



NORTH CAROLINA REAL ESTATE COMMISSION

Real Estate Bulletin

Volume 25

Fall 1994

Number 3

Governor appoints three new members to Real Estate Commission

**Mona Hill, Wanda Proffitt and J. Kemp Sherron, III
succeed Charles Biesecker, Gilbert Boger and William Smith, Jr.**

Governor James B. Hunt, Jr., recently appointed three members to the North Carolina Real Estate Commission for terms expiring July 31, 1997. The Honorable Sarah Parker, Associate Justice of the North Carolina Supreme Court, administered the Oath of Office to the new members on August 10. The swearing-in ceremony was held at the Commission's office.



New Commission Member Mona S. Hill is from Pinehurst. A broker, she has been active in real estate since 1964. She and her husband
(continued on page 3)



Wanda J. Proffitt of Burnsville is a licensed real estate broker and state-certified real estate appraiser. She is president of REALTY WORLD -
(continued on page 3)



J. Kemp Sherron, III of Raleigh is an attorney. He is a partner with the Raleigh law firm of Wyrick, Robbins, Yates & Ponton L.L.C.
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Commission elects officers

Terms commenced August 1 for Commission's new Chairman and Vice-Chairman.



**James K. Polk
Chairman**

At its July meeting, the Real Estate Commission elected James Polk of Charlotte to be its Chairman and Raymond Bass, Jr. of Fayetteville to be Vice-Chairman for 1994-1995. James K. Polk is owner and CEO of a consulting firm in Charlotte. From 1987-1993, Mr. Polk was employed with the state as the Governor's Special Assistant for Minority Affairs.
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**Raymond A. Bass, Jr.
Vice-Chairman**

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

1313 Navaho Drive
P.O. Box 17100
Raleigh, North Carolina 27619 - 7100
Phone 919/733-9580
James B. Hunt, Jr., Governor

COMMISSION MEMBERS

James K. Polk Charlotte
Chairman
Raymond A. Bass, Jr. Fayetteville
Vice-Chairman
John D. Bridgeman Gastonia
Mona S. Hill Pinehurst
J. Edward Poole Spring Lake
Wanda J. Proffitt Burnsville
J. Kemp Sherron, III Raleigh

Phillip T. Fisher
Executive Director

ADMINISTRATION

Mary Frances Whitley Director
Paula L. Lassiter Financial Officer

AUDITS & INVESTIGATIONS

L. Ted Gayle Director

EDUCATION & LICENSING

Larry A. Outlaw Director
Evelyn G. Johnston Licensing Officer
A. Melton Black, Jr. Ed./Exam. Officer
Anita R. Burt Cont. Ed. Officer

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Spec. Dep. Attorney General
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
June 1994		
Brokers	97	84
Salesmen	526	341
July 1994		
Brokers	71	65
Salesmen	360	226
August 1994		
Brokers	84	79
Salesmen	281	274

New Officers

(continued from page 1)

He attended Johnson C. Smith University in Charlotte and Temple University in Philadelphia. Mr. Polk has served on the Board of Trustees at Central Piedmont Community College and is now on the Board of Visitors at the University of North Carolina at Charlotte.

Mr. Polk is a former chairman of the N.C. Capitol Building Authority and former member of the Advisory Board of the Boy Scouts of America. He has served on the Board of Directors of the American Red Cross and United Way of both Mecklenburg County and North Carolina.

A current member of the Foundation for the Carolinas, Mr. Polk is a board member of the Association for the Quality of Life in America and the N.C. Institute of Minority Economic Development.

The recipient of many civic and trade awards, Mr. Polk was named "Minority Advocate of the Year" by the U.S. Small Business Administration.

Governor Martin appointed Mr. Polk to the Commission in 1992. A public member, he is serving a three-year term which will expire July 31, 1995. (continued on page 3)

NOTE: Continuing education section starts on page 5!

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

Phone

Street Address (NOT P.O. BOX)

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

Hill

(continued from page 1)

Don own and operate Hill Realty, which has offices in both Pinehurst and Southern Pines. Their son Barry works with the firm as a rental agent. Mitzie, their daughter, is a REALTOR® in Raleigh.

A Graduate of the REALTORS® Institute (GRI) in Chapel Hill, Mrs. Hill is active in the N.C. Association of REALTORS® (NCAR), having served as a regional vice-chairman. A former chairman of the NCAR Grievance Committee, she has also served on the Finance Committee and numerous subcommittees. The Pinehurst/Southern Pines Area Board of REALTORS®, of which she is a past-president, named her "REALTOR® of the Year" in 1986.

Mrs. Hill is on the Board of Directors of the local Multiple Listing Service, the Administrative Board of Southern Pines United Methodist Church and the Advisory Board of Richmond Federal Savings and Loan.

A Certified Residential Specialist (CRS) and Certified Real Estate Brokerage Manager (CRB), Mrs. Hill is a past-president of the state chapters of both the CRS and CRB. She has been a recipient of the N.C. CRS of the Year Award and has been named "Associate of the Year" by the Moore County Homebuilders Association. Mrs. Hill recently received the Woman of the Year Award from the Sandhills Business and Professional Women's Organization. □

Proffitt

(continued from page 1)

Carolina Mountain Realty, Inc. - a general real estate brokerage firm in Burnsville.

Mrs. Proffitt is a Certified Residential Specialist (CRS), Certified Real Estate Brokerage Manager (CRB), and a Graduate of the REALTORS® Institute (GRI) in Chapel Hill. An active REALTOR® at the local, state and national levels, she was founding-president of the Yancey-Mitchell Board of REALTORS® and a past-president of the N.C. Association of REALTORS® (NCAR) as well as the N.C. Real Estate Educational Foundation, Inc.

She served for three years as a regional vice-president of NCAR, and four years as associate dean of the REALTORS® Institute. NCAR named Mrs. Proffitt "N.C. REALTOR® of the Year" in 1992.

She is currently a director of the National Association of REALTORS® and chairman of its State Leadership Forum. Mrs. Proffitt is also vice-chairman of the N.C. REALTORS® Political Action Committee.

Mrs. Proffitt serves on the Western North Carolina Regional Economic Development Commission, having been appointed to the Commission by the North Carolina Senate.

In 1983, Governor Hunt presented Mrs. Proffitt with the Governor's Individual Community Volunteer Award.

Mrs. Proffitt and her husband Bob have two children - Robert and Amy. □

Sherron

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Mr. Sherron's practice is concentrated in the areas of real estate law, banking and commercial law, and corporate law.

Mr. Sherron graduated from the University of North Carolina at Chapel Hill where he received a bachelor of science degree in business administration. He received his law degree from Wake Forest University School of Law in 1984 and was admitted to the North Carolina Bar that same year.

The following year, he was admitted to the United States District Court, Middle District of North Carolina. Mr. Sherron was admitted to the United States District Court, Eastern District of North Carolina, in 1986.

In 1990, Mr. Sherron was a seminar presenter at the Wake Forest University School of Law Residential Real Property Seminar.

A member of the Wake County Bar Association, he is also a member of both the Real Property and Business Law Sections of both the North Carolina and American Bar Associations.

Mr. Sherron and his wife Mary have three children - Jay, , Harrison and Ali. He and his family are members of Greystone Baptist Church in Raleigh, where Mr. Sherron is on the Weekday School Committee.

