



Sandra L. O'Connor Appointed to Real Estate Commission

Sandra L. O'Connor of Greensboro has been appointed to the North Carolina Real Estate Commission by Governor Roy Cooper, it was announced by Miriam J. Baer, Executive Director.



O'Connor

Broker-in-charge of the Greensboro Green Valley Branch of Allen Tate Company, O'Connor has been a licensed North Carolina real estate broker since 1983. From 1985 to (See **O'Connor**, page 3)

Chandler, Lawing Reappointed

Cindy S. Chandler and Thomas R. Lawing, Jr., both of Charlotte, have been reappointed to the North Carolina Real Estate Commission for three-year terms beginning August 1, 2017 and July 1, 2017, respectively, it was announced by Miriam J. Baer, Executive Director.

Chandler was reappointed by President Pro Tempore of the Senate Phil Berger and Lawing was reappointed by Speaker of the House Tim Moore.

In This Issue

| | |
|---|----|
| Commission Elections | 1 |
| TRID Closing Disclosure | 1 |
| Unauthorized Law Practice | 4 |
| Closing Fraud | 5 |
| Multiple Offers | 7 |
| Disciplinary Actions | 10 |

Commission Elects Robert J. Ramsey, Jr., Chair; Anna Gregory Wagoner, Vice Chair

Robert J. Ramsey, Jr., of Raleigh, has been elected Chair of the Real Estate Commission and Anna Gregory Wagoner, of Winston-Salem, Vice Chair, for the term beginning August 1, 2017, announced Miriam J. Baer, Executive Director.

Ramsey is a partner at the law firm of Ragsdale Liggett PLLC and chair of its real estate department. His practice focuses on residential and commercial real estate transactions, real estate financing and development, tax and entity structuring, lease negotiations and drafting, and real estate litigation.

Licensed to practice law in North Carolina in 1996, Ramsey is licensed to practice in all state courts, the District Court of the United States (Eastern District of North Carolina), and the U.S. Supreme Court.

He is past president of the Wake



Ramsey



Wagoner

County Real Property Lawyers Association, past co-chair of the Joint Forms Task Force for the North Carolina Bar Association and North Carolina Association of REALTORS®, and past president of the Real Estate Lawyers Association of North Carolina, Inc., a trade (See **Commission**, page 3)

UPDATE: CFPB Rule Allows Sharing of TRID Closing Disclosure

(The following article is copyrighted by and reprinted with the permission of the Association of Real Estate License Law Officials (ARELLO®)).

The Consumer Financial Protection Bureau (CFPB) recently finalized amendments to its “Know Before You Owe” mortgage disclosure rules, one of which should make it easier for real estate professionals to obtain access to the “new” Closing Disclosure (CD) form.

The CFPB TILA-RESPA Integrated Mortgage Disclosure rules (commonly referred to as “TRID”, but labeled “Know Before You Owe” by the CFPB) took effect in October 2015. The rules replaced the previous disclosure forms required in all “federally-related” residential mortgage transactions, including the once familiar HUD-1 settlement statement, with the CFPB’s mort-

gage Loan Estimate and Closing Disclosure forms.

When the lengthy and intricate new TRID rules took effect, much attention was focused on the resulting (See **TRID**, page 6)

Errata

In the article, “Due Diligence Fees: When Are They Refunded?”, in the May 2017 Bulletin, the following sentence appears as the result of a production error: Buyers and sellers may enter into other addenda that may provide for a due diligence fee refund but those provisions must be drafted by the parties or, preferably, by an attorney or by a broker.” The statement, “...or by a broker”, is incorrect; only an attorney or the parties to the contract can draft language for contracts or addenda.

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.

NORTH CAROLINA REAL ESTATE COMMISSION

1313 Navaho Drive
P. O. Box 17100
Raleigh, North Carolina 27619-7100
Main Office (919) 875-3700
Regulatory Affairs (919) 719-9180
www.ncrec.gov

Roy Cooper, Governor

COMMISSION MEMBERS

| | |
|----------------------------------|---------------|
| Robert J. Ramseur, Jr., Chair | Raleigh |
| Anna Gregory Wagoner, Vice Chair | Winston-Salem |
| George Bell | Winston-Salem |
| Cindy S. Chandler | Charlotte |
| Leonard H. "Tony" Craver, Jr. | Durham |
| Thomas R. Lawing, Jr. | Charlotte |
| Sandra L. O'Connor | Greensboro |
| James Sherrill | Fayetteville |
| Patrice Willetts | Wilmington |

EXECUTIVE

| | |
|-----------------|-------------------------|
| Miriam J. Baer | Executive Director |
| Paula L. Ricard | Chief Financial Officer |

ADMINISTRATION

| | |
|-------------------|-------------------------------|
| Wendy C. Harper | Human Resource/Office Manager |
| Jake A. Gore | Chief Technology Officer |
| Robert L. Forshaw | Publications Officer |

EDUCATION AND LICENSING

| | |
|----------------------|-------------------------------|
| Corean E. Hamlin | Director |
| Deborah B. Carpenter | Education/Examination Officer |
| Brenda Hollings | License Services Officer |
| Patricia A. Moylan | Legal Education Officer |
| Pamela R. Rorie | Continuing Education Officer |
| Matthew A. Wentz | License Application Analyst |

REGULATORY AFFAIRS

| | |
|------------------------|-----------------------------------|
| Janet B. Thoren | Director, Legal Counsel |
| Charlene D. Moody | Assistant Director, Legal Counsel |
| Frederick A. Moreno | Chief Deputy Legal Counsel |
| Robert A. Patchett | Associate Legal Counsel II |
| Madison L. Mackenzie | Associate Legal Counsel I |
| Michael B. Gray | Chief Auditor/Investigator |
| D. Scott Schiller | Financial Fraud Investigator |
| Bart H. Allen | Sr. Auditor/Investigator |
| M. Spier Holloman | Sr. Auditor/Investigator |
| Danielle M. Alston | Auditor/Investigator |
| Marcia M. Waldron | Auditor/Investigator |
| Chad W. Wilson | Auditor/Investigator |
| Jamila G. Wilson-Davis | Auditor/Investigator |
| Jean A. Wolinski-Hobbs | Auditor/Investigator |
| Stephen L. Fussell | Sr. Consumer Protection Officer |
| Sarah E. Herman | Consumer Protection Officer |
| Peter B. Myers | Information Officer |
| Elizabeth W. Penney | Information Officer |
| Melissa A. Vuotto | Rulemaking Coordinator |

Editor-In-Chief

Miriam J. Baer

Editor

Robert L. Forshaw



People

Brinita A. Robinson has been employed as a License Specialist in the Education and Licensing Division. Prior to joining the Commission, she was a specialist with NC Disability Determination Services. She is a graduate of North Carolina Central University with a BA in Psychology.



Frederick A. Moreno has been named Chief Deputy Legal Counsel in the Regulatory Affairs Division.

Robert A. Patchett has been named Associate Legal Counsel II in the Regulatory Affairs Division.

Jamila G. Wilson-Davis has been named Auditor/Investigator in the Regulatory Affairs Division.

Janet B. Thoren, Director, Regulatory Affairs Division, spoke to Keller Williams Preferred Realty in Raleigh and to Keller Williams Realty in Southern Pines.

