



REAL ESTATE BULLETIN

Volume 40 • October 2009 • Number 2

Rule Changes Proposed

Following is a summary of proposed Commission rule changes which, if approved, would become effective July 1, 2010:

- Require retention of trust account and transaction records for a period of five years instead of three as the current rules require.
 - Add questions to the Residential Property Disclosure Form for home sellers to disclose whether their properties are located within one mile of the boundary of certain military facilities and to disclose noise, air traffic, vibra-
- (See **Rules**, page 6)

Pocket Card Gets New Look Page 6



Commission Members Leave

Real Estate Commission member and former Chairman Wanda J. Proffitt of Burnsville has resigned.

A member of the Commission since 1994, Proffitt was appointed by Governor Perdue to the State Board of Transportation.

Joe L. Hodge, Jr., of Raleigh, a member since 2006 and Vice Chairman, has also left the Commission.

Commission members thanked Proffitt and Hodge for their leadership and valued service to North Carolina. □

Real Estate Commission Elects Marsha H. Jordan, Chairman

Marsha H. Jordan of Lincolnton has been elected Chairman of the North Carolina Real Estate Commission for the 2009-2010 term beginning August 1, it was announced by Phillip T. Fisher, Executive Director.

A graduate of the University of Virginia (MWC), Jordan entered the real estate business in 1986.

She is owner of Apple Realty in Lincolnton, a Graduate of the REALTOR® Institute and holds the Certified Residential Broker, Certified Residential Specialist, and GREEN designations.

Appointed to the Commission in 1999, Jordan is past president of the North Carolina Real Estate Education Foundation and past president and 2001 REALTOR® of the Year of the Lincoln County Board of REALTORS®.

Active in community affairs, she is a former director of the Lincolnton Chamber of Commerce, past president for Downtown Development, and past president of the Lincolnton Rotary Club.



Commission Chairman Marsha H. Jordan received the Oath of Office from Lieutenant Governor Walter H. Dalton.

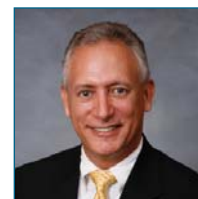
Jordan and her husband, Max, a REALTOR® and contractor, reside in Lincolnton and have one son, Jason, a student at the University of North Carolina at Charlotte and a REALTOR®. □

Knight, Mosteller Appointed To Real Estate Commission

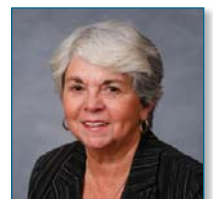
Governor Beverly E. Perdue has appointed Everett "Vic" Knight of Raleigh and Alice L. Mosteller of Lake Junaluska to the Real Estate Commission, it was announced by Phillip T. Fisher, Executive Director.

Knight, a licensed broker since 1984, is also a certified appraiser and the owner of Chapel Hill Appraisals and Consultants. He previously was broker/owner of Century 21 Vic Knight Realty in Hillsborough for 10 years.

A native of Burlington, Knight graduated from North Carolina State University with a BS in Civil Engineering and worked internationally for Bechtel Corporation for several years. He was a



Knight



Mosteller

licensed General Contractor in North Carolina.

Knight is currently a director of the National Association of REALTORS®, a past president and member of the board of directors of the North Carolina Association of REALTORS®, and past president of the Chapel Hill Board

(See **Appointed**, page 7)



To request a speaker from the Commission, please submit the "Request for Program Presenter" form available on the Commission's Web site, www.ncrec.gov.

People

Peter B. Myers has assumed the position of Information Officer in the Legal Services Division. Myers is a graduate of Appalachian State University with a BS in Real Estate. Prior to joining the Commission, he was a real estate broker with York Simpson Underwood in Raleigh and was owner of Myers Appraisal Company.



Appearances

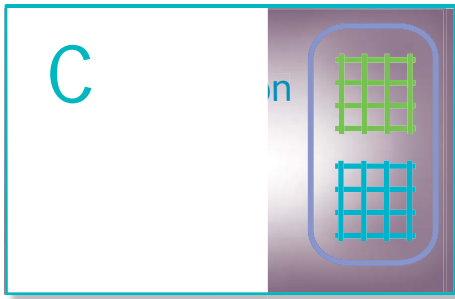
Thomas R. Miller, Special Deputy Attorney General, Director of Legal Services and Legal Counsel, spoke to the Cleveland County Association of REALTORS® on Fair Housing issues.

Janet B. Thoren, Chief Deputy Legal Counsel, spoke to the Advisory Board of the Bank Secrecy Act Coalition on issues related to mortgage fraud.

Patricia A. Moylan, Legal Education Officer, addressed the Education Advisory Group of the Charlotte Regional REALTORS® Association on rules regarding record maintenance, trust account and reporting requirements, and broker-in-charge responsibilities.

Betsey W. Penney, Information Officer, spoke to the Burlington-Alamance County Association of REALTORS® and the Pamlico County Board of REALTORS®.

Jean Wolinski-Hobbs, Information Officer, spoke to the Harnett Area Board of REALTORS® and was a presenter for a Property Management Update program at Wilmington for the North Carolina Association of REALTORS®.



November 4

December 9

January 13

All meetings, unless otherwise noted, begin at 9 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.

Commission Scholarship Winners

The Real Estate Commission recognized the outstanding academic achievement of three brokers in REALTORS® Institute courses.

Nigel Terry of Raleigh received the *Joe Schweidler Memorial Scholarship* and Thomas Alexander of Havelock, the *Blanton Little Memorial Scholarship*. Both Schweidler and Little were former Executive Directors of the Commission.

Dorothy Boudreaux Hays of Murphy received the *Phillip T. Fisher Scholarship*. Fisher is currently executive director.

The recipients were selected by the North Carolina Real Estate Educational Foundation. □



Scholarship winners (seated, l. to r.) Nigel J. Terry, Dorothy Boudreaux Hays, and Thomas R. Alexander hold plaques received at the August awards presentation. They are joined by Commission members (l. to r.) Jeffrey J. Malarney, Benjamin Cone, III, Joe L. Hodge, Jr., Chairman Marsha H. Jordan, Melvin L. "Skip" Alston, Jerry A. Mannen, Jr., M. Rick Watts, and S. R. "Buddy" Rudd, Jr.