He coaches baseball, basketball and soccer at the A.E. Finley YMCA in Raleigh. □

New Officers

(continued from page 2)

New Commission Vice-Chairman Raymond A. "Buddy" Bass, Jr. is a native of Halifax. He is a graduate of East Carolina University in Greenville where he played football. He served in the U.S. Military during the Korean War.

Mr. Bass entered the real estate business in 1965. A broker, he is part-owner and president of Dickens-Bass Realty & Construction Company, Inc., in Fayetteville and is 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® there for almost 30 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.

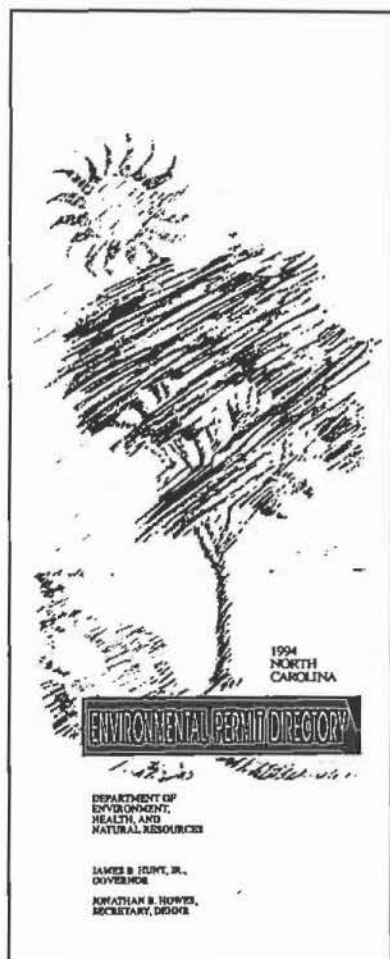
Mr. Bass was appointed to the Commission by Governor Hunt in 1993. His three-year term will expire July 31, 1996. □

ENVIRONMENTAL PERMIT DIRECTORY

The N.C. Department of Environment, Health and Natural Resources has updated its popular *Environmental Permit Directory*. The Directory gives a general introduction to environmental regulations and lists various agencies and individuals which offer assistance in planning small and large-scale activities.

For a brochure describing the Directory or other information, contact: DEHNR

P.O. Box 27687
Raleigh, NC 27611-7687
(Phone 919/733-0711).



The following Commission staff members have made appearances before various real estate industry and related groups since the last issue of the *Bulletin*. Commission Executive Director **Phillip T. Fisher** paid tribute to former Commission Member C. Bayless Ridenhour when he spoke to the Cabarrus County Association of REALTORS® at a meeting in Concord...Deputy Legal Counsel **Miriam J. Baer** spoke on real estate contracts, trust account maintenance

and related subjects at the Gaston Association of REALTORS® Seminar in Gastonia...Continuing Education Officer **Anita R. Burt** was in Greensboro to discuss real estate continuing education at the North Carolina Association of REALTORS® Seminar for Board Executive Officers. (*Individuals and groups requesting a speaker from the Real Estate Commission are reminded that a "Speaker Request Form" is available from the Commission Office.*) □

REGISTRATION FORM
for
BASIC TRUST ACCOUNT PROCEDURES COURSE
and
TRUST ACCOUNT PROCEDURES FOR RESORT PROPERTY MANAGERS COURSE

Courses will comply with Commission Rule Section 58 A.1705 Attendance and Participation Requirements for Continuing Education. Four (4) hours continuing education elective credit will be awarded for completion of each course. Courses are intended for brokers and trust account bookkeepers. Salesmen will be admitted on a space available basis.

BASIC TRUST ACCOUNT PROCEDURES COURSE

Raleigh
1:00 P. M. - 5:00 P. M.

- ☐ October 11
- ☐ November 8
- ☐ December 13

Caravan
9:00 A. M. - 1:00 P. M.

- ☐ Fayetteville (October 18)
- ☐ Atlantic Beach (October 19)
- ☐ Elizabeth City (October 20)
- ☐ Boone (November 2)
- ☐ Franklin (November 3)
- ☐ Greensboro (November 4)

TRUST ACCOUNT PROCEDURES FOR RESORT PROPERTY MANAGERS COURSE

Time: Begin 9:00 A. M., break for lunch (on your own), end at 3:30 P. M.

- ☐ Elizabeth City (October 21)
- ☐ Boone (November 1)

Complete this form (make copies for additional persons). Indicate the session location and the course which you would like to attend. Mail registration form with a check for \$35 tuition fee to be received in the Commission Office no later than 10 days prior to date of course. Each session will be limited to 40 participants. Walk-ins will be accepted on a space available basis only.

Name _____ Phone _____
(Daytime)

Address _____
(Street, P.O. Box, etc.) (City) (State) (Zip)

- ☐ Broker (License No. _____)
- ☐ Salesman (License No. _____)
- ☐ Bookkeeper

Mail to: **N. C. REAL ESTATE COMMISSION**
Attention: Wanda Johnson
P. O. Box 17100
Raleigh, NC 27619

Enclose \$35 tuition fee

Continuing Education Corner

The first year of the Commission's mandatory continuing education program is officially underway. The first sponsors, instructors and courses have been approved and the first classes have been scheduled. In this issue of the *Bulletin*, the Commission introduces a new feature to provide licensees with information regarding approved course sponsors and classes scheduled in various cities and towns.

Continuing Education Course Schedule

The list of approved sponsors and scheduled courses on pages 7 - 9 was compiled from information which was received from sponsors prior to the deadline for publication of the *Bulletin*. The number of approved courses and sponsors is expected to grow rapidly in the next few months, and the list will be updated accordingly in each future issue.

To obtain information regarding course fees, registration procedures and additional classes which may have been scheduled, you must contact the approved course sponsors directly - not the Real Estate Commission. The Commission requires sponsors to offer courses to all licensees on a first-come first-served basis, and to charge a single, all-inclusive fee which includes course materials. However, a course sponsor, such as a real estate firm, franchise or trade organization, may charge a higher course registration fee to a licensee who is not affiliated with the sponsor.

Course sponsors must advise prospective students of their cancellation and refund policies. Sponsors are also required to provide, upon request, a description of the course content sufficient to give prospective students a general understanding of the instruction to be offered in the course.

Significance of Second License Renewal

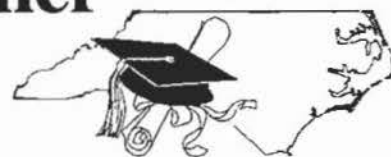
Each licensed real estate broker or salesman must, upon the second license renewal following initial licensure and every year thereafter, complete eight (8) classroom hours of Commission-approved continuing education in order to renew his or her license on **active status**. Articles on continuing education in previous issues of the *Bulletin* (Winter 1994 and Spring/Summer 1994) addressed the basic continuing education requirements in detail. However, the fact that continuing education is not required until the second license renewal following initial licensure merits additional clarification.

According to Commission rule, initial licensure is "the first time that a license of a particular type is issued to a person." The rule further states that issuance of a broker license to a person previously licensed as a salesman is considered to be initial licensure; however, reinstatement of an expired, revoked or suspended license does **not** constitute initial licensure.

Therefore, newly licensed brokers and salesmen are **NOT** required to complete continuing education in order to renew their licenses on active status for the first time following initial licensure. However, before renewing for the second time following initial licensure they must satisfy the continuing education requirement.

