



NORTH CAROLINA REAL ESTATE LICENSING BOARD

Real Estate Bulletin

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INSPECTION OF ESCROW ACCOUNTS

In an important case from Pennsylvania, State Real Estate Commission v. Roberts, 271 A. 2d 246, the Pennsylvania Supreme Court affirmed the action of Pennsylvania Real Estate Commission in suspending a broker's license for refusing to permit an investigator for the Commission to make a routine examination of his escrow account. The Pennsylvania License Law provides that every real estate broker shall keep records of all funds deposited (in escrow accounts) and that such records and funds shall be subject to inspection by the Commission.

In his appeal, the appellant broker contended that he was a private individual conducting a private business and that there was nothing in the law that made his business or his records "public" and that the Commission had violated his constitutional rights against self-incrimination and unreasonable searches and seizures.

The Court disagreed saying that appellant's case called for invoking the "Required Record Doctrine", *Shapiro v. United States*, 335 U.S. 1 (1948), namely, that:

"The privilege which exists as to private papers cannot be maintained in relation to records required by law to be kept in order that there may be suitable information of transactions which are the appropriate subjects of governmental regulations and the enforcement of restrictions validly established."

The Court explained that the doctrine applies wherever an individual has voluntarily entered a field which requires licensing by the state. The mere act of entering or remaining in an activity that has become subject

CARLTON ELECTED REALTOR PRESIDENT

A. P. (Red) Carlton of Greensboro will be installed as 1972 president of the 3000 member North Carolina Association of Realtors in January. He was elected by acclamation at the Golden Anniversary convention of the Association at Pinehurst recently.

"Red" has served as president, Greensboro Board of Realtors; director, North Carolina Association of Realtors; president, North Carolina Real Estate Educational Foundation and dean of the Realtors' Institute. In 1969, he was chosen Greensboro Realtor of the Year and in 1970, North Carolina Realtor of the Year.

He was appointed to the North Carolina Real Estate Licensing Board in 1968 and has served the Board as chairman. He is a member of the NAREB-NARELLO Liaison Committee.

REALTORS' INSTITUTE

The 24th annual Realtors' Institute (second session) will be held in Chapel Hill on December 5-11, 1971. The Institute is a joint venture of the North Carolina Real Estate Educational Foundation and the University of North Carolina-Chapel Hill and is designed to further elevate and professionalize the real estate business through the education of the Realtor and his associates. Since the first Institute was offered in 1947, over 2000 students have attended.

OLIVE TO JOIN HOLDING COMPANY

John W. Olive, executive vice president of the United Savings and Loan Association, Mount Airy, North Carolina, has announced that he will resign that position as of December 31, 1971, to assume an executive position with United North Carolina Industries, Inc., a North Wilkesboro-based holding company of which he is an organizing director. He has been managing officer of the savings and loan association since 1956.

A licensed real estate broker and member of the Surry County Board of Realtors, John was appointed to the North Carolina Real Estate Licensing Board in November 1969 and presently serves the Board as vice chairman.

DAVIS NEW U.S. CLERK OF COURT

J. Toliver Davis, Forest City attorney, has been appointed Clerk of the United States District Court for Western North Carolina and will take the oath of that office in Asheville on December 1, 1971. In assuming his new position, Toliver will discontinue his law practice and his membership on the North Carolina Real Estate Licensing Board to which he was appointed in 1966.

He concludes his tenure as a member and past chairman of the Licensing Board with the assurance that his associates on the Board as well as the entire real estate profession appreciate his outstanding public service.

FUTURE EXAMINATION DATES

FILING DATE	BROKERS EXAM	SALESMEN EXAM
December 23	January 25	January 26
January 24, 1972	February 22	February 23
February 21	March 21	March 22
March 27	April 25	April 26
April 24	May 23	May 24
May 29	June 27	June 28

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REAL ESTATE BULLETIN

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NORTH CAROLINA REAL ESTATE LICENSING BOARD

813 BB&T Bldg.

Raleigh, North Carolina 27602

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— CHAIRMAN'S COMMENTS —

One year after the enactment of the North Carolina Real Estate Licensing Law in July 1957, there were less than three thousand licensed brokers and salesmen registered with the Licensing Board. This total has since grown to over twelve thousand. During the first year of its existence, the Licensing Board handled comparatively few licensing law violations. In contrast, during the past twelve months, the Board has held some thirty-five hearings, both formal and informal, which have resulted in a number of license suspensions and revocations.

