



# NORTH CAROLINA REAL ESTATE COMMISSION

## Real Estate Bulletin

Volume 29

Spring 1998

Number 1

### Commission Staff Update



Tracy A. Turner

The Real Estate Commission recently filled a position in the Legal Services Division. Tracy A. Turner has been employed as

Legal Secretary/Receptionist. The position has been vacant since Wanda Johnson transferred to the Education and Licensing Division.

A native of Jacksonville, Florida, Tracy attended Florida Community College and Jones Business College. Prior to her permanent employment with the Commission, she worked through an employment agency and served for several months on a temporary basis as the Commission's receptionist.

In her present position, Tracy will act as receptionist for the Legal Services Division and provide the division with secretarial assistance.



The following Commission staff members have made appearances before various real estate industry and related groups since the last issue of the *Bulletin*. Special Deputy Attorney General Thomas R. Miller, the Commission's Director of Legal Services, discussed general licensing

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### Commission endorses Broker-in-Charge Guidelines for supervising real estate salesmen

**Brokers-in-charge should study the guidelines and be sure that the supervision they are exercising over their salesmen is in compliance.**

Upon the recommendation of an Advisory Committee formed by the Real Estate Commission (*Bulletin* Volume 28, No. 2), the Commission has endorsed guidelines to assist brokers-in-charge in understanding their responsibilities with regard to supervising real estate salesmen.

*Real Estate Commission Rule A .0506(c) A broker-in-charge who certifies to the Commission that he will supervise a licensed salesman shall actively and personally supervise the salesman in a manner which reasonably assures that the salesman performs all acts for which a real estate license is required in accordance with the Real Estate License Law and Commission rules. A supervising broker who fails to supervise a salesman as prescribed in this Rule may be subject to disciplinary action by the Commission.*

The following factors will be among those used by the Real Estate Commission to determine adequacy of supervision; however, the Commission is not limited to making a determination on these factors alone, but will examine all pertinent evidence.

1. Whether the broker-in-charge is physically available to assist, advise and review the practice of the salesman, and whether the salesman is physically able to be supervised.

[Note: A broker-in-charge must be reasonably available to manage and supervise salesmen during regular business hours. When a broker-in-charge is a regular full-time employee or is engaged in a full-time activity at a location other than the office of the broker-in-charge, a presumption will

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### Renewal reminder!

Renewal applications will be mailed in mid-May. To avoid the expiration of your license and the \$5 late renewal fee, your renewal application must be returned to the Commission with your fee and received in the Commission office no later than June 30. ■

## REAL ESTATE BULLETIN

Published quarterly 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 North Carolina Real Estate Commission Real Estate Bulletin.

### NORTH CAROLINA REAL ESTATE COMMISSION

1313 Navaho Drive  
P.O. Box 17100  
Raleigh, North Carolina 27619 - 7100  
Phone 919/875-3700  
James B. Hunt, Jr., Governor

### COMMISSION MEMBERS

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Chairman  
Mona S. Hill ..... Pinehurst  
Vice-Chairman  
Raymond A. Bass, Jr. .... Fayetteville  
John D. Bridgeman ..... Gastonia  
Sang J. Hamilton, Sr. .... Winton  
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Editor - in - Chief

Phillip T. Fisher

Editor

Carrie D. Worthington

## Commission Staff Update

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enforcement at a seminar for the UNC School of Law in Chapel Hill...Chief Deputy Legal Counsel Blackwell M. Brogden, Jr., spoke on agency-related issues when he addressed the Rocky Mount Area Association of REALTORS®, Inc....Janet B. Thoren, the Commission's Associate Legal Counsel, appeared before the Burke County Board of REALTORS® in Morganton to discuss topics of special interest and concern to real estate agents...and Consumer Protection Officer Stephen L. Fussell

talked about matters relating to complaints the Commission receives involving property management, when he addressed a Property Management Meeting of the Fayetteville Association of REALTORS®, Inc.