COURSE SCHEDULES

This schedule provides locations, dates, and times for the courses indicated through February, 2010.

Register online at the Commission's Web site, www.ncrec.gov.

Broker-in-Charge Course

Two-days. Day one, 1-5 p.m.; Day two, 8:30-5:30 p.m.)

Asheville	December 2, 3 February 23, 24	Holiday Inn East/Blue Ridge Parkway
Charlotte	October 26, 27 December 7, 8 January 26, 27	Holiday Inn Airport
Greensboro	November 17, 18 February 16-17	Clarion Hotel (formerly the Radisson)
Raleigh	November 9, 10 December 14, 15	McKimmon Conference Center
Wilmington	January 20-21	Coast Line Convention Center

Basic Trust Account Procedures Course

Charlotte	December 8, 9 a.m. - 1 p.m.	Holiday Inn Airport
Raleigh	November 3, 1 - 5 p.m.	McKimmon Conference Center

Confirm dates and times at the Commission Web site.



Allan R. Dameron Legal Internship

Lindsey E. Wakely of Raleigh, a second year law student at the University of North Carolina, was the Allan R. Dameron Legal Intern for 2009. With her at the July Commission meeting are (l. to r.) Commission members Jeffrey J. Malarney, S. R. "Buddy" Rudd, Jr., M. Rick Watts, Chairman Melvin L. "Skip" Alston, Vice Chair Marsha H. Jordan, Benjamin Cone, III, Wanda J. Proffitt, Jerry A. Mannen, Jr., and Joe L. Hodge, Jr. The award is given annually in memory of and tribute to former Commission Chairman Dameron for his dedicated service in protecting the interests of North Carolina real estate consumers.

North Carolina Partners with Federal Agencies in Builder Fraud Case, Nets \$50 Million National Settlement

(The following is excerpted from ARELLO® Boundaries, the newsletter to members of the Association of Real Estate License Law Officials.)

The North Carolina Real Estate Commission recently joined numerous federal agencies and the state's Commissioner of Banks in announcing the resolution of an inter-agency investigation of Beazer Homes, a home building company based in Atlanta, Georgia, with operations in at least 21 states, and its wholly-owned subsidiary, Beazer Mortgage Corporation.

In a criminal Bill of Information filed along with a Deferred Prosecution Agreement resolving the case, the United States Attorney for the Western District of North Carolina (Charlotte Division) charged the company with engaging in massive and complicated schemes that included discount point fraud, down payment assistance fraud, HUD-licensing fraud and mortgage loan stated-income fraud.

In the Deferred Prosecution Agreement executed by the United States Attorney and Beazer, the company agreed to pay up to \$50 million dollars in restitution over several years.

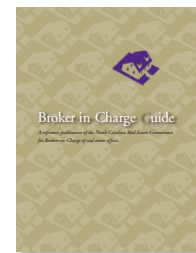
The announcement of the investigation and resolution of the case included public statements by officials of the many agencies involved in the investigation including U.S. Attorney Edward R. Ryan, HUD Secretary Shaun Donovan, the North Carolina Deputy Commissioner of Banks and North Carolina Real Estate Commission Deputy Chief Counsel Janet Thoren.

Thoren said, "The North Carolina Real Estate Commission is committed to the fight against mortgage fraud. We are pleased that we were able to partner with the U.S. Attorney's Office in the Western District and each of the other agencies involved in this complicated and detailed investigation and work together to bring about a result that includes restitution to so many consumer victims, both in North Carolina and nationwide." □



The Broker-in-Charge Guide, a valuable reference and resource for the management of North Carolina real estate offices, has been updated and expanded.

This 194-page volume features a



lengthier discussion of licensee compensation with several pages of examples, plus updating of the requirements for maintaining and reinstating BIC eligibility under the new rules effective July 1, 2009.

Orders may be placed for the book either online from the Publications page or with printed forms available online or in this issue of the Bulletin to mail or fax.

It is recommended that BICs with editions of the Guide dated 2006 or older (see date at bottom of title page) purchase the newly updated volume. The Guide was first published in November 2004. □



"Matters of Survey" Matter

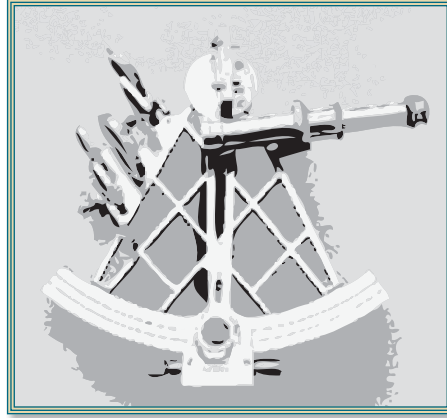
From *The North Carolina Society of Surveyors, Inc.*

(Reprinted from the March 2004 *Real Estate Bulletin*)

There is a school of thought that it is not necessary to obtain a current survey when purchasing real estate--that title insurance and affidavits from sellers sufficiently protect the purchaser's interests or that the purchaser can simply rely upon a previous survey. However, real estate agents should be aware that purchasers face potential problems typically referred to as "matters of survey" when a current field survey of property is not performed.

Matters of survey relate to anything that could negatively affect the use of property being purchased. These include, encroachments across property lines or building restriction lines; fences/walls, landscaping features, wells, swimming pool decks; the location of utilities, access ways, etc., relative to easements, property lines or buildings; the existence of flood zones; and other similar matters.

It is possible that matters of survey may be covered in title insurance policies. But coverage that protects the



purchaser's interests is unlikely to be included unless a survey is performed prior to issuance of the policy. "Lender's policies" may cover matters of survey without requiring a current survey, but they do not protect the purchaser. The risk associated with lenders' policies is often acceptable to the title insurer because claims from a lender are not likely to occur until the purchaser defaults on the loan.

In recent years, it has become popular to have the seller sign an affidavit effectively guaranteeing that no matters of survey negatively affect the property. However, in doing so, the seller may be unwittingly accepting some unwarranted risks of liability. The buyer may also be tempted to simply rely upon a survey document from a previous transaction, but such survey may not contemplate changes to the property since the earlier survey was performed.