For example, licensees who are issued a license of a particular type for the first time between July 1, 1994 and June 30, 1995 will not be required to complete continuing education to renew on active status for the license year July 1, 1995 - June 30, 1996.

However, in order to renew on active status for the license year July



1, 1996-June 30, 1997, the licensees must satisfy the continuing education requirement before renewing in 1996. The broker-in-charge at every real estate office should pay particular attention to this provision of the continuing education requirement and be sure that it is clearly understood by all licensees in the office.

Importance of Taking Pocket Renewal Cards to Class

Upon initially checking in to a class session of an approved continuing education course, each licensee must provide his or her North Carolina real estate license number to the course sponsor or instructor. You are advised to arrive early for class in order to allow time for the check-in process.

To receive credit for the course, you will be required to enter your North Carolina real estate license number and name (exactly as it appears on your real estate license) on a special machine-readable Course Completion Report form. (A person with a nickname or a name likely to be very similar to that of another licensee, or who is known by his or her middle name should be aware that failure to provide the name as it appears on the license may cause serious delays or errors in the reporting of course completion to the Commission.) In order to have this essential information available when needed, you should **take your current pocket renewal card with you to each session** of an approved continuing education class for which you desire credit.

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Continuing Education Corner

(continued from page 5)

The entire Course Completion Report must be completed with a #2 lead pencil which will be furnished by the course sponsor, and the completed form must be turned in to the instructor before leaving the class.

Attendance and Participation Requirements

Unlike some other states, North Carolina will not require satisfactory completion of a written test as a condition for receiving credit for a continuing education course. The Commission has determined that North Carolina licensees shall be awarded continuing education credit by satisfying established criteria concerning attendance and participation in class.

Students must attend at least 90% of the scheduled classroom hours for an approved continuing education course, regardless of the length of the course, in order to receive any credit for the course. There are no exceptions to this rule!

As a further condition of receiving continuing education credit, the Commission requires students of approved courses to direct their active attention to the instructor and to refrain from engaging in activities unrelated to the instruction. Students may not engage in any activities which are distracting to other students or to the instructor, or which otherwise disrupt the orderly conduct of a class.

Examples of prohibited conduct in the classroom include sleeping, reading a newspaper or book, performing office work, talking with other students, making or receiving cellular phone calls, receiving messages on a pager which can be heard by others in the classroom, rattling papers, and interrupting and/or challenging the instructor in a manner that disrupts the teaching of the course.

This strict rule has been adopted by the Commission to protect the interests of the large majority of

licensees who desire a continuing education program of the highest possible quality.

Course sponsors are required to strictly monitor class attendance and student conduct. Their failure to enforce the attendance and participation requirement is cause for withdrawal of approval to conduct continuing education courses.

Elective Courses In Special Areas of Real Estate Practice

Since a large majority of licensees are active in residential sales, it is expected that most continuing education elective courses will focus on topics applicable to residential sales.

The Commission recognizes, however, that many licensees who specialize in other types of real estate transactions would prefer to satisfy the continuing education requirement by taking elective courses which address their special interests.

Licensees who are active in property management, commercial real estate, farm or land sales, or other specialty areas of the real estate business may be able to identify persons or organizations qualified to develop and offer continuing education courses on topics applicable to those specialties. Licensees may wish to let such prospective course sponsors know of their interests because the "law of supply and demand" can be expected to prevail: Prospective sponsors are likely to devote the time and effort necessary to develop and seek approval to sponsor courses for which there is a significant demand.

In Conclusion

It is hoped that this series of continuing education articles and accompanying list of courses and schedules will be helpful as you make plans for satisfying the continuing education requirement. You are advised to save these articles and to refer to them as needed. □

New state law requires home inspectors license

Recent state legislation requires licensure for individuals who engage in home inspections for compensation. Under the Home Inspectors Law, all home inspectors must be licensed by October 1, 1996.

Requirements for licensure include filing an application and passing an examination. In addition, home inspectors must meet minimum net assets or bond requirements and have prerequisite education and experience.

As a licensed real estate agent, you are not required to have a home inspector's license when performing the duties of a real estate broker or salesman.

A seven-member board will be established in the Department of Insurance to license home inspectors and to regulate the industry. It will be composed of one public member, four home inspectors, a general contractor and a real estate broker. Under the Home Inspectors Law, the North Carolina Home Inspector Licensure Board must be in place by August 1, 1995. □



CONTINUING EDUCATION COURSE SCHEDULE

For the Period September 15, 1994 - January 15, 1995

The basic continuing education requirement for renewal of a license on active status is eight hours per year. Four (4) of the required eight (8) hours must be obtained by satisfactorily completing the mandatory *RE Update* course. The remaining four (4) hours must be obtained by completing one or more elective courses approved by the Commission. Continuing education must be completed within the twelve-month period immediately preceding license expiration on June 30. Sponsors will not be allowed to offer approved courses between June 11 and June 30 of any year. Therefore, in order to renew on active status, each licensee must obtain the required continuing education **before June 10** each year.

The following schedule of courses is based on information provided by approved sponsors prior to the deadline for publication of this issue of the *Bulletin*. The information is organized alphabetically by cities and towns where scheduled courses will be conducted. Each scheduled session of the mandatory *update* course is listed in bold italics as *RE Update*. All other course titles are elective courses. **The four-digit sponsor number and the hours credit for the course appear in parentheses immediately after each course title, followed by the scheduled date for the class. Please refer to the corresponding sponsor number on the accompanying list of Continuing Education Sponsors for the sponsor name and telephone number. [See page 9.]** Licensees must contact course sponsors directly for more complete course descriptions, information regarding fees, the scheduled hours for the course, and registration procedures. Licensees should also contact course sponsors directly for information regarding additional sessions which may have been scheduled and additional courses which may have been approved since the publication deadline.

