



The Ohio
Department
of Commerce

Spring 2004

Division of

Real Estate and Professional Licensing

◆ N E W S L E T T E R ◆

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GOVERNOR

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◆ New Purchase Agreement Unveiled - Modified Earnest Money Language

The Columbus Board of Realtors® rolled out a new purchase agreement the week of March 1, 2004. The agreement was the result of a 14-month taskforce review, chaired by Bill Clifford, Chairperson of the Residential Standard Forms Committee. The taskforce collaborated with the Division, the Ohio Banker's Association and the Columbus Bar Association's Real Property Law Committee. The revisions mark the first total overhaul to the contract in 20 years.

On March 1-2, 2004, the Division participated in Broker/Manager courses offered by the Columbus Board on the new agreement, with a focus on describing changes in the earnest money provisions within the agreement. The Division has consistently advised licensees that contractual provisions regarding earnest money must clearly set forth procedures for disbursement of the deposit. The new earnest money provisions in this purchase agreement represent one of several lawful methods brokers may utilize in handling earnest money.

Alaska Case on Undisclosed Dual Agency Could Affect Ohio Licensees

In 2002, the Alaska Superior Court handed down a very important decision regarding undisclosed dual agency. You may wonder why the views of an Alaska court on undisclosed dual agency would have any bearing on your practice. The answer is quite simple: while Ohio courts would not be required to follow the precedent of another state's courts on such issues, those findings could provide persuasive authority to Ohio courts on how to handle similar issues in this state. In the case of *Columbus v. Mehner*, the Alaska Court held that the sales associate, Bonnie Mehner (hereinafter "Mehner"), had engaged in undisclosed dual agency and had violated her fiduciary duties to her client.

The facts which led to this decision are similar to situations you are likely to run into in your day-to-day business dealings. The prospective buyer, Joseph Columbus ("Columbus"), wanted to see one of Mehner's listings, but the buyer's agent with whom he was working was out of town at the time. So, Columbus called Mehner, and she met him at the property. He gave her the card of his buyer's agent and indicated that he was working with this agent. After noting that she usually does not show properties to other people's clients, Mehner agreed to show Columbus this listing. He was not interested in the property. Mehner then offered to show him some of her other listings.

The next day, Columbus viewed the same property again, as well as several other properties. He found one he liked and wanted to make an offer on it. Because his own buyer's agent was still out of town, Columbus asked another agent in the buyer's agent's company to draft up an offer and present it to Mehner. Mehner indicated that the offer "would not fly" and also expressed that she was angry that the buyer was still working with this other agent's firm instead of through her. She indicated that Columbus became her client when he called her the second time.

Mehner contacted Columbus, berated him and told him that she expected to receive both sides of the commission on this sale. She told Columbus the offer price would have to be close to full price in order for Columbus to secure the property. She also told Columbus that the seller did not have to negotiate on the price because his employer would make up any difference between the sales price and the listing price. This statement was false.

Believing that he had to work through Mehner to purchase this property, Columbus had Mehner draft up a full price offer. For the first time, Mehner brought up the issue of dual agency. She presented Columbus with an agency disclosure form, and he

signed it. Columbus then made a full-price offer on the property, and the seller accepted Columbus' offer.

Columbus and his buyer's agent eventually filed suit against Mehner, alleging that she had breached her fiduciary duties to Columbus and had intentionally interfered with the contractual relationship between Columbus and his agent. The court ruled in favor of Columbus and the buyer's agent and awarded damages to both parties. The buyer received the difference between the price he actually paid for the property and the price he would have paid had Mehner acted in accordance with the law. The buyer's agent received half of the commission.

The court held that Mehner had violated Alaska's dual agency disclosure laws by waiting until Columbus had already seen several of her listings and made an offer on one to even broach the subject of dual agency. In addition, the court found that Mehner had violated her fiduciary duty to the buyer by failing to disclose her dual agency status, since, as a dual agent, her role was limited.

