



NORTH CAROLINA REAL ESTATE COMMISSION Real Estate Bulletin

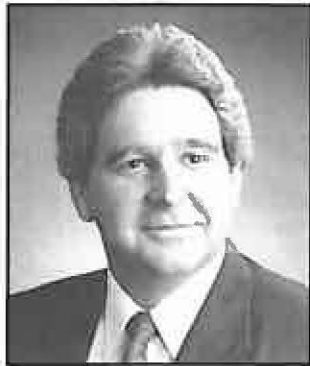
Volume 21

1990

Number 2

LARRY OUTLAW INSTALLED AS EDUCATORS ASSOCIATION PRESIDENT

Larry A. Outlaw, the Real Estate Commission's Director of Education and Licensing, was installed as President of the [National] Real Estate Educators Association (REEA) at the Association's Annual Conference in Nashville, Tennessee.



REEA President Larry A. Outlaw

The Association consists of professional real estate educators affiliated with colleges, universities, proprietary schools, regulatory agencies, trade organizations, publishers and other private and public organizations from all 50 states, Canada and Australia.

I'm sure that all North Carolina real estate licensees join the Commission in congratulating Larry on attaining this high office. □

STEED ELECTED COMMISSION CHAIRMAN



Grace T. Steed has been elected Chairman of the North Carolina Real Estate Commission for a one-year term commencing August 1, 1990. Mrs. Steed and her husband, Guy, reside in Randleman, and she is associated with Britt Realty Company in Archdale.

Active in civic and community affairs, Mrs. Steed is a former Director of the National Association of Real Estate License Law Officials and served as Vice-Chairman of the Real Estate Commission late last year.



June P. Mooring has been elected Vice-Chairman of the Commission for the coming year. Mrs. Mooring is a licensed real estate broker in Goldsboro where she is a Past-Director of the Board of REALTORS and Past-President of the Multiple Listing Service. She has served

on the Real Estate Commission since 1987. □

LICENSE RENEWAL NEWS

Despite careful planning, great attention to detail, and the utilization of the most modern equipment available, license renewal application forms were not generated and sent to a number of brokers and salesmen this year. Although failure to receive a renewal application form does not necessarily excuse licensees from failing to renew their licenses, the Commission nevertheless recognizes that the renewal application serves as a convenient reminder that your license will soon expire.

Therefore, the Commission has agreed to waive the \$5 penalty fee for those licensees who were not sent a renewal form and who renew their licenses by September 1, 1990. In addition, any licensees who were not sent a renewal form and who renewed their license after June 30 by paying the \$5 penalty fee, will receive a refund of the penalty fee in September. On July 19, duplicate license renewal application forms were sent to all persons to whom renewal forms were not previously sent, informing them of their opportunity to renew their licenses by September 1 without paying the \$5 late renewal fee.

But licensees should note: The \$5 late renewal fee will not be waived for persons who received a renewal form but simply failed to renew their licenses by the June 30 deadline. The Commission has compiled a list of names of persons for whom license renewal applications were not generated, and only those persons shown on this list will be exempted from payment of the \$5 late renewal fee.

The Commission is gratified by the number of persons who renewed their licenses without having received a renewal form, and it regrets any inconvenience which may have been caused. □

ON THE ROAD AGAIN

Speaking Engagements

While newsletters, brochures, and other written materials are an indispensable means of disseminating information to real estate licensees and consumers, sometimes there is no substitute for personal contact. Recognizing this, the Commission has enthusiastically supported the efforts of its staff to appear before industry and consumer organizations to present educational and informational programs on various aspects of real estate practice and the license law and rules.

If you would like a member of the Commission staff to address your organization, you may obtain from the Commission office (Attn: Administrative Secretary) a "Speaker Request Form" for you to complete and return. Although the time and resources of the staff are limited, every effort will be made to accommodate requests for speakers and presenters; however, requests should be made as far in advance of the speaking date as possible.

Listed below are some of the speaking invitations that the Commission staff was able to accept during the period July, 1989-May 1990:

DATE	ORGANIZATION	SUBJECT	SPEAKER
7/89	Kerr Lake REALTORS	"New Rules"	Zollicoffer
7/24/89	Thomasville REALTORS	"License Law and Rules"	Baer
8/1/89	Wilson REALTORS	"Offer to Purchase and Contract"	Baer
9/12/89	Greenville REALTORS	"Commission Functions"	Fisher
9/13/89	Jacksonville REALTORS	"New Rules and 'Do's and Don'ts'"	Miller

ON THE INSIDE . . .

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Answerline
Security Deposit Tips
Random Trust Account Audits
Appraisereport

And More . . .