Many people choose not to obtain a current survey because they believe it will delay closing the transaction. This may be true if it is not ordered from the surveyor until closing of the transaction is assured. However, if the purchaser decides that a current survey is desired, it can be ordered early enough so as not to delay the closing date.

An informed purchaser knows that an accurate, current survey will provide peace of mind that cannot be obtained from any other source. □

New Commission Web Site Address: www.ncrec.gov

The statistics here generally reflect the activities of the Real Estate Commission during the period from May 1, 2008 to April 30, 2009.

Contact

- 246,609 telephone calls
- 1.5 million+ Web site "hits"

Publications

- 640,000+ publications distributed to brokers, consumers, applicants

Technology

- 8,645 student rosters electronically processed for CE courses and 859 for postlicensing courses

Licensing

- 457,468 license records changed
- 5,663 applications processed for licenses by examination
- 5,273+ license examinations administered
- 2,993 licenses by examination issued
- 339 licenses issued by reciprocity
- 1,051 firm licenses issued

NUMBERS

- 209 expired, surrendered and suspended licenses reinstated
- 2,243 Certificates of License History issued
- 216 license applications reviewed by Commission for character issues
- 106 license applicant conferences conducted

Education

- 7 new private real estate school licenses issued and 66 renewed
- 27 real estate instructors approved (a 19% increase) and 109 renewed
- 83 new continuing education elective courses approved (for a total of 437 courses)
- 28 new continuing education sponsors approved (for a total of 231)
- 13 new continuing education *Update*

Course instructors approved (for a total of 190)

- 41 *Broker-in-Charge* Course sessions conducted for 2,027 licensees

Audits/Investigations

- 152 field investigations completed
- 196 trust accounts examined
- 373 persons interviewed
- 13 trust account sessions conducted for 310 students
- 1,848 students instructed for trust account portion of BIC course

Legal

- 1,037 case (complaint) files opened and 1,101 closed
- 33 licensees reprimanded
- 70 licenses suspended
- 70 licenses revoked
- 20 licenses surrendered
- 95 cases with conditional remedies □

Nonprofit, Government Only

New Law Affects Property Raffles

By Charlene D. Moody
Deputy Legal Counsel

The Real Estate Commission often gets calls from licensees and homeowners seeking alternative ways to bring about sales. One such method suggested by callers is to raffle a home. The seller would sell raffle tickets, the winning ticket-holder would receive the property, and the seller would receive the proceeds.

In the past, the answer was clear that under North Carolina law, no real estate could be offered as a raffle prize under any circumstance. However, in May 2009, the N.C. General Assembly amended N.C.G.S. §14-309.15 to allow real property to be offered as a prize in a raffle by certain organizations.

The maximum appraised value of the real property to be raffled is \$500,000 for any one prize and the



total appraised value of all real estate prizes offered by one nonprofit organization may not exceed \$500,000 in any one calendar year.

Licensees must note that the statute authorizes only nonprofit organizations or government entities to conduct raffles.

Sellers might ask if they would qualify if they donated a portion of the raffle proceeds to a charity. However, the statute provides that the proceeds of the raffle may not be used to compensate any person to conduct a raffle. The Commission, therefore, takes the position that *the seller may not re-*

ceive any part of the raffle proceeds nor may a licensee receive any fee or commission from the raffle proceeds.

A person conducting a raffle in violation of N.C.G.S. §14-309.15 shall be guilty of a Class 2 misdemeanor.

Additionally, licensees and the public should be aware that there may be surprising tax consequences of winning a real estate raffle. Licensees should advise any participant in such a raffle to consult a tax advisor concerning the tax consequences to the winner. For example, in the current tax year, the home may be reportable as ordinary income, leading to a large income tax bill.

Further, when the winner decides to sell the home, he or she may encounter a large capital gains tax because the cost basis for the home will be the ticket price rather than the value of the home. □

Rules

(Continued from page 1)

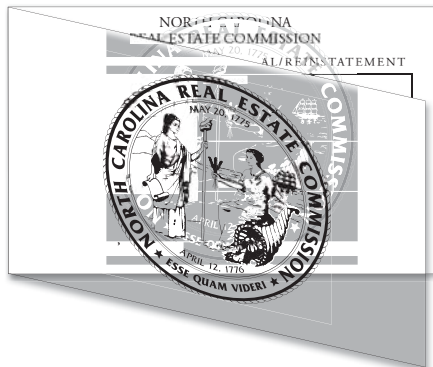
tions, lights and other impacts from nearby military facilities;

- Allow postponement and completion of continuing education, Broker-in-Charge, and postlicensing courses, and the payment of license renewal fees for individuals licensed as brokers and approved as instructors who are also members of the United States armed forces who are serving in combat or in presidentially-declared disaster areas.

- Clarify when and under what circumstances students in the Broker-in-Charge Course and in all continuing education courses may be absent during the scheduled classroom hours and still receive continuing education credit for attending the course.

A public hearing for comments on the proposed rule changes will be held at 9:00 a.m., February 10, 2010 in the Conference Room of the Commission's office. □

Pocket Card Gets New Look



NORTH CAROLINA REAL ESTATE COMMISSION
P. O. Box 17100 • RALEIGH, NC 27619-7100
(919) 875-3700 • NCREC.GOV

General Contact Information

- Information Services, Ext 772
- Licensing/Education, Ext 776
- Legal Division, Ext 131
- Audits and Investigations, Ext 717

Reminders

- Continuing Education Deadline: June 10
- Failure to renew will change license status and any BIC designation.

Inside cover

The pocket card you receive with your real estate license has been redesigned to be more useful and better protected. Issuance of the new design began in June with renewals following depletion of existing card inventory.

As shown, the card has a cover to shield the surface containing your name, license number and signature. Kept closed, it will prevent smudging.

The opposite side of the cover contains Commission contact information for easy access along with a continuing education deadline reminder. □



Appointed

(Continued from page 1)

of REALTORS® and the Triangle Multiple Listing Service. He is a Continuing Education Instructor for the Real Estate Commission and the North Carolina Appraisal Board.

