



# REAL ESTATE BULLETIN

Volume 42 • October 2011 • Number 2

## Update, BICAR Topics Available Online

Selected topics from the Commission's *Update* and *Broker-in-Charge Annual Review Courses* from 2005-2006 to 2010-2011 are now available online. More content will be added in the future.

Organized by topic, the content can be reviewed on the new *Update Course/BICAR* Web page under the "Bulletins/Publications" link. To search for specific information within the topics, use Google on the Web site Search page.

The text is the same as that provided in the courses and, in digital form, provides a fast, convenient reference source.

## Real Estate Law Amendments

The North Carolina General Assembly's recent session resulted in changes to laws affecting real estate and real estate brokers, including the following:

*Effective June 27:*

□ An amendment of the Planned Community and Condo Act requires the Commission to revise the Residential Property Disclosure Statement ("RPDS") to provide for seller disclosure of a Homeowners Association ("HOA") and restrictive covenants, to create a separate form to disclose certain information about the HOA, and to publish a brochure about restrictive covenants - all  
(See **Law**, page 6)

## S. R. "Buddy" Rudd, Jr. Reappointed

S. R. "Buddy" Rudd, Jr., of Oak Island has been reappointed to the Commission by Governor Beverly E. Perdue. Rudd has been a Commission member since 2007.

## Commission Elects Benjamin Cone III, Chairman; Alice Mosteller, Vice Chair

Benjamin Cone III of Charlotte has been elected Chairman and Alice L. Mosteller of Waynesville, Vice Chairman, of the North Carolina Real Estate Commission for the 2011-2012 term beginning August 1, it was announced by Miriam J. Baer, Executive Director.

A member of the Commission since 2007, Cone is Managing Director of Milestone Partners, LLC, in Charlotte. He has held management positions in the textile and commercial furniture industries.

Cone is a graduate of the University of North Carolina with a Bachelor of Arts in Economics and North Carolina State University with a Bachelor of Science in Textile Management, Magna Cum Laude.

Mosteller is a Broker Associate 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



Cone



Mosteller

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.

## Cindy Chandler, Thomas Lawing Appointed to Commission

Cindy S. Chandler and Thomas R. Lawing, Jr., both of Charlotte, have been appointed to the North Carolina Real Estate Commission for three-year terms beginning July 1, 2011, it was announced by Miriam J. Baer, Executive Director.

Chandler was appointed by President Pro Tempore of the Senate Phil Berger and Lawing appointed by Speaker of the House Thom Tillis.

Owner of The Chandler Group, a commercial real estate consulting and training firm, Chandler has been in real estate for more than 30 years in the areas of investment real estate, syndication, strategic planning, management,



Chandler



Lawing

marketing and education.

She is a 2011 recipient of the Billie J. Mercer Excellence in Education Award of the Real Estate Commission and is the author of *The Insider's Guide to Commercial Real Estate*, published by Dearborn/Kaplan Publishing.

Currently a regional Vice President  
(See **Appointed**, page 5)

## 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

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[www.ncrec.gov](http://www.ncrec.gov)

Beverly E. Perdue, Governor

### COMMISSION MEMBERS

Benjamin Cone III, Chairman	Charlotte
Alice L. Mosteller, Vice Chairman	Waynesville
L. S. "Cindy" Chandler	Charlotte
Everett "Vic" Knight	Raleigh
Thomas R. Lawing, Jr.	Charlotte
Jeffery J. Malarney	Manteo
Jerry A. Mannen, Jr.	Wilmington
S. R. Rudd, Jr.	Oak Island
M. Rick Watts	Fayetteville

Miriam J. Baer  
Executive Director

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S. Adam Stallings	Deputy Legal Counsel
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Glenn M. Wylie	Information Officer

### Editor-In-Chief

Miriam J. Baer

### Editor

Robert L. Forshaw



## People

**S. Adam Stallings** has been employed as Deputy Legal Counsel in the Legal Division. He is a graduate of Wake Forest University and Wake Forest University School of Law and was formerly in private practice as a trial lawyer.



**Amanda M. Hohl** has been employed as Auditor/Investigator in the Audits and Investigations Division. She holds BS degrees in Criminal Justice and Sociology from the University of North Carolina and an MBA from Strayer. Most recently, she was a State Bureau of Investigations Special Agent.



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](http://www.ncrec.gov).

## Appearances

**Miriam J. Baer**, Executive Director, spoke to the Brunswick County Association of REALTORS®.

**Thomas R. Miller**, Legal Counsel, Director of the Legal Division, and Special Deputy Attorney General, spoke at the annual Convention and Legislative Forum of the North Carolina Association of REALTORS® and to the Greater Chapel Hill Association of REALTORS®.

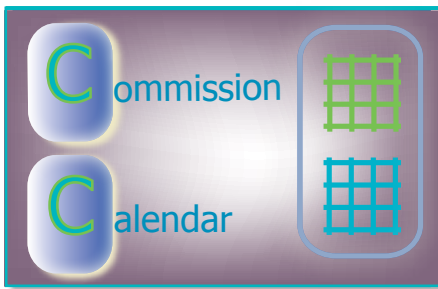
**Janet B. Thoren**, Legal Counsel and Assistant Director of the Legal Division, spoke at the annual Convention and Legislative Forum of the North Carolina Association of REALTORS® and facilitated a question-and-answer session on Dual Agency at an MLS luncheon for the Pinehurst-Southern Pines Association of REALTORS®.

**Charlene D. Moody**, Chief Deputy Legal Counsel, spoke to the High Point Regional Association of REALTORS® and to the Rocky Mount Area Association of REALTORS®.

**Jean A. Wolinski-Hobbs**, Consumer Protection Officer, spoke to the Property Management Division of the Winston-Salem Regional Association of REALTORS®.

**Peter B. Myers**, Legal Division Information Officer, spoke to the North Carolina Association of REALTORS® Property Management Division Seminar, the Albemarle Area Association of REALTORS®, and a group of Chapel Hill real estate offices.

**Glenn M. Wylie**, Legal Division Information Officer, spoke to the REALTOR® Commercial Alliance of the Burlington/Alamance County Association of REALTORS®.



November 16

December 14

January 11

*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.*

## Achievements Earn Brokers Scholarships

Commission scholarships were awarded to three brokers for outstanding achievement in REALTORS® Institute Courses.

Victor M. Chen of Creedmoor received the *Joe Schweidler Memorial Scholarship*; Anne K. Flater of High Point the *Blanton Little Memorial Scholarship*; and Cindy L. Hope of Charlotte the *Phillip T. Fisher Scholarship*.

Schweidler, Little and Fisher are former Executive Directors of the Commission.

The North Carolina Real Estate Educational Foundation selected the recipients.



*Scholarship winners (seated, l. to r.) Anne K. Flater, Victor M. Chen, and Cindy L. Hope, are shown at the July Commission meeting with (l. to r.) former Commission Executive Director Phillip T. Fisher, Commission members M. Rick Watts, Everett "Vic" Knight, then Vice Chairman Benjamin Cone III, past Chairman Melvin L. "Skip" Alston, then Chairman Marsha H. Jordan, S. R. Rudd, Jr., Jerry A. Mannen, Jr., Alice L. Mosteller, Jeffery J. Malarney, and Commission Executive Director Miriam J. Baer.*

## COURSE SCHEDULES

This schedule provides locations, dates, and times for the courses indicated through December, 2011. Register online at the Commission's Web site, [www.ncrec.gov](http://www.ncrec.gov).

