



# DIVISION OF REAL ESTATE NEWSLETTER

May/June 1987

RICHARD F. CELESTE  
GOVERNOR, STATE OF OHIO

KENNETH R. COX  
DIRECTOR OF COMMERCE

MARGARET J. RITENOUR  
SUPERINTENDENT OF REAL ESTATE

## Superintendent's Column

# *Legal Requirements For Advertising Reviewed*

By Margaret J. Ritenour, Superintendent

Recently, the Division received several questions from licensees on the format and content of their advertisements. In response to these inquiries, the license law requirements regarding advertising are reviewed below:

The law regarding advertisements by licensees is found in Section 4735.16 of the Ohio Revised Code and in Rule 1301:5-1-02 promulgated by the Ohio Real Estate Commission. These basically require that licensees must be identified in all advertisements "by name and by indicating that he is a real estate broker or salesman."

Under Rule 1301:5-1-02, name identification in advertising by a licensee can only consist of the name of the person, corporation or partnership as it appears on the license issued by the Division. There are, however, three exceptions to this rule. They are:

- 1) If a broker has been granted permission by the Superintendent to do business in a trade name or "dba" (doing business as), this name as it appears on the license must be used in all advertisements.
- 2) Terms such as "Inc." or "Co." that appear in the licensed name to indicate the brokerage's legal framework may be omitted from advertisements.
- 3) The words "Realty", "Real Estate" or an insignia indicating membership in a real estate organization (e.g., the name Realtor or ®) may be used in advertising even if these words or the insignia are not included in the name as it appears on the real estate license.

It is important for brokers to remember that if they opt to advertise under any of these exceptions, they should do so on a consistent basis. Thus, for example, if broker John Doe adds the words "Real Estate" to his name and advertises as "John Doe Real Estate", he should do so consistently in all advertisements.

Besides advertising by name, brokers must be identified in their advertisements as a broker. If the words

"real estate", "realty" or a trade insignia is utilized in a broker's name, the Division considers that to be acceptable identification of his status as a broker. If such words are not used, then the ad must identify the person as a broker.

As to salespersons, their advertisements must likewise identify them by name. Additionally, Ohio Revised Code Section 4735.16(B) requires that all advertisements by a salesperson must include the name of the broker with whom he/she is affiliated. Further, the name of the broker must be displayed in at least equal prominence with that of the salesperson.

These requirements regarding the form of advertisements by brokers and salespersons apply not only when they are acting in their capacity as a licensee, but also when they are advertising the sale or lease of their own personal property. Thus, if broker John Doe is selling his own house, he must advertise as John Doe, Broker/Owner. Likewise, a salesperson selling or leasing property she owns must advertise as Jane Smith, Owner/Agent. In the latter situation, Jane Smith should *not* include the name of her broker, unless she has actually listed the property with her broker.

A broker or salesperson should realize that if they advertise in a manner other than provided in Section 4735.16 of the Ohio Revised Code or Ohio Administra-

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## **Attention!!!**

PLEASE SHARE THIS NEWSLETTER WITH ALL  
OF YOUR SALES ASSOCIATES. FEEL FREE TO  
MAKE COPIES.

(THIS IS MAILED TO BROKERS AND BRANCH OFFICES ONLY)

## Requirements (continued from page 1)

tive Code Rule 1301:5-1-02 they can be found guilty of violating division (U) of Section 4735.18 of the Revised Code. According to division (U), real estate licensees may have their license suspended or revoked for advertisements that are misleading or inaccurate or in any way misrepresent any properties, terms, values, policies or services of the brokerage.

The purpose of this article is to help educate Ohio's licensees regarding these advertising requirements so they may avoid a violation of these provisions. If any persons have any questions regarding these requirements, they should feel free to contact our Enforcement Section toll free at 1-800-344-4100.

