



Rule Amendments Effective April 1

The highlights of Real Estate Commission rule amendments becoming effective April 1 are summarized below. For a complete text, please contact the Commission.

Property Management

--Property owner association management agreements must be in writing.

--The rule providing that a property management agreement may be automatically renewable so long as it contains provision for termination with notice is clarified to apply even if the property manager did not procure the tenant.

Broker-in-Charge

--The exemption from designating a broker-in-charge is clarified to apply only to a subchapter S firm which is organized for the sole purpose of receiving compensation for brokerage services furnished by its principal broker through another firm.

--An out-of-state broker-in-charge of a principal or branch office not located in North Carolina shall not be required to complete the broker-in-charge course.

License Renewal

--The license renewal fee will change to \$45 effective January 1, 2006.

License Reinstatement

--The rules for reinstatement of an

(See **Rules**, page 3)

APPRECIATION

The Commission wishes to express its appreciation to former member Mona S. Hill of Pinehurst for her more than nine years of service.

Alston, Mannen Receive Commission Appointments

Melvin L. "Skip" Alston of Greensboro and Jerry A. Mannen, Jr. of Wilmington have been appointed to the Real Estate Commission, it was announced by Allan R. Dameron, Commission Chairman.

Alston was sworn in by Special Superior Court Judge G. K. Butterfield in December and Mannen by State Supreme Court Justice Sarah Parker in January.

Melvin L. "Skip" Alston

Alston, president of S&J Management Corporation, is currently serving his third term as a member of the Guilford County Board of Commissioners and was elected its chairman in December 2002 for a one-year term.

Currently serving on the national NAACP board of directors, he has been a member of the NAACP Board of Trustees since 1987 and is currently president of the North Carolina State Conference of branches.

The father of two sons, DeSean and Ryan DeMarkus, Alston is a member of St. James Baptist Church.



Alston



Mannen

Jerry A. Mannen, Jr.

Jerry A. Mannen, Jr., an attorney with Yow, Fox & Mannen LLP in Wilmington, was appointed Public Administrator for New Hanover County in 2002.

He is a Trustee of the Cape Fear Museum and Director of the Cape Fear Youth Soccer Association.

A native of Raleigh, Mannen is a graduate of North Carolina State University and Campbell University School of Law.

If you use a name in your real estate business which is different from the name on your real estate license certificate (which should be your legal name), you may be in violation of the Real Estate License Law.

PROPER USE OF NAMES IN ADVERTISING

By Miriam J. Baer,
Assistant Director, Legal Services

For example, suppose your full legal name is Midlemas Phestus Furlpesnurkle, IV, but you prefer to go by "Purple" in connection with your real estate business. Your advertisements in the local homes magazine, newspaper and on the web, simply say, "For all your real estate needs, think "Purple!" Likewise, your (purple) business cards and sign riders identify you only as "Purple."

This method of identification is insufficient under the law even if your ads, cards and stationery include your company name, address and phone number. The name under which you do business should be enough to identify you legally

(See **Names**, page 9)

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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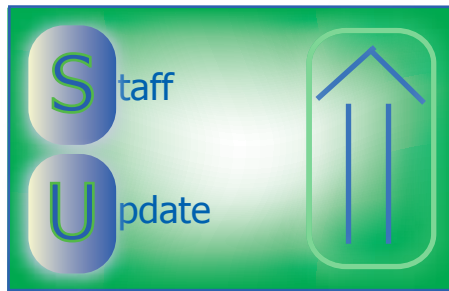
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Appearances

Thomas R. Miller, Legal Counsel, spoke to the Yancey-Mitchell Board of REALTORS®.

Miriam J. Baer, Assistant Director of Legal Services, spoke to the Greensboro Regional REALTORS® Association; and the North Carolina Association of REALTORS® "VOWS Information Exchange".

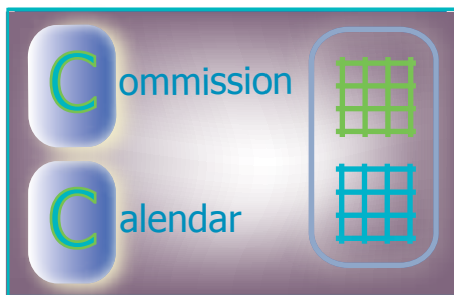
Blackwell M. Brogden, Jr., Chief Deputy Legal Counsel, spoke to the New Bern Board of REALTORS® on multiple offers.

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.

Janet B. Thoren, Deputy Legal Counsel, spoke to the Greenville-Pitt Association of REALTORS® on the interrelationship of Real Estate Law and Commission rules with the REALTOR® Code of Ethics and to the Pinehurst-Southern Pines Area Association of REALTORS®.

Pamela V. Millward, Associate Legal Counsel, spoke to the Fayetteville Association of REALTORS® Property Management Seminar on licensing and regulatory issues regarding real estate property management.





March 10
(Fayetteville)
April 14
May 12
June 16

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.

Rules

(Continued from page 1)

expired or suspended license have been revised to conform to the Real Estate Law including a \$55 reinstatement fee and payment of accrued renewal fees following suspension. (Further information is available on the Commission's website).

Business Entities

--Rule revisions streamline the firm license application process.

License Exams

--The paper and pencil exam is eliminated. The rules allow license applicants 180 days to take the test, clarify procedures for failing candidates to re-file through the computer testing service and stipulate a waiting period of 10 days to retake the test.

Pre-Licensing and Continuing Education

--Applicants for a broker license after the first salesperson license renewal must have completed the current continuing education update course and one approved elective course during the license period in which the application is filed.

--Digital video recordings (DVDs) and other media may be used in place of VHS videotape for instructor applicants.

--The Commission may deny or withdraw approval of a course or sponsor upon finding that the sponsor made false statements or presented incomplete or incorrect information in its application for approval.

