



REAL ESTATE BULLETIN

Volume 33 • October 2002 • Number 2

Dameron Elected Chairman, Lackey, Vice Chairman

Former Commission Member **B. Hunt Baxter, Jr.**

The Real Estate Commission regrets to announce the passing of former member and Chairman B. Hunt Baxter, Jr. (New Bern). Appointed to the Commission in 1979, Hunt served with distinction during his two terms ending in 1985.

2003 Coastal Workshops

If you buy or sell coastal real estate, you should attend one of these workshops.

See page 5 for more information and a registration form.

Allan R. Dameron of Holden Beach has been elected Chairman and William C. Lackey, Jr., of Cornelius, Vice Chairman, of the North Carolina Real Estate Commission for 2002-2003, it was announced by Phillip T. Fisher, Executive Director.

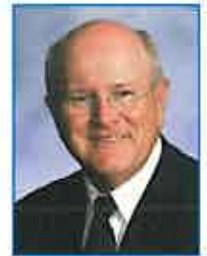
Both terms are effective August 1, 2002 for a period of a year.

Dameron, appointed to the Commission in 1999, is Broker Associate with Alan Holden Realty/RE/Max at Holden Beach where he has been affiliated since 1984.

A former Dean of the REALTORS® Institute, he is Past President of the North Carolina Real Estate Education Foundation and of the Brunswick County Board of REALTORS®, which named him REALTOR® of the Year in both 1991 and 2001. He is a past member with 15 years of service and five-time Chairperson of the Holden Beach Board of Adjustment. The North Carolina Association of REALTORS® has honored Dameron



Dameron



Lackey

with election to its Hall of Fame.

A native of Elkin, he is a graduate of Guilford College in Greensboro with a degree in Administrative Science. He and his wife, Lydia, reside in Holden Beach.

Appointed to the Commission in 1999, Lackey is General Manager, Coldwell Banker Triad, REALTORS®

(See Commission, page 3)

Advertise Proficient Language Skills Only

By Miriam J. Baer, Assistant Director, Legal Services

Do you advertise that you speak Spanish? If so, be certain that your Spanish skills are up to par. The Commission has recently received complaints that agents are advertising that they speak Spanish, when in fact their skills are inadequate to handle a real estate transaction.

With the rising Spanish-speaking population in North Carolina, it may be good marketing to advertise that you speak Spanish or that your firm has the resources to handle a transaction requiring Spanish (or any other foreign language). Just be sure that any representation you make is accurate.

For example, if you advertise that you speak Spanish, you should not have to rely on a translator to assist you. If you advertise that Spanish is spoken at your office, then you or your office should have a Spanish-speaking person available to take a call in Spanish or meet with a Spanish-speaker who arrives at your office.

Perhaps neither you nor any other member of your firm speaks a foreign

language, but you are willing to employ a translator when the need arises. In that case, don't advertise that you speak Spanish (or French or Norwegian). Instead, advertise your readiness to hire a translator to assist in any transaction.

The Commission recently received a complaint about a listing agent whose rider announced, "se habla Espanol" ("Spanish spoken"). The complainant left a voice mail message for the listing agent in Spanish, and didn't receive a call back for several days. When he finally got the call, the person on the phone represented herself to be the listing agent. According to the complain-

(See Advertising, page 3)

**Employment
Opportunity
see page 2**

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.

NORTH CAROLINA REAL ESTATE COMMISSION

1313 Navaho Drive
P. O. Box 17100
Raleigh, North Carolina 27619-7100
Phone (919) 875-3790

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Editor-In-Chief
Phillip T. Fisher

Editor
Robert L. Forshaw



New to the Commission

Diana L. Carnes has assumed the position of Records Specialist in the Administration Division. She maintains licensee records, completes renewals and assists newly licensed brokers. Prior to joining the Commission, Diana worked as a closing assistant for Associated Land Title in Tallahassee, Florida. Diana is an active volunteer with the Greater Raleigh Greyhound Rescue.



Patricia L. Street has assumed the position of Imaging/Records Specialist in the Administration Division. She assists with licensee records and incorporates licensee and firm documents into the imaging system. Prior to joining the Commission, Patricia was Membership Coordinator for the North Carolina State office of Mother's Against Drunk Driving. Patricia is an active volunteer for the Roman Catholic campaign office of Raleigh.



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.

Appearances

Phillip T. Fisher, Executive Director, spoke at the North Carolina Association of REALTORS® Leadership Retreat.

Miriam J. Baer, Assistant Director of Legal Services, spoke to the Durham Association of REALTORS® and to the Asheville Board of REALTORS® on topics of concern to the Commission and of special interest to brokers and salespersons.

Blackwell M. Brogden, Jr., Chief Deputy Legal Counsel, spoke to the Rocky Mount Area Association of REALTORS® on the subject of agency.

Janet B. Thoren, Deputy Legal Counsel, spoke to the Jacksonville Board of REALTORS® on the issue of signing documents for their clients and other topics of interest to real estate agents.

Stephen L. Fussell, Consumer Protection Officer, spoke to the Burlington/Alamance Board of REALTORS® on the Commission's *Residential Square Footage Guidelines*.

EMPLOYMENT OPPORTUNITY

Licensing Officer - Beginning Salary Range \$34,452 - \$41,342 depending upon experience. Coordinates all aspects of Commission's real estate licensing operations including supervising processing of license applications and assisting with education and examination programs. Must have bachelors degree, two years professional-level administrative experience and real estate license. For more information, contact Commission's Director of Administration, P.O. Box 17100, Raleigh, NC 27619-7100, or visit the Commission's website www.ncrec.state.nc.us "Employment Opportunities". Application deadline November 1.

EQUAL OPPORTUNITY EMPLOYER



Commission

(Continued from page 1)

in Winston-Salem.

He is a former chairman of the Piedmont Regional Multiple Listing Service and former president of the Charlotte Regional REALTOR® Association, recipient of its President's Award in 1997 and named CRRA REALTOR® of the Year in 2000.

