agent's brokerage fee or commission could be considered "direct compensation or income." To answer these questions we must examine the role of the real estate broker or salesman in the typical or normal day-to-day sales transactions.

During the course of the typical residential sales transaction, the real estate broker or salesman will perform a variety of services for both the seller and the purchaser. Since most sales transactions are contingent upon the purchaser obtaining suitable financing, the agent will frequently assist the purchaser in arranging this financing in order to complete the transaction. This assistance, however, is normally limited to: estimating the amount of monthly mortgage payments; projecting the maximum loan amount for which buyers are likely to qualify; suggesting possible types of financing (VA, FHA, conventional, etc.); describing the loan process and procedures; and perhaps even recommending a lender or lenders for the purchaser to contact regarding financing. The agent may also assist the lender by coordinating various inspections and acting as liaison between the lender and the purchaser-borrower. At or following the closing of the transaction, the agent is compensated by the seller for having performed a complete range of services necessary to bring about the successful completion of the sale, including listing, advertising and showing the property, completing the offer to purchase form, etc.

Within the context of this example of a "typical" residential sales transaction, the limited services performed by the agent in connection with the purchaser's efforts to ob-

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PROPOSED RULES

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date may only be postponed until the next following scheduled examination date.

(c) An applicant who has been scheduled for examination at a particular location will not be rescheduled for examination at a different location unless a request to be rescheduled is made at least fifteen days in advance of the scheduled examination date.

(d) An applicant may be granted an excused absence from a scheduled examination if his absence was the direct result of an emergency situation or condition which was beyond the applicant's control and which could not have been reasonably foreseen by the applicant; however, business conflicts, vacation conflicts or conflicts of a similar nature are not acceptable under any circumstances as grounds for granting an excused absence. A request for an excused absence must be made in writing within fifteen days following the examination date and must be supported by appropriate documentation verifying the reason for the absence.

A.0406 EXAMINATION REVIEW

(b) An applicant may be granted an excused absence from a scheduled examination review if his absence was the direct result of an emergency situation or condition which was beyond the applicant's control and which could not have been reasonably foreseen by the applicant; however, business conflicts, vacation conflicts or conflicts of a similar nature are not acceptable under any circumstances as grounds for granting an excused absence. A request for an excused absence must be made in writing within fifteen days following the examination review date and must be supported by appropriate documentation verifying the reason for the absence. An applicant who fails to appear for a scheduled examination review or to obtain an excused absence in accordance with this rule shall be deemed to have waived his right to review his examination.

A.0501 CHARACTER

(c) Notice to the applicant that his moral character is in question shall be in writing, sent by certified mail, return receipt requested, to the address shown upon the application. The applicant shall have sixty (60) days from the date of receipt of this notice to request a hearing before the commission. Failure to request a hearing within this time shall constitute a waiver of the applicant's right to a hearing on his application for licensing, and the application shall be deemed denied. Nothing in this rule shall be interpreted to prevent an applicant from re-applying for licensure.

A.1501 LICENSING AND GENERAL BROKERAGE FORMS

The following forms are required by the commission for use in filing and submitting information with respect to license applications and general brokerage operations:

1. Application for Real Estate License
2. Application for a License to be Issued to a Corporation
3. Supervision of Salesman Notification
4. Broker-in-Charge Declaration

5. Application for Real Estate License Renewal
6. Consent to Service of Process and Pleadings
7. Affidavit of Residency

A.1502 FORMS FOR SCHOOL APPROVAL OR LICENSURE

The following forms are required by the commission for use in filing and submitting information with respect to school applications to conduct real estate pre-licensing courses:

1. Application for School Approval to Conduct Real Estate Pre-licensing Courses
2. Private Real Estate School License Application
3. Private Real Estate School Performance Bond
4. Supplement to Private Real Estate School License Application for Corporation Applicants
5. Consent to Service of Process and Pleadings for Nonresident Applicants for a Private Real Estate School License.
6. Application for Instructor Approval

A.1601 DISCRIMINATORY PRACTICES PROHIBITED

Conduct by brokers and salesmen which violates the provisions of the State Fair Housing Act constitutes improper conduct in violation of G.S. 93A-6(a)(10).

