



NORTH CAROLINA REAL ESTATE COMMISSION Real Estate Bulletin

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Number 1

NEW RULES ADOPTED

Following a public hearing on February 15 in Raleigh, the Real Estate Commission voted to adopt and amend certain rules affecting real estate brokers and salesmen, real estate and appraisal education, and real estate appraisers. All rules became effective May 1, except those affecting private real estate schools which will become effective July 1, 1990.



Anita R. Burt, the Commission's Administrative Procedures Act Coordinator, summarizes the proposed rules at the February 15 Rulemaking Hearing, flanked by members of the Commission staff (left), the Appraisal Committee, and the Real Estate Commission.

Summarized below are those rules which affect the activities of real estate brokers and salesmen:

1. A broker or salesman may now be relieved of his duty to deliver copies of leases and rental agreements to the property owner *within five days of execution*, if the broker
 - (a) has the written authority of the property owner to enter into and retain copies of leases and rental agreements on the owner's behalf;
 - (b) executes the lease or rental agreement on a pre-printed form where the material terms may not be changed without the owner's approval;
 - (c) promptly furnishes the owner a copy of the lease or rental agreement upon request; and
 - (d) furnishes the property owner *within 45 days after execution*, an accounting which identifies the property, the tenants, the rental rates, and the rents collected.
2. A broker is now permitted to transfer earnest money deposits to the closing attorney *within ten days prior to the anticipated settlement date*.
3. The principal broker of a real estate brokerage corporation is now responsible for
 - (a) Designating and assuring that there

- is at all times a broker-in-charge for each office or branch office of the corporation;
- (b) renewing the real estate license of the corporation;
- (c) displaying the license certificate of the corporation at the principal office of the corporation (and a photocopy of the license at each branch office);
- (d) notifying the Commission of any change of business name or address of the corporation and the registration of any assumed name; and
- (e) notifying the Commission in writing of any change in his status as principal broker within ten days of the change.

Information concerning the adoption of rules implementing the Commission's program to license/certify and regulate real estate appraisers will be sent to all persons on the Commission's "Appraisal Information Mailing list" (See "Appraisereport" in this Bulletin). And information pertaining to the adoption and amendment of rules affecting real estate and appraiser education courses, schools and instructors may be obtained from the Commission's Education and Licensing Division.

A complete copy of the new rules may be obtained without charge by writing or calling the Commission office. □

NEW COMMISSION EMPLOYEES



Sylvia G. Samsel has been employed by the Real Estate Commission as Appraiser Secretary. A Nebraska native, Sylvia attended the University of Colorado at Boulder and East Carolina University. She is a veteran of the United States Marine Corps where she served as Aide-De-Camp to the Commanding General of the 2nd Marine Aircraft Wing, and after completing her active service, she was employed as a Legal Secretary. As Appraiser Secretary, Sylvia serves as personal secretary to James E. Poole, Jr., the Commission's Director of Appraiser Licensing and Certification.



Charlotte P. Tingen has joined the Commission staff as its Appraiser Clerk. After completing a Commercial Course at the University of North Carolina-Greensboro in 1965, Charlotte returned to her native Raleigh where she was employed as a secretary for Carolina Power & Light Company. She then continued her secretarial career with a Raleigh law firm, the Administrative Office of the Courts, and the N.C. Department of Labor.

As Appraiser Clerk, Charlotte will maintain files and records on State-licensed and State-certified real estate appraisers and perform related duties in the Appraiser Licensing and Certification Division. □

LICENSE RENEWAL

Real estate license renewal applications are scheduled to be mailed to brokers, salesmen and corporations on May 11. Licensees are urged to follow the instructions and return their forms and fees by July 1 to avoid license expiration.



