North Carolina Real Estate Commission

REAL ESTATE BULLETIN

Volume 46 • February 2016 • Number 3

James Sherrill Appointed to Commission

James Sherrill of Fayetteville has been appointed to the North Carolina Real Estate Commission by Governor Pat McCrory, announced Miriam J. Baer, Executive Director of the Commission.

Sherrill is the owner and chief executive officer of The Business Triangle Group, Inc., which consists of RE/MAX Premier Properties of Fayetteville, Inc., Homeowners Property Management, Inc., Rental Home Repair, Inc., and BTG Property Investments, LLC.

A member and past president of the Fayetteville Regional Association of REALTORS®, he is licensed as both a North Carolina real estate broker, affiliated with RE/MAX LLC, and a residen-

(See **Sherrill,** *page 3)*

GENUP/BICUP Topics Focus on Teams, Material Facts

Topics for the General Update Course (GENUP) and Broker-in-Charge Update Course (BICUP) during the 2016-2017 license year beginning July 1 are as follows:

GENUP

- Teams
- Material facts: well and septic, underground storage tanks, bedrooms and permits
- Recent case studies, e.g., well & septic, permits, HVAC repairs
- License Law and Commission Rules Update including review of the Working with Real Estate Agents

(See **Update Topics,** *page 3)*

TRID v. HUD-1 – What's a Broker to Do? Questions Raised with New Federal Law

By Janet B. Thoren, Legal Counsel

For any licensees who may have missed it, the new TILA-RESPA Integrated Disclosure Rules (TRID) became effective October 3, 2015. This has caused a lot of concern for brokers and closing attorneys in North Carolina, and has raised some questions as to how the Real Estate Commission might consider a broker's duty under G.S. §93A-6(a)(14) in light of the new federal law, as well as whether or not a statutory change might be necessary.

First, G.S. §93A-6(a)(14) states that the Commission has the authority to discipline a licensee if, following a hearing, the Commission determines that the licensee is guilty of "failing, at the time a sales transaction is consummated, to deliver to the broker's client a detailed and accurate closing statement showing the receipt and disbursement of all monies relating to the transaction about which the broker knows or reasonably should know." That duty remains unchanged. A broker must detail **for his client** all receipts and disbursements relating to the transaction **about which the broker knows or reasonably should know**. A broker is not expected to provide an accounting to a party who is not the broker's client, nor is the broker required to learn of items about which the broker does not know or reasonably should not know.

For example, a broker who knows that the seller paid the buyer a concession and that is not disclosed or that the buyer inspection costs are inaccurately stated cannot ignore those facts. However, a buyer's agent may not know or have reason to know that the seller hired a roofer to replace a shingle and that item is being paid as part of the closing.

The statute goes on to state "If a closing statement is prepared by an attorney or lawful settlement agent, a broker may rely on the delivery of that statement, but the broker must review the statement for accuracy and notify all parties

(See **TRID v. HUD-1,** *page 5)*

COMMISSION CREATES LARRY A. OUTLAW EXCELLENCE IN EDUCATION AWARD

The Commission has established the Larry A. Outlaw Excellence in Education Award to honor the late former Director of the Education and Licensing Division of the North Carolina Real Estate Commission. Larry A. Outlaw, both an attorney and licensed real estate broker, served as Director of the Education and Licensing Division for 35 years, from its creation in January, 1979 until his retirement February 1, 2014. Sadly, Outlaw died suddenly, but peacefully, on July 6, 2015.

A native of Mount Olive, Outlaw was a graduate of Davidson College and the University of North Carolina School of Law. Prior to joining the Commission, he worked in both administration and development of educational programs at the community/junior college level.

Outlaw continually worked to improve real estate prelicensing education and to expand real estate education, creating and implementing a continuing education program in 1994 and a postlicensing education program in 2006. He advocated for and achieved minimum standards for approval of real estate

(See **Larry Outlaw,** *page 6)*

REAL ESTATE BULLETIN

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

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1313 Navaho Drive
P. O. Box 17100
Raleigh, North Carolina 27619-7100
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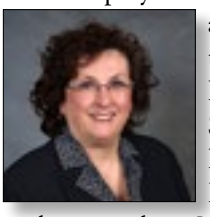
Staff Update

People

Robert A. Patchett has been employed as Associate Legal Counsel I in the Regulatory Affairs Division. He is a graduate of the University of North Carolina at Chapel with a BA in History and Political Science and Campbell Law School. Prior to joining the Commission, he was an attorney for Gwynn & Edwards, P.A.

Deborah B. Carpenter, DREI, has been employed as Education and Examination Officer in the Education and Licensing Division. She holds a BA in Psychology from Old Dominion University and received an NC real estate license in 1986. Prior to joining the Commission, she was an owner of a private real estate school, an instructor with the Distinguished Real Estate Instructor certification, and broker-in-charge of a large firm for more than five years. She received the Educator of the Year award from the NC Real Estate Educators Association in 1997 and 2010.



Tina R. Royals has been employed as an Information Specialist in the Education and Licensing Division. She is a graduate of the University of North Carolina with a BS in Business Administration.

Appearances

Miriam J. Baer, Executive Director, spoke to the Fayetteville Association of REALTORS® property managers and to the general membership.

Fred Moreno, Deputy Legal Counsel, spoke to the Real Estate Finance class at Campbell University.

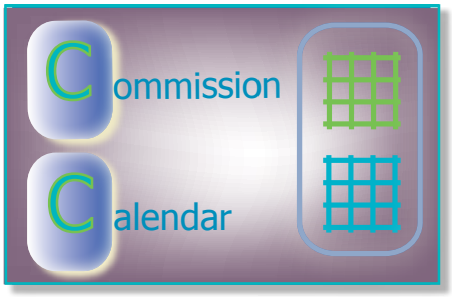
Stephen L. Fussell, Senior Consumer Protection Officer, spoke to Excel Property Management, Inc., Regional Asset Managers.

Corean E. Hamlin, Education and Licensing Officer, spoke to the Land of the Sky Association of REALTORS® in Asheville.

Jean Wolinski-Hobbs, Consumer Protection Officer, spoke to the Broker Round Table in Cary, to Century 21 Real Estate Consultans in Charlotte, and to the board of the Raleigh Association of REALTORS®.

Glenn M. Wylie, Consumer Protection Officer, spoke to Allen Tate REALTORS® in Cornelius.

Peter B. Myers, Information Officer, spoke to Berkshire Hathaway Yost and Little in Greensboro.



February 17

March 16

April 20

May 18

All meetings, unless otherwise noted, begin at 9:00 a.m. and are held in Raleigh in the Commission's Conference Room at 1313 Navaho Drive (27609). Occasionally, circumstances necessitate changes in meeting times and locations.

Update Topics

(Continued from page 1)

brochure, and new commission resources including videos. (See page 6 of this issue of the *Bulletin* for the topics of five new videos.)

- License and education Issues

BICUP

All topics of the GENUP course are included plus:

- Broker-in=charge rule - supervisory duties, training, records retention, and advertising (the Broker-in-Charge Guide has been newly updated; see page 6 for details.)
- Preferred vendors and exercising caution about marketing service agreements
- Requirements to obtain and maintain broker-in-charge status and/or eligibility.