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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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James G. Martin, Governor

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Hill Zollicoffer Information Off.
Anita R. Burt Cons. Prot. Officer
Ann R. Britt Exam/Lic. Officer
Evelyn Johnston Education Officer

EXAM RESULTS

	Passed	Failed
APRIL 1990		
Brokers	119	93
Salesmen	443	308
MAY 1990		
Brokers	100	79
Salesmen	277	264
JUNE 1990		
Brokers	156	113
Salesmen	476	283
JULY 1990		
Brokers	139	91
Salesmen	404	349

BULLETIN BOARD



Marilyn E. Tomei has been employed by the Real Estate Commission as Associate Legal Counsel. A graduate of the University of North Carolina and the UNC Law School, Marilyn was associated with a Hillsborough law firm prior to her employment with the Commission. In addition to assisting the other members of the Commission's legal staff, Marilyn will coordinate the activities of the Information Section of the Legal Division and perform special research on real estate and related issues...

...The Commission's Legal Counsel, Thomas R. Miller, has recently been named Special Deputy Attorney General by N.C. Attorney General Lacy H. Thornburg. In addition to directing the Real Estate Commission's legal staff, Tom is head of the Real Estate Section of the Attorney General's Office...

...To accommodate the new Appraiser Licensing and Certification Division and to expand the facilities for the Audits and Investigations Division, the Commission has converted the classroom in its Raleigh office to office space. Consequently, future offerings of the Trust Account Short Course and License Examination Review Sessions which were previously conducted in the classroom will be held at another Raleigh location. Attendees will be notified of the new locations.

Speaking (Cont. from page 1)

9/13/89	Hickory REALTORS	"New Rules and Fair Housing"	Brogden
9/28/89	Wilmington REALTORS	"New Rules and 'Do's and Don'ts'"	Miller
10/8/89	Charlotte Comm. Listing Srvc.	"New Rules"	Brogden
10/10/89	Elizabeth City REALTORS	"Working with Buyers"	Burt
10/12-13/89	NCAR Annual Convention	"15 Do's and Don'ts"	Baer
10/24/89	Concord REALTORS	"Contracts and New Rules"	Brogden
10/27/89	Winston-Salem REALTORS	"New Rules"	Zollicoffer
11/7/89	Salisbury REALTORS	"New Rules"	Fisher
11/9/89	N.C. Assn. Assess. Officers	"Appraiser Regulation"	Baer
11/17/89	Winston-Salem REALTORS	"15 Do's and Don'ts"	Baer
11/21/89	Gaston REALTORS	"15 Do's and Don'ts"	Baer
11/29/89	New Bern REALTORS	"15 Do's and Don'ts"	Miller
1/17/90	NCAR Atty. Review	"License Law Issues"	Outlaw
2/16/90	Nat'l Assn. Master Appraisers	"Appraisal Regulation"	
2/21/90	Surry County REALTORS	"Trust Accounts"	Gayle
2/22/90	Farm Managers and Rural Appraisers - NC Chapter	"Appraiser Regulation"	Poole
3/5/90	Society of Real Estate Appraisers - Eastern NC	"Appraiser Regulation"	Poole
3/15/90	NCAR Prop. Mgr. Div.	"Property Mgt.-Pandora's Box"	Brogden
3/20/90	Educators Assn. Wkshp.	"Common Misconceptions"	Miller
3/21/90	REALTOR Dist. Mtg. (Franklin)	"Top Ten Complaints"	Baer
3/21/90	Consumer Prot. Study Comm'n	"Commission Enforcement Program"	Fisher
3/22/90	Fuquay-Varina Rotary	"Commission Functions"	Fisher
3/27/90	Community Assn. Inst	"Should POA Managers be Licensed?"	Burt
4/90	Inst. of R.E. Mgmt. (Charlotte)	"Property Management"	Zollicoffer
4/11/90	Women's Council REALTORS	"Ten Frequent Complaints and How to Prevent Them"	Burt
4/17/90	Salisbury Sales & Marketing Executives	"Appraiser Regulation"	Poole
4/19/90	Jacksonville REALTORS	"Agency Law"	Baer
4/22/90	Sapphire Valley Workshop	"Avoiding Trouble Selling Resort Properties"	Brogden
5/1/90	Resort Prop. Seminar (Atlantic Bch)		Miller & Gayle
5/2/90	Resort Prop. Seminar (Wilmington)		Miller & Gayle
5/2/90	Mortgage Bankers Assn.	"Appraiser Regulation"	Fisher
5/8/90	Rocky Mount REALTORS	"License Law Enforcement and the Complaint Handling Process"	Burt
5/15/90	Kerr Lake REALTORS	"New Rules and Fair Housing"	Brogden
5/16/90	Resort Prop. Seminar (Kill Devil Hills)		Miller & Gayle
5/17/90	NC Association of Appraisers	"Appraiser Regulation"	Poole
5/22/90	Avery-Watauga REALTORS	"Contract Problems"	Brogden
5/23/90	NARELLO District Mtg	"Appraiser Program Implementation"	Fisher
5/31/90	NARELLO Comm'n. Mtg	"Nat'l Disc. Action Bank"	Fisher

MONTHLY TRUST ACCOUNT SHORT COURSE

September 11

November 6

October 9

December 11

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

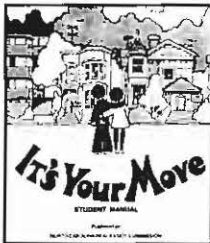
To register for the course, telephone the Real Estate Commission office (919/733-9580) at least 10 days prior to the course and ask for the Education Department. Please have your real estate license number (if any) handy! Registrations will be confirmed in writing giving registrants more detailed information concerning the location of the course.