--A minimum of one instructor or sponsor staff person must be present for each 50 students in a continuing education class.

2004 REGISTRATION FORM

BASIC TRUST ACCOUNT PROCEDURES COURSE MONTHLY - RALEIGH

CONTINUING EDUCATION ELECTIVE CREDIT: FOUR HOURS

TIME: 1:00—5:00 P.M.

LOCATION: MCKIMMON CENTER AT NCSU

TUITION: \$45.00

Each session is limited to 40 participants, scheduled according to the date the registration information is received.

The fastest way to register is online at www.ncrec.state.nc.us.

Otherwise, complete and mail this form with a check for the tuition fee to the NC Real Estate Commission at the address below. Receipt must be no later than seven (7) days prior to the date of the preferred session. (Make additional copies, if needed.) Walk-ins accepted on a space available basis only.

☐ May 11

☐ June 1

☐ July 6

☐ August 3

☐ September 7

☐ October 5

☐ November 2

☐ December 6

Name _____

Address _____

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Phone (____) _____

☐ Broker

☐ Salesperson

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Mail to: NC Real Estate Commission,
Audits and Investigations Division
P. O. Box 17100
Raleigh, NC 27619-7100

Registering online is easier, faster. Just have your credit card information and license number available.

ARELLO Participation Important To Serving Licensees And Public

A number of Real Estate Commission members and staff participate extensively in a larger organization composed of real estate regulators and allied organizations in the United States and abroad.

Known as the Association of Real Estate License Law Officials (ARELLO), its purpose is better administration and enforcement of real estate license and regulatory laws by providing its members with opportunities to communicate and to conduct research and obtain information on license matters and for professional improvement.

ARELLO membership is organized into six districts with four comprised of the 50 states, U.S. territories, Bahamas and Bermuda; one of Canada; and one of members from Europe, Africa, Asia, Australia and the Far East.

Commission Chairman Allan R. Dameron was elected in 2003 as a District Director and, as such, serves on the ARELLO Board of Directors.

Working committees, training boards and specialized councils carry out the organization's mission to support jurisdictions in the administration and enforcement of real estate license laws to promote and protect the public interest.

Commission Vice Chairmen Marsha H. Jordan and M. Rick Watts and members Melvin L. "Skip" Alston, Raymond A. Bass, Jr., Sang J. Hamilton, Sr., William C. Lackey, Jr., and Wanda J. Proffitt serve on committees involved with Communications, Fair Housing,

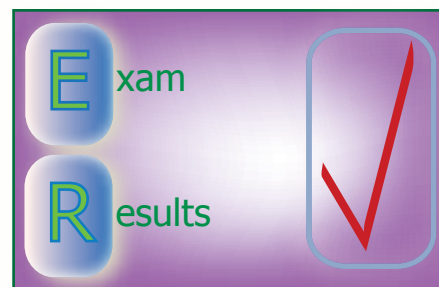
Finance, Law, Planning, and Program. They are joined by staff members, Philip T. Fisher, Executive Director, Mary Frances Whitley, Director of Administration, and Thomas R. Miller, Legal Counsel.

Active on Training Boards – organized to create learning opportunities among members with common interests – are Commission member Hamilton and Emmett R. Wood, Director, Audits and Investigations, with the Investigator Training Board, and Directors Whitley as Chair of the Administrator Board and Miller as Co-Chair of the Commission Member Training Board. Larry A. Outlaw, Director of Education and Licensing, serves as Vice-Chair of the Examination Certification Council and Director Whitley serves on the Information Services Council. Midyear meeting and annual conference planning forums also involve Commission members and staff.

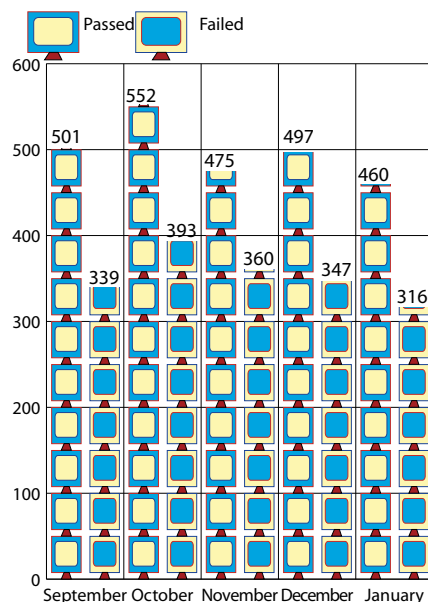
In addition to its ongoing work, ARELLO also recognizes achievement by its member organizations. The Real Estate Commission has recently been honored with a special award in the "Innovative Communication Category" for its unique series of Spanish language versions of *Working With Real Estate Agents* and *Questions and Answers on: Fair Housing, Tenant Security Deposits and Renting Residential Real Estate*. Prior awards in the last two years have recognized the Commission's work in Education, Audits and Investigations and Communications.



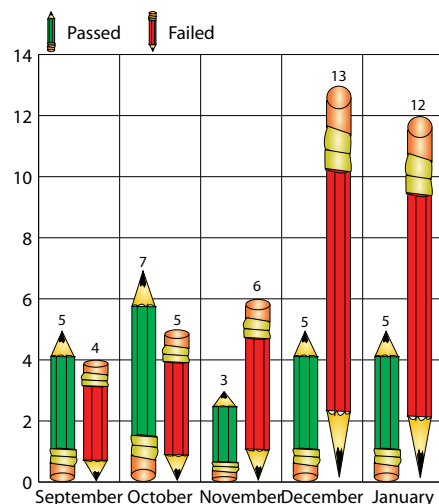
ARELLO



By Computer



By Paper and Pencil



Limited Commercial Licenses for Nonresidents

At a February 11 public hearing, the Real Estate Commission received comments on proposed rules which would allow qualified real estate brokers and salespersons from other states to obtain limited commercial licenses in North Carolina. Persons receiving limited

licenses could transact commercial real estate business in North Carolina only so long as they are affiliated with a resident North Carolina broker.