All North Carolina brokers with active status, other than those who are brokers-in-charge or broker-in-charge eligible, must take the four-hour GEN-UP course during the license year from July 1 to June 30. (An exception is made for newly license brokers in the year in which they receive their license.) Failure to complete the GENUP course will result in the status of a broker's license being changed from active to expired.

All brokers-in-charge must take the four-hour BICUP course during each license year to maintain their status and/or eligibility.

Sherrill

(Continued from page 1)

tial and a commercial general contractor.

Sherrill holds an Associate Degree in Business from the Florida Institute of Technology and has held positions in the fields of technology, construction and real estate sales. He is a U.S. Navy veteran and former law enforcement officer with the Cumberland County Sheriff Department and the Fayetteville Police Department.

Broker Numbers

As of January 1, 2016, there are 95,423 brokers licensed by the Real Estate Commission in the following categories:

Active Brokers 59,119

Active Provisional Brokers 5,834

Inactive Brokers 25,458

Inactive Provisional Brokers 5,106

Firms 10,846

Brokers-in-Charge 16,062

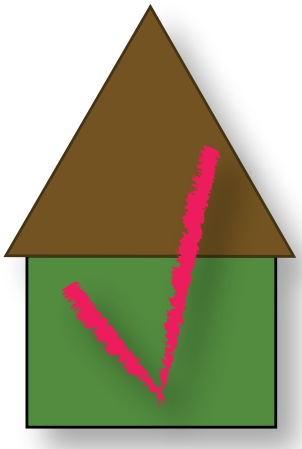
Follow us on

Broker-in-Charge and Basic Trust Account Procedures Courses

Register online at the Commission website, *www.ncrec.gov,* under Education/Course Registration.

Broker-in-Charge Course (Two days) Day 1: 1 - 5 p.m.; Day 2: 8:30 a.m. - 5:30 p.m.		
Concord	Hilton Garden Inn, Concord	February 22-23 April 12-13 June 6-7
Greensboro	Deep River Event Center	March 29-30 May 23-24
Raleigh	McKimmon Center	March 7-8 April 27-28 June 1-2
Wilmington	Best Western Coastline Center	May 10-11
Basic Trust Account Procedures (Commission Offices, Raleigh) (All classes 1 p.m.)		
Raleigh	Commission Offices 1313 Navaho Drive, Raleigh	February 29 April 4 May 2 June 6

See Commission website to confirm course dates.



Handling Inspections: Guidelines For Brokers

By Stephen L. Fussell, Senior Consumer Protection Officer

Brokers who represent prospective buyers and tenants should advise and encourage their clients to order inspections, tests and surveys for properties they wish to buy or lease and may furnish them with lists of licensed, competent service providers to contact and hire.

A broker should never discourage a client from ordering an inspection, test or survey, even if it is not required. Inspections are an extremely important part of the purchase process for every buyer and in some commercial leasing transactions for tenants. Moreover, a prospective buyer's refusal to order an inspection in an effort to save money may have dire consequences in the long run.

Following are guidelines to consider in the management of the inspection process:

Observation - A broker should help a client understand that a home inspection is a visual inspection and not technically exhaustive. An inspector will be less likely to detect a defect that is not visible and cannot guarantee that a defect will not arise in the future from a hidden cause. An inspection, when conducted, is simply an observation of the condition of a property at that time.

Broker Presence - Ideally, a broker should be present for each inspection and encourage client presence as well to receive the inspector's explanations of findings. If a general inspector suggests that a more in depth inspection is warranted, (i.e., for a defective heating/cooling system, mold, foundation cracks or other structural, mechanical, electrical or plumbing system defects, or any situation that could affect the health or safety of the buyer/tenant), then the broker should encourage clients to determine through additional inspections whether a serious problem exists and its potential resolution. Advise clients as well to complete inspections early enough during the due diligence period to give the seller/landlord an opportunity to respond to a repair request before the period expires.

Due Diligence Period - If a client is unable to attend an inspection, the broker should assure client receipt of the full inspection report during the due diligence period. If it appears that the period will expire before the client can conduct all necessary inspections, the broker should advise requesting an extension of the period and possibly the closing date. If the property owner consents to an extension of the due diligence period (and the closing date), the extension should be written into the contract. If the property owner declines, then the client must decide whether to terminate the contract/lease.

Owner Inspections - If a seller or landlord obtains an inspection and provides a report of it, a broker should nevertheless advise clients to srongly consider securing their own inspection to assure a qualified person makes a timely inspection. This guidance also applies when a general (home) inspector suggests further specialized inspections. The buyer/tenant generally will be better protected by hiring a specialized inspector instead of relying upon an inspector hired by the property owner.

Confidential Report - A home inspection report is usually considered confidential between the inspector and the client (i.e. the person for whom the inspection was performed). However, once the client or the client's agent gives a copy of the inspection report or a summary of the report to an opposing party or that party's agent, the document is no longer confidential.

Owner Repairs - If a property owner performs requested repairs following an inspection, the buyer/tenant would be wise to order a re-inspection to verify that the repairs were actually and properly repaired. While the buyer/tenant will incur an inspection fee, it would be well worth the cost for peace of mind. A broker should obtain copies of all invoices for repairs and should use reasonable efforts to confirm that the persons who completed the repairs were properly licensed in their fields.

Post Closing Repairs - Brokers should enxcourage clients to insist upon the completion of all repairs prior to the closing/move-in date. If the parties agree that a repair will be made after the closing/move-in date, the buyer/tenant should insist upon a written escrow agreement prepared by an attorney that includes a deadline for completing the repair, sufficient funds to cover its cost, and the terms under which the escrowed money will be released.

Statutes, Rules and Useful Forms

- Home inspectors' inspection and reporting requirements are defined in Article 9F, Chapter 143, North Carolina General Statutes and in the rules, Title 11, Chapter 8, North Carolina Administrative Code. Knowledgable brokers can help clients form reasonable expectations about the process and to identify features and structures that may be exceptions to a typical inspection. Access them on the Home Inspector Licensure Board's website, *http://www.ncdoi.com/OSFM/Engineering_and_Codes/HILB.aspx*.
- *Professional Services Disclosure and Election* forms for commercial (No. 585) and residential (No. 760) transactions, published by the North Carolina Association of REALTORS®, provide excellent tools for documenting inspections and adding specialized inspections and/or testing of any structure/feature not required such as an outbuilding or in-ground swimming pool.

No Substitute for Inspection

Brokers representing buyers applying for a VA loan should explain that a VA appraiser will visit the property to determine its value, not its condition. While the appraiser may identify some defects and the buyer's lender may require the correction of those defects as a condition for loan approval, a visit by a VA appraiser is not nearly as thorough as an inspection by a licensed home inspector and should not be characterized as being the same. A VA appraisal is not a substitute for a home inspection.

Broker Duty to Inspect - When a broker lists a property for sale or lease, the broker has a duty to visually inspect it for defects since they may become material facts requiring disclosure unless corrected by the owner prior to listing. However, some defects including, but not limited to structural defects, high radon levels, the current or prior use of synthetic stucco and the presence of bacteria or toxins in well water must be disclosed by a listing agent even if the seller has taken steps to resolve or reduce the problem(s). This is due to the potential harm of these defects and the fact that there may not have been sufficient time or ability to determine if the repair truly fixed the problem. The buyer should be informed and able to have that repair evaluated. Similarly, brokers who represent buyers and tenants should also visually inspect properties and disclose to their clients any defects they observe and discuss whether further inspection by a professional is warranted.