Jean A. Wolinski-Hobbs, Auditor/Investigator, spoke to Cape Fear REALTORS® in Wilmington and Coldwell Banker Howard Perry & Walston in Raleigh.

Stephen L. Fussell, Senior Consumer Protection Officer, spoke to Acorn and Oak Property Management LLC in Durham.

Sarah E. Herman, Consumer Protection Officer, and **Elizabeth W. Penney**, Information Officer, spoke to the Greensboro Regional REALTORS® Association.

Peter B. Myers, Information Officer, spoke to Emerald Isle Realty, to the board of the Charlotte chapter of the National Association of Residential Property Managers and to the Roanoke Valley Lake Gaston Board of REALTORS®.

Elizabeth W. Penney, Information Officer, spoke to New Penn Financial in Raleigh.

Appearances

Corean E. Hamlin, Director, Education and Licensing Division, spoke to the Fayetteville Regional Association fo REALTORS®.

Real Estate Commission Scholarship Winners

Three North Carolina brokers recently received scholarships from the Commission for academic excellence in real estate courses.

The recipients, each of whom received \$400 for tuition, are Gloria O. Brinkley, Lexington, the Joe Schweidler Memorial Scholarship Award; Julie L. Parrish, Durham, the Blanton Little Memorial Scholarship Award; and Linda J. Mehner, Wilmington, the Phillip T. Fisher Scholarship Award.

Brinkley and Parrish were selected by the North Carolina Association of REALTORS® for achievement in the Graduate Realtors® Institute (GRI) program. Mehner was selected by the North Carolina Chapter of the Council of Residential Specialists for achievement in the Certified Residential Specialists (CRS) program.

Little and Schweidler were former Secretary-Treasurers of the North Carolina Real Estate Licensing Board. Fisher was Executive Director of the Real Estate Commission from 1981 to 2010.



Brinkley



Mehner



Parrish



Commission

(Continued from page 1)

association with over 350 members.

A native of Raleigh, Ramseur graduated with honors from Needham B. Broughton High School and received a Bachelor of Arts in History, cum laude, from Wake Forest University in 1992 and a law degree from Wake Forest in 1995.

Active in civic and charitable activities, he is the president of Band Together, past president of the Rotary Club of the Capital City and chair of the Board of Directors of Raleigh's Theatre In The Park and is a member of the Board of Visitors of the Triangle Area YMCA's Camp Sea Gull and Camp Seafarer. Ramseur received the 2017 Citizen Lawyer Award from the North Carolina Bar Association.

Wagoner is a shareholder with the law firm of Blanco Tackabery & Matamoros, P.A. in Winston-Salem and practices in the areas of commercial real estate and renewable energy.

Active in the practice of real estate law for approximately 17 years, Ms. Wagoner was formerly associated as an attorney with Investors Title Insurance Company, of Chapel Hill, SpectraSite Communications, Inc., of Cary, and Isaacson, Isaacson, Sheridan, Fountain & Leftwich, LLP, of Greensboro.

Wagoner is a member of the North Carolina Bar Association, Forsyth County Bar Association, Piedmont Triad Commercial Real Estate Women, and the North Carolina Land Title Association.

She is a graduate of Wake Forest University with a BA in Psychology and holds a Juris Doctor degree from the Wake Forest University School of Law.

October 18-19
November 15-16
December 13-14
January 17-18
February 14-15

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.

O'Connor

(Continued from page 1)

2005, she was the owner and sole proprietor of Sandra O'Connor & Associates.

O'Connor has been active with the national, state, and local REALTOR® organizations and in community affairs.

She is a Director of the National Association of REALTORS® and a past Region 4 Vice President. A past President of the North Carolina Association of REALTORS®, as well as a Region V Vice

President and Treasurer, she received its REALTOR® of the Year award in 2014. She is a past President and REALTOR® of the Year of the Greensboro Regional REALTORS® Association and has been admitted to its Hall of Fame.

O'Connor is a past chair and member of the Greensboro Planning Board and a member of the board of directors of the Guilford Green Foundation. She holds a BA degree from Carlow University in Pittsburgh and a MA from the University of Washington in Seattle.

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. | | |
|---|--|---|
| Asheville | Western Carolina University Biltmore Park | November 7-8 |
| Kannapolis | NC Research Campus, Kannapolis | October 25-26 December 5-6 |
| Greensboro | Deep River Event Center | November 27-28 |
| Raleigh | McKimmon Center | October 11-12 November 20-21 December 18-19 |
| Wilmington | Best Western Coastline Center | November 1-2 |
| Basic Trust Account Procedures (Commission Offices, Raleigh) (All classes 1 - 5 p.m.) | | |
| Raleigh | Commission Offices 1313 Navaho Drive, Raleigh | 11/1/2017 1/8/2018 |

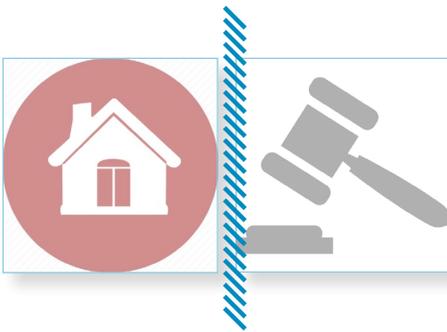
See Commission website to confirm course dates.
Registration fees are nonrefundable.

Brokers continue to grapple with the questions: "What can I add to standard form purchase contracts?" "What is drafting?" "When have I crossed the line?" Commission rule A .0111 allows brokers to complete contract forms when authorized to do so by the parties. In other

the drafting of documents which define the rights of others. "Drafting" means composing phrases and sentences to convey an intended meaning by choosing which words to use and the order in which to use them. Therefore, although brokers may believe they are capable of competently drafting contract terms,

What is the "Unauthorized Practice of Law"?

By *Charlie Moody*
Assistant Director, Regulatory Affairs Division



words, they may "fill in" the blanks in preprinted contract forms, usually with dates or dollar amounts, but may not draft contracts or special contract provisions between other parties.

Any document imposing an obligation between two or more separate persons or entities and supported by consideration is generally a contract, including a "letter of intent" or "memorandum," an additional provision or addendum to a contract, a lease, option, etc. No matter what such documents are called, they are often actually contracts which must be drafted by an attorney, not a broker.

Brokers are advised to always refer parties to an attorney to have a contract, addendum or special provision drafted when an appropriate form is not available. Moreover, do not use documents from prior transactions that were created for other parties as "forms" to be completed for current transactions. Every situation is unique and may need different language to adequately protect a user's interests. Don't draft atypical, special provisions for insertion in contract forms.

But why can't I?

The Commission cautions against drafting additional terms because it could lead to at least two potential problems:

- (1) It could constitute the unauthorized practice of law, and
- (2) it often results in the use of vague terms which may confuse the parties or otherwise create problems.

The "practice of law," as determined by statute and court decisions, includes

they are not legally authorized to do so unless they are also licensed attorneys. "If", "then", "must", and "shall" are all words that would definitely indicate contract terms are being drafted.

Further, non-attorney brokers drafting contract provisions increase the possibility of vague terms/conditions being used. Vague terms/conditions confuse the parties as to their contractual obligations and/or inadequately protect their interests.