EDUCATION NEWS

Scholarships Awarded

The North Carolina Real Estate Educational Foundation recently named this year's recipients of two scholarships sponsored by the Real Estate Commission recognizing outstanding achievement at the North Carolina REALTORS Institute. **Deanna C. Zurenko** of Huntersville was awarded the "Joe Schweidler Memorial Scholarship" for attaining the highest scholastic average in Series 200, and **Candice L. Montero** formerly of Fayetteville received the "Blanton Little Memorial Scholastic Achievement Award" for outstanding academic achievement at the Institute.

It's Your Move



For the eleventh year, the Real Estate Commission has funded the publication and distribution of "It's Your Move" booklets to North Carolina high school students. The booklets contain basic information about buying, selling and

renting real estate and are used in conjunction with economics, consumer education and related courses.

This year, 8,500 booklets have been produced bringing the total to nearly 300,000 copies printed and delivered to high schools since 1979.

Buyers Guide To Vacation Real Estate in North Carolina

Your Place at the Beach: A Buyer's Guide to Vacation Real Estate is being expanded to include information regarding the purchase of real estate in the mountain areas of western North Carolina.

The booklet was originally co-published by the Real Estate Commission and the UNC Sea Grant College Program in 1987. Additional material relating to the purchase of mountain real estate has been contributed by Dr. Linda L. Johnson, Ph.D., an Associate Professor at Appalachian State University.

A sample copy of the booklet will be sent to real estate offices in the resort areas of western North Carolina and to each local Board of REALTORS. Firms wishing to obtain additional copies to distribute to their customers as a public relations gesture may then obtain them from the

Commission free-of-charge.

Any person who wishes to have a free sample copy may obtain one by contacting the Real Estate Commission office.

The Commission wishes to thank the North Carolina Division of Travel and Tourism for its assistance in this project and UNC Sea Grant for its continued assistance and cooperation.

Resort Property Management Seminar

In May, a series of "Resort Property Management Seminars" was conducted by the Real Estate Commission in conjunction with the Consumer Protection Section of the Attorney General's Office and the Division of Emergency Management of the North Carolina Department of Crime Control and Public Safety. 221 persons attended the one-day seminars held in Atlantic Beach, Wilmington and Kill Devil Hills.



Commission Legal Counsel Tom Miller addresses seminar participants.

L. Ted Gayle, the Commission's Director of Audits and Investigations, spoke on "Trust Accounting" aspects of resort property management. The Commission's Legal Counsel, Assistant Attorney General **Thomas R. Miller**, and Assistant Attorney General **David W. Kirkman**, addressed the subjects of "Tenant Payments and Deposits" and "Legal Responsibilities" in managing resort property. And **Barry A. Williams, Jr.**, Chief of Operations for the N.C. Division of Emergency Management, discussed "Emergency Management and Disaster Relief." Seminar planning and arrangements were coordinated by **Evelyn Johnston**, Commission Education Officer.

The seminar participants were especially appreciative that attention was being focused on those areas of interest and concern unique to the management of resort property and encouraged the Commission to sponsor similar programs in the future. □

TEN TIPS ON TENANT SECURITY DEPOSITS

Real Estate agents who engage in property management or who themselves own rental property often unintentionally violate the law because they are not fully aware of the requirements of the Real Estate License Law and the North Carolina Tenant Security Deposit Act. The following are ten tips to help property managers remain in compliance with the laws regarding security deposits.