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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Director of Audits and Investigations L. Ted Gayle was recently recognized by the Real Estate Commission on having completed ten years' service with the Commission...Due to the expansion of the Commission staff, the classroom in the Commission office is being converted to office space; consequently, the monthly Trust Account Short Courses and Examination Reviews will in the future be held at different locations in Raleigh...To accommodate the increasing number of telephone calls received at the Commission office, additional incoming lines have been installed and other enhancements made to the telephone system. The Commission apologizes for any inconvenience which you might experience during this transition period...Veteran Investigator Everett H. Jenkins was presented an award for outstanding service at a March 29, 30 Real Estate Investigator Training Workshop in Raleigh...Former Appraiser Secretary Jo Anne H. Teague has left the employment of the Real Estate Commission upon relocating her residence to Wilmington. The Commission members and staff extend to Jo Anne and her husband the very best of success.

APPRAISERREPORT

During the month of May, a newsletter will be sent to all persons shown on the Commission's "Appraisal Information Mailing List." The newsletter will contain up-to-date information on the status of the program being developed by the Commission and its Appraisal Committee to license and certify real estate appraisers, including a summary of recently adopted rules, a schedule for the Commission-sponsored "Appraiser Examination Preview Seminars," a license/certification examination schedule, and other helpful information for persons who may be interested in pursuing appraiser licensure or certification.

Subsequent newsletters will be periodically sent to persons who become State-licensed or State-certified real estate appraisers; therefore, only abbreviated information concerning the appraisal program will be included in future issues of the Real Estate Bulletin. However, any broker or salesman who desires further information concerning the appraiser licensing/certification and regulatory program, should feel free to contact the Commission's Appraiser Licensing and Certification Division.

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 preclicensing students please.)
3. These courses are FREE. All the caravan courses listed below will start at 9:30 a.m. and will involve approximately 3½ 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:

- ☐ Asheville (June 4) ☐ New Bern (June 18)
☐ Charlotte (June 5) ☐ Fayetteville (June 19)
☐ Greensboro (June 6) ☐ Wilmington (June 20)

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

EXAM RESULTS

	Passed	Failed
JANUARY 1990		
Brokers	116	79
Salesmen	670	333
FEBRUARY 1990		
Brokers	85	79
Salesmen	346	197
MARCH 1990		
Brokers	138	113
Salesmen	618	332

MONTHLY TRUST ACCOUNT SHORT COURSE IN RALEIGH

DATES

June 12
July 10

August 14
September 11

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

To register for the course, telephone the Real Estate Commission Office (919 733-9580) at least 10 days prior to the course and ask for the Education Department. 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.

NORTH CAROLINA REAL ESTATE EDUCATORS CONFERENCE

The North Carolina Real Estate Commission, in conjunction with the North Carolina Real Estate Educators Association (NCREEA), sponsored the annual Real Estate Educators Conference in Raleigh on March 19 and 20. More than 140 instructors, administrators, and other persons interested in real estate education participated in this year's conference which featured a variety of topics and speakers.

"How Adults Learn" was presented by Don Lloyd, DREI. Mr. Lloyd is Dean of Instruction for the Fort Myers, Florida Association of REALTORS School of Real Estate and is Chairman of the National Real Estate Educators Association Instructor Assessment Program Committee. Another presentation on "Real Estate Finance in the 90's" was conducted by John Nichols, President of First Choice Mortgage Company of New Bern, and included an update on changes in VA and FHA financing requirements.

North Carolina prelicensing course instructors made a major contribution to this year's conference. Barry Patchett conducted a session on effective ways to teach real estate math entitled "Winning at the Game of Real Estate Math." Sharon Pelt and Jennie Judd prepared and illustrated a collection of ideas, visual aids, and teaching techniques, and Tom Mangum conducted an orientation session for new instructors. Howard Logue served as Program Chairman and kept the conference running smoothly and on schedule.

The Real Estate Commission staff was involved in several areas of the conference. Larry Outlaw, Director of Education and Licensing, conducted a "Question Writing Workshop" and also presented an update on appraiser regulation and education. Assistant Attorney General Thomas R. Miller, the Commission's Legal Counsel, entertained and instructed the group with a presentation of several common misperceptions regarding various laws and rules governing real estate practice. Ann Britt, the Commission's Examination and Licensing Officer, brought instructors up-to-date on the licensing examination and corrected some "myths and misconceptions" regarding the examination. And Commission Education Officer Evelyn Johnston discussed school performance and recognized 13 schools with outstanding performance for the past year.