However, that is far from the end of the story. The buyer was also eligible to receive punitive damages because the court found that Mehner's actions were so egregious as to merit such additional damages. A hearing was set to determine the amount of punitive

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Alaska Case On Undisclosed Dual Agency Continued...

damages, but the parties settled the matter for \$200,000.00 prior to the court's ruling on the issue. There are so many issues in this case and so many lessons to be learned from it. First and foremost, it is important to be cognizant of agency and disclosure laws at all times. ORC. 4735.57, 4735.58, 4735.71 and 4735.73 govern when and how agency and dual agency disclosure must be performed. Perhaps the most important aspect of this law is that dual agency requires the knowledge and consent of both parties. You cannot ever assume that you are a dual agent until both the buyer and the seller have consented, with knowledge, to that agency relationship. In addition, undisclosed dual agency is unlawful and can lead to disastrous results, as Mehner found out.

The second lesson is related to the first. When you list a property for a seller, your primary duty is to sell that

home. If a buyer comes along and the buyer and seller both consent to dual agency, then it is perfectly legal for you to represent that buyer as well. However, it is not your right to be a dual agent or to obtain both sides of the commission. A buyer has the right to be represented by whomever he or she chooses at any time in the transaction. It could be a serious breach of your fiduciary duty to put your potential commission above the interests of your seller-client.

The best way to avoid potential conflicts or breaches of contractual relationships between a buyer and another agent is to handle the situation properly from the outset. Ask the buyer if he or she has an agent, even if you are afraid what the answer might be. If the buyer is working with another agent, allow that buyer and his agent full access to the property as you would your own buyer-client. Do not attempt

to "take" that buyer away from his agent. Do not ever refuse an offer or tell a buyer he or she has to work with you. Consider how much liability would be created if you were to steer the buyer away from using his or her own agent and then a problem arose in the transaction.

Finally, it is always important to consider your relationship to the industry and to the other professionals in your industry. The old adage is true: what goes around comes around. If you try to encourage buyers to work with you over their chosen real estate agent, what is to stop the other licensees in your profession from trying to coax your client away from you? Our advice is to follow the Golden Rule, and everyone will benefit.

(Amended and reprinted with permission of Lee B. Harris, General Counsel, Kentucky Real Estate Commission)

Code of Ethics vs. Canons of Ethics

Ethics Education Requirements

Over the past few months the Division has received numerous telephone calls from real estate licensees regarding the new National Association of REALTORS® requirement to complete a two and a half (2.5) hour Code of Ethics class. This requirement applies only to those individuals who are members of the NAR and must be completed by December 31, 2004.

The Division has a requirement to complete a three (3) hour class that specifically covers the Canons of Ethics. This requirement is by Ohio Administrative Code 1301:5-7-02(D)(3) and must be completed every continuing education reporting period. This requirement must be met by all individuals who are licensed real estate professionals in the state of Ohio, irrespective of membership in a professional organization.

If you are a REALTOR® then you should contact your local board to obtain information on scheduling and completing the Code of Ethics class. Your local board or the Ohio Association of REALTORS® can help you in this matter. Remember the Ohio Division of Real Estate & Professional Licensing has not changed the requirement to complete the Canons of Ethics course every reporting period. Also remember the Division and the National Association of REALTORS® are two completely different and distinct organizations.

Fair Housing Language In Agency Agreements

Division compliance audits indicate many brokerages are failing to use correct fair housing language in their agency agreements. The Division reminds all Ohio real estate licensees that the correct fair housing language must be used in all agency agreements, including listing contracts, buyer or tenant representation agreements; property management agreements and auction agreements. The term "agency agreement" is defined in Ohio Revised Code 4735.51 (B). The correct fair housing language is found in Ohio Revised Code 4735.55 and on the Division website at <http://www.com.state.oh.us/odoc/real/>. Failure to use the correct fair housing language may result in disciplinary action.

