



## NORTH CAROLINA REAL ESTATE LICENSING BOARD

# Real Estate Bulletin

Volume 9

Fall Quarter 1978

Number 3

## From The Bulletin Board

### Board Members Honored

Board members Brantley T. Poole and A. P. Carlton were recently honored by the National Association of Real Estate License Law Officials (NARELLO) at the Association's annual conference in New Orleans, Louisiana. Mr. Poole was elected to the Board of Directors of the Association and Mr. Carlton was appointed to the NARELLO—Industry Liaison Committee.

Blanton Little, Secretary-Treasurer of the Licensing Board, was also recognized by being appointed Vice President of the Robert W. Semenov Foundation.

### Nobles, Scarbrough Leaving

The Licensing Board indeed regrets to announce that Dianne Nobles, Financial/Clerical Supervisor, and James E. Scarbrough, Board Legal Counsel, will be leaving the service of the Board this month.

Mrs. Nobles, who has been on the Licensing Board's staff since 1970, will be re-locating to Lake Junaluska where her husband recently assumed the position of County Supervisor for the Farmers Home Administration, and Mr. Scarbrough will be entering private legal practice in Concord, North Carolina with attorney Phillip C. Carroll.

The Board commends Dianne and Jim for their dedicated service and wishes them the very best of success in their future endeavors.

### Real Estate Research Center

Appalachian State University in Boone has announced the establishment of a Real Estate Research Center with Jerry D. Belloit, Assistant Professor of Real Estate, to serve as Director.

According to Mr. Belloit, the Center was created to serve three major functions: education, research, and community service. Projects undertaken by the Research Center will reflect these three functions.

The Licensing Board congratulates the University and Mr. Belloit for this conscientious and meaningful endeavor in the fields of real estate education and research.

### NARELLO Report Available

The National Association of Real Estate License Law Officials (NARELLO) has announced that copies of its 1979 Interstate Cooperation Committee Report are now on sale to the public. This informative report contains statistical data covering the various licensing activities of NARELLO's 57 member jurisdictions including qualification requirements for licenses, licensing fees, and a roster of the administrative officials of each real estate licensing board or commission.

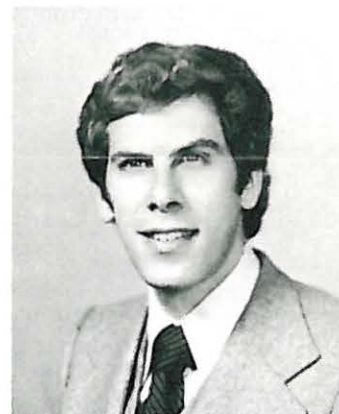
Copies of this report may be obtained at a cost of \$10 per copy. Checks should be made payable to NARELLO and sent to:

Robert H. Peterson  
Executive Vice President, NARELLO  
Sunset Valley Law Building  
28505 South 90th Street  
Omaha, Nebraska 68124

### Evaluation Commission

The licensing and regulatory operations of the Real Estate Licensing Board are currently being evaluated by the Governmental Evaluation ("Sunset") Commission. The Evaluation Commission was created by the 1977 Session of the North Carolina General Assembly to review

(Continued on Page 2)



### Harkins Named Legal Counsel

Harry H. Harkins, Jr., a Chapel Hill attorney, has been appointed by the Attorney General to serve as legal advisor to the Real Estate Licensing Board.

Mr. Harkins attended Duke University where he served as Speaker of the Student Legislature and graduated magna cum laude in 1973. In 1976 he received his J.D. degree from Vanderbilt University.

Admitted to the North Carolina Bar in 1976, Mr. Harkins entered private legal practice in Chapel Hill where, prior to his appointment by the Attorney General, he was a partner in the firm of Beemer, Savery, Jordan and Harkins. □

### IN MEMORIAM

Dr. James A. Webster, Jr., Professor of Law at Wake Forest University and author of the widely read textbook, **North Carolina Real Estate for Brokers and Salesmen**, passed away October 30.

