



NORTH CAROLINA REAL ESTATE COMMISSION Real Estate Bulletin

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Commission sponsors licensing boards' seminar

The Real Estate Commission was pleased to sponsor and coordinate a seminar for members and staff of licensing boards in North Carolina. Held January 7 in Raleigh, the seminar was the state's first-ever joint meeting of occupational and professional licensing boards. It was attended by 130 board members, administrators and attorneys who represented 33 boards.



The purpose of the seminar was to present and discuss important and timely issues relevant to membership on licensing boards and to provide a forum for the exchange of information. Topics discussed included laws, rules, ethics, and practices applicable to licensing boards.

Among the speakers were Robert N. Brooks, executive director of the State Board of CPA Examiners; Attorney Howard Kramer, legal counsel for the Board of Nursing; Jack Lemons, Deputy Director of the Division of Employee and Management Development in the State Personnel Office; Special Deputy Attorney General Thomas R. Miller, the Real Estate Commission's legal counsel; Deputy Legal Counsel Blackwell M. Brogden, Jr.; and Miriam J. Baer, assistant legal counsel for the Commission.

Commission Executive Director Phillip T. Fisher was moderator.

Also representing the Commission were Chairman Gilbert L. Boger; Vice-Chairman Brantley T. Poole; Commission Members Charles F. Biesecker, James K. Polk, William A. Smith, Jr., and Grace T. Steed.

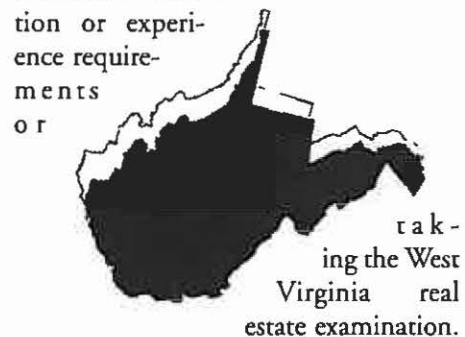
Assisting with the seminar were Director of Administration Mary Frances Whitley, Wendy Moore and Renée Weaver.

The Commission was pleased with the seminar, which was hailed a huge success both in terms of attendance and the quality of the programs presented. □

Commission announces change in reciprocal arrangement with West Virginia

The reciprocal licensing arrangement between North Carolina and West Virginia, which has been in effect since 1970, has been updated.

Under the terms of the revised arrangement, qualified North Carolina real estate brokers and salesmen may obtain West Virginia nonresident real estate licenses without satisfying any additional education or experience requirements.



(The original arrangement required two years' active broker experience for broker applicants and six months' active salesman experience for salesman applicants.)

To qualify, you must be of good character, a legal resident of North Carolina at the time the application is filed, and hold a North Carolina real estate license that was issued by examination and is currently in good standing.

For further information and/or application materials, contact the West Virginia Real Estate Commission, 1033 Quarrier Street, Suite 400, Charleston, WV 25301-2315, (304)558-3555. □

North Carolina's new notary statute requires strict compliance

by Margaret Shea Burnham

The following article appeared in the September 1992 edition of LML Today, a quarterly publication of Lawyers Mutual Liability Insurance Company of North Carolina. The author is a law partner practicing real property law and litigation at the Adams, Kleemeier law firm in Greensboro. The article is reprinted here with her permission (with modifications to address issues pertinent to real estate licensees).

A little-publicized rewrite of the notary statute (in the General Statutes of North Carolina) which took effect October 1, 1991, has significant impact on the responsibilities of a notary. It requires strict compliance, apparently as a result of fraudulent transactions made possible in the past by lax compliance of the notary's

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REAL ESTATE BULLETIN

Published quarterly as a service to real estate licensees to promote a better understanding of the Real Estate License Law and Rules, 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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EXAM RESULTS

	Passed	Failed
<i>October 1992</i>		
Brokers	54	33
Salesmen	205	147
<i>November 1992</i>		
Brokers	59	41
Salesmen	248	180
<i>December 1992</i>		
Brokers	62	51
Salesmen	406	244

Commission offers new trust account course



The Resort Property Management Trust Account Recordkeeping Course is being introduced in southeastern and western North Carolina. It was developed by L. Ted Gayle, Director of Audits and Investigations, who also developed the

Trust Account Short Course which is held monthly in Raleigh and is taken on the road every spring. (Please see registration forms below.)