## 'Brokers, Buyers And Bias' Can Be Purchased

The Ohio Real Estate Commission is now offering "Brokers, Buyers and Bias" for sale. The three-hour film and course instruction manual, which costs \$125, has been developed to explain fair housing issues.

The course packet, developed by the National Association of Realtors, is available to both non-degree and to degree-granting schools who missed the Commission's original offer.

The course meets the continuing education requirement for civil rights. This requirement was established two years ago due to the Commission's commitment to fair housing and its recognition of the need for civil rights instruction.

Upon receipt of a \$125 check or money order made payable to the Ohio Division of Real Estate, the civil rights course packet will be mailed promptly to you. After the course is purchased, the school will need to complete the course instruction approval form.

STATE OF OHIO  
DIVISION OF REAL ESTATE  
DEPARTMENT OF COMMERCE  
TWO NATIONWIDE PLAZA, COLUMBUS, OHIO  
43266-0547  
614/466-4100  
800/344-4100

RICHARD F. CELESTE, Governor, State of Ohio  
KENNETH R. COX, Director  
MARGARET J. RITENOUR, Superintendent

The Ohio Real Estate Commission

ARTHUR C. CHURCH, President  
PAUL J. EVERSON  
EDWARD J. KIZER  
SELMER E. PREWITT  
SANDRA J. TAYLOR

## Reciprocity Between Ohio And Pennsylvania Ends

The reciprocity agreement between Ohio and Pennsylvania has been dissolved.

Reciprocity agreements are made among states whose educational and licensing requirements are similar. Under such agreements, each state waives its real estate examination for qualified persons who are licensed in the other state.

Within the past year, Pennsylvania added two stipulations to its agreement. In 1986, the Pennsylvania Real Estate Commission decided to require Ohio licensees to take the section of the Pennsylvania real estate examination covering Pennsylvania real estate law. Although the Ohio real estate exam does not have a specific section covering only Ohio law which we could require Pennsylvania's licensees to take, the Ohio Commission reluctantly accepted this requirement.

However, in January, 1987 the Pennsylvania Commission decided to require Ohio licensees seeking a reciprocal Pennsylvania license to still meet Pennsylvania's education requirements.

Thus, all that was being waived by Pennsylvania for Ohio's licensees was the general portion of its exam.

According to Pennsylvania this is nothing more than what it does for any other state; therefore it did not consider our states to have reciprocity any longer. In response to this action, the Ohio Real Estate Commission agreed that a reciprocal arrangement no longer existed between Pennsylvania and Ohio.

Ohio continues to maintain reciprocity agreements with Kentucky, New York, Nebraska, Tennessee, Utah and West Virginia. If you have any questions about reciprocity with these states, check for their address and phone number in the "July/August 1986" issue of the "Division of Real Estate Newsletter" or contact Laurie Debitetto at the Ohio Division of Real Estate.

## Real Estate Briefs

Occasionally, real estate licensees appear at the Division's offices to transfer or reinstate a license without having the necessary application typed. Licensees should be reminded that all applications must be completed and typed before they can be processed.

Since the Division has converted to word processing, the number of typewriters in the office is limited. In addition, Division personnel may be unable at times to break away from their regular workload to type applications. Therefore, licensees are advised that they should have their applications properly typed, signed and notarized before hand delivering them to the Division.

\* \* \* \* \*

Real estate licensees who would like to be certain that their correspondence has reached the Division of Real Estate are advised to use certified mail with return receipt requested.

# Disciplinary Actions

The purpose of this article is to disseminate information to licensees concerning recent Commission activities and decisions pursuant to Section 4735.03(E) of the Ohio Revised Code.

The Commission has taken the following action with regard to these real estate licensees:

## SUSPENSIONS

JACK D. CAPEN, sales associate, Cincinnati, Ohio, had his sales license suspended for 180 days for violating Sections 4735.18(F) and (I) as it incorporates Section 4735.13(C) of the Ohio Revised Code. This suspension shall commence upon reinstatement of his license. Capen was convicted of mail fraud, which is a felony. This conviction constitutes a violation of Section 4735.18(F) of the Ohio Revised Code. Capen also failed to notify the Superintendent of the Division of Real Estate of this conviction within fifteen days as required by Ohio Revised Code Section 4735.13(C).