### Broker-in-Charge Course Two-days. Day one, 1-5 p.m.; Day two, 8:30-5:30 p.m.

Asheville	November 29, 30	Holiday Inn East/Blue Ridge Parkway
Charlotte	November 21, 22	Hilton Garden Inn, Concord
Greensboro	December 12, 13	Clarion Hotel
Raleigh	November 8, 9 December 5, 6	McKimmon Conference Center
Wilmington	October 24-25	Coastline Convention Center

### Basic Trust Account Procedures Course

Raleigh	December 8, 1 - 5 p.m.	McKimmon Conference Center
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See Commission Web site for January-February 2012 courses.



# Requirements to Remember In the Landlord Tenant Act

By Jean A. Wolinski-Hobbs, Consumer Protection Officer

Many licensees are unaware that the Landlord Tenant Act limits fees a landlord or his property manager may charge when pursuing evictions or monies owed by a tenant, determines the timing of landlord security deposit accounting to tenants, imposes duties on landlords to provide fit premises, and permits tenants to terminate leases early in foreclosure situations. Since property managers often assist their landlord clients in complying with the law, an understanding of the requirements of the law is important.

## Permitted Landlord Fees

In addition to allowable late fees, the law permits a landlord or property manager to charge a tenant in an eviction situation one of the following three additional fees pursuant to a written lease:

- Complaint Filing Fee – When a tenant is in default and sued for summary ejection or money owed, but permitted by the landlord to cure the default, the landlord may charge the tenant a filing fee of \$15 or 5% of the monthly rent, whichever is greater, even though the landlord dismisses the claim.
- Court Appearance Fee – When a landlord successfully sues a tenant in default in small claims court and the tenant does not appeal, the landlord may charge the tenant a fee of 10% of the monthly rent.
- Second Trial Fee – When a landlord successfully sues a tenant in default in small claims court and, if the tenant has appealed, and the landlord is also successful in district court, the landlord may charge the tenant up to 12% of the monthly rent. (Note that a property manager cannot act on behalf of a landlord at the district court level.)

Administrative fees in addition to court filing fees are no longer permitted when pursuing the eviction of a tenant or recovery of monies owed. Each of the defined fees is exclusive of the others

and may only be charged in situations where the landlord has a written lease with the tenant. The law allows only one to be collected. The fee cannot be deducted from a subsequent rent payment and cannot be the basis of a default on the lease in a subsequent summary ejection action.

## Security Deposit Accounting

The requirement that landlords account to tenants for security deposits within 30 days of tenancy termination was modified in 2009 to permit an interim report within 30 days and a final accounting within 60 days. The change provides additional time for landlords to obtain estimates and actual costs to repair any damage.

Under the statute, willful failure by a landlord to comply with the deposit, bond or notice requirements of the Tenant Security Deposit Act voids certain of the landlord's rights. If a tenant does not receive an accounting in a timely manner, the tenant can sue the landlord and, despite any legitimate claims for damages, win the right to have the entire security deposit returned in addition to charging the landlord for attorney fees. Licensees should make certain they send notices in a timely manner and document files carefully to avoid liability for themselves or their landlord clients.

## Duty to Provide Fit Premises

An entirely new section added in 2009 requires landlords to remedy any "imminently dangerous condition" once they have actual knowledge of it, whether they have received notice of it from the tenant or not. If the tenant caused the dangerous condition, the landlord/agent may charge the tenant the "actual and reasonable" cost of repairs. The term "imminently dangerous condition" means any of the following:

- Unsafe wiring, flooring, steps, ceilings or roofs, or chimneys or flues
- Lack of potable water, operable toilet, operable bathtub or shower

- Lack of operable locks on all doors leading outside, broken windows or a lack of operable locks on all ground level windows
- Lack of operable heating facilities capable of heating living area to 65° when it is 20° outside (November 1 – March 31)
- Rat infestation as a result of defects in the structure
- Excessive standing water, sewage or flooding problems caused by plumbing leaks or inadequate drainage that contribute to mosquito infestation or mold

Landlords must also supply **carbon monoxide detectors** on each level of any residential rental unit that has:

- A fireplace
- A fossil fuel burning heater or appliance (i.e. coal, oil or natural gas)
- An attached garage

Responsibility for repairs, installation and replacement of batteries are the same as current laws regarding smoke detectors.

## Foreclosure and Tenant Rights

Tenants residing in residential properties with less than 15 rental units and being sold in foreclosure have the right to terminate their lease upon 10 days' written notice to the landlord. While a broker has a duty to disclose that a property is in foreclosure, frequently the broker only becomes aware of it after the Notice of Sale has been posted at the rental unit. A notice that has been posted constitutes receipt. Once the Notice of Sale is received, the tenant has the right to terminate early. At that point, the landlord/agent must prorate the rent to the effective date of the termination and **cannot** hold the tenant liable for any other rent or damages due only to the early termination.

Brokers should be aware that state and federal statutes can change from year to year. Property managers in particular should stay up to date with the changing laws to best represent and protect their landlord or tenant clients. State laws and pending bills can be found on the North Carolina General Assembly website at [www.ncleg.net](http://www.ncleg.net).

## Appointed

(Continued from page 1)

of the National Association of REALTORS®, Chandler is past Chair of the Mecklenburg County Zoning Board of Adjustment and Charlotte Chapter President of Commercial Real Estate Women (CREW).

Chandler is a past President of the North Carolina Association of REALTORS® and the North Carolina Real Estate Educators Association and a past Vice Chair of the Charlotte-Mecklenburg Planning Commission.

Lawing is President of T. R. Lawing Realty, Inc., a family-owned residential property management company serving the Charlotte region since 1957, and is President of the North Carolina Homeowners Alliance.

He is a past Director of the National Association of REALTORS® and a past President and REALTOR® of the Year of both the North Carolina Association of REALTORS® (NCAR) and the Charlotte Regional REALTORS® Association.

Active in civic affairs, Lawing is a past Chairman of the Eagle Projects Committee for the Mecklenburg County Council of the Boy Scouts of America and past President of the Charlotte West Rotary Club.



## Schools and Instructors Outstanding Examination Performance Records

July 1, 2010 - June 30, 2011

The North Carolina Real Estate Commission monitors applicant performance on the license examination and regularly reports this information to schools and instructors. In particular, the Commission uses information about the performance of applicants who are taking the licensing examination for the first time in order to assure that quality instruction is being provided in prelicensing courses by schools and instructors. The most recent annual performance record for each school can be found on the Commission's website at: <http://www.ncrec.gov/pdfs/schools/LicExamPerfRep.pdf>.

The overall examination performance for all first-time candidates on the real estate examination for the annual period July 1, 2010 through June 30, 2011 was 75%. The Commission would like to congratulate each of the following schools and instructors (with six or more students tested) for achieving an outstanding examination performance record of 80% or higher for the year ending June 30, 2011. The Commission recognizes that to have students perform at such a level on the license examination requires a combination of high quality instruction and high course completion standards.

### ■ School

■ Allen Tate School of Real Estate, *Charlotte/Raleigh*; ■ Central Piedmont Community College, *Charlotte/Matthews/Huntersville*; ■ Cumbie and Trull School of Real Estate, *Asheville*; ■ Durham Tech Community College, *Durham/Hillsborough*; ■ Fonville Morisey Center for Real Estate Studies, *Cary/Durham/Raleigh/Youngsville*; ■ JY Monk Real Estate Training Center, *Boone/Charlotte/Fayetteville/Greenville/Hickory/Raleigh/Wilmington*; ■ Laney School of Real Estate, *Wilmington*; ■ Mingle School of Real Estate, *Charlotte/Cornelius*; ■ NC Academy of Real Estate LLC, *Nags Head*; ■ Onslow Real Estate Institute, *Jacksonville*; ■ Southern Choice Real Estate Academy, *Wilmington*; ■ Superior School of Real Estate, *Charlotte/Concord/Cornelius/Greensboro/Huntersville/Morrisville*; ■ Terry Farr Real Estate School, *Fayetteville*; ■ The Outer Banks School of Real Estate, *Harbinger*; ■ Triad Real Estate School, *Winston-Salem*; ■ Wilkes Community College, *Sparta/Wilksboro*.