The new course is designed to assist resort property managers and bookkeepers to become more proficient and to acquaint

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REGISTRATION FORM

Trust Account Short Course Caravan & Resort Property Management Recordkeeping Course

1. These courses are FREE and involve approximately 3½ hours of instruction.
2. Participation is limited to real estate licensees and trust account bookkeepers. (No unlicensed prelicensing students, please.)
3. Registration forms must be received in the Commission Office at least 10 days prior to the course. Registrations will be confirmed in writing giving registrants more detailed information concerning the location of the course.
4. All Trust Account Caravan Courses start at 9:30 a.m. (Time of Resort Property Management Course will accompany confirmation of registration.)

I wish to attend the following Trust Account Short Course:

- | | |
|---|--|
| <input type="checkbox"/> Wilmington (May 4) | <input type="checkbox"/> Asheville (May 11) |
| <input type="checkbox"/> New Bern (May 5) | <input type="checkbox"/> Charlotte (May 12) |
| <input type="checkbox"/> Fayetteville (May 6) | <input type="checkbox"/> Greensboro (May 13) |

I wish to attend the following Resort Property Management Trust Account Course:

- | | |
|---|---|
| <input type="checkbox"/> Wilmington (May 3) | <input type="checkbox"/> Asheville (May 10) |
|---|---|

If I have a choice of (Resort Property Management) sessions, I prefer:

- | | |
|----------------------------------|------------------------------------|
| <input type="checkbox"/> Morning | <input type="checkbox"/> Afternoon |
|----------------------------------|------------------------------------|

Name: _____

Address: _____

City _____ Zip _____ Bus. Phone _____

I am a: ☐ real estate licensee ☐ trust account bookkeeper ☐ other _____

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

MONTHLY TRUST ACCOUNT SHORT COURSE IN RALEIGH DATES

April 13

June 8

July 13

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.

Stop! Beware of signing that document on your client's behalf!

by Stephen L. Fussell, Consumer Protection Officer



One of the Real Estate Commission's many functions is to investigate complaints that have been filed against real estate licensees. These investigations generally involve a review of the various documents associated with the real estate transactions in question. Recently, the Commission has observed an increase in the number of documents which have been signed by agents on behalf of buyers and sellers.

Apparently, some agents believe a listing agreement with the seller authorizes the agent to sign transaction documents (offers to purchase, closing statements, etc.) on behalf of the seller. While the list-

ing agreement does create an agency relationship between a seller and a listing firm, it does not authorize the firm or any cooperating agent(s) to sign documents for the seller.

Likewise, real estate licensees are also cautioned against signing documents for buyers. Since a licensee usually acts as an agent of the seller, rather than the buyer, there is even less justification for signing documents on behalf of the buyer. Even in a transaction in which the licensee acts as a "buyer's agent," the licensee should still avoid signing contracts or other written documents. Otherwise, the agent risks the possibility that the buyer will disavow the agent's authority to act on the buyer's behalf. The document in question may then be ruled invalid or the agent may be held personally responsible for it.

The best policy is to encourage the parties to sign the documents for themselves. If a document must be mailed to a party for signature, the signature should be acknowledged by a notary public to confirm authenticity.

When a party is unable to personally sign a document, the agent representing him should obtain the written permission of his client before signing any document

on his behalf. This grant of authority is best accomplished through a power of attorney. An agent's failure to obtain his client's permission prior to signing a document may result in a document that is unenforceable or that obligates one or more parties to an unfavorable agreement. It could also result in possible litigation against the agent who may be held personally responsible for any financial or other liability created under a document that he or she signed without proper authority. An agent should never sign a document for a party he does not represent, such as a customer. □

COMMISSION STAFF UPDATE

Lynn Crawford has been employed by the Commission on a temporary basis to fill a vacancy in the Appraisal Division created when Appraiser Clerk Sheryl L. Richards relocated her residence to another state . . . The Commissionnaires, a musical ensemble composed of Commission staff members who volunteer their time and talents, brought holiday cheer to patients in a local nursing home. The group performed under the able direction of Consumer Protection Officer Anita R. Burt.

The following Commission staff members have made appearances before various real estate industry and related groups since the last issue of the *Bulletin*. Commission Executive Director Phillip T. Fisher spoke to the Cabarrus County Association of REALTORS® about possible future changes in real estate licensing . . . Special Deputy Attorney General Thomas R. Miller, the Commission's Legal Counsel, and Marilyn E. Tomei, Associate Legal Counsel, appeared before the NCAR Leadership Conference in Greensboro where they presented talks on agency and property condition disclosures. They also made presentations on common misconceptions in real estate transactions and special problems in contract negotiations during an appearance at the N.C. Association of REALTORS® Annual Con-

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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.)