A common type of vague contract term is adding a condition instead of a date. For example, a closing date described as "when the buyer gets financing" is too vague. When is that? Is it when the buyer gets loan approval? Or is it when the lender gives final authorization to disburse? Lenders have been known to back out at any time prior to the disbursement. How is the contingency fulfilled? What happens when ten months have passed and the buyer doesn't have a loan yet? Has there actually been a breach? Can the seller terminate?

Another commonly added condition requires a party's satisfaction with certain occurrences. Who determines the standard of "satisfactory"? The buyer? The seller? What if they disagree? A provision drafted and added to or deleted from the contract is especially problematic if the change conflicts with some other term of the contract. Contracts work as a whole with one paragraph often referring to another. Brokers may not always consider that a change to a

(See **Unauthorized**, page 5)

In April of 2017, a real estate sales transaction was about to close. The buyers' agent received an email from someone she believed to be a member of the closing attorney's staff. The email asked for the buyers' email address. The buyers' agent replied with the buyers' email address.

The buyers received a telephone call from someone who identified himself or herself as an employee of their mortgage company advising them that they would soon receive an email with instructions for wiring money to the closing attorney. The buyers then received an email from someone they believed was their agent. This email contained instructions for the buyers to perform a wire transfer to send their down payment in the amount of \$52,200 to the closing attorney. The buyers followed these instructions and then sent an email to their agent confirming that they had sent the money as their agent had instructed. The buyers' agent quickly responded that she had not sent them an email with wire transfer instructions.

The buyers' agent immediately contacted the closing attorney's office and discovered that it had not received the \$52,200 from the buyers and that all of the aforementioned communications were from a person or group of persons scheming to steal the buyers' money. Apparently, the person or group of per-



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

sons had hacked into the broker's email account and/or computer.

The emails sent by the fraudster(s) contained exact copies of the email signatures of the closing attorney's office staff member and the buyers' agent. These email signatures gave the impression of authenticity. However, the email addresses from which these emails were sent were very close to but not the actual email addresses of the closing attorney's office or the buyers' agent.

The closing attorney reported the incident to the FBI and contacted the bank that transferred the money and the bank that received the money.

However, the receiving bank refused to put a hold on the money thereby enabling the scammers to walk away with the money.

This true story was a difficult lesson for the buyer agent and her buyer-clients. All brokers can learn from this incident. If you receive an email or telephone call from someone asking for personal or financial information about you or a client, exercise care to verify the identity of the person requesting the information before disclosing such information.

In this incident, the buyers' agent could have called the closing attorney's office to verify that they needed the buyers' email address. The agent should have used the attorney phone number she knew, not a phone number provided in the email. This one call would have enabled the buyers' agent to discover that the closing attorney's office had not requested the buyers' email address. The buyers' agent should also have advised her clients to be cautious about verifying information as well and to not wire money without speaking to someone in the closing attorney's office first.

Please use this incident as a guide for your future real estate dealings and consider creating procedures to prevent such scams from happening to you or your clients.

Unauthorized

(Continued from page 4)

provision in paragraph 12 may affect rights in paragraph 5.

Parties sometimes disagree over the meaning of a contractual term, and its interpretation is then ultimately determined by the courts. When a court considers a term to be so vague that it can be interpreted two ways, the court usually will interpret it in favor of the party who did not draft it. Therefore, a broker who drafts vague terms does so to the detriment of his or her own cli-

ent, and risks disciplinary action by the Real Estate Commission, injunctive relief through the State Bar, as well as the possibility of criminal charges.

The Bottom Line: Do not draft contractual terms. If the language supplied by a form does not appropriately address the issues, refer the parties to their attorneys. If another agent or a party to the transaction or even an attorney drafts a contractual term, review it carefully, but also advise your client to have an attorney review the language to see if it meets the needs of the client. Be particularly concerned about any provision which includes a subjective standard (such as "satisfactory") or

is otherwise vague as to fulfillment, does not set a deadline for fulfillment, or does not specifically require notice to the other party and specify how parties are to notify each other of fulfillment.

If you are adding words or conditions other than referencing preprinted addenda, you are likely to be drafting contract language. To ensure that you are best serving your clients and avoiding violating the law as well as treating all of your customers fairly, be sure that drafting the rights and obligations of the parties to the transaction is left to a licensed attorney who can create documents or language specifically for that client or customer.

TRID

(Continued from page 1)

compliance issues and mortgage process disruptions that were experienced by mortgage lenders/ originators, title companies and other transaction service providers. Less publicized was an unintended consequence of the rules that left many real estate licensees with difficulties in obtaining copies of completed Closing Disclosure forms from lenders. The problem arose from lender concerns regarding the privacy provisions of the Graham-Leach-Bliley Act (GLBA) and Regulation P, which restrict lender disclosure of customers' "nonpublic personal information" (NPI) to third parties. This complication, as well as the nature and contents of the Closing Disclosure form, also prompted some state regulators to address the impact of TRID on real estate license law matters such as recordkeeping and transaction closing statement requirements.

The National Association of REALTORS® (NAR) has previously pointed out to the CFPB that, prior to implementation of TRID, real estate agents routinely had access to and used the now-defunct HUD-1 settlement statement to answer client questions about matters such as concessions, escrows, commissions and prorated taxes. NAR has also urged the CFPB to clarify that, under Regulation P, "...it is just as acceptable now as it was before Know Before You Owe for a lender to share the [Closing Disclosure] with third parties ..."

For its part, the CFPB's rulemaking proposal issued in July 2016 acknowledged that the Real Estate Settlement Procedures Act (RESPA) and its implementing regulations required settlement agents to issue the HUD-1 form to lenders, borrowers, sellers, and their agents. The CFPB also acknowledged that, in accordance with applicable exceptions to the privacy requirements of the GLBA, it [is] "usual, accepted, and appropriate" for creditors and settlement agents to provide the new Closing Disclosure form to consumers, sellers, and their real estate brokers or other



Allan R. Dameron Legal Internship Award

Kaitlin T. Romanelli of Alpharetta, Georgia, Campbell University third-year law student, with Commission Chair Robert J. Ramseur, Jr., and Vice Chair Anna Gregory Wagoner, received the Allan R. Dameron Legal Internship Award at the Real Estate Commission's June meeting. The award is presented annually in memory of and tribute to former Commission member Allan R. Dameron for his dedicated service in protecting the interests of consumers.

agents. Consequently, the CFPB's recent final rules incorporate its previous informal guidance on the subject and modify the official TRID commentaries to clarify that a creditor may provide separate disclosure forms to a consumer and seller if state law prohibits sharing information in the disclosure form, as well as in any other situation where the creditor chooses to provide separate disclosures, and establishes the three methods that may be used to make such modifications.

Among numerous other amendments, the final rules also create tolerances for "total of payments" calculations, adjust an exemption mainly affecting housing finance agencies and nonprofits, and extend coverage of the disclosure requirements to cooperative units.



North Carolina Real Estate Commission
REAL ESTATE BULLETIN

Read it. Know more.

Broker Numbers

As of September 1, 2017, there are 99,574 brokers and firms licensed by the Real Estate Commission in the following categories:

Active Brokers 63,064

(Active Provisional Brokers 8,121)

Inactive Brokers 24,531

(Inactive Provisional Brokers 5,524)

Firms 11,809

Brokers-in-Charge 16,408

Be Prompt, Fair and Honest When Handling Multiple Offers

By Elizabeth W. Penney, Information Officer

Lucky you! You've just placed a "hot" listing on the market and you already have an offer. Before you can deliver the offer to the seller, second and third offers arrive.

