

License Renewal Deadline: June 30**NEW LICENSING
PROGRAM IN PLACE**

It's now official! Persons applying for real estate licenses must obtain more real estate education in order to qualify for and retain them; real estate experience is now required to become a broker-in-charge; and, for the first time ever, there are no real estate "salespersons" in North Carolina. All of this is a result of landmark legislation which took effect April 1.

Implementing these changes was a monumental undertaking for the Real Estate Commission and its staff involving the adoption of comprehensive rule changes, the development of a variety of education programs and the creation of new administrative forms and procedures. Compounding this was an unprecedented increase in the number of license applications and broker-in-charge declarations received from per-

(See **Licensing**, page 3)

Two new interactive forms have been added to the Commission's website. Go to the News Update links on the Home page to display these forms.

**Two New
Interactive
Forms**

Certification of Experience – You can use this form to terminate the "pro-

visional" status of your license if you were licensed prior to October 1, 2005 and can certify that four out of the last six years' full-time or equivalent part-time experience were in activities for which a real estate license is required.

Broker-in-Charge Declaration

– Use this form to declare yourself broker-in-charge of an office or sole proprietorship.

Renew Your License Now! Online Is Easier, Quicker

The June 30 license renewal deadline is just days ahead. Take a few minutes now to renew and take this annual task off your to-do list.

Join the many licensees who choose to renew online each year at the Commission's website, www.ncrec.state.nc.us. It's quicker and easier and takes about two minutes. You will receive a confirmation that your renewal has been sent to the Commission for processing.

To renew online, you will need your MasterCard or Visa for the \$40 fee. While online and, if necessary, update your personal information (email, fax, residence address).

Reminder: At the "Renew/Reinstate" tab of the Commission's website you must login with your license number and PIN (personal identification number). Unless you have changed your PIN, it will be the last four digits of your Social Security Number).

If you choose to renew by mail, remember that it must be received by the Commission no later than June 30 (not postmarked). Otherwise, your license

status will be expired.

Continuing education credit information is also available on the website, which will allow you to monitor the correct posting of your course credits. Allow 15 days following your class for any credits to be reflected. If you renew but fail to take the required continuing education for the license period, your license status will be changed to "inactive".

Pocket renewal cards will be mailed approximately 10 days after the Commission has received and processed your renewal. Your new pocket card will reflect your broker level as follows:

- **B** – broker who has fulfilled all postlicensing requirements or who completed broker licensing requirements to April 1, 2006.
- **PB** – "provisional" broker who is required to take three 30-hour postlicensing courses within three years of licensure.
- **PBT** – "provisional" broker who was licensed as a salesperson prior to October 1, 2005 and who is eligible prior to April 1, 2008 to terminate the provisional status of his/her broker license by either taking the *Broker Transition Course* or certifying experience equal to four out of the last six years full-time (or equivalent).
- **PB9** – "provisional" broker who was licensed on or after October 1, 2005 and prior to April 1, 2006 and who must prior to April 1, 2009 take three 30-hour postlicensing courses in order to terminate the provisional status of his/her license.

**POCKET CARDS
REFLECT
BROKER LEVELS**

REAL ESTATE BULLETIN

Published as a service to real estate licensees to promote a better understanding of the Real Estate License Law and Commission rules, and proficiency in 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 Commission's Real Estate Bulletin.

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To request a speaker from the Commission, please submit the "Request for Program Presenter" form available on the Commission's Web site, www.ncrec.state.nc.us.

People

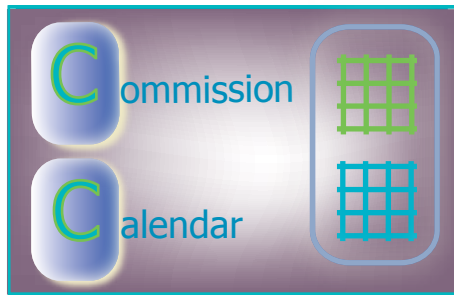
Thomas R. Miller, Director of Legal Services, has authored *Simple Rules of Procedure for Occupational Licensing Agencies* and donated it to the Association of Real Estate License Law Officials for the use of its members and sale to others.

Miriam J. Baer, Assistant Director of Legal Services, has authored *Legal Research in North Carolina* for use by law students and practitioners as a practical guide for performing legal research in the state.