"Questions and Answers on: Fair Housing"

(Free Brochure)

(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.



Notary statute requires compliance

(Continued from page 1)

responsibilities. The key provisions of the statute that are discussed in this article are relevant to real estate licensees because of the many notarized documents that are a part of every real estate transaction.

Acknowledgment vs. Oath

One key distinction is made between a mere "acknowledgment" and a more solemn "oath" or "affirmation." An acknowledgment is the simple act of a notary certifying that a signer "has admitted, in the notary's presence, having signed a document voluntarily." A document which requires an oath or affirmation, on the other hand, is a certification by the notary that the signer "made a vow or affirmation in the presence of the notary."

When was the last time you carefully checked to see if the words "sworn to" or "duly sworn" appeared in small print? Presumably a sworn document, such as an affidavit, is defective if the signer did not actually take an oath upon signing it.

The notary statute does not actually define an acceptable oath or affirmation. However, the statute that addresses oaths and affirmations requires that a party lay his or her hand on the Holy Scriptures when taking an oath. In the alternative, a person "conscientiously scrupulous of taking a book oath," may *stand* with his or her right hand lifted upwards, and "appeal to God, as a witness of the truth and the avenger of falsehood."

The statute permits a person who has "conscientious scruples" against either type of oath to substitute the word "affirm" for "swear" and to delete "so help me God" at the end of the oath.

The *Notary Public Guidebook for North Carolina* (1991, Institute of Government, p. 84) offers the following example of an oath or affirmation for a simple affidavit:

Do you swear [or affirm] that the statements contained in this writing are the truth, by your own knowledge or by your information and belief, so help you God?

Identification of the Signer

Another key provision of the notary statute is in the definition of acceptable identification of the signer by the notary. Identification may be by either of the following:

- a. One current document issued by a

federal or state government with the individual's photograph. [or]

b. Identification by a credible person who is personally known by the notary and who has personal knowledge of the individual's identity.

The term "personal knowledge" is defined as "familiarity with an individual resulting from interactions with that individual over a period of time sufficient to eliminate every reasonable doubt that the individual has the identity claimed."

What does this mean? It means that unless you want to keep a log of who verified the person's identity, you better get identification such as a driver's license. To be prudent, you might make a note of what form of identification was presented and maybe even put a copy of it in your file. As to relying on someone "credible" for a personal identification, keep in mind whether the person identifying the signer for you has an "interest" in the document or transaction.

Beware of the "Traps"

In a recent transaction, a man presented a woman as his "wife" to a notary. The notary personally knew the man, so he would seem credible. But in this case, the man did not bring his "real" wife and the document notarized was thus ineffective. You should therefore question whether an agent, a lender, etc., who knows a party from only one transaction has the requisite "familiarity."

Change of Notary's Name

Notaries are now required to notify the Secretary of State of a change of address or name within 30 days of the change. Once your name has changed, a new notary commission will be issued in the new name, and you cannot keep using the old notary commission.

Statutory Penalties

Penalties for violation of the notary statute include a \$500 fine and/or imprisonment up to 60 days. It is a felony to take an acknowledgement that is false or fraudulent. A person who "knowingly solicits or coerces" a notary to violate the statute is guilty of a misdemeanor and is subject to a fine and/or imprisonment.

Caveat

Because of the many documents that must be notarized in real estate transactions, licensees are reminded to exercise

care when choosing the services of a notary or acting as a notary themselves. Licensees who are commissioned as notaries are further reminded of the consequences of non-compliance with the notary statute and are urged to take their responsibilities seriously.

For a current copy of the *Notary Public Guidebook for North Carolina*, call the Institute of Government at (919) 966-4119 (\$5.00 + 6% tax per copy) or check with your local community college bookstore. □

A "Check List" for Notaries

- ✓1. Check to see if "sworn to" or "duly sworn" appears in small print. If so, require signer to place his/her hand on the appropriate Holy Scriptures (unless signer objects), or stand and raise right hand, and repeat oath. For affirmation, the signer simply repeats the affirmation, without any formalities.
- ✓2. Identify signer by:
 - a. requiring current government document with photograph; i.e., driver's license. [or]
 - b. relying on "credible" person (personally known by notary) who has "personal knowledge" of signer.
 - (1) Consider noting for your file the form of identification that was presented.
 - (2) Beware of "traps."
- ✓3. Notify Secretary of State's Office within 30 days when you change your
 - a. address.
 - b. name.
 - (1) Expect to receive new commission seal.
 - (2) Discard outdated commission seal.
- ✓4. Be aware of statutory penalties:
 - a. \$500 fine [and/or]
 - b. imprisonment.