Knight has two daughters, “Krystle” Gray Knight, 23, and “Victoria” Scarlet Knight, 16, and is a member of Hillsborough United Church of Christ.

Mosteller is Vice President/Managing Broker of the Beverly Hanks & Associates office at Waynesville. She formerly owned Apple Realty, Inc., in Waynesville for 18 years until selling it to Beverly Hanks in 2004.

A graduate of Appalachian State University, she taught at schools in North Carolina and Virginia for 20 years. She received her real estate license in 1984.

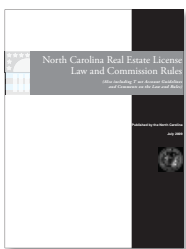
She is a former Haywood County and North Carolina REALTOR® of the year and a past president of the Haywood County Board of REALTORS®

Mosteller has two daughters, Debra Bryant, a Registered Nurse in Raleigh, and Paulette Childers, a broker at Beverly Hanks in Waynesville. □

Real Estate Law, Rules Book Updated

The Commission’s *North Carolina Real Estate License Law and Commission Rules* book has been updated and reprinted.

This 92-page book is published as a convenient, portable reference and contains four sections:



- North Carolina Real Estate Law
- Commission Rules
- Trust Account Guidelines
- License Law and Rules Comments

The Rules and Comments sections are current with the rule changes effective July 1. The Comments section serves as a study guide for the initial licensing examination. □



The Honorable Sarah Parker, Chief Justice of the North Carolina Supreme Court, (center) administered the Oath of Office to Commission members Everett “Vic” Knight and Alice L. Mosteller.

July 1, 2008 - June 30, 2009

Home Valuation Code of Conduct

Editor's Note: The recently implemented Home Valuation Code of Conduct is intended to enhance the independence and accuracy of the home appraisal process and provide added protections for homebuyers, mortgage investors and the housing market. In response to complaints from real estate consumers and brokers regarding the Code, the Real Estate Commission has announced its support for legislation requiring appraisal management companies operating in North Carolina to be regulated by the North Carolina Appraisal Board, and it directed that the following letter be sent to the Federal Housing Finance Agency.



Free Publications

Quantity

Questions and Answers on:

- Fair Housing _____
- Tenant Security Deposits _____
- Condos and Townhouses _____
- Residential Subdivisions and Planned Communities _____
- Purchasing Coastal Real Estate in North Carolina _____
- Renting Residential Real Estate _____

Trato Con Agentes de Bienes Raíces
(Working With Real Estate Agents) _____

Preguntas y Respuestas sobre:
(Questions and Answers On:)

- Vivienda Justa (Fair Housing) _____
- El Depósito de Seguridad del Inquilino (Tenant Security Deposits) _____
- Alquiler de Inmuebles para Viviendo (Renting Residential Real Estate) _____

Real Estate Licensing in North Carolina
(Contains license application) _____

Residential Property Disclosure Statement (Available online) _____

How To Order:

Online: www.ncrec.gov.

Mail: NC Real Estate Commission, ATTN: Publications, P. O. Box 17100, Raleigh, NC 27619-7100

Fax: 1-919-877-4227

This form for free publications only.

NAME _____

ADDRESS _____

CITY/STATE/ZIP _____

Telephone _____ Email _____

Please allow 7 days from receipt of order for delivery.

Purchase Publications

Quantity Totals

Residential Square Footage Guidelines
(\$.65 per copy) _____ \$

Working With Real Estate Agents
(\$.25 per copy) _____ \$

Questions and Answers on:

Home Inspections
(\$.25 per copy) _____ \$

Earnest Money Deposits
(\$.25 per copy) _____ \$

Real Estate Closings
(\$.25 per copy) _____ \$

Offer and Acceptance
(\$.25 per copy) _____ \$

Owning Vacation Rental Property
(\$.25 per copy) _____ \$

Broker-in-Charge Guide
(\$10 per copy) _____ \$

North Carolina Real Estate License Law and Commission Rules
(\$3.00 per copy) _____ \$

Real Estate Agent Safety Guide
(\$.25 per copy) _____ \$

Amount Enclosed _____ \$

How To Order:

Mail or fax this form. Credit card: MasterCard or Visa only. Please do not remit cash.

Online: www.ncrec.gov

Select Publications on the Home page.

Fax: 1-866-867-3746

Mail to: Commission Publications, P. O. Box 28151, Raleigh, NC 27611

This form for purchasing publications only.

NAME _____

ADDRESS _____

CITY/STATE/ZIP _____

Telephone _____ Email _____

MasterCard Visa

Expiration Date

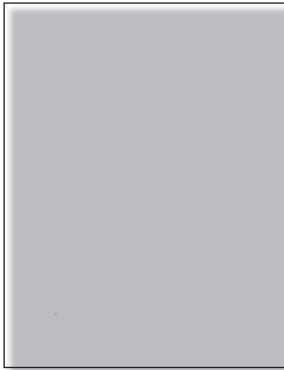
Credit card orders must be a minimum of \$1.00.

Signature: _____

Please allow 7 days from receipt of payment for delivery.

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.



HOW TO ORDER: ONLINE

Go to the Commission's Web site, www.ncrec.gov, select "Publications/Bulletin" and click on NC Real Estate Manual to link directly with the book distributor. Follow the instructions for ordering using your MasterCard or Visa credit card.

BY MAIL OR FAX

Mail or fax an order form with payment. For credit card payments, only MasterCard and Visa are accepted. For checks, please send only cashier's or certified check or money order, payable to: North Carolina Real Estate Manual. (The Manual sales price is \$34.95 plus sales tax and shipping.)