For more comprehensive coverage of home inspections, licensees may review the 2001-2002 *Mandatory Update Course* manual and the Commission's brochure, *"Questions and Answers on: Home Inspections"*, available for viewing or purchase on the Commission's website, www.ncrec.gov. For questions not addressed by these publications, brokers may contact the Commission's Regulatory Affairs Division (919-875-3700) or the Home Inspector Licensure Board (919-662-4480). An article listing the types of inspections, testing and verifications available to buyers was published in the May 2015 issue of the *Real Estate Bulletin*.

TRID v. HUD-1

(Continued from page 1)

to the closing of any errors." This has provided comfort to brokers and Commission staff alike in the past as it alleviated the broker's duty to prepare any accounting but still required the broker to review the statement prepared by the attorney for accuracy and to report any discrepancies the broker knew of or should have known about. With the exception of those inclined to commit loan fraud, the Commission has rarely had any occasion to use this particular section when considering whether or not to discipline brokers.

Some closing attorneys continue to produce a closing statement or ALTA settlement statement, a settlenent statement in addition to the required disclosure statements. Others are preparing something similar. Remember that the law does not require review of the specific HUD-1 closing statement, only of a generic "closing statement." In cases where an attorney provides some form of closing statement, brokers may continue to rely on the attorney's document as long as they review it and report any errors. The confusion for brokers arises in situations where the closing attorney is not using the HUD-1 or any other familiar form of a closing statement in addition to the required closing disclosures. The closing disclosure for the buyer, and the closing disclosure for the sellers, when viewed together, are sufficient. While the NCAR standard form contract now specifically authorizes the release of these disclosures to the parties and their brokers, in many cases, the broker is not provided with both sides for review. What is a broker to do then?

Listing Agent Duties - TRID rules permit a settlement agent to provide the seller with a separate Closing Disclosure or with a copy of the Buyer/Borrowers' Closing Disclosure as long as it contains all of the seller's transaction information. A broker representing the seller should review the disclosure and report any inaccuracies. The broker may or may not be given a copy of the buyer's disclosure. In that case, the broker is not obligated to disclose what the broker is not given. A broker may not refuse to look at the disclosure if offered or emailed to the broker, but if the broker is not provided with a copy of the buyer's disclosure, the broker must review the seller's disclosure and correct any errors contained therein. If a broker knows or reasonably should know of a receipt or disbursement related to the transaction that is left off of either disclosure, the broker must disclose the possibility of the receipt or disbursement as a material fact to the closing attorney and lender.

Buyer Agent Duties - If the settlement agent provides the seller with a separate Disclosure, then the settlement agent must also provide a copy of the Seller Closing Disclosure to the borrowers' lender, but not to the borrower. While the buyer agent may not necessarily see the Sellers' Closing Disclosure, the buyer agent may see a summary of the sellers' side of the transaction on page 3 of the buyer's Closing Disclosure, as with the current HUD-1. A broker representing the buyer may still rely on these, but should review the buyer's disclosure and the summary of the seller's side, and report any discrepancies or omissions. Again, the broker is not obligated to disclosd information not provided.

The Commission will continue to monitor this process as it evolves, and if a statutory change is necessary, will proceed in that direction. For the time being, brokers should review the disclosures or closing statements they have access to, refrain from avoiding access when offered, and be sure to disclose any errors, discrepancies, or omissions of which they know or should have known.

Larry Outlaw

Continued from page 1)

instructors that included not only effective teaching skills, but real estate brokerage experience as well, and worked to assure the excellence of the Commission's licensing examination. Outlaw also played a primary role in the development of North Carolina's appraiser education and licensing program.

In 1979, Outlaw was a Founding Member of the national Real Estate Educators Association, serving as national president in 1990-1991, and promoted instructor development opportunities throughout his tenure as Director. He also served multiple terms as Chairman of the Examination Certification Committee of the Association of Real Estate License Law Officials (ARELLO®), an international organization.

As a researcher and author, Outlaw shouldered major responsibility from 2000 to 2014 for the biennial editions of the North Carolina Real Estate Manual, a comprehensive reference for matters concerning North Carolina brokerage practice and the current text for all postlicensing education courses. Prior to the Manual, Outlaw collaborated with law professors James A. Webster, Jr., and Patrick K. Hetrick to produce multiple editions of North Carolina Real Estate for Brokers and Salesmen – the primary textbook for generations of North Carolina real estate prelicensing course students.

In 1990, Outlaw received the Order of the Long Leaf Pine from Governor James G. Martin given to outstanding individuals who have a proven record of service to the state. He also received the Old North State Award honoring citizens who have provided exemplary service and commitment to North Carolina.

Outlaw's legacy is one of dedication and service to the betterment of real estate brokers and educators and the creation of an educational and licensing program that serves as a national model. To recognize this legacy and honor the man who established such an exemplary program, the Commission created the Larry A. Outlaw Excellence in Education Award that will be awarded annually to an outstanding North Carolina real estate educator at the Commission's Educators Conference each spring. Recipients will receive an engraved version of the award to keep, while a larger version with all winners' names engraved on it will be displayed in the Commission's office.

The Billie J. Mercer Excellence in Education award, which honored the late former Commission member and chair, has been retired. The Mercer award, listing the instructor-recipients from 2003 through 2015, will continue to be displayed at the Commission's office as well.

NEW VIDEOS

How to Become a BIC or BIC Eligible

How to Obtain a North Carolina Real Estate License

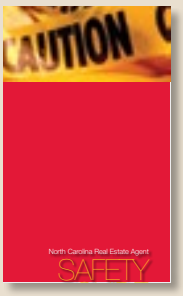
Responsibilities of a Private School Director

Regaining Broker-in-Charge (BIC) Status

Webinar for Pre- and Postlicensing Instructors - Closing Statement Exercise

Safety, Broker-in-Charge Guides Updated

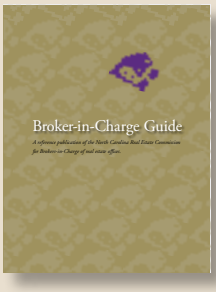
The *North Carolina Real Estate Agent Safety Guide* and *Broker-in-Charge Guide* have been revised and updated.



The 20-page Safety Guide is published by the North Carolina Association of REALTORS® and the North Carolina Real Estate Commission.

Twelve general safety tips offer advice about knowing who you are dealing with, establishing communications with others in the office, creating distress codes, and planning safe open houses. Additional specific tips are provided within each of the general tips.

A section on Office Safety Procedures provides two suggested forms: Agent Personal Information Form and Agent Itinerary Form and identifies additional resources.



The *Broker-in-Charge Guide* has been updated to reflect new rules effective July 1, 2015, management of teams or entities within entities, forms and other topics.

The 204-page booklet provides essential information for the management of real estate brokerage offices.