B.0701 FORMS FOR TIME SHARE PROJECTS

The following forms are required by the commission for use in filing and submitting information with respect to applications for time share project registration, renewal and termination:

1. Application for Time Share Project Registration
2. Affidavit of Time Share Project Broker
3. Affidavit of Time Share Registrar
4. Affidavit of Independent Escrow Agent
5. Developer Designation of Time Share Project Broker, Registrar and Independent Escrow Agent
6. Application for Time Share Project Renewal
7. Notice of Developer Termination of Time Share Project Registration
8. Consent to Service of Process and Pleadings

Any person interested in the Commission's proposals may present oral or written comments at a public rule-making hearing to be held at 9:00 a.m. on April 19, 1989 at the Real Estate Commission office, 1313 Navaho Drive, Raleigh, North Carolina [NOTE: Notice of this hearing has been published in the North Carolina Register pursuant to Chapter 150B of the N.C. General Statutes]. Written comments not presented at the hearing should be delivered or mailed to the Commission office, P.O. Box 17100, Raleigh, NC 27619-7100, so that they may be received by the hearing date. □

DISCIPLINARY ACTION

Penalties for violations of the Real Estate License Law and Commission Rules and Regulations vary depending upon the particular facts and circumstances present in each case. Due to space limitations in the Bulletin, a complete description of such facts cannot be reported in the following Disciplinary Action summaries.

FRED L. BIVENS (Raleigh) - The Commission revoked Mr. Bivens' broker's license effective December 6, 1988. The Commission found that Mr. Bivens had pleaded guilty to two criminal offenses involving moral turpitude which would reasonably affect his performance in the real estate business; namely, bank fraud and making a false statement to a federally insured financial institution.

BEVERLY E. BRANCH (Murphy) - The Commission revoked Ms. Branch's broker's license effective November 28, 1988 for failing to make her trust account records available for inspection by the Commission.

BERNADETTE CROSBY (Charlotte) - By Consent, the Commission suspended Ms. Crosby's broker's license for one year effective December 1, 1988. Three months of the suspension are to be active and the remainder suspended for a probationary period of one year. The Commission found that Ms. Crosby, while licensed as a real estate salesman, had failed to notify the Commission as to the Broker-in-Charge by whom she was supervised. Ms. Crosby neither admitted nor denied this finding.

WILLIAM D. DAVIS (Murphy) - By Consent, the Commission suspended Mr. Davis' broker's license for one year effective February 1, 1989. Three months of the suspension are to be active and the remainder was suspended for a probationary period of one year. The Commission found that Mr. Davis had made false statements to a purchaser by informing the purchaser that the listed price for a home and certain acreage was \$57,000 when, in fact, no separate price had been established by the seller for this property which was part of a larger tract of land. The Commission also found that Mr. Davis had failed to inform the seller of the buyer's offer to purchase the separate tract.

ANDREW JACKSON DEBNAM (Garner) - The Commission revoked Mr. Debnam's salesman's license effective November 9, 1988 for making a false statement on his application for a real estate license and for his conviction of a criminal offense involving moral turpitude which would reasonably affect his performance in the real estate business; namely, trafficking, conspiracy to traffic and conspiracy to sell and deliver a controlled substance.

JOHN W. EBY (New Hanover County) - The Commission revoked Mr. Eby's broker's license effective June 29, 1988. The Commission found that Mr. Eby had misrepresented to a purchaser that units in a planned project were being offered for sale when, in fact, they were not. The Commission also found that he had obtained on one of the units a \$5,000 deposit which he failed to deposit in a trust account and instead converted to his own use, and that he had failed to maintain records of the receipt and disbursement of such deposit.

