



NORTH CAROLINA REAL ESTATE COMMISSION Real Estate Bulletin

Volume 22

1991

Number 1

COMMISSION TABLES CONSIDERATION OF ERRORS & OMISSIONS INSURANCE

Since September, the Real Estate Commission has been considering whether to recommend to the North Carolina General Assembly that it enact legislation requiring North Carolina real estate brokers and salesmen with active licenses to be covered by errors and omissions insurance. Similar requirements have been enacted in Kentucky, Louisiana, Tennessee, Iowa and Rhode Island. At the conclusion of its study in March, the Commission voted *not* to recommend legislation at this time.

In examining this issue, the Commission sought to determine whether such a requirement would be of *substantial* benefit to real estate consumers and to measure the level of interest (or opposition) among real estate licensees to the proposal.

To help gauge licensee response to the program under consideration, the Commission included a questionnaire in the previous issue of the *Bulletin* soliciting your opinions. *Less than one-half of one percent of all licensees responded.* Of these, 71% favored requiring real estate agents to obtain errors and omissions insurance, citing as their reasons the likelihood of lower premiums and enhanced professionalism. The remaining respondents were generally strongly opposed to the proposal, believing that it would only encourage more litigation and result in further governmental intervention in their real estate businesses.

The Commission then held a Forum in Raleigh to afford interested persons an opportunity to comment on the proposal. *Only twenty-five persons attended the Forum*, of whom nearly half represented insurance companies. The insurance company representatives did not favor the proposal, and most of the other participants (who were from the real estate industry) also expressed certain reservations.

Based upon its thorough examination of the issue, the Commission concluded that, although *some* public benefit may be derived from mandatory errors and omissions insurance, the apparent lack of interest and support for this proposal among members of the real estate industry (who would perhaps be the primary beneficiaries of the requirement as a result of lower E&O premiums) argued against its further consideration at this time.

The Commission does, however, wish to thank those nearly 400 licensees who responded to its survey and those 25 persons who attended the E&O Forum for taking the time and making the effort to comment on this issue. □

APPRAISERREPORT

NATIONAL FORUM FOR REAL ESTATE APPRAISER REGULATORY OFFICIALS

The Real Estate Commission and Appraisal Committee coordinated a Forum for Appraiser Regulatory Officials in Washington, D.C. on February 23 - 25. Members and administrators of state agencies responsible for licensing/certifying and regulating real estate appraisers were invited to attend the Forum. Twenty-four states and the District of Columbia were represented.



The purpose of the Forum was to afford the delegates an opportunity to exchange ideas and information and to be briefed by key federal officials on vital matters affecting the development and administration of state programs to license and certify real estate appraisers. Among the speakers were David S. Bunton, Executive Vice-President of The Appraisal Foundation, Miles M. Etter, Vice-Chairman of the Foundation's Appraiser Qualifications Board, former Capitol Hill Legislative Staffer Peter Barash, and [Federal] Appraisal Subcommittee Member Robert Miallovich.



Appraisal Subcommittee Member Robert Miallovich addresses Appraiser Regulators Forum.

(Continued on page4)

REAL ESTATE LICENSE RENEWAL

Application forms to renew your real estate broker, salesman and corporation licenses are scheduled to be mailed to you on May 10. Be on the lookout for them!

Carefully examine the form to make sure all information is correct (*your name, your business name/address, your residence address, the name of your broker-in-charge if you are a salesman on active status, and the name of the principal broker of real estate corporations*).

Correct any incorrect information and return your renewal application form and \$25 renewal fee to the Commission office as soon as possible (*but in no event later than the June 30 deadline*).

Your renewal application will contain complete instructions. However, if you have any questions concerning the renewal of your license, call the Commission's Records Section (919/733-9580 ext. 1) for assistance. □

TRUST ACCOUNT COURSE CARAVAN

See Page 2
for Details

ON THE INSIDE...

1988 Federal Fair Housing
Amendments

Appraisereport

Disbursement of
Commission Checks

Real Estate Referrals

Trust Account Course
Caravan

And more...

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

1313 Navaho Drive

P.O. Box 17100

Raleigh, North Carolina 27619-7100

Phone 919/733-9580

James G. Martin, Governor

COMMISSION MEMBERS

Grace T. Steed Randleman
Chairman
Patricia B. Casey Carolina Beach
Vice-Chairman
Gilbert L. Boger Mocksville
Patrice P. Carter Charlotte
Elmer C. Jenkins Blowing Rock
Brantley T. Poole Raleigh
J. Edward Poole Spring Lake