To the family and friends of Dr. Webster, the Licensing Board extends its deepest sympathy. His significant contributions to both the real estate and legal professions in North Carolina will serve as a lasting tribute to his memory.

## REAL ESTATE BULLETIN

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

### NORTH CAROLINA REAL ESTATE LICENSING BOARD

115 Hillsborough St.  
Raleigh, North Carolina 27602

James B. Hunt, Jr., Governor

#### BOARD MEMBERS

C. Bayless Ridenhour ..... Concord  
Chm.

William C. Stokes ..... Reidsville  
V. Chm.

A. P. Carlton ..... Greensboro

Dee McCandlish ..... Charlotte

Brantley T. Poole ..... Raleigh

Blanton Little ..... Sec'y. Treas.

Phillip T. Fisher ..... Admin. Asst.

#### EXAM RESULTS

Examination — August, 1978		
	<b>Passed</b>	<b>Failed</b>
Brokers	492	490
Salesmen	78	50
Examination — September, 1978		
	<b>Passed</b>	<b>Failed</b>
Brokers	420	406
Salesmen	20	57
Examination — October, 1978		
	<b>Passed</b>	<b>Failed</b>
Brokers	577	390
Salesmen	32	70

#### (Evaluation from Page 1)

the activities of approximately 100 state governmental programs and agencies to determine the need for their continued existence.

To date, the Licensing Board staff has prepared and filed with the Commission approximately 200 pages of reports, statistics, and other documentation relating to the Board's powers, duties, and functions, its objectives and accomplishments. This information, together with results of numerous public hearings and the findings of the Commission's administrative staff, will form the basis for the performance evaluation from which a final report will be prepared

## FROM THE MAILBAG

### Response to a Recent Inquiry Regarding Supervision of Real Estate Salesmen

Dear \_\_\_\_\_:

You have asked "WHAT SHOULD I LEGITIMATELY EXPECT FROM A SUPERVISING BROKER?". You are no doubt aware that the North Carolina Real Estate Licensing Law defines the term "salesman" to mean and include any person who under the supervision of a real estate broker performs acts which require a real estate license (G.S. 93A-2(b)); that a salesman can accept compensation only from the licensed broker by whom he is employed (G.S. 93A-6(a)(5)); and that a salesman can represent only that broker by whom he is engaged or associated unless he first obtains the consent of his broker (G.S. 93A-6(a)(6)). The Rules and Regulations of the Licensing Board state further that "A salesman's license is valid only while he is associated with and **supervised** (emphasis added) by a broker (Rule .0506)." In the area of advertising, you will also note in the last issue of your **Real Estate Bulletin** that salesmen are required to include the name of the broker and firm with whom they are associated in all advertising, and the broker's name must be displayed in equal prominence to the salesman's name (Volume 9, Number 2, Page 3). So, as you can see, certain restrictions are placed upon the activities of salesmen.

As to your specific question regarding the responsibilities of supervising brokers to their salesmen, the Licensing Board would likely consider the following factors in determining whether a supervising broker has acted in a reasonable manner in the supervision of his salesmen:

1. Did the supervising broker make any effort to satisfy himself that the salesman was of good character and reputation? An original supervising broker must certify on the application of the salesman that to the best of his knowledge, the salesman is a person of honesty, truthfulness, and integrity.
2. Did the supervising broker prepare a policy/procedure manual or other instructional materials setting forth in reasonable detail the expected performance of his salesmen?
3. Did the supervising broker at any time review the activities and performance of his salesmen or was he available to assist and answer questions of the salesmen which he supervised? If so, in what manner and to what extent did the broker review the salesman's activities, and to what degree was he available? Prior to issuance or transfer of a salesman's license, the salesman's supervising broker must certify that he will exercise proper supervision over the salesman's activities while such salesman is associated with him.

The answers to these and other similar questions would undoubtedly be helpful to the Board in determining whether a broker has exercised proper supervision over the acts of his salesmen.

