



Fall 1999

Division of

**Real Estate and  
Professional Licensing**

DEPOSITORY 0460

◆ N E W S L E T T E R ◆

Bob Taft GOVERNOR	Gary C. Suhadolnik DIRECTOR	Lynne Hengle SUPERINTENDENT
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◆ *Computerized exams to be held at 11 sites throughout Ohio*

# Division to Commence Outside Testing

The Division, with the approval of the Real Estate Commission, has entered into a contract with Experior Assessments LLC for Experior to provide outside electronic testing services to all candidates for real estate and appraisal licenses, starting January 1, 2000.

"The new system will allow for more convenience and flexibility in scheduling," says Lynne Hengle, Superintendent for the Division. The current paper and pencil test, held once a month in Columbus or Cleveland, "has its limitations," she adds.

Experior already offers other testing services through its Sylvan Learning Centers. Starting next January, many of these locations will administer the exams for real estate and appraisal candidates, with exams for auctioneers, private investigators and security guards to follow later in 2000. In all, there will be 11 test sites in Ohio, with seven more in cities close to the Ohio border.

The present exam process can be time-consuming. For people who do not live in Columbus or Cleveland, the difficulties in taking the exam are made worse by the logistic hassles of having to drive to these cities, and some candidates may even have to incur the expense of a hotel room.

**Faster and More Convenient**

Under the new system, candidates' applications will be screened by the Division. The Division will then give the qualified candidates' information to the testing vendor, who in turn notifies the candidates they are eligible to be tested. At that point, the candidates will schedule the computerized exam at a site in: Cincinnati, Cleveland, Columbus, Dayton, Lima, Toledo, Akron, and Youngstown, Ohio;

Erie and Pittsburgh, Pennsylvania; Charleston, West Virginia; Lexington, Kentucky; Indianapolis and Ft. Wayne, Indiana; or Ann Arbor and suburban Detroit, Michigan.

"Many states have adopted this type of system for testing and Director Suhadolnik is committed to seeing that the Division make better use of technology as we enter the 21st Century," says Hengle. The new testing process should be more efficient than the present practice. Right now, if a candidate's application is successfully screened for testing the day after the test has been administered, the candidate must wait an entire month to take

after taking the exam the candidate will know the results, which will be forwarded swiftly to the Division. Successful candidates therefore will receive their licenses faster by using the Experior system.

**Exam Changes**

The real estate exam itself will change too. It will consist of two separate parts: one covering generalized questions about uniform real estate practices and principles; the other covering real estate law specific to Ohio. The two parts will be scored separately. Candidates must pass both sections with a score of 75% or higher on each section in order to receive a license. The appraiser exam itself will not change.

With the new exam, if a candidate passes only one section, he or she must submit a "retake application" to the Division and then be retested only on the failed section. A candidate has 12 months to pass the failed section; after that, both sections must be taken again. Experior has indicated that initially the pass rate may decline while candidates become more accustomed to the new test format; however, the questions themselves will not be more difficult.

Please keep in mind that the Division has only begun the process of working out the many various details of the program with the testing service. While the transition or "cut-over" date is still months away, the Division is already receiving telephone inquiries. "I realize it can be frustrating for our customers that the Division does not yet have all the specifics," said Superintendent Hengle. "I want to assure the industry that as we hammer out the specific details, we will promptly convey that information."

**The new testing process should be more efficient than the present practice.**

the next scheduled exam. With the Experior system, the candidate simply schedules an appointment with the testing site, which can test the candidate at the candidate's convenience, as long as the site has an empty seat at a computer. The sites make testing available five to six days a week, some with weekend and evening hours.

Perhaps the most exciting news for the candidate is the immediacy of exam results. Because the test is computerized, the candidate will know the results literally before he or she walks out of the building. Currently, candidates get results five days after taking the exam. With this new method, five minutes

## Commission Creates Canons of Ethics Review Task Force

The Ohio Real Estate Commission voted to create a task force to review the Canons of Ethics and make recommendations for modifications designed to make the Canons more meaningful for licensees. The Commission appointed Lynn Fruth to chair the task force, and also appointed Cheryl Churchill, Vanessa Sutton, Donald Freels, Margaret Ritenour and Alec Hagerty to serve as members. The Commission also asked Superintendent Lynne Hengle and Chief Counsel Bill Damschroder to assist the task force as needed.

The Commission also made appointments to the Education and Research Fund Advisory Committee at its July 14th meeting. Jim Johnson and George Smith were appointed to full terms on the Committee and Sony Taylor was appointed to fill the unexpired term of Jan Paszczykowski. The Commission appointed Hal Maxfield as Chairperson of the E & R Committee, with Jim Johnson serving as Vice-Chair.