City	Course Title (Sponsor No./CE Hrs.)	Date(s)	City	Course Title (Sponsor No./CE Hrs.)	Date(s)
Asheville	Architectural Styles/Problems with Older Construction (1001/4)	09/20/94	Charlotte	<i>RE Update (1004/4)</i>	11/01/94
	<i>RE Update (1005/4)</i>	09/23/94		<i>RE Update (1004/4)</i>	11/10/94
	<i>RE Update (1005/4)</i>	10/01/94		<i>RE Update (1004/4)</i>	11/17/94
	<i>RE Update (1005/4)</i>	10/08/94		Fair Housing in the 90's (1004/4)	11/18/94
	<i>RE Update (1005/4)</i>	10/14/94		Fair Housing in the 90's (1004/4)	11/30/94
	Pricing Residential Properties-The Valuation Process GRI 301 (1012/4)	11/14/94		<i>RE Update (1004/4)</i>	12/02/94
	Residential Real Estate As An Investment GRI 302 (1012/4)	11/15/94		<i>RE Update (1004/4)</i>	12/06/94
	Property Management GRI 303 (1012/4)	11/16/94		<i>RE Update (1004/4)</i>	12/08/94
	<i>RE Update (1005/4)</i>	12/09/94		Fair Housing in the 90's (1004/4)	12/10/94
				<i>RE Update (1004/4)</i>	12/13/94
Atlantic Beach	Basic Trust Account Procedures (1000/4)	10/19/94	Concord	<i>RE Update (1015/4)</i>	10/05/94
				<i>RE Update (1015/4)</i>	10/20/94
Boone	Architectural Styles/Problems with Older Construction (1001/4)	09/21/94		<i>RE Update (1015/4)</i>	11/09/94
	<i>RE Update (1018/4)</i>	09/21/94		<i>RE Update (1015/4)</i>	11/17/94
	Trust Account Procedures for Property Managers (1000/4)	11/01/94		<i>RE Update (1015/4)</i>	11/19/94
	Basic Trust Account Procedures (1000/4)	11/02/94	Durham	<i>RE Update (1006/4)</i>	10/01/94
	<i>RE Update (1005/4)</i>	12/02/94		<i>RE Update (1006/4)</i>	10/15/94
Brevard	<i>RE Update (1005/4)</i>	12/16/94		<i>RE Update (1020/4)</i>	10/21/94
Burlington	<i>RE Update (1001/4)</i>	11/15/94		<i>RE Update (1020/4)</i>	11/10/94
Burnsville	<i>RE Update (1005/4)</i>	11/11/94	Elizabeth City	Basic Trust Account Procedures (1000/4)	10/20/94
Charlotte	<i>RE Update (1004/4)</i>	09/29/94		Trust Account Procedures for Property Managers (1000/4)	10/21/94
	<i>RE Update (1004/4)</i>	10/04/94	Fayetteville	Basic Trust Account Procedures (1000/4)	10/18/94
	<i>RE Update (1004/4)</i>	10/05/94		<i>RE Update (1003/4)</i>	10/20/94
	<i>RE Update (1004/4)</i>	10/08/94		<i>RE Update (1001/4)</i>	11/30/94
	<i>RE Update (1004/4)</i>	10/21/94		<i>RE Update (1003/4)</i>	12/10/94
	Fair Housing in the 90's (1004/4)	10/22/94	Franklin	Basic Trust Account Procedures (1000/4)	11/03/94
	Residential Financing GRI 101 (1012/4)	10/24/94		<i>RE Update (1003/4)</i>	09/27/94
	Fair Housing in the 90's (1004/4)	10/26/94	Greensboro	<i>RE Update (1003/4)</i>	10/08/94
	From Contract to Closing GRI 103 (1012/4)	10/26/94		<i>RE Update (1016/4)</i>	10/06/94
	<i>RE Update (1004/4)</i>	10/28/94		Basic Trust Account Procedures (1000/4)	11/04/94

<u>City</u>	<u>Course Title (Sponsor No./CE Hrs.)</u>	<u>Date(s)</u>	<u>City</u>	<u>Course Title (Sponsor No./CE Hrs.)</u>	<u>Date(s)</u>
Greenville	<i>RE Update (1003/4)</i>	09/29/94	Raleigh	Legal Issues in RE <i>GRI 202</i> (1012/4)	11/29/94
	<i>RE Update (1003/4)</i>	10/22/94		Tax Planning for the Real Estate	
	Environmental Hazards (1001/4)	11/29/94		Professional <i>GRI 203</i> (1012/4)	11/30/94
Havelock	<i>RE Update (1003/4)</i>	10/18/94		<i>RE Update (1008/4)</i>	12/07/94
Hendersonville	<i>RE Update (1005/4)</i>	10/22/94		Basic Trust Account Procedures (1000/4)	12/13/94
				<i>RE Update (1003/4)</i>	12/15/94
				Basic Trust Account Procedures (1000/4)	01/10/95
Hickory	Here Comes the Judge-There Goes Your Commission (1001/4)	08/31/94	Rocky Mount	<i>RE Update (1003/4)</i>	10/20/94
	<i>RE Update (1005/4)</i>	10/29/94	Salisbury	<i>RE Update (1001/4)</i>	11/16/94
High Point	Residential Construction <i>GRI 201</i> (1012/4)	09/26/94	Shelby	<i>RE Update (1005/4)</i>	01/14/95
	Legal Issues in RE <i>GRI 202</i> (1012/4)	09/27/94	Sparta	<i>RE Update (1013/4)</i>	10/14/94
	Tax Planning for the Real Estate		Tryon	<i>RE Update (1005/4)</i>	11/04/94
	Professional <i>GRI 203</i> (1012/4)	09/28/94			
Hilton Head, SC	<i>RE Update (1001/4)</i>	10/12/94	Washington	<i>RE Update (1003/4)</i>	10/13/94
	<i>RE Update (1001/4)</i>	10/13/94		<i>RE Update (1009/4)</i>	11/01/94
	<i>RE Update (1001/4)</i>	10/14/94			
Jacksonville	<i>RE Update (1003/4)</i>	10/11/94	Waynesville	<i>RE Update (1005/4)</i>	11/05/94
Kill Devil Hills	Environmental Hazards (1001/4)	10/26/94	W. Jefferson	<i>RE Update (1013/4)</i>	01/13/95
Lake Lure	<i>RE Update (1005/4)</i>	01/06/95		<i>RE Update (1013/4)</i>	03/17/95
Morehead City	Environmental Hazards (1001/4)	10/27/94	Wilkesboro	<i>RE Update (1013/4)</i>	11/18/94
Murphy	<i>RE Update (1005/4)</i>	11/18/94		<i>RE Update (1013/4)</i>	02/10/95
				<i>RE Update (1013/4)</i>	04/21/95
				<i>RE Update (1013/4)</i>	05/19/95
New Bern	<i>RE Update (1003/4)</i>	09/27/94	Wilmington	Pricing Residential Properties-The Valuation Process <i>GRI 301</i> (1012/4)	09/12/94
	<i>RE Update (1003/4)</i>	11/05/94		Residential RE As An Investment	
				<i>GRI 302</i> (1012/4)	09/13/94
				Property Management <i>GRI 303</i> (1012/4)	09/14/94
				<i>RE Update (1003/4)</i>	09/29/94
				<i>RE Update (1003/4)</i>	10/27/94
				<i>RE Update (1003/4)</i>	12/08/94
Raleigh	Here Comes the Judge-There Goes Your Commission (1001/4)	09/01/94	Winston Salem	<i>RE Update (1010/4)</i>	11/07/94
	<i>RE Update (1008/4)</i>	10/06/94			
	Basic Trust Account Procedures (1000/4)	10/11/94			
	<i>RE Update (1008/4)</i>	11/02/94			
	Basic Trust Account Procedures (1000/4)	11/08/94			
	<i>RE Update (1003/4)</i>	11/19/94			
	Residential Construction <i>GRI 201</i> (1012/4)	11/28/94			

Please refer to the following list of
Continuing Education Sponsors.

CONTINUING EDUCATION SPONSORS

The course sponsors listed below have been approved by the Commission to offer continuing education courses for credit toward renewal of licenses on active status. Sponsors approved to offer the mandatory 4-hour *update* course are designated by the letter (U), and sponsors approved to offer one or more elective courses are designated by the letter (E). Some sponsors have been approved to offer both the *update* and elective courses. The course sponsor numbers in this list correspond to the 4-digit sponsor number which appears in parentheses immediately following each course title in the preceding course schedule. [See pages 7 - 8.] Licensees should contact the course sponsors directly for information regarding fees, registration procedures, and additional scheduling information which was not available at the time of publication.