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Meet the Staff: Fiscal Section

Welcome to the Fiscal section. This section is the foundation of the Division. All mail received in the office (an average of 500 pieces per day) is opened and sorted by Alvin Cogan (recently promoted to another division) and Jennifer Anderson. All checks are then logged into our licensing system, which assists the customer service staff in verifying receipt of checks. This function is extremely useful when licensees call for the status of their recently submitted applications.

After checks are logged, the three account clerks post the application payment information to individual licensee accounts. File numbers are assigned at this time to any new/prospective licensees for the real estate and appraiser industries and files are created for all security guard registrants.

In addition to the accounts receivable duties, the fiscal section processes all invoices for payment, orders all printing products, creates any needed purchase orders and obtains all supplies. Any refunds required and our normal "bad check" collections are also done by this section.



From left to right: Amy Mar, Dee Jones (Fiscal Supervisor), Beth Frabott, and Seleda Cockrell

Alvin Cogan (l) and Jennifer Anderson (r) with the daily mail.



The fiscal section also has the responsibility of compiling and maintaining all budget information for our four operating and three special funds, monitoring and submitting the employee bi-weekly payroll, and preparing student loan information/reports for the Ohio Real Estate Commission and processing all Education & Research Fund grant awards.

During calendar year 2003, over 174,000 entries were made to the cash receipts journal from the 72,124 checks received, with another 11,655 entries made through our on-line renewal system.

New Broker/Agent Real Estate Index

In order to assist in educating the real estate industry, the Division has developed an on-line index entitled, "New Broker/Agent Index" which is now available on the Division website. The index should be useful to all new brokers/sales agents and those re-activating and features the most relevant and updated enforcement and licensing materials. The index includes compliance audit information, agency disclosure statements, fair housing pamphlets, Ohio Revised Code and Ohio Administrative Code cites, the Home Buyers Guide and other important documents. This information can be obtained by entering the following address in your web browser: <http://www.com.state.oh.us/odoc/real> or by clicking on the New Broker/Agent index icon located on the front page of the Division's website.

Keep in mind this is an 'on-line' resource tool comprised of various real estate documents and web page links. It is not an actual guide or booklet.

Check it out today. It is FREE!

Limitations of Division Advice

The Division is often asked to provide legal advice to licensees and members of the public. This is not a service the Division can provide. Questions concerning legal issues outside of the chapters of the Ohio Revised Code enforced by the Division are beyond the scope of assistance we are permitted to provide because they are outside our review jurisdiction. Such inquiries are more appropriately addressed by private legal counsel. However, the Division's legal staff will provide general guidance on enforcement of the licensing law.

Any opinion provided by the Division is based on the statement of facts provided by the person making the inquiry. Any modification to the fact pattern may alter this response. Therefore, it is ill advised to rely on guidance provided to another person.

If you have a question you believe we can help you with, please submit that question to our office in writing. The use of email for such inquires will speed the response time. Questions may be submitted to REPL@com.state.oh.us or to the Division's mailing address found elsewhere in this newsletter.

Appraiser Disciplinary Actions

Audrey B. Browning, License No. 380381, a State-licensed residential real estate appraiser from Cincinnati, Ohio, was found to have violated Ohio Revised Code Section 4763.11 (G)(5) as it incorporates the Uniform Standards of Professional Appraisal Practice, Standards Rule 1-1(C). For these violations Audrey B. Browning is issued a written reprimand. Further, Audrey B. Browning is ordered by the Appraiser Board to complete a fifteen (15) classroom hour course in Uniform Standards of Professional Appraisal Practice and successfully pass the course examination. This course must be taken within ninety (90) days of the date of this order. The additional appraisal education taken can not be used for credit toward the fourteen (14) hours of annually required appraiser continuing education. Ms. Browning indicated that each of the Comparable Sales in the Appraisal was located in Hamilton, Ohio, when in fact; the comparable sales were located in Fairfield, Ohio.