If the rules are adopted by the Commission and satisfy other requirements, they will become effective July 1.



"Matters of Survey" Matter

From The North Carolina Society of Surveyors, Inc.

There is a school of thought that it is not necessary to obtain a current survey when purchasing real estate—that title insurance and affidavits from sellers sufficiently protect the purchaser's interests or that the purchaser can simply rely upon a previous survey. However, real estate agents should be aware that purchasers face potential problems typically referred to as "matters of survey" when a current field survey of property is not performed.

Matters of survey relate to anything that could negatively affect the use of property being purchased. These include, encroachments across property lines or building restriction lines; fences/walls, landscaping features, wells, swimming pool decks; the location of utilities, access ways, etc. relative to easements, property lines or buildings; the existence of flood zones; and other similar matters.

It is possible that matters of survey may be covered in title insurance policies. But coverage that protects the purchaser's interests is unlikely to be included unless a survey is performed prior to issuance of the policy. "Lender's policies" may cover matters of survey without requiring a current survey, but they do not protect the purchaser. The risk associated with lenders' policies is often acceptable to the title insurer because claims from a lender are not likely to occur until the purchaser defaults on the loan.

In recent years, it has become popular to have the seller sign an affidavit effectively guaranteeing that no matters of survey negatively affect the property. However, in doing so, the seller may be unwittingly accepting some unwarranted risks of liability. The buyer may also be tempted to simply rely upon a survey document from a previous transaction, but such survey may not contemplate changes to the property since the earlier survey was performed.

Many people choose not to obtain

a current survey because they believe it will delay closing the transaction. This may be true if it is not ordered from the surveyor until closing of the transaction is assured. However, if the purchaser decides that a current survey is desired, it can be ordered early enough so as not to delay the closing date.

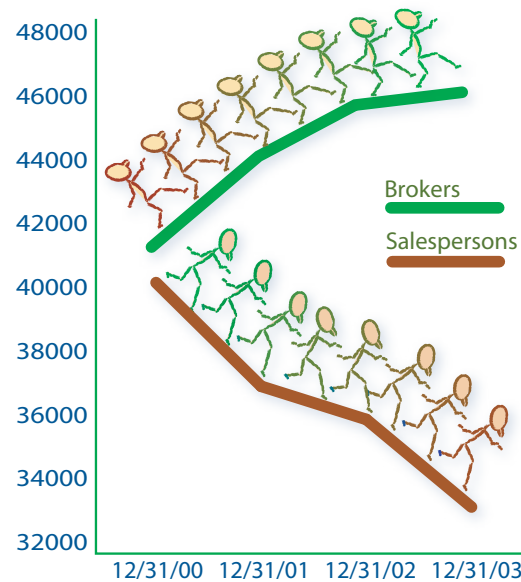
An informed purchaser knows that an accurate, current survey will provide peace of mind that cannot be obtained from any other source.

Important Industry Trend

Growing Number of Agents Going For Broker License

Check out the graph with this article: More and more agents are upgrading their licenses from salesperson to broker. All it takes is completion of the 60-hour pre-license course with its in-class (not separately and independently administered) exam.

BROKERS AND SALESPERSONS
12/31/00 - 12/31/03



In the three years ending December 31, 2003, the number of brokers has risen 11.7% versus a 17.7% drop in salespersons.

Brokers have lots of advantages in the practice and pursuit of business:

- Improved potential for greater earnings through the additional education taken to qualify for the broker license.
- Working without supervision, which is a requirement for agents holding a salesperson license.
- Ability to set up an entity such as a corporation, partnership or LLC to receive compensation.

Brokers-in-charge of offices with a high percentage of affili-

ated brokers have the advantages of:

- Better-educated agents who are more knowledgeable about many crucial aspects of real estate practice and better able to satisfy consumers and reduce company risk from negligence.
- Reduced supervisory responsibilities with fewer affiliated salespersons.
- Ability to better capitalize on the trend toward agents independently performing more functions outside the office through the use of modern communications and computer technology.
- Greater prestige of an office with a high level of broker licensure.

J. C. Noggle

J. C. Noggle of Hickory, who was honored by the Real Estate Commission in 2002 as one of its first licensees, died recently. He held license #10 which remained active without any period of expiration from its inception in 1957, the year of passage of the present Real Estate License Law.

Paper, Pencil Testing to End



The long-familiar paper and pencil method of taking the real estate licensing examination is slated to be retired in March in favor of testing exclusively by computer.

The Commission introduced computerized testing in October of 2000 as an option for license applicants who wanted greater flexibility in scheduling their examinations. The paper and pencil option was retained for those who preferred the traditional format in spite of its far more restrictive testing dates.

Since then, approximately 98% of applicants who must take the licensing examination have consistently elected computerized testing. The Commission offers its computerized licensing examination through PSI Examination Services. Testing is available several times per week at seven different locations in the state as well as at Norfolk, VA.

Subject to final approval of proposed administrative rule changes, the Commission's traditional paper and pencil licensing examination is scheduled to be offered for the last time on March 27, 2004 in Raleigh. Testing by paper and pencil will continue to be available as an option for applicants with disabilities who cannot take the examination on a computer.



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(Fair Housing)

El Depósito de Seguridad del Inquilino
(Tenant Security Deposits)

Alquiler de Inmuebles para Viviendo
(Renting Residential Real Estate)

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New System, Bar Code to Reduce Continuing Education Report Errors

To reduce errors in crediting continuing education course completions – errors that most often result from incorrect license numbers being reported by course sponsors – the Commission is introducing a new verification system with schools and a bar code on pocket license renewal cards.