<u>Sponsor No.</u>	<u>Sponsor Name</u>	<u>Office Location</u>	<u>Telephone</u>
1000	North Carolina Real Estate Commission* (E)	Raleigh	(919) 733-9580
1001	North Carolina Association of REALTORS®, Inc. (U/E)	Greensboro	(910) 294-1415
1002	George Bell Productions, Ltd. (U)	Raleigh	(919) 782-3551
1003	Carolina Real Estate Academy (U)	Goldsboro	(919) 751-8038
1004	Mingle Institute/NC School of Real Estate (U/E)	Charlotte	(704) 372-2984
1005	Cumbie Institute of Real Estate (U)	Asheville	(704) 687-7252
1006	Durham Technical Community College (U)	Durham	(919) 598-9270
1007	Eastern Carolina Real Estate School (U)	Jacksonville	(910) 455-5328
1008	Raleigh/Wake Board of REALTORS® (U)	Raleigh	(919) 834-0359
1009	Beaufort County Community College (U)	Washington	(919) 946-6194
1010	Forsyth Technical Community College (U)	Winston Salem	(910) 760-2373
1011	The Business Advantage, Inc. (U)	Fayetteville	(910) 485-1746
1012	North Carolina Real Estate Educational Foundation (E)	Greensboro	(910) 294-1415
1013	Wilkes Community College (U)	Wilkesboro	(910) 651-8695
1014	Eastern North Carolina School of Real Estate (U)	Goldsboro	(919) 778-9102
1015	Cabarrus County Association of REALTORS®, Inc. (U)	Concord	(704) 786-5512
1016	Greensboro Regional REALTORS® Association, Inc. (U)	Greensboro	(910) 854-5868
1017	Guilford Technical Community College (U)	Jamestown	(910) 334-4822
1018	Avery-Watauga Association of REALTORS® (U)	Boone	(704) 262-5437
1019	Asheville Board of REALTORS®, Inc. (U)	Asheville	(704) 255-8505
1020	Durham Association of REALTORS® (U)	Durham	(919) 383-2117
1021	Cape Fear Community College (U)	Wilmington	(910) 251-5689
1022	Larry Goodman Continuing Education (U)	Salisbury	(704) 636-3975
1023	Century 21 Real Estate Academy (U)	Charlotte	(704) 535-2121
1024	Imperial Training Services, Inc. (U)	Garner	(919) 772-6460

**The only continuing education courses sponsored by the Commission are Basic Trust Account Procedures and Trust Account Procedures for Resort Property Managers. [Note: For information regarding all other courses, please contact the course sponsors directly.]*



To draft or not to draft; that is the question

Commission cautions against adding vague contingencies to contracts.

By: Marilyn E. Tomei, Assistant Legal Counsel

Licensees continue to grapple with the question, "What provisions can I draft and add to standard form purchase contracts?" By Commission rule, real estate agents may "complete" (i.e., "fill in the blanks") certain pre-printed forms, including purchase contract forms. But the Commission cautions against drafting additional terms because it could lead to at least two potential problems: It could constitute the unauthorized practice of law, and it could result in the use of vague terms which may confuse the parties. This issue is addressed in the "Guidelines" for use with the North Carolina Association of REALTORS®/North Carolina Bar Association Standard Form Number 2.

The "practice of law," as determined by statute and court decisions, includes the drafting of documents which define the rights of others. "Drafting" means composing phrases and sentences to convey an intended meaning by choosing which words to use and the order in which to use them. Therefore, although licensees may be capable of competently drafting contract terms, they are not authorized to do so unless they are also licensed attorneys.

Vague Contingencies

Drafting contract provisions could also increase the possibility of vague terms being used which might confuse the parties as to their contractual obligations and/or inadequately protect their interests.

A common type of vague contract term is a contingency whereby parties to the transaction condition their contractual obligations upon their "satisfaction" with specified circumstances or occurrences.

Perhaps the most common such contingency is where a buyer's purchase of property is "contingent on satisfactory inspection" of the prop-

erty. How is the contingency fulfilled? Who is the party whose satisfaction will fulfill the contingency? Who determines the standard of "satisfactory"? The buyer? The seller? The inspector?

A provision drafted and added to the contract is especially problematic if it conflicts with some other term of the contract, such as one pre-printed on the contract form. In the example above, what happens if the inspector notes a defect in some item not addressed by the pre-printed inspection term? Does the seller have an obligation to fix the defect? If the buyer is "satisfied" with the inspector's other findings, does the pre-printed term control?

Suppose the inspector comments that a system addressed by the pre-printed contract terms will likely require replacement within a specified time? If the system is currently operational, is it "satisfactory"? Is an air conditioning unit "satisfactory" if the inspector finds that it is cooling a house which has more square feet than the unit is designed to cool?

Another common vague contingency is a statement such as, "contingent on the sale of the buyer's property at . . ." This simple provision may not constitute complex drafting of a legal document, but neither does it clearly define the parties' obligations. Can the buyer reject an offer on her own property because she has changed her mind about purchasing the seller's property? Can she buy the seller's property if her own property does not sell? Can the buyer remove the contingency without the seller's concurrence? What if the seller wants to invoke the contingency and sell the property to someone else?

At what point in the transaction is the contingency considered fulfilled? Is the buyer's property considered "sold" when it goes under contract? If so, what happens if the contract

falls through? What if the buyer's property is under contract, but the sale is not due to close until after the scheduled closing on the seller's property? All of these and perhaps other questions are left unanswered by the simple contingency.

Parties sometimes disagree over the meaning of a contractual term, and its interpretation is then ultimately determined by the courts. When a court considers a term to be so vague that it can be interpreted two ways, the court will interpret it in favor of the party who did *not* draft it. Therefore, an agent who drafts vague terms does so to the detriment of his or her own client, and risks disciplinary action by the Real Estate Commission.

The Bottom Line

Avoid drafting contractual terms. In transactions where the parties want a contingency concerning sale of the buyer's property, use the standard form "Contingent Sale Addendum" which the North Carolina Association of REALTORS® and North Carolina Bar Association have approved for this purpose. If the language supplied by this addendum does not appropriately address the issues, refer the parties to their attorneys.

If another agent or a party to the transaction or even an attorney drafts a contractual term, review it carefully. Beware of any provision which includes a subjective standard (such as "satisfactory") or is otherwise vague as to fulfillment, or does not set a deadline for fulfillment, or does not specifically require notice to the other party and specify how parties are to notify each other of fulfillment.

To ensure that you are protecting the rights of your clients and treating your customers fairly, be sure that the rights and obligations of *all* the parties to the transaction are clearly spelled out in the purchase contract. □

Compensation of out-of-state brokers

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

The following article appeared in the May 1989 issue of the *Tar Heel REALTOR®* under the "Commission Comments from the North Carolina Real Estate Commission" column.

The Commission's legal staff is frequently asked whether, and under what circumstances, a North Carolina broker may pay a referral fee or other compensation to a person, partnership or corporation licensed as a real estate broker in another state. The involvement of the Commission in this issue is, of course, limited to determining whether the payment of such fee violates the Real Estate License Law, since disputes between agents over the division or payment of commissions are civil matters within the jurisdiction of the courts.