Phillip T. Fisher
Executive Director

Larry A. Outlaw Dir. Education/Lic.
L. Ted Gayle Dir. Audits/Inv.
Mary Frances Whitley Dir. Admin.
James E. Poole, Jr. Dir. Appraiser
Lic./Cert.
Thomas R. Miller Legal Counsel
Spec. Dep. Attorney General
Blackwell M. Brogden, Jr. Dep. Lgl.
Counsel
Miriam J. Baer Asst. Lgl. Counsel
Marilyn E. Tomei Assoc. Lgl. Counsel
John H. Zollicoffer, III Information Off.
Anita R. Burt Cons. Prot. Officer
Ann R. Britt Exam/Lic. Officer
Evelyn Johnston Education Officer
Paula L. Lassiter Financial Officer

EXAM RESULTS

| | Passed | Failed |
|-----------------------|--------|--------|
| JANUARY, 1991 | | |
| Brokers | 101 | 61 |
| Salesmen | 410 | 231 |
| FEBRUARY, 1991 | | |
| Brokers | 53 | 46 |
| Salesmen | 155 | 142 |
| MARCH, 1991 | | |
| Brokers | 104 | 71 |
| Salesmen | 305 | 226 |

BULLETIN BOARD

...Commission Field Representatives James K. Clinard and Everett H. Jenkins were recently recognized by the Commission for having completed 30 years combined service with the Real Estate Commission and the State of North Carolina. Prior to joining the Real Estate Commission, both were employed by the State Highway Patrol.

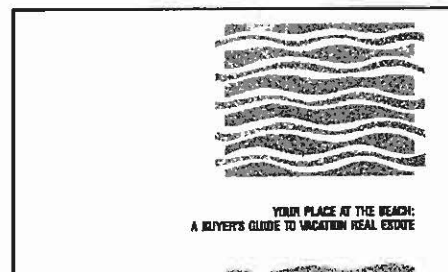


Left to right: Commission Members Gilbert L. Boger, Brantley T. Poole, Field Representative Clinard, Commission Chairman Grace T. Steed, Field Representative Jenkins, Vice-Chairman Patricia B. Casey and members Patrice P. Carter, and Elmer C. Jenkins. (Commission Member J. Edward Poole not pictured.)

Commission Accountant Paula L. Lassiter has been promoted to the position of Financial Officer. Ms. Lassiter recently passed the remaining sections of her examination leading to her Certified Public Accountant designation... Since the last issue of the *Bulletin*, members of the Commission staff have appeared before a number of real estate and related organizations. James E. Poole, Jr., the Commission's Director of Appraiser Licensing and Certification, addressed the N.C. Society of Farm Managers and Rural Appraisers, Chapter 31 of the International Right of Way Association, and a joint meeting of North Carolina and South Carolina bank executives... Deputy Legal Counsel Blackwell M. Brogden, Jr. appeared before the Gaston

FREE COASTAL INFORMATION BOOKLETS AVAILABLE

Copies of "Your Place at the Beach: A Buyer's Guide to Vacation Real Estate" are still available to coastal area real estate firms.



This informative booklet contains helpful facts and advice for prospective buyers of coastal real estate as well as brokers and salesmen who sell real estate in coastal North Carolina. Real estate firms may stamp or write "Compliments of [Firm Name]" on the booklet and furnish them to their clients and customers.

For a FREE supply of these booklets, call the Commission's Education and Licensing Division (919) 733-9580 ext. 26. □

Board of REALTORS® ...Assistant Legal Counsel Miriam J. Baer spoke to the Chatham County Board of REALTORS® ...Associate Legal Counsel Marilyn E. Tomei addressed the Kerr Lake Board of REALTORS® and the Asheville Board of REALTORS® ...Anita R. Burt, the Commission's Consumer Protection Officer, appeared before the Morehead City-Carteret County Chapter of the Women's Council of REALTORS®, the Havelock Board of REALTORS®, and the Education Committee of the Raleigh Board of REALTORS® ...and Information Officer Hill Zollicoffer spoke to the Burlington-Alamance County Association of REALTORS®. (Groups requesting a speaker from the Real Estate Commission are reminded that a "Speaker Request Form" is available from the Commission Office.) □

MONTHLY 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 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 (May 14) ☐ Fayetteville (May 21)
☐ Charlotte (May 15) ☐ Wilmington (May 22)
☐ Winston-Salem (May 16) ☐ New Bern (May 23)

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

DISBURSEMENT OF COMMISSION CHECKS AT CLOSING OR GETTING PAID WITHOUT LOSING YOUR LICENSE

By
Miriam J. Baer
Assistant Legal Counsel

Getting paid is, of course, a matter of primary importance to most persons, and real estate agents are no exception. In the past, it has been customary for closing attorneys to pay real estate agents their commissions at the closing meeting. But changing requirements of lenders and recent opinions of the North Carolina State Bar (the agency which regulates attorneys) make it clear that, in many instances, such a practice is no longer acceptable. Attorneys now may be bound by the law and/or their agreements with lenders to update their title searches and to record certain documents prior to disbursing loan proceeds.

In typical residential loan closings, the attorney searches the title of the subject property and issues a preliminary title opinion. Based upon this preliminary opinion, the title insurance company determines whether or not it will insure the title. Generally, the lender will not allow title to transfer and the title company will not agree to insure the property until all deeds of trust and other liens against the property are paid off.