150 Years of Service and Experience

Twelve Commission staff members received service awards recently with Commission Chairman Matthew J. "Rick" Watts (front row, third from right) presiding at the presentations with Commission Executive Director Phillip T. Fisher (front row, third from left) who received an award for 30 years of service. Also shown are, front row, l. to r., Susan R. Tippet, Legal Secretary/Receptionist, five years; Carolyn A. Haase, Consumer Information Officer, five years; Pamela R. Rorie, Continuing Education Officer, 10 years; and Gary R. Caddell, Senior Auditor/Investigator, Training Officer, 15 years; second row, l. to r., Michael B. Gray, Chief Auditor/Investigator, 10 years; Paula L. Ricard, Financial Officer, 15 years; Sammie G. Isenhour, Legal Secretary, 15 years; Susanne H. M. Viens, Assistant to the Director of Audits and Investigations, 10 years; and Robin F. Tanner, Senior Auditor/Investigator, 10 years; third row, l. to r., Robert L. Forshaw, Publications Officer, five years; and Frances N. Johnson, Assistant to the Director of Legal Services, 20 years.



July 12
(Blowing Rock)
August 9
September 6
October 11

All meetings, unless otherwise noted, begin at 9 a.m. and are held in Raleigh in the Commission's Conference Room at 1313 Navaho Drive (27609). Occasionally, circumstances necessitate changes in meeting times and locations.

The 2006-07 edition of the Real Estate Commission's text and reference book, the *North Carolina Real Estate Manual*, will be available for purchase in late June. The *Manual*, which is updated bi-annually, has for several years served as the text for the sixty-hour *Broker Course*. However, the course became obsolete April 1 with the change to a "broker only" licensing structure and implementation of a substantially revised education program. Under this new program, newly licensed "provisional brokers" must now complete three thirty-hour postlicensing courses within the first three years after initial licensure (at least one of the thirty-hour courses each year). Also, all salesperson licenses were converted to provisional broker licenses and those persons licensed as salespersons prior to October 1, 2005 required to complete a twenty-four hour *Broker Transition Course* if they do not have four years full-time (or equivalent part-

time) brokerage experience within the previous six years. The new edition of the *Manual* will serve as the text for all three of the new postlicensing courses and the *Broker Transition Course*.

In addition to the usual updating required to reflect changes in laws, rules and practices, the 2006-07 edition features substantial revisions to better support its expanded role as the text for the new courses. For example,

NEW EDITION OF NORTH CAROLINA REAL ESTATE MANUAL AVAILABLE SOON

the material relating to agency concepts and relationships was substantially rearranged and duplication of coverage minimized. Coverage of broker practices and services when working with both sellers and buyers has been expanded to provide a better understanding of an agent's practical responsibilities and to facilitate teaching the subject matter in "transaction sequence" as called for

in the new courses. New chapters on "Property Management" and "License Law Case Studies" have been added, as well as a new appendix addressing the process of "Licensing a Real Estate Firm". And there have been significant improvements in the coverage of several other topics, including sales contracts, fair housing and commercial real estate brokerage. The *Manual* continues to include current versions and comments on

the Real Estate License Law and Commission rules.

Because of its excellent coverage of a wide range of topics critically important to practicing real estate agents, every broker should have a current edition of the *North Carolina Real Estate Manual* in his or her personal library. It may be ordered online via the Commission's website at www.ncrec.state.nc.us or by using the order form included in this *Bulletin*.

Licensing

(Continued from page 1)

sons rushing to beat the April 1 deadline and the thousands of telephone calls they generated. As you will see in the "Numbers" article in this *Bulletin*, the number of license applications increased by 50% over the previous year (in fact, the Commission in March issued five times more licenses than usual), 108,000 additional telephone calls were managed and 133,000 more records changed.

Throughout it all, the goal of the Commission was to make the transition as smooth as possible for licensees

and license applicants. This required many late nights and long weekends for the Commission staff and bringing in a number of temporary employees to assist. Some persons calling to inquire about their license applications were surprised to be talking to one of the Commission's attorneys or other members of the Legal Services Division who volunteered to help answer telephone calls. In January, the Commission even sent letters to all salespersons and brokers-in-charge explaining the many, and sometimes confusing, changes.

Despite the Commission's best efforts, there were times when all

telephone lines were jammed and no staff members immediately available to personally speak with callers. For any inconvenience which this may have caused, the Commission apologizes. And for the cooperation and understanding of those many thousands of licensees and license applicants who contacted the Commission office during this extremely busy time, the Commission is most grateful.

Update Course Features Listing Procedures

The mandatory *Real Estate Update* continuing education course for the 2006-2007 license year has as one of its components a study and review of the proper procedures for listing residential property for sale. Other topics include "Inspection and Repair Issues in Residential Sales," "Licensing and Education Issues," and "The Commission's Website Revisited."