Now, when a sponsor submits a class roster, license numbers and names will be cross-referenced with the Commission's licensee database before acceptance. If a license number and name

does not match the license number and name on Commission records, the roster will be returned to the sponsor for correction and resubmission.

To accomplish this change, rosters will be required to have the licensee's full legal name as shown on Commission records and the license number will have to match the license number for the name listed. Nicknames and names inconsistent with our records will cause the roster to be rejected.

In addition, to assist sponsors, the

Commission will begin bar-coding the pocket renewal card this year with the license number so that a sponsor may scan this information into their records.

While these new procedures should reduce errors, it is important for each licensee to check their continuing education records on the Commission website, www.ncrec.state.nc.us, to further ensure accuracy.

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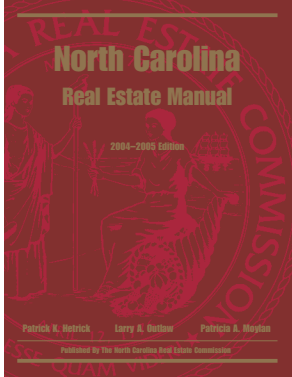
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NORTH CAROLINA REAL ESTATE MANUAL

Real Estate Can Be Risky Business

Real estate sales and rental agents routinely find themselves in situations where they are alone with clients or customers about whom they have very little information. The very nature of showing real estate to prospective buyers and tenants who are virtual strangers can make agents, both men and women, susceptible to becoming victims of violent crimes.

Recognizing the need for greater attention to real estate agent safety, the North Carolina Association of REALTORS® and the Real Estate Commission

agreed to cooperate in promoting the education of real estate licensees about agent safety. Through the leadership of the REALTOR® Association's North Carolina Real Estate Safety Council, a North Carolina Real Estate Safety Guide has been published to assist in this educational effort. Based upon a similar publication developed by the Washington Real Estate Safety Council, the guide contains some common sense safety tips that have been compiled from crime victims and real estate associations across the country.

When you take your real estate continuing education Update course next year, you will receive a copy together with specific instruction on how to reduce your risks. Copies may also be purchased online (www.ncrec.state.nc.us) or using the order form found on page 7 of this Bulletin. Or you may download a copy free of charge from the Commission's website.



Names

(Continued from page 1)

and to assure that you are not misleading the public as to your identity. By using only "Purple," you are engaging in business under a name not legally your own, and thus effectively concealing your identity. While you may not intend to deceive, you do so by not using your legal name.

First Names

Nicknames have always been common, and you can certainly use one in place of your legal first name. The key is to remain readily identifiable to the public and to the Real Estate Commission. Some nicknames are short versions of a longer name and are commonly known. For example, William may go by "Will" or "Bill," Robert by "Rob" or "Bob," and Elizabeth by "Liz," "Beth," or even "Betsy." In these kinds of situations, you may use a nickname because your actual name can be easily determined. Similarly, a nickname involving the use of initials in place of your given name is acceptable, as when Thomas Joseph Jefferson goes by "T. Joseph Jefferson" or even "T.J. Jefferson."

Other nicknames are not logically associated with the user's first name. For example, if your name is Midlemas Phestus Furplesnurkle and you use a nickname like "Purple" or "Kid," a member of the public would have no way of knowing that you are actually "Midlemas." In order to assure that you can be easily identified, your business cards and correspondence should include your full name together with your nickname. This can be done in various ways. For example, your business card might read, "Midlemas 'Purple' Furplesnurkle, Broker," and your newspaper ad could say, "For all your real estate needs, call Purple! (M.P. Furplesnurkle, IV, Broker)."

Last Names

On the other hand, using a surname that is not your own is not allowed. If you have an awkward or lengthy surname, you may wish that you could shorten or simplify it only in connection with your real estate business. While the goal is understandable, the result is misleading if you haven't legally changed your name. For instance, if your surname is Furplesnurkle, you can't simply call yourself "Mr. Furp" or "Mr. Jones" in your brokerage activities, so long as your legal name remains Furplesnurkle. If you want to become "Furp" or "Jones," you should legally change your name. The most straightforward way to do this is to go through a judicial name change proceeding before the clerk of court in the county where you reside.

If you don't want to go to the trouble of changing your name legally, then you should use your legal name in all aspects of your business. You cannot avoid the problem by filing an assumed name registration in the office of the register of deeds. That procedure is only for business names—not for personal name changes.

Marital Status

But what about your wife—Mrs. Furplesnurkle. Before she married you, her maiden name was Myrtle Jones. What name can she use now? The answer depends on whether she legally changed her name upon her marriage. If she did, then she must use her new, legal name, "Myrtle Furplesnurkle." And, she must notify the Commission that she has done so by filing a Request to Reissue Real Estate License Certificate and/or Renewal Pocket Card form to have her license reissued in her new name. (These forms, which are available from the Commission upon request, must be notarized and accompanied by a \$5 fee for each document.) If she did not take your name, she should continue to use her maiden name until she legally changes it.

If she subsequently divorces you and wants to revert to her maiden name, she may apply to the clerk of court in the county where she lives. Upon resuming her maiden name, she must notify the Commission on the same form she used when she married you, pay the \$5 fee and her license will be reissued in her maiden name.

If you have a question about the name you are using in real estate, call the Real Estate Commission's Legal Services Division for assistance (919/875-3700, ext. 131).

Four (4) hours continuing education credit will be awarded for completion of each course.

