



NORTH CAROLINA REAL ESTATE COMMISSION

Real Estate Bulletin

Volume 23

Spring 1992

Number 1

LICENSE LAW AND RULES PAMPHLET REPRINTED

Back by popular demand, North Carolina's Real Estate License Law and the Real Estate Commission's Rules are once again available in pamphlet form and will soon be ready for mass mailing to all real estate licensees.

The pocket-size brochure was last printed in 1988. Since that time, the information has been available in the larger booklet, *Real Estate Licensing in North Carolina*, designed for real estate license applicants.

In reprinting the pamphlet, the Commission is answering the request of many licensees and members of the general public who like the convenience of the smaller format.

In addition to laws and rules and their guides, the booklet also features a reprint of the State Fair Housing Act and Trust Account Guidelines.



THEY'RE IN THE MAIL!

If you have not received your real estate license renewal application, you should expect it within the next few days.

The 1992-93 broker, salesman, and corporation license renewals were mailed May 11. Look for the familiar white envelope with the wide blue stripe.

This year's broker and salesman renewal applications are lettered in blue on the usual white background; corporation renewals are light blue with dark blue lettering.

As always, renewals are mailed to your address-of-record which, for an active salesman, is the business address of the salesman's broker-in-charge.

Check your application carefully to be sure all information is correct. That includes verifying the broker-in-charge for an active salesman, and the proper principal broker for each corporation. Indicate your changes/corrections on the application. For changes other than address, the Commission will advise you in writing as to any additional documentation which may be required to effect the change.

If you do not receive your renewal application by June 1, please send your check for exactly \$25 (include no other fees with your renewal fee) to the North Carolina Real Estate Commission, Post Office Box 17100, Raleigh, North Carolina 27619-7100. Put your real estate license number on your check! Indicate your current address-of-record, as well as your home address, if it is different from your address-of-record. If you are an active salesman, also please include the name and license number of your broker-in-charge.

June 30 is the deadline for renewing without a late penalty. Be sure to have your renewal in the Real Estate Commission office by that date.

PROPERTY MANAGERS:

DEPOSIT ALL RENT RECEIPTS IN A TRUST ACCOUNT!

by Miriam J. Baer, Assistant Legal Counsel

It has come to the attention of the Commission that some property managers never deposit rent receipts and security deposits into a trust or escrow account. Instead, they deposit these funds directly into an account of the property owner, a practice which may be agreeable to the owner, but is a violation of the law.

The Real Estate License Law requires licensees to deposit all money received by them in a brokerage capacity, or as the temporary custodian of the funds, into a trust or escrow account. This means that all rent checks from tenants, as well as security deposits, must first be placed in the broker's trust or escrow account before being disbursed to the property owner. Direct deposit into an owner's account is not permitted.

Likewise, licensees are not permitted to deposit rent proceeds into a joint account with the owner, whether or not it is designated as a trust account. Thus, a broker cannot use a so-called "trust account" if the property owner has access to it. If the owner is able to withdraw funds from the account, it is not a true trust account, and does not comply with the requirements of the law.

To avoid any violations of the law, you as a property manager should set up properly designated trust or escrow accounts in your own name or the name of your brokerage
(Continued on page 8)

REAL ESTATE BULLETIN

Published quarterly as a service to real estate licensees to promote a better understanding of the Real Estate License Law, Rules and Regulations, and proficiency in ethical real estate practice. The articles published herein shall not be reprinted or reproduced in any other publication without specific reference being made to their original publication in the North Carolina Real Estate Commission Real Estate Bulletin.

NORTH CAROLINA REAL ESTATE COMMISSION

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Stephen L. Fussell.....Information Officer

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Editor
Carric D. Worthington

EXAM RESULTS

	Passed	Failed
January 1992		
Brokers	94	46
Salesmen	399	228
February 1992		
Brokers	53	31
Salesmen	207	141
March 1992		
Brokers	99	69
Salesmen	426	254

INVESTIGATOR JENKINS RETIRES

Everette H. Jenkins, an investigator with the Real Estate Commission since January of 1973, retired effective April 1, 1992. A resident of Candler, Everette investigated complaints against licensees in the western part of the state (Charlotte west).

Prior to joining the Commission staff, Everette was employed by the State Highway Patrol for eleven years.