### ■ Instructor

■ Oscar Agurs, *Charlotte*; ■ Richard Barden, *Franklin*; ■ Gammel D. Bates, Jr., *Winston-Salem*; ■ Christie Carter Berry, *Leland*; ■ Kerry G. Blakely, *Pollocksville*; ■ Barbara L. Crites, *Kill Devil Hills*; ■ Charles L. Dotson, *Matthews*; ■ Victoria B. Ferneyhough, *Raleigh*; ■ Ernest Gerald Fulghum, *Raleigh*; ■ William H. Gallagher, II, *Charlotte*; ■ Janice C. Gullick, *Clayton*; ■ Violet Locke Harrington, *Durham*; ■ Sandra Hubbard, *Kittrell*; ■ Carolyn C. Lambert, *Charlotte*; ■ Dwight W. Lawing, Jr., *Parkton*; ■ Stephen L. Lawson, *Winston-Salem*; ■ Deborah Long, *Chapel Hill*; ■ Saundra Martin, *Salisbury*; ■ Brian M. Pate, *Wake Forest*; ■ George B. Perry, *Wilmington*; ■ Rashad I. Phillips, *Charlotte*; ■ Samuel Clyde Pyrtle, *Raleigh*; ■ Anne Rasheed, *Boone*; ■ Dana S. Rhodes, *Charlotte*; ■ Lynda Sargent, *Wake Forest*; ■ Tim R. Terry, *Charlotte*; ■ William J. Trull Jr., *Asheville*; ■ Elizabeth Whitcraft, *Kill Devil Hills*; ■ Sandra Williams, *Charlotte*; ■ Ben Wirtz, *Iron Station*.

## Law

(Continued from page 1)

by December 1, 2012. The rulemaking to revise the RPDS is well underway. For more information, visit the Commission's Web site, [www.ncrec.gov](http://www.ncrec.gov), and click on "Rule Changes".

### Effective October 1

□ The creation of the Commercial Real Estate Broker Lien Act enables a broker to obtain a lien on property for commissions earned in commercial real estate transactions.

□ Amendments to the Real Estate License Law authorize attorneys licensed in North Carolina to deposit disputed earnest money with the clerk of Superior Court, just as brokers can now do.

### Effective January 1, 2012

Changes to the Real Estate License Law:

□ Clarify a broker's duty with regard to closing statements, their review for accuracy by the broker, and the requirement of the broker to notify all parties to the closing of any errors.

□ Clarify the criminal offenses and disciplinary actions by other occupational licensing boards for which a licensee can be disciplined.

□ Clarify the definition of a "bank" (in which a broker may deposit trust money) as a federally insured depository institution lawfully doing business in the state which agrees to make its records of the broker's account available for inspection by the Commission's representatives.

□ Allow brokers who do not/did not complete all 90 hours of postlicensing courses to remain licensed or be reinstated on inactive status until the requirements for returning to active status are satisfied.

□ Clarify the circumstances when attorneys, trusts and housing authorities are exempt from real estate licensing requirements.

## Law/Rules Book Update

The *Real Estate Law and Commission Rules* book dated July 2009 has been discontinued. An updated version will be published late this year or early in 2012. A current version of the Law and rules is available on the Commission's Web site, [www.ncrec.gov](http://www.ncrec.gov).



## Allan R. Dameron Award

Jeffrey R. Moreland of Raleigh, a law student at the University of North Carolina, received the 2011 Allan R. Dameron Legal Internship award from former Commission Chairman Marsha H. Jordan. The Commission gives the award 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.

*The statistics here generally reflect the activities of the Real Estate Commission during the period from May 1, 2010 to April 30, 2011.*

### Contact

- 214,393 telephone calls
- 1.7 million+ average monthly Web site "hits"

### Publications

- 505,000+ publications distributed to brokers, consumers, applicants

### Technology

- 8,366 student rosters electronically processed for CE courses and 618 for postlicensing courses

### Licensing

- 417,355 license records changed
- 3,677 applications processed for licenses by examination
- 3,538+ license examinations administered
- 2,206 licenses issued by examination, 246 by reciprocity

## N U M B E R S

- 761 firm licenses issued
- 374 expired, surrendered and suspended licenses reinstated
- 1,585 Certificates of License History issued
- 177 license applications reviewed for character issues
- 92 license applicant conferences conducted

### Education

- 14 new private real estate school licenses issued and 51 renewed
- 11 real estate instructors approved and 44 renewed (for a total of 226 instructors)
- 69 new continuing education elective courses approved (for a total of 379 courses)
- 19 new continuing education sponsors approved (for a total of 230)

- 11 new continuing education Update Course instructors approved (for a total of 196)

- 31 *Broker-in-Charge* Course sessions conducted for 1,254 licensees

### Audits/Investigations

- 128 field investigations completed
- 240 trust accounts examined
- 370 persons interviewed
- 8 trust account courses conducted for 108 students
- 712 students instructed for trust account portion of *Broker-in-Charge Course*

### Legal

- 873 case (complaint) files opened and 1,009 closed
- 26 licensees reprimanded
- 59 licenses suspended
- 50 licenses revoked
- 28 licenses surrendered
- 91 cases with conditional remedies

**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) \_\_\_\_\_

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**Online:** [www.ncrec.gov](http://www.ncrec.gov)

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

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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 (Being updated; see book on Commission's Web site.) \_\_\_\_\_ \$-----

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

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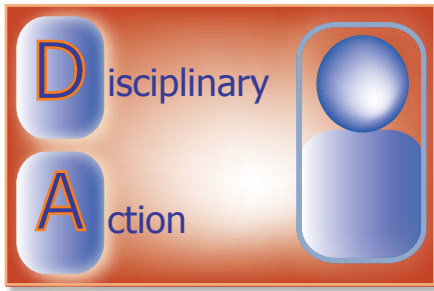
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*Penalties for violations of the Real Estate Law and Commission rules vary depending upon the particular facts and circumstances present in each case. Due to space limitations in the Bulletin, a complete description of such facts cannot be reported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

**ROGER B. BERNHOLZ** (Chapel Hill) – By Consent, the Commission suspended the broker license of Mr. Bernholz for a period of three months effective June 11, 2011. The Commission then stayed the suspension under certain conditions. The Commission found that Mr. Bernholz acted as broker-in-charge of a real estate brokerage firm serving as listing agent for a residential property which had a contract terminated when a prospective buyer's survey revealed it was in an "A" flood zone and requiring flood insurance. The Commission found that Mr. Bernholz relied upon a later Federal Emergency Management Agency report which identified the property in a "C" zone, not requiring flood insurance, incorrectly judged that the FEMA report governed over the survey, and directed the listing agent only to disclose the FEMA report. The Commission finally found that after purchase of the property by buyers for whom the firm served as dual agent, the buyers discovered the property was in an "A" flood zone, needed flood insurance, and that they could not do any additions to the residence because of the Resource Conservation District. The Commission noted that, in light of the foregoing, Mr. Bernholz, the listing agent, and the brokerage firm, without admitting liability, entered in a civil court settlement with the buyers; the buyers have communicated to the Commission that the civil matter was resolved to their satisfaction.