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.

BILL & DANNY, INC. (Corolla) – By Consent, the Commission revoked the corporate real estate broker license of Bill & Danny, Inc. effective December 9, 1992. The Commission found that the corporation had failed to maintain trial balances or a running balance of funds in one of its trust or escrow accounts, had failed to reconcile trust account records to bank records on a monthly basis, had converted trust monies to its own use, and had allowed a shortage to occur in its trust accounts. The Commission further found that Bill & Danny, Inc. had failed to remit sales taxes to the appropriate authorities and had commingled sales tax funds with the corporation's funds.

WILLIAM E. BRENNER, JR. (Chapel Hill) – By Consent, the Commission suspended Mr. Brenner's broker license for two years effective November 5, 1992. Four months of the suspension are to be active and the remaining period stayed for a probationary term of two years. The Commission found that Mr. Brenner had been convicted of a criminal offense; namely, structuring financial transactions to evade federal reporting requirements.

JOHN A. CATES (Chapel Hill) – By consent, the Commission suspended Mr. Cates' broker license for two years effective December 31, 1992. The Commission then stayed its Order for a probationary term of two years. The Commission found that Mr. Cates, as broker-in-charge of a property management firm, had failed to properly account for trust monies and had commingled trust monies with the firm's funds. The Commission noted that these violations had not resulted in monetary loss to any of Mr. Cates' clients. The Commission further noted that Mr. Cates had cooperated with the Commission's audit and had promptly corrected the firm's accounting practices.

BARBARA C. CAUDLE (Winston-Salem) – By Consent, the Commission suspended Ms. Caudle's broker license for one year effective October 15, 1992. The Commission then stayed its Order for a probationary term of one year. The Commission found that Ms. Caudle had allowed an unlicensed part-owner and managing general partner of certain properties she managed to withdraw security deposits from the trust or escrow account which she maintained exclu-

sively for that client. The Commission further found that Ms. Caudle had failed to determine which tenants' security deposits had been withdrawn or to properly advise the tenants. The Commission also found that Ms. Caudle had refunded the tenants' security deposits as they came due by using part of the deposits of other tenants, which led to a trust account shortage. The Commission noted that Ms. Caudle subsequently replaced the funds in her trust account.

CHAPEL HILL REALTY, INC. (Chapel Hill) – By consent, the Commission suspended the corporate real estate broker license of Chapel Hill Realty, Inc. for two years effective December 31, 1992. The Commission then stayed its Order for a probationary term of two years. The Commission found that Chapel Hill Realty, Inc. had failed to properly account for trust monies, and had commingled trust monies with the corporation's funds. The Commission noted that these violations had not resulted in monetary loss to any of the corporation's clients. The Commission further noted that the corporation had cooperated with the Commission's audit and had promptly corrected its accounting practices.

CONVEST CORPORATION (Boone) – The Commission accepted the permanent voluntary surrender of the expired corporate real estate broker license of Convest Corporation effective October 1, 1992. The Commission dismissed without prejudice charges that the corporation had violated provisions of the Real Estate License Law and Commission rules in several transactions involving the development, sales and rental management of residential condominiums.

CATHERINE G. COTTON (Charlotte) – By Consent, the Commission reprimanded Ms. Cotton effective September 10, 1992, for continuing to engage in the business of a real estate salesman for two years after the expiration of her license. The Commission noted that during this period, Ms. Cotton was actively supervised by her broker-in-charge.

GLENN A. DARST (Durham) – The Commission suspended Mr. Darst's broker license for five years effective January 1, 1993. Three months of the suspension are to be active and the remaining period stayed for a probationary term of five years. The Commission found that Mr. Darst had failed to provide for a deed of trust from the buyer as promised in a real estate transaction, and instead provided only for an unsecured note, had failed to deliver accurate closing statements, and had misrepresented, concealed and omitted material facts in separate transactions. The Commission further found that

Mr. Darst had failed to ensure that certain trust monies were deposited and maintained in a trust or escrow account, had failed to account for trust monies in his possession and had improperly disbursed the funds which led to a trust account shortage. The Commission also found that Mr. Darst had failed to keep accurate transaction records or to promptly make these records available for inspection by the Commission's investigator.

