



NORTH CAROLINA REAL ESTATE COMMISSION

Real Estate Bulletin

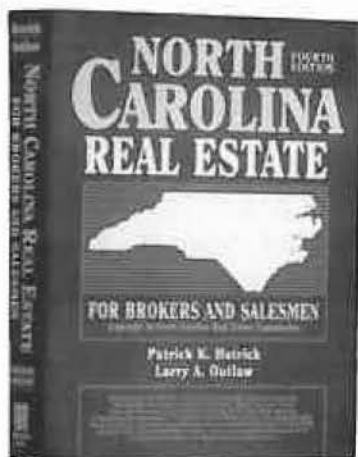
Volume 25

Winter 1995

Number 4

Commission revises/reprints *North Carolina Real Estate for Brokers and Salesmen*

Fourth Edition now in bookstores;
also available directly from publisher.



The Real Estate Commission announces the publication of its revised textbook, *North Carolina Real Estate for Brokers and Salesmen*. The original edition was written for the Commission by the late Dr. James A. Webster, Jr. of the Wake Forest University School of Law, and was published in 1974.

The Second Edition was published in 1983, after the book was rewritten by Patrick K. Hetrick of the Campbell University School of Law. He was assisted by the Commission's Director of Education and Licensing, Larry A. Outlaw, and other contributors.

Mr. Hetrick and Mr. Outlaw co-authored the Third Edition, which contained contributions from other experts in the field of real estate and finance. It was published in 1986.

The recently published Fourth Edition also was co-authored by Mr.

Hetrick and Mr. Outlaw, with assistance from respected author and teacher John P. Wiedemer.

Featuring detailed coverage of real estate principles, practices and law, the Fourth Edition includes expanded and updated coverage of *agency law; brokerage relationships and practices; environmental law; sales contracts and practices; property management; and real property valuation.*

Written primarily for real estate license applicants and practitioners, it is also an excellent reference source for real estate attorneys and anyone else interested in real estate.

North Carolina Real Estate for Brokers and Salesmen is available at area bookstores or can be ordered directly from the publisher at the following address:

Prentice-Hall/Simon & Shuster
Attention: Order Department
200 Old Tappan Road
Old Tappan, NJ 07675

When ordering 10 or more copies (at \$29.95 each) refer to title code 25BN No. 0-13-625104-8. You may place your order by phone at 1-800-223-1360.

Call 1-800-947-7700 to order less than 10 copies by phone. The title code to use when ordering less than 10 copies (at \$39.93 each) is 62510-3.

Royalties from the sale of the book are used to offset the costs of any future revisions. □

Look at your label!

Mailing label has
important information
regarding your CE credits.

As a service to licensees in verifying Commission records, a new mailing label is being introduced with this issue of the *Real Estate Bulletin*. Your mailing label now indicates, as of the date on the label, the number of continuing education hours credited to your licensee record and the status of your license - **Active** or **Inactive**.

This information will be updated prior to each issue of the *Bulletin* and will appear on your mailing label for each subsequent issue.

Please refer to the illustration on page 20 as you examine the actual mailing label (affixed to the same page), and note the new information which appears along with your name and address.

[Note: The top line of symbols, letters or numbers on your actual mailing label is for postal use only and therefore is not included in the sample illustration.]

(continued on page 20)

Renewal note: If you plan to renew your license on inactive status and therefore will not be subject to the CE requirement, please notify the Commission's Records Division *in writing now*, to expedite the processing of your renewal in June.

Note to new licensees: If you were licensed after July 1, 1994, you do **not** have to acquire CE in order to renew your license on active status in June 1995.

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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P.O. Box 17100
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Phillip T. Fisher

Editor

Carrie D. Worthington

EXAM RESULTS

	Passed	Failed
September 1994		
Brokers	70	61
Salesmen	364	225
October 1994		
Brokers	56	63
Salesmen	272	214
November 1994		
Brokers	77	48
Salesmen	306	206

Commission Staff Update



**Auditor/
Investigator
Christopher B.
Smith** has been promoted to Director of Audits and Investigations. A

graduate of North Carolina Central University with a Bachelors degree in Business Administration and a graduate of the Federal Law Enforcement Academy, Chris is a former Special Agent with the Internal Revenue Service. He has been employed with the Commission since 1989. In his new position, Chris will be responsible for the Commission's auditing and investigative programs.

Chris succeeds L. Ted Gayle, who retired December 31 after 14 years' service with the Commission. The Commission congratulates Ted upon his retirement, and extends best wishes to him and his wife Margaret.



The following Commission staff members have made appearances before various real estate industry and related groups since the last issue of the *Bulletin*. Director of Education and Licensing **Larry A. Outlaw** spoke on the Commission's Continuing Education Program at a meeting of the Raleigh Board of REALTORS® and also when he addressed the North Carolina Association of REALTORS® at its Annual Conference at Hilton Head, S.C....Special Deputy Attorney General **Thomas R. Miller**, the Commission's Legal Counsel, and Deputy Legal Counsel **Miriam J. Baer** were at the REALTORS® Conference in Hilton Head to explain the new agency rules and property condition disclosure legislation; Miriam was also in Charlotte for the Regional REALTOR® Rally and made a speech entitled, "The Ten Most Common Mistakes Agents Make."...Chief Deputy Legal Counsel **Blackwell M. Brogden, Jr.**, discussed resort prop-

erty management issues at the North Carolina Association of REALTORS® Property Management Seminar in Durham...**Marilyn E. Tomei**, the Commission's Assistant Legal Counsel, spoke on "Common Problems which Result in Complaints" when she appeared at the Raleigh/Wake Board of REALTORS® Education Extravaganza...Consumer Protection Officer **Stephen L. Fussell** talked about misrepresentations in real estate transactions and related matters when he spoke to the Pamlico County Board of REALTORS® at their meeting in Oriental. Steve spoke on "Hot Topics" of special concern to the Real Estate Commission at the North Carolina Association of REALTORS® "Region Three Rally" in Rocky Mount, and discussed "Procuring Cause" when he addressed the Morehead City-Carteret County Board of REALTORS®...Continuing Education Officer **Anita R. Burt** was in Asheville to explain continuing education requirements for real estate brokers and salesmen and the requirements and process for obtaining approval to sponsor courses; she appeared before the leadership of Regions 9 and 10 of the North Carolina Association of REALTORS®. In addresses in Greensboro at the N.C. Association of REALTORS® Annual Board Officers' Leadership Conference and in Atlantic Beach at the Fall Conference of the N.C. Community College Adult Educators Association, Anita discussed the members' respective roles in the Commission's Continuing Education Program. She also discussed continuing education when she met with the Raleigh/Wake Board of REALTORS® and the Washington/Beaufort County Board 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.*) □

Two Commission Members named to ARELLO posts



James K. Polk

Commission Chairman James K. Polk has been appointed Vice-Chair of the Association of Real Estate License Law Officials (ARELLO) Fair Housing Committee... Real Estate Commission Member J. Edward Poole has been elected to the ARELLO Board of Directors for the Southern District.



J. Edward Poole

Reciprocity Update

Change in arrangement with Connecticut

The reciprocal arrangement between North Carolina and Connecticut has been updated to delete the requirement that broker applicants must have been actively licensed for two years immediately prior to application for reciprocal licensure. As amended, the arrangement requires an applicant from the reciprocal state to be actively licensed, but not for a specified period of time.

Update Course Instructor Seminar held in Greensboro

More than 75 approved or prospective continuing education *Update* course instructors participated in a special seminar conducted by the Commission in Greensboro on September 22, 1994. An overview of the materials required to be taught in the Update course was presented to participants by Director of Education and Licensing Larry A. Outlaw, Continuing Education Officer Anita R. Burt, and Deputy Legal Counsel Miriam J. Baer.

Commission Member Mona S. Hill and Continuing Education Clerk Renee P. Weaver also participated in the seminar.

Another Update Course Instructor Seminar is scheduled for March 30, 1995, to acquaint instructors with the new *Update* course for the license period beginning July 1. It will be conducted in Chapel Hill in conjunction with the Commission's annual Educators Conference.

REGISTRATION FORM

for BASIC TRUST ACCOUNT PROCEDURES COURSE

and TRUST ACCOUNT PROCEDURES FOR RESORT PROPERTY MANAGERS COURSE

Courses will comply with Commission Rule Section 58 A.1705 Attendance and Participation Requirements for Continuing Education. Four (4) hours continuing education elective credit will be awarded for completion of each course. Courses are intended for brokers and trust account bookkeepers. Salesmen will be admitted on a space available basis.

BASIC TRUST ACCOUNT PROCEDURES - Raleigh - 1:00 P. M. to 5:00 P. M.

- | | | |
|-------------------------------------|-----------------------------------|---------------------------------|
| <input type="checkbox"/> January 10 | <input type="checkbox"/> March 14 | <input type="checkbox"/> May 9 |
| <input type="checkbox"/> February 7 | <input type="checkbox"/> April 11 | <input type="checkbox"/> June 6 |

BASIC TRUST ACCOUNT PROCEDURES - Caravan - 9:00 A. M. to 1:00 P. M.

- | | |
|--|--|
| <input type="checkbox"/> Wilmington (March 22) | <input type="checkbox"/> Asheville (April 5) |
| <input type="checkbox"/> New Bern (March 23) | <input type="checkbox"/> Charlotte (April 6) |
| <input type="checkbox"/> Southern Pines (March 24) | <input type="checkbox"/> Winston-Salem (April 7) |

TRUST ACCOUNT PROCEDURES FOR RESORT PROPERTY MANAGERS - Caravan - 9:00 A. M. to 1:30 P. M.

- | | |
|--|--|
| <input type="checkbox"/> Wilmington (March 21) | <input type="checkbox"/> Asheville (April 4) |
|--|--|

Complete this form (*make copies for additional persons*). Indicate the session location for the course which you would like to attend. Mail registration form with a check for \$35 tuition fee to be received in the Commission Office no later than 10 days prior to date of course. Each session will be limited to 40 participants. Walk-ins will be accepted on a space available basis only.