1. **If the landlord chooses at the beginning of the tenancy to hold the security deposit, the tenant should be so notified.** If your services are discontinued during the term of the tenancy, you must follow the owner's wishes with respect to the disposition of any security deposits held by you, including turning over the deposits to the owner upon his request. However, you should remind the owner that he must either deposit the funds in a trust or escrow account in an insured North Carolina bank or savings institution or supply a bond and notify the tenants of the location of the funds. (The owner, unlike the agent, is allowed to supply a bond. See #2 below.) In addition, you should provide written notice to all tenants that their security deposits are being turned over to the owner.
2. **Deposit all security deposits in a trust or escrow account in an insured bank or savings institution located in the State of North Carolina.** If you are acting as a property manager on behalf of another, you cannot supply a bond in lieu of placing security deposits in a trust account. You must maintain and deposit all money that you receive while acting in the capacity of a real estate broker. [See N.C.G.S. Section 93A-6(a)(12)].
3. **Within thirty (30) days after the beginning of the lease term, notify tenants of the name and address of the bank or savings institution where their deposits are located.** This can be easily accomplished by simply setting forth in the lease agreement the name and address of the institution where the money will be deposited. [See N.C.G.S. Section 42-50].
4. **If you manage your own rental properties along with rental properties owned by others, be sure to segregate the tenant security deposits into two separate accounts—one for your own properties and one for the properties of others.** Failure to do so will constitute commingling which is a violation of the Real Estate License Law. [See N.C.G.S. 93A-6(a)(12)].
5. **Limit the amount of the security deposit to the following:** Two weeks rent if the tenancy is week-to-week; one and one-half months' rent if the tenancy is month-to-month; and two months' rent for terms greater than month-to-month. If you require deposits in excess of these amounts, you will be in violation of the Tenant Security Deposit Act. [See N.C.G.S. Section 42-51].
6. **Maintain the security deposit in your trust or escrow account for the duration of the lease term.** Security deposits cannot be spent on any expenses or losses during the term of the lease, even if the expenses or losses are caused by the tenant. [See N.C.G.S. Section 42-51 which provides that upon termination of the tenancy, security deposits can be applied to various expenses and

(Continued on page 4)

ANSWERLINE

Q. When a licensed real estate broker undertakes to list and sell a property within an officially designated historic district, does the fact that the property is located in the district constitute a material fact that must be disclosed to a prospective purchaser?

A. Yes. Since owning property in an historic district generally places limitations or regulations as to exterior modifications, the demolition or new construction of property, etc., the fact that the property is subject to these restrictions is material and therefore must be disclosed by the real estate agent to any prospective purchaser.

Q. Although I have a real estate license, I sometimes lease and sell real estate that I personally own. Must I have a pest control license in order to perform structural pest control work on my own properties.

A. No. A pest control license is not required for persons (or their full-time regular employees) to perform structural pest control work on their own property, provided that they do not charge a fee for their work. However, persons who treat their own property are required to mix and apply pesticides in accordance with the instructions on the labeling, and they are advised to ascertain from their insurance agent whether or not they have adequate and proper coverage in the event they are involved in a liability claim. □

COMMISSION STEPS UP RANDOM TRUST ACCOUNT AUDITS

As reflected in the Disciplinary Action summaries in this "Bulletin," violations of the laws and rules governing the maintenance of trust and escrow accounts remain the number one cause for real estate license suspensions, revocations and reprimands. Whether through ignorance, negligence or intentional misappropriation or embezzlement, the impact on clients and customers is the same—financial loss. Consequently, the Commission considers all trust account violations to be serious.

To help Brokers-In-Charge and their bookkeepers to better understand their obligations and the requirements for maintaining trust funds and trust account records, the Commission has published "Trust Account Guidelines" which are furnished to all persons preparing for real estate license examinations, and are available upon request to all licensees without charge. In addition, since 1982 the Commission has offered free "Trust Account Short Courses" to interested licensees and their bookkeepers. These courses are conducted each month in Raleigh and once a year at different locations across the State. More than 5,500 persons have attended and benefited from these half-day courses. Brokers-In-Charge and other licensees who find themselves in situations requiring an immediate response to a question concerning trust or escrow funds may also write or call the Commission office for guidance.

Yet, despite the Commission's best efforts to prevent trust account violations and abuses, the Commission office continues to receive numerous complaints, and the Commission's auditing and investigative staff uncover many other incidents often while investigating totally unrelated matters.

Because of the continuing problems which the Commission is encountering and the serious threat that trust account violations pose to real estate consumers, the Commission has directed its Trust Account Auditors and Investigators to perform more random trust account audits. The Real Estate License Law permits the Commission to inspect the trust account records of real estate brokers "without prior notice," and failure to make such records available to the Commission or one of its representatives is grounds for disciplinary action.

Brokers-In-Charge are, therefore, strongly advised to carefully review their trust account and transaction records to assure that they are being maintained in accordance with the License Law and Commission rules so that you will be prepared should a Commission Auditor or Investigator visit your office. □

TEN TIPS (Continued from page 3)