Listing Residential Property for Sales – Points to Remember

It is the intent of this section of the

Update course to emphasize to licensees the importance of working with clients and customers in a manner that complies with the law and good ethical practices, and that best serves the interests of real estate consumers. Licensees will be reminded of the proper procedures and certain restrictions regarding the solicitations of listings. *Update* course instructors will also lead discussions in the proper preparation for and proper conduct of the prelisting meeting with a prospective seller, verifying and reporting square footage, assisting

the seller in setting the appropriate listing price and completing the listing contract, as well as the proper methods of submitting information to the MLS and appropriate marketing of the listing. Approximately an hour and a half of the four-hour course is devoted to this topic.

Inspection and Repair Issues in Residential Sales

The 2006-2007 *Update* course reviews the two alternative provisions relating to inspections and repairs in

(See *Update*, page 5)

FREE PUBLICATIONS

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(Tenant Security Deposits) _____

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(Contains license application) _____

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(Continued from page 1)

Licensing and Education Issues

change in North Carolina's real estate licensing requirements. Approximately 45 minutes of the *Update* course reviews the new licensing and broker-in-charge requirements. Licensees will also be reminded of the new post licensing requirements, the methods for removing the provisional status of "converted" licenses, as well as the consequences for failure to comply with the new education requirements. Instructors will also remind licensees of how to maintain a current and active real estate license.

The Real Estate Commission first unveiled its website in the summer of 1997, but the website has been steadily improved since that time. This year's *Update* course examines the improvements to and capabilities of the current website which will hopefully enable licensees to more fully utilize the site.

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Go to the Commission's web site, www.ncrec.state.nc.us, select "Publications/Bulletin" and click on NC Real Estate Manual to link directly with the book distributor. Follow the instructions for ordering using your MasterCard or Visa credit card.

Mail or fax an order form with payment. For credit card payments, only MasterCard and Visa are accepted. For checks, please send only cashier's or certified check or money order, payable to: North Carolina Real Estate Manual. (The Manual sales price is \$34.95 plus sales tax and shipping.)

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*Manual sales price is \$34.95 plus \$2.45 sales tax plus shipping. **Please allow 7 days from receipt of payment for delivery.**



Downpayment Gift Programs

By Emmet R. Wood

Director, Audits and Investigations

The Internal Revenue Service has just issued a ruling (Rev. Rule 2006-27) on organizations that provide seller-funded down-payment assistance to home buyers.

Down-payment-assistance programs provide cash assistance to home buyers who cannot afford to make the minimum down payment or pay closing costs involved in obtaining a mortgage. Such programs can qualify as tax-exempt charitable and educational organizations when properly structured and operated. In the ruling, the IRS provides a detailed discussion of the guidelines-including two examples that meet and one that fails to meet the test for exemption.

The ruling makes it clear that seller-funded programs are not charities because they do not meet the requirements of section 501 (c)(3). Increasingly, the IRS has found that organizations claiming to be charities are being used to funnel down-payment assistance from sellers to buyers through self-serving, circular-financing arrangements. In a typical scheme, there is a direct correlation between the amount of the down-payment assistance provided to the buyer and the payment received from the seller. Moreover, the seller pays the organization only if the sales closes, and the organization usually charges an additional fee for its services.

What happens when an organization does not qualify as a tax-exempt organization? No tax deduction will be allowed to the seller for a charitable contribution. The home buyers may not be able to include the amount of the assistance in the cost basis of their home. The assistance will probably no longer qualify as a third-party gift for the purposes of the buyer's loan application. Consequently, the lender will have to treat the payment as a seller concession, deduct the concession from the value of the property and recalculate the buyer's loan-to-value ratio. If the buyer cannot come up with the required down-payment another way, his/her loan application will be denied.

Brokers are cautioned to be wary of any down-payment assistance program in which the home seller makes a gift to a purported charity and the buyer receives a gift of roughly the same amount from the charity (minus fees and expenses) to use as a down-payment to buy the seller's house. Such programs may not be what they claim to be and may violate the IRS ruling. Misrepresentation of such a program to a lender or party in a real estate transaction would be a violation of the North Carolina Real Estate License Law and may constitute loan fraud.

You can find the news release and the ruling at www.irs.gov/newsroom, click on "News Releases", then on "IRS Targets Down-Payment Assistance Scams".

The statistics here generally reflect the activities of the Real Estate Commission during the period from May 1, 2005 to April 30, 2006.