Name _____ Phone _____
(Daytime)
Address _____
(Street, P.O.Box, etc.) (City) (State) (Zip)

- ☐ Broker (License No. _____)
☐ Salesman (License No. _____)
☐ Bookkeeper

Mail to: N. C. REAL ESTATE COMMISSION
Attention: Wanda Johnson
P. O. Box 17100
Raleigh, NC 27619

Enclose \$35 tuition fee

In answer to your questions...

Many licensees have expressed concerns and asked questions regarding unlicensed assistants - their permitted functions in real estate offices, and restrictions placed on them by the License Law and Commission rules. In response, we are reprinting two articles which appeared in previous editions of *The Real Estate Bulletin*. The first article was adapted for North Carolina licensees from a similar article, "Commission Position on Activities of Unlicensed Assistants," which appeared in Vol. 126 of the *Missouri Real Estate Commission Newsletter*, October 1991.

Unlicensed Employees

The use of unlicensed assistants and other clerical personnel in the real estate industry is a growing trend, and explains why the North Carolina Real Estate Commission receives so many inquiries from brokers asking what their unlicensed office employees may and may not do.

To provide guidance to brokers, the Commission has prepared the following list of acts an unlicensed person may perform. Licensees should be advised that additional facts in any of these scenarios could change the result.

A broker's unlicensed, salaried employee **MAY**:

1. Receive and forward phone calls to his or her employing broker or another licensee in the firm.
2. Submit listings and changes to a multiple listing service, but only if the listings or changes are based upon data compiled and provided by a licensed broker or salesman.
3. Assist a broker or salesman in assembling documents for closing.
4. Secure copies of public records from the register of deeds, clerk of court, or tax office.

5. Have keys made for the firm's listings.
6. Record and deposit earnest money, security deposits, and other trust monies under the close supervision of the office broker-in-charge.
7. Type offers, contracts, and leases from drafts prepared by a broker or salesman with the firm.
8. Check license renewal and personnel files for the brokers and salesmen with the firm.
9. Compute commission checks and act as bookkeeper for the firm's operating bank accounts.

(continued on page 5)

Personal assistants

By **Stephen L. Fussell**
Consumer Protection Officer

If you employ a person to assist you in your real estate business, you should be aware of certain restrictions imposed by the Real Estate License Law and the Commission's rules, especially if your assistant does not have a real estate license.

An *unlicensed* assistant, of course, may not perform any function which requires a real estate license, nor may he hold himself out as if he is licensed. An unlicensed assistant may be compensated by salary or hourly wages, but should not be paid on a per-transaction basis, such as through commissions or bonuses.

A *licensed* assistant may perform any function requiring a real estate license. However, when the assistant is licensed as a *salesman*, he or she is subject to the same restrictions that apply to all salesmen. Among other things, this means that all real estate activities of the salesman must be supervised by the

broker-in-charge of the office where the salesman works, even if the salesman-assistant is employed by another broker or salesman in the office. If the salesman-assistant has been hired to assist another salesman, both salesmen must be supervised by the broker-in-charge.

Restrictions on compensation also vary, depending upon how the assistant is licensed. For example, if the assistant is a *salesman* and is paid on a per-transaction basis, the payment must be made through the broker-in-charge of the office, even if the salesman has been hired to assist another broker or salesman in the office. But, an assistant who holds a *broker* license may be compensated on a per-transaction basis and act without the direct supervision of the broker-in-charge, subject to the reasonable policies of the firm.

Additional considerations arise when a real estate broker working for a brokerage firm opens a separate office in the broker's own name and hires an assistant to work there. Very often the broker and the assistant are in reality working for the brokerage firm and not on

their own. This arrangement violates the Commission's rules unless the broker's separate office: (1) is designated as a "branch office" of the brokerage firm; (2) has its own broker-in-charge; and (3) is the office from which the broker and assistant work.

The Commission rules require that every licensee work from the office where his license is displayed. They also require that every office have a broker-in-charge and that the broker-in-charge supervise the activities of the office, particularly the activities of salesmen associated with it. Thus, a salesman may not operate an office independent from the firm where he or she is associated.

You must carefully consider the provisions of the Real Estate License Law and Commission rules prior to hiring a licensed or unlicensed assistant. The Commission's legal staff and Consumer Protection Officers are available to answer your questions concerning this and any other matters that relate to the License Law and rules. □

Unlicensed Employees

(continued from page 4)

10. Place "for sale" or "for rent" signs on property at the direction of a broker or salesman with the firm.
11. Order and supervise routine and minor repairs at the direction of a broker or salesman with the firm.
12. Act as a courier to deliver or pick up documents, keys, etc.
13. Make routine phone calls to coordinate or confirm appointments between brokers, salesmen, and other persons.
14. Schedule appointments for showing property for sale or lease.
15. Show rental properties managed by the broker to prospective tenants.
16. Complete and execute pre-printed form leases for rental property managed by the broker.

An unlicensed employee **MAY NOT:**

1. Show properties for sale to prospective purchasers.
2. Solicit listings or management contracts from prospective clients.
3. Answer questions concerning properties listed with the firm, except to confirm that the property is listed, to identify the listing broker or salesman, and to provide such information as would normally appear in a simple, classified newspaper advertisement (e.g., location, price, number of rooms).
4. Prepare promotional material or advertising of properties for sale or lease without the office broker-in-charge's review and approval.
5. Discuss or explain listings, management agreements, offers, contracts, or other similar matters with persons outside the firm.
6. Negotiate the amount of rent, security deposit or other lease provisions in connection with rental properties managed by the firm.

Brokers are cautioned to carefully supervise their unlicensed employees. The Real Estate License Law makes

it unlawful for persons not licensed as brokers or salesmen to perform any act for which licensure is required or to hold themselves out to be licensed. Under G.S. 93A-6(a)(9), the Real Estate Commission may take disciplinary action against brokers when their unlicensed employees perform any acts or services in violation of the License Law.

Brokers-in-charge who employ unlicensed bookkeepers to assist in handling trust monies should have such persons bonded and should establish and follow strict accounting controls. Commission Rules A.0107 and .0110 make the broker-in-charge responsible for the firm's trust accounts. The broker-in-charge may delegate to others some of the work, but none of the responsibility, of trust account bookkeeping.

Likewise, the License Law allows brokers in the rental property management business to employ unlicensed persons as leasing agents. The law makes the broker strictly accountable for such employees, however, and the Real Estate Com-

mission may discipline a broker for the misconduct of an unlicensed employee in a rental transaction.

This list is not meant to be comprehensive, but addresses many of the situations faced by real estate brokers, salesmen, and their unlicensed co-workers in daily practice. □

N.C. Fair Housing Summit "A Recipe for Community"

The N.C. Fair Housing Summit Taskforce announces a planning summit on April 27-29 to provide local communities with tools to develop and implement fair housing strategies. It will be held in Durham at the Sheraton Inn University Center, 2800 Middleton Avenue. The Taskforce is comprised of government, industry and community leaders from across the state.

For more information, contact Summit Coordinator Stella J. Adams at 101 City Hall Plaza, Durham, NC 27707 (919) 560-4219. □

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.)	
"Questions & Answers on: Condos and Townhouses" (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) _____

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

For your information...

The Commission's agency agreement and disclosure rules, which become effective July 1, 1995, are reprinted here in their entirety. The new "Disclosure to Buyer from Seller's Agent or Subagent" form is reprinted on pages 7 and 8.

A.0104 AGENCY AGREEMENTS AND DISCLOSURE

(a) Every listing agreement, buyer agency agreement or other agreement for brokerage services in a real estate sales transaction shall be in writing, shall provide for its existence for a definite period of time and shall provide for its termination without prior notice at the expiration of that period.

(b) Every listing agreement, buyer agency agreement or other agreement for brokerage services in a real estate sales transaction shall contain the following provision: The broker shall conduct all his brokerage activities in regard to this agreement without respect to the race, color, religion, sex, national origin, handicap or familial status of any buyer, prospective buyer, seller or prospective seller. The provision shall be set forth in a clear and conspicuous manner which shall distinguish it from other provisions of the agreement.

(c) Every listing agreement, buyer agency agreement or other agreement for brokerage services in a real estate sales transaction shall incorporate the "Description of Agent Duties and Relationships" prescribed by the Commission which shall be set forth in a clear and conspicuous manner and shall not include or be accompanied by any additional text which contradicts its meaning and substance. The "Description of Agent Duties and Relationships" shall read as follows:

DESCRIPTION OF AGENT DUTIES AND RELATIONSHIPS

Before you begin working with any real estate agent, you should know who the agent represents in the transaction. Every listing agreement, buyer agency agreement or other agreement for brokerage services in a real estate sales transaction in North Carolina must contain this "Description of Agent Duties and Relationships" [N.C. Real Estate Commission Rule 21 NCAC 58A .0104(c), eff. 7/1/95]. Real estate agents should carefully review this information with you prior to entering into any agency agreement.

AGENTS' DUTIES

When you contract with a real estate firm to act as your agent in a real estate transaction, the agent must help you obtain *the best price and terms possible*, whether you are the buyer or seller. The agent also owes you the duty to:

- Safeguard and account for any money handled for you
- Be loyal and follow reasonable and lawful instructions
- Act with reasonable skill, care and diligence
- Disclose to you any information which might influence your decision to buy or sell

Even if the agent does not represent you, the agent must still be fair and honest and disclose to you all "material facts" which the agent knows or reasonably should know. A fact is "material" if it relates to defects or other conditions affecting the property, or if it may influence your decision to buy or sell. *This does not require a seller's agent to disclose to the buyer the minimum amount the seller will accept, nor does it require a buyer's agent to disclose to the seller the maximum price the buyer will pay.*

AGENTS WORKING WITH SELLERS

A seller can enter into a "listing agreement" with a real estate firm authorizing the firm and its agent(s) to represent the seller in finding a buyer for his property. The listing agreement should state what the seller will pay the listing firm for its services, and it may require the seller to pay the firm no matter who finds the buyer.

The listing firm may belong to a listing service to expose the seller's property to other agents who are members of the service. Some of those agents may be working with buyers as buyers' agents; others will be working with buyers but still representing the sellers' interests as an agent or "subagent." When the buyer's agents and seller's subagents desire to share in the commission the seller pays to the listing firm, the listing agent may share the commission with the seller's permission.