At closing, the attorney collects the money from the buyer and the lender and has the parties sign all closing documents. However, the lender's closing instructions typically prohibit closing attorneys from disbursing any funds (e.g., to pay off the existing deed of trust, any lienholders, the seller, or the real estate agent) until they have again reviewed the public record to assure that nothing affecting title has occurred since their initial title search. After updating the title status and determining that nothing has been placed in the public record which would call the title into question, the attorney then immediately records the new deed and deed of trust, and issues a final title opinion certifying that the new lender's deed of trust is first in line for repayment. At approximately the same time, the attorney pays off the prior lender and any other lien holders and cancels their deeds of trust and liens on the record.

Because lenders, the State Bar and title insurance companies are now insisting that an updated title search and recordation be accomplished prior to the disbursement of funds, real estate agents may experience a brief delay in getting paid. Since attorneys must return to the register of deeds office to check the records and record the deeds and deeds of trust first, they may not be able to disburse commission checks until the day after the closing or even later, depending on the time of day of closing, the distance to the register of deeds office, and the day of the week on which closing occurs.

An additional impediment to immediate payment may result from the type of funds brought to closing to pay the seller, existing lienholders and other closing costs. Normally, closing attorneys receive checks from the buyer, the lender and, in some cases, the real estate agent, and deposit them into their trust accounts. They then write checks from their trust accounts to pay all the outstanding debts connected with the transfer (property survey, termite report, seller's loan payoff, attorney's fees, etc.). But if the checks from the buyer, lender and/or agent are not certified, then the closing attorney's bank may place a "hold" on the funds for as long as ten days. When that happens, closing attorneys must wait for those checks to clear (or for the "hold" to be lifted) before they can make any payments from their trust accounts. The reason for this delay is obvious: If an attorney writes

trust account checks from the buyer's funds and the buyer's check is later returned for insufficient funds, then the attorney has engaged in deficit spending. The attorney's trust account is now short the amount of the buyer's "bounced" check and the attorney has, in fact, spent trust funds belonging to others. Or even worse, if there are not enough other funds in the attorney's account to cover the "bounced check," then the attorney's trust account check will also bounce!

Some attorneys have attempted to solve the problem by giving commission checks to real estate agents but asking them not to cash the check until all closing documents have been recorded and/or all incoming checks have cleared. However, the North Carolina State Bar has issued an opinion indicating that attorneys who follow such a course of conduct are violating the ethical requirements of the Bar. The State Bar writes,

...by delivering to the real estate agent checks drawn on the trust account when the account has either (i) no funds or (ii) trust funds belonging to others, the Attorney violates Rules 10.1 and 10.2 [the attorney's equivalent to the trust account rules]. Under those rules, funds deposited in a trust account are funds received by the Attorney as a fiduciary, which must be held and disbursed only for the benefit of those entitled to them, in accordance with appropriate instructions. Accordingly, Attorney cannot violate or delegate his fiduciary duty by putting into the hands of an unrelated third-party a check, regular on its face, drawn on a trust account containing only the funds of others. Similarly, Attorney cannot ethically deliver checks drawn on an account with insufficient funds, in violation of the law and the implicit requirements imposed by Rule 10.2(F).

In other cases, attorneys sometimes allow real estate agents to write trust account checks on their purchaser's earnest money deposit directly to themselves and to cooperating real estate agencies for their portion of the commissions. But again, because of the attorney's need to update the title search and record instruments prior to disbursement, the agent may be asked to wait to disburse any funds from the transaction which are in his or her trust account until the final title update and recordation have been accomplished.

These requirements are not designed to harass agents or delay their commissions. They are simply unfortunate side-effects of the legal requirements imposed upon closing attorneys—legal requirements with a purpose: If the title update reveals any new defects, then the transaction may fail. The buyers would then be entitled to the return of their earnest money deposit. But this would be difficult to accomplish if those funds have already been paid to various real estate agents involved in the transaction.

For these reasons, real estate agents must exercise patience with regard to their receipt and payment of commissions. Agents who insist that closing attorneys violate their legal obligations by paying commissions at closing may be disciplined for engaging in unworthy or improper conduct under the Real Estate License Law. □

REFERRALS REVISITED

By Marilyn E. Tomei
Associate Legal Counsel

Among the questions most frequently posed to the Commission's attorneys and information officers are those involving the payment of "referral fees" to unlicensed persons. Consequently, although this issue has been addressed in previous *Bulletins*, further discussion may be in order.

The prohibition against paying or sharing commissions with unlicensed persons arises from the definition of "real estate broker" found in the Real Estate License Law. It defines a broker as one who, for compensation, offers to buy, sell, lease, etc. real estate for others. It further provides that a license is required to act as a real estate broker. Consequently, only a licensed broker (or a licensed salesman acting under the supervision of a licensed broker) may be compensated for putting a buyer and a seller or a landlord and a tenant together in a real estate transaction.