GLENN A. DARST REALTY, INC. (Durham) – The Commission suspended the corporate real estate broker license of Glenn A. Darst Realty, Inc. for five years effective January 1, 1993. Three months of the suspension are to be active and the remaining period stayed for a probationary term of five years. The Commission found that Glenn A. Darst Realty, Inc. had failed to deliver accurate closing statements and had misrepresented, concealed and omitted material facts in various real estate transactions. The Commission further found that the corporation had failed to ensure that certain trust monies were deposited and maintained in a trust or escrow account, had failed to account for trust monies in its possession and had improperly disbursed the funds which led to a trust account shortage. The Commission also found that Glenn A. Darst Realty, Inc. had failed to keep accurate transaction records or to make these records available for inspection by the Commission's investigator.

JOE C. DAVENPORT (Boone) – The Commission accepted the permanent voluntary surrender of Mr. Davenport's expired broker license effective October 1, 1992. The Commission dismissed without prejudice charges that Mr. Davenport had violated the provisions of the Real Estate License Law and Commission rules in several real estate transactions.

RITCHIE J. DEBNAM (Sylva) – By Consent, the Commission suspended Mr. Debnam's expired salesman license for one year effective September 10, 1992. Forty-five days of the suspension are to be active and the remaining period stayed for a probationary term of 10 months and 15 days. The Commission found that Mr. Debnam had failed to inform buyers in a real estate transaction that the property's furnace was not in good working order and had included a provision concerning the payment of his commission in an offer to purchase.

DUCK'S REAL ESTATE, INC. (Duck) – By Consent, the Commission revoked the corporate real estate broker license of Duck's Real Estate, Inc. effective March 15, 1993.

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Disciplinary Action *(Continued from page 5)*

The Commission found that the corporation had failed to perform monthly bank reconciliations or to maintain accurate owner ledgers and had allowed a shortage to occur in its trust accounts. The Commission noted that the corporation had replaced the missing funds during the Commission's audit of its records. Duck's Real Estate, Inc. neither admitted nor denied any misconduct.

JAMES D. ERSKINE (Asheville) – By Consent, the Commission reprimanded Mr. Erskine effective October 9, 1992, for acting as a real estate broker after his license had expired.

DANIEL E. FENYAK (Duck) – By Consent, the Commission revoked Mr. Fenyak's broker license effective December 9, 1992. On or after January 9, 1993, Mr. Fenyak will be issued a salesman license upon his payment of the appropriate fee and fulfillment of various conditions. The Commission found that while Mr. Fenyak was principal broker, broker-in-charge and co-owner of a licensed real estate corporation, the corporation had failed to maintain a running balance of funds in one of its trust or escrow accounts, had failed to maintain trial balances or to reconcile internal trust account records to bank records on a monthly basis, had converted trust monies to the corporation's use and had allowed a shortage to occur in its trust accounts. The Commission further found that the corporation had failed to remit sales taxes to the appropriate authorities and had commingled sales tax funds with the corporation's funds.

HENNARD S. FLOYD (Fayetteville) – By Consent, the Commission suspended Mr. Floyd's broker license for two years effective November 15, 1992. Six months of the suspension are to be active and the remaining period stayed for a probationary term of 18 months upon condition that Mr. Floyd complete the Commission's Trust Account Course by May 15, 1993. The Commission found that Mr. Floyd and his licensed property management corporation had failed to deposit and maintain rents in a properly designated trust or escrow account. The Commission further found that Mr. Floyd had converted trust monies to the corporation's use, which led to a shortage in its trust account.

FLOYD CONSTRUCTION COMPANY, INC. (Fayetteville) – By Consent, the Commission suspended the corporate real estate broker license of Floyd Construction Company, Inc. for three years effective November 15, 1992. The Commission then stayed its Order for a probationary term of three years. The Commission found that the

property management corporation had failed to deposit and maintain rents in a properly designated trust or escrow account and had converted trust monies to its own use, which led to a shortage in the trust account.

HARVEY S. FORBES (Sanford) – By Consent, the Commission reprimanded Mr. Forbes effective July 1, 1992, for failing to advise the listing agent and buyers of property listed by his real estate firm about septic tank problems on the property. The Commission noted that Mr. Forbes subsequently compensated the buyers for some of their expenses related to the malfunctioning septic tank.

RAYMOND E. GARRISON, JR. (Wilmington) – The Commission revoked Mr. Garrison's salesman license effective January 1, 1993. The Commission found that Mr. Garrison had made a false representation on his application for a real estate license. The Commission further found that Mr. Garrison had been convicted of criminal offenses involving moral turpitude which could reasonably affect his performance in the real estate business; namely, making false representations to HUD for purposes of obtaining financial assistance.