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
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Order Form

NORTH CAROLINA REAL ESTATE MANUAL

NAME _____

ADDRESS _____

Street (NOT P.O. BOX)

CITY/STATE/ZIP _____

Telephone _____

Email _____

Single Manual @ \$44.00* (incl. Tax, Shipping) \$ 44.00

Additional Manuals @ \$39.00* each (incl. Tax, Shipping) X _____ \$ _____
Quantity

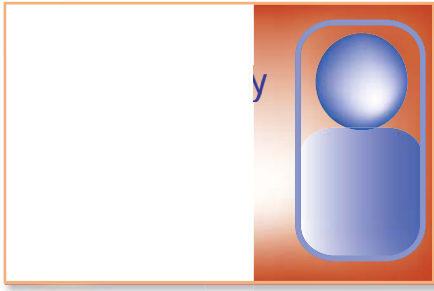
TOTAL \$ _____

MasterCard Visa

Exp Date

Signature: _____

*Manual sales price is \$34.95 plus \$2.45 sales tax plus shipping. **Please allow 7 days from receipt of payment for delivery.**



Penalties for violations of the Real Estate 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.

RHONDA KAE AXHOJ (Waxhaw) – By Consent, the Commission reprimanded Ms. Axhoj effective October 1, 2009. The Commission found that Ms. Axhoj, broker-in-charge of her sole proprietorship, sold a property she owned and signed an incorrect closing statement indicating the buyer paid a \$2,000 earnest money deposit to her, when the buyer had not, in the belief that the buyer would pay the deposit after closing. Ms. Axhoj attempted to collect the \$2,000 after closing but the buyer did not pay it.

JACOB O. BALOGUN (Fayetteville) – By Consent, the Commission suspended the broker license of Mr. Balogun for a period of one year effective May 1, 2009. One month of the suspension was active with the remainder stayed for a probationary period of 11 months. The Commission found that the N. C. State Board of Certified Public Accountant Examiners revoked Mr. Balogun's CPA license in 2008, the revocation stemming from a violation of a six-month suspension of his CPA license in 2006, and that Mr. Balogun had failed to inform the Commission of either disciplinary action.

BDF REALTY, INC. (Charlotte) – By Consent, the Commission suspended the firm license of BDF Realty for a period of one year effective June 10, 2008. Thirty days of the suspension were active with the remainder stayed for a probationary period of one year. The Commission found that BDF Realty received \$950 which was intended to be used as option money. The Commission further found that BDF Realty had a verbal property management agreement with the owner, but no written

agency agreement with any party. BDF Realty released the option money from its trust account to the would-be optioner, but did not have an option contract executed by the parties. The Commission noted that BDF Realty, upon



first request of refund by the would-be optionee, refunded the would-be optionee \$950.

BEAZER/SQUIRES REALTY, INC. ET. AL. (Charlotte) – By Consent, the Commission revoked the firm license of Beazer/Squires Realty, Inc., effective July 13, 2009. The Commission found that Beazer/Squires Realty, Inc. sold new construction homes to consumers and that its parent company, Beazer Homes USA, was charged in the U.S. District Court of the Western District of North Carolina with one count of *Mortgage Fraud Conspiracy* and one count of *Accounting Fraud Conspiracy* for transactions that occurred in or about 2000 through 2007.

HENRY C. BLAKE, JR. (Riegelwood) – By Consent, the Commission revoked the broker license of Mr. Blake

effective September 9, 2009. The Commission found that Mr. Blake, a broker-in-charge of a sole proprietorship, participated in mortgage fraud schemes in which he prepared false and inflated appraisals of certain parcels of real property that were submitted to mortgage lenders who relied on his appraisals to determine the values of certain real properties which would be collateral for mortgage loans.

JOHN MICHAEL BURTON (Catawba) – The Commission accepted the voluntary surrender of the broker license of Mr. Burton for a period of five years effective August 13, 2009. The Commission dismissed without prejudice allegations that Mr. Burton violated provisions of the Real Estate License Law and Commission rules. Mr. Burton neither admitted nor denied misconduct.

MARTHA LILIANA CAMPOVERDE (Charlotte) – The Commission accepted the voluntary surrender of the broker license of Ms. Campoverde effective May 28, 2009. The Commission dismissed without prejudice allegations that Ms. Campoverde violated provisions of the Real Estate License Law and Commission rules. Ms. Campoverde neither admitted nor denied misconduct.

DIANNE M. CARTER (Matthews) – The Commission permanently revoked the broker license of Ms. Carter effective August 18, 2009. The Commission found that Ms. Carter, as broker-in-charge, principal broker, and/or treasurer of various real estate brokerage firms, failed to account for
(See **Disciplinary Action**, page 12)

DISCIPLINARY ACTION

(Continued from page 11)

or to remit monies coming into her possession which belonged to another. The Commission also found that Ms. Carter scheduled withdrawals to herself without authorization from her principal, failed to turn over rental proceeds, failed to maintain rental proceeds in a trust account, and failed to make her trust account records available for inspection by the Commission.

BECKY PERRY CODER (Charlotte) – The Commission accepted the permanent voluntary surrender of the broker license of Ms. Coder effective October 1, 2009. The Commission dismissed without prejudice allegations that Ms. Coder had violated the Real Estate Law and Commission rules. Ms. Coder neither admitted nor denied misconduct.

CREATIVE BUYERS NETWORK, LLC (Charlotte) – By Consent, the Commission reprimanded Creative Buyers Network effective July 1, 2009. The Commission found that Creative Buyers Network, a licensed real estate brokerage firm, listed a home threatened with foreclosure, and that its broker-in-charge convinced an acquaintance to invest \$15,000 to bring the mortgage payments current and make improvements on the property. The Commission further found that the broker-in-charge filled out a promissory note between the seller and investor and included Creative Buyers Network as trustee but that Creative Buyers Network failed to deposit the funds into its trust account.

JOSEPH F. DAVIS, JR. (Burlington) – By Consent, the Commission reprimanded Mr. Davis effective June 1, 2009. The Commission found that Mr. Davis, broker-in-charge of a real estate brokerage firm, failed to maintain his trust account records as required by the Real Estate License Law and Commission rules. The Commission noted that Mr. Davis corrected all the violations

noted with respect to his trust account records, there were no shortages, and no consumers were harmed as a result.

MARTIN J. EVANS (Hampstead) – By Consent, the Commission suspended the broker license of Mr. Evans for a period of three years effective November 1, 2008. Six months of the suspension were active with the remainder stayed for a probationary period of



30 months on certain conditions. The Commission found that Mr. Evans, qualifying broker and broker-in-charge of a real estate brokerage firm, listed a personal rental home and lot and advertised it in the MLS as being located in a federal flood zone, but specifically not a COBRA zone, when in fact it was. Buyers of the property demolished the house, intending to build a new home, and then discovered that the property was in a COBRA zone and federal flood insurance was not available for a new structure.