In reviewing the complaints filed with the Board during the past year, the majority of alleged violations were committed by licensees who have been licensed for many years. Very few complaints involved persons who have received their licenses during the past two or three years. This would seem to indicate that our more recent licensees have taken advantage of the educational opportunities now being offered in many real estate schools in North Carolina, and that they are striving to be a credit to their profession.

These facts should challenge all veteran brokers and salesmen to make every effort to set an example for our younger counterparts.

Brantley Poole

ATTORNEY GENERAL'S OPINION

Subject: Licenses & Licensing; Real Estate Licensing Board; Licensing North Carolina Residents Who Become Nonresidents; Reciprocity; G. S. 93A-4 and G. S. 93A-9.

Question: If a resident of North Carolina has been licensed by the Board as a real estate broker or salesman and the licensee subsequently moves to a state which does not offer licensing privileges to residents of North Carolina, may such licensee retain his North Carolina license?

Conclusion: No. Such license must be cancelled by the Board irrespective of whether there is reciprocity between the new state of residence of the licensee and North Carolina. The Board has discretionary authority to issue a new license under G. S. 93A-9 to residents of states which will license North Carolina residents.

Chapter 93A (Real Estate Brokers and Salesmen) contains no specific provisions relating to the questions presented.

G. S. 93A-4 provides for and gives the requirements for acquiring a North Carolina real estate broker's or salesman's license. Although the statute does not specifically so provide, it obviously applies only to North Carolina residents since the provisions for licensing nonresidents are contained in G. S. 93A-9.

G. S. 93A-9 is as follows:

"§93A-9. Licensing nonresidents.—An applicant from another state, which offers licensing privileges to residents of North Carolina, may be licensed by conforming to all the provisions of this Chapter and, in the discretion of the Board, such other terms and conditions as are required of North Carolina residents applying for license in such other state; . . ."

In our opinion, a licensee who becomes a nonresident, no longer has a valid license, and the Board has no discretion to continue his resident's license, irrespective of whether the licensee's new state of residence has reciprocity with North Carolina. The Board should treat a licensee who becomes a nonresident as other nonresidents applying for a North Carolina broker's or salesman's license and the Board may proceed under G. S. 93A-9, if applicable, if such person applies for a nonresident broker's or salesman's license.

23 September, 1971

Robert Morgan, Attorney General
Millard R. Rich, Jr.,
Assistant Attorney General

FROM THE MAIL BAG

(The Licensing Board receives many interesting complaints against licensees. Reproduced below is the concluding paragraph of a six-page letter of complaint filed against a broker-rental agent by the tenant of a house).

"These are the damages that I referred to in paragraph 2 of the cover letter which forwards this complaint.

Excess water bills because of failure of the broker to take action:	\$ 200
Loss of potential revenues from a child care business, because of the septic tank and other factors:	20,000
Repairs, replacement and labor, by the undersigned, beyond reasonable maintenance:	300
Perilous occupancy for 1½ years:	2,430
Loss of company of personal friends because of an above ground sewer standing in the yard:	5,000
Total Estimate of Damages:	\$27,930"