The Safety Guide may be obtained at $.25 each and the Broker-in-Charge Guide at $10 each through online ordering from the Publications page of the Commission website, *www.ncrec.gov/Publications/Pubs* or the mail-in order form in this *Bulletin*..

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Trato Con Agentes de Bienes Raíces (Working With Real Estate Agents)	_____
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Vivienda Justa (Fair Housing)	_____
El Depósito de Seguridad del Inquilino (Tenant Security Deposits)	_____
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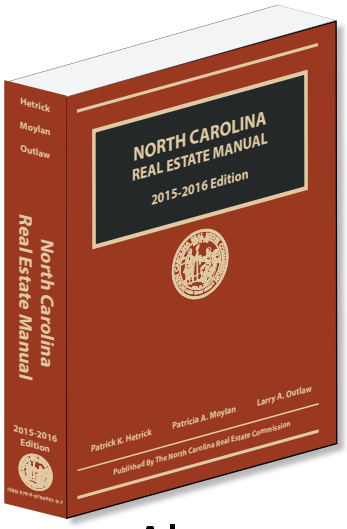

2015-2016 Edition

NORTH CAROLINA REAL ESTATE MANUAL

The *North Carolina Real Estate Manual*, published by the Real Estate Commission, is a comprehensive reference addressing real estate law and brokerage practice, the North Carolina Real Estate License Law and Commission rules. It serves as the authorized textbook for the real estate broker postlicensing courses and is highly recommended for licensees, attorneys, instructors and anyone else engaged or interested in real estate law and brokerage practice.

The 2015-2016 edition covers a wide variety of topics including the new Mineral and Oil and Gas form and portions of the new federal Loan Estimate and Closing Disclosure documents to replace the HUD-1 and GFE as well as coverage of revisions to standard forms.

The files on the Web site and on disk are "READ ONLY" and may not be printed or changed.

Also available in digital form:

CD-ROM

The *Real Estate Manual* on CD-ROM provides digital, searchable files in Portable Document File format (PDF) which can be read by free Acrobat Readers across all platforms.

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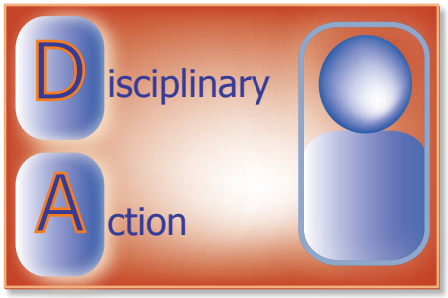

Penalties for violations of the Real Estate License Law and Commission rules vary depending upon the particular facts and circumstances present in each case. Due to space limitations in the Bulletin, a complete description of such facts cannot be reported in the following Disciplinary Action summaries.

ACCENT REAL ESTATE LLC (Jacksonville) - By Consent, the Commission revoked the firm license of Accent Real Estate effective November 18, 2015. The Commission found that Accent Real Estate, a real estate brokerage firm, failed to properly maintain certain trust account records and perform trust account reconciliations.

ALICE MARIE BETTS (Richlands) – By Consent, the Commission suspended the broker license of Ms. Betts for a period of 12 months effective December 31, 2015. The Commission then stayed the suspension for a probationary period of 12 months. The Commission found that Ms. Betts represented the buyer of a property which went under contract in May and closed in December; that Ms. Betts received a copy of the signed Residential Property and Owners' Association Disclosure Statement ("RPOADS") from the listing agent, but the seller had left all of the answers on the RPOADS blank and Ms. Betts failed to follow up and receive a fully completed form prior to closing; that the buyer did not have a professional home inspection performed until after closing, which found various major and minor issues with the home; that it is in dispute as to whether Ms. Betts recommended that a home inspection be performed; and that despite the closing having occurred six months after the initial viewing of the property, neither Ms. Betts nor the buyer performed a final walk-through of the property prior to closing.

JEFF DALE BIGGS (Madison) – By Consent, the Commission reprimanded Mr. Biggs effective November 18, 2015. The Commission found that Mr. Biggs, acting as listing agent for a property, advertised the property as having four bedrooms, when, in fact, the septic permit for the property only allowed for two bedrooms; and that Mr. Biggs did not obtain and review the septic permit prior to advertising the property.

TOMMIE L. BUTLER (Fayetteville) – By Consent, the Commission suspended the broker license of Mr. Butler for a period of three months effective November 2, 2015. The Commission then stayed the suspension for a probationary period

of three months. The Commission found that Mr. Butler represented the buyer of a residential property which contained a gas pack heating system; that after a home inspection was performed the sellers agreed, among other things, to replace the 15-year-old gas pack heating system; that, on the day of closing, the listing agent notified Mr. Butler that the sellers placed all owners' manuals, receipts, and service warranties on the kitchen counter; that together, Mr. Butler and the buyer reviewed the documents on the kitchen counter, but they failed to notice that the stack of documents did not include any warranties or receipts for the new system; that the buyer did not hire a home inspector to perform a re-inspection of the repairs although both the buyer and Mr. Butler turned on the air conditioner during the final walk through to test the systems output; that a few months after closing, the buyer discovered that the heat was not working and called for service; that the service company discovered that instead of replacing a gas pack heating system, the sellers installed a heat pump system which was wrapped in duct tape and the gas line had not been properly capped, creating a safety hazard.

JOHN PETER CAPUTO (Greensboro) – By Consent, the Commission suspended the broker license of Mr. Caputo effective October 1, 2015 for a period of 18 months. The Commission then stayed the suspension for a probationary period from October 1, 2015 through April 1, 2017. The Commission found that Mr. Caputo was broker-in-charge and qualifying broker of a real estate brokerage firm that purchased the property management clients of another firm after the other firm's license was revoked by the Commission due to the unlicensed owner having signature authority over the accounts, among other things, in violation of the firm's probation sanction; that the other firm's owner remained as the general manager of purchasing firm and has signature authority over the firm's accounts; that the firm as part of his compensation, paid the General Manager a percentage of rents received; that an audit of the firm's two trust accounts showed deficit spending, a net shortage of over $13,000, and that neither account was designated as "trust" or "escrow"; that the firm's website also represented that it has been in operation

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Licensees Must Report Convictions

Commission Rule A.0113 requires any licensee who is convicted of a misdemeanor or felony or who has disciplinary action taken against him or her by any occupational licensing board to file a report with the Real Estate Commission.

The reporting requirement includes convictions for driving while impaired ("DWI"). The report must be filed within sixty (60) days of the final judgment or board action.

If you have questions about this rule, please call the Commission's Regulatory Affairs Division at 919-875-3700 for more information.

since 1986, even though it was not created until 2013.

CAROLINA ADVANTAGE PROPERTIES, INC (Tryon) - By Consent, the Commission suspended the firm license of Carolina Advantage Properties for a period of 15 months effective November 1, 2015. A spot inspection of two accounts of Carolina Advantage Properties by a Commission representative found a shortage of approximately $4,400 and that Carolina Advantage Properties failed to maintain trust account records and client funds in compliance with Commission rules including failure to maintain funds in a designated trust account and failing to document transfers so that a clear audit trail could be determined.