AGENTS WORKING WITH BUYERS

A buyer may contract with an agent or firm to represent him (as a **buyer's agent**), or may work with an agent or firm that represents the seller (as a **seller's agent or subagent**). All parties in the transaction should find out at the beginning who the agent working with the buyer represents.

If a buyer wants a buyer's agent to represent him in purchasing a property, the buyer should enter into a "buyer agency agreement" with the agent. The buyer agency agreement should state how the buyer's agent will be paid. **Unless some other arrangement is made which is satisfactory to the parties, the buyer's agent will be paid by the buyer.** Many buyer agency agreements will also obligate the buyer to pay the buyer's agent no matter who finds the property that the buyer purchases.

A buyer may decide to work with a firm that is acting as agent for the seller (a **seller's agent or subagent**). If a buyer does not enter into a buyer agency agreement with the firm that shows him properties, that firm and its agents will show the buyer properties as an agent or subagent working on the seller's behalf. Such a firm represents the seller (**not the buyer**) and must disclose that fact to the buyer.

A seller's agent or subagent must still treat the buyer fairly and honestly and disclose to the buyer all material facts which the agent knows or reasonably should know. The seller's agent typically will be paid by the seller. **If the agent is acting as agent for the seller, the buyer should be careful not to give the agent any information that the buyer does not want the seller to know.**

DUAL AGENTS

A real estate agent or firm may represent more than one party in the same transaction only with the knowledge and consent of all parties for whom the agent acts. "Dual Agency" is most likely to occur when a buyer represented by a buyer's agent wants to purchase a property listed by that agent's firm. A dual agent must carefully explain to each party that the agent and the agent's firm are also acting for the other party.

In any dual agency situation, the agent must obtain a written agreement from the parties which fully describes the obligations of the agent and the agent's firm to each of them.

[END OF FORM]

Immediately after the "Description of Agent Duties and Relationships," every listing and buyer agency agreement shall contain the following provision, including a box which the agent shall check when the provision is applicable: ☐ This firm represents both sellers and buyers. This means that it is possible that a buyer

(continued on page 9)

**DISCLOSURE TO BUYER
FROM SELLER'S AGENT OR SUBAGENT**

*Note: This form must be used by real estate agents working with buyers as agents or subagents of the seller.
[N.C. Real Estate Commission Rule 21 NCAC 58A .0113(e), eff. 7/1/95].*

Firm Name: _____ Agent Name: _____

AGENCY DISCLOSURE

When showing you property and assisting you in the purchase of a property, the above-referenced agent and firm will be representing the interests of the SELLER. As such, the firm and its agents must work to obtain for the seller the best price and terms possible. The firm and its agents must also furnish the seller any information obtained from you or any other source which is material to the transaction or which might influence the seller's decision to sell. Therefore, as a buyer, you should not give the seller's agent any information that you do not want the seller to know.

ACKNOWLEDGEMENT

(DO NOT SIGN THIS FORM UNTIL YOU HAVE READ BOTH SIDES.)

By signing below, I acknowledge that I have received a completed copy of this form.

Buyer's Name (Print or type)

Buyer's Name (Print or type)

Buyer's Signature

Buyer's Signature

Date

Date

INSTRUCTIONS TO AGENTS

1. Review the "Description of Agent Duties and Relationships" on the reverse side of this form with the buyer(s) at the time of your first substantial contact with the buyer(s).
2. Explain the type(s) of agency (seller agency, buyer agency, dual agency) your firm offers.
3. Enter your name and the firm name at the top of this form and review the Agency Disclosure with the buyer(s).
4. Have the buyer(s) complete the ACKNOWLEDGEMENT above.
5. Give the buyer(s) a copy of this form, and retain the signed original for your files.

NOTE: If your firm will act as a buyer's agent, do not use this form. Enter into a buyer agency agreement with the buyer.

(over)

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In any dual agency situation, the agent must obtain a written agreement from the parties which fully describes the obligations of the agent and the agent's firm to each of them.

Do all leases have to be in writing?

By: Marilyn E. Tomei, Assistant Legal Counsel

The Commission's Legal Division often receives inquiries about residential rental agreements. Many of these inquiries concern the rights and remedies of parties in transactions when the prospective tenant makes a deposit on a unit but does not sign a lease. If the prospective tenant later decides not to rent the unit, is he legally entitled to a refund of his deposit? The answer depends upon whether the parties had formed an oral lease contract.

Formation and Enforceability of Oral Lease Contracts

Not all lease contracts have to be in writing to be enforceable. The North Carolina Statute of Frauds for leases requires that if the lease completion date is more than three years from the date the agreement was made, it must be in writing to be enforceable. All other leases may be oral, as long as the other requirements of forming a contract are met.

Oral lease contracts are formed much the same way as other contracts. The necessary elements are offer, acceptance, communication of acceptance, and consideration. The parties' mutual promises can serve as the consideration; money need not change hands for the lease contract to be enforceable. The parties' oral negotiations must specifically address all of the material terms of the lease contract, which typically include provisions such as the identification of the property, beginning date and term (length) of the tenancy, and amount of rent and deposit and when and how they are to be paid. In addition, the parties must *intend* to be bound to the terms of their oral agreement.

For example, suppose that at the conclusion of a discussion in which an oral agreement apparently has been reached on the material terms of a rental, a prospective tenant says to the property manager, "Write up a lease for me to look over and if it's satisfactory, I'll sign it." In this example, it appears that the prospective tenant does not intend to be bound to a contract until the agreement has been put in writing and signed by the parties. There is no

oral lease contract when the discussion ends. The property manager is therefore under no obligation to the prospective tenant and can rent the property to someone else. Likewise, the prospective tenant has no obligation to rent the property from the landlord and is entitled to a refund of any deposit which he may have made - even if the landlord cannot immediately find another tenant.

Refund of Deposits

Like a written lease, if an oral lease is properly formed, it is enforceable. Thus, if a tenant orally contracts to rent a property, and gives a property manager a security deposit and rent toward that rental, the tenant cannot be assured that he will receive his money back if he later changes his mind and decides not to occupy the unit.

If a tenant breaches the lease by not occupying the property, the landlord or his agent may recoup from the tenant any lost rent for the period during which the property stays vacant (while the landlord makes good faith efforts to re-rent it), plus the actual and reasonable cost of re-rental. The landlord's losses may be deducted from any deposit the tenant has made. If the tenant has not paid a deposit, the landlord or property manager may collect the losses as with any other debt, through formal or informal debt collection or by court action.

Within 30 days after the tenant relinquishes possession of the property (or the right to possession if the tenant has never actually occupied the property), the landlord or property manager must account to the tenant in writing for any deductions from the deposit.

Oral vs. Written Lease

Even when an oral lease is legally enforceable, it is *not* advisable. When a dispute arises, the parties' recollections may differ as to what terms were agreed to orally. A written lease, although not always required for enforceability, provides proof of the agreed-to terms.

If you and the prospective tenant wish to make a lease contract but it is not possible or practical to put the

terms down in writing at that time and place, be sure the prospective tenant understands that he is bound to a lease contract even though a written lease has not been signed; therefore, he cannot change his mind without being liable to the landlord for lost rent and the cost of re-rental. Or, if it is your intent to *not* be bound until you and the tenant enter a written agreement, make sure the tenant understands that until he signs a written lease, you are not obliged to keep the property off the rental market for him.

In any real estate transaction, the key to good customer and client relations is to assure that the expectations of all parties are consistent with the expectations of the real estate agent involved in the transaction. Few disputes should arise if each party understands what the other party expects of him, even when those expectations are not in writing. □

For your information...

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we represent will want to purchase a property owned by a seller we represent. When that occurs, the agent and firm listed above will act as **dual agents** if all parties agree."

(d) A broker or brokerage firm representing one party in a transaction shall not undertake to represent another party in the transaction without the express, written authority of each party.

(e) In every real estate sales transaction, a broker or salesman working directly with a prospective buyer as a seller's agent or subagent shall disclose to the prospective buyer at the first substantial contact with the prospective buyer that the broker or salesman represents the interests of the seller. The broker or salesman shall make the disclosure on the "Disclosure to Buyer from Seller's Agent or Subagent" form prescribed by the Commission.

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Proper procedures ensure FDIC protection for your trust accounts

By: *Thomas R. Miller*
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Introduction

Until recently, the possibility that anyone might lose money due to the failure or default of a bank or savings and loan seemed too remote to justify a study of deposit insurance rules. However, during the late 1980s and early 1990s, an unprecedented number of banks and savings institutions failed, and the Federal Savings and Loan Insurance Corporation (FSLIC) was swamped with claims from depositors.

As part of a complete overhaul of the federal banking and savings regulatory process, Congress transferred all insurance responsibilities from the FSLIC to the Federal Deposit Insurance Corporation (FDIC), which adopted strict regulations governing insurance eligibility and coverage limitations. In light of the savings and loan problems, proper insurance of client trust monies has taken on renewed importance for real estate brokers.

The North Carolina Real Estate Commission has adopted rules governing the use and management of brokerage trust accounts designed to complement the FDIC regulations and maximize insurance coverage available to clients and customers of real estate brokers. The Real Estate License Law requires every broker to deposit and maintain "... in a trust or escrow account in an *insured* bank or savings and loan association in North Carolina all money received by him as a real estate broker acting in that capacity" Of course, the purpose of this requirement is to ensure that the money which citizens entrust to real estate brokers is protected by the FDIC against the possible failure or default of the depository institution.

Deposit insurance in general

The FDIC will insure funds up to \$100,000 per individual at a single insured depository institution. If the individual has more than \$100,000 on deposit at the same institution, insurance coverage is limited to \$100,000, whether the funds are in

one account or separate accounts. For example, if a person had on deposit in First National Bank \$60,000 in a checking account and \$75,000 in a savings account (\$135,000 total), only \$100,000 would be insured. But, if the person were to withdraw \$35,000 from First National Bank and deposit it at another FDIC-insured bank, all of the \$135,000 would be insured, because deposits at each bank are insured separately.