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## Division's Frequently Asked Questions

**Q:** What information is required to be maintained on the trust account ledger?

**A:** Brokerages should become familiar with Ohio Administrative Code 1301:5-5-09, which states:

"Every brokerage shall keep a record of all trust funds received, including escrow funds, security deposits, and other monies received by the broker in a fiduciary capacity. This record shall include, but is not limited to, the following information in columnar form:

1. Date funds received;
2. Party from whom funds are received and the purpose of the funds;
3. Amount received;
4. Date funds are deposited in special or trust bank account;
5. Check number and date funds are disbursed;
6. Party to whom funds are disbursed and purpose of disbursement;
7. Any other documents necessary and sufficient to verify and explain record entries and identify the current balance in the special or trust bank account."

As an additional note, remember, if engaged in property management, the brokerage must also be familiar with Ohio Administrative Code 1301:5-5-11 for specific record keeping requirements.

**Q:** What is the impact of Megan's Law on the real estate agent?

**A:** Megan's Law was enacted to ensure that the public knows the whereabouts of convicted sex offenders. It is the buyer's responsibility to exercise due diligence with matters of public record, such as taxes, zoning, and now, Megan's Law. The real estate agent is not required to check these records, unless the buyer has hired the agent to assume that responsibility. In that case, the agent must disclose any information obtained from the public record, including that obtained regarding Megan's Law.

**Q:** What kind of fair housing language is required in a written agency agreement?

**A:** House Bill 354 established the requirement that specific fair housing language be contained in all agency agreements, such as listing contracts, property management contracts, and buyer agency agreements. All such agreements must be either updated or accompanied by an addendum that contains the required fair housing language. The specific language can be found in Ohio Revised Code 4735.55. Failure to comply with this requirement may result in disciplinary action against the brokerage's real estate license.

## New Superintendent Named

Effective June 1, 1999, Director of Commerce Gary C. Suhadolnik appointed Lynne Hengle Superintendent of The Division of Real Estate and Professional Licensing.

In her capacity as Superintendent, Hengle will oversee licensing of real estate salespeople, brokers and appraisers, auctioneers, private investigators and security guard providers, as well as the registration of cemetery and foreign real estate properties. She also will support the Ohio Cemetery Dispute Resolution Commission.

Hengle brings to the position 20 years of experience in dealing with legal and regulatory issues, almost half of which

was spent with the Ohio Department of Insurance as Chief Deputy Liquidator of insolvent insurers.

A cum laude graduate of Western State University College of Law, Hengle has held positions with the U.S. Securities and Exchange Commission (S.E.C.) as Chief of the Branch of Regulation and Interpretation in Los Angeles, California; the S & H Insurance Company as Vice President and General Counsel; Tictor Title Insurance Company as Vice President and Assistant General Counsel; and the Chubb Group of Insurance Companies as Independent Claims Consultant. Born in Cincinnati, she returned to Ohio in 1989.

## Points to Ponder

- 1 Try to submit real estate license renewal paperwork early this year. Renewal packets will be sent out by October 15, and the Division requests that renewals be submitted by December 15, if possible. Even though the Division feels completely prepared for Y2K, there is always a chance that problems may arise, and early submissions will alleviate masses of paperwork during the changeover.
- 2 To further expedite the process, submit any changes in business name or address now, rather than waiting for the renewal packet.
- 3 Please take a few minutes to thoroughly review the instructions contained in the renewal packet and complete all parts of the renewal form. Be particularly sure you provide all of your trust or special account information and to sign the renewal form.
- 4 Remember to notify all agents whom you do not intend to renew for 2000, that you do not intend to renew their licenses. A copy of the notice letter must accompany the original license when returned. These should be submitted separate from the license renewal form and check.
- 5 Don't wait until the last minute to take continuing education courses. Toward the end of the year, and during the holidays, classes may be filled to capacity. Continuing education providers may not offer the exact course you need at the end of the year. Don't lose your license because you didn't plan ahead!
- 6 Also, plan to submit continuing education credits early. As with real estate license renewals, even though the Division doesn't anticipate any Y2K problems, it is requesting that agents with a December 31, 1999 deadline return their R-109 forms by December 1. Early submission will expedite the process and avoid any potential updating difficulties.
- 7 Please do not submit continuing education documents with annual renewals. Separate mailings will expedite the processing of these items.
- 8 Remember to type your continuing education reporting form (R-109). The form can be downloaded from our website at [www.com.state.oh.us](http://www.com.state.oh.us)
- 9 Is your office ready for Y2K? With the media saturated with talk of Y2K, many have tuned it out. Still, it is possible that important information may be lost. Be sure to schedule computer backups a little earlier this year. You may want to keep hard copies of paperwork as well. These simple steps will allow the client's needs to be served if a computer malfunction occurs in the middle of a real estate transaction. They will also help keep client complaints and confusion to a minimum. Keep in mind, too, that some businesses may elect to schedule an office-wide vacation during the time of the changeover, so it is important to know what services will be available. Just a few minor precautions such as these should ensure a smooth transition to the new year.

