



NORTH CAROLINA REAL ESTATE COMMISSION

Real Estate Bulletin

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Number 3

Commission Staff Update

Anita R. Burt, a Commission Consumer Protection Officer, has assumed the newly created position of Continuing Education Officer. Anita holds a Bachelors degree from Meredith College, a Masters degree from Ohio State University and a Doctorate from the University of Illinois. She is a licensed real estate broker and a graduate of the REALTORS® Institute. Anita will be responsible for the development and implementation of the new Continuing Education Program. She will also continue to serve as the Commission's Administrative Procedures Act Coordinator through June of 1994. Commission Investigator **Gary R. Caddell** will assume the position of Consumer Protection Officer on a temporary basis.

The *Limburger Transaction*, the Commission's videotape on misrepresentations in real estate transactions, is being used as part of a training program for real estate investigators in Alberta, Canada. It was shown this summer and used as the basis for a mock hearing at the Western District Conference of the [National] Association of Real Estate License Law Officials (ARELLO) in Banff, Alberta. Director of Audits and Investigations, **L. Ted Gayle**, developed the videotape for use in North Carolina.

The following Commission staff members have made appearances before various real estate industry and related groups since the last issue of the *Bulletin*. Special Deputy Attorney General **Thomas R. Miller**, the Commission's Legal Counsel, spoke to the Raleigh/Wake Board of REALTORS® about representations, disclosures and other topics related to real

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Governor appoints two new members to Commission

Governor James B. Hunt, Jr., has appointed Raymond A. Bass, Jr., of Fayetteville and John D. Bridgeman of Gastonia to the North Carolina Real Estate Commission for three-year terms expiring July 31, 1996. They succeed Brantley T. Poole of Raleigh and Grace T. Steed of Randleman, whose terms recently expired.



Mr. Bass is a native of Halifax, North Carolina, and a graduate of East Carolina University in Greenville where

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Mr. Bridgeman began his real estate career with employment as a mortgage loan officer at a bank in Gastonia. In

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Commission elects Chairman, Vice-Chairman

The Real Estate Commission recently elected Charles F. Biesecker of Lexington to serve as Chairman for 1993-1994. James K. Polk of Charlotte was elected Vice-Chairman.



A native of Lexington in Davidson County, Mr. Biesecker is a developer and licensed general contractor. He has been a real estate broker since 1971. Mr.

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Owner and CEO of a consulting firm in Charlotte, Mr. Polk served from 1987 - 1993 as the Governor's Special Assistant for Minority Affairs.

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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 and Rules, 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 B. Hunt, Jr., Governor

COMMISSION MEMBERS

Charles F. Biesecker.....Lexington
Chairman
James K. Polk.....Charlotte
Vice - Chairman
Raymond A. Bass, Jr.....Fayetteville
Gilbert L. Boger.....Mocksville
John D. Bridgeman.....Gastonia
J. Edward Poole.....Spring Lake
William A. Smith, Jr.....Cary

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James E. Poole, Jr.....Director
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L. Ted Gayle.....Director

EDUCATION & LICENSING

Larry A. Outlaw.....Director
Evelyn G. Johnston.....Licensing Officer
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Anita R. Burt.....Cont. Ed. Officer

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Blackwell M. Brogden, Jr.....Chief Dep.
Lgl. Counsel
Miriam J. Baer.....Dep. Lgl. Counsel
Marilyn E. Tomei.....Asst. Lgl. Counsel
Stephen L. Fussell.....Cons. Prot. Officer

Editor - in - Chief

Phillip T. Fisher

Editor

Carrie D. Worthington

EXAM RESULTS

	Passed	Failed
July 1993		
Brokers	81	65
Salesmen	293	183
August 1993		
Brokers	87	84
Salesmen	287	273
September 1993		
Brokers	65	55
Salesmen	279	214

Bass

(Continued from page 1)

he was on the football team. He served in the U.S. Military during the Korean War.

A broker, Mr. Bass entered the real estate business in 1965. He is currently part-owner and president of Dickens-Bass Realty & Construction Company, Inc., in Fayetteville as well as president of Bass Construction Company of Fayetteville, Inc.

Mr. Bass has served on numerous committees in the Fayetteville Association of REALTORS®, having been an active REALTOR® for 28 years. He is also a member of both the North Carolina and National Association of REALTORS®.