At the conference, the Educators Association presented awards for contributions to real estate education. William Gobble was named Educator Emeritus; George Bell received the Educator of the Year award; and the Real Estate Commission was the recipient of the Associa-

tion's first "Most Outstanding Program of the Year" award.



Education and Licensing Director Larry A. Outlaw (left) and Commission Chairman Elmer C. Jenkins with the Commission's Education Award presented by the North Carolina Real Estate Educators Association.

The conference concluded with the installation of officers for the Association for 1990-91. They are Patricia Green (Clinton) President; Howard Logue (Sanford) President-Elect; Myra Day (Greenville) Secretary-Treasurer; and Jo-ann Lavecchia (Gastonia) Assistant Secretary-Treasurer. □

INDEPENDENT LIVING RESOURCE FAIR

Members of the Real Estate Commission staff participated in an Independent Living Resource Fair which was held in Raleigh on April 10 and 11. The Fair was sponsored by the Division of Social Services of the N.C. Department of Human Resources and was designed to offer services and activities in independent living skills to foster youth ages 16 to 21 to help them make the transition to independent living when they leave foster care.

As a part of the Fair, the Commission offered "It's Your Move" booklets to county social service representatives and representatives of other appropriate state agencies for distribution to the young adults in their foster care programs. The booklets provide basic consumer housing information to persons who may soon be purchasing homes, renting apartments, and dealing with real estate agents. □

HOME INSPECTIONS AND THE REAL ESTATE AGENT

By Hill Zollicoffer
Information Officer

The term "caveat emptor" is frequently associated with real estate transactions. This adage, "let the buyer beware," expresses the principle that a buyer is purchasing something at his or her own risk, and it encompasses the notion that there is no implied warranty on the part of the seller with respect to the quality of the item which he is selling.

Many buyers, wary of this phrase, become concerned about possible defects that they may find in the property after closing. To alleviate these unforeseen problems and consequences, many purchasers propose offers to purchase which are contingent upon a series of property inspections. While an experienced homebuyer may be familiar with the process of home inspections, a first-time buyer is usually not as knowledgeable about the procedure for having inspections performed. For assistance, a novice buyer may understandably turn to the real estate agent who is involved in the transaction. Therefore, it is essential for agents to properly respond to such inquiries.

First, a real estate agent should never discourage a buyer from performing or hiring someone to perform a home inspection. Although the agent may believe that bypassing inspections will save the buyer money in the short run, it could become very costly to the buyer in the long run. Buyers will become disgruntled when a major defect, which could have been detected by a pre-closing inspection, is discovered after possession is taken, and this can result in unpleasant confrontations between the buyer and agent, as well as the buyer and the former owner. The buyer might even file a lawsuit against the seller and the agent for nondisclosure of material facts, in which case the costs of the lawsuit may outweigh any money previously saved by foregoing the inspections.

Secondly, should a buyer desire an inspection or a series of inspections on a property, the agent should encourage the buyer to have them performed in a prompt fashion. The Commission has received complaints in which buyers stated that they were told by a real estate agent that inspections could not be performed prior to loan approval. This type of misinformation from agents has caused buyers to spend unnecessary time and expense in qualifying for loans on homes that they decide not to purchase when they discover the extent of repairs which must be made. As a result of these situations, some sales contract forms now encourage buyers to have inspections completed prior to incurring expenses for closing. To this end, agents should ensure that all buyers and sellers are fully aware of inspection provisions in contracts, and suggest that inspections be performed promptly.

Although inspections which are performed immediately after contract may not guarantee smooth transactions, the parties will at least be more informed about a property's condition at an earlier stage which, in turn, affords them an opportunity to resolve their differences before they incur unnecessary costs. □

ATTENTION: PROPERTY MANAGERS

The North Carolina Real Estate Commission would like to know who and how many of its licensees are engaged in property management activities.

If you perform any property management services for which you are compensated, please complete the following form, cut along the dotted lines and return to the Commission office.