Lackey is a former director of both the North Carolina Association of REALTORS® and the National Association of REALTORS®. He resides in Cornelius with his wife, Barbara Broadway. They have three children and three grandchildren.

Advertising

(Continued from page 1)

ant, this was not true. In fact, she was a translator, but she was holding herself out to be the agent.

This practice is deceptive. If you are using a translator, be sure to explain to the parties that they are speaking to a translator. This is particularly important if you are doing so by phone or other electronic means where the person to whom you are speaking cannot see you and the translator.

Never let a translator take over a transaction or imply in any way that he or she is licensed. Rather, have the translator do what he or she is trained to do: translate **your words**, as you are speaking, into the foreign language. This will avoid any misunderstanding about your respective roles in the transaction. It will also help assure that the translator does not engage in the unlicensed practice of real estate.

October 16
November 13
December 11
January 15
February 12

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.

2002/2003 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.

- | | | |
|------------------------------------|-------------------------------------|--------------------------------------|
| <input type="checkbox"/> October 8 | <input type="checkbox"/> November 5 | <input type="checkbox"/> December 10 |
| <input type="checkbox"/> January 7 | <input type="checkbox"/> February 4 | <input type="checkbox"/> March 6 |
| April* | <input type="checkbox"/> May 6 | <input type="checkbox"/> June 10 |

Name _____

Address _____

City _____ State _____ Zip _____

Phone () _____

- ☐ Broker ☐ Salesperson ☐ Bookkeeper

(Lic # _____)

*No class in April due to Trust Account Caravan. See schedule on Page 10.

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.

NUMBERS

Each year, the Real Estate Commission reviews what it has done during the 12-month period from May 1 to April 30. And each year, the result is an impressive array of statistics that together speak to the breadth and complexity of its role in working with the North Carolina real estate industry.

Here's a sampling of Commission activity from May 1, 2001 to April 30, 2002:

Contact

- 225,000 telephone calls (a 42% increase over the previous period)
- 100,000 website "hits" (a 15% increase)

Publications

- 816,000 publications distributed to licensees, consumers, applicants (a 33% increase)

Technology

Made more effective use of technology by:

- Imaging 102,817 records
- Renewing 12,000 licenses online
- Re-designing Commission website

Employment

- 86 applications for employment received
- 20 applicant interviewed
- 8 positions filled

Licensing

- 113,000 license record changes
- 8,126 applications processed for licenses by examination
- 6,598 license examinations administered (94% by computer)
- 4,007 licenses by examination issued
- 3,360 broker licenses issued without examination
- 255 licenses issued by reciprocity
- 704 firm licenses issued
- 182 expired licenses reinstated
- 71 license applicant conferences conducted

- 8 new and 41 renewed private real estate school licenses

Education

- 61 pre-licensing instructors issued regular or temporary approvals
- 66 new continuing education elective courses approved (for a total

of 331 courses)

- 26 new continuing education sponsors (for a total of 187)
- 9 new continuing education *Update Course* instructors approved (for a total of 127)
- 53 *Broker-in-Charge Course* sessions conducted for 3,554 licensees (a 142% increase)
- revised and published Real Estate Manual (2002-2003 Edition)

Audits/Investigations

- 108 case investigations completed
- 63 trust accounts examined
- 414 persons interviewed
- 28 trust account courses conducted for 963 students
- 74 "spot inspections" performed on 126 different trust accounts
- 20 trust account software programs re-evaluated

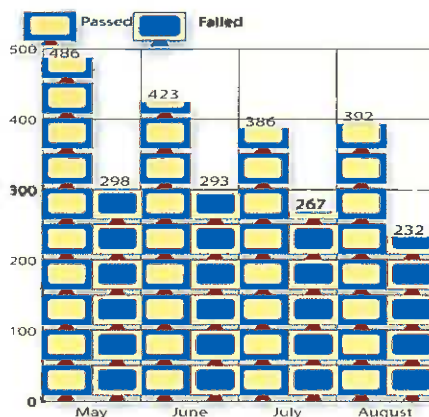
Legal

- 854 case (complaint) files opened and 855 closed
- 24 licensees reprimanded
- 24 licenses suspended
- 15 licenses revoked
- 13 licenses surrendered
- 34 cases utilized conditional remedies
- 2 Recovery Fund hearings conducted
- 20 license application hearings held (a 67% increase)

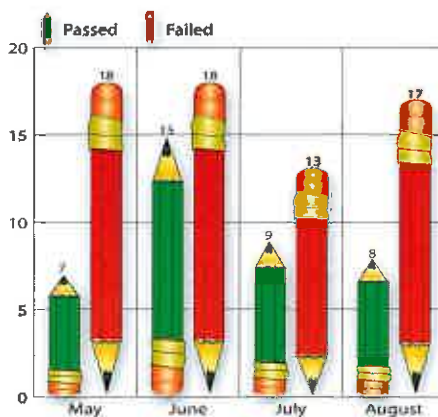
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By Computer



By Paper and Pencil



Broker-in-Charge Class Earns 4 Hours CE Credit

Over 6,250 licensees have taken the Broker-in-Charge course since its inception in November 2000 through August 30, 2002. Initially the Commission requested that brokers-in-charge who had five years within which to take the class not all rush to attend, as the demand would be too great. While preference still is accorded newly designated brokers-in-charge who must take the course within 120 days, five-year "BICs" are now invited to register for the class (as may any broker) which is offered monthly in Raleigh and Charlotte; bimonthly in Asheville and Greensboro, and every few months in Wilmington, Boone, Greenville and Nags Head.

Licensees receive four hours *elective* continuing education credit and it satisfies the BIC course requirement for five years. However, licensees should *retain the course Certificate of Completion* to prove their attendance in case they are designated broker-in-charge within five years, yet are notified by the Commission that they must take the course within 120 days. In that case, the licensee should mail a *copy* of the Certificate to the Records Division with an explanation that they are exempt from the 120-day requirement.