While you may feel confident in your ability to handle and negotiate a single offer, you may feel less certain in a multiple offer situation. Diligence and fairness to all including your seller-client and the prospective buyers is required to avoid problems. Emotions run high and care is needed to avoid a complaint. Buyers and their agents are impatiently waiting for an answer. Here are a few suggestions to consider when multiple offers occur.

Present all offers immediately. Commission Rule A .0106 states that "every broker shall deliver a copy of any written agency agreement, contract, offer, lease, rental agreement, option or other related transaction documents to their client within five days of the document's execution." Preferably, a broker will not wait five days but will deliver an offer to their client as soon as possible. Presenting an offer means personally delivering the offer or transmitting a copy of it to the seller. Oral communication of an offer is not sufficient to satisfy the Commission's rule. If multiple offers arrive at the agent's office before he or she has the opportunity to present any offer, the listing agent should try to present all offers at the same time to the seller.

A seller can elect to work only with one offer, or if the seller does not find any offer acceptable, the seller may ask

some or all the prospective buyers to submit their highest and best offers. It is the seller who must make that decision, not the listing agent. If the seller calls for highest and best offers, the listing agent should advise

all buyers they can submit a new offer or stand by their original offer. Contrary to some thinking, there is no "first in the door" rule. In other

words, in multiple offer situations there is no priority to one offer over another. A seller is not bound to consider offers in the order in which they were received, whether they are full price or exceed full price without concessions.

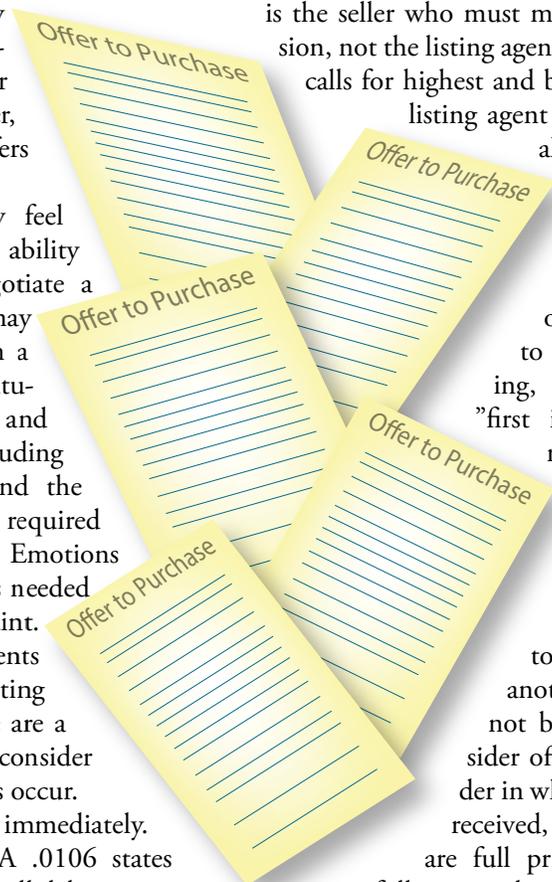
Shopping offers is strictly prohibited. Since 2008, Commission Rule

A.0115 has prohibited brokers from sharing the price or other material terms in offers with competing parties without the express authority of the offering party (the buyer). Generally, there is no advantage to a buyer in sharing their offer's terms with competing buyers.

In today's market there are seasoned sellers as well as sellers who need assistance in evaluating offers and assessing the differences in the various terms and conditions. A listing agent can assist the seller in reviewing the different terms in order to choose the best offer for that particular seller. Once an offer is accepted, the seller may consider a back-up offer.

Occasionally a buyer agent asks to be present when an offer is presented. A listing agent should discuss such a request with the seller and allow the seller to make that decision.

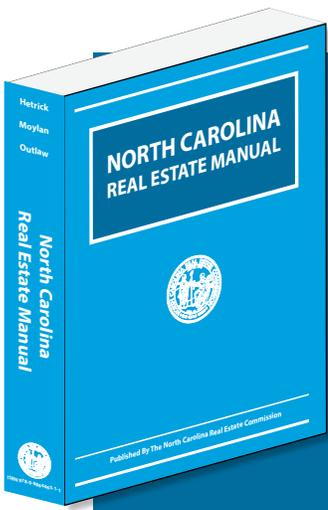
Communicate with all prospective purchasers and their agents. A broker is not required to disclose a multiple offer situation, but should answer any questions about whether or not there are multiple offers honestly. The broker should follow the direction of their seller in what the seller wishes to be communicated, but the broker also should not "go dark" and fail to respond to contact attempts by buyers and their agents. By following the advice above, multiple offers can be handled successfully and efficiently with all parties being treated fairly and honestly.



New Video



Recorded on April 10, 2017, this hour-long webinar provides a full explanation of Commission rules 21 NCAC 58H .0101 - .0414 that were implemented on July 1, 2017. The webinar was designed for real estate school directors, instructors, and CE coordinators.



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 in North Carolina. 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.

This September 2017 edition incorporates changes to federal and North Carolina laws, Commission rules, and revisions to various forms since publication of the 2015-16 edition in February 2015.

ONLINE SUBSCRIPTION

Subscriptions permit online access to the Manual and expire upon publication of a new edition. Subscribers login to the files with their own user identification and password. The subscription files on the website are "READ ONLY" and may not be printed or changed.

Free access to the Manual files is available for a maximum of five times. Register on the Commission website, www.ncrec.gov.

Order online at the Commission website, by mail or fax. Credit cards: MasterCard, Visa, Discover, and American Express.

MAILING ADDRESS:

North Carolina Real Estate Manual
P. O. Box 28151
RALEIGH, NC 27611

FAX:

1-866-867-3746

CUSTOMER SERVICE:

1-866-833-5785

EMAIL:

manual@cesmail.com

Order Form

NORTH CAROLINA REAL ESTATE MANUAL

NAME _____

ADDRESS _____

Shipping Address (NOT P.O. BOX)

CITY/STATE/ZIP _____

Telephone _____

Email _____

NAME _____

ADDRESS _____

MasterCard/Visa/Discover/American Express Billing Address (if different from Shipping Address)

CITY/STATE/ZIP _____

| QUANTITY | ITEM | PRICE* | TOTAL |
|----------|---|----------|----------|
| | Single Manual | \$49.00* | \$ _____ |
| | Additional Manuals (on same order) | \$44.00* | \$ _____ |
| | Manual-on-Web Subscription (Access free up to 5x; register on website) | \$20.00 | \$ _____ |

*All prices include taxes, shipping and handling.

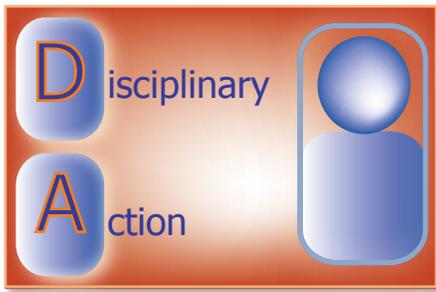
MasterCard Visa Discover American Express

Exp Date

Security Code
(3-digit code on reverse side of card)

Signature: _____

Please allow 7 days from receipt of payment for delivery.