Name _____ License Number _____

Company Name/Address _____

THE NORTH CAROLINA REAL ESTATE LICENSE LAW AND RULES: ENFORCEMENT OVERVIEW

The following remarks were excerpted from Commission Executive Director Phillip T. Fisber's recent presentation to the Consumer Protection Study Commission of the North Carolina General Assembly. Mr. Fisber was invited to appear before the Study Commission to describe the Real Estate Commission's approach and efforts towards enforcing the Real Estate License Law and Commission Rules. Study Commission Chairman John C. "Pete" Hasty commended the Real Estate Commission on its enforcement program.

Before discussing the Real Estate Commission's enforcement program, I thought that it may be helpful for you to have some brief background information to place our program in perspective. The operations of occupational licensing boards vary depending upon the number of licensees which they are responsible for, the limits of their jurisdiction, their resources, etc. In the case of the Real Estate Commission, I believe that we have more licensees than any other occupational licensing board. At last count, we have nearly 47,000 licensed brokers, more than 31,000 salesmen, 3,600 corporations, nearly 50 time share projects, and soon we will be licensing and regulating real estate appraisers. Each month more than 800 persons apply for licenses, so our licensee base is constantly increasing.

Like most other occupational licensing boards, our operation is divided into two general areas: **Licensing and Regulation**. Although the focus of your inquiry is on our regulatory functions, it should be pointed out that our Education and Licensing Division also plays an important role in our regulatory activities. We believe that education and regulation go hand in hand. That is to say, the more informed our licensees are about real estate practices, the less likely they are to harm consumers through their incompetent or negligent acts. But, as we all know, education has its limits. It is, of course, the conscientious and well-intentioned licensee who generally seeks advice and assistance. The persons who need assistance the most are generally the ones who are least likely to ask for it. And this is where our investigative and legal staff come into the picture.

In addition to two non-attorneys who work in the Information Section of our Legal Division, we have three attorneys and a support staff. Our Legal Counsel is actually a member of the Attorney General's staff who, through an arrangement approved by the General Assembly in 1975, works almost exclusively for the Real Estate Commission. This arrangement has worked extremely well. In addition to providing general legal counsel to the Real Estate Commission, our attorneys also play an active role in our enforcement program. During Calendar Year 1989, the Commission received 864 formal complaints against real

estate brokers and salesmen, and this year we are anticipating approximately 1,000 complaints.

Complaints come to us from several sources: We, of course, receive complaints directly from consumers; complaints are referred to us by other governmental agencies such as the Consumer Protection Section of the Attorney General's Office, and from private trade organizations such as the local Boards of REALTORS; and we uncover violations as a result of auditing real estate trust accounts and from investigating consumer complaints on totally unrelated charges.

With regard to complaints from consumers, the Commission believes that in order to carry out its responsibilities to the public, the public must be aware of the existence of the Real Estate Commission and its functions. That is not to say that the Commission seeks publicity. However, we do try to maintain contact with consumer organizations such as the Better Business Bureaus; we publish materials which are furnished to consumers; and we try to maintain a cooperative working relationship with the media. Also, in order to increase public awareness of our efforts to regulate the real estate business, we issue a news release and notify local Better Business Bureaus whenever we suspend or revoke a real estate license.

As to complaints referred to us from other organizations, I should mention that, although the Real Estate Commission is careful to maintain an "arms length" relationship with real estate trade organizations, the Commission recognizes the need to have the cooperation of these organizations in order to identify those practitioners—their members—who are engaging in questionable practices. Likewise, we notify local trade associations regarding any hearings which are scheduled in their area as well as the outcome of the hearings.

Perhaps the most serious violations which we have encountered are a result of our trust account auditing activities and our investigation of complaints alleging other, unrelated violations. As I previously mentioned, the most common and serious problems which confront us involve the improper handling of client funds. As a result, the General Assembly in 1979 authorized us to perform unannounced "spot inspections" of real estate trust or escrow accounts (those accounts into which brokers are required to deposit earnest money deposits, tenant security deposits, rents and other client funds). We believe that "spot inspections" serve two purposes: First of all, by knowing that their trust accounts are subject to inspection by a Commission representative at any time, we feel that brokers are deterred from mishandling their trust funds. And secondly, by auditing the accounts, we can help brokers to correct any minor record-keeping errors as well as uncover serious

incidents of embezzlement or misapplication of funds.