During almost 20 years of exemplary service with the Commission, Everette received the "Certified Investigator" designation by the National Association of Real Estate License Law Officials (NARELLO), and upon his retirement, was honored by Governor Martin in awarding him the Governor's Plaque.

The Real Estate Commission and staff extend congratulations to Everette on his retirement, and best wishes to him and his wife Jo. □



Everette (center) shown after accepting the Governor's Plaque which was presented to him by Commission Member Brantley Poole (left). Also shown is Commission Investigator Jim Clinard.

EDUCATORS CONVENE

The Real Estate Commission, in cooperation with the North Carolina Real Estate Educators Association (NCREEA), sponsored the 1992 North Carolina Real Estate Educators Conference in Greensboro on April 2 and 3.

Eighty-one instructors participated in this year's conference, which focused on methods to improve student performance on the licensing examination. Veteran instructors conducted short workshops, round-table style. These sessions emphasized teaching methods to combat problems which show up as frequently missed questions on the licensing exam.

Additional sessions featured members of the Commission staff and other experts in finance, tax, arbitration, and examination preparation, who responded to questions from the instructors.

The Educators Association conferred awards for outstanding contributions in real estate education. Lois Hobbs, director of a private real estate school in Charlotte, was named Real Estate Educator of the Year.

Maggie Hagen accepted the Award



Emeritus which was posthumously awarded to her husband, David Hagen, for his contribution to real estate education. He co-authored *North Carolina Real Estate: Principles and Practices*, an approved textbook for the salesman prelicensing course.

Participating in the conference were the Commission's Director of Education and Licensing Larry A. Outlaw, Education Officer Evelyn Johnston, Examination and Licensing Officer Ann R. Britt, Appraiser Education and Examination Officer Earl H. Grubbs, and Deputy Legal Counsel Blackwell M. Brogden, Jr., with Education Secretary Penny Childress assisting with the arrangements. □

MONTHLY TRUST ACCOUNT SHORT COURSE IN RALEIGH

DATES

June 9 July 7
August 4 September 15

All Raleigh courses start at 1:00 p.m. and end at approximately 4:30 p.m.

To register for the course, telephone the Real Estate Commission Office (919-733-9580) at least 10 days prior to the course and ask for the Education Division. Please have your real estate license number (if any) handy! Registrations will be confirmed in writing, giving registrants more detailed information concerning the location of the course.

COMMISSION STAFF UPDATE



The following Commission staff members have made appearances before various real estate industry and related groups since the last issue of the *Bulletin*. Associate Legal Counsel **Marilyn E. Tomei** recently appeared on a televised panel discussion which dealt with Fair Housing issues. Marilyn was joined on the panel by both the director and the attorney for the Human Relations Commission, as well as

a representative from the City of Raleigh. Viewers throughout North Carolina and as far away as Oklahoma and Pennsylvania called in questions during the live telecast. Marilyn also appeared at the Contract Law Seminar sponsored by the Charlotte Association of REALTORS®. . . Appraiser Education and Examination Officer **Earl H. Grubbs** spoke in Raleigh at meetings of both the North Carolina and the Eastern North Carolina Chapters of the Appraisal Institute. . . Education and Licensing Director **Larry A. Outlaw** addressed the members of the Wilmington Multiple Listing Service and the Asheville Board of REALTORS®. . . Special Deputy Attorney General **Thomas R. Miller**, the Commis-

sion's Legal Counsel, spoke to the Raleigh Board of REALTORS®. . . and Deputy Legal Counsel **Blackwell M. Brogden, Jr.**, appeared before a joint meeting of the Morehead City-Carteret County Board of REALTORS® and the Women's Council of REALTORS®. (*Individuals and groups requesting a speaker from the Real Estate Commission are reminded that a "Speaker Request Form" is available from the Commission Office.*) □



REPORTING ACCURATE SQUARE FOOTAGE IS AGENT'S RESPONSIBILITY

by *Steven L. Fussell*
Information Officer

The square footage of a property is important in at least two ways: It is a primary factor in determining the market value of the property, and it is a convenient "yardstick" by which prospective buyers and tenants decide whether a property has sufficient space to satisfy their needs. Measured in square feet, the size is a material fact that must be accurately disclosed when used in advertising property for sale or lease, and the responsibility for providing this accurate information is that of the listing agent.