KELLY A. FEELEY (Charlotte) – By Consent, the Commission reprimanded Ms. Feeley effective January 14, 2009. The Commission found that

Ms. Feeley certified in July 2007 that she had four years full time, active experience as a real estate broker or salesperson, thereby causing the Commission to remove her from provisional license status, when in fact her license had only been active for a total of only two years and 11 months. The Commission noted that prior to activation of her license she had worked in home sales for a builder developer in a capacity exempt from licensure. Ms. Feeley's license was returned to provisional status until June 10, 2009, by which time she had completed a 30-hour post-licensing course.

RONALD S. FERRELL (Cornelius) – By Consent, the Commission suspended the broker license of Mr. Ferrell for a period of two years effective May 1, 2009. Thirty days of the suspension were active with the remainder stayed for two years. The Commission found that Mr. Ferrell, a certified appraiser from 2001 to 2004, surrendered his appraisal certificate to the North Carolina Appraisal Board in a consensual arrangement with the Board in the face of allegations that he had violated provisions of the appraiser licensing statutes and the Uniform Standards of Professional Appraisal Practice.

BRETT DAVID FURNISS (Charlotte) – By Consent, the Commission suspended the broker license of Mr. Furniss for a period of one year effective June 10, 2009. Thirty days of the suspension were active with the remainder stayed for a probationary period of one year. The Commission found that Mr. Furniss, broker-in-charge of a real estate brokerage firm, received \$950 intended as option money. The Commission further found that Mr. Furniss had a verbal property management agreement with the owner, but no written agency agreement with any party. Mr. Furniss released the option money from his trust account to the would-be optionor, but did not have an option contract executed by the parties. The Commission noted that Mr. Furniss, upon first request

(See **Disciplinary Action**, page 13)

DISCIPLINARY ACTION

(Continued from page 12)

of refund by the would-be optionee, refunded the would-be optionee \$950.

MARK GAGLIARDI (Greenville) – The Commission accepted the voluntary surrender of the broker license of Mr. Gagliardi for a period of five years effective August 1, 2009. The Commission dismissed without prejudice allegations that Mr. Gagliardi violated provisions of the Real Estate License Law and Commission rules. Mr. Gagliardi neither admitted nor denied misconduct.

JON C. GILLMAN (Charlotte) – The Commission accepted the voluntary surrender of the broker license of Mr. Gillman for a period of five years effective July 1, 2009. The Commission dismissed without prejudice allegations that Mr. Gillman violated provisions of the Real Estate License Law and Commission rules. Mr. Gillman neither admitted nor denied misconduct.

GTC REALTY, INC. (Waxhaw) – By Consent, the Commission reprimanded GTC Realty effective May 1, 2009. The Commission found that GTC Realty entered into a buyers' agency agreement with a husband and wife and continued to act as a buyers' agent after the agreement expired including writing an offer on a property and assisting the buyers in a lease-purchase contract. The Commission also found that GTC Realty was paid a 2% fee of just under \$6,000 for its services which included showing the clients the house, contacting the seller on behalf of its clients, and delivering funds to the seller. Finally, the Commission found that after the clients filed a complaint with the Commission about the lease-purchase transaction, GTC Realty repeatedly failed to respond to Letters of Inquiry.

DR HORTON, INC. (Charlotte) – By Consent, the Commission sus-

pending the firm license of DR Horton for a period of one year effective May 1, 2008. The Commission then stayed the suspension for a probationary period of two years on certain conditions. The Commission found that former employees of DR Horton sold 14 new construction homes to buyers and paid fees to unlicensed persons and entities for producing the buyers in these transactions.

Receive Credit Where and When Credit is Due!

When continuing education sponsors fail to report credits to the Commission in a timely manner, licensees may find themselves on Inactive Status on July 1.

You can avoid this problem by going online to the Commission Web site, www.ncrec.gov, to verify your CE credits.

Similarly, if you completed your CE online, verify that your sponsor submitted your affidavit to the Commission in time for your CE record to be updated.

ELBERTA L. JONES (Manson) – By Consent, the Commission suspended the broker license of Ms. Jones for a period of one year effective March 1, 2009. Three months of the suspension were active with the remainder stayed for a probationary period of nine months on certain conditions. The Commission found that Ms. Jones, who listed and sold a property for her seller clients, witnessed a promissory note executed by the buyer at closing in which the buyer agreed to repay a loan from the seller, but did not inform the closing attorney about the loan, which was not shown on the closing statement or otherwise disclosed to the lender. The Commission also found that after closing Ms. Jones acted as a conduit for

payments from the buyer to the seller on the undisclosed loan.

JAMES M. MADAGAN (Charlotte) – By Consent, the Commission revoked the broker license of Mr. Madagan effective October 8, 2009. The Commission found that Mr. Madagan, as a broker with resort real estate developer, became the custodian of a resort club new member initiation fees and failed to hold the money in a trust account and converted in excess of \$700,000 of the money to his own use. The Commission noted that Mr. Madagan entered into an agreement to repay the money but has failed to make full restitution as of this date.

PAUL DEVON MAXWELL (Lewisville) – By Consent, the Commission revoked the broker license of Mr. Maxwell effective October 8, 2009. The Commission found that Mr. Maxwell, as broker and rental agent for the owner of a rental property, procured a tenant and collected \$1,800 for rent and security deposit, but failed to deposit the money into an escrow account, and instead gave the money to his girlfriend. The Commission also found that Mr. Maxwell, whose license had expired at the time of the transaction, did not account for or remit the money to his landlord client or to the tenant.