For example, a licensed broker offers to pay a fee to a recent buyer of one of his firm's listings for referring potential purchasers to his firm. The buyer does not have a real estate broker or salesman license. In paying the referral fee, the broker is, in essence, sharing with the unlicensed "referror" the commission that the broker will ultimately earn on the sale. The same would be true if the broker takes the referror out to dinner, rents him his beach condominium for less than its market rent, or lets the referror use his boat for the weekend. They all constitute "compensation" to an unlicensed person and are therefore prohibited by the License Law.

A related question concerns whether agents may receive referral fees or other incentives from home inspectors, termite inspectors, contractors and other persons with whom buyers and sellers may have contact in real estate transactions. Assume, for example, that a broker has an agreement with a home inspector whereby the inspector agrees to pay the broker \$50 for every potential client that the broker sends to him. Although this arrangement is not prohibited, Commission rules require the broker to fully disclose to buyers that they will be compensated if the buyers retain the services of the inspector.

Still another related question is under what circumstances may a real estate licensee pay a referral fee to another licensee? Assume, for example, that you are a broker in Greensboro. You receive a call from a licensed salesman in Wilmington who says that he has an acquaintance who wants to buy a home in Greensboro but that he expects a referral fee for sending this prospect to you. Can you pay a referral fee directly to this salesman? No. You may only pay the salesman a referral fee if he has an active salesman's license and is properly and actively supervised by a broker-in-charge. A telephone call to the Real Estate Commission can confirm these facts. **Payment of the referral fee must be made to the salesman's broker-in-charge.** (You may also want to telephone the broker-in-charge to be sure that the broker-in-charge is aware of the salesman's referral activities.)

Likewise, suppose the licensee expecting the referral fee is licensed as a broker in Florida but not in North Carolina. You may pay a referral fee to the Florida broker only if the broker is properly licensed in Florida (where the referral is made) and the Florida broker has not and will not enter North Carolina, either personally or through an employee or agent, to participate in the transaction.

Just remember: The act of referring potential clients and customers to real estate agents for or in expectation of compensation requires a real estate license. And licensed brokers and salesmen who make referrals must be treated the same as if they were rendering other, more traditional, real estate services, so that all of the provisions of the Real Estate License Law and rules apply. □

A REVIEW OF THE FAIR HOUSING AMENDMENTS ACT OF 1988

Editor's Note: The following article concerning the Federal Fair Housing Act originally appeared in the Pennsylvania State Real Estate Commission "Newsletter". It is reprinted here because its subject matter is relevant to North Carolina licensees as well.

Housing discrimination is a crime. Fair Housing is the law of the land. These facts are not new. The additional two protected classes, familial status (families with children) and the handicapped, the way in which Title VIII is enforced, and the penalties which can be imposed for violations are new.

The Fair Housing Amendments Act of 1988, which amends Title VIII of the Civil Rights Act of 1968, is the most far-reaching civil rights legislation yet to affect the real estate industry. Effective now since March 13, 1989, it is proving to be a challenge to real estate licensees who must deal with the new provisions, new procedures and new penalties.

The amendments are having a significant effect upon all licensees who deal in rental properties or property management. Licensees dealing in rental properties need to modify their application procedures to address the new protected classes, need to adjust their rules and regulations, and need to adopt safety precautions to take into account the possible presence of children in their properties.

A review of recent settlements in housing discrimination cases since the first of the year shows that licensees and others who are found to have engaged in housing discrimination are paying sums of: \$450,000, \$70,000, \$23,000,

\$45,000, \$32,000, \$125,000, \$37,500, \$17,500 and \$15,000.

Also, the Department of Housing and Urban Development (HUD) now has the authority to prosecute a charge on behalf of an aggrieved person and to provide a government attorney to represent them. The intended effect of these changes is a substantial increase in the number of charges brought against real estate licensees.

Every allegation against a licensee which reaches HUD in the form of a fair housing complaint may also result in disciplinary proceedings against the licensee by the appropriate state real estate licensing agency. In the event that a licensee who is a respondent in a fair housing complaint filed with HUD is found by an administrative law judge or a U.S. District Court judge to have engaged in or to be about to engage in a discriminatory housing practice in the course of the licensee's business, HUD is required, within 30 days after the order making such finding, to report such findings to the state licensing authority with a recommendation for appropriate disciplinary action under the applicable state license law.

Every real estate licensee should review the Act and Regulations to ensure that his actions are in compliance. Remember: **Fair Housing is the law of the land. Housing discrimination is a crime.** It can be very expensive. It can mean the suspension or revocation of your real estate license.