Some licensees use county tax records to determine a property's square footage. These licensees usually include on a property information sheet a notation that the tax record was their source of information. This practice is not acceptable under the Real Estate License Law. Although such use of tax record information is not a violation of the law *per se*, the advertisement of properties for sale using unverified information may be viewed as a negligent misrepresentation when this information is

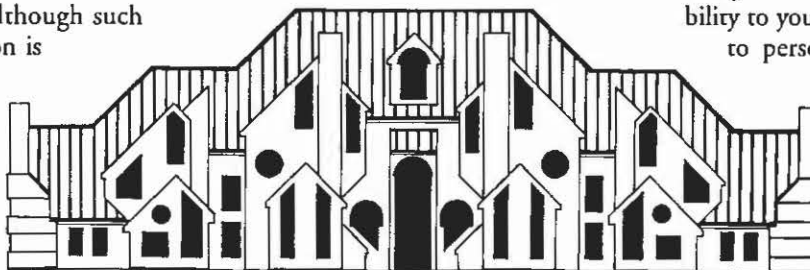
incorrect. As reported in the *Bulletin*, licensees have been disciplined for quoting inaccurate square footage. The disclaimer statement found on most MLS sheets which states, "Information herein deemed reliable but not guaranteed," will not prevent the Commission from seeking disciplinary action against an agent who advertises inaccurate information.

Tax record information which relates to the heated square footage of a property is usually derived from exterior measurements of the property and may not take into consideration the unheated/unfinished areas in the interior of the property. Therefore, the heated square footage in the tax records may be overstated. The opposite occurs when room additions or other

improvements are made to the home which may not be reflected in the square footage shown in the tax records, and in these situations, the square footage in the tax records will be *understated*.

For a property that has been previously listed, information provided by the previous agent should never be assumed to be correct, nor is it acceptable to assume the accuracy of tax records, blueprints, or old MLS sheets. Accuracy of the material facts of every property listed for sale should be verified by the agent responsible for accepting the listing on behalf of the real estate firm, because the listing agent, the listing firm, and the seller are all liable for any information presented on the property.

If you are that agent, it is your responsibility to yourself, your firm, and the seller to personally measure the property and accurately calculate the square footage. Anything less may subject you to a charge of negligent misrepresentation should the advertised square footage prove to be incorrect. □



SELLER SAYS, "HARDWOODS UNDER CARPET," BUT DID YOU CHECK?

by Marilyn E. Tomei
Associate Legal Counsel

Many of the complaints against licensees filed with the Commission involve misrepresentation of material fact. A number of these complaints involve licensees who falsely represented that homes they were offering for sale had hardwood floors under the wall-to-wall carpet.

A common excuse for these misrepresentations is, "The seller told me there were hardwoods under the carpet." But "The seller told me..." is not an adequate defense to such a complaint.

Under North Carolina's Real Estate License Law, a licensee may be disciplined for misrepresenting or omitting a material fact even if it was unintentional or due to negligence in verifying facts. Thus, if a seller tells you that the home has hardwood floors under the carpet, you must take steps to verify the seller's statement.

Unfortunately, some sellers may deliberately misrepresent their homes' features in order to make their homes more appealing. Or the seller might not know the true facts. For example, in a complaint received last year, the sellers (and the builder) firmly believed that their townhouse had hardwood floors throughout. But in fact, the townhouse had no hardwoods in the formal areas.

In another case, the sellers insisted that there were hardwood floors under the carpet, but adamantly refused to let the listing

agent pull up the carpet to verify their statement. Although their refusal should have been a "red flag," the agent took the sellers' word for it and advertised the property as having hardwood floors throughout. When the buyers pulled up the carpet to refinish the floors, they were extremely disappointed to discover that the floors were not hardwood.

Verifying hardwood floors can be done a number of ways. If a home with carpeted floors has forced air heat, look for vent covers on the floor. The vent cover may lie unattached on the carpet, with a hole cut out of the carpet to allow for the flow of air. Thus, you can lift the vent cover to reveal the floor.

Another method is looking inside a closet. The wall-to-wall carpeting may not extend all the way into a closet with a hardwood floor. If the floor of the closet is hardwood, the entire room is probably hardwood. But if the floor of the closet is carpeted, you must use one of the other methods to verify the floor underneath.

In a room that has no quarter-round or base molding around the perimeter of the floor, you may be able to see the floor by picking up the carpeting at a corner and then carefully replacing it.