Contact

- 283,300 telephone calls (*a 62% increase*)
- 12 million+ website "hits" (*a 74% increase*)

Publications

- 1,200,000+ publications distributed to licensees, consumers, applicants

Technology

- Online license renewals increased 38%
- 6,300 student rosters electronically processed for CE courses

Licensing

- 294,000 license record changed (an 83% increase)
- 19,652 applications processed for licenses by examination (*a 50% increase*)
- 18,079 license examinations administered (*a 54% increase*)

- 10,698 licenses by examination issued (*a 54% increase*)
- 8,577 broker licenses issued without examination (*a 124% increase*)
- 700 licenses issued by reciprocity (*a 61% increase*)
- 1,937 firm licenses issued (*a 57% increase*)
- 441 expired, surrendered and suspended licenses reinstated
- 618 license applications regarding character issues reviewed by Commission (*a 151% increase*)
- 297 license applicant conferences conducted (*a 93% increase*)
- 23 new private real estate school licenses issued and 44 renewed

Education

- 46 real estate instructors approved and 67 renewed
- 71 new continuing education elective courses approved (for a total of 386 courses)
- 23 new continuing education spon-

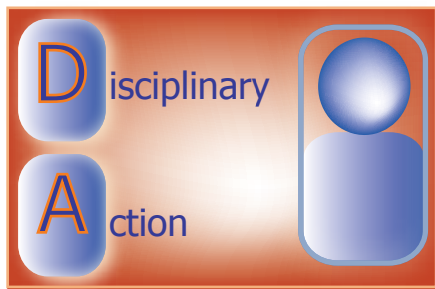
- sors approved (for a total of 210)
- 35 new continuing education *Update Course* instructors approved (for a total of 141)
- 49 *Broker-in-Charge Course* sessions conducted for 4,800 licensees

Audits/Investigations

- 163 field investigations completed (*a 54% increase*)
- 76 trust accounts examined
- 488 persons interviewed
- 17 trust account sessions conducted for 750 students

Legal

- 1,432 case (complaint) files opened and 1,362 closed
- 20 licensees reprimanded
- 44 licenses suspended
- 26 licenses revoked
- 8 licenses surrendered
- 53 cases utilized conditional remedies



SANYA E. ADAMS (Durham) – By Consent, the Commission revoked the broker license of Ms. Adams effective March 16, 2006. The Commission found that Ms. Adams, acting as broker and rental agent for the owners of 53 rental properties, failed to keep proper trust account books and records and failed to properly account for trust monies for her landlord clients. The Commission also found that trust monies in her account were short in excess of \$21,000.

M. PAM ARIZONA (Raleigh) – By Consent, the Commission revoked the salesperson license of Ms. Arizona effective February 9, 2006. The Commission found that Ms. Arizona on September 15, 2005 pleaded guilty and was found guilty of felony false bomb report and two counts of second degree kidnapping, sentenced to 6-8 months for the false bomb report, which sentence was suspended for 60 months of supervised probation, and 20-33 months of active incarceration for the kidnapping.

MURIEL M. BIJEAU (Raleigh) – By Consent, the Commission reprimanded Ms. Bijeau effective April 1, 2006. The Commission found that Ms. Bijeau, acting as a buyer agent, failed to disclose to her buyer clients a proposal to build a four-lane bypass in close proximity to the property being purchased.

BINACO INTERNATIONAL OF NY t/a BINACO REAL ESTATE (Charlotte) – By Consent, the Commission revoked the firm license of Binaco International effective March 16, 2006. The Commission found that Binaco International, in selling a property

Penalties for violations of the Real Estate 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.

it owned, paid a referral fee of \$18,750 to an unlicensed entity for referring the buyer.

M. SHERLYNNE BISSELL (Cathage) – By Consent, the Commission revoked the broker license of Ms. Bis-

Licensees Must Report Convictions

Commission Rule A.0113 requires any licensee who is convicted of a misdemeanor or felony or who has disciplinary action taken against him or her by any occupational licensing board to file a report with the Real Estate Commission.

The reporting requirement includes convictions for driving while impaired ("DWI"). The report must be filed within sixty (60) days of the final judgment or board action.

If you have questions about this rule, please call the Commission's Legal Services Division at 919-875-3700 for more information.

sell effective February 9, 2006. The Commission found that Ms. Bissell, as broker-in-charge of a vacation rental management firm in 2003 failed to maintain trust account records in the form and manner required by Commission rule and failed to conduct monthly reconciliations of trust account records and bank statements as required by Commission rule. Ms. Bissell neither admitted nor denied, but did not contest, the Commission findings.