EMMANUEL LAMAR CHOICE (Charlotte) – Following a hearing, the Commission permanently revoked the broker license of Mr. Choice effective November 25, 2015. The Commission found that Mr. Choice, qualifying broker and broker-in-charge of a real estate brokerage firm and acting as escrow and buyer's agents for a buyer, received on December 31, 2013, a $5,000 earnest money check pursuant to a purchase contract; that the contract was terminated and a Termination of the Contract and Release of Earnest Money agreement was signed by both parties releasing the $5,000 earnest money to the Seller; that Mr. Choice and his firm released $2,500 of the earnest money deposit to the Seller, but failed to release the remaining $2,500; that after the seller's firm filed a complaint with the Commission, Mr. Choice provided a written response disputing the allegations, noting falsely that his buyer/client disputed the disbursement of the earnest money to the seller, and that he would be depositing the remaining $2,500 with the Clerk of Court under the provisions of North Carolina General Statute § 93A-12; and that Mr. Choice failed to respond to additional Letters of Inquiry. The Commission also found that on October 13, 2014, Mr. Choice's firm received pursuant to an agreement to purchase a property an earnest money check in the amount of $5,000 from a buyer and deposited the check into the firm's account; that the buyer never received an Offer to Purchase and Contract executed by the purported seller and, therefore, withdrew the offer, requesting the return of the $5,000 earnest money check; that the seller was not aware that Mr. Choice's firm had purported to list the property and had never received the buyer's offer; and that Mr. Choice also failed to refund the $5,000 earnest money deposit. that the Commission' also found that Mr. Choice failed to respond to additional complaints filed about him with the Commission; that an audit of Mr. Choice's firm's bank records showed that fourteen accounts held trust monies including rent, earnest money and tenant security deposits; and that only four were individual account audits revealed violations of Commission rules relating to the maintenance of real estate trust accounts and safeguarding of client and tenant deposits.

KAREN MAREADY CORZINE (Harrisburg) – By Consent, the Commission permanently revoked the broker license of Ms. Corzine effective October 14, 2015. The Commission found that Ms. Corzine, acting as broker-in-charge of a sole proprietorship, failed to maintain trust account records in compliance with the Real Estate License Law and Commission rules and that the liabilities of Ms. Corzine's trust account exceeded the deposits by approximately $131,000.

CHARLES DUDLEY DAVIES (Raleigh) – By Consent, the Commission reprimanded Mr. Davies effective October 1, 2015. The Commission found that Mr. Davies listed a property for sale owned by an estate, measured the property, and accurately advertised all of the room sizes in the home, but incorrectly advertised the total living area as 2,200 square feet; that Mr. Davies later represented a buyer for the property as a dual agent and executed the necessary disclosures for representation that the house went under contract, the buyer paid cash at closing, and an appraisal was not ordered; and that after closing the buyer ordered an appraisal which concluded the property had 1,630 square feet of living area. The Commission also found that two of Mr. Davies' seven current listings were being advertised as having inaccurate living area square footage by 12.5% and 8.5%, respectively. The Commission notes that Mr. Davies corrected these listings, has offered to refund the commission he earned on the sale to the buyer, and will have all future listings professionally measured.

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Real Estate Education and Recovery Fund Reimburses Victims

At its November 18, 2015 meeting, the North Carolina Real Estate Commission approved payments totaling $44,266.10 out of the Real Estate Education and Recovery Fund to three applicants who suffered financial losses due to the misconduct of H. Christopher Thompson, a former North Carolina Real Estate Broker.

By Consent, the Commission revoked the broker license of H. Christopher Thompson effective January 16, 2014.

DONNA LUNSFORD DUNEVANT (Roxboro) – By Consent, the Commission suspended the broker license of Ms. Dunevant for a period of two months effective November 1, 2015. The Commission then stayed the suspension for a probationary period ending January 1, 2016. The Commission found that Ms. Dunevant entered into a listing agreement with sellers of a property (hereinafter Property A) and expressed an interest in purchasing the property if she were able to sell her own home; that subsequently Ms. Dunevant entered into a contract to act as listing agent for a second property (hereinafter Property B) and the sellers listed their home with the intention of purchasing Property A; that Ms. Dunevant was aware of the seller's intention at the time of contract formation and included a clause in the contract terminating the agreement if Property A were sold to anyone else; that Ms. Dunevant did not disclose her personal interest in purchasing Property A to the sellers of Property B; that Ms. Dunevant then entered into a contract to purchase Property A and neither disclosed the contract to purchase nor terminated the listing agreement with the sellers of Property B; and that prior to entering the contract to purchase Property A, Ms. Dunevant did not disclose her interest in the transaction to the sellers in writing.

GUY H. EAKER, JR. (Cornelius) – By Consent, the Commission reprimanded Mr. Eaker effective January 13, 2016. The Commission found that Mr. Eaker timely reported his April 15, 2015, conviction of Level One DWI in which he received a 10-day active jail sentence, 24-month supervised probation sentence, driver license revocation, and was required to complete 80 hours of substance abuse treatment; and that Mr. Eaker was previously convicted of Level Three DWI in 2013 and of Level Four DWI in 2001, which were reported to the Commission in the past. The Commission notes that Respondent has completed all substance abuse treatment.

LAWRENCE I. FEDERER (Swansboro) – Following a hearing, the Commission ordered the prelicensing and postlicensing instructor approval issued to Mr. Federer withdrawn effective July 31, 2015. The Commission then approved reinstatement of the instructor approval upon the completion of certain conditions. The Commission found that Mr. Federer compiled a licensing examination performance record for first-time examination candidates for the North Carolina Real Estate License Examination who completed Mr. Federer's prelicensing course below 70 percent for two or more of the previous five annual reporting periods.

KITTY NELSON GIESE (Cornelius) – By Consent, the Commission suspended the broker license of Ms. Giese for a period of 24 months effective September 1, 2015. The Commission found that Ms. Giese, between 2009 and 2014, conducted property management through a sole-proprietorship and failed to register an assumed name with the Mecklenburg County Register of Deeds and failed to notify the Commission of her assumed name; that Ms. Giese failed to declare herself broker-in-charge or meet the requirements to become a broker-in-charge; that Ms. Giese in February 2014, failed to remit rent payments in a timely manner; that Ms. Giese listed another firm as the agent on a lease agreement without the firm's knowledge; and that Ms. Giese failed to open an account designated as trust or escrow, commingled personal funds with trust funds by failing to withdraw management fees on a monthly basis, and failed to maintain trust account records in accordance with Commission Rules. The Commission noted that Ms. Giese ceased all brokerage activity beginning in November 2014.

STEVEN RUSSELL GILLOOLY (Cary) – By Consent, the Commission suspended the broker license of Mr. Gillooly for a period of four months effective November 1, 2015. The Commission then stayed the suspension for a probationary period ending March 1, 2016, on certain conditions. The Commission found that Mr. Gillooly, on February 20, 2015, pleaded guilty to one count of Assault on a Female, a class A1 misdemeanor.

DAMIAN DAVID HALL (Tryon) – By Consent, the Commission suspended the broker license of Mr. Hall for a period of 15 months effective November 1, 2015. The Commission found that, in and around 2014, a spot inspection conducted by a Commission representative on two accounts maintained by Mr. Hall showed a shortage of approximately $4,400; and that Mr. Hall failed to maintain trust account records and client funds in compliance with Commission rules including failure to maintain funds in a designated trust account and failing to document transfers so that a clear audit trail could be determined.