In addition to membership in the Homebuilders Association at the local, state and national levels, Mr. Bass is a member of both the Carolina and Cape Fear Aero Clubs as well as the Aircraft Owners and Pilots Association.

Mr. Bass and his wife, Joan, have three children - Greg, Lisa, and Susan. □

Bridgeman

(Continued from page 1)

1970, he opened Bridgeman Real Estate Company, which is now Coldwell Banker, Bridgeman & Associates. It has divisions for both residential and commercial/industrial sales, with offices in Gastonia, Belmont and Cramer Mountain.

Mr. Bridgeman pioneered Gaston County's first PUD (Planned Unit Development), which has commercial, office park and residential areas.

Active in his community, Mr. Bridgeman was elected to three terms on Gastonia's City Council. He serves on the boards of numerous civic and trade organizations that include the Homebuilders' Association, United Way and the Chamber of Commerce. He is a former president of the Gaston Board of REALTORS®.

Mr. Bridgeman and his wife, Nan, have two daughters, Dana and Amy, and two sons, Rob and Alex. □

Biesecker

(Continued from page 1)

Biesecker and his wife, Amelia, own and operate Piedmont Realty.

He was founder of the Davidson County Homebuilders' Association and is still a member. Mr. Biesecker is also a member and past-president of the Lexington Board of REALTORS®.

He has been both chairman and finance chairman of the Lexington City Schools. He served during the Korean War, with active duty in the United States Air Force and United States Marine Corps. Mr. Biesecker is currently a member of veterans' groups that include the V.F.W., American Legion and AmVets.

A former pilot with Piedmont Aviation, Mr. Biesecker has an airline transport pilot's rating, with an instructor's rating in jets. He was also a former police officer in Winston-Salem.

The Bieseckers have two children - daughter Anna, a former captain of the N.C. State Women's Swim Team and son Nicholas, a nationally known prep golfer.

Mr. Biesecker was appointed to the Commission by Governor Martin in

Polk

(Continued from page 1)

He attended Johnson C. Smith University in Charlotte and Temple University in Philadelphia. He has served on the Board of Trustees at Central Piedmont Community College and now serves on the Board of Visitors at the University of North Carolina at Charlotte. He has also served as Chairman of the N.C. Capitol Building Authority.

He is a member of the Foundation for the Carolinas and is on the Board of Directors of the N.C. Association of Minority Businesses and the N.C. Institute of Minority Economic Development.

In addition to his many civic and trade awards, Mr. Polk was named Minority Advocate of the Year by the U.S. Small Business Association.

A public member of the Commission, Mr. Polk was appointed by Governor Martin in 1992. He is serving a three-year term which will expire July 31, 1995. □

1991. His three-year term will expire July 31, 1994. □

This time he's going...going...gone!

Jim Clinard announces his retirement effective December 31



With a wistful look in his eyes, Jim Clinard prepares to close the door on a long and happy career.

He left once before – in 1968 – but he came back for another 21 years! This time, however, he says he's gone for good.

Citing plans to spend more time with his family (his wife he fondly calls "Miss Minnie," and their five children and two grandchildren) and to do some farming and fishing, James K. Clinard announced his retirement after 37 years with the state.

"I started in 1951, right out of high school, as a radio dispatcher with the highway patrol," Jim reminisced. In 1956, he became a highway patrolman, a "state trooper," in today's terms.

Jim's long and happy career with the Real Estate Commission began in 1962, when this agency was known as the North Carolina Real Estate Licensing Board. Except for four years when he went to Winston-Salem to work in the retail business, he's been here ever since!

"Back then, we had an Executive Director. That was Joe Schweidler," Jim explained, "and one clerical secretary.

"I was the first field representative," Jim reported. But his title was "Administrative Assistant" because, according to Jim, "the statute said they

could hire one and they were following the letter of the law. They just gave me a copy of the law and put me out in the field and I went to work.

"I started at the Virginia line, at the coast; Sunset Beach was the last beach before the South Carolina line. I worked eastern North Carolina in the winter and western North Carolina in the summer, and everything between Manteo to Murphy."

His main function was checking people who were not licensed. "People would go to the Revenue Office and buy a [privilege] license and hang out their shingle. They didn't know they had to be licensed," Jim explained in their defense.

"I went to every county and visited every real estate office at least once a

"In the early days, there was very little training – schools. You simply got it by hard knocks – by experience. Things were simple. The law was simple."

year and got to know most of them."