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.

ANDRE P. ALLEN (Charlotte) – By Consent, the Commission reprimanded Mr. Allen effective September 1, 2017. The Commission found that while Mr. Allen was acting as the owner of a sole proprietorship, one of Mr. Allen’s provisional brokers advertised a property as having 1,014 square feet based on a previous appraisal of the property with no independent verification, in violation of the Commission’s Residential Square Footage Guidelines; that Mr. Allen was unaware that the license status of one of his provisional brokers became “inactive” for failure to complete all continuing education required by Commission rules; and that Mr. Allen was previously cautioned by Commission staff to exercise diligence in training, supervising, and maintaining contact with his firm’s agents, especially provisional brokers.

ARBOR REALTY INC. (Chapel Hill) – By Consent, the Commission reprimanded Arbor Realty effective April 3, 2017. The Commission found that Arbor Realty failed to correct various violations of the Real Estate License Law and Commission rules in the firm’s trust accounts following recommendations made to Arbor Realty by Commission staff; and that these violations included, but were not limited to, failure to maintain copies of checks, failure to maintain a personal funds ledger, failure to identify the purpose for monies being deposited, failure to deposit entrusted funds within three banking days of receipt, deficit spending which led to a shortage in the security deposit account, and unidentified funds which led to an overage in the rental account. The Commission noted that it does not appear that any consumers have been harmed. Arbor Realty’s trust accounts are now in compliance.

WILLIAM H. BRACEY (Chapel Hill) – By Consent, the Commission reprimanded Mr. Bracey effective April 3, 2017. The Commission found that Mr. Bracey, acting as broker-in-charge and qualifying broker of a real estate brokerage firm, failed to correct various violations of the Real Estate License Law and Commission

*Don't Forget!
Write your real estate broker license number on all agency agreements.*

rules in the firm’s trust accounts following recommendations made to Mr. Bracey by Commission staff; and that these violations included, but were not limited to, failure to maintain copies of checks, failure to maintain a personal funds ledger, failure to identify the purpose for monies being deposited, failure to deposit entrusted funds within three banking days of receipt, deficit spending which led to a shortage in the security deposit account, and unidentified funds which led to an overage in the rental account. The Commission noted that it does not appear that any consumers have been harmed. The firm’s trust accounts are now in compliance.

BRION ENTERPRISES INC. (Lumberton) – By Consent, the Commission suspended the firm license of Brion Enterprises for a period of 12 months effective September 19, 2017. The Commission then stayed the suspension for a probationary period through September 18, 2018. The Commission found in a trust

account audit that Brion Enterprises failed to maintain the front and back of checks, failed to maintain a personal funds ledger, failed to perform monthly reconciliations, failed to maintain a trial balance, failed to identify the purpose for the disbursement of rental funds, and failed to identify the purpose of deposits received; and that an overage in excess of \$19,000 of unidentified funds was discovered in the trust account holding earnest money deposits and an overage in excess of \$31,000 of unidentified funds was discovered in the management escrow account. The Commission noted that it does not appear that any consumers have been harmed and Brion Enterprises is taking steps to identify the owners of the funds for their return.

KENNETH REECE BROWN (Jacksonville) – By Consent, the Commission reprimanded Mr. Brown effective May 1, 2017. The Commission found that Mr. Brown, acting as listing agent for a property, promised an easement agreement would be signed by the owners of adjacent properties to allow access to the listed property over their property; that the buyers closed on the property based on Mr. Brown’s guarantee but he failed to do so. Mr. Brown has since obtained the required signatures and recorded the promised agreement.

PATRICIA LYNNE BROWN (Lowell) – By Consent, the Commission suspended the broker license of Ms. Brown for a period of three months effective June 15, 2017. The Commission found that Ms. Brown, acting as the qualifying broker and broker-in-charge of a real estate brokerage firm, managed a property owned by her, but failed to place a tenant security deposit into an account designated “trust” or “escrow”; that Ms. Brown, while submit-

Continued

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.

ting offers on behalf of potential buyers, failed to deposit earnest money deposits into an account designated “trust” or “escrow”; that Ms. Brown failed to produce an agency agreement for her representation of a buyer in one transaction; and that Ms. Brown failed to respond to Letters of Inquiry sent by Commission staff within 14 days of receipt.

SHERRY CLARK BYRD (Lumberton) - Following a hearing, the Commission permanently revoked the broker license of Ms. Byrd effective July 19, 2017. The Commission found that Ms. Byrd, acting as broker-in-charge, managed the properties of various owners; that Ms. Byrd failed to provide full and complete trust account records such that an audit trail could be established; that Ms. Byrd manipulated trust account reconciliations in order to force the reconciliation to balance; that Ms. Byrd converted trust monies from the security deposit trust account and rental accounts; that Ms. Byrd’s security deposit trust account and rental accounts were short at least \$25,465.57 in total; that Ms. Byrd failed to provide records pertaining to the management of a home owners association and the trust account she maintained in its name; that Ms. Byrd con-

verted \$14,218.70 by depositing a check intended to be deposited in a firm trust account into her personal bank account; and, that Ms. Byrd operated her firm Carolinas Realty Exchange LLC without a license from January 11, 2016 through November 30, 2016.

CAROLINA HOMES (Lowell) - By Consent, the Commission suspended the firm license of Carolina Homes for a period of three months effective June 15, 2017. The Commission found that Carolina Homes, a licensed real estate brokerage firm, managed a property owned by its qualifying broker and broker-in-charge and failed to place a tenant security deposit into an account designated “trust” or “escrow”; that Carolina Homes, while submitting offers on behalf of potential buyers, failed to deposit earnest money deposits into an account designated “trust” or “escrow”; that Carolina Homes failed to produce an agency agreement for its representation of a buyer in one transaction; and that Carolina Homes failed to respond to Letters of Inquiry sent by Commission staff within 14 days of receipt.

CAROLINAS REALTY EXCHANGE LLC (Lumberton) - Following a hearing, the Commission permanently revoked the firm license of Carolinas Realty Exchange effective July 19, 2017. The Commission found that Carolinas Realty Exchange managed the properties of various owners; that Carolinas Realty Exchange failed to provide full and complete trust account records such that an audit trail could be established; that Carolinas Realty Exchange manipulated trust account reconciliations in order to force the reconciliation to balance; that Carolinas Realty Exchange converted trust monies from the security deposit trust account and rental accounts; that Carolinas Realty Exchange’s security deposit trust account and rental accounts were short at least \$25,465.57 in total; that Carolinas Realty Exchange failed to provide records pertaining to the management of a home owners association and the trust account she maintained in its name; that Carolinas Realty Exchange converted \$14,218.70 by depositing a

check intended to be deposited in a firm trust account into her personal bank account; and, that Carolinas Realty Exchange operated without a license from January 11, 2016 through November 30, 2016.

CORNERSTONE REALTY OF LAKE LURE LLC (Lake Lure) – By Consent, the Commission permanently revoked the firm license of Cornerstone Realty effective May 10, 2017. The Commission found that Cornerstone Realty’s trust account did not include a trust account journal, property ledgers, or a trial balance; that an audit of the account also discovered a shortage and deficit spending due to a failure to perform monthly reconciliations; that Cornerstone Realty’s website used an unregistered assume name and the rental agreements failed to comply with the Vacation Rental Act; and that Cornerstone Realty’s qualifying broker handled all aspects of the business as the broker-in-charge was largely absent.