Treatment of funds in trust accounts

When a real estate broker deposits money belonging to a client or customer into a trust account, FDIC regulations permit the money to be insured to the same extent as if it had been deposited by the client/customer himself or herself in his or her own name. Therefore, if the trust account contains funds belonging to more than one client or customer, the FDIC will insure the funds for **each** client and customer up to \$100,000.

For example, assume that a broker is holding in his trust account \$85,000 in rents for one client and a \$45,000 earnest money deposit from another customer. The broker keeps \$100 of his own money in the account to cover occasional bank fees. How much insurance coverage will the FDIC permit for the broker's trust account? Even though the total in the account exceeds \$100,000, all of the money is covered because FDIC regulations treat the money as though it were deposited individually in each person's own name.

Brokers should caution their customers and clients that if they have personal accounts at the same bank where brokers are holding their trust monies, the accounts will be subject to the \$100,000 limit. As an example, assume that the client who has \$85,000 in rents in the broker's trust account has a checking account containing \$22,000 in the same bank (i.e., \$107,000 total). Under FDIC regulations, the client would be insured for only \$100,000 - the limit per individual per depository.

Recordkeeping

To obtain FDIC coverage for their trust accounts, brokers must strictly comply with FDIC and Real Estate Commission trust account record-keeping requirements. To do so, the account records of the bank or depos-

itory institution must clearly indicate a fiduciary relationship between the broker who deposited the money and the broker's client who owns the money. By Commission rule, brokers must designate their trust accounts as "trust" or "escrow" - using one or the other of those terms on the official name of the account, as well as on checks, deposit slips, and bank statements. Compliance with the Commission rule will satisfy the disclosure requirement of the FDIC.

But mere disclosure of the broker's fiduciary capacity in the account designation is not enough to assure separate insurance for the owners of the funds in the account. FDIC regulations also require that the bank's records or broker's records contain details concerning the broker's relationship to clients and customers and the broker's interest in the funds in the trust account. Since it is impractical to expect banks or depository institutions to maintain detailed records of real estate brokers' fiduciary relationships with their clients and customers, the evidence necessary to satisfy this FDIC requirement must come directly from the brokers themselves. To satisfy the FDIC, the records must be accurate, kept in good faith and in the regular course of business.

Again, the broker who carefully complies with the Commission's trust account recordkeeping rules also will satisfy this FDIC requirement. When the broker's records are inadequate to distinguish trust account funds belonging to one customer or client from funds belonging to another, the FDIC will not separately insure the funds, which may result in considerable financial loss in the event of bank failure.

Conclusion

The recent national failure of the savings and loan industry will underscore the need for North Carolina real estate brokers to fulfill the obligations imposed by the License Law to safeguard the funds they hold for others, including the requirement to deposit trust monies in an insured bank or savings and loan association. Whether brokers properly discharge these obligations depends in significant measure upon the degree of care with which they comply with the Commission's trust account rules and guidelines. □

Continuing Education Corner

CE Options for Nonresident Licensees

Like resident North Carolina real estate brokers and salesmen, persons with North Carolina licenses who reside in other states must satisfy the basic continuing education requirement of eight classroom hours per year in order to renew their licenses on active status. However, because the Commission is aware that many of its nonresident licensees reside a great distance from North Carolina, and that many are already subject to continuing education requirements in their home states, the Commission offers nonresident licensees three options for satisfying our continuing education (CE) requirement.

Option #1

A nonresident licensee may fulfill the CE requirement exactly like a resident licensee by taking CE courses that are approved by the North Carolina Real Estate Commission. Under this option (which is recommended for licensees who live close to North Carolina), they would complete the four-hour *Real Estate Update* course and four hours of approved elective courses. The course sponsor would notify the Commission upon completion of each course.

Option #2

A nonresident licensee may fully satisfy the CE requirement by completing eight hours of courses which are approved for CE credit by the real estate licensing agency in the licensee's resident state, (even if the courses were taken in another state). For example, if a Tennessee resident who is licensed in North Carolina completes a course in Tennessee which is approved for CE credit by the Tennessee Real Estate Commission, the course may be applied toward satisfying North Carolina's CE requirement.

Another example: A North Carolina licensee who lives in Georgia may complete a CE course in Florida and apply it toward satisfying the North Carolina CE requirement if it is approved for CE credit by the Georgia Real Estate Commission.

This option (*available only to nonresident licensees*), may be the best choice for licensees for whom it would be very difficult and costly to come to North Carolina to take CE courses.

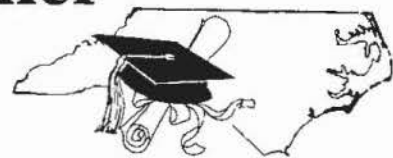
To exercise this option, a nonresident licensee must submit to the North Carolina Real Estate Commission official verification (usually a copy of the course completion certificate) of completion of at least eight hours of continuing education approved for CE credit by the real estate licensing agency in his or her resident state. The official verification must clearly indicate the date the licensee completed each course. It must also verify that each course is approved in that state for at least the number of hours of CE credit for which the licensee requests credit in North Carolina. To expedite processing, the licensee should also provide his or her North Carolina real estate license number.

Option #3

Nonresident licensees may formally request the Commission to evaluate and award continuing education course credit for a course **not** approved by the Commission or the licensing agency in their resident state, or for some other real estate education activity (e.g., teaching or developing an approved continuing education course, writing a text or published scholarly article on subject matter acceptable for purposes of continuing education). These courses and education activities must be found by the Commission to be equivalent to North Carolina's continuing education requirement. Each request must be submitted on a form prescribed by the Commission accompanied by a \$50 nonrefundable fee.

Inactive status

Like resident licensees, nonresidents who apply to renew their North



Carolina licenses will have their licenses placed on inactive status if they have not completed their continuing education. Their licenses will remain inactive until they make up the CE hours necessary to change their status back to active. Detailed information concerning the amount and type of CE required to change an inactive license back to active status will be presented in the next issue of the *Real Estate Bulletin*. □

Review of the Basic CE Requirement

- To renew your license on active status, beginning with license renewal in June 1995, you must complete each year eight classroom hours of approved continuing education -- a four-hour *Real Estate Update* Course, and four hours in elective courses. Active status is required if you wish to engage in (and receive compensation for) any activity requiring a license, including referrals.
- To renew your license on inactive status, you do not have to satisfy the continuing education requirement. If your license is on inactive status, you may retain your license but not engage in (and be compensated for) any activity requiring a real estate license.
- To change your license from inactive to active status, you must show that you have obtained continuing education specified by the Commission. This could range from 0 to 20 hours, depending on the length of time your license has been inactive and any approved continuing education you may have completed since the beginning of the preceding license period.
- To qualify for credit, your continuing education must have been completed since the July 1 preceding license renewal. No courses will be offered between June 11 and June 30 to afford the Commission time to process license renewals; therefore, *the last day classes will be offered each year is June 10.*

CONTINUING EDUCATION COURSE SCHEDULE

For the Period January 1, 1995 - March 31, 1995

The basic continuing education requirement for renewal of a license on active status is eight hours per year. Four (4) of the required eight (8) hours must be obtained by satisfactorily completing the mandatory **RE Update** course. The remaining four (4) hours must be obtained by completing one or more elective courses approved by the Commission. Continuing education must be completed within the twelve-month period immediately preceding license expiration on June 30. Sponsors will not be allowed to offer approved courses between June 11 and June 30 of any year. Therefore, in order to renew on active status, each licensee must obtain the required continuing education **no later than June 10** each year.

The following schedule of courses is based on information provided by approved sponsors prior to the deadline for publication of this issue of the *Bulletin*. The information is organized alphabetically by cities and towns where scheduled courses will be conducted. Each scheduled session of the mandatory **update** course is listed in bold italics as **RE Update**. All other course titles are elective courses. **The four-digit sponsor number and the hours credit for the course appear in parentheses immediately after each course title**, followed by the scheduled date for the class. **Please refer to the corresponding sponsor number on the accompanying list of Continuing Education Sponsors for the sponsor name and telephone number.** Licensees must contact course sponsors directly for more complete course descriptions, information regarding fees, the scheduled hours for the course, and registration procedures. Licensees should also contact course sponsors directly for information regarding additional sessions which may have been scheduled and additional courses which may have been approved since the publication deadline.

City	Course Title (Sponsor No./CE Hrs.)	Date(s)	City	Course Title (Sponsor No./CE Hrs.)	Date(s)
Albemarle	RE Update(1055/4)	01/09/95	Charlotte	RE Update(1035/4)	01/09/95
	RE Update(1055/4)	01/23/95		Professional Business Standards(1004/4)	01/12/95
	RE Update(1055/4)	02/06/95		RE Update(1004/4)	01/17/95
	RE Update(1055/4)	02/20/95		RE Update(1035/4)	01/18/95
Aaheboro	RE Update(1057/4)	01/06/95		Nuts & Bolts Of Prpty Management(1001/4)	01/18/95
	RE Update(1057/4)	02/17/95		RE Update(1023/4)	01/18/95
Aaheville	RE Update(1005/4)	01/20/95		Fair Housing in the 90's(1023/4)	01/18/95
	RE Update(1005/4)	01/25/95		Fair Housing in the 90's(1004/4)	01/19/95
	RE Update(1005/4)	01/28/95		Here Comes the Judge(1001/4)	01/19/95
	RE Update(1065/4)	01/30/95		RE Update(1024/4)	01/20/95
	RE License Law/Commission Rules(1065/2)	01/30/95		Tax Aspects Of Home Ownership(1024/4)	01/20/95
	Is That Contract for Real?(1065/2)	01/30/95		License Law & the B-I-C(1004/4)	01/20/95
	RE Update(1024/4)	02/18/95		RE Update(1004/4)	01/23/95
	Tax Aspects Of Home Ownership(1024/4)	02/18/95		RE Update(1004/4)	01/25/95
	RE Update(1065/4)	02/24/95		RE Update(1004/4)	01/26/95
	RE License Law/Commission Rules(1065/2)	02/24/95		RE Update(1023/4)	01/26/95
	Is That Contract for Real?(1065/2)	02/24/95		Fair Housing in the 90's(1004/4)	01/27/95
	RE Update(1005/4)	02/25/95		RE Update(1035/4)	01/27/95
	RE Update(1065/4)	03/24/95		Decisions Made Easy W Financial Info(1033/4)	01/28/95
	RE License Law/Commission Rules(1065/2)	03/24/95		RE Update(1033/4)	01/28/95
	Is That Contract for Real?(1065/2)	03/24/95		RE Update(1004/4)	01/30/95
	RE Update(1005/4)	03/28/95		Risk Reduction(1004/4)	01/31/95
	RE Update(1005/4)	03/31/95		RE Update(1035/4)	01/31/95
Boone	RE Update(1024/4)	02/13/95		Professional Business Standards(1004/4)	02/03/95
	Tax Aspects Of Home Ownership(1024/4)	02/13/95		Decisions Made Easy W Financial Info(1033/4)	02/04/95
Brevard	RE Update(1005/4)	03/10/95		RE Update(1033/4)	02/04/95
Burlington	RE Update(1038/4)	01/25/95		RE Update(1023/4)	02/07/95
	RE Update(1038/4)	03/08/95		RE Update(1035/4)	02/08/95
	RE Update(1024/4)	03/23/95		Who's My Boss(1004/4)	02/14/95
	Tax Aspects Of Home Ownership(1024/4)	03/23/95		RE Update(1023/4)	02/16/95
Chapel Hill	RE Update(1006/4)	01/12/95		RE Update(1038/4)	02/17/95
	RE Update(1024/4)	02/03/95		RE Update(1035/4)	02/17/95
	Tax Aspects Of Home Ownership(1024/4)	02/03/95		License Law & the B-I-C(1004/4)	02/21/95