FRANK T. MCCOY, JR. (Albemarle) – By Consent, the Commission suspended the broker license of Mr. McCoy for a period of six months effective October 1, 2009. The Commission then stayed the suspension for a probationary period of one year effective October 1, 2009. The Commission found that Mr. McCoy managed a property but failed to obtain a written property management agreement with the owner or written lease agreement with the tenants. The Commission also found that Mr. McCoy failed to maintain his trust accounts in compliance with the License Law and Commission rules. The Commission noted that Mr. McCoy

(See **Disciplinary Action**, page 14)

DISCIPLINARY ACTION

(Continued from page 13)

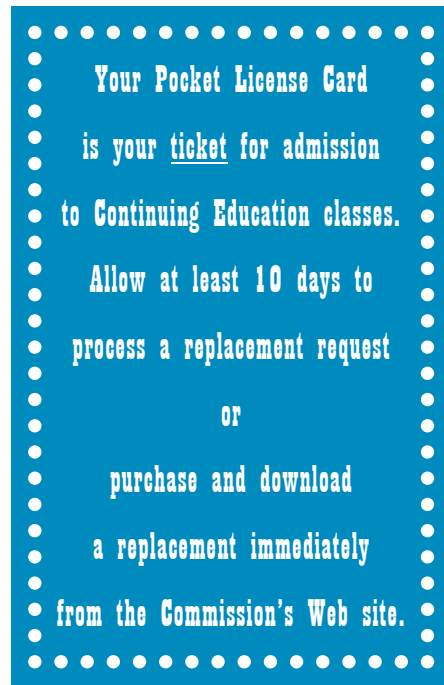
has since taken the Basic Trust Account Course and brought his books and records into compliance.

MOUNTAIN LIFESTYLES, LLC (Asheville) – By Consent, the Commission reprimanded Mountain Lifestyles effective September 1, 2009. The Commission found that Mountain Lifestyles, a real estate brokerage firm, listed in July 2006 a property which was served by a septic system and advertised the property as having three bedrooms, but failed to verify that the property was permitted for three bedrooms. The Commission further found that the buyer of the house discovered it had only been permitted for a two-bedroom home when attempting to sell the property several years after the purchase.

MYREALTY CONSULTANTS & MANAGEMENT, INC. (Charlotte) – By Consent, the Commission revoked the firm license of MyRealty Consultants & Management effective August 13, 2009. The Commission found that MyRealty Consultants & Management managed a residential rental property, but failed to deposit funds collected on behalf of the property owner into a trust account, failed to maintain and retain trust account records, and to maintain records in such a manner as to create a clear audit trail.

EZEKIAS R. NAPANT (Charlotte) – By Consent, the Commission suspended the broker license of Mr. NaPant for a period of one year effective September 1, 2009. The Commission then stayed the suspension for a probationary period of one year under certain conditions. The Commission found that Mr. NaPant, as qualifying broker and broker-in-charge of his own licensed firm, listed a home threatened with foreclosure, convinced an acquaintance to invest \$15,000 to bring the mortgage payments current and make improvements on the property, prom-

ised a 20% return on the funds at closing and represented that he had a buyer waiting to close. The Commission further found that Mr. NaPant filled out a promissory note between the seller and investor and included himself as promisor and his firm as trustee but failed to deposit the funds into his trust ac-



count. The Commission further found that Mr. NaPant, after the contracted sale fell through, failed to repay the investor's money and the home fell into foreclosure again.

DEBRA PAGANO (Waxhaw) – By Consent, the Commission suspended the broker license of Ms. Pagano for a period of one year effective May 1, 2009. The Commission then stayed the suspension for a probationary period of one year on certain conditions. The Commission found that Ms. Pagano, qualifying broker and broker-in-charge of her licensed firm, supervised a provisional broker in the firm, who entered into a buyers' agency agreement and continued to act as the buyers' agent after the agreement expired including writing an offer on a property and assisting the buyers in a lease-purchase contract. The Commission also found that Ms. Pagano's firm was paid a 2% fee of

just under \$6,000 for the provisional broker's services which included showing the buyers the house, contacting the seller on behalf of his buyers, and delivering funds to the seller. Finally, the Commission found that after the buyers filed a complaint with the Commission about the lease-purchase transaction, Ms. Pagano repeatedly failed to respond to Letters of Inquiry.

WILLIAM T. PAGANO, III (Waxhaw) – By Consent, the Commission suspended the broker license of Mr. Pagano for a period of one year effective May 1, 2009. The Commission then stayed the suspension for a probationary period of one year on certain conditions. The Commission found that Mr. Pagano, as a broker on provisional status, entered into a buyers' agency agreement and continued to act as the buyers' agent after the agreement expired including writing an offer on a property and assisting the buyers in a lease-purchase contract after the termination of the offer. The Commission also found that Mr. Pagano was paid a 2% fee of just under \$6,000 for his services which included showing the buyers the house, contacting the seller on behalf of his buyers, and delivering funds to the seller. Finally, the Commission found that after the buyers filed a complaint with the Commission about the lease-purchase transaction, Mr. Pagano repeatedly failed to respond to Letters of Inquiry.

HELEN W. PEE (Charlotte) – By Consent, the Commission revoked the broker license of Ms. Pee effective August 13, 2009. The Commission found that Ms. Pee, as qualifying broker and broker-in-charge of a real estate brokerage firm, managed a residential rental property, but failed to deposit funds collected on behalf of the property owner into a trust account, failed to maintain and retain trust account records, and to maintain records in such a manner as to create a clear audit trail. The Commission also found that Ms. Pee converted

(See **Disciplinary Action**, page 15)

DISCIPLINARY ACTION

(Continued from page 14)

approximately \$600 of the property owner's funds to her own use.

MEN NESHIANNE PHILLIPS (Rocky Mount) – By Consent, the Commission suspended the broker license of Ms. Phillips for a period of two years effective July 1, 2008. One year of the suspension was active with the remainder stayed for a probationary period of two years on certain conditions. The Commission found that Ms. Phillips, acting as both broker and loan officer in a transaction, created a false verification of rent in order to assist her buyer in qualifying for a loan. The Commission also found that Ms. Phillips negotiated a higher interest rate for her buyer client to increase her income at the expense of her buyer and received a \$1,900 yield spread premium when the loan closed.