MICHELE DYER (Corolla) – By Consent, the Commission permanently revoked the broker license of Ms. Dyer effective August 17, 2017. The Commission found that Ms. Dyer, while working for a licensed real estate brokerage firm, failed to safeguard funds held in the firm’s trust

Continued

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

accounts; that Ms. Dyer commingled personal funds with trust funds and converted trust money to personal use; that Ms. Dyer authorized a \$20,000 payment from the firm's trust account to her brother-in-law to repay a personal loan; and that Ms. Dyer's actions resulted in a shortage in the firm's trust accounts.

HOWARD W. ERVIN (Mooresville)

– By Consent, the Commission permanently revoked the broker license of Mr. Ervin effective June 14, 2017. The Commission found that Mr. Ervin maintained a trust account and brokerage account for property management; that Mr. Ervin commingled trust funds in a brokerage account and operated this account as if it were a trust account; that Mr. Ervin did not maintain any trust account records and failed to provide any trust account or bank records to the Commission; that Mr. Ervin admitted to the Commission that he converted over \$18,000 from his trust account for personal use; and that an audit of Mr. Ervin's trust account revealed a shortage of approximately \$60,546.

ANNETTE FERN EVANS (Sparta) –

By Consent, the Commission suspended the broker license of Ms. Evans for a period of 18 months effective January 1, 2017. Six months of the suspension were active with the remainder stayed for a probationary period from July 1, 2017 to July 1, 2018. The Commission found that Ms. Evans represented the buyer of a property located in Virginia and, although Respondent had completed real estate courses in Virginia, she had yet to sit for the state exam; that Ms. Evans submitted documents to the closing attorney which purported to show that she was licensed in Virginia, when in fact she was not; that the misrepresentation was discovered prior to closing and Ms. Evans was only paid a referral fee rather than a full commission. The Commission notes that Ms. Evans is remorseful and that the buyer was not harmed in the transaction.

DAVID ELLIOTT FLACK (Raleigh)

– The Commission accepted the permanent voluntary surrender of the broker license of Mr. Flack effective October 1, 2017. The Commission dismissed without

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, 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.

prejudice allegations that Mr. Flack violated provisions of the Real Estate License Law and Commission rules. Mr. Flack neither admitted nor denied misconduct.

SANDRA ELLINGTON GRAVES

(Burlington) – By Consent, the Commission suspended the broker license of Ms. Graves for a period of one year effective August 1, 2017. The Commission then stayed the suspension for a probationary period of one year. The Commission found that Ms. Graves in 2008 acted as a dual agent in the sale of residential real property; that a home inspection revealed the presence of an underground storage tank (UST) and that Ms. Graves represented to her buyer-clients that she had the UST inspected and that the inspection revealed that the UST had been properly filled; that Ms. Graves failed to get any documentation showing that the UST had in fact been properly filled or even inspected; that Ms. Graves' buyer-clients closed on the property based on Ms. Graves' representation that the UST was properly filled; and that in 2015, the buyer-clients discovered that the UST had not been properly filled and the surrounding soil was contaminated.

JENNIFER LEE GUDAITIS (New

Bern) – By Consent, the Commission reprimanded Ms. Gudaitis effective July 1, 2017. The Commission found that Ms. Gudaitis, acting as the broker-in-charge of a real estate brokerage firm and as a time share project broker, failed to adequately supervise a provisional broker under her supervision; and that the provisional broker made misrepresentations outside of

Ms. Gudaitis' presence while selling timeshares; and the Commission notes that Ms. Gudaitis' firm has refunded monies to the buyers and the firm has surrendered its license.

DEREK CHAVONZA HAIRSTON

(Reidsville) – By Consent, the Commission suspended the broker license of Mr. Hairston for a period of 36 months effective May 10, 2017. The Commission found that Mr. Hairston pleaded guilty to one count of Conspiracy to Distribute Cocaine Hydrochloride, a federal felony; that he was sentenced to 48 months imprisonment and three years' supervised release upon release from imprisonment; and that Mr. Hairston reported this conviction more than 60 days following the final judgment.

ROGER D. HAMILTON (Lake Lure)

– The Commission accepted the voluntary surrender of the broker license of Mr. Hamilton for a period of one year effective June 14, 2017. The Commission dismissed without prejudice allegations that Mr. Hamilton violated provisions of the Real Estate License Law and Commission rules. Mr. Hamilton neither admitted nor denied misconduct.

RICHARD J. HARRIS (Morrisville) –

By Consent, the Commission reprimanded Mr. Harris effective July 1, 2017. The Commission found that Mr. Harris, acting as the broker-in-charge of a licensed real estate brokerage firm, did not adequately supervise a provisional broker's compli-

Continued

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.

ance with the Real Estate License Law and Commission rules, allowing the broker to actively engage in real estate brokerage for approximately six months while his license was on inactive status.

HOPE ADVANTAGE REALTY INC (Charlotte) – By Consent, the Commission suspended the firm license of Hope Advantage Realty for a period of two years effective June 15, 2017. The Commission then stayed the suspension for a probationary period ending June 15, 2019. The Commission found that Hope Advantage Realty failed to fully account for a tenant security deposit to a tenant; and that Hope Advantage Realty failed to perform reconciliations and failed to maintain trust accounts in compliance with Commission rules.

JACK HOPE (Charlotte) - Following a hearing, the Commission permanently revoked the broker license of Jack Hope effective June 27, 2017. The Commission found that Mr. Hope, acting as broker-in-charge of a licensed firm, failed to properly account for and disburse tenant security deposits paid to the firm until the misapplication of funds was discovered in an audit by Commission staff; that Mr. Hope falsified records he provided to his owner-client and to Commission staff; that Mr. Hope admitted that he failed to perform reconciliations on his firm's trust accounts; and that Mr. Hope converted trust funds to his own use leading to an approximate \$50,000 shortage in the firm's trust accounts.

JOHN HENRY LANE SR. (Raleigh) – By Consent, the Commission sus-

pending the broker license of Mr. Lane for a period of 12 months effective June 1, 2017. Three months of the suspension was active with the remainder stayed for a probationary period of nine months. The Commission found that Mr. Lane, in January 2016, entered into Exclusive Buyer Agency Agreements with six clients as an agent for a real estate brokerage firm; that all six clients signed contracts with a home construction firm to purchase new construction homes and Mr. Lane did not upload these transaction documents to the brokerage firm's management system as required by firm policy; that in August 2016, during the construction period and prior to closing, Mr. Lane affiliated with a new real estate brokerage firm and whited-out the name of his former brokerage firm as buyer agent firm on all the agency agreements and replaced the former firm with the new firm as the buyer agent firm; and, that Mr. Lane directed the home construction firm to pay his commission to his new firm instead of his former firm, but the home construction firm honored the original agency agreement and paid the former firm the brokerage commission.