Janice H. Buchele, License No. 405516, a State-licensed residential real estate appraiser from Toledo, Ohio was found to have violated Ohio Revised Code Section 4763.11 (G)(5) as its incorporates the Uniform Standards of Professional Appraisal Practice, Standards Rule 1-1 (b), 1-1(c), 1-4(a), and 1-5(c). For these violations Janice H. Buchele is issued a written reprimand and admonished to follow the requirements stressed in the Uniform Standards of Professional Appraisal Practice to use appropriate sales for comparison. Further, Janice H. Buchele is ordered by the Appraiser Board to complete a fifteen (15) classroom hour course in Uniform Standards of Professional Appraisal Practice, and a fifteen (15) classroom hour course in Sales Comparison Approach to Value and successfully pass each of the course examinations. Courses are to be taken within one hundred twenty

(120) days of the date of the order. The additional appraisal education taken can not be used for credit toward the fourteen (14) hours of annually required appraiser continuing education. Janice H. Buchele did the following with respect to an appraisal report; she used listing agreements in the Sales Comparison Analysis portion of the Appraisal Report, rather than closed sales contracts as comparisons.

James William Moore Jr., License No. 383721, a State-licensed residential real estate appraiser was found to have violated as to count one, Ohio Revised Code Section 4763.11 (G)(5), as it incorporates the Uniform Standards of Professional Appraisal Practice, Standards Rule 1-1(c). As to count two, was found to have violated Ohio Revised Code Section 4763.11 (G)(5), as it incorporates the Uniform Standards of Professional Appraisal Practice, Standards Rule 2-1(a), and Ohio Revised Code Section 4763.11 (G)(6). For these violations James William Moore Jr., is issued a written reprimand. Further, James William Moore Jr. as to count one, is ordered by the Appraiser Board to complete a fifteen (15) classroom hour course in Uniform Standards of Professional Appraisal Practice and successfully pass the course examination. As to count two, Mr. Moore is ordered by the Appraiser Board to complete a fifteen classroom hour course in Sales Comparison Approach to Value and successfully pass the course examination. The courses must be taken within one hundred twenty (120) days of the date of the order. The additional appraisal education taken can not be used for credit toward the fourteen (14) hours of annually required appraiser continuing education. James William Moore Jr., did the following with respect to an appraisal report; incorrectly indicating that the Subject Property had a completely fenced-in backyard; contradictorily indicated both the existence and non-existence of a laundry or mud room; and the existence

of a fourth bedroom on Level 1. Mr. Moore Jr. also failed to state the correct square footage of the subject property, and for indicating in the appraisal report that he had inspected the interior of the Subject Property, when an interior inspection had not been done.

Jerry M. Connor, License No. 397990, a State-licensed residential real estate appraiser from Columbus, Ohio as to count one, was found to have violated Ohio Revised Code, Section 4763.11 (G)(5), as it incorporates Uniform Standards of Professional Appraisal Practice, Standards Rule 2-2 and Ohio Revised Code Section 4763.11(G)(6). As to count two, Mr. Connor was found to have violated Section 4763.11(G)(5), as it incorporates the Uniform Standards of Professional Appraisal Practice, Standards Rule 1-5(a). For these violations as to count one, Jerry M. Connor is ordered by the Ohio Real Estate Appraisal Board that his residential real estate appraiser's license is suspended for three hundred sixty-five (365) days and is issued a written reprimand. Further, as to count two, Mr. Connor is ordered to complete a fifteen (15) classroom hour course in the Uniform Standards of Professional Appraisal Practice, a fifteen (15) classroom hour course in Sales Comparison Approach to Value and successfully pass each of the course examinations. Courses are to be taken within one hundred twenty (120) days of the date of this order. The additional appraisal education taken can not be used for credit toward the fourteen (14) hours of annually required appraiser continuing education. Mr. Connor did the following with respect to an appraisal report; he did not recite the reporting option he had utilized in the preparation of the appraisal report. Further, Mr. Connor failed to consider and analyze the listing of and the sales agreements for the subject property.