GOFORTH PROPERTIES, INC. (Chapel Hill) – The Commission accepted the permanent voluntary surrender of the corporate real estate broker license of Goforth Properties, Inc. effective December 31, 1992. The Commission dismissed without prejudice charges that the corporation had failed to handle trust or escrow funds in compliance with Commission rules.

SAMMY G. HARPER (Wilmington) – The Commission revoked Mr. Harper's broker license effective September 10, 1992. The Commission found that Mr. Harper had failed to disclose the occupancy of an apartment he managed to the apartment owners, had failed to deposit and maintain rental funds in a trust or escrow account, and had failed to account for and remit the funds to the owners of the property. The Commission also found that Mr. Harper had commingled trust monies with his personal funds and had converted trust monies to his own use, which led to a shortage in his trust accounts. The Commission further found that Mr. Harper had falsely represented to property owners that he had remitted their property taxes to the appropriate taxing authority, and that he had failed to notify the Commission in writing of his change of business address.

TERESA A. HEWITT (Winterville) – By Consent, the Commission suspended Ms. Hewitt's broker license for six months effective

December 9, 1992. Two months of the suspension are to be active and the remaining period stayed for a probationary term of one year. The Commission found that Ms. Hewitt, as a partner in a North Carolina investment partnership, had engaged in the unauthorized practice of law by preparing a deed, a deed of trust and purchase money promissory note. Ms. Hewitt did not record the deed or deed of trust.

WILLIAM B. HOGAN (Duck) – By Consent, the Commission revoked Mr. Hogan's broker license effective December 9, 1992. On or after January 9, 1993, Mr. Hogan will be issued a salesman license upon fulfillment of various conditions. The Commission found that while Mr. Hogan was president and co-owner of a licensed real estate corporation, the corporation had failed to maintain trial balances or a running balance of funds in one of its trust or escrow accounts, had failed to reconcile trust account records to bank records on a monthly basis, had converted trust monies to the corporation's use and had allowed a shortage to occur in its trust accounts. The Commission further found that the corporation had failed to remit sales taxes to the appropriate authorities and had commingled sales tax funds with the corporation's funds.

DIANE M. JARVIS (Corolla) – By Consent, the Commission suspended Ms. Jarvis' salesman license for one year effective January 1, 1993. The Commission then stayed its Order for one year upon condition that Ms. Jarvis successfully complete the Commission's Trust Account Course by January 1, 1993. The Commission found that while Ms. Jarvis was employed as property manager and bookkeeper of a licensed real estate corporation, she had failed to remit sales taxes to the appropriate authorities, had assisted in commingling sales tax funds with the corporation's funds, and had assisted in converting trust monies to the corporation's use.

MONIQUE A. KOENIG (Fayetteville) – The Commission suspended Ms. Koenig's salesman license for five years effective January 1, 1993. The Commission found that Ms. Koenig had been convicted of criminal offenses involving moral turpitude which could reasonably affect her performance in the real estate business; namely, making fraudulent misrepresentations in order to obtain food stamps and assistance from Aid to Families with Dependent Children.

KAREN J. LABOVITZ (Charlotte) – By Consent, the Commission reprimanded Ms. Labovitz effective September 10, 1992, for allowing a salesman under her supervision to engage in the business of a real estate sales-

man after the expiration of her license. The Commission noted that the salesman subsequently reinstated her license.

ROBERT F. LEE (Wilmington) – The Commission accepted the voluntary surrender of Mr. Lee's broker license for three years effective July 15, 1992. The Commission dismissed without prejudice charges that Mr. Lee had violated the Real Estate License Law based upon an alleged felony criminal conviction.

LEONIDAS A. MONROE, JR. (Fayetteville) – By Consent, the Commission suspended Mr. Monroe's broker license for 18 months effective November 15, 1992. The Commission then stayed its Order for a probationary term of 18 months. The Commission found that Mr. Monroe, as broker-in-charge of a real estate firm, had failed to supervise property management bookkeeping employees which resulted in trust account violations including failure to deposit or maintain earnest money deposits in a trust or escrow account and conversion of these funds to the firm's use. The Commission further found that Mr. Monroe had allowed a shortage to occur in the firm's escrow account. The Commission noted that Mr. Monroe believed his duties as broker-in-charge related only to real estate sales.