The North Carolina appellate courts and other courts have, over the years, made it abundantly clear that a person, partnership or corporation that acts as a real estate broker in North Carolina must be licensed by the North Carolina Real Estate Commission as a broker in order to be lawfully compensated for performing real estate brokerage services and activities.

In *Gower v. Strout Realty*, 56 N.C. App. 603 (1982), the Court of Appeals also made it clear that North Carolina law absolutely prohibits any form of compensation to unlicensed persons in either sales or rental transactions, including the payment of "finder's fees," "consulting fees," "bird dog fees," or referral fees.

This being the case, you may wonder how the various interstate referral and co-brokerage networks can exist. The answer is that North Carolina laws apply only to acts performed within the boundaries of North Carolina. If a person, partnership or corporation is not licensed as a broker in North Carolina, but is licensed as a real estate broker in another state or states, then the North Carolina broker



may lawfully compensate the out-of-state broker for his services, provided that such services have been performed within the state(s) in which he is licensed.

However, the out-of-state broker absolutely cannot enter North Carolina, either personally or through any employees or agents, to participate in the transaction.

The following are other commonly asked questions regarding this subject:

Q: Can I pay a brokerage fee to a North Carolina broker who is now living in another state?

A: **You may compensate the broker only if he is licensed in his resident state or he returns to North Carolina to perform all acts connected with the transaction.**

Q: Can I pay a salesman licensed in another state?

A: **Generally, the laws of the various states require real estate brokerage transactions to be conducted and compensation paid (including referral fees) in the name of the salesman's employing broker.** □



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.

ELIZABETH A. ANDERSON (Winston-Salem) - By Consent, the Commission suspended Ms. Anderson's broker license for 13 months effective September 1, 1994. One month of the suspension is to be active and the remaining period stayed for a probationary term of one year upon condition that, during the period of suspension and probation, she complete the Commission's Trust Account Short Course. The Commission found that Ms. Anderson, as broker-in-charge of a licensed real estate corporation, had closed a trust account in November 1992 when the corporation discontinued operations, even though the account still contained two deposits, and had deposited the remaining funds into a separate operating account. The Commission noted that Ms. Anderson subsequently remitted the remaining funds in July 1993 and November 1993.

NANCY L. BARNUM (Carrboro) - By Consent, the Commission reprimanded Ms. Barnum effective June 15, 1994. The Commission found that Ms. Barnum, as listing agent in a real estate transaction, had inaccurately advertised the acreage of a property in the local Multiple Listing Service, in promotional brochures and on a sign at the property. The Commission noted that the area of the lot had been reduced as a result of a recombination of a subdivision and

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Disciplinary action

(continued from page 11)

that although Ms. Barnum knew of the recombination and resulting change in acreage, she had made an error in her advertising prior to the sale of the property.

WILLIAM E. BAUGHN, JR. (Thomasville) - By Consent, the Commission suspended Mr. Baughn's broker license for 30 days effective May 12, 1994. The Commission then stayed its Order for a probationary term of one year. The Commission found that Mr. Baughn had made a negligent omission of a material fact in a real estate transaction by failing to inform buyers of a lot and house which he had listed for sale about the possible relocation of the highway where the lot and house were located.

BAXTER B. BENSON, II (Raleigh) - By Consent, the Commission suspended Mr. Benson's broker license for five years effective July 14, 1994. If the period of supervised release ordered in connection with Mr. Benson's criminal conviction is terminated prior to the end of his license suspension, the Commission will stay its Order for a probationary term of one year. The Commission found that Mr. Benson had been convicted of violating 18 U.S.C. Section 1344 and was sentenced to a term of twelve months' imprisonment followed by a five-year term of supervised release and had also been ordered to pay restitution. The Commission noted that Mr. Benson had already made partial restitution.

BERMUDA PROPERTIES, INC. (Winston-Salem) - By Consent, the Commission suspended the corporate real estate broker license of Bermuda Properties, Inc. for 13 months effective September 1, 1994. One month of the suspension is to be active and the remaining period stayed for a probationary term of one year. The Commission found that the corpora-

tion's broker-in-charge had closed a trust account in November 1992 when the corporation discontinued operations, even though the account still contained two deposits, and had deposited the remaining funds into a separate operating account. The Commission noted that the broker-in-charge subsequently remitted the remaining funds in July 1993 and November 1993.

HIRAM D. BRINEGAR (Charlotte) - The Commission revoked Mr. Brinegar's broker license effective May 24, 1994. The Commission found that Mr. Brinegar had acted for himself as a real estate broker without the knowledge and consent of his broker-in-charge. The Commission further found that Mr. Brinegar had failed to deposit and maintain funds of others in a trust or escrow account, had failed to account for or remit an earnest money deposit to his broker-in-charge or to the parties to a real estate transaction, and had made a misrepresentation of material fact by misrepresenting the disposition of earnest money to the seller and other interested persons in a real estate transaction.

JOSEPH TAYLOR BUSH (Mars Hill) - By Consent, the Commission reprimanded Mr. Bush effective June 20, 1994. The Commission found that Mr. Bush, as principal broker and broker-in-charge of a licensed real estate corporation, had paid brokerage fees in three real estate transactions to a person not a party to the transactions and not licensed by the Real Estate Commission.

CAROLINA GRAND REALTY, INC. (Mars Hill) - By Consent, the Commission reprimanded Carolina Grand Realty, Inc. effective June 20, 1994. The Commission found that the corporation had paid brokerage fees in three real estate transactions to a

person not a party to the transactions and not licensed by the Real Estate Commission.

CONDOMINIUM MANAGEMENT SERVICES, INC. (Charlotte) - The Commission accepted the voluntary surrender of Condominium Management Services, Inc.'s corporate real estate broker license effective July 18, 1994. The Commission dismissed without prejudice charges that the corporation had violated provisions of the Real Estate License Law and Commission rules. Condominium Management Services, Inc. neither admitted nor denied any misconduct.

DONALD G. COX (Charlotte) - By Consent, the Commission suspended Mr. Cox's broker license for one year effective June 1, 1994. The Commission then stayed its Order for a probationary term of one year. The Commission found that Mr. Cox had allowed his broker license to expire in June 1991 and had engaged in brokerage on a full-time basis until April 1994. The Commission noted that Mr. Cox had disclosed his conduct to the Commission and had cooperated with its inquiry.

LOUIS D. CRITTENDEN (Chapel Hill) - By Consent, the Commission reprimanded Mr. Crittenden effective July 15, 1994. The Commission found that when Mr. Crittenden had listed two subdivision lots with the Multiple Listing Service, he had incorrectly stated the location of the lots in the subdivision.

BETTY H. DEARMIN (Banner Elk) - By Consent, the Commission revoked Ms. Dearmin's salesman license effective July 13, 1994. The Commission found that Ms. Dearmin, while licensed as a salesman, had operated a brokerage business and that she had failed to deposit and maintain all of the firm's trust monies

in a trust or escrow account. Ms. Dearmin neither admitted nor denied any misconduct.