Lastly, be aware that as of September 1, 2002, licensees who are sole proprietors/ practitioners (i.e. brokers practicing alone) need *not* declare themselves broker-in-charge unless they either: 1) have associates; or 2) hold trust monies pertaining to brokerage transactions, or 3) advertise or otherwise promote their services as a broker in any manner. Any broker whose license is on active status, but who is not associated with a real estate company (and thus under a broker-in-charge) is viewed as a "sole proprietor" at the moment she/he engages in any activity requiring a real estate license. Salespersons are discouraged from taking the broker-in-charge course until they have their broker's license.

Register Now

2003 Coastal Workshops To Be Held in February

Brush up next February on what you should know about selling coastal real estate with the 2003 Coastal Workshops sponsored by the Commission in conjunction with UNC-Sea Grant and the Division of Coastal Management.

The series will consist of workshops at Wrightsville Beach, Holiday Inn Sun Spree Resort, February 10, 1-5 p.m. and February 11, 9 a.m.-1p.m.; Nags Head, Ramada Inn Outer Banks Resort, February 20, 9 a.m.-1p.m., and Sheraton Atlantic Beach, February 21, 9 a.m.-1p.m.

Registration for the Workshop of your choice can be made online at the Commission website, www.ncrec.state.nc.us, or by mailing the form below with your check payable to the NC Real Estate Commission for the registration fee of \$45 per person.

Recognized experts will discuss a variety of topics including erosion rates and control, construction standards, and disclosure requirements for real estate agents as well as identify sources for additional information on buying and selling coastal real estate.

Each workshop is limited to 125 persons, so registration will be on a first come-first served basis. Real estate licensees will receive four hours' continuing education elective course credit for attending.



REGISTRATION FORM

2003 COASTAL WORKSHOPS

Sponsored by the North Carolina Real Estate Commission in conjunction with
UNC-Sea Grant and the Division of Coastal Management

Choose date/location:

- | | | | |
|--|---|---|--|
| <input type="checkbox"/> February 10
Wrightsville Beach
(Holiday Inn Sun Spree Resort)
1-5 p.m. | <input type="checkbox"/> February 11
Wrightsville Beach
(Holiday Inn Sun Spree Resort)
9 a.m.-1 p.m. | <input type="checkbox"/> February 20
Nags Head
(Ramada Inn Outer Banks Resort)
9 a.m.-1 p.m. | <input type="checkbox"/> February 21
Atlantic Beach
(Sheraton Atlantic Beach)
9 a.m.-1 p.m. |
|--|---|---|--|

Name _____ Phone () _____
(Daytime)

Address _____
(Street, P.O. Box, etc.)

(City) _____ (State) _____ (Zip) _____

☐ Real Estate Agent (Lic. No. _____) ☐ Builder ☐ Other

Mail to: NC Real Estate Commission
Attention: Education Specialist
P. O. Box 17100
Raleigh, NC 27619-7100

**Enclose \$45
Registration
Fee**

Register online at www.ncrec.state.nc.us

NCAR Changes Contract Forms

(With permission, portions of this article were written based upon an article appearing in the *General Counsel Quarterly*, a publication of the North Carolina Association of REALTORS®, Volume VI, Issue One, Summer 2002.)

Have you noticed a change in some of the standard contract forms you are using in your residential sales transactions? The Joint Forms Committee of the North Carolina Association of REALTORS® and the North Carolina Bar Association made several revisions to the standard *Offer to Purchase and Contract* and related forms.

Offer to Purchase and Contract - the contract now allows the buyer to ask that the seller pay a stated amount toward "any of the Buyer's expenses associated with the purchase of the Property" (§8), rather than paying money toward the buyer's closing costs. This change is designed to eliminate disputes over what constitutes a "closing cost." Conforming changes have also been made to the *FHA/VA Financing Addendum* which now specifically provides that the amount paid by the seller includes FHA/VA seller mandated lender and inspection costs.

The contract also now requires that the seller deliver marketable and *insurable* title to the buyer (§5(e)). In addition, the contract authorizes the Seller's current and prior closing attorney, and the Property's title insurer, to release and disclose title documents to the buyer, agents and attorneys.

Finally, references to an inspection addendum were removed from the Inspections provision (§12), since no such addendum exists.

Contingent Sale Addendum - the Addendum has been changed to require a buyer who waives the contin-

(See *NCAR Forms*, page 7)

FREE PUBLICATIONS

Questions and Answers On:

Fair Housing
Tenant Security Deposits
Condos and Townhouses
Residential Subdivisions and Planned Communities
Purchasing Coastal Real Estate in North Carolina
Renting Residential Real Estate

Trato Con Agentes de Bienes Raíces
(Working With Real Estate Agents)

Preguntas y Respuestas sobre: (Questions and Answers On:)

Vivienda Justa
(Fair Housing)
El Depósito de Seguridad del Inquilino
(Tenant Security Deposits)
Alquiler de Inmuebles para Viviendo
(Renting Residential Real Estate)

Residential Property Disclosure Statement
(Please limit request to one copy; duplicate as needed.
Also available on the Commission's web site.)

Quantity
Requested

How To Order:

Mail, fax or email this form to the Real Estate Commission.

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Raleigh, NC 27619-7100

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only.**

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CITY/STATE/ZIP _____

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Please allow 7 days from receipt of order for delivery.

NCAR Forms

(Continued from page 6)

gency to then close on the purchase of the seller's property by a specified date. It is designed to assure that buyers waive the contingency only if they are in fact prepared to proceed in a timely manner with the purchase of the seller's property.

In addition, the "time is of the essence" provision has been expanded to expressly include the closing date.

Additional Provisions Addendum - the provision concerning a *Septic System Improvements Permit* has been renamed "*Sewer System*." It now provides that the contract is contingent upon the buyer obtaining a permit from the County for either a conventional or otherwise described sewer system. All costs are borne by the buyer, except that the seller must pay

for clearing as much of the property as the County requires. A deadline must be inserted by which the test is to be performed. The buyer is required to use "best efforts" to obtain the permit and the buyer must notify the seller by a stated deadline if he cannot get the permit, "**time being of the essence**" - **otherwise the condition is deemed satisfied.**

In addition, the *Appraisal* provision was separated into two pieces - one addressing *Appraisal with Financing Contingency* and one addressing *Appraisal Without Financing Contingency*.