(Individuals and groups requesting a speaker from the Real Estate Commission are reminded that a "Request for Program Presenter" form is available from the Commission Office or by calling (919) 850-2757 for Document No. 510.) □

### REAL ESTATE COMMISSION PUBLICATIONS ORDER FORM

	No. Copies Requested
<i>Res. Property Disclosure Statement and Guidelines</i> (Please limit request to one copy.)	_____
<i>Questions and Answers on: Tenant Security Deposits</i>	_____
<i>Questions and Answers on: Fair Housing</i>	_____
<i>Questions and Answers on: Condos and Townhouses</i>	_____
<i>Questions and Answers on: Who Agents Represent</i>	_____
<i>Questions and Answers on: Purchasing Coastal Real Estate in North Carolina</i>	_____
<i>Questions and Answers on: Renting Residential Real Estate</i>	_____

( )  
Name \_\_\_\_\_ Phone Number (Including Area Code) \_\_\_\_\_  
Street Address (NOT P.O. BOX) \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

### Instructions

1. You may request single copies of these free publications by returning this Order Form or calling the Commission office (919) 875-3700, menu option 3.
2. To order multiple copies of these publications, please complete this Order Form and return it to the N.C. Real Estate Commission, P.O. Box 17100, Raleigh, N.C. 27619-7100. Attention: Publications.
3. Please allow two weeks for delivery.
4. Please understand that orders of more than 50 copies require special consideration.
5. The Residential Property Disclosure Statement and Guidelines may be duplicated as needed.
6. Space has been provided on the *Questions and Answers* brochures if you wish to add your company name.

# Broker-in-charge Guidelines

(continued from page 1)

- be made that the broker-in-charge is unable to so manage an office.]
- Whether the broker-in-charge has established written policies and procedures under which salesmen are expected to operate, including supervisory policies and practices for the review of documents and other information prepared by the salesmen.
  - Whether the broker-in-charge reviews and monitors the brokerage activities of salesmen in his charge.
  - Whether the broker-in-charge holds regular staff meetings and otherwise assures that policies and procedures are being properly implemented.
  - Whether the broker-in-charge provides ongoing, quality training programs and materials to salesmen, and disseminates, in a timely manner, all regulatory information which he receives pertaining to the practice of real estate brokerage.
  - The experience level of the salesman.  
[Note: The level of supervision should be commensurate with the level of qualification and experience of the salesman being supervised.]
  - The number of salesmen supervised by the broker-in-charge and the ratio of supervisors to salesmen.

- Whether the broker-in-charge has delegated supervisory responsibility to another licensee at the office; and if so, the level of training and experience of the licensee, and the procedures established to verify that adequate supervision is being performed.  
[Note: In the event a broker-in-charge delegates his duties and responsibilities to another licensee, the broker-in-charge remains responsible for supervising all salesmen in his charge.]
- The types of activity in which the salesman is engaged.  
[Note: A salesman must keep the broker-in-charge fully informed of all activities being performed by the salesman which require a

real estate license and any other activities that might impact on the responsibilities of the broker-in-charge. However, the failure of the salesman to keep the broker-in-charge fully informed shall not relieve the broker-in-charge of his duties, obligations or responsibilities as broker-in-charge.]

- Whether the broker-in-charge takes any corrective or remedial action upon learning of a violation of the license law or Commission rules by a salesman in his charge. Or whether the broker participated in, ratified or attempted to avoid learning of the violation. □

EXAM RESULTS		
	Passed	Failed
December		
Brokers	161	86
Salesmen	390	258
January		
Brokers	124	89
Salesmen	475	319
February		
Brokers	106	95
Salesmen	156	220

## REGISTRATION FORM for BASIC TRUST ACCOUNT PROCEDURES COURSE MONTHLY - RALEIGH

**Four (4) hours continuing education elective credit will be awarded for completion of the course.** The course will begin at 1:00 p.m. and end at 5:00 p.m.

The course is intended for brokers and trust account bookkeepers. Salesmen will be admitted on a space available basis. Each session is limited to 40 participants, scheduled according to date received.