**ELEANOR A. BOWMAN** (Wilmington) – The Commission accepted the permanent voluntary surrender of the broker license of Ms. Bowman effective August 10, 2011. The Commission dismissed without prejudice allegations that Ms. Bowman violated provisions of the Real Estate License Law and Commission rules. Ms. Bowman neither admitted nor denied misconduct.

**LAURA A. BOWMAN** (Denver) – By Consent, the Commission reprimanded Ms. Bowman effective July 14, 2011. The

Commission found that Ms. Bowman, part owner with her husband of a limited liability business, secured her husband's services to remove and replace a water heater from a property owned, but not listed for sale, by an out-of-state client; neither her husband nor their company were licensed by the State Board of Plumbing, Heating and Fire Sprinkler Contractors to replace the water heater as required by law. The Com-



mission noted there were no issues as to the quality of the workmanship of Ms. Bowman's husband and no damage resulted to the homeowner.

**BRENDA PEAK LLC** (Cary) - The Commission revoked the firm license of Brenda Peak, LLC, effective June 27, 2011. The Commission found that Brenda Peak, LLC, acting as the listing agent for a property, failed to return \$10,000 in earnest money in timely fashion to buyers who had submitted an Offer to Purchase with an option and then decided to withdraw from the transaction as allowed by the terms of the option. The Commission further found that Brenda Peak, LLC, failed to respond to a Commission Letter of Inquiry sent in response to the buyers' complaint and failed to provide copies of trust account records accounting for the deposit. The Commission noted that Brenda Peak, LLC,

did eventually return the \$10,000 earnest money deposit to the buyers.

**CAROLINA COAST MANAGEMENT LLC** (Wilmington) – By Consent, the Commission revoked the broker license of Carolina Coast Management effective June 22, 2011. The Commission found that Carolina Coast Management permitted an expired broker to conduct real estate brokerage and to maintain the firm's banking and trust accounts. The Commission also found that Carolina Coast Management failed to properly supervise the expired broker's bookkeeping, failed to maintain and retain trust account records, and failed to safeguard the funds it held that belong to others.

**CAROLINA REALTY GROUP, INC.** (Raleigh) – By Consent, the Commission suspended the firm license of Carolina Realty Group for a period of one year effective June 1, 2011. One month of the suspension was active with the remainder stayed for one year on certain conditions. The Commission found that Carolina Realty Group failed to properly supervise a property manager it hired and who embezzled cash receipts paid to the firm by its clients. The Commission also found that Carolina Realty Group failed to review the firm's trust account records and safeguard the funds held by it on behalf of others. The Commission noted that Carolina Realty Group paid all of the clients of the firm and is no longer engaged in real estate brokerage.

**CENTURION REALTY LLC** (Charlotte) - The Commission accepted the voluntary surrender of the broker license of Centurion Realty for a period of one year effective September 8, 2011. The Commission dismissed without prejudice allegations that Centurion Realty violated provisions of the Real Estate License Law and Commission rules. Centurion Realty neither admitted nor denied misconduct.

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## Disciplinary Action

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**ANGELA R. CLEVE** (Swansboro) – By Consent, the Commission revoked the broker license of Ms. Cleve effective November 1, 2010. The Commission found that Ms. Cleve, acting as bookkeeper for a real estate brokerage firm, failed to deposit into trust accounts cash rents received by the firm and transferred several security deposits to rents in order to pay owners when cash rents received had not been deposited. The Commission also found that during Ms. Cleve's tenure as bookkeeper, approximately \$10,000 was not deposited into the firm's trust accounts.

**EDNA W. CHIRICO** (Charlotte) – By Consent, the Commission suspended the broker license of Ms. Chirico for a period of three years effective March 15, 2011. Three months of the suspension were active with the remainder stayed for a probationary period ending March 15, 2014. The Commission found that Ms. Chirico's husband, a licensed broker who acted as the bookkeeper of her licensed firm, converted approximately \$100,000 in earnest money deposits held in the firm's trust account to cover operating expenses and Ms. Chirico failed to properly supervise the maintenance of the trust accounts allowing the conversion to take place. The Commission noted that Ms. Chirico replaced the funds.

**SANTIGUS MONTALIUS CLARK** (Charlotte) – The Commission accepted the voluntary surrender of the broker license of Mr. Clark for a period of three years effective August 1, 2011. The Commission dismissed without prejudice allegations that Mr. Clark had violated provisions of the Real Estate License Law and Commission rules. Mr. Clark neither admitted nor denied misconduct.

**GARYK. COATS** (Raleigh) – The Commission accepted the voluntary surrender of the broker license of Mr. Coats for a period of 18 months effective August 15, 2011. The Commission dismissed without prejudice allegations that Mr. Coats had violated provisions of the Real Estate License Law and Commission rules. Mr. Coats neither admitted nor denied misconduct.

**SAMUEL CALEB COWLES** (Kannapolis) – By Consent, the Commission revoked the broker license of Mr. Cowles

effective September 8, 2011. The Commission found that Mr. Cowles, a licensed loan officer, participated in a series of transactions in which he assisted buyers in obtaining owner-occupied loans when, in fact, Mr. Cowles knew the properties were to be rented or flipped to other buyers, and eventually the homes went into foreclo-

### 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 Legal Division at 919-875-3700 for more information.

sure. The Commission also found that Mr. Cowles pled guilty in U.S. District Court, South Carolina, to *Conspiracy to Commit Money Laundering* and was sentenced to 15 months in prison.

**MARIA J. DELA CRUZ** (Raleigh) – By Consent, the Commission suspended the broker license of Ms. dela Cruz for a period of one year effective July 1, 2011. The Commission then stayed the suspension for one year on certain conditions. The Commission found that Ms. dela Cruz, acting as broker-in-charge of a real estate brokerage firm, failed to properly supervise a property manager she hired and who embezzled cash receipts paid to her firm by its clients. The Commission also found that Ms. dela Cruz failed to review the firm's trust account records and safeguard the funds held by it on behalf of others. The Commission noted that Ms. dela Cruz paid all of the clients of the firm and is no longer operating the business.

**LEAH C. CURTIS** (Charlotte) – By Consent, the Commission suspended the broker license of Ms. Curtis for a period of two years effective September 1, 2011. The Commission then stayed the suspension for a probationary period of two years. The Commission found that in 2008 Ms. Curtis, while acting as bookkeeper for a property management firm, converted trust money by writing a \$500 check to herself from her firm's rental trust account, and repaid the money when the embezzlement was discovered shortly thereafter.

**SALVATORE JOSEPH D'ELIA** (Apex) – By Consent, the Commission reprimanded Mr. D'Elia effective September 8, 2011. The Commission found that Mr. D'Elia received \$8,000 in earnest money from a buyer who contracted to purchase the assets of a restaurant under certain conditions and did not deliver the earnest money to his broker-in-charge (who was not aware of the transaction) and did not otherwise deposit the money into a trust account. The Commission also found that Mr. D'Elia failed to return the earnest money at the buyer's request when the contract failed. The Commission also found that the buyer filed a lawsuit which was settled with payment of the \$8,000 plus attorney's fees.

**DEVCORE CHARLOTTE LLC** (Charlotte) – The Commission accepted the permanent voluntary surrender of the broker license of DevCore Charlotte LLC effective July 15, 2011. The Commission dismissed without prejudice allegations that DevCore Charlotte violated provisions of the Real Estate License Law and Commission rules. DevCore Charlotte neither admitted nor denied misconduct.