As to the *Flood Hazard Zone* provision, it now provides that it "may be" necessary for the purchaser to purchase flood hazard insurance rather than it "will be" necessary.

Other Jointly Approved Forms - minor changes were made to both

the *Owner Association Addendum* and the *Option to Purchase*. Some of these were made in order to accommodate the use of both forms with the new *Vacant Land Offer to Purchase and Contract*. Others were more technical in nature.

Changes to All Forms - in addition to the substantive changes, all forms are now available in an 8½ x 11 format. Each contains a new disclaimer immediately preceding the signature lines stating that the Bar Association and the Association of REALTORS® "make no representation as to the legal validity or adequacy of any provision of this form in any specific transaction."

CAVEAT: The Commission's *Update Course* this year includes coverage of the *Offer to Purchase and Contract* and related addenda. Many of the changes noted here also will be addressed in that course.

PURCHASE PUBLICATIONS

Publication	Quantity Requested	Totals
Residential Square Footage Guidelines (\$.65 per copy)	_____	\$ _____
Working With Real Estate Agents (\$.25 per copy)	_____	\$ _____
Questions and Answers on: Home Inspections (\$.25 per copy)	_____	\$ _____
North Carolina Real Estate License Law and Commission Rules (\$3.00 per copy)	_____	\$ _____
Amount Enclosed		\$ _____

NAME _____

ADDRESS _____

CITY/STATE/ZIP _____

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Email _____

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Expiration Date

Signature: _____

Please allow 7 days from receipt of payment for delivery.

How To Order:

Mail, fax or email this form with method of payment indicated - check or credit card (MasterCard or Visa). Please do not remit cash.

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www.ncrec.state.nc.us

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AUDITOR'S CORNER



By Emmet R. Wood
Director, Audits and Investigations

(This is the second in a series of three articles about the process of maintaining rental trust account records. The subjects are "Deposit Cycle", "Disbursement Cycle" and "Monthly Reconciliation".)

To the right is a flow chart detailing the four steps in recording the disbursement of trust monies. The numbers by this chart correspond to those by the examples of forms on the facing page. Following is an explanation of each step:

1. The first step is to prepare a supplemental disbursement (check) worksheet. This worksheet establishes the basis for a clear audit trail to the journal and property ledger sheets. If a check pertains to only one property ledger, then it would be sufficient to comply with the Commission's rule by identifying the applicable property ledger on the journal and check.
2. Prepare the trust account check.
3. Record the check on the journal. Calculate and record the running balance.
4. Post the information on the supplemental disbursement (check) worksheet onto the individual property ledger sheets. Calculate and record the running balance on each property ledger sheet.
5. After posting from the supplemental disbursement worksheet(s) to the individual property ledgers, check to see if the posted amounts and the calculated running balances on the ledgers are correct by reconciling all the individual property ledger sheets to the journal. (ie: add up the ending running balances on the property ledgers and compare to the ending journal balance for agreement.)

1.

Prepare Supplemental Worksheet

2.

Prepare Check

3.

Record Check In Journal

4.

Post From Supplemental Check Worksheet to Individual Ledgers

5.

Reconcile

Rental Trust Account Disbursement Cycle

Second of a three-part series

1. Supplemental Check Worksheet

Supplemental Check Worksheet
1/31/0X CHECK #103 YOUR REALTY CO., INC. ID

PROPERTY	PURPOSE	AMOUNT
143 North Boulevard	1/0X Management Fees	\$60.00
2500 Johnson Street	1/0X Management Fees	\$55.00
		\$115.00

(S) - Date and check number provide cross-reference to corresponding check.

2. Management Fee Check

1/31/0X 103

Your Realty Company, Inc. \$115.00

One hundred fifteen and 00/100 Dollars

1/0X Mgt Fees SCW John Broder

143 North Boulevard, 143 North Boulevard

3. Trust Account Journal

YOUR REALTY COMPANY, INC.
TRUST ACCOUNT JOURNAL
NC Insured Bank A/C# 122-936-7890

DATE	DESCRIPTION	NUM	DEPOSITS	CHECKS	BALANCE
1/03/0X	DEPOSIT	OX 1	\$1,600.00		\$1,600.00
1/04/0X	DEPOSIT	OX 2	\$2,300.00		\$3,900.00
1/11/0X	Ajax Plumbing 143 N. Blvd. Repairs	101		\$75.00	\$3,825.00
1/20/0X	Gerald Howard 143 N. Blvd. Net Jan Rent to Owner	102		\$465.00	\$3,360.00
1/21/0X	Your Realty Company, Inc. 1/0X Mgt Fees	103		\$115.00	\$3,245.00
1/22/0X	Jack Thomas NSF 1362 Main St	DM		\$2,500.00	\$745.00
1/30/0X	F. Lee Bailey, Attorney 119 Maple Closing	104		\$1,000.00	\$745.00
1/31/0X	DEPOSIT	OX 3	\$2,500.00		\$2,245.00
1/31/0X	NC Insured Bank Check Printing Charges	DM		\$25.00	\$2,220.00

(A) - Referenced to sequentially numbered deposit tickets
(B) - Debit Memo
✓ - Cleared Bank

5. Reconcile

4. Individual Property Trust Account Ledger Sheets

NAME: Gerald Howard, Owner Clark, Tenant ACCOUNT NO.

ADDRESS: 143 North Boulevard SHEET NO.

DATE	ITEMS	DEPOSITS	CHECKS	BALANCE
1/04	Charles Clark Security Deposit	OX 2 \$600.00		\$600.00
1/04	Charles Clark Jan Rent	OX 2 \$600.00		\$1,200.00
1/11	Ajax Plumbing Repairs	101	\$75.00	\$1,125.00
1/20	Gerald Howard Net Jan Rent To Owner	102	\$465.00	\$660.00
1/21	Your Realty Co., Inc. Jan Management Fee	103	\$60.00	\$600.00

NAME: Your Realty Company, Inc. - Personal Funds ACCOUNT NO.