City	Course Title (Sponsor No./CE Hrs.)	Date(s)	City	Course Title (Sponsor No./CE Hrs.)	Date(s)
Charlotte (con't)	RE Update(1004/4)	02/22/95	Durham (con't)	RE Update(1020/4)	03/22/95
	RE Update(1004/4)	02/23/95	Elizabeth City	Advertising: Improving Your Business(1059/4)	02/11/95
	Professional Business Standards(1004/4)	02/24/95	Fayetteville	Risk Management(1011/4)	01/07/95
	RE Update(1024/4)	02/25/95		Risk Management(1011/4)	01/10/95
	Tax Aspects Of Home Ownership(1024/4)	02/25/95		Risk Management(1011/4)	01/13/95
	Decisions Made Easy W Financial Info(1033/4)	02/25/95		RE Update(1011/4)	01/21/95
	RE Update(1033/4)	02/25/95		RE Update(1011/4)	01/24/95
	Risk Reduction(1004/4)	02/27/95		Risk Management(1011/4)	01/27/95
	Residential Construction GRI 201(1012/4)	02/27/95		Advertising: Improving Your Business(1059/4)	01/28/95
	Legal Issues in Real Estate GRI 202(1012/4)	02/28/95		RE Update(1011/4)	02/03/95
	Tax Planning for the RE Pro GRI 203(1012/4)	03/01/95		Risk Management(1011/4)	02/07/95
	RE Update(1004/4)	03/03/95		RE Update(1031/4)	02/09/95
	RE Update(1004/4)	03/07/95		Risk Management(1011/4)	02/11/95
	RE Update(1004/4)	03/09/95		Risk Management(1011/4)	02/17/95
	RE Update(1024/4)	03/10/95		Risk Management(1011/4)	02/21/95
	Tax Aspects Of Home Ownership(1024/4)	03/10/95		Valuing Small Prop/Income Approach(1031/4)	02/24/95
	Decisions Made Easy W Financial Info(1033/4)	03/11/95		RE Update(1031/4)	02/25/95
	RE Update(1033/4)	03/11/95		RE Update(1011/4)	02/25/95
	RE Update(1023/4)	03/15/95		RE Update(1024/4)	03/01/95
	Fair Housing in the 90s(1023/4)	03/15/95		Tax Aspects Of Home Ownership(1024/4)	03/01/95
	Professional Business Standards(1004/4)	03/16/95		Risk Management(1011/4)	03/03/95
	Who's My Boss(1004/4)	03/21/95		Risk Management(1011/4)	03/07/95
	RE Update(1004/4)	03/22/95		RE Update(1031/4)	03/09/95
	RE Update(1038/4)	03/22/95		Advertising: Improving Your Business(1059/4)	03/10/95
	Professional Business Standards(1004/4)	03/23/95		Risk Management(1011/4)	03/11/95
	RE Update(1004/4)	03/24/95		Risk Management(1011/4)	03/17/95
	Decisions Made Easy W Financial Info(1033/4)	03/25/95		RE Update(1011/4)	03/21/95
	RE Update(1033/4)	03/25/95		RE Update(1031/4)	03/24/95
	RE Update(1004/4)	03/30/95		Valuing Small Prop/Income Approach(1031/4)	03/25/95
	RE Update(1007/4)	01/14/95		RE Update(1011/4)	03/25/95
Clinton	RE License Law & Commission Rules(1007/2)	01/14/95	Franklin	RE Update(1005/4)	02/17/95
	Is That Contract for Real?(1007/2)	01/14/95		RE Update(1005/4)	03/17/95
Concord	Fair Housing in the 90's(1015/4)	01/11/95	Gastonia	RE Update(1024/4)	03/24/95
	The Sales Contract & Closing(1015/4)	01/18/95		Tax Aspects Of Home Ownership(1024/4)	03/24/95
	Basic Law Review Course(1015/4)	01/19/95	Goldsboro	RE Update(1007/4)	01/11/95
	Fair Housing in the 90's(1015/4)	01/25/95		RE License Law & Commission Rules(1007/2)	01/11/95
	Fair Housing in the 90's(1015/4)	02/08/95		Is That Contract for Real?(1007/2)	01/11/95
	The Sales Contract & Closing(1015/4)	02/15/95		RE Update(1034/4)	01/19/95
	Basic Law Review Course(1015/4)	02/16/95		Buyer Representation(1034/4)	01/19/95
	Fair Housing in the 90's(1015/4)	02/22/95		Advertising: Improving Your Business(1059/4)	01/20/95
	Fair Housing in the 90's(1015/4)	03/08/95		RE Update(1034/4)	02/08/95
	The Sales Contract & Closing(1015/4)	03/09/95		Buyer Representation(1034/4)	02/08/95
	RE Update(1024/4)	03/22/95		RE Update(1024/4)	03/06/95
	Tax Aspects Of Home Ownership(1024/4)	03/22/95		Tax Aspects Of Home Ownership(1024/4)	03/06/95
	Fair Housing in the 90's(1015/4)	03/22/95		RE Update(1034/4)	03/16/95
Dunn Durham	Basic Law Review Course(1015/4)	03/23/95		Buyer Representation(1034/4)	03/16/95
	RE Update(1002/4)	01/11/95	Graham	RE Update(1060/4)	02/08/95
	RE Update(1036/4)	01/11/95	Greensboro	RE Update(1016/4)	01/05/95
	Problem Topics(1036/4)	01/11/95		Home Mortgage Financing(1016/4)	01/05/95
	RE Update(1006/4)	01/14/95		RE Update(1038/4)	01/23/95
	RE Update(1020/4)	01/25/95		RE Update(1024/4)	01/25/95
	RE Update(1006/4)	01/26/95		Tax Aspects Of Home Ownership(1024/4)	01/25/95
	RE Update(1036/4)	02/08/95		RE Update(1033/4)	01/26/95
	Problem Topics(1036/4)	02/08/95		RE Update(1033/4)	02/08/95
	Licensee's Basic Guide/Res Constr(1020/4)	02/10/95		Decisions Made Easy W Financial Info(1033/4)	02/08/95
	RE Update(1006/4)	02/18/95		RE Update(1024/4)	02/09/95
	RE Update(1020/4)	02/22/95		Tax Aspects Of Home Ownership(1024/4)	02/09/95
	RE Update(1006/4)	03/04/95		RE Update(1038/4)	02/13/95
	RE Update(1036/4)	03/08/95		RE Update(1016/4)	02/15/95
	Problem Topics(1036/4)	03/08/95		RE Update(1033/4)	02/16/95