**JOHN R. DIMIER, JR.** (Charlotte) – By Consent, the Commission suspended the broker license of Mr. Dimier for a period of three years effective February 15, 2010. The Commission found that Mr. Dimier acted as an agent in a transaction in which his client appointed him to act under the client's power of attorney, and that prior to purchasing the property himself, the client entered into a contract for deed and sold the property to another buyer. The Commission also found that Mr. Dimier entered into a lease agreement on behalf of his client in which the client leased the property to the buyer with a rental period that began prior

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## Disciplinary Action

(Continued from page 10)

to the client taking title or possession of the property. The Commission further found that Mr. Dimier's client obtained a loan to purchase the property but Mr. Dimier failed to disclose that the client had sold the property before obtaining the loan and the client's agreement with his lender included a due on sale clause; and that Mr. Dimier signed all documentation for his client, selling the property in violation of the due on sale clause without the consent of the lender.

**E. K. PROPERTY MANAGEMENT, INC.** (Wilmington) – The Commission revoked the firm license of E. K. Property Management effective May 26, 2011. The Commission found that E. K. Property Management failed to remit rents and security deposit monies belonging to its landlord clients during 2007 and 2008. The Commission also found that E. K. Property Management failed to maintain money belonging to its clients and tenants in a trust or escrow account; failed to make trust account and transactional records available for inspection by the Commission; failed to properly maintain trust accounts for the funds held for others; and that its qualifying broker and broker-in-charge converted money belonging to its clients and tenants to personal use.

**OSCEOLA WILLIAM ELLISS, III** (Jacksonville) – By Consent, the Commission reprimanded Mr. Ellis effective October 1, 2011. The Commission found that Mr. Ellis, as broker-in-charge, delegated bookkeeping for property management to a licensed broker employed by the firm and the books were filled with inaccuracies and bad data, which failed to substantially comply with Commission rules. The Commission also found that some of the problems related to the bookkeeping stemmed from the failure to ensure that all monies received were deposited within three banking days of receipt.

**FEATURED PROPERTIES LLC** (Raleigh) - The Commission accepted the voluntary surrender of the broker license of Featured Properties for a period of 18 months effective August 15, 2011. The Commission dismissed without prejudice allegations that Featured Properties had violated provisions of the Real Estate License

Law and Commission rules. Featured Properties LLC neither admitted nor denied misconduct.

**JACK T. FLEMING** (Eden) – By Consent, the Commission suspended the broker license of Mr. Fleming for a period of one year effective July 1, 2011. The Commission then stayed the suspension for a

### 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](http://www.ncrec.gov), to verify your CE credits.

probationary period of one year. The Commission found that Mr. Fleming, acting as broker-in-charge of a sole proprietorship conducting brokerage and property management services, failed to reduce management agreements to writing, failed to maintain trust account records in accordance with Commission rules, failed to designate homeowner association accounts as trust accounts, and had an unexplained overage in one account.

**MICHAEL J. FOLEY** (Charlotte) – By Consent, the Commission permanently revoked the broker license of Mr. Foley effective December 9, 2010. The Commission found that Mr. Foley pled guilty to a Bill of Information in U.S. District Court alleging wire fraud, mail fraud, bank fraud, and making false statements in relation to a loan. The Commission also found that Mr. Foley admitted that between 2005 and 2008 he participated in a mortgage fraud scheme in which he facilitated kickback payments from builders to buyers that were not disclosed on the HUD-1 settlement statements in the transactions. Finally, the Commission found that in certain transactions, false information was provided to the lenders as part of the loan package.

**JOSEPH S. GANN** (Gastonia) – By Consent, the Commission revoked the broker license of Mr. Gann effective August 10, 2011. The Commission found that Mr. Gann, acting as listing agent for Real Estate Owned (REO) properties and responsible for their repair and preparation for sale, created false or manipulated invoices and fake checks showing payment to give to the bank as evidence for services allegedly provided at the listed properties, such as for landscaping. The Commission also found that Mr. Gann, when paid by the bank, paid the true fee to the provider and pocketed the remaining balance over what was owed. The Commission further found that Mr. Gann deliberately failed to list REO properties in the Multiple Listing Service to allow him to give relatives and friends an opportunity to purchase the property without competition, received compensation for providing selected buyers this opportunity, and failed to disclose the compensation in the listing agreement or on the HUD-1 settlement statement prepared at closing.

**MATTHEW PATRICK GARRETT** (Raleigh) – The Commission accepted the permanent voluntary surrender of the broker license of Mr. Garrett effective June 22, 2011. The Commission dismissed without prejudice allegations that Mr. Garrett violated provisions of the Real Estate License Law and Commission rules. Mr. Garrett neither admitted nor denied misconduct.

**BONNIE W. HOWARD** (Wilson) – By Consent, the Commission revoked the broker license of Ms. Howard effective June 8, 2011. The Commission found that Ms. Howard failed to turn over security deposits or leases to a licensee who took over properties previously managed by Ms. Howard. The Commission also found that Ms. Howard deposited some security deposits into her own personal account, assisted an unlicensed property management firm in handling property management, and failed to provide trust account records requested by the Commission.

**INVESTORS REAL ESTATE OF WNC, INC.** (Maggie Valley) – By Consent, the Commission revoked the firm license of Investors Real Estate of WNC effective October 12, 2011. The Commission found that Investors Real Estate of WNC received \$25,000 from a buyer-principal to  
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## Disciplinary Action

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invest in a mobile home and land package; the transaction did not close and Investors Real Estate of WNC converted \$15,000 of the buyer's money to its own use and refunded only \$10,000. The Commission further found that Investors Real Estate of WNC manufactured agency documents in order to confuse and mislead. The Commission finally found that Investors Real Estate of WNC received \$1,000 in earnest money from another principal-buyer submitting an offer to purchase and, when the transaction did not close, wrongfully refused to refund the earnest money to the buyer.

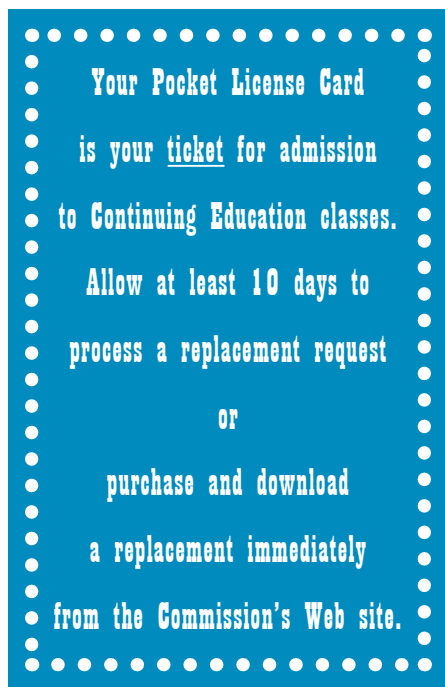
**BRANDON DANIEL JACKSON** (Charlotte) – By Consent, the Commission reprimanded Mr. Jackson effective October 1, 2011. The Commission found that Mr. Jackson, acting as a broker-in-charge, negligently allowed an inactive licensee to conduct brokerage services from October 7, 2009 through March 16, 2010.

**JAS REALTY, INC.** (Raleigh) - By Consent, the Commission revoked the firm license of JAS Realty effective September 1, 2011. The Commission found that JAS Realty sold a property owned by its broker-in-charge, indicating on the contract that the buyer was paying a \$5,800 earnest money deposit, but failed to collect the deposit and its broker-in-charge provided the buyer with funds from the firm's operating account for use as the earnest money deposit. The Commission also found that JAS Realty failed to deposit the funds into a trust account and failed to disclose to the lender that the deposit was not paid to the seller. The Commission finally found that a review of JAS Realty's trust account records showed them to be incomplete.