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Patricia A. Slaughter, License No. 394086, a State-certified residential real estate appraiser from Toledo, Ohio, was found to have violated as to count one Ohio Revised Code Section 4763.11 (G)(5), as it incorporates the Uniform Standards of Professional Appraisal Practice, Standards Rule 2-3. As to count two, Patricia Slaughter is found to have violated Ohio Revised Code 4763.11 (G)(5), as it incorporates the Uniform Standards of Professional Appraisal Practice, Standards Rule 1-1(b). As to count one for this violation, Patricia Slaughter is ordered by the Appraiser Board to complete a fifteen (15) classroom hour course in Uniform Standards of Professional Appraisal Practice and successfully pass the course examination. As to count two for this violation, Patricia Slaughter is ordered by the Appraiser Board to complete a fifteen (15) classroom hour course in Sales Comparison Approach to Value and successfully pass the course examination. These courses must be taken within one hundred twenty (120) days of the date of this order. The additional appraisal education can not be used for credit toward the fourteen (14) hours of annually required appraiser continuing education. Further, Patricia Slaughter is issued a written reprimand and admonished to use greater care in measuring the subject property. Patricia Slaughter did the following with respect to an appraisal report; she failed to disclose the participation of an assistant in the development of an appraisal, and failed to report the correct gross living area of the subject property.

Harvey Norton, Jr., License No. 426429, a State-certified residential real estate appraiser from Columbus, Ohio was found to have violated Ohio Revised Code Section 4763.11 (G)(5) as it incorporates the Uniform Standards of Professional Appraisal Practice Standards Rule 2-2 (ix) as set forth in the Notice of Opportunity for

Hearing. For these violations Harvey Norton, Jr. was issued a written reprimand and admonished to use greater care in explaining the reasons for the unavailability of sales information and the steps taken to verify data collected. Further, Harvey Norton Jr., is ordered to complete a course of no less than thirty (30) hours covering at least in part the Sales Comparison Approach to Value. The additional appraisal education taken can not be used for credit toward the fourteen (14) hours of annually required appraiser continuing education. The course must be taken within one hundred twenty (120) days of the date of this order. Harvey Norton, Jr., failed to report the sale of subject property in his appraisal report and failed to explain how he arrived at the conclusion that the sales date and sales price were "not known," when in fact the County Records showed the sale.

Richard J. Costanzo, License No. 379183, a State-licensed residential real estate appraiser from Lyndhurst, Ohio, was found to have violated as to count one Ohio Revised Code Section 4763.11 (G)(5), as it incorporates the Uniform Standards of Professional Appraisal Practice, Standards Rules 1-1(a), 1-1(b), 1-1(c), and Ohio Revised Code Section 4763.11(G)(6), as to count two, was found to have violated Ohio Revised Code Section 4763.11 (G)(5) as it incorporates Uniform Standards of Professional Appraisal Practice Standards Rule 2-1(a) as set forth in the Notice of Opportunity for Hearing. For these violations Mr. Costanzo is suspended for nine (9) months. Additionally, Richard J. Costanzo is further ordered to complete a fifteen (15) classroom hour course in Business Practice and Appraisal Procedure. The additional appraisal education taken cannot be used for credit toward the fourteen (14) hours of annually required appraiser continuing education. Mr. Costanzo's appraisal report contained multiple inaccuracies and the data was not

verified as set forth in the comparative market analysis. As a consequence the value assigned to the subject property was not reliable.

Zilber Ronald Plair, III License No. 416175, a State-licensed residential real estate appraiser from Cincinnati, Ohio was found to have violated Ohio Revised Code Section 4763.11 (G)(5), as it incorporates the Uniform Standards of Professional Appraisal Practice, Standards Rule 2-1(a) and 1-1(c) as set forth in the Notice of Opportunity for Hearing. For these violations the Appraisal Board issued a written reprimand and admonished to follow the requirements of the Uniform Standards of Professional Appraisal Practice and to use appropriate Sales Comparison methods and techniques. Zilber Ronald Plair, III's Appraisal report contained deficiencies and inconsistencies in regard to the description of the property type, and the construction of the exterior walls. Mr. Plair, III described the subject property as both a one-story and two-level property. He also inconsistently indicated in the report that the exterior walls of the subject property were vinyl/aluminum but in another section indicated they were brick. He also failed to make an appropriate adjustment for the fact that the subject property had a crawl space area whereas the comparable to which the subject was being compared did not have a crawl space area, but was constructed on a concrete slab.