<u>City</u>	<u>Course Title (Sponsor No./CE Hrs.)</u>	<u>Date(s)</u>	<u>City</u>	<u>Course Title (Sponsor No./CE Hrs.)</u>	<u>Date(s)</u>
Greensboro (con't)	Decisions Made Easy W Financial Info(1033/4)	02/16/95	Pinehurst	<i>RE Update(1042/4)</i>	01/10/95
	<i>RE Update(1033/4)</i>	03/02/95		Risk Management(1042/4)	02/06/95
	Decisions Made Easy W Financial Info(1033/4)	03/02/95	Raleigh	<i>RE Update(1042/4)</i>	02/14/95
	<i>RE Update(1038/4)</i>	03/13/95		Decisions Made Easy W Financial Info(1053/4)	01/06/95
	<i>RE Update(1033/4)</i>	03/23/95		<i>RE Update(1008/4)</i>	01/06/95
Greenville	Decisions Made Easy W Financial Info(1033/4)	03/23/95		Evaluation Of Prpty Inspection Report(1025/4)	01/07/95
	<i>RE Update(1024/4)</i>	03/24/95		Basic Trust Account Procedures(1000/4)	01/10/95
	Tax Aspects Of Home Ownership(1024/4)	03/24/95		Tax Aspects Of Home Ownership(1053/4)	01/12/95
	Advertising: Improving Your Business(1059/4)	01/21/95		<i>RE Update(1038/4)</i>	01/13/95
Hickory	<i>RE Update(1024/4)</i>	03/21/95		Fair Housing for Property Managers(1008/4)	01/13/95
	Tax Aspects Of Home Ownership(1024/4)	03/21/95		<i>RE Update(1040/4)</i>	01/14/95
	<i>RE Update(1024/4)</i>	01/18/95		Challenging the Appraisal(1040/4)	01/14/95
	Tax Aspects Of Home Ownership(1024/4)	01/18/95		Evaluation Of Prpty Inspection Report(1025/4)	01/14/95
High Point	<i>RE Update(1064/4)</i>	02/01/95		<i>RE Update(1008/4)</i>	01/17/95
	<i>RE Update(1005/4)</i>	02/02/95		<i>RE Update(1024/4)</i>	01/17/95
	<i>RE Update(1038/4)</i>	01/16/95		Tax Aspects Of Home Ownership(1024/4)	01/17/95
	<i>RE Update(1038/4)</i>	02/27/95		<i>RE Update(1036/4)</i>	01/18/95
Highlands	<i>RE Update(1024/4)</i>	03/04/95		Problem Topics(1036/4)	01/18/95
	Tax Aspects Of Home Ownership(1024/4)	03/04/95		<i>RE Update(1008/4)</i>	01/19/95
	<i>RE Update(1038/4)</i>	03/20/95		<i>RE Update(1008/4)</i>	01/23/95
	<i>RE Update(1005/4)</i>	01/17/95		<i>RE Update(1033/4)</i>	01/24/95
Jacksonville	Advertising: Improving Your Business(1059/4)	01/12/95		Decisions Made Easy W Financial Info(1033/4)	01/24/95
	Advertising: Improving Your Business(1059/4)	01/14/95		<i>RE Update(1036/4)</i>	01/25/95
	<i>RE Update(1024/4)</i>	03/08/95		Problem Topics(1036/4)	01/25/95
	Tax Aspects Of Home Ownership(1024/4)	03/08/95		Evaluation Of Prpty Inspection Report(1008/4)	01/26/95
Kenansville	<i>RE Update(1034/4)</i>	02/15/95		Decisions Made Easy W Financial Info(1053/4)	02/02/95
	Buyer Representation(1034/4)	02/15/95		<i>RE Update(1008/4)</i>	02/02/95
Kill Devil Hills	<i>RE Update(1027/4)</i>	01/10/95		Advertising: Improving Your Business(1059/4)	02/03/95
	<i>RE Update(1066/4)</i>	01/25/95		Fair Housing for Property Managers(1008/4)	02/06/95
Kinston	Advertising: Improving Your Business(1059/4)	01/21/95		<i>RE Update(1033/4)</i>	02/07/95
	<i>RE Update(1034/4)</i>	01/26/95		Decisions Made Easy W Financial Info(1033/4)	02/07/95
	Buyer Representation(1034/4)	01/26/95		Basic Trust Account Procedures(1000/4)	02/07/95
	<i>RE Update(1034/4)</i>	03/30/95		<i>RE Update(1008/4)</i>	02/08/95
Kitty Hawk	Buyer Representation(1034/4)	03/30/95		<i>RE Update(1038/4)</i>	02/10/95
	Residential Financing GRI 101(1012/4)	02/13/95		<i>RE Update(1036/4)</i>	02/15/95
	From Contract To Closing GRI 103(1012/4)	02/15/95		Problem Topics(1036/4)	02/15/95
	<i>RE Update(1005/4)</i>	01/06/95		<i>RE Update(1008/4)</i>	02/18/95
Lake Lure	<i>RE Update(1045/4)</i>	01/23/95		<i>RE Update(1040/4)</i>	02/18/95
Lexington	<i>RE Update(1071/4)</i>	01/09/95		Challenging the Appraisal(1040/4)	02/18/95
Lumberton	<i>RE Update(1071/4)</i>	02/13/95		<i>RE Update(1024/4)</i>	02/21/95
	<i>RE Update(1005/4)</i>	02/10/95		Tax Aspects Of Home Ownership(1024/4)	02/21/95
Marion	Advertising: Improving Your Business(1059/4)	02/01/95		<i>RE Update(1036/4)</i>	02/22/95
Morehead City	<i>RE Update(1024/4)</i>	03/09/95		Problem Topics(1036/4)	02/22/95
	Tax Aspects Of Home Ownership(1024/4)	03/09/95		<i>RE Update(1033/4)</i>	02/23/95
Morganton	<i>RE Update(1024/4)</i>	03/01/95		Decisions Made Easy W Financial Info(1033/4)	02/23/95
	Tax Aspects Of Home Ownership(1024/4)	03/01/95		<i>RE Update(1008/4)</i>	02/23/95
New Bern	<i>RE Update(1061/4)</i>	01/12/95		Advertising: Improving Your Business(1059/4)	02/24/95
	Advertising: Improving Your Business(1059/4)	01/13/95		Tax Aspects Of Home Ownership(1053/4)	02/27/95
	<i>RE Update(1056/4)</i>	01/23/95		<i>RE Update(1008/4)</i>	03/02/95
	<i>RE Update(1061/4)</i>	02/10/95		Risk Management(1040/4)	03/04/95
	<i>RE Update(1056/4)</i>	02/20/95		<i>RE Update(1040/4)</i>	03/04/95
	<i>RE Update(1061/4)</i>	03/08/95		Decisions Made Easy W Financial Info(1053/4)	03/07/95
	<i>RE Update(1024/4)</i>	03/10/95		<i>RE Update(1008/4)</i>	03/08/95
	Tax Aspects Of Home Ownership(1024/4)	03/10/95		Advertising: Improving Your Business(1059/4)	03/11/95
	<i>RE Update(1056/4)</i>	03/20/95		<i>RE Update(1033/4)</i>	03/14/95
	Basic Trust Account Procedures(1000/4)	03/23/95		Decisions Made Easy W Financial Info(1033/4)	03/14/95

<u>City</u>	<u>Course Title (Sponsor No./CE Hrs.)</u>	<u>Date(s)</u>	<u>City</u>	<u>Course Title (Sponsor No./CE Hrs.)</u>	<u>Date(s)</u>
Raleigh (con't)	Basic Trust Account Procedures(1000/4)	03/14/95	Waynesville	RE Update(1005/4)	03/03/95
	RE Update(1038/4)	03/15/95		RE Update(1024/4)	03/31/95
	RE Update(1036/4)	03/15/95	Weldon	Tax Aspects Of Home Ownership(1024/4)	03/31/95
	Problem Topics(1036/4)	03/15/95		RE Update(1067/4)	02/09/95
	Tax Aspects Of Home Ownership(1053/4)	03/16/95		RE Update(1067/4)	03/14/95
	RE Update(1008/4)	03/16/95	Whiteville	Advertising: Improving Your Business(1059/4)	03/04/95
	RE Update(1008/4)	03/20/95	Wilkesboro	RE Update(1013/4)	02/10/95
	RE Update(1036/4)	03/22/95	Wilmington	RE Update(1046/4)	01/04/95
	Problem Topics(1036/4)	03/22/95		RE Update(1046/4)	01/05/95
	RE Update(1024/4)	03/23/95		RE Update(1036/4)	01/09/95
	Tax Aspects Of Home Ownership(1024/4)	03/23/95		RE Update(1021/4)	01/25/95
	RE Update(1040/4)	03/25/95		Buyer Representation(1021/4)	01/25/95
	Challenging the Appraisal(1040/4)	03/25/95		Advertising: Improving Your Business(1059/4)	01/26/95
	RE Update(1033/4)	03/28/95		Advertising: Improving Your Business(1059/4)	01/27/95
	Decisions Made Easy W Financial Info(1033/4)	03/28/95		Advertising: Improving Your Business(1059/4)	02/09/95
Rocky Mount	RE Update(1007/4)	01/06/95		Advertising: Improving Your Business(1059/4)	02/10/95
	RE License Law & Commission Rules(1007/2)	01/06/95		RE Update(1021/4)	03/02/95
	Is That Contract for Real?(1007/2)	01/06/95		Buyer Representation(1021/4)	03/02/95
	Advertising: Improving Your Business(1059/4)	02/25/95		RE Update(1024/4)	03/07/95
	RE Update(1024/4)	03/22/95		Tax Aspects Of Home Ownership(1024/4)	03/07/95
Sanford	Tax Aspects Of Home Ownership(1024/4)	03/22/95		Trust Acct Procedures Rsrty Prpty Mgr(1000/4)	03/21/95
	RE Update(1026/4)	01/12/95		Basic Trust Account Procedures(1000/4)	03/22/95
	Buyer Representation(1034/4)	01/12/95	Wilson	Advertising: Improving Your Business(1059/4)	03/03/95
	RE Update(1034/4)	01/12/95		RE Update(1038/4)	01/09/95
	RE Update(1024/4)	03/24/95	Winston Salem	RE Update(1010/4)	01/11/95
Shelby	Tax Aspects Of Home Ownership(1024/4)	03/24/95		RE Update(1033/4)	01/31/95
	Buyer Representation(1034/4)	03/29/95		Decisions Made Easy W Financial Info(1033/4)	01/31/95
	RE Update(1034/4)	03/29/95		RE Update(1010/4)	02/01/95
	RE Update(1005/4)	01/14/95		RE Update(1038/4)	02/06/95
Smithfield	RE Update(1024/4)	03/20/95		RE Update(1010/4)	02/08/95
	Tax Aspects Of Home Ownership(1024/4)	03/20/95		RE Update(1033/4)	02/15/95
Southern Pines	RE Update(1026/4)	01/10/95		Decisions Made Easy W Financial Info(1033/4)	02/15/95
	Advertising: Improving Your Business(1059/4)	03/09/95		RE Update(1024/4)	02/15/95
	Basic Trust Account Procedures(1000/4)	03/24/95		Tax Aspects Of Home Ownership(1024/4)	02/15/95
	RE Update(1024/4)	03/30/95		RE Update(1033/4)	02/23/95
	Tax Aspects Of Home Ownership(1024/4)	03/30/95		Decisions Made Easy W Financial Info(1033/4)	02/23/95
Spindale	RE Update(1002/4)	01/31/95		RE Update(1038/4)	03/06/95
Statesville	RE Update(1024/4)	01/16/95		RE Update(1033/4)	03/09/95
	Tax Aspects Of Home Ownership(1024/4)	01/16/95		Decisions Made Easy W Financial Info(1033/4)	03/09/95
Supply	RE Update(1005/4)	02/07/95		RE Update(1024/4)	03/20/95
	RE Update(1043/4)	01/18/95		Tax Aspects Of Home Ownership(1024/4)	03/20/95
	Buyer Representation(1043/4)	01/18/95		Pricing Residential Prpties/Valuation (1012/4)	03/20/95
	RE Update(1043/4)	03/22/95		Residential RE As Investment GRI 30(1012/4)	03/21/95
	Buyer Representation(1043/4)	03/22/95		Property Management GRI 303(1012/4)	03/22/95
W Jefferson	RE Update(1013/4)	01/13/95		RE Update(1033/4)	03/24/95
	RE Update(1013/4)	03/17/95		Decisions Made Easy W Financial Info(1033/4)	03/24/95
Washington	RE Update(1009/4)	02/06/95			
	RE Update(1009/4)	03/06/95			

CONTINUING EDUCATION SPONSORS

The course sponsors listed below have been approved by the Commission to offer continuing education courses for credit toward renewal of licenses on active status. Sponsors approved to offer the mandatory 4-hour *update* course are designated by the letter (U), and sponsors approved to offer one or more elective courses are designated by the letter (E). Some sponsors have been approved to offer both the *update* and elective courses. The course sponsor numbers in this list correspond to the 4-digit sponsor number which appears in parenthesis immediately following each course title in the preceding course schedule. Licensees should contact the course sponsors directly for information regarding fees, registration procedures, and additional scheduling information which was not available at the time of publication.