<input type="checkbox"/>	March 16, 2004	9 a.m. - 1 p.m.	Basic Trust Account Procedures
<input type="checkbox"/>	March 17, 2004	9 a.m. - 1 p.m.	Trust Account Procedures for Resort Property Managers

March 22, 2004	1 p.m. - 5 p.m.	Basic Trust Account Procedures
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<input type="checkbox"/>	March 29, 2004	1 p.m. - 5 p.m.	Basic Trust Account Procedures
<input type="checkbox"/>	March 30, 2004	9 a.m. - 1 p.m.	Basic Trust Account Procedures

<input type="checkbox"/>	April 1, 2004	9 a.m. - 1 p.m.	Basic Trust Account Procedures
<input type="checkbox"/>	April 2, 2004	9 a.m. - 1 p.m.	Basic Trust Account Procedures

April 6, 2004	9 a.m. - 1 p.m.	Basic Trust Account Procedures
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<input type="checkbox"/>	April 19, 2004	1 p.m. - 5 p.m.	Basic Trust Account Procedures
<input type="checkbox"/>	April 20, 2004	9 a.m. - 1 p.m.	Basic Trust Account Procedures
<input type="checkbox"/>	April 21, 2004	9 a.m. - 1 p.m.	Trust Account Procedures for Resort Property Managers

<input type="checkbox"/>	April 27, 2004	9 a.m. - 1 p.m.	Basic Trust Account Procedures
<input type="checkbox"/>	April 28, 2004	9 a.m. - 1 p.m.	Basic Trust Account Procedures
<input type="checkbox"/>	April 29, 2004	9 a.m. - 1 p.m.	Trust Account Procedures for Resort Property Managers

<input type="checkbox"/>	May 5, 2004	9 a.m. - 1 p.m.	Basic Account Procedures
<input type="checkbox"/>	May 6, 2004	9 a.m. - 1 p.m.	Trust Account Procedures for Resort Property Managers

NAME _____ PHONE () _____

LICENSE NO.

Save Time!

10

AUDITOR'S CORNER

Reconcile Daily Cash Receipts To Your Computer

By **Emmet R. Wood**

Director, Audits and Investigations

1.

The Real Estate Commission's Audits and Investigations Division has discovered a major problem with some long-term rental management companies which utilize computer software to prepare their trust account books - cash receipts are not balanced to the deposit tickets and to the computer.

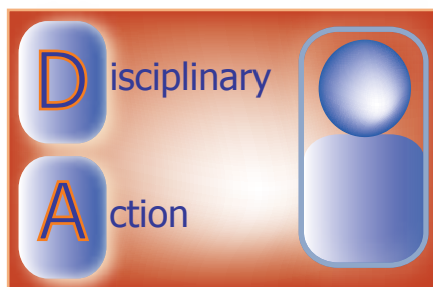
If you are the broker-in-charge of a real estate office, you are responsible for its daily cash reconciliation. The following example may help you with this:

- 1) Total the cash receipts and record the total on the last cash receipt.
- 2) Prepare the deposit ticket making sure the total of the handwritten cash receipts equals the total cash deposited into the bank.
- 3) Record the cash receipts to the computer, and print out a computer cash receipts report (the report may have another name depending on your software) making sure the total of the cash receipts equals the total on the deposit ticket and the computer cash receipts report.
- 4) Attach the computer cash receipts report (which is considered a supplemental deposit worksheet) to the deposit ticket and maintain it as part of the trust account records.

2.

3.

Your Realty Company Cash Receipts #2 1/4/0X			
Remitter	Property	Purpose	Amount
Clark	143 North Boulevard	Jan Rent	600.00
Clark	143 North Boulevard	Security Deposit	600.00
Stephens	2500 Johnson Street	Jan Rent	550.00
Stephens	2500 Johnson Street	Security Deposit	550.00
Total			<u>2,300.00</u>



AMERICAN DREAM REAL ESTATE (Jacksonville) – By Consent, the Commission revoked the firm license of American Dream Real Estate effective December 15, 2003. The Commission found that American Dream Real Estate's president, principal broker and broker-in-charge, while acting as an agent in a real estate transaction, misappropriated for her own use a \$10,000 earnest money deposit.+

MICHAEL R. ARMSTRONG (Fayetteville) – By Consent, the Commission reprimanded Mr. Armstrong effective November 18, 2003. The Commission found that Mr. Armstrong failed to disclose three misdemeanor offenses on his 2002 salesperson application. The Commission noted that Mr. Armstrong did disclose the offenses on his 2003 broker application.

WILLIAM R. BARKER (Denver) – By Consent, the Commission reprimanded Mr. Barker effective December 1, 2003. The Commission found that Mr. Barker failed to disclose a DWI conviction on his 1992 salesperson license application and, on his 2002 broker license application, failed to disclose a misdemeanor criminal conviction previously reported on his earlier salesperson application.

GLATHA E. BUCHANAN (Dillsboro) – By Consent, the Commission suspended the broker license of Ms. Buchanan for a period of one year effective October 1, 2003. The Commission then stayed the suspension for a probationary period of one year. The Commission found that Ms. Buchanan failed to bring the firm's trust account books and records into compliance with the Real Estate License Law and Com-

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.

mission rules after a former broker-in-charge failed to properly account for the funds of others and maintain the firm's records. The Commission noted that Ms. Buchanan obtained the nec-

mission also found that Ms. Bullard failed to disclose subsequent to licensing a conviction for operating a motor vehicle without a license, driving while her license had been revoked and two additional DWI charges.

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.

essary software and training to bring the firm's books and records into compliance.

RUDENA E. BULLARD (Carolina Beach) – By Consent, the Commission suspended the salesperson license of Ms. Bullard for a period of one year effective December 15, 2003. Three months of the suspension are to be active with the remainder stayed for a probationary period of two years. The Commission found that Ms. Bullard failed to disclose on her 1996 salesperson license application a 1984 DWI conviction and an additional DWI charge pending at the time of which she was later convicted. The Com-

DAVID W. BULLOCK (Raleigh) – By Consent, the Commission reprimanded Mr. Bullock effective January 15, 2004. The Commission found that Mr. Bullock failed to disclose a 1989 conviction for driving while impaired on his 2001 salesperson license application.