Darrell E. Wolfe, License No. 391870, a State-certified residential real estate appraiser, from Columbus, Ohio was found to have violated, as to count one, Ohio Revised Code Section 4763.11(G)(5), as it incorporates Uniform Standards of Professional Appraisal Practice, Standards Rule 2-2, as to count two, was found to have violated Ohio Revised Code Section 4763.11(G)(5), as it incorporates Uniform Standards

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Real Estate Disciplinary Actions

REVOCATIONS

WILLIAM E. JONES, broker, Shaker Heights, Ohio, as the result of an investigation of a formal complaint, had his license revoked for violating Ohio Revised Code 4735.18(A)(5), 4735.18(A)(25) and 4735.18(A)(9) as that section incorporates Ohio Revised Code 4735.73(F) and 4735.58(B)(1), when he failed to return to the buyer, earnest money within a reasonable time, when he failed to provide the buyer with copies of all necessary documents and when he failed to disclose a material relationship with the seller. In another case, as the result of an investigation of a formal complaint, his license was revoked for violating Ohio Revised Code 4735.18(A)(6) as that section incorporates Administrative Rule 1301:5-1-13 and for violating Ohio Revised Code 4735.18(A)(6) as that section incorporates Ohio Revised Code 4735.18(A)(5), when he failed to obey a subpoena issued by the Division and when he failed to return to the buyer, earnest money within a reasonable time.

SUSPENSIONS, FINES,

EDUCATION

BRENT D. CRAWFORD, broker, Columbus, Ohio, was fined \$1,000.00 for violating Ohio Revised Code 4735.18(A)(6), as that section incorporates Article 3 of the Canons of Ethics for the Real Estate Industry, when he failed to cooperate with the Division by not submitting required documents to correct deficiencies identified during a compliance audit.

MARCIA L. McGEE, salesperson, Englewood, Ohio, as the result of an investigation of a formal complaint, was found to have violated Ohio Revised Code 4735.18(A)(6), but no penalty was imposed, when she prematurely released earnest money without following the earnest money release procedure provided for in the sales contract.

ISAAC HAGGINS, SR., broker, South Euclid, Ohio, as the result of an investigation of a formal complaint, had a five (5) day suspension of his license, which commenced on January 30, 2004,

was fined \$500.00, and was required to complete and to submit proof of completion of three hours of continuing education in agency law, for violating Ohio Revised Code 4735.18(A)(6) as that section incorporates Ohio Revised Code 4735.58(A), when he failed to timely provide the seller with an agency disclosure form. In addition, he was fined \$100.00 for violating Ohio Revised Code 4735.18(A)(24), when he failed to maintain his business records for a period of three years.

DONNA S. BURNHAM, broker, Columbus, Ohio, was fined \$1,000.00 for violating Ohio Revised Code 4735.18(A)(6), as that section incorporates Article 3 of the Canons of Ethics for the Real Estate Industry, when she failed to cooperate with the Division by not submitting required documents to correct deficiencies identified during a compliance audit. In addition, she was fined \$500.00, for violating Ohio Revised Code 4735.18(A)(9) as that section incorporates Ohio Revised Code 4735.54 and Administrative Rule 1301:5-6-03, when during a compliance audit, it was found that she maintained a non-compliant company policy.

JUDY C. BURTON, salesperson, Proctorville, Ohio, as the result of an investigation of a formal complaint, was fined \$1,000.00 and was required to complete and to submit proof of completion of the ten (10) hour sales post-licensure course, for violating Ohio Revised Code 4735.18(A)(6), when she directly contacted the seller, who was exclusively represented by another brokerage and knowing that the seller only permitted their listing agent to show the property.