<u>Sponsor No.</u>	<u>Sponsor Name</u>	<u>Office Location</u>	<u>Telephone</u>
1000	North Carolina Real Estate Commission* (E)	Raleigh	(919) 733-9580
1001	North Carolina Association of REALTORS®, Inc. (U/E)	Greensboro	(910) 294-1415
1002	George Bell Productions, Ltd. (U)	Raleigh	(919) 782-3551
1003	Carolina Real Estate Academy (U)	Goldsboro	(919) 751-8038
1004	Mingle Institute/NC School of Real Estate (U/E)	Charlotte	(704) 372-2984
1005	Cumbie Institute of Real Estate (U)	Asheville	(704) 687-7252
1006	Durham Technical Community College (U/E)	Durham	(919) 598-9270
1007	Eastern Carolina Real Estate School (U/E)	Jacksonville	(910) 455-5328
1008	Raleigh/Wake Board of REALTORS® (U/E)	Raleigh	(919) 834-0359
1009	Beaufort County Community College (U)	Washington	(919) 946-6194
1010	Forsyth Technical Community College (U)	Winston Salem	(910) 760-2373
1011	The Business Advantage, Inc. (U/E)	Fayetteville	(910) 485-1746
1012	North Carolina Real Estate Educational Foundation (E)	Greensboro	(910) 294-1415
1013	Wilkes Community College (U/E)	Wilkesboro	(910) 651-8695
1014	Eastern North Carolina School of Real Estate (U)	Goldsboro	(919) 778-9102
1015	Cabarrus County Association of REALTORS®, Inc. (U/E)	Concord	(704) 786-5512
1016	Greensboro Regional REALTORS® Association, Inc. (U/E)	Greensboro	(910) 854-5868
1017	Guilford Technical Community College (U)	Greensboro	(910) 334-5408
1018	Avery-Watauga Association of REALTORS® (U)	Boone	(704) 262-5437
1019	Asheville Board of REALTORS®, Inc. (U/E)	Asheville	(704) 255-8505
1020	Durham Association of REALTORS® (U/E)	Durham	(919) 383-2117
1021	Cape Fear Community College (U/E)	Wilmington	(910) 251-5689
1022	Larry Goodman Continuing Education (U/E)	Salisbury	(704) 636-3975
1023	Century 21 Real Estate Academy (U/E)	Charlotte	(704) 535-2121
1024	Imperial Training Services, Inc. (U/E)	Garner	(919) 772-6460
1025	The Christopher Group (E)	Raleigh	(919) 981-0098
1026	Pinehurst/Southern Pines Area Bd of REALTORS® (U/E)	Southern Pines	(910) 692-8988
1027	Dare County Board of REALTORS®, Inc. (U)	Kill Devil Hills	(919) 441-4036
1028	Union County Board of REALTORS®, Inc. (U)	Monroe	(704) 289-6059
1029	Ockuly Real Estate Academy (U)	Jacksonville	(910) 455-2977
1030	North Carolina Appraisal Board (E)	Raleigh	(919) 420-7920
1031	Fayetteville Technical Community College (U/E)	Fayetteville	(910) 678-8442
1032	Fayetteville Real Estate Academy (U/E)	Fayetteville	(910) 424-0750
1033	National Education Network (U/E)	Manchester Ctr, VT	(802) 362-2971
1034	Real Estate Career Institute (U/E)	Wilmington	(910) 256-7469
1035	Central Piedmont Community College (U)	Charlotte	(704) 342-6562
1036	Howard Perry & Walston Real Estate School (U/E)	Raleigh	(919) 406-6900
1037	Winston-Salem Association of REALTORS®, Inc. (U)	Winston Salem	(910) 768-5560
1038	The Agent's Choice School of Continuing Education (U)	Winston Salem	(910) 922-4117
1039	Rocky Mount Area Association of REALTORS®, Inc. (U)	Rocky Mount	(919) 937-7181

<u>Sponsor No.</u>	<u>Sponsor Name</u>	<u>Office Location</u>	<u>Telephone</u>
1040	Wake Technical Community College (U/E)	Raleigh	(919) 662-3457
1041	High Point Regional Association of REALTORS®, Inc. (U)	High Point	(910) 889-8181
1042	Sandhills Community College (U/E)	Pinehurst	(910) 695-3769
1043	Brunswick Community College (U/E)	Supply	(910) 754-6900
1044	Metrolina Commercial Board of REALTORS®, Inc. (E)	Charlotte	(704) 377-8982
1045	Lexington Board of REALTORS® (U)	Lexington	(704) 249-1742
1046	Wilmington Regional Association of REALTORS® (U/E)	Wilmington	(910) 762-7400
1047	Janus Institute (U/E)	Southbury, CT	(203) 264-2111
1048	Vidar Companies, Inc. (E)	Charlotte	(704) 377-8982
1049	Peggy H. Bivens (E)	Monroe	(704) 289-8946
1050	College of the Albemarle (U/E)	Elizabeth City	(919) 335-0821
1051	Educational Seminars, Inc. (E)	Cary	(919) 481-3942
1052	Real Estate, ETC. (E)	Cherryville	(704) 435-3737
1053	Susan L. Wall (E)	Raleigh	(919) 846-3613
1054	Prudential Carolinas Realty (U)	Charleston, SC	(803) 760-5656
1055	Stanley Community College (U)	Albemarle	(704) 982-0121
1056	Craven Community College (U)	New Bern	(919) 638-7289
1057	Randolph Community College (U)	Asheboro	(910) 629-1471
1058	Commercial Investment Real Estate Institute (E)	Chicago, IL	(312) 321-4473
1059	American Properties Real Estate School (E)	Jacksonville	(910) 577-5400
1060	Alamance Community College (U)	Graham	(910) 578-2002
1061	REESI (U)	New Bern	(800) 638-2983
1062	Erick Little & Company (E)	Raleigh	(919) 783-0090
1063	Southeastern Community College (U/E)	Whiteville	(910) 642-7141
1064	Hickory-Catawba Valley Board of REALTORS®, Inc. (U)	Hickory	(704) 322-8249
1065	Asheville Real Estate Academy (U/E)	Asheville	(704) 253-3335
1066	N.C. Academy of Real Estate (U)	Kill Devil Hills	(919) 441-4135
1067	Halifax Community College (U)	Weldon	(919) 536-7274
1068	N.C. Chapter of the Appraisal Institute (E)	Greensboro	(910) 273-7737
1069	Brunswick Islands Board of REALTORS® (E)	Shallotte	(910) 754-5287
1070	Sikes Real Estate Training (U/E)	Rocky Mount	(919) 459-7859
1071	Robeson Community College (U)	Lumberton	(910) 738-7101
1072	Lenoir Community College (U)	Kinston	(919) 527-6223
1073	Robinson Real Estate School (E)	Morehead City	(919) 726-2011
1074	Wayne Community College (U)	Goldsboro	(919) 735-5151
1075	Surry Community College (U)	Dobson	(910) 386-8121
1076	Bladen Community College (U)	Dublin	(910) 862-2164
1077	Asheville-Buncombe Technical Community College (U)	Asheville	(704) 254-1921
1078	Albemarle Appraisal & Realty Academy (U)	Elizabeth City	(919) 335-5030

**The only continuing education courses sponsored by the Commission are Basic Trust Account Procedures and Trust Account Procedures for Resort Property Managers. [Note: For information regarding all other courses, please contact the course sponsors directly.]*

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.

GEORGE N. ANGEL (Kernersville) - By Consent, the Commission reprimanded Mr. Angel effective October 5, 1994. The Commission found that between 1990 and 1994, Mr. Angel, as broker-in-charge of a licensed real estate corporation, had failed to maintain the account designations and records required by the Commission for those accounts which held the funds of others. The Commission noted that between 1991 and 1994, Mr. Angel corrected all of these account designations and established proper records.

ANGEL ASSOCIATES, INC. (Kernersville) - By Consent, the Commission reprimanded Angel Associates, Inc. effective October 5, 1994. The Commission found that between 1990 and 1994, Angel Associates, Inc. had failed to maintain the account designations and records required by the Commission for those accounts which held the funds of others. The Commission noted that between 1991 and 1994, Angel Associates, Inc. corrected all of these account designations and established proper records.

MAXINE BARTLETT (Charlotte) - By Consent, the Commission suspended Ms. Bartlett's broker license for 45 days effective October 15, 1994. The Commission then stayed its Order for a probationary term of 45 days. The Commission found that Ms. Bartlett had allowed her broker license to expire on June 30, 1992, but had continued to engage in real estate brokerage through early September 1994. The Commission further found that Ms. Bartlett had earned and was paid significant compensation during the period while her license was expired. The Commission noted that upon Ms. Bartlett's discovery that her license had ex-

pired, she ceased all brokerage activity, applied for reinstatement of her license, and cooperated in the Commission's inquiry.