ADDRESS: SHEET NO.

DATE	ITEMS	DEPOSITS	CHECKS	BALANCE
1/03	Your Realty Company, Inc. Personal Funds	OX 1 \$100.00		\$100.00
1/31	NC Insured Bank Check Printing Charges	DM	\$25.00	\$75.00

NAME: Allan Ward, Owner Stephens, Tenant ACCOUNT NO.

ADDRESS: 2500 Johnson Street SHEET NO.

DATE	ITEMS	DEPOSITS	CHECKS	BALANCE
1/04	Blake Stephens Security Deposit	OX 2 \$550.00		\$550.00
1/04	Blake Stephens Jan Rent	OX 2 \$550.00		\$1,100.00
1/21	Your Realty Co., Inc. Jan Management Fee	103	\$55.00	\$1,045.00

NAME: Clay (Seller) to Thomas (Buyer) ACCOUNT NO.

ADDRESS: 1362 Main Street SHEET NO.

DATE	ITEMS	DEPOSITS	CHECKS	BALANCE
1/02	Jack Thomas EMD	OX 1 \$2,500.00		\$2,500.00
1/22	Jack Thomas NSF	DM	\$2,500.00	\$0.00
1/31	Jack Thomas Redeposit NSF EMD Check	OX 3 \$2,500.00		\$2,500.00

2003 Trust Account Caravan Registration Form

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

Boone Quality Inn Appalachian Conference Center, 949 Blowing Rock Road

- ☐ March 18, 2003 9 a.m. - 1 p.m. Basic Trust Account Procedures
☐ March 19, 2003 9 a.m. - 1 p.m. Trust Account Procedures for Resort Property Managers

Huntersville Country Inn & Suites Lake Norman, 16617 Statesville Road

- ☐ April 1, 2003 9 a.m. - 1 p.m. Basic Trust Account Procedures
☐ April 2, 2003 9 a.m. - 1 p.m. Basic Trust Account Procedures

Greensboro Ramada Inn-Greensboro Airport, 7067 Albert Pick Road

- ☐ April 3, 2003 9 a.m. - 1 p.m. Basic Trust Account Procedures
☐ April 4, 2003 9 a.m. - 1 p.m. Basic Trust Account Procedures

Wilmington Coast Line Convention Center, 501 Nutt Street

- ☐ April 7, 2003 1 p.m. - 5 p.m. Basic Trust Account Procedures
☐ April 8, 2003 9 a.m. - 1 p.m. Basic Trust Account Procedures
☐ April 9, 2003 9 a.m. - 1 p.m. Trust Account Procedures for Resort Property Managers

Fayetteville Holiday Inn Bordeaux, 1707 Owen Drive

- ☐ April 14, 2003 1 p.m. - 5 p.m. Basic Trust Account Procedures
☐ April 15, 2003 9 a.m. - 1 p.m. Basic Trust Account Procedures

Asheville Holiday Inn East - Blue Ridge Parkway, 1450 Tunnel Road

- ☐ April 22, 2003 9 a.m. - 1 p.m. Basic Trust Account Procedures
☐ April 23, 2003 9 a.m. - 1 p.m. Basic Trust Account Procedures
☐ April 24, 2003 9 a.m. - 1 p.m. Trust Account Procedures for Resort Property Managers

Kill Devil Hills Ramada Inn Outer Banks Resort & Conference Center, 1701 South Virginia Dare Trail

- ☐ April 29, 2003 9 a.m. - 1 p.m. Basic Account Procedures
☐ April 30, 2003 9 a.m. - 1 p.m. Trust Account Procedures for Resort Property Managers

The fastest way to register is online at www.ncrec.state.nc.us. Otherwise, please complete this form (make copies for additional persons) and mail with a check for the \$45 tuition fee. Each session is limited to 40 participants.

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Spring 2003 Trust Account Caravan March 18 - April 30 In Seven Cities

By Gary R. Caddell, Senior Auditor/Investigator, Training Officer

The *Spring 2003 Trust Account Caravan* is scheduled for March 18 through April 30 with seven stops in Asheville, Boone, Fayetteville, Greensboro, Huntersville, Kill Devil Hills, and Wilmington.

To register, go the Commission's website, www.ncrec.state.nc.us, or use the form with dates and locations on page 10. Class size is limited to 40 participants and early registration is advised.

The "Basic Trust Account Procedures" course is updated to include rule changes that went into effect September 1, 2002. While this course is intended for brokers-in-charge and trust account bookkeepers, all licensees may attend. The course provides instruction in the preparation of trust account records and the reconciliation process. Related topics include the

proper handling of owner/broker trust funds and the Tenant Security Deposit Act.

The "Trust Account Procedures for Resort Property Managers" course covers issues specific to resort property management, such as the Vacation Rental Act and sales taxes. This course is updated to reflect recent rule changes. The course is offered only during the *Spring Caravan*. Because this course focuses on issues specific to resort property management, the Commission strongly recommends that you attend the Basic course prior to taking the Resort Property Managers course.

Both courses were developed and are taught by members of the Commission's Audits & Investigations Division. Each course counts as four hours of elective continuing education credit.

For the third year in a row, the Real

Estate Commission's *Trust Account Caravan* set a record for the number of attendees. A total of 593 course attendees participated in the *Spring 2002 Trust Account Caravan*, compared with 570 in 2001, 505 in 2000 and 291 in 1999.

The *Spring 2002 Trust Account Caravan* made stops in Asheville, Boone, Charlotte, Fayetteville, Greensboro, Kill Devil Hills, Morehead City and Wilmington. Eleven "Basic Trust Account Procedures" courses and five "Trust Account Procedures for Resort Property Managers" courses were offered.

Held annually, the *Caravan* was instituted by the Commission in 1982 to provide courses to those who cannot attend one of the monthly courses held in Raleigh. [Note: For registration information, please refer to page 3 of this *Bulletin*.]