Most licensees never saw anyone else from the Commission; he was their only contact. He represented the Commission, and he represented it well.

"I checked to be sure their licenses were renewed. Most were issued under the Grandfather Clause and some of them just never renewed," Jim said that there were approximately 5,000 licensees, with about half of them being active in the business. "And there were very few women in business at that time," he stated.

He said that most offices had one or two agents. "Five or six people was a big office," he said with a chuckle, a characteristic laugh that's familiar to licensees across the state.

"In the early days, there was very little training – schools. You simply got it by hard knocks – by experience. Things were simple. The law was simple. For example," he continued, "there was no escrow requirement except that the earnest money had to be segregated from personal funds." He explained

that escrow funds didn't even have to be in a bank!

The only time Jim was in the office was for Commission meetings. At that time, the Commission office was in the First Citizens Bank Building, on the seventh floor. There were only five Commission members – three in real estate and two public members.

"It was a lot of P.R. work more so than investigative work. There were very few consumer complaints. That didn't start till," he hesitated as he thought, then said, "the '70's."

Jim was ready and willing to answer the call for help from consumers throughout the state. He points with pride to two cases in particular. "I've investigated cases that are used by the courts today," he stated, "when they refer to the disposition of other cases in the courts of appeals. These are all favorable opinions [in upholding the Commission's rulings] that the courts of appeals have taken."

Yes, Jim had the experience, and the training. He, Ted Gayle – now the Commission's Director of Audits and Investigations – and former investigators Rodolph Hill and Everette Jenkins were among the first in the nation to be designated Certified Real Estate Investigators by the [National] Association of Real Estate License Law Officials (ARELLO).

When asked about his worst experience in the field, Jim replied, "Well, I was in a real estate office in Charlotte doing an inspection and two guys barged in with a .38 and a sawed off shotgun. They had stockings over their face." Jim reported that they robbed the office, "cleaned out the safe, locked everyone in the bathroom, and left!"

And his best experience? "The best time in my life was in 1992 when I was honored by NARELLO for my outstanding investigative work," Jim said proudly, referring to having been named a finalist for Investigator of the Year. "That's an honor I cherish," he said.

The Real Estate Commission is also proud of Jim's honors. The Commission and staff extend congratulations to him on his retirement.

"I basically grew up with the real estate industry. I've enjoyed every minute of it. I've devoted my entire life to the Real Estate Commission and I feel I'll always be a part of it." □

Bravo for brochures!

The Real Estate Commission's series of three informational brochures won honors at a recent conference of the [National] Association of Real Estate License Law Officials (ARELLO).

The Commission received ARELLO's Education Award plaque for its "Q & A" series on the topics of tenant security deposits, fair housing, and condos and townhouses. One brochure in the series, **Questions and Answers on: Fair Housing**, also earned the Commission a Certificate of Recognition.



Commission Chairman Charles F. Biesecker accepts the Certificate of Recognition from ARELLO President Morella Larsen.

Personal assistants

by **Stephen L. Fussell**,
Consumer Protection Officer

If you employ a person to assist you in your real estate business, you should be aware of certain restrictions imposed by the Real Estate License Law and the Commission's rules, especially if your assistant does not have a real estate license.

An *unlicensed* assistant, of course, may not perform any function which requires a real estate license, nor may he hold himself out as if he is licensed. An unlicensed assistant may be compensated by salary or hourly wages, but should not be paid on a per-transaction basis, such as through commissions or bonuses. [See *Real Estate Bulletin*, Vol. 22 No. 4 (Winter 1992) for additional

Commission Chairman Charles F. Biesecker accepted the awards on behalf of the Commission at ARELLO's Annual Conference in San Antonio, Texas.

The Real Estate Commission published the brochures as a service to real estate licensees and consumers. The Commission's legal staff carefully researched each topic to ensure that the brochures are as accurate and timely as they are interesting and informative.

The brochures are available free of charge. [Please see "Publications Order Form" on this page.] ☐

information concerning the permitted activities of an unlicensed assistant.]

A *licensed* assistant may perform any function requiring a real estate license. However, when the assistant is licensed as a *salesman*, he or she is subject to the same restrictions that apply to all salesmen. Among other things, this means that all real estate activities of the salesman must be supervised by the broker-in-charge of the office where the salesman works, even if the salesman-assistant is employed by another broker or salesman in the office. If the salesman-assistant has been hired to assist another salesman, both salesmen must be supervised by the broker-in-charge.