NATIONAL ASSOCIATION OF REAL ESTATE LICENSE LAW OFFICIALS

1970 SUMMARY ON LICENSE STATISTICS

STATE	No. Licensed		Tested	Brokers Examinations		Salesmen Examinations		
	Brokers	Salesmen		Passed—%	Failed—%	Passed—%	Failed—%	Failed—%
Alabama	2,527	2,646	314	222—71	92—29	481	385—80	96—20
Alaska	35	93	66	28—43	38—57	447	197—45	250—55
Alberta	700	2,439	70	67—96	3—4	1,023	904—88	119—12
Arizona	4,021	10,744	194	189—98	5—2	3,852	3,551—92	301—8
Arkansas	1,971	2,239	403	252—63	151—37	873	619—71	254—29
Br. Columbia	1,277	4,519	63	55—87	8—13	1,375	1,027—75	348—25
California	66,001	100,305	2,348	1,153—49	1,195—51	35,310	17,508—50	17,802—50
Colorado	3,946	11,783	632	334—53	298—47	3,319	2,218—67	1,101—33
Connecticut	15,590	7,831	1,722	1,289—75	433—25	1,258	1,061—99	197—1
Delaware	540	1,036	4	4—100	0—0	29	22—75	7—25
Dist. of Col.	3,000	3,200	131	86—65	45—35	226	141—62	85—38
Florida	12,630	33,778	1,497	1,357—91	140—9	8,127	6,143—76	1,984—24
Georgia	3,296	11,554	378	241—64	137—36	3,454	2,263—66	1,191—34
Hawaii	1,688	2,990	543	126—23	417—77	1,768	746—42	1,022—58
Idaho	867	1,355	125	101—81	24—19	374	294—79	80—21
Illinois	22,050	25,130	1,739	1,250—72	489—28	6,858	5,333—77	1,525—23
Indiana	12,390	8,683	609	311—52	298—48	927	810—87	117—13
Iowa	5,950	3,315	284	135—48	149—52	702	494—70	208—30
Kansas	4,635	5,756	175	158—90	17—10	916	805—88	111—12
Kentucky	4,637	2,445	158	87—55	71—45	935	593—63	342—37
Louisiana	2,440	6,830	288	224—75	64—25	1,873	1,520—81	353—19
Maine	2,280	514	435	265—61	170—39	212	106—50	106—50
Maryland	4,679	11,821	527	345—66	182—34	3,292	2,110—64	1,182—36
Massachusetts	48,023	7,444	5,243	3,171—61	2,072—39	2,117	1,635—77	482—23
Michigan	11,342	27,429	1,231	667—54	564—46	8,736	4,722—54	4,014—46
Minnesota	4,800	5,200	344	198—68	146—32	2,128	1,655—78	473—22
Mississippi	1,594	1,434	127	102—81	25—19	308	269—87	39—13
Missouri	10,955	15,326	790	548—69	242—31	2,382	1,665—70	717—30
Montana	1,124	441	51	25—49	26—51	260	116—45	144—55
Nebraska	3,960	2,267	187	106—57	81—43	609	385—63	224—37
Nevada	1,317	528	502	289—58	213—42	318	179—56	139—44
New Hampshire	6,041	1,081	114	45—39	69—61	724	480—66	244—34
New Jersey	14,300	32,800	635	389—60	246—40	6,406	4,875—70	1,531—30
New Mexico	1,408	1,694	144	82—57	62—43	900	566—63	334—37
New York	25,810	59,223	2,070	1,145—55	925—45	14,952	10,462—70	4,490—30
North Carolina	8,482	2,529	1,690	1,102—65	588—35	1,177	882—75	295—25
North Dakota	665	480	39	34—87	5—13	167	108—65	59—35
Ohio	8,826	33,701	521	341—65	180—35	6,561	4,567—69	1,994—31
Oklahoma	7,855	3,464	1,522	900—59	622—41	1,402	1,105—79	297—21
Ontario	5,253	15,989	572	316—55	256—45	4,082	2,906—71	1,176—29
Oregon	3,196	5,789	848	503—59	345—41	4,769	2,643—55	2,126—45
Pennsylvania	10,614	18,028	621	282—45	339—55	5,043	3,536—71	1,507—29
Quebec	746	1,800	64	64—100		393	393—100	
Rhode Island	2,625	815	280	182—65	98—35	261	200—77	61—23
South Carolina	2,232	2,105	196	111—57	85—43	560	439—78	121—22
South Dakota	1,420	347	244	175—72	69—28	140	97—69	43—31
Tennessee	5,003	4,602	353	267—76	86—24	1,558	1,056—68	502—32
Texas	27,177	28,626	1,868	1,295—69	573—31	10,529	6,549—62	3,980—38
Utah	795	2,527	73	48—66	25—34	805	645—80	160—20
Vermont	2,188	158	366	231—63	135—37	101	71—70	30—30
Virginia	3,900	9,975	471	165—35	306—65	3,881	1,586—41	2,295—59
Virgin Islands	256	75	20	11—55	9—45	30	18—60	12—40
Washington	1,196	4,066	713	509—65	204—35	5,181	3,385—71	1,796—29
West Virginia	847	1,401	58	53—91	5—9	255	200—79	55—21
Wisconsin	10,003	4,767	1,150	491—43	659—57	454	241—53	213—47
Wyoming	527	496	62	27—44	35—56	103	61—59	42—41
TOTALS	411,630	557,613	35,874	22,153—62	13,721—38	164,923	106,547—65	58,376—35