CHERRIE BYNUM (Raleigh) – By Consent, the Commission suspended the broker license of Ms. Bynum for a period of ninety days effective June 18, 2003. The Commission then stayed the suspension for a probationary period of eighteen months. The Commission found that Ms. Bynum, while employed as broker-in-charge of a real estate brokerage firm and, without its knowledge and consent, joined a competing firm and conducted the business of the competing firm from the office with which she was originally affiliated.

RASHEED D. W. CHABWERA (Warrenton) – The Commission accepted the permanent voluntary surrender of the broker license of Mr. Chabwera effective October 1, 2003. The Commission dismissed without prejudice allegations that Mr. Chabwera had violated provisions of the Real Estate License Law and Commission rules. Mr. Chabwera neither admitted nor denied misconduct.

DEBORAH L. COARSEY (Murphy) – The Commission accepted the voluntary surrender of the salesperson license of Ms. Coarsey for a period
(See **Disciplinary**, page 13)

Disciplinary

(Continued from page 12)

of three years effective January 1, 2004. The Commission dismissed without prejudice allegations that Ms. Coarsey had violated provisions of the Real Estate License Law. Ms. Coarsey neither admitted nor denied misconduct.

DWANNA B. DOLESH (Kernersville) – By Consent, the Commission suspended the broker license of Ms. Dolesh for a period of 90 days effective January 1, 2004. The Commission found that Ms. Dolesh, as a broker, represented a purchaser in a real estate transaction without entering into a written agency agreement and failed to review the content of the Commission's *Working With Real Estate Agents* brochure with the purchaser and to disclose to the seller and listing agent in writing her role as the buyer's agent. The Commission also found that Ms. Dolesh failed to fulfill the promise of a purchase of a refrigerator for the buyer as part of the transaction.

PHYLLIS H. DUNFORD (Raleigh) – By Consent, the Commission revoked the broker license of Ms. Dunford effective January 1, 2004. The Commission agreed to reinstate her salesperson license on certain conditions. The Commission found that Ms. Dunford, acting in a transaction as a buyer's agent, failed to submit to her broker for deposit in a trust account a buyers' check with a blank payee for an appraisal and instead delivered the check to the mortgage broker. The Commission also found that Ms. Dunford failed to disclose to the buyers' lender that the property's actual purchase price was lower than the price stated on the contract to purchase and, in order to enable the buyers to obtain a larger, more favorable loan, that a second mortgage from the sellers was a "dummy" mortgage to be cancelled after closing.

FIRST CHOICE OF JACKSON LLC (Dillsboro) – By Consent, the Commission suspended the firm license of First Choice for a period of

one year effective October 1, 2003. The Commission then stayed the suspension for a probationary period of one year. The Commission found that First Choice failed to properly account for the funds of others and to maintain its trust account records in compliance with the Real Estate License Law and Commission rules. The Commission noted that First Choice obtained the necessary software and training to bring the firm's books and records into compliance.

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.

JAMES N. FITTS (Blue Ridge, Georgia) – By Consent, the Commission reprimanded Mr. Fitts effective November 25, 2003. The Commission found that Mr. Fitts failed to report on his 2003 salesperson application a reprimand by the Georgia Real Estate Commission or that there were disciplinary charges pending for representing a broker other than the one with whom he was affiliated, and related charges.

FORECLOSURE REAL ESTATE & INVESTMENTS, LLC (Henderson) – The Commission accepted the permanent voluntary surrender of the firm license of Foreclosure Real Estate & Investments effective October 1,

2003. The Commission dismissed without prejudice allegations that Foreclosure Real Estate & Investments had violated provisions of the Real Estate License Law and Commission rules. Foreclosure Real Estate & Investments neither admitted nor denied misconduct.

ROBERT G. GAINES (Winston-Salem) – By Consent, the Commission suspended the broker license of Mr. Gaines for a period of one year effective January 15, 2004. The Commission then stayed the suspension for a probationary period of two years. The Commission found that Mr. Gaines, while licensed as a real estate salesperson, engaged in two real estate transactions while on inactive status and without the supervision of a broker. The Commission also found that Mr. Gaines advanced funds to a client at closing without having these funds disclosed on the settlement statement.

ERNESTINE G. GOSSETT (Bolivia) – By Consent, the Commission suspended the broker license of Ms. Gossett for a period of two years effective December 1, 2002. One month of the suspension is to be active with the remainder stayed for a probationary period of one year. The Commission found that Ms. Gossett, as broker-in-charge of a property management firm, failed to produce records of client funds that were to have been held in trust by her.

NANCYL. HENLINE (Hickory) – By Consent, the Commission revoked the broker license of Ms. Henline effective March 1, 2004. The Commission then issued a salesperson license to Ms. Henline. The Commission found that Ms. Henline, while a real estate salesperson, owned and controlled her own firm from July 1998 to August 2000 and acted without the effective supervision of a broker-in-charge.

ROBERT D. HOLLEMAN, JR. (Durham) – By Consent, the Commission reprimanded Mr. Holleman effective December 1, 2003. The Com-

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Disciplinary

(Continued from page 13)

mission found that Mr. Holleman, while principal broker and/or broker-in-charge of a real estate firm, did not maintain an office at the firm and held a full-time position elsewhere. The Commission also found that Mr. Holleman allowed a salesperson to maintain full control over the trust account, failed to review and maintain the records, failed to reconcile the trust account at all, and was unable to produce the records for inspection.

LINDA E. IVAN (Asheville) – The Commission revoked the broker license of Ms. Ivan effective February 15, 2004. The Commission found that Ms. Ivan misrepresented and concealed a material fact in a contract she entered for the purchase of a time share, refused to make timely and complete responses to formal inquiries from the Commission and committed unworthy and incompetent acts in the transaction by entering into a contract she did not intend to honor.