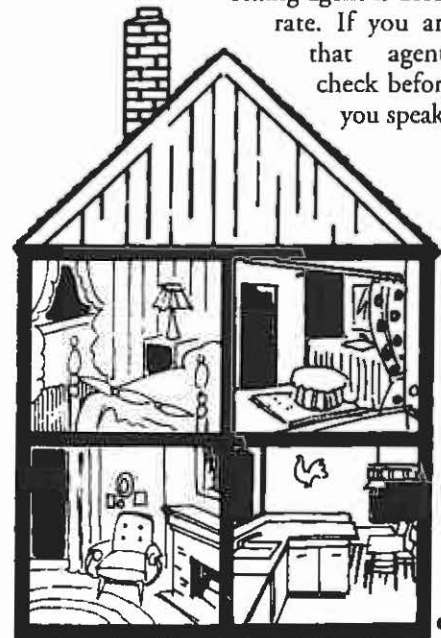
Also, carpet and floor installers often use a metal transition strip (called a "reducer") between a carpeted room and a room with different flooring. Thus, you may be able

to pull up the reducer and look underneath to determine the flooring.

If none of these verification methods is practical, you must be cautious in your advertising. You should not advertise the property as having hardwood floors unless you indicate in your advertising, "Hardwoods believed to be under carpet, but not verified"; or "Hardwoods under carpet - per seller"; or some similar indication that you have not independently checked this feature of the property.

Also, if you are an MLS member, you cannot avoid responsibility by relying on the disclaimer that the information in the MLS is thought to be correct, but must be verified by the buyer.

Remember, buyers have every reason to believe that information provided to them by the listing agent or selling agent is accurate. If you are that agent, check before you speak.



ON THE LIGHTER SIDE: Is a Snake a "Material Fact"?

Members of the Commission's legal staff receive numerous calls from licensees and consumers. Often these calls are inquiries about whether a given set of circumstances constitutes a "material fact" about a property that should be disclosed to prospective tenants or purchasers. Sometimes these inquiries go beyond circumstances concerning the structure or physical condition of the property itself; but whatever the question, it is given careful consideration and an objective answer.

However, a recent call to Consumer

Protection Officer Anita Burt produced a question that was a true test of her objectivity. A property manager reported that one of her former tenants had owned a very large boa constrictor. The snake had recently escaped and was still missing when the tenant vacated the property.

Because the boa constrictor had not been found prior to the termination of the tenant's lease, the property manager was faced with the question of disclosing the missing reptile to prospective tenants.

Although Ms. Burt admits a bias against

snakes, especially very large ones, she professes to have put her prejudice aside when she told the licensee that the snake incident was indeed a material fact, and that in her opinion, it "would affect the decision of a reasonable and prudent person whether or not to rent the property!" □



ANSWERLINE: STIGMATIZED PROPERTIES

by *Marilyn E. Tomei*
Associate Legal Counsel

With increasing frequency, the Commission's legal staff receives questions about the marketing of stigmatized properties. By definition, a "stigmatized property" is one which buyers or tenants may shun for reasons which are unrelated to its physical condition or features.

The questions below – followed by responses from the legal staff – represent a sampling of those asked by licensees:

Q: I am a licensed broker. The seller of a property I have listed is the executor of his brother's estate. The brother resided in the house and was killed there. The seller/executor doesn't want me to tell prospective buyers about the circumstances of his brother's death. Yet, I know I have a duty to disclose all material facts about the property. Can I withhold this information from prospective buyers?

A: N.C.G.S. § 39-50 states, "In offering real property for sale, it shall not be deemed a material fact that the real property was occupied previously by a person who died or had a serious illness while occupying the property..." The statute goes on to say, however, that the seller may not "knowingly make a false statement concerning such past occupancy." (This law also applies to agents of sellers as well.)

Thus, you need not volunteer information to a prospective buyer about the previous occupant's death. But, if you are asked a direct question (such as, "How did the previous owner die?"), you must answer truthfully.

Q: What if the executor wants me to find a tenant to rent the property, rather than a buyer for it?

A: The same rule applies. Pursuant to N.C.G.S. § 42-14.2, the death or serious illness of a previous occupant is not a material fact. Therefore, unless they ask, you need not tell prospective tenants that a death occurred in the property.