## Brokerages Headquartered Elsewhere Must Comply With Ohio Statutes

The Division of Real Estate and Professional Licensing is concerned about the increased likelihood of national brokerages inadvertently violating Ohio real estate law.

The worry is not that unlicensed brokers will do business in Ohio. Instead, the type of brokerage at issue is one that is properly licensed in several states, including Ohio, but has its headquarters in another state.

As an example, a company headquartered in Atlanta and licensed in Ohio and 12 other states might have a client wanting to acquire a property in Toledo. The brokerage would then handle the purchase of a property through its properly licensed Ohio office.

Problems may arise when personnel at both the out-of-state headquarters and the Ohio office do not realize they must both comply with Ohio real estate laws. If individuals at the out-of-state office are not licensed in Ohio, they cannot be involved with the sale in any way, which would require them to have an Ohio real estate license. If the property listed has a phone number connected to any out-of-state office, that office can only take messages and cannot answer questions or provide information about the Ohio property.

The Ohio licensee must be the listing agent, and the listing agreement must contain a definite expiration date and appropriate fair housing language. Additionally, the Ohio agency disclosure form must be given to the client prior to marketing or showing the property. Agents licensed with the brokerage in other states, but not in Ohio, cannot co-list, market or show the property. These are all acts for which an Ohio real estate license is required. The brokerage itself is subject to disciplinary action when individuals not licensed as real estate agents in Ohio act on its behalf by engaging in conduct requiring a license.

## Important Features of the 1999 USPAP

The 1999 *Uniform Standards of Professional Appraisal Practice* (USPAP) is the result of two exposure drafts that occurred on December 22, 1997 and June 23, 1998. Based on more than 1,500 written responses and substantial public testimony at Appraisal Standards Board (ASB) public hearings, the 1999 USPAP was formally adopted by the ASB on September 16, 1998. Based on the input of professional appraisal organizations, educators, regulators and state enforcement agencies, the effective date of the 1999 USPAP is March 31, 1999.

### Outline of Key Features

**FORMAT:** The Table of Contents now has an "Introduction" section.

**TERMINOLOGY:** Language changes have been made throughout the document for clarification purposes. Examples include, but are not limited to the following:

- the term "Provision" has been changed to "Rule,"
- the use of the term "estimate for opinion" has been changed to "opinion,"
- the phrase "specific guideline" has been changed to "specific requirement,"
- the term "consider" has been replaced with more specific language to identify the action required by a standards rule.

**ETHICS RULE:** The *Conduct* section has been changed to clarify the fundamental obligations of professional practice. The obligations associated with the use of hypothetical conditions have been moved to the development and reporting sections of the Standards Rule. Changes to the *Management* section clarify issues relating to contingent compensation. State enforcement agencies have been added to the list of parties included in the *Confidentiality* section. Additional text has been added to clarify the contents of the workfile discussed in the Record Keeping section.

**DEPARTURE RULE:** Additional comments have been provided to address the scope of work decisions. When a specific requirement is "applicable," "necessary" is defined to better describe the minimum level of due diligence.

**DEFINITIONS:** New definitions have been added. New terms include assignment, assumption, bias, confidential information, extraordinary assumption, hypothetical condition, scope of work, specific requirements, supplemental standards and workfile.

**STANDARD 1:** Changes have been made to clarify the rules and requirements for real

property appraisal development. The phrase "Real Property Appraisal, Development" has been added to the title of this Standard. The heading of each Standards Rule now contains explicit language as to whether the Rule contains binding or specific requirements. Standards Rule 1-2 no longer permits departure. Additional language has been provided to address the purpose of the assignment, scope of work, extraordinary assumptions and hypothetical conditions. It is important for all real estate appraisers to read the changes to this Rule and to the Standard.

**STANDARD 2:** The phrase "Real Property Appraisal, Reporting" has been added as the title of this Standard. The heading of each Standards Rule identifies whether the Rule contains binding or specific requirements. The name of the restricted report has been changed to "Restricted Use Report." Commentary has been added to clarify the conditions for using the different reporting options. Revisions have been made to the certification in Standards Rule 2-3. These revisions will require real estate appraisers to modify the language in their current certifications.