PRACTICE FAIR HOUSING. It's the law. It's good business. □

APPRAISERREPORT

(Continued from page 1)

Presentations were also made by Ren Liner, Director of the Texas Real Estate Appraisal Certification Committee, Jane H. Moody, Executive Director of the Louisiana Real Estate Commission and Appraisal Subcommittee, Michael L. Austin, former Chairman of The Appraisal Foundation and current Chairman of the Maine Real Estate Appraiser Board, and Georgia Real Estate Commissioner Charles Clark, President of the National Association of Real Estate License Law Officials. Mark Stauffer, Legal Counsel to the South Carolina Real Estate Commission, presided over the Forum. North Carolina Real Estate Commission Executive Director **Phillip T. Fisher** and Education and Licensing Director **Larry A. Outlaw** also addressed the Forum participants.

The Forum was a big success both in terms of the number of delegates in attendance and the quality of the programs presented. The Commission and Appraisal Committee received glowing accolades from the participants for their efforts in arranging the meeting, and special thanks were extended to the Commission's Director of Appraiser Licensing and Certification, **James E. Poole, Jr.**, Appraiser Secretary **Sylvia Samsel** and Clerk **Sheryl Richards**, and to **Fran Whitley**, the Commission's Director of Administration, for their special contributions to the success of this event.

July 1 Deadline Approaches

Federal law requires that beginning July 1, all appraisals in federally-related transactions must be performed by either state-licensed or state-certified appraisers.

The Real Estate Commission and Appraisal Committee are pleased to report that North Carolina's real estate appraisers are responding to this deadline by completing the requirements for licensure and certification, including satisfying the education and experience requirements and passing their licensure and certification examinations.

The Commission's Appraisal Division reports that through the February examination, **approximately 1,100 appraisers have been licensed or certified in North Carolina.** It is projected that there may be as many as 2,000 North Carolina State-licensed and State-certified appraisers by the July 1 deadline.

Persons interested in pursuing appraiser licensure or certification should contact the Real Estate Commission's Appraisal Division for further information. □

COMMISSION REAFFIRMS COMMITMENT TO FAIR HOUSING

The Real Estate Commission in February restated its intent to promote affirmative fair housing practices by executing a Restatement of Intent with the U.S. Department of Housing and Urban Development (HUD). The Statement incorporates provisions reflecting recent amendments to Title VIII of the Civil Rights Act of 1968 which extended the protections of the Act to the handicapped and families with children.

Under the Statement which was initially executed in 1988, the Commission affirmed its commitment to assuring that all North Carolina real estate licensees and license applicants are well-informed as to fair housing principles and practices, to supporting affirmative marketing activities, and to enforcing licensee compliance with fair housing laws.

The Commission joins its fellow members of the National Association of Real Estate License Law Officials (NARELLO) who have entered into similar NARELLO-developed agreements with HUD. Currently, Commission members **Patrice Carter** and **J. Edward Poole** and Commission Legal Counsel **Thomas R. Miller** serve on NARELLO's Fair Housing Committee. □

COMMISSION OBTAINS INJUNCTIONS

In response to complaints filed by the Real Estate Commission, permanent injunctions have been obtained in Wake County Superior Court against J. Beasley, Judy H. Beasley, and N.C. State Marketing, Inc. (Carteret County) and, in a separate complaint, against Kathy Smith (Rocky Mount).

On December 10, Judge Howard E. Manning, Jr. issued an Order permanently enjoining Mr. Beasley, Mrs. Beasley and N.C. State Marketing from engaging in acts requiring a real estate license until such time as they are properly licensed. The Court found that between 1987 and 1989, State Marketing had, through advertising, solicited sellers of time shares. Although Mrs. Beasley (who was licensed at that time but whose license was subsequently revoked by the Commission) was shown on Commission records as the principal broker and broker-in-charge of State Marketing's office, its daily operations were, in fact, conducted by Mr. Beasley who was not licensed as a real estate broker or salesman. Despite warnings from the Commission, Mr. Beasley continued to engage in activities requiring a real estate license.

The Commission also found that Mrs. Beasley and State Marketing (which was a licensed real estate brokerage corporation at that time but whose license was later revoked by the Commission) did not maintain the required trust account and records and that some of the funds collected from time share sellers were either commingled with State Marketing's funds or directly converted to Mr. Beasley's use.

In a separate action, Wake County Superior Court Judge Robert Farmer on February 11 issued a permanent injunction against Kathy Smith restraining her from engaging in the unauthorized practice of real estate brokerage until such time as she is properly licensed. The court found that Ms. Smith had managed various rental properties for others including procuring tenants, collecting rents, and preparing monthly statements to property owners.

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.

LUANNE B. ARMSTRONG (Mooresville) - By Consent, the Commission suspended Ms. Armstrong's broker's license for sixty days effective February 7, 1991. The Commission then stayed its Order and placed Ms. Armstrong on probation for one year. The Commission found that Ms. Armstrong had paid a brokerage fee to an unlicensed person for performing acts requiring a real estate license.