Perhaps the most instructive way to explain our enforcement program is to briefly trace the processing of a complaint from the time it is received in our office until it is resolved:

Whenever a complaint is received in our office (whether directly from a consumer or otherwise) the complaint is analyzed by one of our attorneys to determine whether the subject matter of the complaint is within our jurisdiction, the seriousness of the allegations, and the nature and extent of any additional information which may be needed. If we conclude that a field investigation is warranted, our legal staff refers the case to our Director of Audits and Investigations. The Director of Audits and Investigations reviews the file and adds any special instructions to assist the investigator and/or auditor in investigating the complaint, and then assigns it to one of our two auditors or four investigators for investigation. During Calendar Year 1989, 157 complaints were investigated by the Commission's investigators and auditors.

Once the investigation is completed, the investigator or auditor prepares and files a full report with the Director of Audits and Investigations who reviews the file and returns it to the legal staff for final evaluation. Each week, the Legal Staff meets with the Director of Audits and Investigations and me to review the status of pending cases, and each month the Commission is furnished a complete complaint status report. The Commission then determines whether, based upon the information at hand, probable cause exists of a violation of the Real Estate License Law or Commission Rules. [I might add that at this point, when the Commission is deciding whether to order a hearing, the names and addresses of the complaining parties and the Respondent brokers and salesmen are withheld to avoid the perception that the Commission members may be showing favoritism to a friend, a colleague, or themselves.]

If probable cause is found, a form is sent to the Respondent broker or salesman notifying him that the Commission has ordered a hearing and giving him preliminary information regarding the hearing procedures and related information. This is then followed by a formal Notice of Hearing prepared by our legal staff detailing the charges against the Respondent and indicating the time, date and place of hearing.

Between the time that the Respondent has been notified of the hearing and the hearing date itself, the Commission's attorneys will generally enter into negotiations with the Respondent or the Respondent's attorney to hopefully settle the case. Approximately 80% of the cases before the Real Estate Commission last year were settled without hearing. Only the Commission can accept a Settlement

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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.

OLIVER J. BEAMAN (Greensboro) - By Consent, the Commission suspended Mr. Beaman's broker's license for 180 days effective February 1, 1990. Ninety days of the suspension are to be active and one year on probation. The Commission found that Mr. Beaman had failed, within a reasonable time, to account for or to remit monies coming into his possession which belonged to others. Mr. Beaman neither admitted nor denied any misconduct.

BILLY GOAT MANAGEMENT, INC. (Avery/Watauga County) - The Commission revoked the corporate real estate license of Billy Goat Management, Inc. effective January 1, 1990. The Commission found that the corporation had failed to promptly remit all advance rental deposits to a subsequent purchaser of the corporation's rental management business and that it had instead converted the funds to its own use. The Commission also found that the corporation had violated various provisions of the License Law and Commission rules regarding the deposit and maintenance of trust funds.

WILLIAM H. BOWSER (Calabash) - By Consent, the Commission suspended Mr. Bowser's broker's license for one year effective January 10, 1990. The Commission then suspended its Order and placed Mr. Bowser on probation for one year on condition that he complete the Commission's Trust Account Course. The Commission found that Mr. Bowser had failed to deposit and maintain trust funds in a North Carolina bank, had failed to maintain adequate records regarding the funds of others, and commingled client funds with his own funds. Mr. Bowser neither admitted nor denied any misconduct.

BOWSER-CALABASH PROPERTY MANAGEMENT, INC. (Calabash) - By Consent, the Commission suspended the corporate real estate license of Bowser-Calabash Property Management, Inc. for one year effective January 10, 1990. The Commission then suspended its Order and placed the corporation on probation for one year on condition that it submit to the Commission a monthly accounting of its financial records compiled by a Certified Public Accountant verifying the corporation's compliance with the Commission's rules, and on the further condition that the corporation make restitution to any aggrieved parties by July 22, 1990. The Commission found that the corporation had failed to deposit and maintain trust funds in a North Carolina bank, had failed to maintain adequate records regarding the funds of others, and had commingled client funds with its own funds. The corporation neither admitted nor denied any misconduct.