**DOUGLAS G. JONES** (Charlotte) – The Commission revoked the broker license of Mr. Jones effective April 7, 2011. The Commission found that Mr. Jones, acting as a principal, qualifying broker and broker-in-charge of a real estate brokerage firm, served as broker and rental agent for rental property and failed to respond within 14 days to a Commission Letter of Inquiry arising from a complaint by the landlord client of the property. The Commission also found that Mr. Jones failed to competently account for monies coming into his

possession which belonged to his landlord client, failed to make trust account records available for inspection by the Commission, and failed to maintain trust records for the minimum required period of three years.

**KARYN M. JONES** (Charlotte) – The Commission accepted the permanent voluntary surrender of the broker



license of Ms. Jones effective October 12, 2011. The Commission dismissed without prejudice allegations that Ms. Jones violated provisions of the Real Estate License Law and Commission rules.

**ELLIE JEAN KELLER** (Castle Hayne) – The Commission revoked the broker license of Ms. Keller effective May 26, 2011. The Commission found that Ms. Keller, acting as qualifying broker and broker-in-charge of a real estate property management firm, failed to remit rents and security deposit monies belonging to her landlord clients during 2007 and 2008. The Commission also found that Ms. Keller converted money belonging to her clients and tenants to her own use; failed to maintain money belonging to her clients and tenants in a trust account; and failed to make trust account and transactional records available for inspection by the Commis-

sion. The Commission also found that Ms. Keller failed as broker-in-charge to properly maintain trust accounts for the funds held for others. Finally, the Commission found that Ms. Keller obtained a real estate license by fraud in 2002 by falsely representing to the Commission that she had not been convicted of a criminal offense when, in fact, she had been convicted of the criminal offense of driving while impaired in 1997.

**KIMBERLY ANN LOPERT** (Fuquay Varina) – The Commission revoked the broker license of Ms. Lopert effective May 19, 2011. The Commission found that Ms. Lopert pled guilty to charges filed by the Wake County Sheriff's Office and was convicted of *Common Law Forgery* and *Common Law Uttering* in connection with forged legal correspondence, an altered bank statement, and altered email printout. The Commission also found that Ms. Lopert pled guilty to charges by the Garner Police Department and was convicted of two counts of *Obtaining Property by False Pretenses*, two counts of *Forgery of Instrument*, and two counts of *Uttering Forged Instrument*. The Commission further found that Ms. Lopert was sentenced to a period of incarceration of 6 to 8 months, which was suspended, and that Ms. Lopert was placed on supervised probation for a period of 36 months and ordered to pay court costs and restitution in the amount of \$1,224.45.

**WOODWARD H. MCKEE** (Asheville) – By Consent, the Commission revoked the broker license of Mr. McKee effective October 12, 2011. The Commission found that Mr. McKee, as broker-in-charge of a real estate brokerage firm, charged approximately \$60,000 in real estate commissions to a real estate limited partnership prior to the closing of the applicable transactions. The Commission also found that some of the transactions involved did not ultimately close and the funds paid by the limited partnership had to be reimbursed and in fact have been reimbursed.

**MIKE FOLEY, INC.** (Charlotte) – By Consent, the Commission permanently revoked the firm license of Mike Foley, Inc, effective December 9, 2010. The Commission found that Mike Foley, Inc., between 2005 and 2008, acted as an agent in a series of transactions in which homebuilders paid hidden kickbacks to buyers and promoters  
(See **Disciplinary**, page 13)

## Disciplinary Action

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who recruited buyers for homes that could not be sold at the desired prices. The Commission also found that Mike Foley, Inc., facilitated the kickback payments to the buyers, which were not disclosed to the lenders in the transactions.

**CRAIG RANDOLPH MILLS** (Kinston) – By Consent, the Commission revoked the broker license of Mr. Mills effective November 1, 2011. The Commission found that Mr. Mills was convicted of *Misdemeanor Possession of Drug Paraphernalia* in Lenoir County and failed to report this conviction to the Commission. The Commission also found that Mr. Mills submitted various invoices to his employing broker for expense reimbursement; the invoices were false.

**MOLLOY & ASSOCIATES** (Raleigh) – By Consent, the Commission reprimanded the firm of Molloy & Associates effective June 22, 2011. The Commission found in a spot audit that Molloy & Associates' escrow account journal and deposit tickets lacked details required by Commission rules. The Commission also found that a number of documents in Molloy & Associates' real estate sales files were missing signatures and dates.

**MARTIN G. MOLLOY** (Raleigh) – By Consent, the Commission reprimanded Mr. Molloy effective June 22, 2011. The Commission found in a spot audit that Mr. Molloy's escrow account journal and deposit tickets lacked details required by Commission rules. The Commission also found that a number of documents in Mr. Molloy's real estate sales files were missing signatures and dates.

**JACKIE LOUISE MOORE** (Charlotte) – The Commission accepted the voluntary surrender of the broker license of Ms. Moore for a period of one year effective September 8, 2011. The Commission dismissed without prejudice allegations that Ms. Moore violated provisions of the Real Estate License Law and Commission rules. Ms. Moore neither admitted nor denied misconduct.

**ANDREW K. NAGY** (Davidson) – By Consent, the Commission reprimanded

Mr. Nagy effective May 1, 2011. The Commission found that Mr. Nagy, in 2010, used a listed property for an improper purpose.

**MARC S. PARHAM** (Morganton) – By Consent, the Commission suspended the broker license of Mr. Parham for a period of six months effective September 1, 2011. The Commission found that Mr. Parham, while partner, broker-in-charge and qualifying broker of a property management firm, failed to deposit \$2,300 of tenant security deposits from his old firm into the trust account of this new one. The Commission also found that Mr. Parham misappropriated \$1,500 of trust monies for his personal use. The Commission noted that the firm reimbursed all monies to the trust account upon discovery, so that no clients or tenants were damaged.

**BRENDA K. PEAK** (Cary) – The Commission revoked the broker license of Ms. Peak effective June 27, 2011. The Commission found that Ms. Peak, acting as the listing agent for a property listed by her firm, failed to return \$10,000 in earnest money in timely fashion to buyers who had submitted an Offer to Purchase with an option and then decided to withdraw from the transaction as allowed by the terms of the option. The Commission further found that Ms. Peak failed to respond to a Commission Letter of Inquiry sent in response to the buyers' complaint and failed to provide copies of trust account records accounting for the deposit. The Commission noted that Ms. Peak did eventually return the \$10,000 earnest money deposit to the buyers.

**CAROLYN F. PINER** (Atlantic Beach) – By Consent, the Commission revoked the broker license of Ms. Piner effective August 10, 2011. The Commission found that Ms. Piner, as broker-in-charge of a firm which collected rents belonging to its landlord clients, failed to account for the monies and failed to make records of its rental trust account available for inspection by the Commission when asked to do so.

**RONALD W. PITTMAN** (Fayetteville) – By Consent, the Commission revoked the broker license of Mr. Pittman effective October 12, 2011. The Commission found that Mr. Pittman, as broker-in-charge of a real estate brokerage firm, converted client money by writing checks

to himself for cash to pay overhead at the office; the checks were drawn on the firm's rental account for \$3,195 and on the security deposit account for \$3,900.

**P R LAKESHORE REALTY, INC.** (Lake Junaluska) – By Consent, the Commission suspended the firm license of P R Lakeshore Realty for a period of 12 months effective November 1, 2011. The Commission then stayed the suspension for a probationary period of 24 months. The Commission found that P R Lakeshore Realty paid an individual, acting as a broker associate and whose license was inactive or expired from 2004 through 2010 for brokerage services in more than 30 transactions. The Commission also found that the individual provided a buyer agent with the license number of the broker-in-charge of P R Lakeshore Realty to conceal the fact that the individual was not licensed. The Commission further found that P R Lakeshore Realty failed to make certain that broker associates with the firm were properly licensed even after the Commission notified the firm that no licensed person by the individual's name was associated with it.