Complete this form *(make copies for additional persons)* and mail with a check for **\$35 tuition fee** to be received by the Commission no later than 7 working days prior to date of preferred session. **Walk-ins will be accepted on a space available basis only.**

- ☐ June 2 ☐ July 7  
☐ August 4 ☐ September 15

Name \_\_\_\_\_ Phone \_\_\_\_\_

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

- ☐ Broker (License No. \_\_\_\_\_) Mail to: **NC REAL ESTATE COMMISSION**  
 Attention: License Specialist  
 P. O. Box 17100  
 Raleigh, NC 27619-7100  
☐ Salesman (License No. \_\_\_\_\_)  
☐ Bookkeeper

**Enclose \$35 tuition fee**

# Communicating with the Commission

## Mail

1313 Navaho Drive  
Post Office Box 17100  
Raleigh, North Carolina 27619-7100

## Fax

919/872-0038  
919/981-5023 (Legal Services Division)

## Telephone

919/875-3700

You will receive more prompt service if you use this directory when calling the Commission. If the automated telephone attendant answers your call, you may access the section or division shown in the "Access Code" column by dialing on your touchtone phone the number shown parenthetically ( ).

Subject	Access Codes
• Application form requests	Receptionist (0)
• Real estate license renewals and record changes	Records Section (1)
• Complaints and legal matters (Consumer complaints/inquiries, pending cases/hearings)	Legal Services Division (2)
• Education matters	Education Section (3)
• Real estate license qualifications and examinations	Application Section (4)
• Real estate firm licensing and licensing by reinstatement or reciprocity	Licensing Section (5)
• Complaint investigations and audits	Audits and Investigations Division (6)
• Administration, personnel matters and accounting	Administration Division (7)
• Other matters	Receptionist (0)

## Interactive Voice Response

To retrieve licensee data (license status, CE credits, broker-in-charge information, etc.) from the Interactive Voice Response (IVR) system, use a touchtone phone to dial (919) 850-2753.

## Internet

"Visit" the Commission on-line at Web Site: [www.ncrec.state.nc.us](http://www.ncrec.state.nc.us) - your easy access to Commission information. The Internet brings to your computer screen licensing information including the License Law, Commission Rules, Trust Account Guidelines, State Fair Housing Act, general information and guides, sample forms and real estate licensing forms. Also, exam schedules and review dates as well as Commission publications including the *Bulletin* (and index of *Bulletin* articles), *CE Schedule*, Commission brochure and the complete *Question and Answer Series*.

## E-Mail

• Executive	exec@ncrec.state.nc.us
• Administration	admin@ncrec.state.nc.us
• Education & Licensing	educ@ncrec.state.nc.us
• Audits & Investigations	ai@ncrec.state.nc.us
• Legal Services	legal@ncrec.state.nc.us
• Records	records@ncrec.state.nc.us

## Fax-on-Demand

The following documents are available from the various Commission Divisions/Sections by dialing on your touchtone phone (919) 850-2757.

Document #	Administration/Records
200	Request to Activate Broker or Salesman License, Notification of Salesman Supervision, Notification of Change of Broker's Business Address
210	Broker-in-Charge Declaration
220	Request for Reissuance of Real Estate License Certificate and/or Renewal Pocket Card
Education/Licensing	
300	Continuing Education Course Schedule
310	Publications Order Form
320	License Examination Schedule and License Examination Review Schedule
330	Basic Trust Account Procedures Course Schedule and Registration Form
340	Order Form for License Examination Candidate Roster/Order Form for Register of New Licensees
350	Verification of Salesman Experience
360	Request for Equivalent Education Credit
Legal Services	
400	Complaint Form
410	Criminal Conviction Reporting Form
420	Residential Property Disclosure Statement
430	Disclosure to Buyer From Seller's Agent or Subagent

## Other

500	1998 Commission Meeting Schedule
510	Request for Program Presenter

Here's a handy list of addresses for you to copy, clip and save for your ready-reference when communicating with the Commission.

### Interactive Voice Response

(919) 850-2753

**Mail**



1313 Navaho Drive  
Post Office Box 17100  
Raleigh, NC 27619-7100

**Phone**



919/875-3700

**Web Site**



[www.ncrec.state.nc.us](http://www.ncrec.state.nc.us)

**Fax**



919/872-0038  
919/981-5023 (Legal Services Division)

**Fax-on-Demand**

919/850-2757

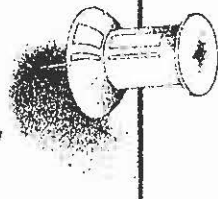
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Legal Ser. .... legal@ncrec.state.nc.us  
Records ... records@ncrec.state.nc.us



# Statistically Speaking:

## Licensee *Facts and Figures*



By Larry A. Outlaw, Director of Education and Licensing

Here are a few licensing facts and figures that should be of interest to you as a real estate licensee.