MICHAEL E. BLANKENSHIP (Kill Devil Hills) – By Consent, the

Commission revoked the broker license of Mr. Blankenship effective April 20, 2006. The Commission found that Mr. Blankenship failed to respond to multiple letters of inquiry in two cases being investigated by the Commission.

SONYA R. BOOHER (Kitty Hawk) – By Consent, the Commission reprimanded Ms. Booher effective April 10, 2006. The Commission found that Ms. Booher, while licensed as a real estate salesperson, was placed in charge of record keeping for vacation rental trust accounts of the firm with which she was affiliated, and failed to maintain the trust account records in the manner required by Commission rule. The Commission noted that Ms. Booher cooperated with the Commission investigation.

TIMOTHY P. BURRELL (Raleigh) – By Consent, the Commission suspended the broker license of Mr. Burrell for a period of six months effective April 1, 2006. The Commission then stayed the suspension for a probationary period of one year on certain conditions. The Commission found that Mr. Burrell, acting as agents to buyers, failed to disclose to the buyers a proposal to build a four-lane overpass in proximity to the property the buyers were purchasing.

DONNA CARTER-ODOM (Greenville) – By Consent, the Commission suspended the broker license of Ms. Carter-Odom for a period of one year effective February 9, 2006. Three months of the suspension were active with the remainder stayed for a probationary period of nine months on certain conditions. The Commission
(See **Disciplinary Action**, page 9)

Disciplinary Action

(Continued from page 8)

found that Ms. Carter-Odom acted as a dual agent in a transaction in which she represented the buyer of a property listed by another agent in the same firm and negligently failed to disclose material facts related to the buyer's ability to close the transaction.

CONNER, INC. (Kitty Hawk)

– By Consent, the Commission revoked the firm license of Conner, Inc., effective April 10, 2006. The Commission found that Conner, Inc., failed to maintain trust account records in the manner required by Commission rules, and during the operation of its office, could not accurately account for the funds of others it received in the course of its business.

JULIE D. CONNER (Kitty Hawk)

– By Consent, the Commission reprimanded Ms. Conner effective April 10, 2006. The Commission found that Ms. Conner, while affiliated with two different firms, was responsible for maintaining trust account records of each firm and failed to maintain the trust account records in the manner required by Commission rule. The Commission noted that Ms. Conner cooperated with the Commission's investigation.

KEVIN G. CONNER (Kitty Hawk)

– By Consent, the Commission suspended the broker license of Mr. Conner for a period of six months effective March 15, 2006. Two months of the suspension were active with the remainder stayed under certain conditions for a probationary period ending June 1, 2009. The Commission found that Mr. Conner, acting as broker-in-charge, took over two real estate offices and failed to detect that the trust accounts were substantially short and failed to implement an adequate record keeping system, thus preventing accurate and timely accounting to property owners for funds received and disbursed on their behalf. The Commission noted that Mr. Conner cooperated with the

Commission's investigation, but had failed to provide an accurate trust accounting to the Commission.

CONNER RESORTS, INC. (Kitty Hawk)

– By Consent, the Commission suspended the firm license of Conner Resorts for a period of three

Continuing Education Checklist

✓ Check your course completion certificate to see that it has your correct and current license number.

✓ Check your continuing education credits online at www.ncrec.state.nc.us to confirm their accuracy.

years effective July 1, 2006. The Commission then stayed the suspension for a probationary period of three years under certain conditions. The Commission found that Conner Resorts used a trust account it had purchased from another broker that had a shortage of \$20,000 at the time of purchase and failed to immediately correct the shortage and implement a trust account record keeping system as required by Commission rules, and, although it corrected its sales and long-term rental trust account records, had not created or maintained acceptable records for its 2004 and 2005 vacation rental properties. The Commission noted that Conner Resorts has implemented an acceptable record system for its 2006 vacation rentals and has hired professional help to assist in correcting the problems with the 2004 and 2005 vacation rental records.

BUDDY L. FULLER (Durham)

– The Commission accepted the voluntary surrender of the broker license of Mr. Fuller for a period of 18 months effective April 1, 2006. The Commission dismissed without prejudice allegations that Mr. Fuller had violated provisions of the Real Estate License Law and Commission rules. Mr. Fuller did not admit misconduct.

GENESIS REALTY GROUP

LLC (Charlotte) – By Consent, the Commission revoked the firm license of Genesis Realty effective April 20, 2006. The Commission found that Genesis Realty failed to provide records of funds received, held or disbursed by the sole licensee affiliated with it when requested to do so by an agent of the Commission.