HELEN V. HORN (Raleigh) - By Consent, the Commission suspended Ms. Horn's salesman's license for 90 days effective July 15, 1994. The Commission then stayed its Order for a probationary term of 90 days upon condition that, during the period of probation, she complete the Commission's Trust Account Short Course. The Commission found that Ms. Horn had engaged in property management activities without adequate supervision of her broker-in-charge. The Commission further found that prior to August 1993, Ms. Horn had failed to properly designate the trust or escrow account, had failed to promptly remove management fees from the account and had instead paid the fees directly from the account for her personal expenses. The Commission also found that beginning in August 1993, Ms. Horn failed to maintain trust account ledger cards for each owner or property, had failed to properly reference transactions on trust account deposit tickets and check stubs, had failed to consistently calculate trust account running balances accurately, and had failed to perform trust account trial balances and bank reconciliations, which resulted in an overage in the firm's trust account.

KENNETH W. HORN (Raleigh) - By Consent, the Commission suspended Mr. Horn's broker license for 90 days effective July 15, 1994. The Commission then stayed its Order for a probationary term of 90 days upon condition that, during the period of probation, he complete the Commission's Trust Account Short Course. The Commission found that Mr. Horn had failed to adequately oversee the proper handling of trust monies and records of the property management firm where he was broker-in-

charge and had instead allowed a salesman under his supervision to undertake the management activities. The Commission further found that Mr. Horn had failed to maintain trust account ledger cards for each owner or property, had failed to properly reference transactions on trust account deposit tickets and check stubs, had failed to consistently calculate trust account running balances accurately, and had failed to perform trust account trial balances and bank reconciliations, which resulted in an overage in the firm's trust account.

JOHN K. MARKS (Greensboro) - By Consent, the Commission suspended Mr. Marks' broker license for one year effective May 1, 1994. The Commission then stayed its Order for a probationary term of one year upon condition that Mr. Marks successfully complete the Commission's Trust Account Short Course. The Commission found that Mr. Marks had failed to comply with all of its rules concerning trust account recordkeeping, and that the trust accounts which he maintained in connection with his property management functions contained a substantial overage. The Commission noted that no client was prejudiced by Mr. Marks' actions.

JOHN MARKS & ASSOCIATES, INC. (Greensboro) - By Consent, the Commission suspended the corporate real estate broker license of John Marks & Associates, Inc. for one year effective May 1, 1994. The Commission then stayed its Order for a probationary term of one year. The Commission found that John Marks & Associates, Inc. had failed to comply with all of the Commission's rules concerning trust account recordkeeping, and that the trust accounts which the corporation maintained in connection with its property management functions contained a substantial overage. The Commission noted that

no client was prejudiced by the corporation's actions.

WILLIAM B. MCGUIRE, JR. (Charlotte) - By Consent, the Commission reprimanded Mr. McGuire effective June 1, 1994. The Commission found that Mr. McGuire, while he was broker-in-charge of a real estate office, had failed to ascertain that one of the licensees affiliated with the firm had failed to renew his real estate license for three consecutive years. The Commission further found that Mr. McGuire, on seven occasions during the three-year-period, had compensated the licensee whose license had expired. The Commission noted that Mr. McGuire had cooperated with the Commission's investigation of this matter.

MCGUIRE PROPERTIES, INC. (Charlotte) - By Consent, the Commission reprimanded McGuire Properties, Inc. effective June 1, 1994. The Commission found that McGuire Properties, Inc. had affiliated a broker in a capacity requiring a current real estate license even though the broker's license had not been renewed for three years. The Commission further found that McGuire Properties, Inc. had compensated the broker for his real estate services. The Commission noted that McGuire Properties, Inc. had cooperated with the Commission's investigation of this matter.

DOROTHY S. MORRIS (Chapel Hill) - By Consent, the Commission suspended Ms. Morris' broker license for one year effective June 15, 1994. The Commission then stayed its Order for a probationary term of six months. The Commission found that Ms. Morris had prepared an informational flyer and otherwise advertised a property as having 600 more heated square feet than its actual heated square footage.

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Disciplinary action

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BARBARA JEAN ORR (Atlantic Beach) - The Commission accepted the permanent voluntary surrender of Ms. Orr's broker license effective July 15, 1994. The Commission dismissed without prejudice charges that Ms. Orr had violated provisions of the Real Estate License Law and Commission rules while she was engaged in the real estate property management business. Ms. Orr neither admitted nor denied any misconduct.

WILLIAM PARKER (Rocky Mount) - By Consent, the Commission revoked Mr. Parker's broker license effective July 15, 1994. Mr. Parker may not reapply for licensure before January 1996. The Commission found that Mr. Parker, who controlled his firm's trust and operating accounts although he was not broker-in-charge, had failed to deposit and maintain trust monies in a trust or escrow account, had converted trust monies to his own use, had commingled trust monies with his own funds, and had issued checks on the firm's trust account which were returned unpaid by the bank due to insufficient funds.

SAMUEL T. PEACE, JR. (Henderson) - By Consent, the Commission reprimanded Mr. Peace effective May 12, 1994. The Commission found that Mr. Peace had failed, in a real estate transaction, to deposit earnest money within three banking days of acceptance of an offer to purchase. The Commission further found that Mr. Peace had failed to maintain this deposit in his escrow account after a dispute arose between the seller, whom Mr. Peace represented, and the buyer, who was Mr. Peace's son. The Commission noted that Mr. Peace subsequently restored the earnest money to his trust account.

VERNON E. POTTER, JR. (Sanford) - By Consent, the Commission re-

voked Mr. Potter's broker license effective July 14, 1994. The Commission found that Mr. Potter, as a rental manager for residential rental properties, had commingled rental escrow monies with his own funds. The Commission further found that Mr. Potter had failed to properly account for or remit security deposits and rent monies and had failed to keep adequate records of the trust account sufficient to create a clear audit trail. Mr. Potter neither admitted nor denied any misconduct.

RICHARD E. PUGH (Charlotte) - By Consent, the Commission revoked Mr. Pugh's broker license effective May 23, 1994. The Commission found that Mr. Pugh had made a false statement on his application for reinstatement of his real estate license; namely, Mr. Pugh answered "no" to the application question regarding criminal convictions when, in fact, he had been convicted of the crimes of embezzlement and obtaining property by false pretense. The Commission further found that since the reinstatement of his broker license, Mr. Pugh has twice been found in violation of his probation which resulted from these convictions.

ALAN C. ROBBINS (Chapel Hill) - By Consent, the Commission suspended Mr. Robbins' broker license for one year effective June 15, 1994. The Commission then stayed its Order for a probationary term of six months. The Commission found that Mr. Robbins had made an error in computing the heated living area when he prepared the comparative market analysis on a property which his real estate firm had listed for sale, and that as a result, the firm had advertised the property as having 600 more heated square feet than its actual heated square footage.

SAMUEL J. ROBERSON (Banner Elk) - By Consent, the Commission

revoked Mr. Roberson's broker license effective July 13, 1994. The Commission found that Mr. Roberson, while employed as the broker-in-charge of a real estate company, had failed to deposit and maintain trust monies in a trust or escrow account. Mr. Roberson neither admitted nor denied any misconduct.

THEODORE S. ROYALL, JR. (Durham) - By Consent, the Commission suspended Mr. Royall's broker license for two years effective May 15, 1994. Five months of the suspension are to be active and the remaining period stayed for a probationary term of two years. The Commission found that Mr. Royall had allowed bank service charges to partially deplete a trust account in which he maintained a tenant security deposit for a property he managed; however, Mr. Royall had subsequently forwarded the full amount of the security deposit to the property owner. The Commission further found that Mr. Royall had collected management fees which were paid to a corporation which he owned but which was not licensed by the Commission, and that he had failed to deposit another tenant security deposit into a trust or escrow account but had instead deposited it into an operating account of his licensed real estate corporation. The Commission also found that when his management duties were terminated, he wrote a check drawn on his personal account to cover the tenant security deposit and that the check was returned unpaid by the bank due to insufficient funds. The Commission noted that Mr. Royall ultimately paid the fees.