EUNICE M. BROCK (Chapel Hill) - By Consent, the Commission reprimanded Ms. Brock for failing to adequately maintain and supervise her firm's trust accounts and to reconcile its trust account records. During the period of March, 1986 through September, 1988 an office assistant/bookkeeper for Ms. Brock's firm converted

trust funds to her own use. The Commission noted that Ms. Brock and the other owners of the firm replaced the shortage in the trust account with their own funds, reported the shortage to the Commission, and reported the office assistant/bookkeeper's conduct to the appropriate criminal law enforcement officials.

ROBERT L. BRYAN, JR. (Chapel Hill) - By Consent, the Commission reprimanded Mr. Bryan for failing to adequately maintain and supervise his firm's trust accounts and to reconcile its trust account records. During the period March, 1986 through September, 1988 an office assistant/bookkeeper for Mr. Bryan's firm converted trust funds to her own use. The Commission noted that Mr. Bryan and the other owners of the firm replaced the shortage in the trust account with their own funds, reported the shortage to the Commission, and reported the office assistant/bookkeeper's conduct to the appropriate criminal law enforcement officials.

JUDITH J. CLARK (Chapel Hill) - By Consent, the Commission reprimanded Ms. Clark for failing to change the description of certain listed property in the multiple listing service to reflect its true acreage size.

NANCY B. COPELAND (Chapel Hill) - By Consent, the Commission revoked Ms. Copeland's broker's license effective February 14, 1990. The Commission found that Ms. Copeland, as secretary-bookkeeper for a real estate firm, diverted funds from the firm's operating account and used them for her own personal expenses.

JEAN C. FERGUSON (Avery/Watauga County) - The Commission revoked Ms. Ferguson's broker's license effective January 1, 1990. The Commission found that Ms. Ferguson had failed to promptly remit all advance rental deposits to a subsequent purchaser of her rental management business and that she had instead converted such funds to her own use. The Commission also found that she had violated various provisions of the License Law and Commission rules regarding the deposit and maintenance of trust funds.

THOMAS P. GANTT (Charlotte) - The Commission revoked Mr. Gantt's broker's license effective January 1, 1990. The Commission found that Mr. Gantt had failed to account for and remit an earnest money deposit to an offeror, and had instead converted the funds to his own use. The Commission further found that Mr. Gantt had abandoned his brokerage business, therefore preventing the Commission from inspecting his trust account records.

HOUSE HUNTERS, INC. (Chapel Hill) - By Consent, the Commission reprimanded the corporation House Hunters, Inc. for failing to properly maintain its trust account records.

RAYMOND D. JONES (Raleigh) - The Commission revoked Mr. Jones' broker's license effective January 23, 1990. The Commission found that Mr. Jones, while acting as a property manager, had failed to account for and remit to his principals monies collected by him in numerous rental transactions. The Commission also found that he had issued checks to mortgage companies and to his principals which had been returned unpaid due to insufficient funds and that he had misrepresented to his principals the reason that the checks were dishonored. The Commission additionally found that Mr. Jones had failed to properly maintain his trust account records and to allow their inspection by the

Commission's representatives.

VINCENT F. JONES (Andrews) - By Consent, the Commission suspended Mr. Jones' broker's license for ninety days effective January 15, 1990. The Commission then suspended its Order and placed Mr. Jones on probation for one year. The Commission found that Mr. Jones had known but failed to disclose to purchasers the existence of an easement affecting property being purchased by the purchasers.

JONES & LEA REALTY, INC. (Raleigh) - The Commission revoked the corporate real estate license of Jones & Lea Realty, Inc. effective January 23, 1990. The Commission found that the corporation, while acting as a property manager, had failed to account for and remit to its principals monies collected by it in numerous rental transactions. The Commission also found that it had issued checks to mortgage companies and to its principals which had been returned unpaid due to insufficient funds and that it had misrepresented to its principals the reason that the checks were dishonored. The Commission additionally found that the corporation had failed to properly maintain its trust account records and to allow their inspection by the Commission's representatives.