**STANDARD 3:** The phrase "Real Property Appraisal Review, Development and Reporting" has been added as the title of this Standard. The heading of each Standards Rule identifies whether the rule contains binding or specific requirements, additions, clarifications and administrative edits to keep them consistent with other changes in the document.

**STANDARDS 4 through 10:** These Standards have not been changed except for clarifications and administrative edits for consistency with other changes in the document.

**STATEMENT 7:** Changes were made here to reflect the changes made in the Departure Rule.

**NOTE:** Administrative edits were made to all sections of the '99 USPAP for consistency purposes.

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## Avoid Renewal Application Processing Delays

To avoid delays in processing your Appraiser Renewal Application or Continuing Education Certificates, please forward these forms and documents to the Division's Columbus office. Continuing Education Certificates mailed separately should be directed to the Education Section of that office.

## Appraisal Reports Must Document Significant Professional Assistance

USPAP Standard 2-3 requires that each real property appraisal report include a signed certification that includes the name of any individual providing significant professional assistance in the development of an appraisal report.

Our Appraiser Section frequently sees applicants claiming appraisal experience as an apprentice or trainee, but the applicant's name is not included on an appraisal report or on an addendum documenting his or her significant professional assistance in the development of the appraisal. This not only violates USPAP Standard 2-3, but it can also restrict the applicant from using that experience, since all appraisal experience for licensing and certification must be documented. ASB Advisory Opinion A0-5 further clarifies this subject and is found on Page 89 of the 1999 Edition of USPAP.

## Enforcement Section Pursues "Flip" Transactions

The increasing incidence of "flip" transactions affecting consumers and lenders nationwide has been brought to the attention of the Appraiser Enforcement Section. A "flip" transaction is one in which real property is purchased by a party at its so-called "going price" and then sold or transferred to another party at an excessively inflated price funded with the assistance of a fraudulently inflated appraisal.

The Division's Enforcement Section will aggressively pursue any state licensed or certified appraiser alleged to be engaging in "flip" transactions and will take appropriate disciplinary action against those who knowingly participate in this activity. Appraisers are advised to take appropriate precautions to avoid becoming unwittingly involved in such a situation by knowing the market area, thoroughly researching the sale history of the subject property, and questioning any factors that would raise a "red flag."

## Appraiser Application Forms On-line

Appraiser Forms and Applications are now available on-line through our web site at [www.com.state.oh.us](http://www.com.state.oh.us).

# Disciplinary Actions

MAUREEN E. BAUER, broker, Cincinnati, Ohio had disciplinary action and fines levied against her broker's license for violating four (4) counts Ohio Revised Code Section 4735.18(A)(6) and one count of Ohio Revised Code Section 4735.18(A)(35). Ms. Bauer was fined a total of \$1,600.00, her license was suspended for a total of 12 months, commencing on March 22, 1999, and she was required to complete and to submit proof of completion of the 10-hour brokerage post-licensure course. Ms. Bauer entered into written agency agreements that did not contain the specific fair housing language required by Ohio Revised Code Section 4735.55. She listed property for sale, but did not provide the seller with an agency disclosure form required by Ohio Revised Code Section 4735.58(A), and in connection with an offer submitted through her brokerage, she failed to provide the purchaser with an Ohio agency disclosure form. In connection with the same offer, she permitted an individual to hold himself out as a real estate agent when completing an Ohio agency disclosure statement.

DORA F. CLIFFORD, sales associate, Reynoldsburg, Ohio, had disciplinary action and a fine levied against her real estate sales license for violating Ohio Revised Code Section 4735.18(A)(6). Ms. Clifford was fined \$500.00 and her license was suspended for fifteen (15) days; however, imposition of the suspension was waived by the Ohio Real Estate Commission. In addition, she was ordered to complete and to submit proof of completion of a three (3) hour course on agency and the 10 hour sales post-licensure course. Ms. Clifford had property listed for sale. She prepared an Ohio agency disclosure form that did not designate that future agency relationships could occur, pursuant to her company's policy on agency. Subsequently, an in-company transaction was entered into, and no disclosure form was developed to properly reflect the in-company status.

AMER-A-SALES REAL ESTATE AGENCY dba FERNANDEZ, corporation, Canton, Ohio, had a \$750.00 fine levied against the corporate license for violating Section 4735.18(A)(6) of the Ohio Revised Code.

The company failed to remove from properties, signage that included the name of a broker whose license was under suspension.