Q: What if the executor's brother died of AIDS?

A: A death due to AIDS (Acquired Immune Deficiency Syndrome) is treated differently. The federal government considers people with AIDS

to be handicapped, and as such, they are protected under the federal fair housing laws from discrimination in housing transactions.

Consequently, if you are asked by a prospective buyer or tenant whether the previous occupant of the property had AIDS, you should treat it just as you would a question about the person's race, religion, or nationality by answering that it is against the law for you to respond to the question or to discuss such issues.

CAVEAT: The time to define legal obligations in a transaction involving a stigmatized property is in the beginning. If you and your principal discuss these issues at the time the listing is taken or the property management agreement is entered into, the property owner is less likely to be unpleasantly surprised later on in the transaction. □

IS YOUR SUB-S CORPORATION LICENSED?

by *Blackwell M. Brogden, Jr., Deputy Legal Counsel*

Many real estate licensees, for tax and liability reasons, choose to incorporate their brokerage firms. Some brokerage firms elect tax treatment as Subchapter S corporations.

The Commission has also observed that a number of "individual" brokers (and some salesmen) associated with brokerage firms have, for tax purposes, formed their own corporations to receive their brokerage fees and commissions and also elected Subchapter S tax treatment.

All corporations, without regard to their tax status, must obtain real estate licenses from the Real Estate Commission.

This presents two special problems for salesmen: First of all, since every licensed

corporation must have a principal broker who is an executive officer of the corporation, the salesman must retain a licensed broker who is willing to assume the responsibility of a corporate officer.

Secondly, since a salesman may receive compensation only from his or her broker-in-charge, the broker-in-charge of the salesman's corporation must also be the broker-in-charge of the office with which the salesman is associated.

The Commission reminds licensees that, for purposes of the Real Estate License Law, Subchapter S corporations are treated the same as other corporations and therefore must obtain their own, separate real estate license. □

REMINDER

*All corporation
real estate
licenses expire
June 30!
(See page 1.)*



HUD NOTIFICATION ON KICKBACKS

From the U.S. Department of Housing and Urban Development

The following article, which appeared in the Utah Real Estate News, is being reprinted because of its relevance to North Carolina licensees. The Utah Real Estate News granted permission for its reprinting.

Our office has recently received a large volume of complaints from mortgage lenders regarding the practices of some real estate professionals. These lenders have reported that certain real estate agents and brokers are soliciting referral fees for steering clients to their organizations for loan approval.

The purpose of this notice is to inform you that this practice is strictly prohibited under the Real Estate Settlement Procedures Act (RESPA). Payment of a referral fee might cause an agent or broker to refer all business to a lender who is currently paying the best fee rather than to a lender who could provide the best service at the least cost to the borrower. Further, a lender would jeopardize its HUD approved status by being put in a position to violate our regulations in order to be competitive in the industry.

A new task force has recently been established within the Department of Housing and Urban Development to identify these violations. This group, known officially as the RESPA Enforcement Unit, has its headquarters in Washington and is designed to check out allegations of kickback schemes anywhere in the nation.

We are prepared to initiate administrative sanctions against any program participant who violates our requirements in this area. A Limited Denial of Participation will be imposed against the agent or broker and the loan officer. This would prohibit any involvement in FHA programs for up to one year. We will also make a complaint to the state licensing agency based on unprofessional conduct of a licensee.

For real estate firms prosecuted and found guilty of intentional violations, the law provides for penalties such as jail terms, hefty fines, and restitution and damage awards as well as indefinite debarment from federal programs.

We know that most of you in the real estate industry would not knowingly violate HUD regulations. We hope you understand the need for notices such as this so that we can continue our excellent working relationship.

RETURN OF THE "BAD PENNY"

by Blackwell M. Brogden, Jr.
Deputy Legal Counsel



The improper completion and illegal drafting and preparation of real estate instruments appears to be a recurring problem. The following discussion should help licensees avoid some of the common pitfalls:

Offers or Contracts to Purchase, Options and Lease Agreements

When a licensee acts as a broker or salesman in a real estate transaction, the rules of the Commission allow the licensee to fill in certain pre-printed forms. These forms include offers to purchase and contract, option contracts, and lease agreements. However, agents may not create or modify such forms.