DRENA E. LITTLE (WORTH) (Chapel Hill) - By Consent, the Commission reprimanded Ms. Little for failing to adequately maintain and supervise her firm's trust accounts and to reconcile its trust account records. During the period March, 1986 through September, 1988 an office assistant/bookkeeper for Ms. Little's firm converted trust funds to her own use. The Commission noted that Ms. Little and the other owners of the firm replaced the shortage in the trust account with their own funds, reported the shortage to the Commission, and reported the office assistant/bookkeeper's conduct to the appropriate criminal law enforcement officials.

LITTLE, BRYAN, WORTH, LUCAS, AND BROCK, INC. (Chapel Hill) - By Consent, the Commission reprimanded the corporation Little, Bryan, Worth, Lucas and Brock, Inc. for failing to adequately maintain and supervise their trust accounts and to reconcile their trust account records. During the period March, 1986 through September, 1988 an office assistant/bookkeeper for the firm converted trust funds to her own use. The Commission noted that the firm and its owners replaced the shortage in the trust account with their own funds, reported the shortage to the Commission, and reported the office assistant/bookkeeper's conduct to the appropriate criminal law enforcement officials.

ADA H. LUCAS (Chapel Hill) - By Consent, the Commission reprimanded Ms. Lucas for failing to adequately maintain and supervise her firm's trust accounts and to reconcile its trust account records. During the period March, 1986 through September, 1988 an office assistant/bookkeeper for Ms. Lucas' firm converted trust funds to her own use. The Commission noted that Ms. Lucas and the other owners of the firm replaced the shortage in the trust account with their own funds, reported the shortage to the Commission, and reported the office assistant/bookkeeper's conduct to the appropriate criminal law enforcement officials.

CLARENCE VIRGIL ROBERTS (Brunswick County) - The Commission reprimanded Mr.

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ENFORCEMENT OVERVIEW

(Continued from page 4)

Stipulation, and this is done only if the Commission is convinced that the settlement is in the best interest of the public. If the Respondent or the legal staff is unwilling or unable to arrive at a settlement proposal, a hearing is held at which the Commission members act as a hearing panel. The proceedings are governed by the Administrative Procedures Act.

At the conclusion of the hearing, the Commission members consider the evidence and render their decision, ranging from dismissal of the charges, to reprimanding the licensee, or suspending or revoking the agent's real estate license. The Legal Staff then prepares an Order which is, of course, subject to judicial review. During the past 3 years, the Commission has averaged taking 90 disciplinary actions per year.

In summary, we believe that the following should be a part of any effective enforcement program:

1. A comprehensive education program for persons entering the occupation or profession.
2. Education and information programs for persons already in the business which are targeted at specific areas.
3. A staff member or members available to answer questions from licensees and the public.
4. A willingness to raise the profile of the agency in order to increase the public awareness of its activities.
5. An "arms length" but cooperative working relationship with industry groups, and open lines of communication with consumer organizations.
6. An efficient procedure for processing complaints.
7. A mechanism for screening complaints to determine the appropriate ways to resolve them.
8. Ready access to legal counsel.
9. A well-trained investigator or investigators with the authority to make random inspections of business offices and practices.
10. A willingness to negotiate settlements of complaints, provided that they do not compromise the integrity of the enforcement program. □

REMINDER



Sign up now to attend one of the Commission's trust Account Short Courses to be offered in your area in June. They're Free, and well worth your time.

ON THE INSIDE...

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...And More

DISCIPLINARY ACTION

(Continued from page 5)

Roberts for having been convicted of a criminal offense involving moral turpitude which would reasonably affect his performance in the real estate business; namely, conspiracy to traffic and trafficking in cocaine. The Commission noted that Mr. Roberts had cooperated with law enforcement officials in their investigations.

DONALD L. ROSS (Charlotte) - By Consent, the Commission suspended Mr. Ross' broker's license for eighteen months effective March 1, 1990. Sixty days of the suspension are to be active and two years on probation. The Commission found that Mr. Ross, while engaged in pre-selling condominium units in a proposed retirement condominium project, assisted in collecting earnest money which was not being held in escrow in a North Carolina bank in violation of North Carolina's Condominium Act.