RONNIE B. RICKS (Smithfield) – The Commission ordered the permanent revocation of the broker license of Mr. Ricks effective May 11, 2009. The Commission found that Mr. Ricks, in three transactions involving new construction homes and in which the buyers were introduced to the properties by the same unlicensed entity, failed to disclose to the lender the true purchase prices for the properties and misrepresented the purchase prices on contracts. The Commission also found that on the HUD-1 closing statements Mr. Ricks misrepresented the true purchase contract prices, misrepresented that he owed monies, when he did not, for second mortgage payoffs and assignment fees to the unlicensed entity that introduced the buyers to the properties, and assisted the unlicensed entity in receiving payment for conducting brokerage services.

DON STEPHEN SCOTT (Murphy) – By Consent, the Commission revoked the broker license of Mr. Scott effective July 13, 2009. The Commission found that Mr. Scott was indicted

in August, 2008 in U.S. District Court on one count of sending sexually explicit photos of a minor via the Internet, 13 counts of receiving sexually explicit photos of a minor via the Internet and one count of possessing a computer containing sexually explicit photos of minors. The Commission further found that Mr. Scott pled guilty to all charges in December 2008, failed to report his conviction to the Commission as required by Commission rule and failed to respond in a timely fashion to the Commission's Letters of Inquiry.

ABIGAIL SEYMOUR (Charlotte) – The Commission accepted the voluntary surrender of the broker license of Ms. Seymour for a period of five years effective July 1, 2009. The Commission dismissed without prejudice allegations that Ms. Seymour had violated the Real Estate License Law and Commission rules. Ms. Seymour neither admitted nor denied misconduct.

DEVERA S. SMITH (Charlotte) – By Consent, the Commission suspended the broker license of Ms. Smith for a period of one year effective December 1, 2008. The Commission found that Ms. Smith, became broker-in-charge of a sole proprietorship in 2005 and her employer's broker license was revoked

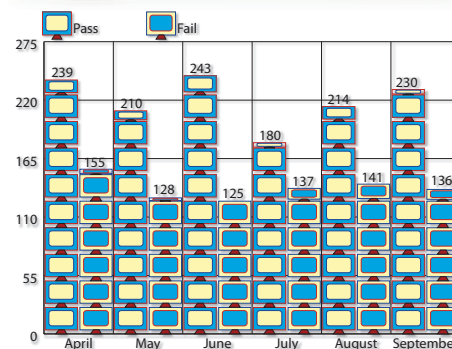
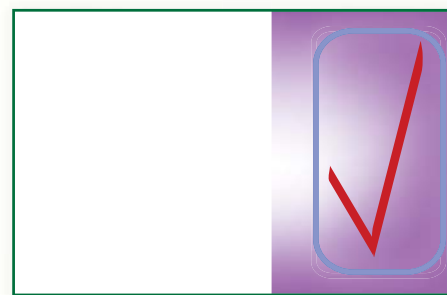
in 2005 for various trust account violations; despite the revocation, her employer continued to represent clients and Ms. Smith acted as a broker and accepted trust monies from clients, but failed to safeguard the funds received.

SUNSHINE REALTY-PROPERTY MANAGEMENT (Burlington) – By Consent, the Commission reprimanded Sunshine Realty-Property Management effective June 1, 2009. The Commission found that Sunshine Realty-Property Management failed to maintain its trust account records as required by the Real Estate License Law and Commission rules. The Commission noted that Sunshine Realty-Property Management corrected all the violations noted with respect to its trust account records, there were no shortages, and no consumers were harmed as a result.

DONNA A. TEELING (Mount Holly) – The Commission revoked the broker license of Ms. Teeling effective July 13, 2009. The Commission found that Ms. Teeling certified to the Commission in June 2006 that she possessed four years' full-time experience as a broker or salesperson to remove her license from provisional status when, in fact, she possessed less than three years' experience. The Commission also found that Ms. Teeling failed to respond to Letters of Inquiry from the Commission.

PAXTON J. TUCKER (Pawleys Island, South Carolina) – The Commission accepted the voluntary surrender of the broker license of Mr. Tucker for a period of five years effective July 1, 2009. The Commission dismissed without prejudice allegations that Mr. Tucker had violated the Real Estate License Law and Commission rules. Mr. Tucker neither admitted nor denied misconduct.

GIDGETT M. WAY (Mount Airy) – By Consent, the Commission reprimanded Ms. Way effective April 1, 2009. The Commission found that Ms. Way, broker-in-charge of a sole proprietorship, failed to maintain trust account records as required by the Real Estate License Law and Commission rules. (See **Disciplinary Action**, page 16)



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- *Be aware of possible escape routes*
- *Leave doors open*
- *Be wary in attics and basements*
- *Walk behind your clients*
- *Beware of dead-end streets*

*Reprinted from the North Carolina
Real Estate Agent Safety Guide.*

DISCIPLINARY ACTION

(Continued from page 15)

etorship, listed a home located in Virginia and represented on the MLS that it was a modular home with 1,800 heated square feet, relying on inaccurate data in a previous MLS listing and not measuring it herself; after entering a lease/purchase agreement, buyers discovered that the home was a mobile home with 1,472 square feet, a difference of 22%.

ANN WEEKS (Asheville) – By Consent, the Commission suspended the broker license of Ms. Weeks for a period of six months effective September 1, 2009. The Commission stayed the suspension for a probationary period of six months. The Commission found that Ms. Weeks listed a property in July 2006 which was served by a septic system and advertised the property as having three bedrooms, but failed to verify that the property was permitted for three bedrooms. The Commission further found that the buyer of the house discovered it had only been permitted for a two-bedroom home when attempting to sell the property several years after the purchase.

AMY MARIE YOUNGERMAN (Charlotte) – By Consent, the Commission suspended the broker license of Ms. Youngerman for a period two years effective January 26, 2009. Six months of the suspension were active with the remainder stayed for a probationary period of four years on certain

conditions. The Commission found that Ms. Youngerman, on or about August 13, 2008, pled guilty to and was convicted of *Level 2 Impaired Driving*, placed on probation for 24 months, and ordered to surrender her drivers license and obtain substance abuse assessment and recommended education or treat-

ment. The Commission noted that Ms. Youngerman was convicted of of *Level 4 Driving While Impaired* in April 2006 while licensed as a real estate broker and timely reported the conviction, and *Driving After Consuming Under 21* in 1998, which she disclosed on her 2003 license application.

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