Promissory Notes and Deeds

A real estate licensee may not prepare or complete promissory notes or deeds, even

when the note or deed is on a pre-printed form. The preparation or completion of promissory notes and deeds for others constitutes the unauthorized practice of law, and is therefore prohibited.

Like a "bad penny" which "keeps showing up," the consequences of improper or illegal completion and drafting of real estate instruments will continue to bedevil the licensee who prepared them. These consequences may include embarrassment, confusion, financial loss, and even disciplinary action by the Real Estate Commission.



PUBLICATIONS ORDER FORM

Publication

No. Copies Requested

"Questions and Answers on: Tenant Security Deposits"

(Free Brochure)

Also available in bulk to property managers to distribute to tenants and landlords.

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

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

(Free 28-page Booklet)

Also available in bulk to coastal and western N.C. real estate firms to distribute to clients and customers.

(Orders of more than 50 copies require special consideration.)

Firm Name

Phone

Street Address (NOT P.O. Box)

City

State

Zip

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

DISCIPLINARY ACTION

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

ROBERT L. ACREE (Charlotte) – By Consent, the Commission reprimanded Mr. Acree effective February 7, 1992, for failing, as a selling agent, to fully inform a listing agent that a check given as an earnest money deposit had been dishonored. Mr. Acree neither admitted nor denied any misconduct.

JAMES B. BOGGS (Denton) – By Consent, the Commission suspended Mr. Boggs' broker's license for two years effective February 1, 1992. Three months of the suspension are to be active and the remaining period stayed for a probationary term of one year. The Commission found that Mr. Boggs had failed to adequately supervise bookkeeping personnel which led to a trust account shortage. The Commission noted that, when he discovered the shortage, Mr. Boggs replaced the missing funds, reported the shortage to the Commission, and instituted a new bookkeeping system. The Commission also found that Mr. Boggs had, on more than one occasion, provided an inaccurate closing statement to the seller in a real estate transaction.

BOYCO PROPERTIES, INC. (Raleigh) – The Commission revoked Boyco Properties, Inc.'s corporate real estate broker's license effective January 6, 1992. The Commission found that the corporation had failed to maintain trust monies in a trust or escrow account, had failed to account for and remit an earnest money deposit within a reasonable time, had converted trust monies to its own use, and had commingled trust monies with the firm's funds. The Commission also found that the corporation had failed to make and retain adequate records of its brokerage transactions, and refused the Commission's auditor access to its trust account records.

BRET J. BOYD (Raleigh) – The Commission revoked Mr. Boyd's broker's license effective January 6, 1992. The Commission found that Mr. Boyd, as principal broker and broker-in-charge of a

real estate corporation, had failed to maintain trust monies in a trust or escrow account, had failed to account for and remit an earnest money deposit within a reasonable time, had converted trust monies to his own use, and had commingled trust monies with his own funds. The Commission also found that Mr. Boyd had failed to make and retain adequate records of his brokerage transactions, and had refused the Commission's auditor access to his trust account records.

PATRICIA H. BRIGGS (Chapel Hill) – By Consent, the Commission reprimanded Ms. Briggs effective January 10, 1992, for acting as a real estate salesman after her real estate license had expired.

JEROME M. LEVIT (Chapel Hill) – By Consent, the Commission suspended Mr. Levit's broker's license for six months effective April 1, 1992. The Commission then stayed its Order and placed Mr. Levit on probation for one year on the condition that he complete the Commission's Trust Account Course. The Commission found that Mr. Levit, as principal broker of a corporation, had failed to adequately supervise a bookkeeping employee which led to a shortage in the firm's trust account. The Commission noted that, when he discovered the shortage, Mr. Levit terminated the employee, immediately notified the Commission, and executed a settlement agreement providing for the replacement of the missing funds. Mr. Levit did not admit any misconduct.

ALBERT N. MOSLEY (Duck) – By Consent, the Commission suspended Mr. Mosley's salesman's license for two years effective February 15, 1992. The Commission found that Mr. Mosley had been convicted of the criminal offenses of fraud and making false statements on a loan application.

ATHENA P. NELSON (Wilmington) – By Consent, the Commission suspended Ms. Nelson's broker's license for four years effective January 15, 1992. One year of the suspension is to be active, and the remaining period stayed. The Commission found that Ms. Nelson had commingled trust monies with her personal funds, had failed to keep accurate trust account records, and had failed to maintain ledgers and journals. The Commission also found that Ms. Nelson's license renewal check to the Commission had been dishonored, and that she had continued to engage in

the business of a real estate broker after the expiration of her license.