DEAN A. PARKER (Cashiers) – The Commission accepted the voluntary surrender of Mr. Parker's salesman license for two years effective September 10, 1992, and dismissed without prejudice charges that Mr. Parker had violated the Real Estate License Law as a result of his conduct as a real estate salesman. Mr. Parker neither admitted nor denied any misconduct.

GAYL T. PERKINS (Roxboro) – By Consent, the Commission suspended Ms. Perkins' broker license for six months effective September 10, 1992. Two months of the suspension are to be active and the remaining period stayed for a probationary term of one year. The Commission found that Ms. Perkins had failed to disclose the location of a lot's boundary line to buyers in a real estate transaction. Ms. Perkins neither admitted nor denied any misconduct.

CLYNE H. QUINN (Black Mountain) – By Consent, the Commission suspended Mr. Quinn's broker license for one year effective November 15, 1992. The Commission then stayed its Order for a probationary term of one year. The Commission found that Mr. Quinn had prepared an offer to purchase on a form which did not comply with Commission rules and which contained conflicting provisions with respect to the method of completing the transaction. The Commission further found that Mr. Quinn

had permitted the buyers to move into the property before he presented their offer to the sellers, and that a court order was required to eject them after the sellers rejected the offer.

PHILLIP L. RODDY (Charlotte) – By Consent, the Commission suspended Mr. Roddy's salesman license for six months effective September 10, 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. Roddy, while acting as a notary public, had acknowledged a grantor's signature on a document which had not been signed in his presence.

EDWARD K. ROMAN (Cary) – By Consent, the Commission revoked Mr. Roman's broker license effective January 1, 1993. On or after February 1, 1993, Mr. Roman may apply for a real estate salesman license. The Commission also granted Mr. Roman permission to file for reinstatement of his broker license after January 1, 1994, upon successful completion of the Commission's Trust Account, Brokerage Operations and Real Estate Law courses. The Commission found that Mr. Roman had failed to give a written accounting for a security deposit that he had received from a tenant and had failed to refund the deposit when it came due. The Commission further found that Mr. Roman had failed to promptly make trust account records available for inspection by the Commission's investigator despite repeated requests that he do so.

ROBERT J. SALMON, JR. (Wallace) – The Commission suspended Mr. Salmon's broker license for one year effective October 1, 1992. The Commission then stayed its Order for a probationary term of one year. The Commission found that Mr. Salmon had been convicted of criminal offenses involving moral turpitude which could reasonably affect his performance in the real estate business; namely, making unlawful gifts to a public official.

WILLIAM C. SAXON (Athens, GA) – The Commission revoked Mr. Saxon's broker license effective December 15, 1992. The Commission found that Mr. Saxon, while engaging in the real estate brokerage business in Georgia and being licensed in North Carolina pursuant to a reciprocity arrangement between the two states, had failed to deposit and maintain trust monies in a trust or escrow account. The Commission also found that Mr. Saxon had failed to keep adequate records of the funds he collected, had commingled trust monies with his personal funds, and had failed to remit trust monies in his possession. The Com-

mission further found that Mr. Saxon had failed to cooperate with the investigation by the Georgia Real Estate Commission.

KATHLEEN S. SHARPE (Charlotte) – By Consent, the Commission reprimanded Ms. Sharpe effective October 8, 1992. The Commission found that Ms. Sharpe had failed to correct a closing statement to show owner-financing. The Commission noted that Ms. Sharpe's actions did not appear to be willful or motivated by any personal or financial gain.

WANDA SMITH (Charlotte) – By Consent, the Commission reprimanded Ms. Smith effective October 8, 1992. The Commission found that Ms. Smith had failed to correct a closing statement to show owner-financing. The Commission noted that Ms. Smith's actions did not appear to be willful or motivated by any personal or financial gain.

JOHN F. STREIT, JR. (Fayetteville) – By Consent, the Commission suspended Mr. Streit's broker license for two years effective November 6, 1992. Eight months of the suspension are to be active and the remaining period stayed for a probationary term of 16 months upon the condition that Mr. Streit take the Commission's Trust Account Course during the time of active suspension. The Commission found that Mr. Streit had failed to maintain and retain adequate trust account records and to account for and remit rental monies he collected as a property manager. The Commission noted that Mr. Streit subsequently remitted the monies to the property owner.

GEORGE T. TAYLOR (Kill Devil Hills) – By Consent, the Commission suspended Mr. Taylor's broker license for six months effective December 9, 1992. The Commission then stayed its Order for a probationary term of one year. The Commission found that Mr. Taylor and his licensed real estate corporation had failed to inspect a property which the corporation managed, after the tenant had vacated the property and turned off its electrical power, resulting in extensive damage to the property. The Commission further found that Mr. Taylor had failed to inform the owner that the property had been vacated.