Limited License For Nonresident Brokers, Salespersons Gets Commission Nod

The Real Estate Commission has approved a recommendation from its *Interstate Brokerage Cooperation Advisory Committee* (See Bulletin Volume 32, No. 4) to support legislation to create a "Limited Nonresident Commercial Real Estate License." As proposed, real estate brokers and salespersons licensed in other states could obtain the license from the Commission without having to pass the North Carolina licensing examination.

The license would allow them to perform real estate brokerage acts in North Carolina **only in connection with commercial real estate transactions and only while affiliated with a resident North Carolina real estate broker**. The nonresident commercial licensee and the resident North Carolina broker would also be required to enter into a "Brokerage Cooperation Agreement" which, among other

things, mandates that the North Carolina broker actively and personally supervise the nonresident commercial licensee.

It is anticipated that legislation authorizing the issuance of the special licenses will be considered by the North Carolina General Assembly during its 2003 Session and that, if enacted, it will facilitate and promote commercial and industrial real estate development and investment in our state.

The Commission thanked again the members of its advisory committee and real estate attorney and commercial broker Garth K. Dunklin who joined the committee at its August 7 meeting.

[The *Interstate Brokerage Cooperation Advisory Committee's* reports can be found on the Real Estate Commission's website www.ncrec.state.nc.us. Go to Site Map, then Reports]

License Applicants Must Submit Criminal Reports

Beginning January 1, applicants for North Carolina real estate licenses will be required to include with their license applications a report listing any criminal convictions or charges pending against them or stating they have no convictions or pending charges.

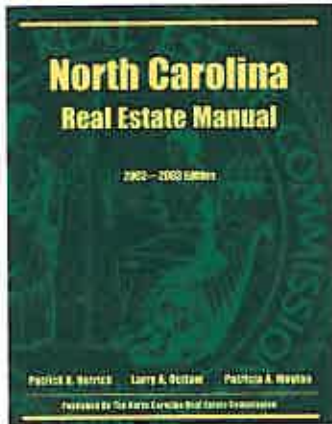
To assist license applicants in obtaining the reports, the new license application form lists the name and contact information for firms which prepare them. Generally, reports can be obtained within two or three days after ordering them and cost around \$10; however, an additional fee and time may be required if the applicant has resided in another state within the past reporting period.

According to Commission Chairman Allan Dameron, "The new reporting requirement will better assure that persons entering the real estate business possess the character expected of real estate brokers and salespersons in our State."

2002-2003 Edition

NORTH CAROLINA REAL ESTATE MANUAL

The *North Carolina Real Estate Manual*, published by the Real Estate Commission, is a comprehensive reference addressing real estate law and brokerage practice, North Carolina Real Estate License Law and Commission rules. It includes updated coverage of the July 1, 2001 agency rule changes and an expanded discussion of federal Lead Based Paint Disclosure laws. It serves as the authorized textbook for the real estate broker pre-licensing course and is highly recommended for licensees, attorneys, instructors and anyone else engaged or interested in real estate law and brokerage practice.



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At the Commission's web site, www.ncrec.state.nc.us, select the Manual icon to link directly with the book distributor. Follow the instructions for ordering with your MasterCard or Visa credit card.

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Rule Changes Proposed for 2003

Each year the Commission reviews the suggestions for rule changes received from staff, licensees and the general public during the year, determines which changes appear necessary and commences the rule-making process.

Rule changes under consideration are:

(1) To provide vacation rental managers the capability of maintaining accounts payable subsidiary ledger sheets (showing only the detail monies owed to a particular vendor at a particular time) in lieu of maintaining subsidiary ledger sheets. Some of the resort rental management software do not have the capability to generate subsidiary ledger sheets, but do generate accounts payable subsidiary ledger sheets.

(2) To clarify that licensees must disclose to the Commission within

60 days any disciplinary action taken against any occupational license that they possess.

(3) To prohibit any applicant who has submitted a salesperson license application from submitting a broker license application during the pendency of the salesperson license application. This change would prevent overlap of the Commission's hearing and licensure processes.

(4) To repeal the rule that deals with applicants for licensure whose character is in question, since a more comprehensive rule went into effect September 1, 2002.

(5) To place on the principal broker of a firm the duty to secure and preserve the records of any of the firm's offices that close or change their Broker-in-Charge. This change would clarify record-keeping responsibilities during periods of transition.

(6) To require that instructor applicants provide a video tape which is less than one (1) year old instead of allowing the submission of a tape which is three (3) years old.

The Commission has proposed that these rule changes go into effect on July 1, 2003. We welcome your comments or suggestions about these rule changes. Please send your comments or suggestions to Pamela Millward, North Carolina Real Estate Commission, Post Office Box 17100, Raleigh, NC, 27609 or e-mail them to pamela@ncrec.state.nc.us.

If you prefer, you may attend a public hearing on these proposed changes which will be held on October 16, 2002 at 9:00 a.m. at the Commission's offices, 1313 Navaho Drive in Raleigh.

Committee Studies Mandatory E&O Insurance

The Real Estate Commission's *Errors and Omissions Insurance Advisory Committee* has completed its work and filed its report and recommendations with the Commission. The committee was charged to advise the Commission on whether the Commission should support legislation to require real estate licensees to maintain errors and omissions (E&O) insurance.

As a part of its study, the committee researched insurance programs in the thirteen states which have enacted laws requiring real estate licensees to maintain E&O insurance as a condition for keeping their licenses on active status. The committee also examined the results of an e-mail survey conducted by the North Carolina Association of REALTORS® to gauge the opinion of its members regarding a possible E&O insurance requirement. The committee learned that 77% of the 1300 persons responding to the survey have E&O insurance. Also, according to the survey, a little more than half think the Commission should require all licensees to carry E&O insurance because it would reduce all agents exposure to financial loss as well as protect consumers and enhance the professional image of real estate practitioners.

At the conclusion of its study, the committee, by majority vote, recommended to the Commission that it support legislation which would permit the Commission to require all or certain of its licensees (specifically, persons with active

licenses) to purchase errors and omissions insurance and that the Commission consult with the North Carolina Association of REALTORS® and other organizations and parties which may have an interest in such legislation; however, unlike other states, the committee recommended that the legislation not direct the Commission to contract with an insurance provider for a group policy, but rather merely assure that licensees maintain the required insurance. The committee also recommended that the Commission include in a future continuing education *Update* course instruction on risk reduction, including the benefits of errors and omissions insurance coverage. The Commission approved the committee's recommendations.