ANN LOCKLEAR (Fayetteville) - Following a hearing, the Commission permanently revoked the broker license of Ms. Locklear effective August 7, 2017. The

Commission found that Ms. Locklear: failed to provide all of her owner clients with an executed copy of the Property Management Agreement and copies of the leases for the subject properties; failed to reply to Letters of Inquiry issued by Commission staff; failed to provide all property file documents requested by Commission staff; failed to pay owners their rent proceeds in a timely manner; failed to pay vendors for services performed in a timely manner; failed to transfer tenant security deposits to new property management firms in a timely manner; failed to pay the taxes for her principal after promising to do so and deducting the amount from the owner draw; failed to perform monthly reconciliations, maintain a general ledger, maintain a journal, or maintain a trial balance in the trust accounts; failed to designate the trust accounts as "trust" or "escrow"; failed to identify the purpose for disbursements; failed to maintain cancelled checks; failed to identify the remitter, purpose, property owner, and the parties involved on deposit tickets; failed to provide an audit trail for the trust accounts; allowed for deficit spending and shortages in the accounts; and failed to notify the Commission that her firm was administratively dissolved by the North Carolina Secretary of State's Office. Furthermore, a review of Ms. Locklear's trust account bank records

found numerous checks returned NSF.

Brokers Should Ask Closing Attorneys to Not Disburse Proceeds Without Confirming Disbursement Instructions

Brokers are urged to encourage closing lawyers in each transaction not to disburse proceeds other than as specifically authorized in a written document signed by the seller. There have been instances of hackers diverting funds from real estate transactions, i.e., criminals hacked into a real estate broker's computer database and monitored email traffic to learn about an impending closing. They send an email to the lawyer instructing the lawyer to wire the seller's proceeds to a bank account other than the one originally identified. That email comes from an address that looked like the broker's or sellers. The lawyer wires the seller's proceeds to the criminals' account. By the time the lawyer learns of this crime, the criminals have wired the funds to a foreign bank account.

CAVARETTA MARTIN (Rocky Mount) – By Consent, the Commission reprimanded Mr. Martin effective September 20, 2017. The Commission found that in August 2016, Mr. Martin represented a seller in a transaction under a

Continued

listing agreement that had expired in May 2015; that Mr. Martin verbally negotiated an agreement between the seller and buyer for a lease with option to purchase, but used a standard offer to purchase contract and a standard seller financing addendum for the parties to sign; and that, Mr. Martin provided the buyer with the key to the property before the seller had signed the contract.

AARON M. MAUNE (New Bern) – By Consent, the Commission suspended the broker license of Mr. Maune for a period of six months effective July 1, 2017. The Commission then stayed the suspension for a probationary period ending January 1, 2018. The Commission found that Mr. Maune, acting as the qualifying broker of a real estate brokerage firm and as a time share project broker, failed to adequately supervise the time share sales conducted under his supervision and a provisional broker devised and carried out deceptive schemes designed to conceal the fact that the provisional broker was selling time-shares to unsuspecting buyers. The Commission noted that when the misrepresentations were uncovered, Mr. Maune took steps to investigate and remunerate buyers.

ALLEN CURTIS MILLER (Indian Trail) – By Consent, the Commission revoked the broker license of Mr. Miller effective May 10, 2017. The Commission found that Mr. Miller conducted an “agent preview” of a residential home listed for sale and during the preview handled personal items belonging to the owner that were not listed for sale.

HIEN DAI NGUYEN (Clarkston, Georgia) – By Consent, the Commission revoked the broker license of Mr. Nguyen effective May 24, 2017. The Commission found that Mr. Nguyen applied to the Commission on November 3, 2016 and represented that he had never held a real estate license in North Carolina or another state; that he had never been subject to a disciplinary action and that his only employment between 2000 and 2016 was as a tax preparer; that on November 7, 2016, Mr. Nguyen was licensed as a provisional broker; that on December 1, 2016, Mr.

Nguyen requested a waiver of the broker-in-charge experience requirement citing his experience as a broker in-charge of a real estate firm in Georgia between 2009 and 2013; that the Georgia Real Estate Commission (GREC) records show that Mr. Nguyen was originally licensed July 30, 1996; that on April 21, 2010, after an investigation by the GREC, Mr. Nguyen signed a voluntary surrender of his Georgia real estate license; and that on May 12, 2010, the GREC revoked Mr. Nguyen’s real estate license effective May 22, 2010.

BRION KEITH OXENDINE (Lumberton) – By Consent, the Commission suspended the broker license of Mr. Oxendine for a period of 12 months effective September 19, 2017. The Commission then stayed the suspension for a probationary period through September 18, 2018. The Commission found in a trust account audit that Mr. Oxendine, acting as the qualifying broker and broker-in-charge of a licensed real estate brokerage firm, failed to maintain the front and back of checks, failed to maintain a personal funds ledger, failed to perform monthly reconciliations, failed to maintain a trial balance, failed to identify the purpose for the disbursement of rental funds, and failed to identify the purpose of deposits received; and that an overage in excess of \$19,000 of unidentified funds was discovered in the trust account holding earnest money deposits and an overage in excess of \$31,000 of unidentified funds was discovered in the management escrow account. The Commission noted that it does not appear that consumers have been harmed and Mr. Oxendine is taking steps to identify the owners of the funds for their return.

PATRIOT INVESTMENTS LLC NC (Pinehurst) - Following a hearing, the Commission permanently revoked the firm license of Patriot Investments LLC NC effective May 24, 2017. The Commission found that Patriot Investments LLC NC failed to respond to Letters of Inquiry sent by the Commission, failed to provide copies of a signed listing agreement to its client, provided brokerage services without entering into a written agency agreement with a separate client, and collected rent

and tenant security deposits from a tenant but failed to place the trust monies in to a trust account, and failed to disburse the funds to its landlord-client.

DAVID W. RADFORD, JR. (Atlantic Beach) - Following a hearing, the Commission revoked the broker license of Mr. Radford effective May 15, 2017. The Commission found that Mr. Radford as qualifying broker and broker-in charge of a licensed firm performing property and HOA management services, failed to respond to Letters of Inquiry sent by the Commission, failed to provide any requested trust account documentation requested by the Commission, and failed to maintain trust accounts in accordance with Commission rule including failing to perform bank reconciliations since July 2009.

RADFORD ENTERPRISES LTD. (Atlantic Beach) - Following a hearing, the Commission revoked the firm license of Radford Enterprises Ltd. effective May 15, 2017. The Commission found that Radford Enterprises Ltd. performed property and HOA management services but failed to respond to Letters of Inquiry sent by the Commission, failed to provide any requested trust account documentation requested by the Commission, and failed to maintain trust accounts in accordance with Commission rule including failing to perform bank reconciliations since July 2009.

DAVID REDMAN (Mount Pleasant) - Following a hearing, the Commission permanently revoked the broker license of Mr. Redman effective June 27, 2017. The Commission found that Mr. Redman, acting as broker-in-charge, entered into management agreements with Home Owner’s Associations (“HOA’s”) and agreed to hold money in trust on their behalf. The Commission found that Mr. Redman failed to provide the HOA’s with financial documents despite multiple requests; failed to perform as required by the management agreements; failed to maintain copies of records as required by Commission rule; and failed to respond to Commission staff or provide records despite repeated requests to do so. Furthermore, the Commission

Continued

found that one of Mr. Redman's brokers made promises to a tenant about fixing certain issues affecting residential property in her role as manager of that property, yet she failed to make these repairs. Moreover, the Commission found that Mr. Redman, while managing a residential property, failed to provide the owner with a copy of the executed lease despite multiple requests; failed to deliver or account for rent proceeds; allowed a broker with the firm to tell the owner that eviction papers were filed against the tenant when, in fact, they were not; failed to deliver the Tenant Security Deposit to the owner for the subject property; and failed to disclose that the tenant was his daughter.