CLEO SCREWS (Gastonia) – By Consent, the Commission reprimanded Mr. Screws effective February 21, 1992, for failing to comply with a county ordinance while developing and selling property which he personally owned.

JACKIE D. STANSELL (Bridgeton) – By Consent, the Commission suspended Ms. Stansell's broker's license for four years effective April 1, 1992. The Commission found that Ms. Stansell, while engaging in property management, had failed to maintain trust monies in a trust or escrow account, had failed to keep adequate records of the funds she collected, and had failed to properly account for or remit funds to the property owners.

VANGUARD ASSOCIATES, INC. (Chapel Hill) – By Consent, the Commission reprimanded Vanguard Associates, Inc., effective February 12, 1992. The Commission found that the corporation had failed to adequately supervise an unlicensed employee which led to a shortage in the firm's trust account. The Commission noted that, when the corporation discovered the shortage, it immediately notified the Commission and executed a settlement agreement providing for the replacement of the missing funds. Vanguard Associates, Inc., did not admit any misconduct.

JOHN W. VAUGHN (Mount Airy) – By Consent, the Commission suspended Mr. Vaughn's broker's license for two years effective January 15, 1992. One year of the suspension is to be active and the remaining period stayed for a probationary term of one year. The Commission found that Mr. Vaughn had been convicted of the criminal offense of possession of cocaine.

DEBORAH C. WALKER (Madison) – By Consent, the Commission suspended Ms. Walker's broker's license for one year effective February 15, 1992. Six months of the suspension are to be active and the remaining period stayed for a probationary term of six months. The Commission found that Ms. Walker had made an inaccurate statement in a personal FHA loan application by stating that she would personally reside in a dwelling when, in fact, she was purchasing the property for investment purposes.

(Continued on page 8)

DISCIPLINARY ACTION

(Continued from page 7)

CRAIG A. WHITLEY (Charlotte) —By Consent, the Commission suspended Mr. Whitley's broker's license for five years effective March 1, 1992. Three years of the suspension are to be active and the remaining period stayed for a probationary term of two years. The Commission found that Mr. Whitley, while acting as a broker for a real estate firm, had falsified and altered a preprinted offer to purchase and contract form and signed the form on behalf of the buyers without their permission. The Commission further found that after he had left the firm, Mr. Whitley endorsed a commission check made payable to his former employer and deposited the check into his personal account. Mr. Whitley neither admitted nor denied any misconduct. □

ON THE INSIDE . . .

License Law and Rules
Pamphlet Reprinted

Investigator Retires

Educators Convene

Is Your Sub-S Corporation
Licensed?

On the Lighter Side
Answerline

Reporting Accurate Square Footage

Return of the "Bad Penny"

. . . And More

DEPOSIT RENT RECEIPTS IN A TRUST ACCOUNT

(Continued from page 1)

company. No property owners should be given access to the account, nor should their names appear on the signature cards. Every deposit and rent check you receive should be deposited into the trust or escrow account, and then, at the appropriate time, disbursed from that account to the owner and to anyone else entitled to a portion of the funds. Remember, however, that salesmen cannot independently handle trust funds in their own names. Rather, salesmen must immediately turn over all trust monies they receive to their brokers-in-charge.

Furthermore, as a property manager, you must be sure to keep adequate records regarding the properties you manage and the handling of trust funds related to that property. You must maintain deposit tickets for rent and security deposits showing that the monies were deposited in a timely manner into your trust or escrow account, and you must retain canceled checks showing disbursements to the property owners and others.

You should also maintain a ledger card for each property owner for whom you manage property, and a journal or check stubs for the trust or escrow accounts. The journal or check stubs must identify each transaction and show a running balance for funds in the account. In addition, you should retain copies of contracts, leases and management statements, bank statements, and any other documents necessary to explain the handling of funds received on behalf of the owner.

Your diligence in following these procedures and having your bookkeeping records ready for an audit by the Real Estate Commission may save you from disciplinary action, and will stand you in good stead as a competent property manager. □

Have you received your real estate license renewal application?

(See page 1.)

Reminder: June 30 is the renewal deadline!



RENEW EARLY!

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