MAX E. STUCKEY, broker, Archbold, Ohio, had a \$500 fine levied against his license and had his broker's license suspended for 15 days for violating two (2) counts of Section 4735.18(A)(6) of the Ohio Revised Code. However, due to mitigating circumstances, imposition of the suspension was waived by the Commission. In addition, Mr. Stuckey was required to complete and to submit proof of completion of the ten (10) hour brokerage post-licensure course. Mr. Stuckey prepared an offer on behalf of a purchaser, but neglected to provide a date when the offer would expire; thereby, leaving it open ended. Such an offer was not in the best interest of his client. In addition, he listed property for sale and in the listing agreement failed to include a fair housing statement, a definition of blockbusting and the equal housing opportunity logo type as required by Ohio Revised Code Section 4735.55.

JOHN A. FERRELL, sales associate, Columbus, Ohio, had disciplinary action and a fine levied against his license for violating Section 4735.18(A)(6) of the Ohio Revised Code. Mr. Ferrell was fined \$500.00 and his license was suspended for 15 days; however, due to mitigating circumstances, imposition of the suspension was waived by the Ohio Real Estate Commission. Mr. Ferrell failed to prepare the disclosure form prior to showing the property. He did not prepare and submit an agency disclosure form until just before he prepared an offer for the purchase of property.

JANICE A. ENGLE, sales associate, Columbus, Ohio, had a \$200.00 fine levied against her license for violating Ohio Revised Code Section 4735.18(A)(6). An in-company transaction, as defined by ORC Section 4735.51(I), was created; however, Ms. Engle neglected to have the in-company transaction portion of the agency disclosure form completed.

TERRI S. DECARLO, sales associate, Columbus, Ohio, had disciplinary action and a fine levied against her license for violating Section 4735.18(A)(6) of the

Ohio Revised Code. Ms. DeCarlo was fined \$300.00 and ordered to complete and to submit proof of completion of a three (3) hour course on real estate law. In anticipation of a transfer to another real estate company, Ms. DeCarlo represented conduct on behalf of the new company, which was before her license had been transferred.

RUTH D. GAMBER, sales associate, Mentor, Ohio, had disciplinary action and a fine levied against her license for violating two (2) counts of Ohio Revised Code Section 4735.18(A)(6). For each count Ms. Gamber's license was suspended for 10 days, for a total of 20 days, commencing on March 22, 1999, and she was fined \$250.00 for each count for a total of \$500.00. Further she was ordered to complete and to submit proof of completion of the 10-hour sales post-licensure course. Ms. Gamber collected money in her own name and not in name of her broker. In addition, she failed to maintain complete and accurate records, including copies of all offers prepared.

BETTY J. PURVIS, sales associate, Kettering, Ohio, had disciplinary action and a fine levied against her license for violating Section 4735.18(A)(6) of the Ohio Revised Code. Ms. Purvis was fined \$250.00 and ordered to complete and to submit proof of completion of nine (9) hours of continuing education courses on agency. Ms. Purvis entered into an exclusive right to sell contract. The agreement and the coinciding agency disclosure statement were misleading and inaccurate, as they described an individual as being licensed with the brokerage, when the individual was not.

GLORIA P. BOROD, sales associate, Cincinnati, Ohio, had disciplinary action and a fine levied against her license for violating Section 4735.18(A)(6) of the Ohio Revised Code. She was fined \$500.00 and required to complete and submit proof of completion of nine (9) hours of continuing education courses on agency. Ms. Borod, from February through June, 1997, failed to submit an Ohio agency disclosure form to purchasers during the time she was attempting to find them property. The form was not prepared and submitted until June 24, 1997.

MICHAEL W. DOYLE, broker, Bellaire, Ohio, had a \$100.00 fine levied against his real estate broker's license for violating Section 4735.18(A)(6) of the Ohio Revised Code Section. During a time when Mr. Doyle's license was revoked for failing to renew with the Division, he continued to engage in conduct requiring a real estate license.

DOROTHY PEARCY, sales associate, Fairview Park, Ohio, had a \$300.00 fine levied against her license for violating Section 4735.18(A)(21) of the Ohio Revised Code. Ms. Percy allowed an advertisement to be published, which failed to include her brokerage's name.

LORETTA M. TURNER, broker, Coshocton, Ohio, had disciplinary action taken against her broker's license for violating Section 4735.18(A)(6) of the Ohio Revised Code. Ms. Turner was required to complete and to submit proof of completion of the ten (10) hour brokerage post-licensure course. Ms. Turner entered into written agency agreements (listings) that did not contain the specific fair housing language required by Section 4735.55 of the Ohio Revised Code.