Restrictions on compensation also vary, depending upon how the assistant is licensed. For example, if the assistant is a *salesman* and is paid on a per-transaction basis, the payment must be made through the broker-in-charge of the office, even if the salesman has been hired to assist another broker or salesman in the office. But, an assistant who holds a *broker* license may be compensated on a per-transaction basis and act without the direct supervision of the broker-in-charge, subject to the reasonable policies of the firm.

Additional considerations arise when a real estate broker working for a brokerage firm opens a separate office in the broker's own name and hires an assistant to work there. Very often the broker and the assistant are in reality working for the brokerage firm and not on their own. This arrangement violates the Commission's rules unless the broker's separate office: (1) is designated as a "branch office" of the brokerage firm; (2) has its own broker-in-charge; and (3) is the office from which the broker and assistant work.

The Commission rules require that every licensee work from the office where his license is displayed. They also require that every office have a broker-in-charge and that the broker-in-charge supervise the activities of the office, particularly the activities of salesman associated with it. Thus, a salesman may not operate an office independent from the firm where he or she is associated.

You must carefully consider the provisions of the Real Estate License Law and Commission rules prior to hiring a licensed or unlicensed assistant. The Commission's legal staff and Consumer Protection Officers are available to answer your questions concerning this and any other matters that relate to the License Law and rules. ☐

PUBLICATIONS ORDER FORM

Publication

No. Copies Requested

"Questions and Answers on: Tenant Security Deposits"
(Free Brochure)

Also available in bulk to property managers to distribute to tenants and landlords.
(Orders of more than 100 copies require special consideration.)

"Questions and Answers on: Fair Housing"

(Free Brochure)
(Orders of more than 100 copies require special consideration.)

"Questions & Answers on: Condos and Townhouses"

(Free Brochure)
(Orders of more than 100 copies require special consideration.)

"A Buyer's Guide to Vacation Real Estate in N.C."

(Free 28 - page Booklet)
Also available in bulk to coastal and western N.C. real estate firms to distribute to clients and customers.
(Orders of more than 50 copies require special consideration.)

Firm Name

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City

State

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Send to N.C. Real Estate Commission, P.O. Box 17100, Raleigh, N.C. 27619-7100.

Advertising occupancy of properties served by on-site sewage systems

By **Blackwell M. Brogden, Jr.**
Chief Deputy Legal Counsel

The Real Estate Commission periodically investigates complaints which allege that licensees have falsely advertised the occupancy levels or number of bedrooms in properties for sale or rent. The basis of these allegations is that the advertised limits exceed the design parameters of the on-site sewage system "improvement permit" issued for a particular property. In other words, the licensee has represented that the property can be occupied by more people than the sewage system is designed to handle.

When municipal sewer service is not available for a residential building lot, the local health department evaluates the lot to determine its suitability for on-site sewage disposal. Typically, the lot owner or builder/developer must apply for an "improvement permit" for a sewage disposal system; the application proposes a dwelling with a certain number of bedrooms. The health department environmental health specialist (EHS) will then determine whether the lot will support such a use. If so, the EHS will approve a design for a system of suitable capacity, generally assuming an occupancy level of two persons per bedroom.

Licensees must be alert to these bedroom and occupancy limits in the sale and resale of all properties or lots requiring on-site sewage disposal systems – not just new homes or homes under construction. They should also be aware of these limits when renting real estate; especially, resort property.

If a licensee encourages overuse of a property through his advertising or by other means, the occupants of the property may overload the system, thereby contributing to its eventual failure. When the sewage system fails, the local health department can prohibit further use of the system (and in turn occupancy of the property), in order to prevent contamination of the surrounding groundwater and to protect the public health. Even if the system is repairable, lower occupancy limits may be

imposed. At that point, the occupants and owners of the property may blame the licensee for their losses. They may also complain to the Real Estate Commission.

The position of the Commission has long been that the real estate broker or salesman who holds himself out as possessing special skills, understanding, and information with respect to real estate should be informed about any use restrictions on particular lands with which he is dealing. Thus, a licensee who advertises that a property "sleeps 16" should be certain that any on-site sewage system is in fact designed to serve at least sixteen people. Similarly, a licensee who advertises a property for sale as having a certain number of bedrooms should be sure that any on-site sewage system is permitted to handle that number of bedrooms.