LINDA W. BARNES (Northampton County) - The Commission revoked Ms. Barnes' broker's license effective January 1, 1991. The Commission found that Ms. Barnes had pleaded guilty to a criminal offense involving moral turpitude which would reasonably affect her performance in the real estate business; namely, obtaining property through false pretenses.

HENRY BOYD, JR. (Durham) - By Consent, the Commission suspended Mr. Boyd's broker's license for one year effective February 25, 1991. The Commission then stayed its Order and placed Mr. Boyd on probation for one year. The Commission found that Mr. Boyd, as broker-in-charge of a real estate office, had permitted an unlicensed person at the office to engage in acts for which a license was required while his license was revoked. Mr. Boyd neither admitted nor denied any misconduct.

BUTTERFLY SEVEN, LTD, INC. (Charlotte) - The Commission revoked the corporate real estate license of Butterfly Seven, Ltd., Inc. effective April 1, 1991. The Commission found that licensees associated with the corporation had failed to reveal the true size of the common area to be included with units offered for sale in a condominium complex and had falsely promised to complete certain amenities at the complex.

VAN M. CARVER (Durham) - By Consent, the Commission suspended Mr. Carver's salesman's license for one year effective February 25, 1991. The Commission then stayed its Order and placed Mr. Carver on probation for one year. The Commission found that Mr. Carver had acted as a real estate agent while his real estate license was revoked. Mr. Carver neither admitted nor denied any misconduct.

VAN CARVER REALTY, INC. (Durham) - By Consent, the Commission suspended the corporate real estate license of Van Carver Realty, Inc. for one year effective February 25, 1991. The Commission then stayed its Order and placed the corporation on probation for one year. The Commission found that the corporation had permitted an unlicensed person affiliated with the corporation to engage in the acts of a real estate agent while his license was revoked. The corporation neither admitted nor denied any misconduct.

CYNTHIA A. CASHMAN (Laurinburg) - By Consent, the Commission revoked Mrs. Cashman's salesman's license effective March 7, 1991. The Commission found that Mrs. Cashman had converted trust funds received for the construction of a home which her construction company had contracted to build.

GEORGE E. CASHMAN, JR. (Laurinburg) - By Consent, the Commission revoked Mr. Cashman's broker's license effective March 7, 1991. The Commission found that Mr. Cashman

had converted trust funds received for the construction of a home which his construction company had contracted to build.

CASHMAN REALTY, INC. (Laurinburg) - By Consent, the Commission revoked the corporate real estate license of Cashman Realty, Inc. effective March 7, 1991. The Commission found that the corporation had converted trust funds received for the construction of a home which it had contracted to build.

MATTHEW W. DOYLE (Cary) - By Consent, the Commission suspended Mr. Doyle's salesman's license for thirty days effective January 10, 1991. The Commission found that Mr. Doyle had made a false representation on his application for a real estate license.

KATHY A. DOYLE (Cary) - By Consent, the Commission suspended Mrs. Doyle's salesman's license for thirty days effective January 10, 1991. The Commission found that Mrs. Doyle had made a false representation on her application for a real estate license.

BONNY S. DROKE (Cary) - By Consent, the Commission suspended Mrs. Droke's broker's license for one year effective February 6, 1991. The Commission then stayed its Order and placed Mrs. Droke on probation for one year. The Commission found that Mrs. Droke had failed to disclose to purchasers that property which she owned and was being sold to the purchasers had a severe flooding and water seepage problem.

JIMMY H. DROKE (Cary) - By Consent, the Commission suspended Mr. Droke's broker's license for one year effective February 6, 1991. Thirty days of the suspension are to be active and eleven months on probation. The Commission found that Mr. Droke had failed to disclose to purchasers that property which he owned and was being sold to the purchasers had a severe flooding and water seepage problem.

CHARLES W. DUVAL (Kill Devil Hills) - By Consent, the Commission revoked Mr. Duval's broker's license effective February 12, 1991. The Commission found that Mr. Duval had commingled an earnest money deposit with his own funds, had disbursed a portion of the earnest money deposit without authorization from the buyers or sellers, and had failed to promptly account for these funds.

ALBERT ELROD (Emerald Isle) - By Consent, the Commission suspended Mr. Elrod's broker's license for eighteen months effective January 15, 1991. The Commission found that Mr. Elrod had made false promises to purchasers and to a closing attorney as to the existence of a septic permit.

ELROD REALTY, INC. (Emerald Isle) - By Consent, the Commission suspended the corporate real estate license of Elrod Realty, Inc. for eighteen months effective January 15, 1991. The Commission found that the corporation had made false promises to purchasers and a closing attorney regarding the existence of a septic permit.

DOROTHY H. ESSEY (Southport) - By Consent, the Commission reprimanded Ms. Essey effective February 11, 1991 and required her to complete the Commission's Trust Account Course. The Commission found that Ms. Essey had failed to adequately maintain a trust account and reconcile trust account records. Ms. Essey discovered irregularities in the property management accounts maintained by a bookkeeper associated with the firm and determined that there were shortages in the trust account balances. The Commission noted that Ms. Essey replaced the shortage in the trust account with her own funds and promptly reported the short-

age to the Commission.