THOMAS A. RAGER, broker, Columbus, Ohio, had disciplinary action taken against his broker's license for violating Section 4735.18(A)(6) of the Ohio Revised Code. Mr. Rager was required to complete and to submit proof of completion of the ten (10) hour brokerage post-licensure course. Mr. Rager entered into written agency agreement (listings) that did not contain the specific fair housing language required by Section 4735.55 of the Ohio Revised Code.

JOHN J. DEFOURNY, sales associate, Columbus, Ohio, had disciplinary action and a fine levied against his license for violating Section 4735.18(A)(6) of the Ohio Revised Code. Mr. DeFourny was fined \$200.00 and was required to complete and to submit proof of completion of the ten (10) hour sales post-licensure course. Mr. DeFourny listed a property for sale, but failed to prepare and to submit an Ohio agency disclosure form to the seller prior to marketing the property.

JAY F. OSTERMEIER, broker, Blanchester, Ohio, had disciplinary action and a fine levied against his broker's license for violating 2 counts of Ohio Revised Code Section 4735.18(A)(6). For each count Mr. Ostermeier was fined

\$250.00 for a total of \$500.00, and ordered to complete and to submit proof of completion of the 10-hour brokerage post-licensure course. Mr. Ostermeier entered into listing agreements, which did not include the specific fair housing language required by Section 4735.55 of the Ohio Revised Code. He also proceeded to market property without first providing the sellers with an agency disclosure form as required by Section 4735.58(A) of the Ohio Revised Code.

ANDREW H. RYTHYR, JR., broker, Cortland, Ohio, had disciplinary action and a fine levied against his broker's license for violating Sections 4735.18(A)(6) and (A)(27) of the Ohio Revised Code. Mr. Ryther's license was suspended for 30 days, commencing on April 26, 1999. He was fined \$500.00, and required to complete and to submit proof of completion of the ten (10) hour brokerage post-licensure course. Mr. Ryther received funds through his brokerage in a fiduciary capacity in the course of managing property, but he failed to deposit and to maintain these funds in a separate designated property management trust account.

COLDWELL BANKER WEST SHELL, corporation, Cincinnati, Ohio, had a \$1,000.00 fine levied against the corporate license for violating Section 4735.18(A)(6) of the Ohio Revised Code. As of June 24, 1997, the company was entering into written agency agreements that did not contain the specific fair housing language required by Section 4735.55 of the Ohio Revised Code.

JOANN E. HAGHIGHI, broker, Columbus, Ohio, had disciplinary action and a fine levied against her broker's license for violating Sections 4735.18(A)(6) and (A)(31) of the Ohio Revised Code. Ms. Haghighi's license was suspended for 30 days, commencing on April 26, 1999. She was fined \$500.00, and required to complete and to submit proof of completion of the ten (10) hour brokerage post-licensure course. Ms. Haghighi failed, within a reasonable time after receipt of a commission, to pay a salesperson earned share of the commission.

ANTHONY J. KESMAN, sales associate, Cincinnati, Ohio, had disciplinary action and a fine levied against his license for violating two (2) counts of Section 4735.18(A)(6) of the Ohio Revised Code. For each count he was fined \$500.00 for a total of \$1,000.00 and he was required to

complete and to submit proof of completion of the ten (10) hour sales post-licensure course. Mr. Kesman advertised and otherwise acted as a real estate agent in a name other than the name in which he was licensed. In addition, he engaged in conduct requiring a real estate license, and such conduct is required to be done in the name of and through the real estate broker.

DANIEL P. KAPUDJIJA, broker, Sandusky, Ohio, had disciplinary action and a fine levied against his broker's license for violating Section 4735.18(A)(6) of the Ohio Revised Code. Mr. Kapudjija's license was suspended for 30 days, commencing on June 1, 1999. He was fined \$500.00, and required to complete and to submit proof of completion of the ten (10) hour brokerage post-licensure course. Mr. Kapudjija collected a sum of money in connection with an agreement to purchase property. The funds were placed in the broker's trust account; however, the transaction did not close. Mr. Kapudjija, however, authorized disbursement of the funds, from the trust account, without the written consent of the parties to the purchase contract or a court order to do so.

STADTMILLER REALTY, corporation, Sandusky, Ohio, had \$3,000.00 in fines levied against the corporate license for violating two (2) counts of Section 4735.18(A)(6) of the Ohio Revised Code. The corporation entered into written agency agreements (listings) that did not contain the specific fair housing language required by Ohio Revised Code Section 4735.55. In addition, the corporation collected a sum of money in connection with an agreement to purchase property. The funds were placed in the company's trust account; however, the transaction did not close. The company proceeded to authorize the disbursement of the funds from the trust account, without the written consent of the parties to the purchase contract or a court order to do so.