### Licensees

During the 1987-97 decade, the net total increase in the number of individual licensees was only 4,605 (a 6.4% increase). However, the ratio of licensed salesmen to brokers changed significantly. The number of salesmen increased by 9,431 (a 36% increase), while the number of brokers decreased by 4,826 (an 11% decrease).

**North Carolina licensees and license applicants enjoy some of the lowest fees in the country.**

These changes almost certainly are due to the increases in the broker education requirement in 1981 and 1984. In the near future, there probably will be as many salesmen as brokers — unlike the pre-1979 days, when the ratio was 90% brokers and 10% salesmen.

	1987	1997	% Change
<b>Salesmen</b>	<b>26,367</b>	<b>35,798</b>	<b>+36%</b>
<b>Brokers</b>	<b>45,783</b>	<b>40,957</b>	<b>-11%</b>
<b>Total</b>	<b>72,150</b>	<b>76,755</b>	<b>+6.4%</b>

The total number of licensees peaked at 82,414 in June 1995, just before continuing education was required. Continuing education probably also led to the decrease of 5,659 (7%) in the number of licensees between 1995 and 1997. However, this is considerably smaller than was anticipated during the CE program's planning phase. Based on the current number of licensees (see below), it appears that there will be little or no decrease in licensees this year.

As of March 1998, the number of individual real estate licensees is as follows:

	Active	Inactive	Total
<b>Salesmen</b>	<b>14,866</b>	<b>20,247</b>	<b>35,113</b>
<b>Brokers</b>	<b>26,838</b>	<b>13,239</b>	<b>40,077</b>
<b>Combined</b>	<b>41,704</b>	<b>33,486</b>	<b>75,190</b>

### License Applicants

Since 1985, applicants for salesmen licenses by examination have outnumbered broker applicants by a ratio of approximately four to one (4:1). The highest number of applicants in one year occurred in 1986-87, when the Commission tested 15,880 candidates.

For the past four years, the total number of applicants taking license examinations each year has been quite consistent, ranging between 8,956 and 9,552. The total in 1996-97 was 9,228.

### License Fees

North Carolina licensees and license applicants enjoy some of the lowest fees in the country. Only two states (Michigan and Kentucky) have license renewal fees lower than North Carolina's \$30 renewal fee, and our \$30 license application fee is the lowest in the country! □

**The Commission reminds you that licensees who are actively engaging in real estate brokerage are required to pay a privilege license tax to the North Carolina Department of Revenue each year.** ■

## Commission Calendar

### Meeting Dates

May 13  
June 10  
July 16 (Asheville)  
August 12  
September 9

Meetings begin at 9 a.m. and are held in the conference room of the Real Estate Commission office, 1313 Navaho Drive, Raleigh, NC 27609, unless otherwise noted. *[Please understand that circumstances sometimes necessitate changes in meeting dates and times.]* ■

# Commission adopts and amends rules



**F**ollowing a rulemaking hearing on February 10, The Real Estate Commission at its February 11 meeting approved the adoption and amendment of certain rules which become **effective August 1, 1998**, if they are approved by the General Assembly. A detailed summary of the rules was included in the last issue of the *Real Estate Bulletin* (Volume 28, Number 4, Winter 1998). For a complete text of the rules, please contact the Commission office.

The adopted/amended rules clarify provisions and provide new requirements for real estate agents on issues that include the display of licenses and pocket cards, the reporting to the Commission of personal and business name-changes and changes-of-address, the handling of trust monies, record-keeping, responsibilities of brokers-in-charge and principal brokers, license

reinstatement, designated agency and other agency relationships.

Also, the rules address the payment by continuing education course sponsors of student fees to the Commission (eliminating the requirement of a separate check for each separate class session), set forth procedures for the summary suspension of real estate licenses, and reinstate a provision granting license applicants a maximum of 60 days following request to submit any information needed to make their applications current. An obsolete rule regarding the Appraisal Board has been eliminated.