REDMAN PROPERTIES INC. (Mount Pleasant) - Following a hearing, the Commission permanently revoked the firm license of Redman Properties Inc. ("RPI") effective June 27, 2017. The Commission found that RPI entered into management

Real Estate Education and Recovery Fund Reimburses Victims

At its May 11, 2017 meeting, the North Carolina Real Estate Commission approved a payment totaling \$2,503 out of the Real Estate Education and Recovery Fund to two applicants who suffered financial losses due to the misconduct of Almetta Wanetta Moore, a former North Carolina real estate broker.

By Consent, the Commission permanently revoked the broker license of Almetta Wanetta Moore effective July 1, 2016.

At its May 11, 2017 meeting the Commission approved a payment totaling \$2,580 out of the Real Estate Education and Recovery Fund to one applicant who suffered financial losses due to the misconduct of Howard W. Ervin, a former North Carolina real estate broker.

By Consent, the Commission permanently revoked the broker license of Howard W. Ervin effective June 14, 2017.

agreements with Home Owner's Associations ("HOA's") and agreed to hold money in trust on their behalf. The Commission found that RPI, through its brokers, failed to provide the HOA's with financial documents despite multiple requests; failed to perform as required by the management agreements; failed to maintain copies of records as required by Commission rule; and failed to respond to Commission staff or provide records despite repeated requests to do so. Furthermore, the Commission found that RPI, through its brokers, made promises to a tenant about fixing certain issues affecting residential property in its role as manager of that property, yet failed to make these repairs. Moreover, the Commission found that RPI managed a residential property and, through its brokers, failed to provide the owner with a copy of the executed lease despite multiple requests; failed to deliver or account for rent proceeds; told the owner that eviction papers were filed against the tenant when, in fact, they were not; failed to deliver the Tenant Security Deposit to the owner for the subject property; and failed to disclose that the tenant was the daughter of one of its brokers.

TAMMY RENEE REDMAN (Mount Pleasant) - Following a hearing, the Commission permanently revoked the broker license of Ms. Redman effective June 27, 2017. The Commission found that Ms. Redman entered into management agreements with Home Owner's Associations ("HOA's") and agreed to hold money in trust on their behalf. The Commission found that Ms. Redman failed to provide the HOA's with financial documents despite multiple requests; failed to perform as required by the management agreements; failed to maintain copies of records as required by Commission rule; and failed to respond to Commission staff or provide records despite repeated requests to do so. Furthermore, the Commission found that Ms. Redman made promises to a tenant about fixing certain issues affecting residential property in her role as manager of that property, yet she failed to make these repairs. Moreover, the Commission found that Ms. Redman, while managing a residential property, failed to provide the own-

er with a copy of the executed lease despite multiple requests; failed to deliver or account for rent proceeds; told the owner that eviction papers were filed against the tenant when, in fact, they were not; failed to deliver the Tenant Security Deposit to the owner for the subject property; and failed to disclose that the tenant was her daughter.

SHERREELEE SFERRA (Southern Pines) - By Consent, the Commission suspended Ms. Sferra for a period of two months effective May 1, 2017. One month was active with the remainder stayed for a probationary period until July 1, 2017. The Commission found that Ms. Sferra acted as a dual agent representing the seller and potential buyer; that the buyer was unable to obtain financing from a lender; that Ms. Sferra negotiated a lease-to-own agreement between buyer and seller and drafted a lease-to-own agreement by combining the standard North Carolina REALTORS® (NCR) Residential Rental Contract and Offer to Purchase and Contract as well as terms for seller financing using the NCR Seller Financing Addendum; that Ms. Sferra drafted conflicting and ambiguous terms in the lease-to-own and seller finance agreements; and that Ms. Sferra did not consult an attorney prior to drafting these terms and proposing them to her clients.

DALE JEFFREY SHORTT (Pinehurst) - Following a hearing, the Commission permanently revoked the broker license of Mr. Shortt effective May 24, 2017. The Commission found that Mr. Shortt as broker-in charge of a licensed firm failed to respond to Letters of Inquiry sent by the Commission, failed to provide copies of a signed listing agreement to his client, provided brokerage services without entering into a written agency agreement with a separate client, and collected rent and tenant security deposits from a tenant but failed to place the trust monies in to a trust account, and failed to disburse the funds to his landlord-client. The Commission also found that Mr. Shortt as Qualifying Broker for a second licensed firm, allowed the firm to operate without a broker-in-charge for approximately nine months, failed to maintain trust account records in accor-

Continued

North Carolina Real Estate Commission
P. O. Box 17100
Raleigh, NC 27619-7100

PRSRT STD
U.S. POSTAGE
PAID
HICKORY, NC
PERMIT NO. 104

**** Attention ****
BIC's and BIC
eligible brokers!

Please update your record to include your current phone number. You can designate your phone number as "public" or "private." Log on to your record at www.ncrec.gov and provide your phone numbers!

[Broker Login](#)

dance with Commission rules leading to inaccuracies in client account records, and falsely reported to the Commission that the firm was not conducting brokerage activity.

JUSTIN KIRK VAN LEUVAN (Morrisville) – By Consent, the Commission suspended the broker license of Mr. Leuvan for a period of one year effective August 17, 2017. One month of the suspension was active with the remainder stayed for a probationary period ending August 17, 2018. The Commission found that Mr. Van Leuvan failed to take at least one postlicensing course prior to his January 17, 2015, deadline and his license was placed on inactive status as a result; that Mr. Van Leuvan failed to complete a second postlicensing course by his January 17, 2016, deadline; that on February 16, 2016, the Commission placed his license on inactive status and sent Mr. Van Leuvan's broker-in-charge notice of this action; that Mr. Van Leuvan also failed to complete required continuing educa-

tion prior to the June 10, 2016, deadline; that despite the foregoing, Mr. Van Leuvan actively engaged in brokerage activities for approximately six months while his license was on inactive status; and that Mr. Van Leuvan was compensated for the transactions he completed while his license was inactive. The Commission noted that Mr. Van Leuvan has subsequently completed all required postlicensing courses, continuing education courses, and his license is on active status.

JAY CHRISTIAN WOODARD (Arapahoe) – By Consent, the Commission suspended the broker license of Mr. Woodard for a period of 36 months effective July

3, 2017. The Commission found that Mr. Woodard, upon his release from prison, reported his July 15, 2015 federal conviction of Conspiracy to Distribute and Possession with Intent to Distribute 500 Grams or More of Cocaine; that Mr. Woodard was incarcerated for fifteen (15) months and is currently serving a four-year probation term. The Commission notes that Respondent has completed a 500-hour voluntary treatment program; that Mr. Woodard was also convicted in 2000 for felonious trafficking in Cocaine and received a 16-20 month jail sentence and was placed on a 2-year supervised probation; and that Mr. Woodard disclosed this conviction on his 2005 application for licensure.

Follow us on



Scan the code below to access the Commission website from your mobile devices.