**AMY MARIE PUGH** (High Point) – By Consent, the Commission revoked the broker license of Ms. Pugh effective August 10, 2011. The Commission found that Ms. Pugh was terminated from employment at a property management company for making improper ledger entries and giving concessions to family members and friends, e.g., not charging pet fees, manipulating water bills, reducing deposits from people known to be a substantial credit risk, and allowing late and partial payments from family members. The Commission also found that Ms. Pugh was terminated from employment with another company managing an apartment complex after unlawfully evicting a tenant.

**SALLY K. RANSFORD** (Chapel Hill) – By Consent, the Commission reprimanded Ms. Ransford effective June 11, 2011. The Commission found that Ms. Ransford, listing agent for a residential property, adhered to the judgment of her broker-in-charge and failed to disclose to buyers a flood zone survey obtained by former prospective buyers that revealed it was in an "A" flood zone; instead Ms. Ransford disclosed only a conflicting flood hazard report by the Federal  
(See **Disciplinary**, page 14)

## Disciplinary Action

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Emergency Management Agency that it was in a "C" flood zone, not requiring flood insurance. The Commission found that after purchase of the property by the buyers, for whom Ms. Ransford's firm served as dual agent, the buyers discovered the property was in an "A" flood zone, needed flood insurance, and that they could not make any additions to the residence because of the Resource Conservation District. The Commission noted that, in light of the foregoing, Ms. Ransford, the broker-in-charge, and the brokerage firm, without admitting liability, entered in a civil suit settlement with the buyers; the buyers have communicated to the Commission that the civil matter was resolved to their satisfaction.

**MARY S. RAWLS** (Swansboro) – By Consent, the Commission suspended the broker license of Ms. Rawls for a period of one year effective May 1, 2011. The Commission then stayed the suspension for a probationary period of two years. The Commission found that Ms. Rawls, doing business through her own firm, hired a bookkeeper with responsibility to make deposits and enter them in the firm's trust account software, but failed to create a series of controls within the firm to safeguard cash payments by tenants; approximately \$10,000 in cash proceeds received were not deposited into the firm's accounts. The Commission also found that Ms. Rawls failed to review reconciliations to compare cash receipts to deposit items to be sure all cash was being deposited. The Commission noted that Ms. Rawls has since reimbursed the trust account and the account is now reconciled and balanced.

**WILLIE B. ROBERTSON** (Louisburg) – By Consent, the Commission suspended the broker license of Mr. Robertson for a period of three years effective April 1, 2011. The Commission then stayed the suspension on certain conditions. The Commission found that Mr. Robertson, as qualifying broker and broker-in-charge of a real estate brokerage firm, failed to maintain the firm's trust account according to Commission rules; an inspection showed deficit spending, use of the trust account to hold earned commissions, unaccounted petty cash withdrawals, and a shortage of approximately \$14,000. The Commission

also found that Mr. Robertson had not overseen the maintenance of the trust account and related records leading to difficulty in ascertaining ownership of funds. The Commission noted that the trust account has been funded and no clients have lost money.

**PHYLLIS O. ROBINSON** (Lake Junaluska) – By Consent, the Commission suspended the broker license of Ms. Robinson for a period of 12 months effective November 1, 2011. Thirty days of the suspension are active with the remainder stayed for a probationary period of 24 months. The Commission found that Ms. Robinson paid an individual, acting as a broker associate and whose license was inactive or expired from 2004 through 2010 for brokerage services in more than 30 transactions. The Commission also found that the individual provided a buyer agent with Ms. Robinson's license number to conceal the fact that the individual was not licensed. The Commission further found that Ms. Robinson, as broker-in-charge of a real estate brokerage firm, failed to make certain that broker associates with the firm were properly licensed even after the Commission notified Ms. Robinson that the no licensed person by the individual's name was associated with Ms. Robinson's firm.

**PATRICIA RUNNING** (Wilmington) – By Consent, the Commission revoked the broker license of Ms. Running effective June 22, 2011. The Commission found that Ms. Running, broker-in-charge of a real estate brokerage firm, permitted an expired broker to conduct real estate brokerage and to maintain her firm's banking and trust accounts. The Commission also found that Ms. Running failed to properly supervise the broker in her bookkeeping, failed to maintain and retain trust account records, and failed to safeguard the funds she held that belonged to others.

**LEONARD K. SANDERSON** (Whiteville) – By Consent, the Commission reprimanded Mr. Sanderson effective May 1, 2011. The Commission found that Mr. Sanderson pled guilty to misdemeanor obstruction of justice, was sentenced to 10 days, suspended, and placed on 2 years unsupervised probation.

**RICKY L. SIMPSON** (Raleigh) – By Consent, the Commission revoked the bro-

ker license of Mr. Simpson effective September 1, 2011. The Commission found that Mr. Simpson, acting as qualifying broker and broker-in-charge of a real estate brokerage firm, sold two investment properties to a buyer, noted on the sales contracts that earnest money deposit funds were received from the buyer to be held in escrow, and wrote checks equaling the earnest money deposits to the buyer, which the buyer thereafter returned by official bank check to Mr. Simpson. The Commission also found that Mr. Simpson failed to disclose to the lender that the earnest money deposit was paid by the seller, provided the closing funds noted as received from the buyer on the settlement statement, and promised the buyer that he would find tenants for the properties but failed to do so leading the properties to be foreclosed. Finally, the Commission found that a review of Mr. Simpson's trust account records showed his records to be incomplete.

**SMART CHOICE REALTY LLC** (Charlotte) – By Consent, the Commission permanently revoked the firm license of Smart Choice Realty effective December 9, 2010. The Commission found that Smart Choice, between 2005 and 2008, acted as an agent in a series of transactions in which homebuilders paid hidden kickbacks to buyers and promoters who recruited buyers for homes that could not be sold at the desired prices. The Commission also found that Smart Choice Realty facilitated the kickback payments to the buyers, which were not disclosed to the lenders in the transactions.

**PAMELA Z. SMOAK** (Saluda) – By Consent, the Commission revoked the broker license of Ms. Smoak effective June 8, 2011. The Commission found that Ms. Smoak, acting as bookkeeper of a real estate brokerage firm during 2006 and 2007, took money from the firm and converted it to her own use.

**SOUTHEASTERN PROPERTY GROUP, LLC** (Holly Springs) – The Commission accepted the permanent voluntary surrender of the broker license of Southeastern Property Group effective October 19, 2010. The Commission dismissed without prejudice allegations that Southeastern Property Group violated provisions of the Real Estate License Law and Commission  
*(See Disciplinary, page 15)*



## Disciplinary Action

*(Continued from page 14)*

rules. Southeastern Property Group neither admitted nor denied misconduct.

**SPOUSES, INC.** (Wilmington) – By Consent, the Commission suspended the firm license of Spouses, Inc., for a period of 36 months effective May 1, 2011. The Commission then stayed the suspension for a probationary period of 36 months. The Commission found that Spouses, Inc., acting as broker and property manager for firms which disposed of foreclosed residential property, procured clean-out services based upon competitive bids from independent contractors and that, in certain instances, Spouses, Inc. obtained bids from persons related by marriage to its broker-in-charge without first obtaining formal written consent from its client. The Commission also found that Spouses, Inc., in other instances, created invoices which appeared to be prepared by the contractor when, in fact, the invoices were not prepared by the contractor. Spouses, Inc., neither admitted nor denied the facts or conclusions of the Commission set out in the Consent order, but nevertheless consented to the suspension of its firm license as provided in the order.