RADONDA JEAN HESS (Jacksonville) – By Consent, the Commission revoked the broker license of Ms. Hess effective November 18, 2015. The Commission found that Ms. Hess, acting as qualifying broker and broker-in-charge of a real estate brokerage firm, failed to properly maintain certain trust account records and perform trust account reconciliations.

KAREN MARIE HORRY (Durham) – Following a hearing, the Commission

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Your Pocket License Card is your ticket for admission to Continuing Education classes. Allow at least 10 days to process a replacement request or purchase and download a replacement immediately from the Commission's website.

permanently revoked the broker license of Ms. Horry effective December 17, 2015. The Commission found that Ms. Horry listed a bank owned property for sale and entered the property information, including its square footage, into the local Multiple Listing Service (MLS); that the MLS listing showed that the property contained 1,680 square feet of above grade living area, which was the same amount found in the local tax records; that on or about June of 2014, an offer to purchase was submitted for the property; that Ms. Horry, when asked by the buyer's broker, stated that she measured the property; that the buyer's broker then had a real estate broker and formerly licensed appraiser measure the property to confirm the accuracy of the square footage representation, and a sketch by the former appraiser showed the property as having 1,188.96 square feet of living area; that Ms. Horry then stated that she took the information from the local tax records; that the buyer's broker, at her client's request, then retracted the offer on the property; that the property later went under contract and was purchased by a different buyer represented by another broker with no correction made to the square footage amount on the MLS; that there was never any discussion about the square footage amount between the other broker and Ms. Horry and Ms. Horry never disclosed the former appraiser's measurements to the other broker or his buyer client; that the Commission sent Letters of Inquiry to Ms. Horry and asked her to provide measurements for her six current property listings; and that the measurements received from Ms. Horry only contained a length, width, and the total amount for square footage of five properties and contained the exact same figures as the local tax records.

JEFF BIGGS REALTY (Madison) – By Consent, the Commission reprimanded Jeff Biggs Realty effective November 18, 2015. The Commission found that Jeff Biggs Realty, acting as listing agent for a property, advertised the property as having four bedrooms, when, in fact, the septic permit for the property only allowed for two bedrooms; and that Jeff Biggs Realty did not obtain and review the septic permit prior to advertising the property.

KAIROS HOMES INCORPORATED (Durham) – Following a hearing, the Commission permanently revoked the firm license of Kairos Homes effective December 17, 2015. The Commission found that Kairos Homes listed a bank owned property for sale and entered the property information, including its square footage into the local Multiple Listing Service (MLS); that the MLS listing showed that the property contained 1,680 square feet of above grade living area, which was the same amount found in the local tax records; that on or about June of 2014, an offer to purchase was submitted for the property; that the Kairos Homes agent, when asked by the buyer's broker, stated that she measured the property; that the buyer's broker then had a real estate broker and formerly licensed appraiser measure the property to confirm the accuracy of the square footage representation and a sketch by the former appraiser showed the property as having 1,188.96 square feet of living area; that the Kairos Homes agent, then stated that she took the information from the local tax records; that the buyer's broker, at her client's request, then retracted the offer on the property; that the property later went under contract and was purchased by a different buyer represented by another broker with no correction made to the square footage amount on the MLS; that there was never any discussion about the square footage amount between the other broker and the Kairos Homes agent and the agent never disclosed the former appraiser's measurements to the other broker or his buyer client; that the Commission accordingly sent Letters of Inquiry to Kairos Homes and asked Kairos Homes to provide measurements for the firm's six current property listings; and that the measurements received from Kairos Homes only contained a length, width, and the total amount for square footage for five of the six properties.

GRETCHEN RENEE KENEPP (Concord) – Following a hearing, the Commission permanently revoked the broker license of Ms. Kenepp effective October 2, 2015. The Commission found that Ms. Kenepp affiliated on September 30, 2013 with a real estate brokerage firm and was given signature authority over six trust accounts and operating accounts for several related licensed firms and authorized to accept cash payments from tenants as part of her duties; that in September 2014, Ms. Kenepp left the firm and that on October 9, 2014, the owner filed a complaint with the Commission alleging that Ms. Kenepp embezzled approximately $30,000 from the affiliated firms' trust and operating accounts; that a Commission investigation found that Ms. Kenepp wrote multiple checks from the trust accounts which she then voided in the accounting software system despite the checks having been paid by the bank; that Ms. Kenepp agreed to provide documentation that certain checks she wrote for her personal use were for reimbursement or were otherwise authorized, but she failed to provide any such documentation; and that Ms. Kenepp also made repeated transfers from tenant security deposit trust accounts to the rental trust accounts to cover negative balances which begin occurring when she was in

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If you are a BIC or BIC eligible, to maintain your BIC status you must take the *Broker-in-Charge Update Course* (BICUP) + an Elective.
Do not take the General Update Course - it will not satisfy your BIC CE requirements.

charge of the trust accounts. The Commission also found that on August 7, 2015, Ms. Kenepp pleaded guilty to one count of Misdemeanor Larceny in a civil case filed by the owner. The Commission noted that the owner, after discovering the embezzlement, used personal funds to cure the shortages in the trust accounts caused by Ms. Kenepp's actions.

Commission Speakers Available

Real Estate Commission staff members are available to speak to your local board, office, or special group. You can request a presentation relating to a specific subject or a general discussion on topics of interest to those attending.

To schedule a speaker, call Janet Thoren at (919) 875-3700, Ext. 112, or submit the "Request for Program Presenter" form available on the Commission's website, www.ncrec.gov. Please allow at least four weeks prior to your group's meeting.

LINDSEY DEAN LACEY (Banner Elk) – By Consent, the Commission reprimanded Mr. Lacey effective June 1, 2015. The Commission found that Mr. Lacey, acting as Qualifying Broker and Broker-in-Charge of a real estate brokerage firm, agreed with a broker affiliated with his firm that she could perform property management services separately from his firm through her own separate firm; that Mr. Lacey received bank statements purporting to be a trust account operated by the firm and believed these statements to be in reference to the affiliated broker's property management firm; that Mr. Lacy failed to review the trust account statements or verify that this account was separate from his own firm and being received or reviewed by the broker affiliate; and that Mr. Lacey also failed to make clear to clients that the affiliated broker's property management services were performed separately from his own firm. The Commission noted that Mr. Lacey has agreed to refund the $1,000 tenant security deposit to the owner-client for whom the broker affiliate provided property management services in another case.

JOSE NIEVES S LAGUNAS (Graham) – By Consent, the Commission suspended the broker license of Mr. Lagunas effective December 1, 2015 for a period of 24 months with the one month active and the remainder stayed for a probationary period of 23 months. The Commission then stayed two months of the active suspension for a probationary period of 23 months. The Commission found that Mr. Lagunas submitted an offer to purchase contract ("OPC") for a property he wanted to buy for personal use; that the OPC stated that Mr. Lagunas was obtaining a conventional loan; that Mr. Lagunas also submitted a letter from a mortgage company stating that he was prequalified for a loan; and that the OPC was ultimately terminated when the seller discovered that Mr. Lagunas was not prequalified for a loan despite his having provided paperwork to the contrary.