DAVID L. GODWIN (Fayetteville) - By Consent, the Commission revoked Mr. Godwin's broker's license effective October 10, 1988. The Commission found that Mr. Godwin had commingled his own funds with those funds which he held for others and that his trust account did not contain monies sufficient to equal the amount of trust funds which he had received from others. The Commission noted that Mr. Godwin maintained accurate records of the transactions affecting his trust account.

FREDERICK K. KELLUM (Fayetteville) - The Commission revoked Mr. Kellum's salesman's license effective November 21, 1988 for failing to deliver trust funds to his supervising Broker-in-Charge and for failing to account for and remit such funds.

LARRY C. LANGLEY (Blowing Rock) - By Consent, the Commission reprimanded Mr. Langley for failing to disclose to the seller his role as a "straw buyer" in the purchase of real estate.

MAC, INC. t/a CHEROKEE LAND COMPANY (Murphy) - By Consent, the Commission accepted the permanent voluntary surrender of the corporate real estate license of MAC, Inc. The Commission found that a disciplinary matter was pending against the corporation alleging violations of the Real Estate License Law and Commission Rules, and that a separate disciplinary matter was pending before the Commission alleging that the principal of the corporation had pleaded guilty to a criminal offense involving moral turpitude. The corporation neither admitted nor denied any misconduct.

ROBERT L. MARTIN (Wake County) - By Consent, the Commission suspended Mr. Martin's broker's license for forty-five days effective January 15, 1989. The Commission found that Mr. Martin, as owner of certain apartments, had improperly failed to maintain a tenant's security deposit in a trust account and had converted it to his own use.

CHARLES W. McHAN (Murphy) - By Consent, the Commission accepted the permanent voluntary surrender of Mr. McHan's broker's license. The Commission found that a disciplinary matter was pending against Mr. McHan alleging violations of the Real Estate License Law and Commission Rules, and that in a separate disciplinary matter, he had pleaded guilty to a criminal offense involving moral turpitude which would reasonably affect his performance in the real estate business; namely, possession with intent to distribute a controlled substance.

NELSON B. MILLER and TOPSAIL LAND COMPANY, INC. (Sneads Ferry) - The Commission revoked Mr. Miller's broker's license and the corporate real estate license of Topsail Land Company, Inc. effective June 1, 1986. Mr. Miller had appealed the Commission's Order to Wake County Superior Court which affirmed the Commission's Decision and Order in its entirety. The Commission found that Mr. Miller and Topsail Land Company had collected insurance premiums that included a secret, additional administrative fee from purchasers of units in a townhouse project without the full knowledge of the insurance company and the unit purchasers. The Commission also found that Mr. Miller

had forged the insurance company's endorsement on the premium checks and failed to apply the monies collected to the purchase of the insurance.

JOHN M. O'NEILL (Chapel Hill) - By Consent, the Commission suspended Mr. O'Neill's broker's license for five years effective December 15, 1988 for failing to properly maintain the trust accounts of the real estate firm for which he was designated Broker-in-Charge.

WANDA A. POOLE (Hickory) - The Commission suspended Ms. Poole's broker's license for one year effective June 19, 1988 for making an unauthorized disbursement of an earnest money deposit which she knew to be the subject of a dispute.

JULIEN D. RATTELADE (Wake County) - By Consent, the Commission reprimanded Mr. Rattelade. The Commission found that Mr. Rattelade, as Broker-in-Charge of a real estate company, had failed to ensure that the lease form employed by the company complied with the Tenant Security Deposit Act. The Commission also found that he failed to ensure that tenant security deposits were maintained in a trust account, and that all trust accounts of the company were properly designated as trust or escrow accounts. The Commission further found that Mr. Rattelade had failed to notify a tenant that the tenant's security deposit had been forwarded to the landlord.