**ANNETTE N. STEWART** (Brevard) – By Consent, the Commission suspended the broker license of Ms. Stewart for a period of one year effective October 1, 2011. The Commission then stayed the suspension for a probationary period of one year. The Commission found that Ms. Stewart established a corporation and began selling and managing properties through the corporation without obtaining a firm broker license for the entity but ceased operating the corporation when informed that it needed to be licensed. The Commission also found that Ms. Stewart failed to keep trust account records in accordance with Commission rule and deposited rents and security deposits into her personal savings account rather than a properly designated trust or escrow account. The Commission further found that Ms. Stewart failed to timely remit a security deposit to an owner-client following termination of their property management agreement but did pay the owner the funds due.

**DUSTIN B. STILES** (Marble) – The Commission permanently revoked the broker license of Mr. Stiles effective July 25, 2011. The Commission found that Mr. Stiles accepted an offer for the sale of his personal property with closing set for August 29, 2008, but failed to disclose to the listing agent and the buyer a foreclosure notice from the primary lender served on Mr. Stiles on July 29, 2008, an IRS tax lien for approximately \$9,700, and a \$20,000 home equity loan secured by the property. The Commission also found that Mr. Stiles misrepresented to the listing agent that the \$20,000 home equity loan was a personal loan and not secured by the property, when in fact it was. The Commission further found that Mr. Stiles failed to update the Residential Property Disclosure Form signed November 24, 2007 and therefore misrepresented to the buyer that there were no outstanding liens or foreclosure actions that could affect title to the property when he knew that there were. The Commission finally found that Mr. Stiles failed to respond to three Letters of Inquiry from the Commission within 14 days and in later responses provided incomplete information that did not constitute full and fair disclosure.

**SUNNY SHORES, INC.** (Pine Knoll Shores) – By Consent, the Commission revoked the firm license of Sunny Shores effective August 10, 2011. The Commission found that Sunny Shores, which collected rents belonging to its landlord clients, failed to account for the monies and failed to make records of its rental trust account available for inspection by the Commission when asked to do so.

**HILTON L. TETTERON, JR.** (Atlantic Beach) – By Consent, the Commission revoked the broker license of Mr. Tetterton effective June 30, 2011. The Commission found that Mr. Tetterton, as qualifying broker and broker-in-charge of his licensed firm, converted firm trust monies to other uses in several incidents over several years and failed to maintain its trust accounts in accordance with Commission rules. The Commission noted that Mr. Tetterton repaid the funds into the trust account.

**TARA PROPERTIES, INC.** (Charlotte) – By Consent, the Commission permanently revoked the broker license of Tara Properties effective October 12, 2011. The

Commission found that Tara Properties, between 2005 and 2008, participated in a mortgage fraud scheme in which it agreed to pay buyers and promoters who recruited buyers to purchase its homes hidden kick-backs. The Commission also found that Tara Properties did not disclose these kick-backs on the closing statements or to the lenders involved.

**TETTERTON MANAGEMENT GROUP, INC.** (Atlantic Beach) – By Consent, the Commission revoked the firm license of Tetterton Management Group effective June 30, 2011. The Commission found that Tetterton Management Group's broker-in-charge converted firm trust monies to other uses in several incidents over several years and the firm failed to maintain its trust accounts in accordance with Commission rules. The Commission noted that the broker-in-charge repaid the funds into the trust account.

**THE HOPE REALTY GROUP, LLC** (Charlotte) – The Commission revoked the firm license of The Hope Realty Group effective August 1, 2011. The Commission found that The Hope Realty Group, which engaged in the property management business, failed to maintain and was unable to produce transaction files, trial balances, and reconciliations as required by the Commission. The Commission also found that The Hope Realty Group trust account records obtained by the Commission revealed liabilities of \$23,000 in excess of funds on deposit.

**ROBERT ELLIS THOMPSON** (Maggie Valley) – By Consent, the Commission revoked the broker license of Mr. Thompson effective July 14, 2011. The Commission found that Mr. Thompson received \$25,000 from a buyer-principal to invest in a mobile home and land package; the transaction did not close and Mr. Thompson converted \$15,000 of the buyer's money to his own use and refunded only \$10,000. The Commission further found that Mr. Thompson manufactured agency documents in order to confuse and mislead. The Commission finally found that Mr. Thompson received \$1,000 in earnest money from another principal-buyer submitting an offer to purchase and, when the transaction did not close, wrongfully refused to refund the earnest money to the buyer.

*(See Disciplinary, page 16)*

## Disciplinary Action

(Continued from page 15)

**FELICIA MARIE THROCKMORTON** (Jacksonville) – By Consent, the Commission reprimanded Ms. Throckmorton effective October 1, 2011. The Commission found that Ms. Throckmorton was responsible for the property management bookkeeping and that reconciliations were filled with inconsistencies and violations of Commission rules, uncleared items were shown as cleared, journal entries were adjusted to force balances, and ledger card details were incorrect.

**CARL JOHN VALENTE** (Wilmington) – By Consent, the Commission suspended the broker license of Mr. Valente for a period of one year effective July 1, 2011. The Commission then stayed the suspension for a probationary period of one year on certain conditions. The Commission found that Mr. Valente, acting as a dual agent, helped the owner purchase and then listed a property containing three lots but failed to verify the recording of a subsequent survey of the property, which subdivided it from three lots into two lots. The Commission also found that Mr. Valente advertised only one of the lots in the MLS and indicated that a second lot was available for purchase separately, but in preparing an offer to purchase the property, which he signed on behalf of his seller-client, Mr. Valente listed all three of the original lots in the property description. The Commission further found that Mr. Valente failed to convey a copy of the executed offer to purchase and contract to his seller-client and that, at closing, the seller conveyed all three lots to the buyers; the error in the contract and closing was discovered only after the buyers expressed interest in buying the “second” lot, for which they voluntarily paid the seller \$50,000.

**WHITESIDE PROPERTIES, INC.** (Asheville) – By Consent, the Commission revoked the firm license of Whiteside Properties effective October 12, 2011. The Commission found that Whiteside Properties charged approximately \$60,000 in real estate commissions to a real estate limited partnership prior to the closing of the applicable transactions. The Commission also found that some of the transactions involved did not ultimately close and the funds paid by the limited partnership had to be reimbursed and in fact have been reimbursed.

North Carolina Real  
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**MELANIE LYNN WISE** (Fayetteville) – The Commission revoked the broker license of Ms. Wise effective June 1, 2011. The Commission found that Ms. Wise, acting as broker and rental agent for five properties, sent her landlord clients invoices for repairs which had been fabricated or altered. The Commission also found that Ms. Wise failed to promptly account for and remit rents to her landlord clients and failed to produce her trust account records and records of repair transactions she performed on her clients' behalf for inspection by the Commission.

**PAMELA W. WOODDELL** (Wilmington) – By Consent, the Commission suspended the broker license of Ms. Wooddell for a period of 36 months effective May 1, 2011. The Commission then stayed the suspension for a probationary period of 36 months. The Commission found that Ms. Wooddell, acting as qualifying broker and property manager for firms which disposed of foreclosed residential property, procured clean-out services based upon competitive bids from independent contractors and that, in certain instances, Ms. Wooddell obtained bids from persons related by mar-

riage to Ms. Wooddell without first obtaining formal written consent from her client. The Commission also found that Ms. Wooddell, in other instances, created invoices which appeared to be prepared by the contractors when, in fact, the invoices were not prepared by the contractors. Ms. Wooddell neither admitted nor denied the facts or conclusions of the Commission set out in the Consent order, but nevertheless consented to the suspension of her broker license as provided in the order.

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