GREENVILLE PROFESSIONAL

GROUP (Greenville) – By Consent, the Commission reprimanded the Greenville Professional Group effective February 9, 2006. The Commission found that the Greenville Professional Group, a real estate brokerage firm, acted as a dual agent in a sales transaction and through the selling agent negligently failed to disclose material facts related to the buyer's ability to close the transaction. The Commission noted that Greenville Professional Group has since resolved the situation with the Complainants.

JAYA GUPTA (Charlotte)

– By Consent, the Commission suspended the broker license of Ms. Gupta for a period of 90 days effective July 1, 2006. The Commission then stayed the suspension on certain conditions. The Commission found that Ms. Gupta, as broker-in-charge and principal broker of a real estate brokerage firm, paid a referral fee of \$18,750 to an unlicensed entity for referring the buyer in the sale of a property the firm owned.

PEARL G. HEMPHILL (Charlotte)

– By Consent, the Commission revoked the broker license of Ms. (See **Disciplinary Action**, page 10)

Disciplinary Action

(Continued from page 9)

Hemphill effective April 20, 2006. The Commission found that Ms. Hemphill received funds of others while acting as a real estate broker and did not provide trust account records at the request of the Commission.

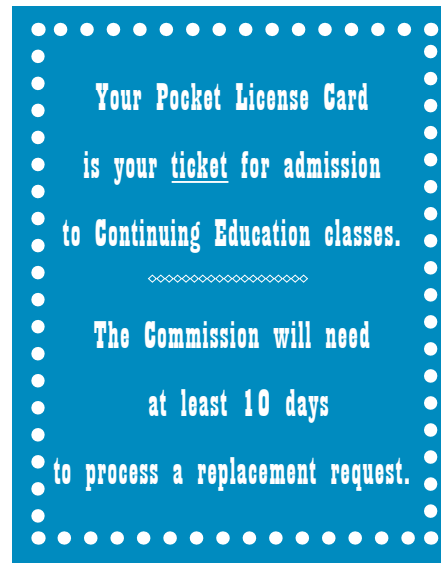
LINWOOD J. JONES (Garner) – By Consent, the Commission suspended the broker license of Mr. Jones for a period of two years effective April 1, 2006. The Commission found that Mr. Jones, licensed as both a real estate broker by the Commission and as a registered land surveyor by the North Carolina Board of Examiners for Engineers and Surveyors, prepared plats and surveys for a subdivision subsequently flooded during Hurricane Fran in 1996 and Hurricane Floyd in 1999, leading to a controversy about whether the flood plain lines indicated on those documents were correct and civil litigation against Mr. Jones and others which was resolved by settlement with the plaintiffs. The Commission also found that Mr. Jones was subsequently disciplined by the Board of Examiners for his conduct as a surveyor on another matter and failed to report the disciplinary action to the Commission.

CHRISTOPHER M. KELLY (Cary) – By Consent, the Commission suspended the salesperson license of Mr. Kelly for a period of 90 days effective February 1, 2006. The Commission then stayed the suspension for a probationary period of one year. The Commission found that Mr. Kelly failed to disclose on his 2000 application for a salesperson license a conviction for possession of nitrous oxide, for which he received a suspended sentence with supervised probation.

JOHN E. LAWTON (Raleigh) – The Commission accepted the voluntary surrender of the broker license of Mr. Lawton for a period of one year effective March 16, 2006. The Commission dismissed without prejudice

allegations that Mr. Lawton had violated provisions of the Real Estate License Law and Commission rules. Mr. Lawton neither admitted nor denied misconduct.

LAWANA MCNEILL (High Point) – By Consent, the Commission suspended the broker license of Ms. McNeill for a period of two years effective February 1, 2006. Three months of the suspension were active and the remainder stayed for a probationary period of two years. The Commission found that Ms. McNeill, acting as agent for clients



in the sale of one residence and purchase of another, failed to describe her relationship with the parties accurately in agency contracts. The Commission also found that Ms. McNeill failed to maintain the parties' earnest money deposits in a trust account and failed to keep full and accurate records of the client monies entrusted to her, did business as a corporation without obtaining a broker license for the firm, and in the course of the Commission's inquiry failed to respond to the Commission's letters of inquiry in a timely fashion.