JAY TRAVIS LAM (Raleigh) – By Consent, the Commission suspended the broker license of Mr. Lam for a period of one year effective December 1, 2015. The Commission found that Mr. Lam, on May 1, 2015, pleaded guilty to one count of maintaining a place for the purpose of manufacturing, distributing, and using marijuana, was sentenced to four months incarceration in a federal prison, followed by one year of supervised probation, and was ordered to pay a $100 assessment and a $650 fine.

DIXIE DAVIS MADDREY (Raleigh) – By Consent, the Commission reprimanded Ms. Maddrey effective December 16, 2015. The Commission found that Ms. Maddrey was the listing agent for a residential bank-owned property located near a major highway; that the property went under contract with a buyer who was aware, along with his agent, that the North Carolina Department of Transportation ("NCDOT") had plans to widen the highway at some point in the future and that this event would impact the property; that all parties believed that this would occur years later; that Ms. Maddrey was contacted by NCDOT representatives prior to the closing and was informed by those representatives that the widening project would occur soon; that Ms. Maddrey failed to cause the information to be effectively communicated to the buyer; and that after closing, a NCDOT representative spoke with the buyer and advised that NCDOT would be acquiring the property for the widening project. The Commission notes that the buyer was compensated by the NCDOT in an amount exceeding his purchase price and that Ms. Maddrey has offered a civil settlement with the buyer.

KURT KARL MICHEL (Lillington) – By Consent, the Commission permanently revoked the broker license of Mr. Michel effective October 14, 2015. The Commission found that Mr. Michel, acting as the sole proprietor of a property management services firm, from September through November 2014, failed to remit rental payments to a property owner for whom he managed rental property; that on November 24, 2014, Mr. Michel issued a check in the amount of $2,970 to the owner for rents paid from October through November 2014, less commission and that the check was returned for insufficient funds; that the owner terminated the property management agreement and demanded Mr. Michel remit $3,300 in rent owed and a $1,650 security deposit, which Mr. Michel failed to do; that Mr. Michel failed to remit rent monies owed to a second property owner for whom he managed property from October through November 2014, and then issued a check to the owner for $2,500 and that the check was returned for insufficient funds; that the owner terminated the property management agreement and demanded that Mr. Michel remit $2,500 in rent owed and a $1,250 security deposit, which Mr. Mi-

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chel failed to do; and that Mr. Michel failed to remit a total of $8,700 in trust money to his clients.

PREFERRED MOUNTAIN REAL ESTATE LLC (Banner Elk) – By Consent, the Commission reprimanded Preferred Mountain Real Estate effective June 1, 2015. The Commission found that Preferred Mountain Real Estate agreed with a broker affiliated with the firm that she could perform property management services separately from the firm through her own firm; that Preferred Mountain Real Estate received bank statements purporting to be a trust account operated by the firm and believed these statements to be in reference to the affiliated broker's property management firm; that Preferred Mountain Real Estate failed to review the trust account statements or verify that this account was separate from the firm and being received or reviewed by the broker affiliate; and that Preferred Mountain Real Estate also failed to make clear to clients that the affiliated broker's property management services were performed separately from the firm. The Commission noted that Preferred Mountain Real Estate has agreed to refund a $1,000 tenant security deposit to the owner-client for whom the broker affiliate provided property management services in another case.

RED BARN INC. (Charlotte) – By Consent, the Commission reprimanded Red Barn Inc. effective December 1, 2015. The Commission found that Red Barn, acting as a property manager around 2013, was aware that tenants had to be approved by the Homeowners' Association (HOA) as required by its covenants and bylaws;. that, while Red Barn disclosed the approval requirement to a potential tenant, it allowed the tenant to move into a residence without disclosing that her tenant application had not, in fact, been approved by the HOA, which resulted in the tenant's vehicle being towed 7 times in 12 months; and that Red Barn's landlord-client reimbursed the tenant for the costs related to the towing.

CECILIA ANNE REEL (Marion) – By Consent, the Commission reprimanded Ms. Reel effective October 14, 2015. The Commission found that Ms. Reel acted as listing agent for a property which she advertised as having a connection to city sewer when, in fact, the property had a septic system; and that Ms. Reel failed to obtain and review county or city records and instead relied solely on the representations of the property owner and a previous MLS listing.

RENTAL PROPERTY MANAGEMENT, INC. (Wilson) – The Commission accepted the permanent voluntary surrender of the firm license of Rental Property Management, Inc., effective October 14, 2015. The Commission dismissed without prejudice allegations that Rental Property Management violated provisions of the Real Estate License Law and Commission rules. Rental Property Management, Inc., neither admitted nor denied misconduct.

KIM C. RUEST (Rockingham) – By Consent, the Commission reprimanded Ms. Ruest effective December 31, 2015. The Commission found that Ms. Ruest managed a property for a client from 2009 through 2015; that Ms. Ruest was to be paid a percentage of the monthly rent paid by tenants as her management fee and reimbursed for needed repairs made to client's property; that, for a period of 34 months, Ms. Ruest failed to deduct her management fee and was also not reimbursed for repairs; that Ms. Ruest used a bookkeeper to assist in her accounting, but delivered these statements to her client personally; and that prior to termination of the management contract, Ms. Ruest kept all of the rents collected over a six-month period in order to reimburse herself, in violation of the management agreement.

VINCENT SARDO (Charlotte) – Following a hearing, the Commission permanently revoked the broker license of Mr. Sardo effective November 10, 2015. The Commission found that in June 2010 Mr. Sardo represented to a potential investor his intention to set up and to buy and resell investment properties, indicated that he and the investor was to be the company's members, and solicited a $19,500 payment from the investor to purchase a property; that Mr. Sardo failed to disclose that the property was already owned by Mr. Sardo's wife; that Mr. Sardo misappropriated the $19,500 payment from the investor and falsely represented that he had filed the LLC formation documents with the Secretary of State and had purchased the property in the name of the LLC; that in April 2011 Mr. Sardo falsely represented to the investor that he had been unable to sell the property and would, instead, lease the property; that to conceal the fact that he had never purchased the property and had misappropriated the $19,500 payment, he began sending payments to the investor of $205; that Mr. Sardo's real estate license expired on June 30, 2013; that in July 2013, Mr. Sardo approached the investor and his wife and offered to sell them a duplex, falsely represented that he was in the process of purchasing it when, in fact, it was part of a complex containing 46 units listed for sale as a whole; that Mr. Sardo and the investor then entered into an Offer to Purchase; that Mr. Sardo, who was named in the contract as seller, designated dual agent and escrow agent, accepted a $25,000 earnest money check from the investor and deposited it into his personal bank account; that he did not enter into a buyer agency agreement with the investor; that he listed a brokerage firm as the selling agent even though he had been terminated from the firm previously, and without its knowledge or consent; that the investor terminated the contract within the due diligence period, and that Mr. Sardo failed to refund the $25,000 earnest money deposit and ceased communicating with the investor and his wife and ceased making the $205 monthly payments; and that Mr. Sardo failed to respond to inquiries by the Commission.