The Commission adopted a "Residential Property Disclosure Statement" form which will become **effective October 1, 1998**, if approved by the General Assembly. A draft of the form appeared in the last issue of the *Bulletin*. The form as adopted will appear in a future *Bulletin* - prior to the effective date. □

# Disciplinary action

*Penalties for violations of the Real Estate License Law and Commission Rules vary depending upon the particular facts and circumstances present in each case. Due to space limitations in the Bulletin, a complete description of such facts cannot be reported in the following Disciplinary Action summaries.*

DAVID L. ACQUAVIVA (Murphy) - By Consent, the Commission reprimanded Mr. Acquaviva effective March 1, 1998. The Commission found that while acting as selling agent in the sale of property in mid-1992, Mr. Acquaviva had failed to insert a correct legal description of the property in the purchase offer which he had prepared, thereby causing buyers to close the purchase of another lot.

RICHARD P. BAER (Kill Devil Hills) - By Consent, the Commission suspended Mr. Baer's broker license for 45 days effective February 1, 1998, followed by a probationary term of one year. The Commission found that Mr. Baer, acting as broker-in-charge and on behalf of his licensed real estate firm in the management of certain residential rental units, had attempted to dishonor oral lease agreements, had failed to promptly undertake certain repairs and cleaning of property as promised to a pair of prospective tenants, and had used a residential lease form which purported to give himself and the landlord authority not permitted by law. The Commission further found that Mr. Baer had failed to properly maintain trust account ledgers and general journals and that he had not prepared a monthly trial balance for

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## In Memoriam

With deep regret, the Real Estate Commission announces the death of former Commission member Rufus L. Brock of Mocksville. Mr. Brock served on the Commission from 1974 - 1977.

The Commission extends deepest sympathy to Mr. Brock's family.

# Disciplinary action

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the accounts. The Commission noted that Mr. Baer subsequently corrected the lease form and his trust account record-keeping practices, and that at no time was there any evidence of any unlawful conversion of trust monies.

**BAER'S COTTAGES AND PROPERTIES, INC. (Kill Devil Hills)** - By Consent, the Commission suspended the firm real estate broker license of Baer's Cottages and Properties, Inc. for 45 days effective February 1, 1998. The Commission then stayed the suspension for a probationary term of one year. The Commission found that Baer's Cottages and Properties, Inc., in the management of certain residential rental units, had attempted to dishonor oral lease agreements, had failed to promptly undertake certain repairs and cleaning of property as promised to a pair of prospective tenants, and had used a residential lease form which purported to give itself and the landlord authority not permitted by law. The Commission further found that Baer's Cottages and Properties, Inc. had failed to properly maintain trust account ledgers and general journals and that it had not prepared a monthly trial balance for the accounts. The Commission noted that Baer's Cottages and Properties, Inc. subsequently corrected the lease form and its trust account record-keeping practices, and that at no time was there any evidence of any unlawful conversion of trust monies.

**PATRICIA K. CRANFORD (Hickory)** - By Consent, the Commission revoked Ms. Cranford's salesman license effective November 20, 1997. The Commission found that Ms. Cranford, as bookkeeper and rental manager for residential rental properties, had failed to maintain client monies in a trust account and to promptly account for and disburse

client monies coming into her control. The Commission also found that Ms. Cranford had failed to keep proper records of trust monies and to turn trust monies over to her broker-in-charge.

**CAMERON K. DEAVER (Raleigh)** - By Consent, the Commission reprimanded Mr. Deaver effective November 20, 1997. The Commission found that Mr. Deaver had been negligent in failing to file proper state income tax returns. The Commission noted that no client or customer of Mr. Deaver had been harmed as a result.

**ANDREW J. DEBNAM (Raleigh)** - The Commission accepted the voluntary surrender of Mr. Debnam's broker license for two years effective October 1, 1997. The Commission dismissed without prejudice charges that Mr. Debnam had violated provisions of the Real Estate License Law.

**JAMES W. JOHNSON, III (Angier)** - By Consent, the Commission reprimanded Mr. Johnson effective February 12, 1998. The Commission found that Mr. Johnson had allowed his father, an unlicensed employee of Mr. Johnson's brokerage firm, to show property lines and answer questions concerning real property lines that had been marked by a surveyor on property that was to be sold at public auction on May 22, 1993.