THOMAS LEE MCNEILL (Kill Devil Hills) – By Consent, the Commission suspended the salesperson license of Mr. McNeill for a period of three years effective February 13, 2006. Thirty days of the suspension were ac-

tive with the remainder stayed for a probationary period of 35 months under certain conditions. The Commission found that Mr. McNeill falsely represented on a 2004 application for a real estate salesperson license that he had not been convicted of a criminal offense other than DWI, when in fact he had been convicted of Assault on a Female, a misdemeanor, and was sentenced to a 60-day jail term, suspended for twenty four months with a fine and costs. The Commission noted that Mr. McNeill disclosed the offense on his 2005 broker license application.

ARVELLE MOORE (Rocky Mount) – By Consent, the Commission reprimanded Mr. Moore effective July 1, 2006. The Commission found that Mr. Moore failed to properly account for and remit to his principal funds received on behalf of the principal in a real estate transaction, which were inadvertently paid to the wrong person. The Commission noted that Mr. Moore cooperated with the investigation of this matter and satisfied the claims of his principal.

HEATHER RENEE MUIR (Nags Head) – By Consent, the Commission suspended the license of Ms. Muir for a period of one year effective April 20, 2006. The Commission found that Ms. Muir pled guilty and was convicted of possession of drug paraphernalia in April 2005 and was later convicted of Driving While Impaired, Level 5, and another count of possession of drug paraphernalia in November 2005.

ERIC T. PERRY (Kure Beach) – The Commission revoked the broker license of Mr. Perry effective January 1, 2006. The Commission found that Mr. Perry was convicted of felonies for drug possession and obtaining property by false pretenses. The Commission also found that Mr. Perry failed to respond to the initial inquiry letter from the Commission, and failed to report certain convictions to the Commission.

(See **Disciplinary Action**, page 11)

Disciplinary Action

(Continued from page 10)

THOMAS F. PIPER (Raleigh) – By Consent, the Commission suspended the salesperson license of Mr. Piper for a period of one year effective November 1, 2005. The Commission found that Mr. Piper listed several properties and collected retainer fees for the listings, but failed to advertise the properties as promised. The Commission also found that Mr. Piper went to work for another real estate brokerage firm where he failed to renew his license and continued to engage in real estate brokerage for approximately four months while his license was expired.

RICHARD J. REGAN (Elizabeth City) – By Consent, the Commission revoked the broker license of Mr. Regan effective February 13, 2006. The Commission found that on October 5, 2005, Mr. Regan pleaded guilty to and was found guilty of Second Degree Sexual Offense and was sentenced to 14 years of incarceration.

H. EUGENE REYNOLDS, JR. (Elizabeth City) – By Consent, the Commission suspended the broker license of Mr. Reynolds for a period of one year effective December 1, 2005. Three months of the suspension were active with the remainder stayed for a probationary period of nine months. The Commission found that Mr. Reynolds notified the property manager of his intent not to renew a lease for a property he had rented for the past year and provided receipts purportedly from a carpet cleaning business and extermination company to demonstrate that the carpets had been professionally cleaned and the property exterminated as required by the property manager when, in fact, the receipts were false documents created by Mr. Reynolds to induce the property manager into believing that he had complied when he had not.

SHERMAN T. RICE (Lake Lure) – By Consent, the Commission suspended the license of Mr. Rice for a period of six months effective April 20, 2006. The Commission then stayed the suspension for a probationary period of one year. The Commission found that Mr. Rice made a false statement on his 1996 license application that he had not been convicted of any criminal offense when in fact he had a 1995 conviction for Driving While Impaired, Level II. The Commission also found that subsequent to his licensing Mr. Rice was twice convicted of Driving While Impaired, Level II, once in 1998 and once in 2000 and did not report these convictions to the Commission.

PERRY S. SIMPSON (Sanford) – By Consent, the Commission suspended the broker license of Mr. Simpson for a period of two years effective February 1, 2006. The Commission found that Mr. Simpson failed to disclose to the Commission in his 1992 application for licensure as a salesperson convictions for underage possession of beer or wine during 1988 and 1989 and possession of marijuana in 1989, instead declaring that he had not been convicted of a criminal offense. The Commission also found that Mr. Simpson disclosed none of the convictions described above in his 2001 application for a broker license and also failed to disclose a 1998 conviction for possession of marijuana, again declaring he had not been convicted of any crime, and failed to report his 1998 conviction to the Commission in a timely fashion.