SHELLEY JO FARR (Kitty Hawk) - By Consent, the Commission suspended Ms. Farr's salesman's license for nine months effective January 10, 1991. The Commission found that Ms. Farr had made a false representation on her application for a real estate license.

TRACEY G. GOETZ (Durham) - By Consent, the Commission suspended Ms. Goetz's broker's license for one year effective January 15, 1991. The Commission then stayed its Order and placed Ms. Goetz on probation for one year. The Commission found that Ms. Goetz, as broker-in-charge of a real estate office, had failed to adequately supervise the sale of real estate by her firm.

JEFFREY D. HILL (Durham) - By Consent, the Commission suspended Mr. Hill's broker's license for two years effective January 10, 1991. Forty-five days of the suspension are to be active and two years on probation. The Commission found that Mr. Hill had paid a real estate commission to an unlicensed person for acts requiring a real estate license.

DIANA J. JAMES (Durham) - By Consent, the Commission suspended Ms. James' salesman's license for two years effective January 10, 1991. Forty-five days of the suspension are to be active and two years on probation. The Commission found that Ms. James had made false and misleading representations on her application for a real estate license.

SUSAN B. JONES (Charlotte) - The Commission suspended Mrs. Jones' broker's license for two years effective April 1, 1991. Six months of the suspension are to be active and eighteen months on probation. The Commission found that Mrs. Jones had failed to reveal the true size of the common area to be included with units offered for sale in a condominium complex and had falsely promised to complete certain amenities at the complex. The Commission also found that Mrs. Jones, as broker-in-charge of a real estate office, had failed to adequately supervise salesmen associated with the office and to supervise advertising and sales activities conducted at such office.

WILLIAM P. JONES (Charlotte) - The Commission suspended Mr. Jones' salesman's license for one year effective April 1, 1991. Three months of the suspension are to be active and nine months on probation. The Commission found that Mr. Jones had failed to reveal the true size of the common area to be included with units offered for sale in a condominium complex and had falsely promised to complete certain amenities at the complex.

RICHARD M. LAWSON (Matthews) - By Consent, the Commission suspended Mr. Lawson's broker's license for thirty-six months effective January 10, 1991. Eighteen months of the suspension are to be active and eighteen months on probation on condition that he complete the Commission's Brokerage Operations and Trust Account Courses. The Commission found that Mr. Lawson, as property manager, had commingled the money of the property owner with his own money and had failed to deposit a security deposit and rents in a trust or escrow account. The Commission also found that Mr. Lawson had failed within a reasonable time to account for or to remit a security deposit and rental monies coming into his possession which belonged to the property owner.

DOUGLAS BRYAN MCCLURE (Wilmington) - By Consent, the Commission accepted the voluntary surrender of Mr. McClure's broker's

(Continued on page 6)

DISCIPLINARY ACTION

(Continued from page 5)

license for a period of five years effective February 12, 1991 and dismissed without prejudice certain charges against him alleging that he had operated a private real estate school without the necessary license and that he had issued false course completion certificates to students. Mr. McClure neither admitted nor denied any misconduct.

MERRILL LYNCH MORTGAGE CORPORATION (Charlotte) - By Consent the Commission suspended the corporate real estate license of Merrill Lynch Mortgage Corporation for ninety days effective January 15, 1991. The Commission then stayed its Order. The Commission found that the corporation had paid a real estate commission to an unlicensed person for acts requiring a real estate license.

PARVIN E. ORDOU-KHANI (Greenville) - By Consent, the Commission suspended Ms. Ordou-Khani's salesman's license for one year effective January 9, 1991. Ninety days of the suspension are to be active and one year on probation. The Commission found that Ms. Ordou-Khani had engaged in improper dealing by failing to properly obtain and insert the signatures of a seller on the sales contract.

GRACE B. PALMER (Whiteville) - By Consent, the Commission suspended Ms. Palmer's salesman's license for sixty days effective March 1, 1991. The Commission then stayed its Order and placed Ms. Palmer on probation for one year. The Commission found that Ms. Palmer had prepared a listing agreement which did not provide for its existence for a definite period of time and for its termination without prior notice at the expiration of such time.

JEAN T. REA (Fayetteville) - By Consent, the Commission reprimanded Mrs. Rea effective April 1, 1991 for failing to maintain proper trust account records and for depositing trust funds in an unauthorized investment. The Commission noted that no funds were lost as a result of these practices.

KYLE S. REA (Fayetteville) - By Consent, the Commission reprimanded Mr. Rea effective April 1, 1991 for failing to maintain proper trust account records and for depositing trust funds in an unauthorized investment. The Commission noted that no funds were lost as a result of these practices.