BOBBY R. JOHNSON, broker, Cincinnati, Ohio, had disciplinary action and a fine levied against his broker's license for violating two (2) counts of Section 4735.18(A)(6) of the Ohio Revised Code. For each count, Mr. Johnson's license was suspended for 15 days, for a total of 30 days, commencing on June 1, 1999. He was fined \$100 and \$500.00, for a total of \$600.00, and ordered to complete and to submit proof of completion of the

10-hour brokerage post-licensure course. Mr. Johnson failed to timely prepare and submit to a purchaser an Ohio agency disclosure form. In addition, he failed to fully disclose to a purchaser, his client, the terms of a Sheriff's sale arrangement, including the fact that he would be receiving a profit on the sale of the property to his client.

ALEXANDRIA R. McADAMS, broker, Cleveland, Ohio, had a \$200.00 fine levied against her broker's license for violating Section 4735.18(A)(21) of the Ohio Revised Code. Ms. McAdams permitted an unlicensed advertising clerk to publish an advertisement offering property for sale which had been sold. The advertisement was misleading, in that, the property was no longer for sale and the "sold" banner was not on the advertisement.

PAMELA SCHLICHTER-LANGLEY, sales associate, Washington Court House, Ohio, had a \$250.00 fine levied against her license for violating Section 4735.18(A)(6) of the Ohio Revised Code. Ms. Schlichter-Langley neglected to place an arrangement, between the buyer and the seller, in writing.

LISA MCKIVERGIN, sales associate, Granville, Ohio, had a \$300.00 fine levied against her license for violating Section 4735.18(A)(6) of the Ohio Revised Code. Ms. McKivergin failed to prepare and submit an Ohio agency disclosure form to the buyers, prior to showing the property.

MCKIVERGIN REAL ESTATE, corporation, Granville, Ohio, had a \$300.00 fine levied against the corporate license for violating Section 4735.18(A)(6) of the Ohio Revised Code. The corporation utilized listing agreements that did not contain the specific fair housing language required by Ohio Revised Code Section 4735.55.

CONNIE KOLODKA, sales associate, Westlake, Ohio, had disciplinary action and a fine levied against her license for violating Section 4735.18(A)(6) of the Ohio Revised Code. Ms. Kolodka was fined \$300.00 and was ordered to complete and to submit proof of completion of a three (3) hour course on agency. Ms. Kolodka prepared an offer for the purchase of property, which was listed with her brokerage. On the agency disclosure form, she noted that she was representing the purchasers; thereby, creating an in-company transaction. However, Ms. Kolodka neglected to

complete the in-company portion of the agency disclosure form.

WESLEY G. FENDER, sales associate, Hillsboro, Ohio, had disciplinary action and fines levied against his license for violating three (3) counts Ohio Revised Code Section 4735.18(A)(6), with one count as it incorporates Ohio Revised Code Section 4735.58(A) and (B)(1)(e). Mr. Fender was fined a total of \$900.00, his license was suspended for a total of 30 days, commencing on July 6, 1999, and he was required to complete and to submit proof of completion of the 10-hour sales post-licensure course. Mr. Fender failed to prepare and submit to the buyer and the seller an Ohio agency disclosure form, indicating who he would be representing. He did proceed to prepare a dual agency disclosure statement; wherein, he disclosed that he would be acting as a dual agent and proceeded to sign the buyer's name to the form so that it appeared as though the buyer had signed the document. This was done without the buyer's consent. In connection with the preparation of the dual agency disclosure statement, he did disclose that he would be acting as a dual agent; however, Mr. Fender failed to disclose, for the seller's benefit, that he had direct familial relationship with the buyer. He failed to complete that portion of the form describing his material relationship to the buyer.

ALL SERVICE, INC., corporation, Parma, Ohio, had a \$200.00 fine levied against the corporate license for violating Section 4735.18(A)(6) of the Ohio Revised Code. The corporation provided fair housing information and an explanatory color brochure whenever properties were listed, however, the listings did not contain the specific fair housing language required by Ohio Revised Code Section 4735.55.

CAROLE J. BURNS, broker, Cleveland Heights, Ohio, had disciplinary action and a fine levied against her broker's license for violating Sections 4735.18(A)(6) and (A)(26) of the Ohio Revised Code. Ms. Burns' license was suspended for 30 days, commencing on July 6, 1999. She was fined \$500.00 and required to complete and to submit proof of completion of the ten (10) hour brokerage post-licensure course. In connection with an offer to purchase property, Ms. Burns was given an earnest money deposit. These funds were

improperly placed in the company's operating account, rather than the designated trust or special account.