DAVID LOUIS SMITH, II (Reidsville) – By Consent, the Commission suspended the license of Mr. Smith for a period of six months effective April 20, 2006. The Commission then stayed the suspension for a probationary period of one year. The Commission found that Mr. Smith failed to report convictions on his 1999 salesperson license application for misdemeanor Injury to Personal Property on October 21, 1997; misdemeanor Motorboat Without

Lifesaving Device and misdemeanor Fishing Without a License on June 16, 1995; misdemeanor Assault Inflicting Serious Injury on June 2, 1993; and Speeding to Elude Arrest in December and Driving While License Revoked on December 1, 1993. The Commission noted that Mr. Smith did reveal more serious convictions at that time and revealed all his convictions on his 2005 broker application.

THOMAS J. STATON (Charlotte) – By Consent, the Commission suspended the broker license of Mr. Staton for a period of two years effective September 1, 2005. The Commission then stayed the suspension for a probationary period of three years. The Commission found that Mr. Staton, in attempting to bring about a closing on a property he had listed and to assist potential buyers, prepared numerous documents that did not accurately reflect the actual facts of the proposed transactions for which these documents were intended and signed some of these documents for various parties without authority.

EDWARD V. SWINDELL (Greenville) – By Consent, the Commission reprimanded Mr. Swindell effective February 9, 2006. The Commission found that Mr. Swindell, a licensed real estate broker, was broker-in-charge of a real estate brokerage firm which acted as a dual agent in a sales transaction and negligently failed through its agents to disclose material facts related to the buyer's ability to close the transaction. The Commission noted that the firm has since resolved the situation with the Complainants.

WILBUR H. TUCK, JR. (Surf City) – By Consent, the Commission suspended the salesperson license of Mr. Tuck for a period of six months effective March 15, 2006. Two months of the suspension were active with the remainder stayed for a probationary period of two years under certain conditions. The Commission found that
(See **Disciplinary Action**, page 12)

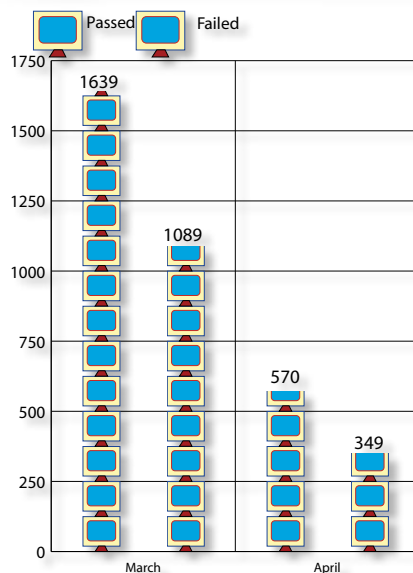
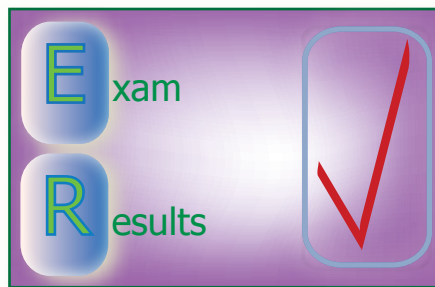
Disciplinary Action

(Continued from page 11)

Mr. Tuck failed to report to the Commission on his license application one conviction of Driving While Impaired and reported a second conviction of Driving While Impaired months after the time required by Commission rule. The Commission noted that Mr. Tuck cooperated with the Commission's investigation and took appropriate measures to address the issues underlying these incidents.

DAVID A. URBEN (Wilimington). By Consent, the Commission suspended the broker license of Mr. Urben for a period of one year effective June 1, 2006. One month of the suspension was active with the remainder stayed for a probationary period of 11 months on certain conditions. The Commission found that from 1995 until 2005, while Mr. Urben served as the qualifying broker and broker-in-charge of a licensed real estate firm, an associate of Mr. Urben's office failed to renew his license or to take any continuing education, and that Mr. Urben failed to assure that he did so.

MICHAEL S. VARNER (Asheville) – By Consent, the Commission suspended the broker license of Mr. Varner for a period of six months effective March 15, 2006. The Commission then stayed the suspension for a probationary period of one year. The Commission found that Mr. Varner failed to disclose his convictions for Possession of a Controlled Substance and Possession of Drug Paraphernalia in 1996. The Commission noted that Mr. Varner reported a DWI conviction in 2005.



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Safety Tip

*Reprinted from the North Carolina
Real Estate Agent Safety Guide.*

**Safety Tip #1 - KNOW WHO
YOU ARE DEALING WITH
WHEN YOU HAVE NEW
CLIENTS OR CUSTOMERS**

- Meet them at your office
- Complete the Client/Customer Identification Form
- Photocopy their driver's license
- Get their car description and license number
- Verify their identity