Yours very truly,

NORTH CAROLINA REAL ESTATE LICENSING BOARD

and submitted to the General Assembly. The General Assembly will then conduct further hearings and receive additional testimony to determine

whether the programs of the various boards and agencies under review should be continued, modified, or terminated. □



# COOPERATION IN REAL ESTATE BROKERAGE

Real estate brokers through both formal and informal arrangements have by custom joined their efforts to procure buyers. For the most part these cooperative efforts have resulted in benefits to all concerned with the transaction. Most importantly, the seller receives faster service than might otherwise have been the case. Although the listing broker must share his fee, marketing costs are reduced and the seller is pleased with the service received. The selling broker through co-brokerage is given a greater inventory from which income may be derived and a relationship with the buyer, who immediately becomes a potential seller, is established.

Co-brokerage is recognized as being a valuable marketing tool, however, extraordinary care must be exercised in such a transaction. The potential for misunderstandings is increased substantially when the listing broker is not working directly with both parties to the transaction. Under such conditions, the listing broker should be confident that the selling broker will be working in the property owner's best interest and will not make careless representations with regard to the property. Remember, the seller employs the listing broker placing special trust in his ability. As a result, the listing broker may usually delegate some of the mechanical services but he will not be relieved of the responsibility accompanying the agency relationship created.

The alternative, when you are unfamiliar with the ability of a would be co-worker, is to work directly with the selling broker through the showing and all negotiations. Or it may be safer to accept the referral and conduct the showing and all negotiations yourself.

Although situations may arise wherein you feel your clients' interests would not best be served by co-brokerage, you have a legal obligation to submit all written offers to the seller. When transmitting the offer you also have an obligation to point out to your client the reasons why you feel he should or should not accept the offer.

Inspecting the coin from the flip side, a selling broker must also take

extraordinary precautions. A selling broker must always keep in mind that his fee will be paid by the seller and as a result the seller's best interests must be promoted at all times. The seller must always guard against aligning himself too closely with a prospective buyer. Rather than lose a prospective buyer an offer should be encouraged, however, the broker should not suggest that the seller would accept anything less than the terms of a listing. If a buyer makes an offer and the selling broker receives the impression that the prospective buyer would make a better offer, this fact must be conveyed to the listing broker and in turn to the seller. The risks of rejecting an offer or making a counter-offer should also be discussed with the seller at the time of presenting the offer(s).

Another consideration for a selling broker is that in most instances the property data is furnished by the listing broker. When asked questions by a prospective buyer regarding the property the selling broker should, if such is the case, advise that he does not have personal knowledge, but the data sheet indicates. He should then offer to verify the data or at least emphatically advise the prospective buyer to personally verify the information.

Points to remember:

- (A) Unless otherwise agreed to by the parties, both listing and selling broker must promote the best interest of the one client. **In most transactions both the listing and selling brokers are agents of the seller** and a conscious effort must be made to avoid violating the position of special trust.
- (B) All information received by listing and selling brokers which would affect the client's interests or decision must be conveyed to the client. **All written offers must be submitted to the seller.** Although the listing broker may offer his opinion on the merits of a particular offer it is the seller's decision to ac-

cept, reject or counter-offer unless specific authority to the contrary has been granted by the seller.

- (C) **Earnest money deposits must be held by the listing broker** unless otherwise agreed to in writing by the parties to a transaction.
- (D) Extraordinary care should be exercised in a co-brokerage transaction to avoid misrepresentations. Personally verify data before conveying information as fact. Do not make assumptions. **If you are relaying information provided by a seller or listing broker which cannot be verified, identify its source with special emphasis, preferably in writing.**
- (E) **Reduce to writing all agreements between the parties** and whenever possible important points concerning a transaction when made orally, should be followed up in writing.

—Reprinted from the March, 1978 issue of the  
**Maine Real Estate News**□

## LATE BULLETIN!

### Education Director Named

As we went to press, the Licensing Board named Mr. Larry Albert Outlaw to the newly created position of Education Director. In addition to being a licensed attorney, Mr. Outlaw has also had considerable experience in education program development and administration.

As Education Director, Mr. Outlaw will provide technical assistance to the Real Estate Licensing Board in planning, organizing, coordinating, monitoring, evaluating, and administering real estate educational and informational programs on a statewide basis.