RIPARIAN, INC. (Carolina Beach) - By Consent, the Commission revoked the corporate real estate license of Riparian, Inc. effective October 1, 1988 for failing to disclose material facts to condominium purchasers concerning the payment of common area assessments by the project owner. Riparian neither admitted nor denied the allegations.

RONALDO INVESTMENT CORPORATION (Charlotte) - By Consent, the Commission revoked the corporate real estate license of Ronaldo Investment Corporation effective December 31, 1988. The Commission found, on the basis of its inspection of the corporation's trust account, that there was a shortage in the account at the time of the inspection. The corporation neither admitted nor denied this finding.

ALAN B. RUBENSTEIN (Greenville) - By Consent, the Commission revoked Mr. Rubenstein's broker's license effective January 18, 1989 upon finding that Mr. Rubenstein had been convicted of a criminal offense involving moral turpitude which would reasonably affect his performance in the real estate business; namely, possession with intent to sell a controlled substance.

WILLIAM R. SHELTON (Wilmington) - By Consent, the Commission revoked Mr. Shelton's broker's license effective December 15, 1988 upon finding that Mr. Shelton had been convicted of a criminal offense involving moral turpitude which would reasonably affect his performance in the real estate business; namely, larceny of goods of a value of more than \$400.

FRED M. SILVER (Blowing Rock) - By Consent, the Commission suspended Mr. Silver's broker's license for one year effective January 1, 1989. The Commission then sus-

pended its Order and placed Mr. Silver on probation for one year. The Commission found that Mr. Silver, as listing agent, had failed to disclose to the sellers his purchase of their property through a "straw buyer." The Commission noted in its findings that Mr. Silver had entered into a civil settlement with the sellers.

SOUTHLANTIC MANAGEMENT CORPORATION (Wake County) - By Consent, the Commission reprimanded Southlantic Management Corporation for employing a lease form which did not comply with the Tenant Security Deposit Act, for forwarding a tenant security deposit to the landlord without the tenant's consent, and for failing to designate accounts as trust or escrow accounts.

STO-MYER PROPERTIES, INC. (Roanoke Rapids) - By Consent, the Commission suspended the corporate real estate license of Sto-Myer Properties, Inc. for two years effective April 1, 1989. The Commission then suspended its Order and placed the corporation on probation for two years. The Commission found that the corporation, as listing agent, had sold real estate to a business associate of its Principal Broker and Broker-In-Charge, and that the sales contract for the real estate had contained a sales price \$8,000 in excess of the actual sales price. Based upon this contract, a closing statement was prepared setting forth the inflated sales price, and an IRS Form 1099 was subsequently furnished to the sellers indicating a greater profit than was actually realized. The Commission noted that the corporation had made a private resolution of this matter satisfactory to the sellers.

W. THOMAS STORY, JR. (Roanoke Rapids) - By Consent, the Commission suspended Mr. Story's broker's license for two years effective April 1, 1989. Two months of the suspension are to be active and the remainder was suspended for a probationary period of two years. The Commission found that Mr. Story, as listing agent, had sold real estate to a business associate, preparing a sales

COASTAL CONSUMER BOOKLET

Coastal area real estate firms are reminded that they may request copies of the FREE booklet, *Your Place at the Beach: A Buyer's Guide to Vacation Real Estate*, for distribution to their customers. This booklet, which is co-published by the Commission and the UNC Sea Grant College Program, contains helpful facts and advice for prospective buyers of all types of vacation real estate along North Carolina's coast. Many real estate agents who have participated in this consumer awareness program during the past eighteen months have had high praise for the booklet and have indicated that it is helpful to agents as well as consumers.