PAUL SCHAEFER JR. (Leland) – By Consent, the Commission suspended the broker license of Mr. Schaefer for a period of three months effective January

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1, 2016. The Commission then stayed the suspension for a probationary period of three months. The Commission found that Mr. Schaefer signed his application for a North Carolina real estate broker's license on December 13, 2013, and it was received by the Commission on January 6, 2014; that Mr. Schaefer held a New Hampshire real estate broker's license at the time of his North Carolina application; that, as part of the North Carolina real estate broker's application, Mr. Schaefer was asked, "… are there currently any complaints pending against you in connection with any professional license that you hold?" and Mr. Schaefer marked "NO" as his response; that, in fact, a complaint against Mr. Schaefer was pending with the New Hampshire Real Estate Commission and that Mr. Schaefer was aware of the complaint when he signed his application for a North Carolina real estate license.

FRANK A. SHEPHERDSON (Charlotte) – By Consent, the Commission reprimanded Mr. Shepherdson effective December 1, 2015. The Commission found that Mr. Shepherdson, acting as a property manager in and around 2013, was aware that tenants had to be approved by the Homeowners' Association (HOA) as required by its covenants and bylaws; that, while Mr. Shepherdson disclosed the approval requirement to a potential tenant, he allowed the tenant to move into a residence without disclosing that her tenant application had not, in fact, been approved by the HOA, which resulted in the tenant's vehicle having been towed 7 times in 12 months; and that Mr. Shepherdson's landlord-client reimbursed the tenant for the costs related to the towing.

KENT ROBERT VAN SLAMBROOK (Charlotte) – By Consent, the Commission suspended the broker license of Mr. Van Slambrook for a period of three months effective January 1, 2016. The Commission then stayed the suspension for a probationary period of three months until April 1, 2016, on certain conditions. The Commission found that Mr. Van Slambrook managed property belonging to others through an unlicensed company beginning in 2013 and continuing through 2015. The Commission noted that Mr. Van Slambrook maintained all trust money received in trust accounts and maintained trust accounts in compliance with Commission rules.

TINA CROSBY SMITH (Gastonia) – By Consent, the Commission suspended the broker license of Ms. Smith for a period of one year effective December 1, 2015. The Commission then stayed the suspension on certain conditions. The Commission found that Ms. Smith acting as qualifying broker and broker-in-charge of a real estate brokerage firm, failed to supervise trust account procedures and perform reconciliations on various trust accounts, leading to an embezzlement and trust account shortages totaling approximately $36,000. The Commission noted that upon discovering the embezzlement, Ms. Smith promptly notified the Gastonia Police Department and the North Carolina Real Estate Commission and has since funded the shortage in the account.

KENDRA CHAVIS STURDIVANT (High Point) – By Consent, the Commission reprimanded Ms. Sturdivant effective August 17, 2015. The Commission found that from April-July, 2014, Ms. Sturdivant was the Broker-In-Charge ("BIC") of a property management firm which was a sole proprietorship; that during her time as BIC for the firm, an audit found that the firm's accounts contained deficits which preceded her employment; that Ms. Sturdivant failed to reconcile the accounts, and allowed the unlicensed owner to have access and control over the accounts; that further evidence found that Ms. Sturdivant executed four property management agreements showing the names of two firms at the direction of the unlicensed owner and that both of these firms' licenses had been revoked by the Commission in October 2013. The Commission noted that Ms. Sturdivant resigned as broker-in-charge in July, 2014.

ROY DAVID THOMAS, III (Charlotte) – By Consent, the Commission suspended the broker license of Mr. Thomas for a period of one year effective January 1, 2016. The Commission then stayed the suspension for a probationary period of one year. The Commission found that Mr. Thomas entered into an agreement with his seller client to facilitate a short sale on the listing; that pursuant to that agreement, if the seller received a bank incentive in the transaction, the seller would keep $3500 and, in addition to his listing commission, Mr. Thomas would receive any remaining amount of bank incentive funds, to be split with an unlicensed translator; that the bank incentive totaled $10,618.13 of which the seller received $3000; that Mr. Thomas failed to document his portion of the bank incentive on the HUD-1 Settlement Statement, as required by the bank; and that the seller was charged additional taxes by the IRS due to the misallocation of incentive monies on the HUD-1 Settlement Statement.

TINA SMITH PROPERTY MANAGEMENT LLC (Gastonia) – By Consent, the Commission suspended the firm license of Tina Smith Property Management for a period of one year effective December 1, 2015. The Commission then stayed the suspension on certain conditions. The Commission found that Tina Smith Property Management failed to supervise trust account procedures and perform reconciliations on various trust accounts, leading to an embezzlement and trust account shortages totaling approximately $36,000. The Commission noted that upon discovering the embezzlement, Tina Smith Property Management promptly notified the Gastonia Police Department and the North Carolina Real Estate Commission and has since funded the shortage in the account.

RHONDA L. TURBYFILL (Greensboro) – By Consent, the Commission reprimanded Ms. Turbyfill effective December 31, 2015. The Commission found that Ms. Turbyfill acted as the listing agent for a property that went under contract on August 30, 2015, with closing scheduled to occur in 30 days; that, at the time of receiving the offer, Ms. Turbyfill was told by

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the buyer agent that the buyer was paying cash through an equity line and received a copy of a prequalification letter from the lender; that Ms. Turbyfill did not share the prequalification letter with her seller clients which showed that an equity line of credit was not currently in place; that due to numerous delays, the buyer and their lender did not close on the equity line of credit until November, and the buyer then purchased the subject property on November 12, 2015; and that Ms. Turbyfill shared the prequalification letter with her seller clients on October 14, 2015, after the closing had been delayed. The Commission noted that the sellers were compensated for the delay in closing through various concessions by the buyer and Ms. Turbyfill's firm. Ms. Turbyfill neither admitted nor denied misconduct.

WILBURN T. VANHOY (Charlotte) – By Consent, the Commission permanently revoked the broker license of Mr. Vanhoy effective October 14, 2015. The Commission found that Mr. Vanhoy made an appointment to preview a home and, during the appointment, stole property valued at approximately $36,000; that Mr. Vanhoy was arrested on November 5, 2014, and, while in custody, he admitted to stealing property from at least 12 homes; that on March 19, 2015, Mr. Vanhoy pled guilty to five counts of misdemeanor larceny in Mecklenburg County and was sentenced to 45 days incarceration, which was fully suspended, 18 months supervised probation, 100 hours of community service, and ordered to pay $5,000 in restitution.

TERASHA MARIE WEATHERSBE (Raleigh) – The Commission accepted the permanent voluntary surrender of the broker license of Ms. Weathersbe effective November 18, 2015. The Commission dismissed without prejudice allegations that Ms. Weathersbe violated provisions of the Real Estate License Law and Commission rules. Ms. Weathersbe neither admitted nor denied misconduct.

JAMES W. WILSON (Zebulon) – By Consent, the Commission reprimanded Mr. Wilson effective October 14, 2015. The Commission found that Mr. Wilson, in 2008, while acting as a listing broker, advertised a property as having four bedrooms when, in fact, the septic permit for the property specified three bedrooms; and that Mr. Wilson relied solely on tax records and failed to obtain and review the septic permit.

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