The occupancy level imposed by an on-site sewage system improvement permit – like other forms of land-use control – is usually discernable from public records. The health department

maintains records that identify either the total number of bedrooms (at two persons per bedroom), or the total number of people that the sewage system has been designed to serve. Be aware that in calculating the number of bedrooms, the sewage rules state that "each bedroom and any other room or addition that can reasonably be expected to function as a bedroom shall be considered a bedroom for design purposes." In the absence of health department records, a licensee generally may advertise occupancy of the property at the number of bedrooms times two.

CAVEAT: The Real Estate License Law prohibits misrepresentation, omission or concealment of material fact; a course of misrepresentation through false advertising; and improper, dishonest and fraudulent conduct. Intentional or negligent misrepresentation of the occupancy design limits of a property served by an on-site sewage disposal system violates the License Law and may result in disciplinary action against the licensee. □

MONTHLY TRUST ACCOUNT SHORT COURSE IN RALEIGH

DATES

January 11
March 8*

February 8
April 12

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 Division. 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.

***Resort Property Management Recordkeeping Course is scheduled for this date. The regular Trust Account Short Course will not be held in March.**

In memoriam

With deep regret, the Real Estate Commission announces the death of former Commission member and Chairman, C. Bayless Ridenbourn, of Concord. The Commission extends deepest sympathy to Mr. Ridenbourn's family.

DISCIPLINARY ACTION

Penalties for violations of the Real Estate License Law and Commission Rules 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.

BISSELL-HAYES, INC. (Charlotte) – By Consent, the Commission reprimanded Bissell-Hayes, Inc. effective October 1, 1993. The Commission found that the corporation had allowed one of its agents to engage in real estate brokerage after her license had expired. The Commission noted that Bissell-Hayes, Inc. had cooperated with the Commission's investigation.

PATRICK H. BURNS, JR. (Raleigh) – The Commission revoked Mr. Burns' broker license effective August 27, 1993. The Commission found that Mr. Burns had listed a property for sale and had misrepresented to the owner that he would hold an option money deposit for him in trust. The Commission further found that Mr. Burns had failed to deposit and maintain all escrow funds in a trust or escrow account, had failed to properly account for and remit trust monies, had commingled trust monies with his own funds and had converted trust monies to his own use. The Commission also found that Mr. Burns had allowed a shortage to occur in his trust account and had written checks on his trust account which were returned by the bank for insufficient funds. In addition, the Commission found that Mr. Burns had failed to keep adequate records of his brokerage activities.

ROYA A. CAMPBELL (Charlotte) – By Consent, the Commission reprimanded Ms. Campbell effective August 12, 1993. The Commission found that Ms. Campbell had continued to act as a salesman after her license had expired. The Commission noted that Ms. Campbell's failure to renew her license was due to an oversight.

CEPCO, Inc. (Sneads Ferry) – By Consent, the Commission revoked the corporate real estate broker license of CEPCO, Inc. effective August 19, 1993. The Commission found that CEPCO, Inc. had operated without a broker-in-charge and had employed persons who were not licensed as brokers or salesmen to show and sell lots owned by a development company. The Commission further found that the corporation

had violated the Interstate Land Sale Full Disclosure Act by not preparing or distributing proper Property Reports to purchasers of the lots. The Commission also found that CEPCO, Inc. had misrepresented to purchasers the future use of neighboring properties, had accepted partial payment toward the purchase of a lot in violation of a Temporary Restraining Order (TRO), had failed to disclose the TRO to the purchasers and had subsequently failed to account to them for the funds. In addition, the Commission found that the corporation had made false representations to lending institutions providing consumer financing to purchasers and had failed to make its trust account and transaction records available for inspection by the Commission's investigator.

HERBERT B. CONNER (Charlotte) – By Consent, the Commission reprimanded Mr. Conner effective September 1, 1993. The Commission found that Mr. Conner, as broker-in-charge of his licensed corporation, had advertised that a property which he had listed for sale could very easily be reconverted to use as a duplex when, in fact, its use as a duplex was prohibited by local zoning ordinance.