The Commission will provide copies of this booklet free of charge to coastal area real estate firms who want to distribute it to their customers as a public relations gesture. Such firms are permitted to stamp or write "Compliments of [Firm Name]" on the booklet. Interested firms may order a supply of the booklets by calling Mrs. Faye Hewett in the Commission's Education Department at (919) 733-9580. □

contract which contained a sales price \$8,000 in excess of the actual sales price. Based upon this contract, a closing statement was prepared setting forth the inflated sales price, and an IRS Form 1099 was subsequently furnished to the sellers indicating a greater profit than was actually realized. The Commission noted that Mr. Story had made a private resolution of this matter satisfactory to the sellers.

WALTER T. TICE, JR. (Greensboro) - By Consent, the Commission revoked Mr. Tice's broker's license effective December 15, 1988 upon finding that he had been convicted of a criminal offense involving moral turpitude which would reasonably affect his performance in the real estate business; namely, malfeasance of corporate officers and agents in connection with his handling of funds for a private organization.

THEADORE A. TINSLEY (Carolina Beach) - By Consent, the Commission suspended Mr. Tinsley's broker's license for two years effective March 1, 1989. The Commission then suspended its Order and placed Mr. Tinsley on probation for two years. The Commission found that Mr. Tinsley, as developer and owner of certain condominium units, had failed to disclose to persons who had purchased units that the development company was not paying common area assessments in the same manner as other owners. Mr. Tinsley neither admitted nor denied the allegations.

FRANCES E. WADDELL (Chapel Hill) - By Consent, the Commission revoked Ms. Waddell's broker's license effective November 1, 1988 for failing to properly maintain the trust account of a real estate firm for which she was designated Broker-in-Charge. Ms. Waddell neither admitted nor denied the allegations of misconduct.

JEANNIE S. WARNER (Carolina Beach) - By Consent, the Commission suspended Ms. Warner's broker's license for one year effective December 1, 1988. The Commission then suspended its Order and placed Ms. Warner on probation for one year. The Commission found that Ms. Warner, as Broker-in-Charge of a real estate company, had failed to personally and actively supervise a real estate salesman associated with the company and did not exercise adequate control or supervision over the conduct of the company.

WATSON & WATSON, LTD. (Greensboro) - The Commission suspended the corporate real estate license of Watson & Wat-

son, Ltd. for two years effective October 15, 1988. The Commission found that the corporation had failed to allow a Commission representative to inspect its trust account records and failed to maintain accurate records of the receipt and disbursement of trust funds. The corporation appealed the Commission's Order to the Guilford Superior Court which affirmed the Commission's Order.

JOSEPH D. WILLIAMS (Winston-Salem) - By Consent, the Commission suspended Mr. Williams' broker's license for sixty days effective March 1, 1989 and required him to complete Commission-approved courses in Real Estate Finance and Real Estate Law by March 1, 1990. The Commission found that Mr. Williams had prepared offers to purchase and contracts which did not accurately reflect terms orally agreed to by the parties, including provisions regarding the receipt of earnest money deposits which were, in fact, never received and provisions stating a sales price which was in excess of the price actually agreed upon. The Commission also found that Mr. Williams had failed to deposit an earnest money deposit in a trust account and had commingled client funds in his personal account. The Commission noted, however, that the transactions involving the contracts did not close. □

MORTGAGE BROKERS

(Continued from Page 4)

tain a mortgage loan would not appear to constitute "placement" of a mortgage loan as contemplated by the General Assembly. Nor would the payment of a sales or brokerage commission to the agent be considered "direct compensation" for the placement of a mortgage loan. Therefore, real estate agents whose activities with regard to assisting purchasers in obtaining home financing are limited to those described above would not be required to register with the Commissioner of Banks. However, real estate brokers and salesmen who collect fees from purchasers for helping to locate mortgage financing or who provide services outside the scope of those described above are advised to contact the Commissioner of Banks concerning the registration requirement.

For additional information, contact the Office of Commissioner of Banks, P.O. Box 29512, Raleigh, North Carolina 27226-0512 (Phone 919/733-3016), Attention: Special Services Administrator. □

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