- damages incurred by the landlord or his agent].
7. In addition to the regular security deposit, **the landlord may legally require that you charge a reasonable, non-refundable fee for pets kept by the tenant on the premises.** [See N.C.G.S. Section 42-53].
 8. At the termination of the tenancy, **apply the deposit only to those expenses for which you or the owner are legally entitled to be compensated.** These expenses are limited to the following acts of the tenant: (1) Any nonpayment of rent; (2) damage to the premises; (3) nonfulfillment of the rental period; (4) unpaid bills which become a lien against the premises due to the tenant's occupancy; (5) costs of re-renting the premises *after breach by the tenant*; (6) cost of removal and storage of the tenant's property; or (7) court costs in connection with terminating the tenancy. Neither you nor the landlord may withhold as damages part of the security deposit for conditions that are *due to normal wear and tear* nor may you retain an amount from the security deposit which exceeds your actual damages. For example, if you are able to re-rent the premises to someone else, you cannot keep the entire security deposit for nonfulfillment of the rental period; you can keep only enough of the deposit to cover the days during which the premises were not rented. [See N.C.G.S. Section 42-51 and 42-52].
 9. **You may assess a "cleaning fee" against the deposit only in those cases where the tenant has left the premises "filthy,"** thereby causing damage to the premises. Costs incurred for routine cleaning cannot be charged against the deposit because they are considered part of the normal wear and tear of the premises. [See N.C.G.S. Section 42-51 and 42-52].
 10. After determining the amount of any damages to which you and/or the landlord are legally entitled as set forth in paragraphs eight and nine above, **apply that portion of the security deposit to the allowable expenses actually incurred, and refund the balance to the tenant along with an accounting itemizing the deductions from the deposit.** All this must be done within 30 days from the termination of the tenancy. [See N.C.G.S. Section 42-52]. □

N.C. Appraiser Act Amended

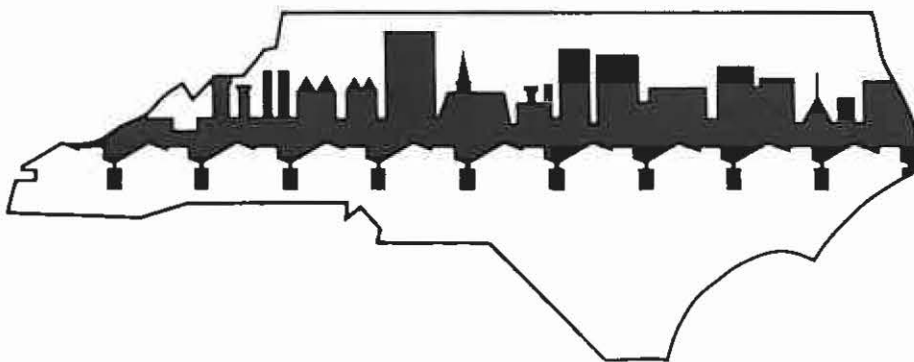
The N.C. General Assembly during its Summer Session amended the North Carolina Real Estate Appraisers Act. The legislation was sponsored by Representative Harold J. Brubaker and supported by the Real Estate Commission, the Real Estate Appraisal Committee and various real estate and lending organizations. Under the amended Appraiser Act, the powers, composition and appointment of the Commission's Appraisal Committee will be changed, and a new classification of "state-certified residential real estate appraiser" has been created.

Appraisal Committee: Effective July 1, 1991, the "Real Estate Appraisal Committee" will become the "Real Estate Appraisal Board." It will be expanded from five to seven members (to include two "public members"), with the Governor appointing five members and the Speaker of the House of Representatives and the President Pro Tempore of the Senate each appointing one member. The Board will have final decision-making authority over various appraiser licensing and regulatory matters, including approving applicants for appraiser licensure and certification, and conducting hearings and disciplining appraisers for violations of the Appraiser Act and rules.



Certified Residential Appraiser: Effective immediately, a third category of appraiser was created and the names of the other two categories changed. Qualified persons may now apply to become either *licensed* as a "state-licensed residential real estate appraiser" or *certified* as a "state-certified residential real estate appraiser" or a "state-certified general real estate appraiser." Although licensed appraisers must have completed certain education requirements and pass an examination, they are not required to possess any appraisal experience. Because of their lack of experience, there is concern that (depending upon final Federal regulations) they may not be eligible to appraise real estate in any "federally related transactions." On the other hand, **certified appraisers must have at least two years appraisal experience in addition to completing an approved or equivalent education program and passing an examination.** Consequently, **certified "residential" appraisers should be eligible to appraise residential real estate in federally related transactions and certified "general" appraisers should be qualified to appraise any type of real estate.**

As a result of these statutory changes, it was necessary to amend various rules previously adopted by the Commission. The temporary adoption and filing of the amended rules was accomplished on July 5 and a rulemaking hearing has been scheduled for September 5 to consider the permanent adoption of the rules. □



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.

EDGAR T. ACQUILIN (Asheboro) - By Consent, the Commission reprimanded Mr. Acquin for omitting in his license application a 1988 misdemeanor criminal conviction.