CONNER REALTY, INC. (Charlotte) – By Consent, the Commission reprimanded Conner Realty, Inc. effective September 1, 1993. The Commission found that the corporation had advertised that a property it had listed for sale could very easily be reconverted to use as a duplex, when, in fact, its use as a duplex was prohibited by local zoning ordinance.

NANCY W. DARDEN (Creedmoor) – By Consent, the Commission reprimanded Ms. Darden effective March 26, 1992. The Commission found that Ms. Darden, who was not a member of a Multiple Listing Service, had written a listing agreement on a Multiple Listing Service form. The Commission further found that the form had falsely indicated that the listing would be placed in the Multiple Listing Service.

LARRY E. DAVIS (Chapel Hill) – By Consent, the Commission suspended Mr. Davis' broker license for 12 months effective July 16, 1993. One month of the suspension is to be active and the remaining period stayed for a probationary term of 11 months upon Mr. Davis' fulfillment of various conditions. The Commission found that Mr. Davis, as an officer and director of a licensed

real estate corporation where he was responsible for trust account records, had failed to retain records sufficient to verify and explain entries or to create a clear audit trail – including failure to properly maintain journals and ledgers or to perform monthly reconciliations and trial balances. The Commission also found that Mr. Davis had allowed trust monies to be deposited into an interest-bearing trust account without proper authorization from the parties.

SOLOMON R. ELLIS, JR. (Research Triangle Park) – By Consent, the Commission reprimanded Mr. Ellis effective August 12, 1993. The Commission found that Mr. Ellis, as principal broker and broker-in-charge of a licensed corporation, had allowed a broker associated with the corporation to engage in real estate brokerage after the broker's license had expired.

ELIZABETH B. HAYES (Charlotte) – By Consent, the Commission reprimanded Ms. Hayes effective October 1, 1993. The Commission found that Ms. Hayes, as broker-in-charge of an office, had failed to ascertain whether the license of an agent affiliated with the office had been renewed. The Commission noted that Ms. Hayes had cooperated with its investigation.

DRUCILLA H. HEARN (Kinston) – The Commission accepted the permanent voluntary surrender of Ms. Hearn's broker license effective July 16, 1993. The Commission dismissed without prejudice charges that Ms. Hearn had violated the provisions of the Real Estate License Law and Commission rules pertaining to handling of trust monies and trust account recordkeeping. Ms. Hearn neither admitted nor denied any misconduct.

EDMUND V. HOLCROFT (Raleigh) – The Commission revoked Mr. Holcroft's broker license effective November 1, 1993. The Commission found that Mr. Holcroft had failed to deposit and maintain rental funds and security deposits of others in a properly designated trust or escrow account, had commingled trust monies with his own funds and had converted trust monies to his own use, which led to a shortage in his trust account. The Commission further found that Mr. Holcroft had failed to keep adequate records of the funds he collected including failure to maintain proper journals and ledgers or to perform monthly reconciliations, had failed to properly account for and remit certain tenant security deposits in a timely

manner, had failed to properly account for certain rental proceeds and to correct his accounting practices when informed of his violations by the Commission staff.

CORNELIUS R. JONES (Greensboro) – The Commission revoked Mr. Jones' salesman license effective October 1, 1993. The Commission found that Mr. Jones had acted outside the supervision of his broker-in-charge, had failed to remit a rental security deposit to his broker-in-charge, and had failed to deposit and maintain rental funds in a trust or escrow account. The Commission further found that Mr. Jones had failed to refund or otherwise account for the rental security deposit when the new tenants discovered that Mr. Jones had misrepresented the availability of the property.

E.J. ROBESON KIRKPATRICK (Asheville) – By Consent, the Commission suspended Mr. Kirkpatrick's broker license for two years effective August 1, 1993. Twelve months of the suspension are to be active and the remaining period stayed for a probationary term of twelve months. The Commission found that Mr. Kirkpatrick had acted as a general contractor even though he did not have a general contractor's license.

JAMES W. LEWIS (Chapel Hill) – By Consent, the Commission reprimanded Mr. Lewis effective October 1, 1993. The Commission found that Mr. Lewis was an officer and director of a licensed real estate corporation which had trust account records that were insufficient to verify and explain entries or to create a clear audit trail.