VERNON B. JACKSON (Charlotte) – By Consent, the Commission suspended the broker license of Mr. Jackson for a period of one year effective December 1, 2003. The Commission then stayed the suspension effective January 1, 2004. The Commission found that Mr. Jackson pleaded guilty in August 2002 to one count of failure to pay state income taxes. The Commission noted that Mr. Jackson has now paid in full the income taxes owed.

KENNETH A. JOHNSON (Hampstead) – By Consent, the Commission reprimanded Mr. Johnson effective January 15, 2004. The Commission found that Mr. Johnson, as broker-in-charge of a real estate firm, failed to review trust account records or the acts of a salesperson under his supervision. Mr. Johnson allowed the salesperson to manage the account. As a result, funds were embezzled from the trust account and the salesperson engaged in acts for which a license was

required while the license was expired or inactive. The Commission noted that Mr. Johnson cooperated with the Commission investigation and funded the trust account shortage so that all customers were paid in full.

RHONDA G. KING (Jackson) – By Consent, the Commission suspended the salesperson license of Ms. King for a period of six months effective October 9, 2003. Ninety days of the suspension are to be active with the remainder stayed for a probationary period of one year. The Commission found that Ms. King failed to disclose in her 1998 application for a salesperson license that she had been convicted of a misdemeanor. The Commission noted that Ms. King allowed the salesperson license to expire in 2002, but did disclose the conviction in her 2003 application for reinstatement.

TROY A. LEGGE (Charlotte) – By Consent, the Commission suspended the salesperson license of Mr. Legge for a period of six months effective January 1, 2004. The Commission then stayed the suspension for a probationary period of six months. The Commission found that Mr. Legge failed to report on his 2001 salesperson license application three 1988 and 1989 criminal convictions that occurred when he was a college freshman. The Commission noted that Mr. Legge did report the convictions on his 2003 broker license application.

MARGARET W. LOWMAN (Hickory) – By Consent, the Commission reprimanded Ms. Lowman effective January 15, 2004. The Commission found that Ms. Lowman after ceasing to act as principal broker of a real estate firm, failed to notify the Commission of her change in status as required by Commission rules.

ROBBIE G. MCCOY (Franklin) – By Consent, the Commission reprimanded Ms. McCoy effective January 21, 2004. The Commission found that Ms. McCoy acted as a buyer agent without first obtaining the written agreement required by Commission rule. Ms. McCoy neither admitted nor

denied but did not contest the Commission finding.

THOMAS ROBIN TODD MCINTOSH (Durham) – By Consent, the Commission revoked the broker license of Mr. McIntosh effective January 14, 2003. The Commission found that Mr. McIntosh accepted a \$10,000 earnest money deposit relating to a real estate transaction and deposited the money into his trust account but subsequently converted the money to his own use. The Commission also found that Mr. McIntosh failed to produce records concerning this transaction to the Commission's authorized representative upon request or thereafter. Mr. McIntosh neither admitted or denied the findings of the Commission, but did not contest the revocation of his license based upon them.

RICKARD B. MERCER (Kitty Hawk) – By Consent, the Commission suspended the broker license of Mr. Mercer for a period of one year effective January 25, 2004. The Commission found that Mr. Mercer failed to disclose on his 1995 broker license application pending criminal charges against him for carrying a concealed weapon and driving while intoxicated, with the former charge subsequently being dismissed and the latter resulting in a conviction, which Mr. Mercer failed to disclose as required by Commission rules. The Commission also found that Mr. Mercer failed to disclose a 1999 conviction of driving while impaired and that he failed to disclose all of his criminal convictions and a pending charge of driving while impaired on his firm license application. The Commission noted that the pending DWI charge was subsequently dismissed.

HOMER L. MONK (Raleigh) – By Consent, the Commission reprimanded Mr. Monk effective November 18, 2003. The Commission found that Mr. Monk, while acting as an agent of a seller in a commercial transaction, failed to provide the parties the required agency disclosure under Commission

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Disciplinary

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rules. The Commission also found that as a consequence, the buyers failed to understand who represented them and were able to have the transaction set aside. The Commission noted that Mr. Monk cooperated with the Commission's investigation of this matter.

JAMES A. MOORE, JR. (Pfafftown) – By Consent, the Commission reprimanded Mr. Moore effective November 25, 2003. The Commission found that Mr. Moore failed to disclose a 1989 DWI conviction on his 1993 salesperson and 1999 broker license applications.

JOAN W. MOORE (Conover) – The Commission revoked the broker license of Ms. Moore effective October 15, 2003. The Commission found that Ms. Moore failed to disclose to a financial institution in a loan application the true value of sales contracts for townhomes she was to build, misrepresented to buyers the cause for delays in construction and falsely promised to re-pay a buyer. The Commission also found that Ms. Moore was disciplined by the Contractor's Board for engaging in general contracting in excess of her license, and that she made false, misleading and evasive statements in response to Commission inquiries concerning complaints.

MORRIS & RAPER REALTORS, INC. (Atlanta, Georgia) – By Consent, the Commission suspended the firm license of Morris & Raper for a period of one year effective November 1, 2003. The Commission then stayed the suspension for a probationary period of one year. The Commission found that Morris & Raper, after acquiring a North Carolina firm license, accepted compensation for real property transactions negotiated in North Carolina that it had brokered prior to obtaining the necessary firm license.

JESSE R. ODOM (Huntersville) – By Consent, the Commission revoked the broker license of Mr. Odom effective October 31, 2003. The Commission

found that Mr. Odom made false statements in his 1992 salesperson license application, 2002 broker license application and 2003 firm license application in order to conceal criminal convictions and pending charges from the Commission. The Commission also found that Mr. Odom, on three separate occasions between 1998 and 2002, failed to report criminal convictions as required by Commission rule.