ASSET MANAGEMENT & MARKETING, INC. (Carolina Beach) - By Consent, the Commission suspended the corporate real estate license of Asset Management & Marketing, Inc. for two years effective July 16, 1990. The Commission then suspended its Order and placed the corporation on probation for one year. The Commission found that the corporation had failed to maintain a trust account and trust account records with regard to the rentals of two condominium projects and had allowed its unlicensed officer to negotiate and sign a contract to provide rental management services.

RUFUS BARDINELLI (Franklin) - By Consent, the Commission suspended Mr. Bardinelli's salesman's license for one year. The Commission then suspended its Order and placed Mr. Bardinelli on probation for one year. The Commission found that Mr. Bardinelli had made a negligent omission of a material fact by failing to advise purchasers to ascertain the correct size of lots which they were purchasing after he had given them incorrect information about the size of the lots.

BEACH MANAGEMENT & REALTY, INC. (Calabash) - By Consent, the Commission revoked the corporate real estate license of Beach Management & Realty, Inc. effective July 1, 1990. The Commission found that the corporation, while engaged in the rental management of condominium units, had failed to properly account for and remit the funds of others coming into its possession. The corporation neither admitted nor denied any misconduct.

BWIT FIFTY-FIFTH STREET, INC. (Charlotte) - By Consent, the Commission revoked the corporate real estate license of BWIT Fifty-Fifth Street, Inc. effective July 12, 1990. The Commission found that the corporation had failed to maintain accurate records of its trust account transactions and to make those records available to the Commission. The corporation neither admitted nor denied any misconduct.

VAN M. CARVER (Durham) - By Consent, the Commission revoked Mr. Carver's broker's license effective October 1, 1990. Sixty days following the revocation of his license, Mr. Carver will be eligible to apply for a real estate salesman's license and may, two years following the revocation of his broker's license, apply for the reissuance of his broker's license. The Commission found that Mr. Carver had failed to maintain a separate trust account; had commingled trust funds with his personal funds, and had spent trust funds for unauthorized purchases. The Commission also found that Mr. Carver had failed to make his transaction records available to the Commission's investigator and then provided incomplete and inaccurate information to the investigator.

JANET H. CHILTON (Sanford) - By Consent, the Commission suspended Ms. Chilton's broker's license for two years. Three months of the suspension are to be active and twenty-one months on probation. The Commission found that Ms. Chilton, as Broker-In-Charge of a real

estate firm, failed to properly maintain the firm's trust account.

FAIRFIELD COMMUNITIES, INC. (Sapphire Valley) - By Consent, the Commission reprimanded the corporation Fairfield Communities, Inc. for allowing an employee to sell time shares without first obtaining a real estate license.

JOHN F. GARDNER (Mooresville) - By Consent, the Commission suspended Mr. Gardner's broker's license for six months effective February 15, 1990. Sixty days of the suspension are to be active and one year on probation. The Commission found that Mr. Gardner, while acting as agent for the sellers, had failed to advise the sellers of the true identity of the purchaser and failed to inform the sellers that the purchasers would be willing to pay more than the amounts offered for their properties.

TERESA DILLINGHAM GERMAN (Charlotte) - By Consent, the Commission reprimanded Ms. German for giving the Commission a check in payment of her license renewal fee which was returned unpaid. The Commission noted that Ms. German subsequently paid her renewal fee plus late filing penalty.

JOSEPH M. GRANTHAM, JR. (Carolina Beach) - By Consent, the Commission suspended Mr. Grantham's broker's license for two years effective June 16, 1990. The Commission then suspended its Order and placed Mr. Grantham on probation for one year. The Commission found that Mr. Grantham, while licensed as a real estate salesman, failed to turn over funds received from others in real estate transactions to his supervising Broker-In-Charge or deposit the funds in a trust or escrow account.

HAROLD L. HARRISON (Rocky Mount) - By Consent, the Commission revoked Mr. Harrison's broker's license effective August 1, 1990. The Commission found that Mr. Harrison had failed to maintain client funds in his trust account; had failed to account for or remit rent monies to his principal, and had refused to produce complete trust account records for the Commission's auditor.

CECIL G. "HAPPY" HUSKEY, II (Calabash) - By Consent, the Commission revoked Mr. Huskey's broker's license effective July 1, 1990. The Commission found that Mr. Huskey, while engaged in the rental management of condominium units, had failed to properly account for and remit the funds of others coming into his possession. Mr. Huskey neither admitted nor denied any misconduct.

CHARLES R. JACKSON (Charlotte) - The Commission suspended Mr. Jackson's salesman's license for one year effective June 1, 1990. The Commission found that Mr. Jackson had given the Commission a check in payment of his license renewal fee which was returned unpaid.

DAVID R. JOHNSON (Williamsburg, Virginia) - The Commission suspended Mr. Johnson's salesman's license for one year effective June 15, 1990. Six months of the suspension are to be active and six months on probation. The Commission found that Mr. Johnson had made a false and fraudulent representation on his application for licensure concerning his educational experience and qualifications.