MAGNOLIA PROPERTIES, INC. (Chapel Hill) – By Consent, the Commission suspended the corporate real estate broker license of Magnolia Properties, Inc. for 12 months effective October 1, 1993. The Commission then stayed its Order for a probationary term of 12 months upon the corporation's fulfillment of various conditions. The Commission found that the corporation had failed to retain adequate trust account records in such a manner as to create a clear audit trail – including failure to properly maintain journals and ledgers or to perform monthly reconciliations and trial balances. The Commission also found that Magnolia Properties, Inc. had allowed trust monies to be deposited into an interest-bearing trust account without proper authorization from the parties.

CONNIE S. PETTIT-MUNDEN (Raleigh) – By Consent, the Commission reprimanded Ms. Pettit-Munden effective

August 17, 1993. The Commission found that Ms. Pettit-Munden, as the listing agent for a property, had falsely represented to another agent that it would be futile for the agent to submit an offer to purchase the property because a higher offer had already been submitted, and that the sellers' tax problems with the IRS might cause a problem in selling the property.

DANNY L. RAYMER (North Wilkesboro) – By Consent, the Commission suspended Mr. Raymer's broker license for two years effective December 1, 1993. Forty-five days of the suspension are to be active and the remaining period stayed for a probationary term. The Commission found that Mr. Raymer had failed to disclose a material fact concerning the water system serving a property which he had listed for sale. Mr. Raymer did not admit any misconduct but did not contest the Commission's findings.

REALTY SPECIALISTS, INC. (North Wilkesboro) – By Consent, the Commission reprimanded Realty Specialists, Inc. effective October 1, 1993. The Commission found that the listing agent for a property listed by the corporation had failed to disclose a material fact concerning the water system serving the property. Realty Specialists, Inc. did not admit any misconduct but did not contest the Commission's findings.

WINNIFRED A. REED (Charlotte) – By Consent, the Commission suspended Ms. Reed's broker license for one year effective October 1, 1993. The Commission then stayed its Order for a probationary term of one year. The Commission found that Ms. Reed had continued to engage in real estate brokerage for three years after her license had expired. The Commission noted that Ms. Reed had voluntarily disclosed her conduct to the Commission and had cooperated with its investigation.

THOMAS J. RODDEN (Archdale) – By Consent, the Commission revoked Mr. Rodden's broker license effective July 16, 1993. The Commission found that Mr. Rodden had commingled rents and security deposits with his personal funds, had often failed to remit rental proceeds to a property owner in a timely manner, and had written checks on his escrow account which were returned by the bank for insufficient funds. The Commission noted that Mr. Rodden subsequently repaid one of the property owners in full.

BILLY L. ROMANS (Murphy) – By Consent, the Commission reprimanded

Mr. Romans effective October 7, 1993. The Commission found that a salesman under Mr. Romans' supervision as broker-in-charge had failed to list a property with the Multiple Listing Service, in violation of a provision of the listing contract in question.

BENNETT S. ROSE, JR. (Columbia) – The Commission accepted the permanent voluntary surrender of Mr. Rose's broker license effective October 7, 1993. The Commission dismissed without prejudice charges that Mr. Rose had violated provisions of the Real Estate License Law based upon a felony criminal conviction.

RTA ASSOCIATES, INC. (Research Triangle Park) – By Consent, the Commission reprimanded RTA Associates, Inc. effective August 12, 1993. The Commission found that RTA Associates, Inc. had allowed a broker associated with the corporation to engage in real estate brokerage after his license had expired.

STEVEN C. SEAMON (Raleigh) – By Consent, the Commission revoked Mr. Seamon's broker license effective August 1, 1993. The Commission found that Mr. Seamon had failed to properly account for rental proceeds to the property owner, that he had stopped making mortgage payments on properties which he managed despite his continued receipt of rent payments and that when he was served with foreclosure notice due to nonpayment, he had failed to inform the property owner. The Commission further found that Mr. Seamon had failed to make records available for inspection by the Commission's investigator and that he had engaged in real estate brokerage after his license had expired. Mr. Seamon neither admitted nor denied any misconduct.

EARL B. SEAY (Greenville) – By Consent, the Commission suspended Mr. Seay's broker license for three years effective October 7, 1993. The Commission then stayed its Order for a probationary term of three years. The Commission found that on April 21, 1982, Mr. Seay had been convicted of a criminal offense; namely, bank robbery. The Commission noted that Mr. Seay's 14-year prison sentence had been reduced by commutation orders issued by the Governor.