JAMES J. WEILER, broker, Proctorville, Ohio, as the result of an investigation of a formal complaint, was fined \$1,000.00 and was required to complete and to submit proof of completion of the ten (10) hour brokerage post-licensure course, for violating Ohio Revised Code 4735.18(A)(6) as that section incorporates Ohio Revised Code 4735.18(B), when he permitted a

salesperson to directly contact a seller, who was exclusively represented by another brokerage and knowing that the seller only permitted their listing agent to show the property.

WILLIAM A. CARTER, salesperson, Columbus, Ohio, as the result of an investigation of a formal complaint, was fined \$500.00 and was required to complete and to submit proof of completion of a three hour ethics course, for violating Ohio Revised Code 4735.18(A)(10), when he demanded, without reasonable cause, commission(s) to which he was not entitled, namely a fee for the preparation of a 1099 tax form. In addition, he was fined \$500.00, and was required to complete and to submit proof of completion of a three hour civil rights course, for violating Ohio Revised Code 4735.18(A)(6) as that section incorporates Ohio Revised Code 4735.55(A)(2), when he used outdated HUD language in his property management agreement.

EDWARD R. SCHERER, broker, Coshocton, Ohio, was fined \$1,000.00 and was required to complete and to submit proof of completion of a three hour ethics course, for violating Ohio Revised Code 4735.18(A)(6), as that section incorporates Article 3 of the Canons of Ethics for the Real Estate Industry, when he failed to cooperate with the Division by not submitting required documents to correct deficiencies identified during a compliance audit. In addition, he was fined \$1,000.00 and was required to complete and to submit proof of completion of the ten (10) hour brokerage post-licensure course, for violating Ohio Revised Code 4735.18(A)(9) as that section incorporates Ohio Revised Code 4735.54 and Administrative Rule 1301:5-6-03, when during a compliance audit, it was found that he maintained a non-compliant company policy.

Appraiser Disciplinary Actions continued...

of Professional Appraisal Practice, Standards Rule 2-3, as to count three, was found to have violated Ohio Revised Code Section 4763.11 (G)(5), as it incorporates Uniform Standards of Professional Appraisal Practice, Standards Rule 2-1(b), as to count four, was found to have violated Ohio Revised Code Section 4763.11 (G)(6) as set forth in the Notice of Opportunity for Hearing. For these violations the Appraisal Board issued, as to counts one, two and three, a written reprimand and admonished Darrell E. Wolfe to comply with Uniform Standards of Professional Appraisal Practice when communicating and developing appraisal reports. As to count four, Darrell E. Wolfe is ordered by the Appraiser Board to complete a fifteen (15) hour classroom course in Uniform Standards of Professional Appraisal Practice and a course of no less than thirty (30) hours covering in part the Sales Comparison Approach to Value. The courses must be taken within one hundred twenty (120) days of the date of the order. The additional appraisal education taken cannot be used for credit toward the fourteen (14) hours of annually required appraiser continuing education. Darrell E. Wolfe failed to state the reporting option he

had utilized in each of the three appraisal reports and failed to exercise reasonable diligence in developing the three appraisal reports for the subject properties. Mr. Wolfe failed to give adequate attention to the identification and verification of prior sales in his appraisal reports of each of the three subject properties. Further he also did not properly explain the common driveway easement in the appraisal report.

Edward Dale Featheringham, License No. 398404, a State-certified general real estate appraiser from Wintersville, Ohio, was found to have violated, as to count one, Ohio Revised Code Section 4763.11(G)(5) as it incorporates the Uniform Standards of Professional Appraisal Practice Standards Rules 1-1(a), 1-1(b) and 1-1(c), Ohio Revised Code Section 4763.11(G)(6), as to count two, was found to have violated Ohio Revised Code Section 4763.11 (G)(5) as it incorporates the Uniform Standards of Professional Appraisal Practice Standards Rules 1-1(a), 1-1(b), and 1-1(c) and Ohio Revised Code Section 4763.11 (G)(6), as to count three, was found to have violated 4763.11 (G)(5) as it incorporates the Uniform Standards of Professional Appraisal Practice Standards Rules 1-1(a), 1-1(b), and 1-