JOSEPH V. KNOX (Mooresville) - By Consent, the Commission suspended Mr. Knox's broker's license for six months effective July 1, 1990. Sixty days of the suspension are to be active and one year on probation. The Commission found that Mr. Knox, while acting as agent for the sellers, had failed to advise the sellers of the true identity of the purchaser and failed to inform

the sellers that the purchasers would be willing to pay more than the amounts offered for their properties.

ROBERT R. LEE (Rocky Mount) - By Consent, the Commission suspended Mr. Lee's salesman's license for twelve months effective May 1, 1990. The Commission found that Mr. Lee had failed to disclose material facts to purchasers in a real estate transaction; namely, that due to the flood-prone nature of the property and certain setback requirements and land use regulations, a structure could not be built on the property unless the owner first obtained a special permit and raised the structure on pilings above the high water line. Mr. Lee neither admitted nor denied any misconduct.

FRANCES K. MAGEE (Clayton) - By Consent, the Commission reprimanded Ms. Magee for failing to disclose to her principals in a prompt manner that an earnest money check had been dishonored and by assisting in the insertion of a provision in a sales contract concerning the payment of a sales commission.

KIRBY J. MATAXIS (Southern Pines) - By Consent, the Commission reprimanded Ms. Mataxis for failing to make an independent investigation as to the right of a purchaser to use an alleyway providing access to property purchased by the buyer after being informed by the listing agent that the alleyway was not to be conveyed with the property.

COLLEEN A. MCKEE (Charlotte) - By Consent, the Commission reprimanded Ms. McKee for giving the Commission a check in payment of her license renewal fee which was returned unpaid. The Commission noted that Ms. McKee subsequently paid her renewal fee plus late filing penalty.

ELIZABETH A. MINGES (Fayetteville) - By Consent, the Commission suspended Ms. Minges' salesman's license for twelve months effective May 1, 1990. Forty-five days of the suspension are to be active and one year on probation. The Commission found that Ms. Minges had failed to fully apprise her supervising Broker-In-Charge of a rental transaction on property which she and others owned but which was listed with the firm of the Broker-In-Charge. The Commission also found that she had failed to competently and properly prepare and have executed a lease with option to purchase agreement in connection with the transaction.

ELIZABETH L. PAGE (Wake County) - By Consent, the Commission revoked Ms. Page's broker's license effective April 16, 1990. The Commission found that Ms. Page had pleaded guilty to a criminal offense involving moral turpitude which would reasonably affect her performance in the real estate business; namely, embezzlement.

JOHN M. PARKER (Charlotte) - By Consent, the Commission revoked Mr. Parker's broker's license effective August 1, 1990. The Commission found that Mr. Parker, while engaged in the rental management of apartment units, had failed to properly account for the funds of others coming into his possession. The Commission also found that he had disbursed funds from the accounts of properties which he managed into his own accounts without apparent authority. Mr. Parker neither admitted nor denied any misconduct.

JAMES H. PARRISH (Franklin) - By Consent, the Commission reprimanded Mr. Parrish for failing as Broker-In-Charge to adequately supervise the activities of a salesman associated with his firm.

(Continued on page 6)

DISCIPLINARY ACTION (Continued from page 5)

PEPPERTREE RESORTS VILLAS, INC. PEPPER-TREE ATLANTIC BEACH ASSOCIATES, INC. and OUTER BANKS BEACH CLUB, INC. (Avery Carteret and Dare Counties) - By Consent, the Commission fined the time share project developers Peppertree Resorts Villas, Inc., Peppertree Atlantic Beach Associates, Inc., and Outer Banks Beach Club, Inc. \$80,000 for violations of the Time Share Act involving the sale and solicitation to purchase time shares at their respective projects.

RESORT PREMIERE, INC. (Avery County) - By Consent, the Commission suspended the corporate real estate license of Resort Premiere, Inc. for two years effective April 1, 1990. The Commission then suspended its Order and placed the corporation on probation for three years on certain conditions. The Commission found that the corporation had conducted a real estate brokerage business without first properly designating a Principal Broker and Broker-In-Charge; had allowed an unlicensed employee to engage in acts for which a real estate license was required; had advertised property without identifying the advertisement as the advertisement of a real estate broker; and had failed to maintain trust account records at its North Carolina office.

J. EDWARD RHODES (Southern Pines) - By Consent, the Commission reprimanded Mr. Rhodes. The Commission found that Mr. Rhodes, as Broker-In-Charge of a real estate firm, had failed to inform a salesman associated with his firm that an easement allowing access to property listed by the firm was not to be conveyed in the sale, and that, in fact, the owner of the easement had refused to grant the easement to others.