THERESA S. PARKER (Jacksonville) – By Consent, the Commission revoked the broker license of Ms. Parker effective December 15, 2003. The Commission found that Ms. Parker, as president, principal broker and broker-in-charge of a real estate firm, misappropriated for her own use a \$10,000 earnest money deposit given to her in connection with a real estate transaction for which she acted as agent.

WHITNEY J. PORTER (Durham) – By Consent, the Commission reprimanded Mr. Porter effective March 1, 2004. The Commission found that Mr. Porter failed to supervise a salesperson associated with his sole proprietorship in that he did not require the salesperson to verify the ownership of properties before listing them in the MLS nor did he require written listing agreements for the properties. The Commission also found that Mr. Porter refused to provide transaction records to the Commission upon its request.

TORRANCE J. PORTER (Durham) – By Consent, the Commission reprimanded Mr. Porter effective March 1, 2004. The Commission found that Mr. Porter, a salesperson, listed several properties in the MLS for a particular person or firm that he knew or should have known was not the owner. The Commission also found that Mr. Porter did not have written listing agreements for the properties or permission from the owners to advertise them for sale. The Commission also found that Mr. Porter, while originally uncooperative, has since fully cooperated with the Commission's investigation in this matter.

BILLY R. RAMSEY (Marshall) – By Consent, the Commission suspended the salesperson license of Mr. Ramsey for a period of one year effective December 1, 2003. Three months of the suspension are to be active with the remainder stayed for a probationary term of two years. The Commission found that Mr. Ramsey failed to disclose on his 1995 North Carolina salesperson license application a 1990 disciplinary action by the Florida Board of Auctioneers. The Commission noted that Mr. Ramsey has had no complaints against him since he was granted the salesperson license in 1995.

CHRIS E. SAIEED (Farmville) – By Consent, the Commission suspended the salesperson license of Mr. Saieed for a period of two years effective November 1, 2003. Six months of the suspension are to be active with the remainder stayed for a probationary period of three years under certain conditions. The Commission found that Mr. Saieed failed to disclose a 1995 criminal conviction on his application for a salesperson license in 2001. The Commission noted that Mr. Saieed did disclose the conviction on his 2002 application for a broker license.

MARGIE C. SCOTT (Greensboro) – By Consent, the Commission revoked the broker license of Ms. Scott effective February 1, 2004. The Commission agreed to grant Ms. Scott's application for a salesperson license between February and June 2005. The Commission found that Ms. Scott, as broker-in-charge of a real estate firm, failed to properly maintain the firm's trust accounts and records and failed to properly supervise a salesperson associated with the firm.

JOHN J. STACHURA (Alpharetta, Georgia) – By Consent, the Commission reprimanded Mr. Stachura effective November 1, 2003. The Commission found that Mr. Stachura, as broker-in-charge of the North Carolina office of a licensed real estate firm, allowed the firm, after it obtained its license, to collect compensation for
(See **Disciplinary**, page 16)

Disciplinary

(Continued from page 15)

brokerage acts performed by the firm and its agents in North Carolina before the firm license was obtained.

CRAYMON STRICKLAND, JR. (Lumberton) – By Consent, the Commission suspended the broker license of Mr. Strickland for a period of six months effective January 15, 2004. The Commission then stayed the suspension for a probationary period of six months. The Commission found that Mr. Strickland falsely represented on his 2000 application for a salesperson license that he had not been convicted of any crime when he had been convicted of misdemeanor larceny in 1989. The Commission noted that Mr. Strickland did report the conviction on his 2003 broker license application.

DALE E. TERRY (Winston-Salem) – By Consent, the Commission reprimanded Mr. Terry effective November 25, 2003. The Commission found that Mr. Terry falsely stated on his salesperson and broker applications that he had not been convicted of a criminal offense, when in fact he had been convicted of a DWI in 1992.

YUSUF THOMAS (Durham) – By Consent, the Commission revoked the broker license of Mr. Thomas effective December 10, 2003. The Commission found that Mr. Thomas retained a \$500 earnest money deposit received from a buyer and replaced it with a personal check, made payable to the listing agent, that was returned for insufficient funds.

LINDA L. TWIST (Hayesville) – By Consent, the Commission reprimanded Ms. Twist effective December 1, 2002. The Commission found that Ms. Twist failed to procure an accurate and thorough contract executed by both seller and buyer to purchase property she had listed and, when the agreement failed, released a disputed earnest money deposit to the buyer without the seller's authorization.

ROSA L. WHITE (Atlanta) – By Consent, the Commission reprimanded

Ms. White effective November 18, 2003. The Commission found that Ms. White failed to disclose a DWI conviction on her 2002 salesperson application. The Commission noted that Ms. White did disclose the conviction on her 2003 broker application.

NICHOLAS M. WILSON (Holly Springs) – By Consent, the Commission reprimanded Mr. Wilson effective November 18, 2003. The Commission found that Mr. Wilson represented the siding on a house he listed for sale as Hardiplank as advised by the owners of the property and without independent verification by a licensed home inspector or other professional, when in fact the siding was determined later to be Omniplank.

ANNETTE B. WINSTEAD (Raleigh) – By Consent, the Commission suspended the salesperson license of Ms. Winstead for a period of six months effective November 25, 2003. Four months of the suspension are to be active with the remainder stayed for a probationary term of one year. The Commission found that Ms. Winstead failed to disclose on her 2001 salesperson license application 15 misdemeanor convictions entered against

her between 1985 and 2002 for writing worthless checks. The Commission noted that Ms. Winstead did disclose the convictions on her 2003 broker application, which required submission of a criminal history.



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