**RANDY MEARES (Raleigh)** - The Commission accepted the voluntary surrender of Mr. Meares' salesman license for one year effective December 1, 1997. The Commission dismissed without prejudice charges that Mr. Meares had violated provisions of the Real Estate License Law by failing to give an accurate answer to one of the questions on his application for licensure. Although Mr. Meares believes he had made a correct answer in good faith, he does not wish to contest the matter.

**WILLIAM J. NOLAN, III (Charlotte)** - The Commission revoked Mr. Nolan's salesman license effective January 15, 1996. Mr. Nolan appealed the Commission's decision but subsequently filed a voluntary dismissal of that appeal. The Commission found that Mr. Nolan, as the sole shareholder and controlling officer of a residential development corporation, had made false promises and misrepresentations concerning future completion of a lake to induce purchases of 36 lots in subdivisions which were being developed by the corporation.

**RESORT SERVICES, INC. (Raleigh)** - The Commission accepted the voluntary surrender of the corporate real estate broker license of Resort Services, Inc. for two years effective October 1, 1997. The Commission dismissed without prejudice charges that Resort Services, Inc. had violated provisions of the Real Estate License Law.

**WILLIE T. STORY, JR. (Littleton)** - By Consent, the Commission reprimanded Mr. Story effective December 31, 1997. The Commission found that Mr. Story had persuaded a seller-client to advance a commission payment as a loan, then did not immediately repay it. The Commission noted that Mr. Story has paid the debt.

**JAMES R. STUBBS, JR. (Fayetteville)** - By Consent, the Commission suspended Mr. Stubbs' salesman license for three years effective November 20, 1997. If, however,

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# Disciplinary action

(continued from page 7)

Mr. Stubbs furnishes to the Commission written evidence of his release from confinement in Federal custody, the Commission will immediately stay any remaining suspension and will place Mr. Stubbs on probation. The Commission found that Mr. Stubbs had entered a plea of guilty to a charge of mail fraud. The Commission noted that this charge arose from the operation of a business which did not involve real estate brokerage or real estate transactions.

**THOMAS G. THRELKELD** (Gastonia) - The Commission suspended Mr. Threlkeld's broker license for 60 days effective January 1, 1998. At the expiration of the active suspension on March 2, 1998, the Commission placed Mr. Threlkeld on probation for one year. The Commission

found that Mr. Threlkeld had negligently misrepresented that a property he had listed had city sewer service, although he knew the property had a septic system, and that he had maintained an incorrect entry in the local Multiple Listing Service (MLS) for several months. The Commission further found that after the sale closed and the septic tank system malfunctioned, Mr. Threlkeld had refused to compensate the buyers who had purchased the property believing it had city sewer service.

**MICHAEL C. WELLER** (Raleigh) - The Commission accepted the voluntary surrender of Mr. Weller's broker license for one year effective December 1, 1997. The Commission dismissed without prejudice charges that Mr. Weller had violated provisions of the Real Estate License Law. Mr.

Weller neither admitted nor denied any misconduct.

**JOSEPH R. WEST** (Spring Lake) - The Commission suspended Mr. West's broker license for one year effective September 15, 1997. Thirty days of the suspension are to be active and the remaining period stayed for a probationary term of 11 months. The Commission noted that Mr. West, in violation of the Real Estate License Law and Commission rules, had engaged in real estate brokerage through a corporation that had no real estate license. The Commission further found that Mr. West had purchased and sold lots in an unapproved subdivision and had made misrepresentations and omissions of material facts to buyers concerning the size and boundaries of those lots. ■



## ANNOUNCING...

**Commission's new  
telephone number!  
(919) 875-3700**

### *On the inside...*

**Broker-in-charge  
Guidelines**

**Commission adopts  
and amends rules**

**Statistically Speaking:  
Licensee Facts and  
Figures**

**Communicating with  
the Commission**

**Commission Calendar**

**In Memoriam**

*...and more.*

## *A reminder...*

**The countdown is on! June 10 is the deadline to earn continuing education credits for the current fiscal year.**

*77,000 copies of this public document were printed at a cost of \$.1155 per copy.*

**NORTH CAROLINA  
REAL ESTATE COMMISSION  
P.O. Box 17100  
Raleigh, NC 27619 - 7100**

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