MARTINA C. ROSEBERRY (Calabash) - By Consent, the Commission revoked Ms. Roseberry's broker's license effective July 1, 1990. The Commission found that Ms. Roseberry, while engaged in the rental management of condominium units, had failed to properly account for and remit the funds of others coming into her possession. Ms. Roseberry neither admitted nor denied any misconduct.

EDWARD A. SCULLY (Carolina Beach) - By Consent, the Commission suspended Mr. Scully's broker's license for one year effective July 16, 1990. The Commission found that Mr. Scully, while Broker-In-Charge of a real estate brokerage firm, failed to adequately supervise a salesman associated with the firm.

ALLEN M. SMITH (New Bern) - By Consent, the Commission suspended Mr. Smith's broker's license for three years effective May 1, 1990. The Commission then suspended its Order and placed Mr. Smith on probation for three years on condition that he complete a Commission-approved Brokerage Operations Course. The Commission found that Mr. Smith had incorrectly stated in an offer to purchase which he had prepared that a \$2,000 earnest money deposit had been made when, in fact, only \$500 had been deposited. The Commission also found that he had failed to maintain all trust monies received by him in a trust or escrow account; had commingled the funds of others with his own; and had failed to maintain adequate records of real estate transactions in which he acted as a broker.

MICHAEL W. STRAYHORN (Durham) - By Consent, the Commission suspended Mr. Strayhorn's salesman's license effective August 23, 1990. Six months of the suspension are to be active and one year on probation. The Commission found that Mr. Strayhorn had pleaded guilty to a criminal offense involving moral turpitude which would reasonably affect his performance in the real estate business; namely, mail fraud.

WILLIAM R. STRICKLAND (Chapel Hill) - By Consent, the Commission reprimanded Mr. Strickland. The Commission found that Mr. Strickland, as Broker-In-Charge of a real estate firm, did not properly maintain the trust account records of the firm.

TERESA H. TREXLER (Stanly County) - By Consent, the Commission suspended Ms. Trexler's salesman's license for 90 days effective June 1, 1990. The Commission then suspended its Order and placed Ms. Trexler on probation for six months. The Commission found that Ms. Trexler had made a false representation on her application for licensure which she later disclosed to the Commission.

UNION SQUARE, LTD. (Caldwell County) - By Consent, the Commission revoked the corporate real estate license of Union Square, Ltd. effective May 1, 1990. The Commission found that the corporation, while under the control of unlicensed persons and engaged in the real estate brokerage business, did not use any licensed sales agents; did not use a contract form prepared by an attorney or in compliance with the Commission's rules; and did not maintain a trust account or deposit trust funds in such an account.

GWENDOLYN E. VICK (Albemarle) - The

commission revoked Ms. Vick's salesman's license effective June 1, 1990. The Commission found that Ms. Vick had failed to disclose on her application for licensure certain criminal convictions which would reasonably affect her performance in the real estate business; namely, issuing worthless checks. The Commission also found that Ms. Vick had given the Commission a check in payment of her license renewal fee which was returned unpaid.

VMS REALTY MANAGEMENT, INC. (Raleigh) - By Consent, the Commission reprimanded the corporation VMS Realty, Inc. The Commission found that the corporation, while managing an apartment complex, had failed to maintain adequate records of the deposit and disbursement of tenant security deposits and had failed to disclose to tenants that their security deposits had been transferred out of state. The Commission noted that the corporation subsequently restored the funds to a North Carolina bank.

SHIRLEY M. WHITLEY (Clayton) - By Consent, the Commission reprimanded Ms. Whitley for failing to disclose to the seller in a prompt manner that an earnest money check had been dishonored and for inserting a provision into a sales contract concerning the payment of sales commissions. □

Application Materials Distributed



On July 18, the booklet "Real Estate Appraiser Licensing and Certification in North Carolina," was mailed to all persons on the Commission's Appraiser Mailing List.

Published by the Real Estate Commission and the Real Estate Appraisal Committee, the booklet contains general information on real estate appraiser licensing and certification, the North Carolina Real Estate Appraisers Act and rules governing State-licensed and certified appraisers, The Appraisal Foundation's "Uniform Standards of Professional Appraisal Practice," and an application form (and return envelope) to apply for appraiser licensure or certification.

Additional copies of the booklet are available without charge from the Appraisal Division of the Real Estate Commission.

1990 Trust Account Caravan

From June 6 to June 20, Director of Audits and Investigations L. Ted Gayle conducted his Trust Account Short Course in Asheville, Charlotte, Greensboro, New Bern, Fayetteville, and Wilmington. 346 persons attended the half-day sessions which are designed to give Brokers-In-Charge, bookkeepers and other persons responsible for maintaining real estate trust accounts valuable information on the maintenance of trust accounts and records.

In addition, the Course is offered free-of-charge each month in Raleigh by Commission Education Officer Evelyn Johnston. Refer to page 2 of this "Bulletin" for further details and registration information.

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