For further details concerning this program and what it will mean to you, see the next issue of your BULLETIN.

# Reflections

By  
James E. Scarbrough

During the past three years it has been my privilege to serve as attorney for the Real Estate Licensing Board. In this job I have handled hundreds of consumer complaints and have answered countless questions from both consumers and real estate brokers. Rather than discuss specific problem areas, I think it more fitting to summarize what I believe the public expects from you as a licensed real estate agent.

According to the classic definition, a real estate broker is one who, for a fee, brings together a buyer and seller or a landlord and tenant; but judging by what the public expects of its real estate agents, I believe that today this definition is woefully obsolete. In addition to finding a buyer or tenant, the public expects, and rightfully so, that you will arrange a smooth transaction and handle any problems which may arise. You are expected to possess the knowledge and skill to conduct yourself as a professional who is an expert in real estate matters. Do you possess such knowledge and skill? It has been my experience that many brokers do not.

The licensing examination for brokers and salesmen is only designed to measure whether the applicant has the minimal degree of knowledge to function properly as a real estate agent. Therefore, to meet the increasing expectations of the public it is incumbent upon you to continue your education in real estate matters. Remember that public expectation often dictates future government laws and regulation. □

# DISCIPLINARY ACTION

CLYDE CARO BAKER, JR. — Address Unknown — Broker's License No. 35396—Revoked for violation of G.S. 93A-6(a)(1) and (2) for making substantial and willful misrepresentations and false promises; G.S. 93A-6(a)(7) for failing, within a reasonable time to account for the money coming into his possession for others; G.S. 93A-6(a)(8) for being unworthy to act as agent in such a manner as to protect the public; and G.S. 93A-6(a)(10) for engaging in conduct which constitutes improper, fraudulent and dishonest dealing.

JAMES EDWARD BLANCHARD, SR. — Fayetteville — By consent Broker's License No. 41579 surrendered and Salesman License issued due to false representations on license application.

DAVID WILLIAM BRANCH — Address Unknown — Broker's License No. 38887—Revoked for violation of G.S. 93A-6(a)(1) and (10)—making substantial and willful misrepresentations and engaging in improper, fraudulent and dishonest dealing; G.S. 93A-6(a)(7) by failing within a reasonable time to account for and remit to the seller \$2,395.13; G.S. 93A-6(a)(12) by failing to maintain and deposit in an escrow account money received by him from the purchaser of a house.

ETHEL B. CRUMMIE — Fayetteville — Broker's License No. 21512—Reprimanded for violation of G.S. 93A-6(a)(8) and (10) for demonstrating unworthiness while acting as a real estate

agent and for engaging in improper conduct in that she discussed terms of a sale directly with the owners at a time when she knew the property was being offered for sale by another brokerage firm as agent for the owners.

GENEVIEVE R. FULMER — Fayetteville — Broker's License No. 29473—suspended for a period of three (3) months for violation of G.S. 93A-6(a)(8) and (12) for failing to place rental payments in an escrow account and failing to keep adequate escrow account records.

GEORGE W. HOBGOOD — Fayetteville — Broker's License No. 14955—Reprimanded for failure to keep an adequate record of a rental property which he managed.

RUBY THOMAS RIPPY — Charlotte — Salesman's License No. 40524—suspended for ninety (90) days for violation of G.S. 93A-6(a)(8) and (10) for unworthy conduct in changing a real estate contract of sale without the consent or knowledge of the seller.

LEON G. SINGLETARY — Maxton — Broker's License No. 19210—Reprimanded for violation of G.S. 93A-6(a)(7)—by failing to remit, within a reasonable time rental moneys collected as agent.

JAMES DOUGLAS STORIE — Banner Elk — Broker's License No. 42961—reprimanded for violation of G.S. 93A-6(a)(9) for allowing an unlicensed person to engage in the rental of real estate for others. □

*Season's  
Greetings*

*from the*

*North Carolina Real Estate  
Licensing Board and Staff*

**NORTH CAROLINA  
REAL ESTATE LICENSING BOARD**

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