JAMES DILLON BRYANT (Sneads Ferry) - By Consent, the Commission revoked Mr. Bryant's broker license effective September 10, 1994. The Commission found that Mr. Bryant had represented to a lender a purchase price which was substantially greater than the actual price of a townhouse unit for which he was seeking financing. The Commission further found that Mr. Bryant had failed to pay the lender on a timely or regular basis. In a separate transaction, the Commission found that in connection with Mr. Bryant's application for acquisition and construction financing for his residence, Mr. Bryant had provided the lender with a false construction contract onto which he had placed the signature of a builder without the builder's knowledge or permission. The Commission noted that all loans have been repaid from the sale of the properties. Mr. Bryant neither admitted nor denied any misconduct.

MARY F. CABE (Dillard, Georgia) - By Consent, the Commission reprimanded Ms. Cabe effective September 1, 1994. The Commission found that Ms. Cabe had failed to verify the accuracy of her representations to the buyer of a residential property that the property was a suitable site for a house in addition to the mobile home already located there. The Commission further found that the representations, in fact, were false, in that local health officials had determined that the property was not suitable for an additional homesite. The Commission also found that the listing contract Ms. Cabe employed in the transaction did not contain an anti-discrimination provision as required by Commission rule. The Commission noted that Ms. Cabe and another agent involved in the transaction had taken steps to resolve the subsequent complaint to the satisfaction of both the buyer and the seller.

WILLIAM C. DEES (Goldsboro) - By Consent, the Commission reprimanded Mr. Dees effective September 15, 1994. The Commission found that Mr. Dees had paid a bro-

kerage fee to an employee of a builder in connection with the sale of a property not owned by the builder. The employee was not then licensed by the Real Estate Commission. The Commission noted that the employee subsequently obtained a real estate salesman license.

JAMES M. DURHAM (Raleigh) - By Consent, the Commission suspended Mr. Durham's broker license for 90 days effective January 1, 1995. The Commission then stayed its Order for a probationary term of one year upon condition that Mr. Durham successfully complete the Commission's Trust Account Short Course before January 1, 1995. The Commission found that Mr. Durham had failed to keep trust account transaction ledgers, journals or check stubs or to maintain running balances or perform monthly trial balances in connection with his property management business. The Commission further found that Mr. Durham had deposited tenant security deposits for properties which he personally owned into the same account as those for properties which he managed for others and that he had allowed a shortage to occur in his tenant security deposit trust account and an overage to occur in his rental account. The Commission noted that Mr. Durham has corrected the shortage and partially corrected the overage in his accounts.

LUTHER D. FAUCETTE (Burlington) - The Commission accepted the permanent voluntary surrender of Mr. Faucette's broker license effective October 10, 1994. The Commission dismissed without prejudice charges that Mr. Faucette had violated the provisions of the Real Estate License Law and Commission rules pertaining to the handling of the funds of others in real estate transactions. Mr. Faucette neither admitted nor denied any misconduct.

MILDRED B. FAUCETTE (Burlington) - The Commission accepted the permanent voluntary surrender of Ms. Faucette's broker license effective October 10, 1994. The Commission dismissed without prejudice charges that Ms. Faucette had violated the provisions of the Real Estate License Law and Commission rules pertaining to the handling of the funds of others

in real estate transactions. Ms. Fau-cette neither admitted nor denied any misconduct.

SHARON FINCH (Chapel Hill) - The Commission suspended Ms. Finch's broker license for one year effective June 1, 1994. Ninety days of the suspension are to be active and the remaining period stayed for a probationary term of nine months. The Commission found that Ms. Finch had failed to convey a commission check to the owners of the real estate firm where she was a broker-associate, and to whom she had promised, in a signed agreement, to turn over commissions collected in the firm's name. The Commission further found that Ms. Finch had misrepresented to the bank her authority to endorse the check which was made payable to the firm, had made an unauthorized endorsement of the check to herself and had deposited it to her own account even though she lacked any good faith basis for doing so, and had concealed from the firm her collection and deposit of the check.

HARVEY S. HARRIS (Wilmington) - By Consent, the Commission reprimanded Mr. Harris effective October 7, 1994. The Commission found that Mr. Harris, as broker-in-charge of a real estate corporation, had operated the corporation without a corporate broker license. Upon being advised of this, Mr. Harris promptly applied for a corporate license.

MAR-BIL, INC. (Goldsboro) - By Consent, the Commission reprimanded Mar-Bil, Inc. effective September 15, 1994. The Commission found that Mar-Bil, Inc. had paid a brokerage fee to an employee of a builder in connection with the sale of a property not belonging to the builder. The employee was not then licensed by the Real Estate Commission. The Commission noted that the employee

subsequently obtained a real estate salesman license.

ELIZABETH B. MCAFEE (Waynesville) - By Consent, the Commission suspended Ms. McAfee's broker license for 90 days effective October 20, 1994. The Commission then stayed its Order for a probationary term of one year. The Commission found that Ms. McAfee had represented a house she listed for sale as having been built in 1970 when in fact it was built in 1956. The Commission further found that Ms. McAfee had relied on an incorrect county real property data sheet when she updated the MLS sheet for the house. Ms. McAfee did not admit any misconduct or negligence.

GERALD R. MCKINNEY (Banner Elk) - The Commission accepted the voluntary surrender of Mr. McKinney's broker license for three years effective September 1, 1994. The Commission dismissed without prejudice charges that Mr. McKinney had violated the provisions of the Real Estate License Law and Commission rules while he was acting as broker-in-charge of a real estate firm. Mr. McKinney neither admitted nor denied any misconduct.

DONA J. OLSEN (Dillard, Georgia) - By Consent, the Commission reprimanded Ms. Olsen effective September 1, 1994. The Commission found that Ms. Olsen had failed to verify the accuracy of her representations to the buyer of a residential property that it was a suitable site for a house in addition to the mobile home already located there. The Commission further found that the representations, in fact, were false, in that local health officials had determined that the property was not suitable for an additional homesite. The Commission also found that the listing contract employed in the transaction did not contain an anti-discrimination

provision as required by Commission rule. The Commission noted that after the buyer had withdrawn from the transaction, resulting in a dispute with the seller, Ms. Olsen and another agent involved in the transaction had taken steps to resolve the subsequent complaint to the satisfaction of both the buyer and the seller.

MARTHA J. SETZER (Waynesville) - By Consent, the Commission suspended Ms. Setzer's broker license for 90 days effective October 20, 1994. The Commission then stayed its Order for a probationary term of one year. The Commission found that Ms. Setzer had represented a house listed by her firm as having been built in 1970 when in fact it was built in 1956. The Commission further found that the incorrect date had been copied by the agency's broker-in-charge from the local county real property data sheet, but found that the house had originally been listed by a real estate agency which Ms. Setzer had owned at the time, and that the original listing had shown the correct age of the house. The Commission further found that Ms. Setzer's former agency had sold the house in 1976 and again in 1986. Ms. Setzer did not admit any misconduct or negligence.

WOODROW THOMASSON, JR. (Raleigh) - By Consent, the Commission suspended Mr. Thomasson's broker license for two years effective September 1, 1994. Nine 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. Thomasson had failed to deposit into a trust account a \$1,000 check which he had received as a deposit in connection with an offer for a lease with an option to purchase a property but instead had paid it directly to the
(continued on page 20)

For your information...

(continued from page 9)

(f) In every real estate sales transaction, a broker or salesman representing a buyer shall, at the initial contact with the seller or seller's agent, disclose to the seller or seller's agent that the broker or salesman represents the buyer's interests. In addition, the broker or salesman shall, no later

than the time of delivery of an offer to the seller or seller's agent, provide the seller or seller's agent with a written confirmation disclosing that he represents the interests of the buyer. The written confirmation may be made in the buyer's offer to purchase.

In addition, **RULE A.0112 OFFERS AND SALES CONTRACTS** was amended

(effective July 1, 1995) to require preprinted offer or sales contract forms to contain:

- (19) a provision setting forth the identity of each real estate agent and firm involved in the transaction and disclosing the party each agent and firm represents. □

Look at label

(continued from page 1)

(A)	00-00-94	(B)	ACTIVE	(C)	U	(D)	E	(E)	C/O
(F)	00000	S						000	(H)
JOHN J. DOE									
ABCKYZ & ASSOC									
0000 STREET ADDRESS RD STE 000									
ANY CITY NC 20000-000									
(G)									

- (A) The **date** the information on this label was retrieved from your licensee file.
- (B) Your **license status** as either ACTIVE or INACTIVE as of the date on the label.
- (C) Your status regarding the Commission's **Update** Course, which must be completed each licensing period between July 1 and June 10 in order for you to renew your license on ACTIVE status. The number **4** in the space on your label indicates your completion of the 4-hour course; **0** indicates that you have not completed the course.
- (D) The number of **elective** course hours credited to your records for the **current** licensing period. At least 4 elective course hours must be earned each licensing period between July 1 and June 10 in order for you to renew your license on ACTIVE status.
- (E) The number of elective course hours (maximum of 4) credited to your records as **carry-over** credit for the **next** licensing period. Carry-over credit is earned only by completing more elective courses than are required to satisfy the CE requirement for the current licensing period, and may be applied only to the immediately following licensing period.
- (F) Your North Carolina real estate license number.
- (G) Your designation as either a licensed real estate **salesman**, indicated on the label as **S**, or **broker**, indicated as **B**.

- (H) Postal information; please disregard.

Because of the time required by the Commission for receiving and verifying course credits and updating licensee files, *only credits for CE courses that you completed at least 4 weeks prior to the indicated date are likely to appear on your label. Please avoid calling the Commission office*

to verify CE credits unless you have reason to believe that an error has been made.

There have been no changes in the format for the name and address section of the label; however, you are requested to check it to be sure your record is up-to-date. Please contact the Commission's Records Division to update your file. □

Disciplinary action

(Continued from page 19)

owner of the property. The Commission noted that when the owner refused to return the deposit after the transaction failed, Mr. Thomasson had personally repaid the \$1,000 to the buyer. In an audit of the financial records of Mr. Thomasson's property management business, the Commission determined that Mr. Thomasson had failed to designate as "escrow" or

"trust" the bank accounts in which he maintained rental proceeds. The Commission further determined that although Mr. Thomasson had maintained separate transaction registers for each property, he had failed to maintain running balances or to perform bank reconciliations, had failed to maintain journal and check registers sufficient to create an audit trail, and had failed to perform bank reconciliations or trial balances. □

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