The Commission very much appreciates the valuable assistance given by the following members of its advisory committee: Patrice F. Jones (Belmont), N.C. Association of REALTORS® General Counsel Will Martin, Sharon L. Pelt (Raleigh), David L. Perrot (Kitty Hawk), John D. Van Dyke (Asheville), and Commission Members Allan R. Dameron and Wanda J. Proffitt. The Commission's Director of Administration, Fran Whitley, and Legal Counsel Tom Miller served as staff advisors, and Executive Director Phillip Fisher facilitated the discussions.

[The *Errors and Omissions Insurance Advisory Committee's* report can be found on the Real Estate Commission website www.ncrec.state.nc.us. Go to Site Map, then Reports.]



BEACH BARN REALTY & DEVELOPMENT, INC. (Emerald Isle) – By Consent, the Commission revoked the firm license of Beach Barn Realty & Development effective June 1, 2002. The Commission found that Beach Barn Realty & Development failed to maintain monies belonging to others in a trust account and to properly and adequately maintain trust account records for their clients, tenants and customers.

WILLIAM R. BROWN (Pineola) – The Commission revoked the broker license of Mr. Brown effective June 1, 2002. The Commission found that Mr. Brown, as broker-in-charge of a brokerage firm, failed to account for and remit to his principals all funds of others received by him and failed to create and properly maintain trust account records required by Commission rules. The Commission also found that Mr. Brown engaged in improper, dishonest and fraudulent conduct in misapplying funds and misusing his firm's trust account to convert to his own use the funds of another company.

DANA L. CALLAWAY (Statesville) – By Consent, the Commission revoked the broker license of Ms. Callaway effective May 16, 2002. The Commission found that Ms. Callaway admitted to misappropriating funds from the trust accounts of the real estate firm with which she was associated. The Commission further found that Ms. Callaway paid partial restitution, but failed to pay the balance secured by a promissory note on or before its due date.

JAMES T. CALLIHAN (Myrtle Beach) – By Consent, the Commis-

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.

sion suspended the broker license of Mr. Callihan for a period of six months effective June 10, 2002. The Commission found that Mr. Callihan, as broker-in-charge, continued to oper-

The Commission dismissed without prejudice allegations that Mr. Conner violated provisions of the Real Estate License Law and Commission rules. Mr. Conner neither admitted nor denied misconduct.

Licensees Must Report Convictions

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 other professional 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 division at 919-875-3700 for more information.

RICHARD K. DUFF (Carolina Beach) – By Consent, the Commission revoked the broker license of Mr. Duff effective August 1, 2002. The Commission found that Mr. Duff, as broker-in-charge of a real estate firm, failed to provide to owners of rental property under his management monthly statements and to account for funds collected from tenants.

RICKEY D. EPPERSON (Winston-Salem) – By Consent, the Commission suspended the salesperson license of Mr. Epperson effective May 16, 2002. The Commission then stayed the suspension for a period of six months effective May 16, 2002. The Commission found that Mr. Epperson failed to provide full disclosure of a prior criminal conviction on his application for a salesperson license, although he subsequently disclosed the conviction on an application for a broker license.

FEDERAL POINT REAL ESTATE (Carolina Beach) – By Consent, the Commission revoked the firm license of Federal Point Real Estate effective August 1, 2002. The Commission found that Federal Point Real Estate, a real estate brokerage firm, failed to provide to owners of rental property under its management monthly statements and to account for funds collected from tenants.

MICHAEL D. GREENE (Hickory) – The Commission accepted the
(See **Disciplinary**, page 15)

ate a firm and renew its license each year despite the prior revocation of the firm's certificate of authority to do business in North Carolina by the Secretary of State's office. The Commission also found that Mr. Callihan, as broker-in-charge, delegated his trust account duties to others and failed to see that trust account records were properly maintained as required by the Real Estate License Law and Commission rules.

HERBERT B. CONNER (Matthews) – The Commission accepted the voluntary surrender of the broker license of Mr. Conner for a period of one year effective November 1, 2002.

Disciplinary

(Continued from page 14)

permanent voluntary surrender of the salesperson license of Mr. Greene effective August 1, 2002. The Commission dismissed without prejudice allegations that Mr. Greene violated provisions of the Real Estate License Law and Commission rules. Mr. Greene did not admit misconduct.

WILLIAM R. HALBERSTADT (Charlotte) – By Consent, the Commission reprimanded Mr. Halberstadt effective June 10, 2002. The Commission found that Mr. Halberstadt, in advertising a house he had listed, misrepresented the square footage of the living area and buyers relied on that representation in purchasing it. The Commission noted that while Mr. Halberstadt's representation was material, it was not intentional and that the appraised value of the property was consistent with the price paid by the buyers.

ANN HANCOCK (Oxford) – By Consent, the Commission reprimanded Ms. Hancock effective July 1, 2002. The Commission found that Ms. Hancock sold a house and lot with the representation that an incomplete apartment could be completed and occupied and that the property was suitable for use as a bed and breakfast inn. The Commission found that applicable zoning restrictions forbade use of the apartment as a separate residence and required special permission for use of the property as a bed and breakfast inn.

REID A. HARRIS (Emerald Isle) – By Consent, the Commission revoked the broker license of Mr. Harris effective June 1, 2002. The Commission found that Mr. Harris, as broker-in-charge, failed to maintain monies belonging to others in a trust account and to properly and to adequately maintain trust account records for his clients, tenants and customers. The Commission also found that Mr. Harris failed to report a criminal conviction as required by Commission rules.

JOHN J. HIRCHAK, et. al. (Castle Hayne) – By Consent, the Commission accepted the voluntary surrender of the broker license of Mr. Hirschak for a period of one year effective June 1, 2002. The Commission dismissed without prejudice allegations that Mr. Hirschak violated provisions of the Real Estate License Law and Commission rules. Mr. Hirschak neither admitted nor denied misconduct.