RED CARPET-DOROTHY ESSEY & ASSOCIATES, INC. (Southport) - By Consent, the Commission reprimanded the corporate real estate broker Red Carpet-Dorothy Essey & Associates, Inc. effective February 11, 1991. The Commission found that the corporation had failed to adequately maintain its trust account and to reconcile its trust account records. The broker-in-charge of the corporation discovered irregularities in the property management accounts maintained by a bookkeeper associated with the firm and determined that there were shortages in trust account balances. The Commission noted that the broker-in-charge of the corporation replaced the shortage in the trust account with her own funds and promptly reported this shortage to the Commission.

RED-MAR, INC. (Pinhurst) - By Consent, the Commission suspended the corporate real estate license of Red-Mar, Inc. for six months effective February 20, 1991. The Commission found that the corporation had promised prospective sellers that it would advertise real estate for sale and failed to do so.

ANNA J. REGISTER (Fayetteville) - By Consent, the Commission suspended Ms. Register's salesman's license for two years effective June 1, 1991. The Commission then stayed its Order and placed Ms. Register on probation for one

year on condition that she complete the Commission's Trust Account Course. The Commission found that Ms. Register, while selling property owned by her and her spouse, had failed to place in escrow an earnest money deposit and rents as required by the contract of sale. The Commission also found that Ms. Register had endorsed her husband's name to the trust account checks without his authority and cashed the checks, but that upon the commencement of the Commission's investigation, she paid all funds to the closing attorney.

ELLIOTT R. SECREST, SR. (Cary) - By Consent, the Commission reprimanded Mr. Secrest effective February 12, 1991 for failing, as a listing agent, to disclose to purchasers that the listed property had a severe flooding and water seepage problem.

DETRI A. SMITH (Gastonia) - By Consent, the Commission suspended Ms. Smith's broker's license for ninety days effective June 1, 1991. The Commission then stayed its Order on condition that Ms. Smith complete the Commission's Trust Account Course. The Commission found that Ms. Smith had maintained trust funds in an interest-bearing account without proper authorization and subsequently transferred the funds into an account which was not designated as a trust or escrow account. The Commission also found that she had failed to maintain proper trust account records.

TONY R. STONE (Bailey) - By Consent, the Commission reprimanded Mr. Stone effective January 11, 1991 for using offer to purchase forms and listing contract forms that failed to comply with Commission rules and for paying a fee to an unlicensed brokerage corporation for acts which required a real estate license.

JEFFREY M. TATAR (Charlotte) - By Consent, the Commission suspended Mr. Tatar's salesman's license for sixty days effective February 11, 1991. The Commission then stayed its Order and placed Mr. Tatar on probation for one year. The Commission found that Mr. Tatar had, as a salesman, included his name in the name of a non-corporate real estate brokerage business and that

he had paid a check to the Real Estate Commission which had been returned unpaid due to insufficient funds.

JOHN E. THOMPSON, JR. (Whiteville) - By Consent, the Commission suspended Mr. Thompson's broker's license for sixty days effective March 1, 1991. The Commission then stayed its Order and placed Mr. Thompson on probation for one year. The Commission found that Mr. Thompson, as broker-in-charge of a real estate office, had failed to adequately and personally supervise a salesman associated with the office.

GENERAL W. WASHINGTON (Greensboro) - By Consent, the Commission suspended Mr. Washington's salesman's license for one year effective January 10, 1991. The Commission found that Mr. Washington had made a wilful misrepresentation to a seller of property by stating that the purchasers had agreed to the seller's counter-offer when, in fact, they had not.

JERRY V. WRIGHT (Concord) - By Consent, the Commission suspended Mr. Wright's salesman's license for one year effective February 7, 1991. Ninety days of the suspension are to be active and nine months on probation on condition that he complete the Commission's Trust Account Course. The Commission found that Mr. Wright had failed to deposit and maintain in a trust or escrow account mortgage payments collected on behalf of his principal and had failed, within a reasonable time, to account for or to remit these payments to his principal.

DEBORAH O. ZANG (Pinhurst) - By Consent, the Commission suspended Mrs. Zang's broker's license for six months effective February 20, 1991. The Commission found that Mrs. Zang had engaged in improper conduct by promising prospective sellers that she would advertise real property for sale and failing to do so.

ROSS C. ZANG (Pinhurst) - By Consent, the Commission suspended Mr. Zang's broker's license for sixty days effective February 20, 1991. The Commission then stayed its Order and placed Mr. Zang on probation for one year. The Commission found that Mr. Zang had promised prospective sellers that he would advertise real estate for sale and failed to do so. □

RENEW EARLY

79,800 copies of this public document were printed at a cost of \$.0770 per copy

NORTH CAROLINA
REAL ESTATE COMMISSION
P.O. Box 17100
Raleigh, N.C. 27619-7100

BULK RATE
U.S. Postage Paid
Permit No. 99
RALEIGH, N.C.