ROYALL COMMERCIAL PROPERTIES, INC. (Durham) - By Consent, the Commission suspended the corporate real estate broker license of Royall Commercial Properties, Inc. for six months effective May 15,

1994. The Commission then stayed its Order for a probationary term of two years. The Commission found that the owner of Royall Commercial Properties, Inc. had allowed bank service charges to partially deplete a trust account in which it maintained a tenant security deposit for a property which it managed, but that it had subsequently forwarded the full amount of the security deposit to the property owner. The Commission further found that the corporation's owner had collected a tenant security deposit which he improperly put into an operating account of Royall Commercial Properties, Inc.

THEODORE STEVENS (Greensboro) - The Commission suspended Mr. Stevens broker license for two years effective June 1, 1994. Six months of the suspension are to be active and the remaining period stayed for a probationary term of eighteen months. The Commission found that Mr. Stevens, in a real estate transaction involving his corporation's property, had directed an assistant to alter letters, without the author's knowledge or consent, in connection with two properties for which Mr. Stevens was seeking low-income housing tax credits. The Commission further found that Mr. Stevens had made a misrepresentation of a material fact in representing the zoning letters as genuine.

KENNETH G. THOMAS (Southern Pines) - By Consent, the Commission suspended Mr. Thomas's broker license for 60 days effective July 15, 1994. The Commission then stayed its Order for a probationary term of one year upon condition that, during the period of probation, he complete the Commission's Trust Account Short Course. The Commission found that Mr. Thomas had failed to deposit trust monies into a trust or escrow account and had instead com-

mingled trust monies with company funds by depositing trust monies into an operating account belonging to the licensed real estate corporation where he was principal broker and broker-in-charge. The Commission noted that Mr. Thomas subsequently remitted the money and that no loss to anyone resulted from his actions. The Commission further found that Mr. Thomas had failed to maintain adequate trust account records and that an overage occurred in the escrow account.

KEN THOMAS REALTY AND ASSOCIATES, INC. (Southern Pines) - By Consent, the Commission suspended the corporate real estate broker license of Ken Thomas Realty and Associates, Inc. for 60 days effective July 15, 1994. The Commission then stayed its Order for a probationary term of one year. The Commission found that the principal broker and broker-in-charge of Ken Thomas Realty and Associates, Inc. had failed to deposit trust monies into a trust or escrow account and had instead commingled trust monies with company funds by depositing trust monies into an operating account belonging to the corporation. The Commission noted that the broker subsequently remitted the money and that no loss to anyone resulted from his actions. The Commission further found that the broker had failed to maintain adequate trust account records and that an overage had occurred in the corporation's account.

JAMES F. TINDELL (Banner Elk) - By Consent, the Commission revoked Mr. Tindell's broker license effective August 15, 1994. The Commission found that Mr. Tindell, as principal broker and broker-in-charge of a licensed real estate corporation, had expended trust monies for his personal expenses and had converted trust monies to his own use, which caused

a shortage to occur in the corporation's trust account.

105 REALTY PLACE, INC. (Banner Elk) - By Consent, the Commission revoked the corporate real estate broker license of 105 Realty Place, Inc. effective August 15, 1994. The Commission found that 105 Realty Place, Inc. had allowed a shortage to occur in its trust account due to conduct of the corporation's principal broker and broker-in-charge, who had converted trust monies to his personal use.

TOUCHBERRY & ASSOCIATES, INC. (Charlotte) - By Consent, the Commission revoked the corporate real estate broker license of Touchberry & Associates, Inc. effective July 13, 1994. The Commission found that Touchberry & Associates, Inc., which is currently under the control of a trustee in bankruptcy, had failed, prior to its bankruptcy, to maintain trust account records as required by Commission rules. The trustee in bankruptcy for Touchberry & Associates, Inc., on behalf of the corporation, neither admitted nor denied any misconduct.

BRANDON S. TRIVETT (Charlotte) - By Consent, the Commission revoked Mr. Trivett's salesman license effective August 1, 1994. The Commission found that Mr. Trivett, on at least four occasions, had filled out and signed sham real estate sales contracts which indicated to his employing firm that his sales performance was better than it really was. The Commission further found that Mr. Trivett had failed to turn over earnest money checks to his broker-in-charge and in a separate transaction, had arranged to receive and did receive a commission without paying the money to his employing or supervising broker. Mr. Trivett neither admitted nor denied any misconduct.

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As we go to press...

The state's Rules Review Commission has approved the Real Estate Commission's agency agreement and disclosure rules. The Real Estate Commission adopted the rules to establish a procedure which real estate brokers and salesman must follow in disclosing to consumers whom they represent in real estate sales transactions.

The rules were submitted to the Rules Review Commission by the new Administrative Procedures Act Coordinator Stephen L. Fussell. Mr. Fussell, a Consumer Protection Officer in the Real Estate Commission's Legal Division, succeeded Anita R. Burt as Administrative Procedures Act Coordinator when Ms. Burt transferred to the Education Division as Continuing Education Officer.

The Commission's continuing education update course will focus on agency relationships and the new Commission rules and agency disclosure form.

Text of the new rules and a copy of the disclosure form will be featured in the next issue of the *Bulletin*.

On the inside...

- ...New Commission Members
- ...New Commission Officers
- ...Continuing Education Corner
- ...CE Course Schedule
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that is the question
- ...Compensation of out-of-state
brokers
- ...Disciplinary action
- ...and **MUCH** more!

Disciplinary action

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COLA F. VAUGHAN (Nags Head) - By Consent, the Commission reprimanded Mr. Vaughan effective May 12, 1994. The Commission found that Mr. Vaughan had allowed his broker license to expire in June 1992 and had continued to engage in brokerage and to receive commissions until March 1994. The Commission noted that Mr. Vaughan had voluntarily informed the Commission after he discovered his failure to renew his license, and had ceased to act in a capacity for which a license is required.

ALTON G. WIDENHOUSE, JR. (Charlotte) - By Consent, the Commission revoked Mr. Widenhouse's broker license effective August 15,

1994. The Commission found that Mr. Widenhouse, as broker-in-charge of a licensed real estate corporation, had failed to maintain trust account records and to perform monthly trust account reconciliations as required by Commission rule. The Commission further found that Mr. Widenhouse's failure to meet his obligations as broker-in-charge had resulted in the corporation's inability to meet its escrow obligations at the close of its business in August 1993.

C. STEPHEN WILSON (Charlotte) - The Commission accepted the voluntary surrender of Mr. Wilson's broker license effective July 18, 1994. The Commission dismissed without prejudice charges that Mr. Wilson had violated provisions of the Real Estate License Law and Commission rules. Mr. Wilson neither admitted nor denied any misconduct. □

In memoriam

With deep regret, the Real Estate Commission announces the recent death of former Commission member and Chairman, A.P. "Red" Carlton, of Greensboro. The Commission extends deepest sympathy to Mr. Carlton's family.

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