RULE AMENDMENTS EFFECTIVE SEPTEMBER 1

As reported in a previous issue of the Bulletin, the Commission has amended a number of its rules effective September 1, 2002. For a summary of the rule changes, refer to your February, 2002 Bulletin. Please note, however, that the \$5.00 increase in the license renewal fee approved by the Commission has not yet taken effect.

EUGENE W. JOHNSON (Charlotte) – By Consent, the Commission revoked the broker license of Mr. Johnson effective August 15, 2002 and subsequently issued him a salesperson license. The Commission found that Mr. Johnson obtained a firm license and operated the firm after it was administratively dissolved. The Commission further found that Mr. Johnson failed to maintain trust account records as required by Commission rules and that he commingled the funds of others with his own.

JANCIE L. MACMICHAEL (Sylva) – By Consent, the Commission suspended the broker license of Ms. MacMichael for one year effective June 10, 2002. The Commission then stayed the suspension for a probationary term of one year. The Commission found that Ms. MacMichael, as broker-in-charge of her sole proprietorship, failed to properly maintain trust account records so as to establish a clear audit trail. The Commission noted that Ms. MacMichael has since corrected her trust account records and ceased her property management business.

DAWN J. MCCALL (Balsam Grove) – The Commission accepted the permanent voluntary surrender of the salesperson license of Ms. McCall effective August 1, 2002. The Commission dismissed without prejudice allegations that Ms. McCall violated provisions of the Real Estate License Law and Commission rules. Ms. McCall did not admit misconduct.

REBECCA K. PADGETT (Fallston) – The Commission revoked the salesperson license of Ms. Padgett effective August 1, 2002. The Commission found that Ms. Padgett, while enrolled in a broker pre-licensing course, consulted course review materials during the final examination when she was not permitted to do so under the rules established for the examination.

GEORGE W. PHILLIPS, II (Pittsboro) – By Consent, the Commission reprimanded Mr. Phillips effective July 25, 2002. The Commission found that Mr. Phillips, in applying for a real estate license, omitted pertinent information from his application, including several outstanding judgments that had been levied against him. The Commission also found that after Mr. Phillips was licensed as a salesperson, he failed to disclose that disciplinary action had been taken against his auctioneer license.

BERTHA F. PYNE (Greenville) – By Consent, the Commission reprimanded Ms. Pyne effective July 25, 2002. The Commission found that Ms. Pyne, acting as a notary public, performed an improper notarization in a real estate transaction and that the North Carolina Secretary of State revoked her notary commission.

ANN H. SCOTT (Wilmington) – By Consent, the Commission reprimanded Ms. Scott effective June 13, 2002. The Commission found that Ms. Scott did not disclose to the seller of property she had listed the precarious financial situation of a buyer she procured.

(See Disciplinary, page 16)

Disciplinary

(Continued from page 15)

SUZANNE B. SMITH (Boone) – By Consent, the Commission suspended the broker license of Ms. Smith for a period of one year effective July 1, 2002. The Commission then withheld imposition of the suspension effective July 1, 2002 for a probationary term of two years. The Commission found that Ms. Smith failed to safeguard the MLS password of her broker-in-charge after leaving the firm and thus facilitated access to and alteration of the firm's MLS listings by an unauthorized individual.

MICHAEL S. STEWARD d/b/a **STEWART PROPERTY MANAGEMENT** (Clayton) – By Consent, the Commission revoked the broker license of Mr. Steward effective October 1, 2002. It further ordered that Mr. Steward may apply on or after December 30, 2002 and before May 2, 2003 for reinstatement of his real estate salesperson license on certain conditions. The Commission found that Mr. Steward, while acting as a rental manager, converted monies held for landlords and tenants to his own use. The Commission noted that Mr. Steward cooperated with the Commission investigation and restored the missing funds to his trust account.

PHILLIP J. STEWART, JR. (Winston-Salem) – By Consent, the Commission reprimanded Mr. Stewart effective June 1, 2002. The Commission found that Mr. Stewart, while a broker associate with a realty firm, placed the signatures of six of his customers on agency disclosure documents in four transactions. The Commission also found that no consumers appear to have been harmed as Mr. Stewart disclosed all agency relationships at the time of the transactions.

MATTHEW W. SYKES (Hamlet) – The Commission revoked the broker license of Mr. Sykes effective June 7, 2002. The Commission found that Mr. Sykes made a false statement on his application for a broker license, failed

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See new order forms on pages 6 and 7.

to report criminal convictions to the Commission and had been convicted of issuing worthless checks and possession of drug paraphernalia.

PAUL TAN (Cary) – The Commission accepted the voluntary surrender of the broker license of Mr. Tan for a period of one year effective June 12, 2002. The Commission dismissed without prejudice allegations that Mr. Tan violated provisions of the Real Estate License Law and Commission rules. Mr. Tan neither admitted nor denied misconduct.

DALE H. WARD (Boone) – The Commission accepted the voluntary surrender of the broker license of Mr. Ward for a period of two years effective August 1, 2002. The Commission dismissed without prejudice allegations that Mr. Ward violated provisions of

the Real Estate License Law and Commission rules. Mr. Ward neither admitted nor denied misconduct.

WILLIAM L. WHITE (Wrightsville Beach) – By Consent, the Commission revoked the broker license of Mr. White effective July 1, 2002. The Commission found that Mr. White, in dealing in transactions on his own account, failed to retain earnest money deposits in separate bank accounts, commingled those funds with his own money and was unable to return the earnest money deposits when the sales contracts did not close.

TAMMY J. WRIGHT (Greensboro) – By Consent, the Commission suspended the salesperson license of Ms. Wright for a period of one year effective August 1, 2002. The Commission then stayed the suspension for a probationary period of three years effective August 1, 2002. The Commission found that Ms. Wright pled guilty to felony possession of cocaine and misdemeanor possession of drug paraphernalia. The Commission noted that Ms. Wright reported these convictions to the Commission as required and participated in an intensive rehabilitation program.

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