Brokers

NATIONAL AVERAGE

62% Passed

38% Failed

Salesmen

65% Passed

35% Failed

NEW REAL ESTATE CURRICULUM

Applicants for a broker's license are required to have six months experience as a licensed salesman or the equivalent real estate education. At last count, 49 approved real estate courses were available in North Carolina, most of these being offered by Community Colleges and Technical Institutes. To be approved by the Licensing Board, the course must cover a minimum of 24 classroom hours of basic real estate subjects. The minimum will be increased to 30 classroom hours on January 1, 1972, and will cover the following subjects:

I. Fundamentals of Real Estate — 3 Hours

Ethics — Special characteristics of real estate as a commodity — Social importance of real estate — Vocational opportunities in the real estate business: Brokerage, Finance, Appraising, Management — Qualities leading toward success.

II. Real Property Law — 6 Hours

Real estate license law of North Carolina—Rules and Regulations of the North Carolina Real Estate Licensing Board—Real property interest — Types of estates in land — Easements in land — Methods of conveying — Matters which affect title — Contracts of sale — Relationships between seller, buyer, and broker — HUD — Fair Housing.

III. Real Estate Appraising — 6 Hours

Importance of listings — The initial contact — Physical inspection — Inspection procedure — Neighborhood influence — Internal property factors — The listing price — Fundamentals of Construction (Footings and foundations — Framing — Exterior finishes — Plumbing, electrical and heating — Interior finishes — Painting and decorating)

IV. Real Estate Brokerage — 6 Hours

History of real estate brokerage — Becoming a broker: education & training, capital required, location, personnel — Operating as a broker: appraising for sale, financing, listing, advertising, showing, selling, closing, accounting — Broker-Salesman relationship — Co-operation on sales.

V. Real Estate Finance — 6 Hours

The general nature of mortgage loans — Types of loans — Source of funds — FHA-VA loans — Legal aspects of mortgage loans — Analyzing listing with relation to financing — Purchaser investigation — Loan closing and completion of sale.

VI. Mechanics of Closing — 3 Hours

What is closing — Legal instruments involved — Broker's, Buyer's and Seller's role in closing — Types of closing statements — Sample problems.

LICENSE STATISTICS

Licensees as of September 30, 1971

Brokers	9,277
Salesmen	2,745
	12,022

Examination — July, 1971

	Passed	Failed
Brokers	379	84
Salesmen	71	34

Examination—August, 1971

	Passed	Failed
Brokers	62	10
Salesmen	60	37

Examination—September, 1971

	Passed	Failed
Brokers	112	64
Salesmen	79	31

LICENSES SUSPENDED-REVOKED

REX U. WILSON — Spruce Pine broker—Revocation suspended for 3 years upon surrender of license for 6 months and other conditions — G.S. 93A-6(1), (12) & (13).

JAMES H. BROWN—Raleigh broker —Revocation suspended during period of probation — G.S. 93A-6(a).

RULE NO. 11

A Salesman's license is valid only while he is associated with or engaged by a broker. Upon termination of such association, the broker shall immediately endorse the back of the salesman's license, showing date of termination, and return same to the Board for cancellation or transfer. The salesman concerned may have his license re-issued and transferred to a new broker by filing a prescribed transfer form with \$1.00 duplicate license fee.

INSPECTION OF ESCROW ACCOUNTS

(Continued from page 1)

to a required recording or reporting of information, as here, where appellant voluntarily became a real estate broker knowing full well that he would be subject to the powers of the State Real Estate Commission to revoke or suspend his license for failure to comply with the statute governing his chosen profession, constitutes a waiver of the privilege against incrimination insofar as the license is concerned.

NORTH CAROLINA REAL ESTATE LICENSING BOARD

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