1(c) and Ohio Revised Code Section 4763.11 (G)(6), as to count four was found to have violated Ohio Revised Code Section 4763.11 (G) (7) as set forth in the Notice of Opportunity for Hearing. For these violations the Appraisal Board ordered, as to count one, the State-certified general real estate appraiser certificate of Edward Dale Featheringham suspended for three (3) months and further ordered to complete a course of no less than thirty (30) hours covering at least in part the Sales Comparison Approach to Value. The education must be completed within one hundred twenty (120) days of the date of the Board order. As to count two, was ordered suspended for two (2) months, as to count three, was ordered suspended for one (1) month, as to count four, was ordered suspended for three (3) months. All suspensions ordered are to run consecutively, for a total of nine (9) months of license suspension. Edward Dale Featheringham, did the following with respect to an appraisal report; failed to report a prior transfer of the subject property; failed to accurately report the square footage contained in the Comparables; and failed to report a prior transfer of a comparable.

Note: The appraisal education taken to satisfy these orders can not be used for credit for the 14 hours of approved continuing education required annually.

Q&A – Trust or Special Accounts

Q. Do I need the words “trust” or “special account” on all deposit tickets and checks drawn on the brokerage trust account.

A. Yes. Ohio Administrative Code 1301:5-5-08(B) requires both deposit tickets and checks to bear the words “trust” or “special account”.

Q. May the broker maintain personal funds in the trust account?

A. Yes, provided that those funds are clearly identified as the broker’s funds and only for the purpose of either maintaining a minimum balance as required by the financial institution or for the payment of a service charge assessed by the financial institution.

Q. Are there specific records the broker is required to keep regarding the trust account?

A. Yes. Ohio Administrative Code 1301:5-5-09 requires brokers to keep a record of all trust funds received in a fiduciary capacity, including the date the funds are received, the party from whom the funds are received, the amount received, the date the funds are deposited in the trust account, the check number and date the funds are disbursed, the party to whom funds are disbursed and purpose of disbursement and any other information necessary to verify and explain the account balance. For these purposes, the Division has created a columnar ledger for brokerage use, which is available on the Division’s website.

Division Consumer Outreach Offers Consumer Education Classroom Style

Workshops are now available for consumer groups in Ohio. If you would like to coordinate a time and location for your group or organization to attend a **FREE, IN DEPTH EDUCATION ON ONE OF THE FOLLOWING TOPICS**, call the Consumer Outreach Section at 466-6297.

WORKSHOP #1. The Appraisal

What is it? What is its value to the consumer? What if something is wrong? What is a consumer's recourse?

WORKSHOP #2. The Property Condition Disclosure Form

Brand new areas of concern for the seller and buyer.

WORKSHOP #3. The Agency Disclosure Form

What type of agency relationship are you establishing in buying or selling a home? The roles of agents in each type of relationship.

WORKSHOP #4. The Complaint Process

Where to Find Information on a Licensed Appraiser or Real Estate Agent. How to Find Remedies for Real Estate and Appraisal Problems.

Our Outreach Program staff will travel to your location, present the factual topic chosen, allow time for questions and answers, and supply consumer educational materials pertinent to the selected workshop.

BUY SMART

Become an Informed Consumer Before You Buy.

Advantages of Renewing Your Real Estate License On-Line

- It updates your file immediately without the delays involved with mailing your renewal fee and waiting for it to be processed;
- It allows you to renew at *your* convenience anytime day or night;
- It insures that your transaction is secure by accessing your account using your own Personal Identification Number (PIN);
- It provides you with an immediate, printable confirmation of your renewal; and
- You'll receive your pocket card more quickly.



**The Ohio
Department
of Commerce**

State of Ohio
Department of Commerce
Division of Real Estate and Professional Licensing
77 South High Street, 20th Floor
Columbus, OH 43215-6133

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