CHARLES H. SLEDGE, JR. (Atlantic Beach) - By Consent, the Commission revoked Mr. Sledge's broker's license effective February 14, 1990. The Commission found that Mr. Sledge had engaged in improper and dishonest conduct in real estate transactions. Mr. Sledge neither admitted nor denied any misconduct.

WILLIAM R. STRICKLAND (Chapel Hill) - By Consent, the Commission reprimanded Mr. Strickland for failing as Broker-In-Charge of a real estate firm, to assure that the trust account records of the firm were properly maintained.

JOSEPH G. SURSAVAGE, JR. (Andrews) - By Consent, the Commission suspended Mr. Sursavage's broker's license for ninety days effective January 15, 1990. The Commission then suspended its Order and placed Mr. Sursavage on probation for one year. The Commission found that Mr. Sursavage had known but failed to disclose to purchasers the existence of an easement affecting property being purchased by the purchasers.

BERNARDUS H. VAN LEEWE (Fayetteville) - The Commission revoked Mr. Van Leewe's broker's license effective December 1, 1989. The Commission found that Mr. Van Leewe had improperly counseled buyers in a real estate transaction to submit a false contract to a seller and lender showing that the property was being purchased by someone other than the actual purchasers in order to obtain a Veterans Administration guaranteed loan.

WALSH PROPERTIES, INC. (Charlotte) - By Consent, the Commission revoked the corporate real estate license of Walsh Properties, Inc. effective November 1, 1989. The Commission found that the corporation had submitted a corporate resolution in connection with the renewal of its real estate license which failed to disclose that the corporation had merged with another corporation and therefore ceased to have a separate existence. The corporation neither admitted nor denied any misconduct.

EBERN T. WATSON, JR. (Rose Hill) - By Consent, the Commission suspended Mr. Watson's salesman's license for three years and four months effective March 1, 1990. Ninety days of the suspension are to be active and three years on probation. The Commission found that Mr. Watson had been convicted of a criminal offense involving moral turpitude which would reasonably affect his performance in the real estate business; namely, the offense of knowingly and fraudulently making a false declaration under penalty of perjury.

BONNIE T. WILKES (Clinton) - By Consent, the Commission suspended Ms. Wilkes' broker's license for two years effective January 15, 1990 of which seven months of the suspension are to be active and one year on probation. The Commission found that Ms. Wilkes had disbursed an earnest money deposit to herself and to a seller knowing that a dispute existed between the parties as to the disposition of the funds. The Commission also found that Ms. Wilkes had given the Commission a check for her license renewal fee which was returned unpaid due to insufficient funds and that she continued to operate as a real estate broker although her license had not been renewed.

ALEXANDER W. WORTH (Chapel Hill) - By Consent, the Commission reprimanded Mr. Worth for failing to adequately maintain and supervise his firm's trust accounts and to reconcile its trust account records. During the period March, 1986 through September, 1988 an office assistant/bookkeeper for Mr. Worth's firm converted trust funds to her own use. The Commission noted that Mr. Worth and the other owners of the firm replaced the shortage in the trust account with their own funds, reported the shortage to the Commission, and reported the office assistant/bookkeeper's conduct to the appropriate criminal law enforcement officials.

CHARLES G. ZEEMAN (Duck) - By Consent, the Commission revoked Mr. Zeeman's broker's license effective February 1, 1990, provided, however, that Mr. Zeeman may apply for a real estate salesman's license after March 1, 1990. If the salesman license is issued, Mr. Zeeman will be placed on probation for two years, and at the successful completion of the probationary period he may be eligible for the reinstatement of his broker's license. The Commission found that Mr. Zeeman had known but failed to disclose to real estate sellers that there were insufficient funds in the purchaser's bank account to cover the earnest money deposit received by Mr. Zeeman for the seller's property. The Commission noted, however, that the sellers eventually collected the earnest money from the purchasers and that Mr. Zeeman cooperated fully with the Commission's investigation of this matter. □

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