CATHERINE H. STELPFLUG (Chapel Hill) – By Consent, the Commission suspended Ms. Stelpflug's broker license for 12 months effective October 1, 1993. The Commission then stayed its

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Staff Update

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estate transactions...Chief Deputy Legal Counsel **Blackwell M. Brogden, Jr.**, was in Wilson for a Board of REALTORS® meeting. He discussed the implications of the new N.C. Association of REALTORS® forms. At a meeting of the Winston-Salem Board of REALTORS®, he presented a talk on real estate agency and related issues...Deputy Legal Counsel **Miriam J. Baer** went to North Wilkesboro to address the Wilkes County Board of REALTORS®. At a meeting in the Research Triangle Park, she spoke to the Association of Professional Mortgage Women; and in Spruce Pine, she appeared before the Yancey-Mitchell Board of REALTORS®. Miriam also addressed the Burlington-Alamance Association of REALTORS® and participated in the Greensboro Association of REALTORS® Legal Awareness Seminar...**Anita R. Burt**, in her position at the time as a Consumer Protection Officer, appeared before a meeting of the Commercial Listing Service of the Raleigh Board of REALTORS®. She discussed agency disclosure and other matters related to commercial real estate...In a speech before the Ashboro-Randolph Board of REALTORS®, Consumer Protection Officer **Stephen L. Fussell** explained offers to purchase and related subjects; and at a seminar hosted by the Fayetteville Association of REALTORS®, he discussed common license complaints, contract preparation and pending real estate legislation. Steve also spoke to the Broker/Owner Support Service of the Raleigh-Wake Board of REALTORS®, and advised them about common complaints that should be of special concern to office managers...**L. Ted Gayle**, the Commission's Director of Audits and Investigations, and Commission Investigator **Gary R. Caddell** taught a Resort Property Management Trust Account Course hosted by the Dare County Board of REALTORS® ...Auditor/Investigator **Emmet R. Wood** was at a meeting of the Wake County Apartment Association in Raleigh where he talked about tenant security deposits and landlord-tenant issues...Director of Appraiser Licensing and Certification **James E. Poole, Jr.**, spoke to the Appraisal Council of the High Point Regional Association of REALTORS® about issues related to the licensing, certification and regulation of state-licensed and certified real estate appraisers. He discussed appraisal

issues of special interest to real estate lenders at a conference in Morehead City...Education and Examination Officer **Earl H. Grubbs** participated in the North Carolina Real Estate Educators Association's annual conference and addressed the North Carolina Chapter of the National Association of Master Appraisers, which were both held in

Raleigh. He also spoke at the quarterly meeting of the North Carolina Appraisal Institute and went to Charlotte to speak at a meeting of the Metrolina Chapter of the Appraisal Institute. (*Individuals and groups requesting a speaker from the Real Estate Commission are reminded that a "Speaker Request Form" is available from the Commission Office.*) □

DISCIPLINARY ACTION

(Continued from page 7)

Order for a probationary term of 12 months upon Ms. Stelpflug's fulfillment of various conditions. The Commission found that Ms. Stelpflug, as principal broker and broker-in-charge of a licensed corporation, had allowed trust monies to be deposited into an interest-bearing trust account without the proper authorization of the parties; had failed to maintain trust account journals and ledgers or to perform monthly reconciliations and trial balances; and had failed to retain adequate records in such a manner as to create a clear audit trail.

FRED GERALD TEW (Murphy) – By Consent, the Commission reprimanded Mr. Tew effective October 7, 1993. The Commission found that Mr. Tew had failed to list a property with the Multiple Listing Service, in violation of a provision of the listing contract in question.

ELIZABETH B. WATTS (Statesville) – By Consent, the Commission reprimanded

Ms. Watts effective September 10, 1993. The Commission found that Ms. Watts had made a negligent omission of material fact concerning the number of lots she was conveying in connection with the sale of a property which she owned and had listed for sale. The Commission noted that Ms. Watts subsequently repaid the buyer for expenses which the buyer had incurred as a result of Ms. Watts' improper dealing.

ROBERT S. WEBSTER (Charlotte) – By Consent, the Commission reprimanded Mr. Webster effective August 12, 1993. The Commission found that Mr. Webster, as the broker-in-charge of a real estate office, had continued to engage in real estate brokerage after his license had expired. The Commission noted that Mr. Webster's failure to renew his license was due to an oversight. □

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