TODD REALTY, INC. (Kill Devil Hills) – By Consent, the Commission suspended the corporate real estate broker license of Todd Realty, Inc. for six months effective December 9, 1992. The Commission then stayed its Order for a probationary term of one year. The Commission found that the corporation had failed to inspect a property which it managed after the tenant had

(Continued on page 8)

Disciplinary Action

(Continued from page 7)

vacated the property and turned off its electrical power, resulting in extensive damage to the property. The Commission further found that the corporation had failed to inform the owner that the property had been vacated.

PAULETTE D. VAUGHAN (Virginia Beach, VA) - By Consent, the Commission revoked Ms. Vaughan's broker license effective October 12, 1992. The Commission found that Ms. Vaughan, as broker-in-charge of a property management office, had failed to adequately maintain trust monies in a trust or escrow account, had failed to keep accurate records of client funds the firm collected and expended, and had allowed a shortage to occur in the firm's trust account.

VISTA REALTY, INC. (Winston-Salem) - By Consent, the Commission suspended the corporate real estate broker license of Vista Realty, Inc. for one year effective October 15, 1992. The Commission then stayed its Order for a probationary term of one year. The Commission found that the corporation had allowed an unlicensed part-

owner and managing general partner of certain properties it managed to withdraw security deposits from the corporation's trust or escrow account which it maintained exclusively for that client. The Commission further found that Vista Realty, Inc. had failed to determine which tenants' security deposits had been withdrawn or to properly advise the tenants. The Commission also found that the corporation had refunded security deposits as they came due by using part of the deposits of other tenants, which led to a trust account shortage. The Commission noted that the corporation subsequently replaced the funds in the trust account.

GARY H. WATTS (Charlotte) - By Consent, the Commission suspended Mr. Watts'

broker license for two years effective December 1, 1992. Fifty-nine days of the suspension are to be active and the remaining period stayed for a probationary term of 22 months. The Commission found that Mr. Watts had been convicted of criminal offenses; namely, money laundering and the aiding and abetting of money laundering.

DOROTHY D. WINCHESTER (Raleigh) - By Consent, the Commission reprimanded Ms. Winchester effective September 18, 1992, for failing to disclose the contents of a property inspection report to the buyer of the property or to inform the buyer of a major defect in the property. The Commission noted that Ms. Winchester had subsequently returned the buyer's earnest money deposit. □

Commission Staff Update

(Continued from page 3)

vention. Marilyn also appeared before the Brunswick County Board of REALTORS® meeting in Southport to discuss offers and counter-offers, the Contingent Sale Addendum, and related topics . . . Deputy Legal Counsel Blackwell M. Brogden, Jr., discussed real estate referral fees, commission provisions in offers to purchase, and related issues in an appearance before the Commercial Listing Service of the Raleigh Board of REALTORS®. . . Assistant Legal Counsel Miriam J. Baer traveled to Hamler where she presented a speech on real estate agency at a meeting of the Anson-Richmond Board of REALTORS® and went to Gastonia where she explained real estate

contracts to the Gaston Association of REALTORS®. . . Stephen L. Fussell, a Commission Consumer Protection Officer, addressed the Lexington Board of REALTORS®. . . and Appraiser Education and Examination Officer Earl H. Grubbs spoke to the Greenville/Pitt County Appraisers about licensing, certification, and regulations that affect appraisers, and attended the Quarterly Chapter Meeting of the Appraisal Institute in the Research Triangle Park where he talked about developments in appraiser regulations. (*Individuals and groups requesting a speaker from the Real Estate Commission are reminded that a "Speaker Request Form" is available from the Commission Office.*) □

New course offered

(Continued from page 2)

them with special requirements and procedures for resort property trust account recordkeeping. All attendees will receive practice sets of trust account recordkeeping materials which they will use to work through hypothetical problems and situations.

A certificate from the Commission will be given to all persons who complete the course. □

79,175 copies of this public document were printed at a cost of \$.1264 per copy.

ATTENTION

The Real Estate Commission now includes the county as part of the address-of-record for each licensee. Please check the county shown on your address label to the right. IF IT IS INCORRECT, please print (in ink) your county in the space provided below and return this entire address section to the N.C. Real Estate Commission, P.O. Box 17100, Raleigh, N.C. 27619-7100.

County _____

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