DONALD L. MILLER, broker, Wooster, Ohio, had a \$100 fine levied against his broker's license for violating Section 4735.18(A)(6) of the Ohio Revised Code. Mr. Miller entered into a property management agreement, but the agency agreement did not contain the specific fair housing language required by Ohio Revised Code Section 4735.55.

CHRISTOPHER M. RANO, broker, Newark, Ohio, had a \$100 fine levied against his broker's license for violating Section 4735.18(A)(6) of the Ohio Revised Code. Mr. Rano entered into written agency agreements that did not contain the specific fair housing language required by Ohio Revised Code Section 4735.55.

RAYMOND A. DELACRUZ, sales associate, Cleveland Heights, Ohio, had disciplinary action and a fine levied against his sales license for violating Section 4735.18(A)(6) of the Ohio Revised Code. Mr. Delacruz was fined \$200.00 and was ordered to complete and to submit proof of completion of a three (3) hour course on agency. Mr. Delacruz was acting as selling agent in a transaction. He prepared an offer, but failed to prepare and submit an agency disclosure form with the offer.

J. ROBERT SWEENEY, sales associate, Hilliard, Ohio, had disciplinary action and a fine levied against his license for violating Section 4735.18(A)(6) of the Ohio Revised Code. He was fined \$200 and ordered to complete and to submit proof of completion of the 10-hour sales post-licensure course. In connection with the sale of property by way of auction, Mr. Sweeney failed to prepare and submit to the purchaser an Ohio agency disclosure form. Instead, he completed and submitted, after an auction was completed, two Ohio dual agency disclosure statements for the parties.

MARJORIE J. SEITH, sales associate, Seven Hills, Ohio, had disciplinary action taken against her license for violating Section 4735.18(A)(19) of the Ohio Revised Code. Ms. Seith's license was suspended for fifteen (15) days; however, imposition of the suspension was waived by the Ohio Real Estate Commission. Ms. Seith produced an offer for the purchase of property from buyers she had rebuyer's offer after she and her buyers had been told

by the listing company and the sellers that there would be simultaneous presentation of two (2) offers the following morning. However, she learned the next morning that the sellers had reviewed and approved the other offer late the night before, by another company. Ms. Seith tried to contact the listing company and have her offer presented, but was declined by the listing company. She sought advice from her office manager, who contacted the listing company, and believing their company had direct obligations to the seller, authorized Ms. Seith to present the offer to the sellers directly.

DAVID C. PAUL, broker, Seven Hills, Ohio, had disciplinary action taken against his broker's license for violating Section 4735.18(A)(19) of the Ohio Revised Code. Mr. Paul's license was suspended for thirty (30) days; however, imposition of the suspension was waived by the Ohio Real Estate Commission. Mr. Paul, as supervising broker for a company, gave advice to one of the affiliated sales associates. The sales associate produced an offer for the purchase of property from buyers she had recruited. The sales associate deferred presenting her buyer's offer after she and her buyers had been told by the listing company and the

sellers that there would be simultaneous presentation of two (2) offers the following morning. However, she learned the next morning that the sellers had reviewed and approved the other offer late the night before, by another company. She tried to contact the listing company and have her offer presented, but was declined by the listing company. She sought advice from her office manager, Mr. Paul, who contacted the listing company, and believing their company had direct obligations to the seller, authorized the agent to present the offer to the sellers directly.



## Offenders Receive Cease and Desist Orders

Acting as a real estate agent without a real estate license violates Section 4735.99 of The Ohio Revised Code and is a first degree misdemeanor. Despite this prohibition, the division still finds evidence that unlicensed people and companies engage in activities requiring a license. Most often the division issues Cease and Desist orders in these cases, but if offenders continue to engage in the unlicensed conduct, the division may ask the appropriate local prosecutor to consider initiating criminal action.

Since the last newsletter, the following individuals and companies have been issued Cease and Desist orders:

**Earl White**  
*Alpha One Real Estate Services*  
Cincinnati, Ohio

**L & L Rentals**  
Athens, Ohio

**Catholic Cemetery Counseling Service**  
Cincinnati, Ohio

**Greathouse Property Management**  
Zanesville, Ohio

**Homeward Properties LLC**  
Fairlawn, Ohio

**American Homebuyers**  
Akron, Ohio



**The Ohio  
Department  
of Commerce**

State of Ohio  
Department of Commerce  
Division of Real Estate and Professional Licensing  
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