MICHAEL CHANDLER, broker, Cincinnati, Ohio, had his broker's license suspended for 30 days for violating Sections 4735.18(E), (F) and (Z) of the Ohio Revised Code. However, due to mitigating circumstances, 15 days of the suspension were waived. The 15 day balance of this suspension began on February 23, 1987. Chandler failed to deposit and maintain earnest money he received from the buyers of a subject property in his real estate trust account, as well as money he received from the seller in connection with the sale. Chandler failed, within a reasonable time, to remit this money to either the buyers or seller, pursuant to the terms of the contract on the subject property.

L.R. FORRER REALTY, INC., a corporate broker, Northfield, Ohio, had its broker's license suspended for 30 days for violating Sections 4735.18(F) and (Z) of the Ohio Revised Code. However, due to mitigating circumstances, the 30 day suspension was waived. L.R. Forrer Realty, Inc. received an earnest money deposit from a buyer in connection with a purchase agreement and then failed to deposit the money into its trust account. L.R. Forrer Realty, Inc. later returned the earnest money deposit to the buyer without obtaining a release from the seller, even though it had requested such a release from the seller.

JAMES A. FUHRMAN, broker, Milford, Ohio, had his broker's license suspended for 10 days for violating Section 4735.18(F) of the Ohio Revised Code. However, due to mitigating circumstances, imposition of this suspension was waived by the Commission. Fuhrman failed to timely inform the buyers of a property that their earnest money check was returned twice for insufficient funds. Fuhrman breached his duty to the buyers to disclose material information to them which could adversely affect the real estate transaction.

HILLTOP REALTY, INC., a corporate broker, Lyndhurst, Ohio, had its corporate broker's license suspended for 10 days for violating Section 4735.18(I) as it incorporates Section 4735.13(C) of the Ohio Revised Code. However, imposition of this suspension was waived by the Commission due to mitigating circumstances. Hilltop failed, within fifteen days, to notify the Superintendent of the Division of Real Estate of the fact that it had been found in violation of the federal civil rights laws following the conclusion of all appeals.

HELEN R. HRYNDA, broker, Youngstown, Ohio, had her broker's license suspended for 30 days for violating Sections 4735.18(F) and (Z) of the Ohio Revised Code. However, due to mitigating circumstances, 15 days of the suspension were waived. The 15 day balance of this suspension began on February 23, 1987. Hrynda failed to deposit a full earnest money deposit she received from a buyer into her trust account within a reasonable time. She later withdrew the money and returned it to the buyer without the knowledge and/or consent of the sellers and without obtaining a written release from them.

In a separate case, Hrynda was suspended for 30 days for violating Section 4735.18(F) of the Ohio Revised Code. Due to mitigating circumstances, 15 days of the suspension were waived. The 15 day balance of the suspension ran consecutively with Hrynda's previous suspension and began on March 10, 1987. In this case, Hrynda failed to timely deposit a portion of an earnest money deposit into her real estate trust account.

ROBERT KENT, broker, Columbus, Ohio, had his broker's license suspended for 20 days for violating Section 4735.18(F) of the Ohio Revised Code. Due to mitigating circumstances, however, imposition of this suspension was waived by the Commission. Kent failed to inform the sellers of a property or the listing agent that an earnest money check he received from a potential buyer had been returned by the bank for insufficient funds.

ROBERT F. MOKRY, broker, Columbus, Ohio, had his broker's license suspended for 5 days for violating Section 4735.18(F) of the Ohio Revised Code. This suspension commenced on March 27, 1987. Mokry represented to the purchaser of a property that the furnace was new when he knew or should have known that it was not new.

DONALD B. MURPHY, broker, Fostoria, Ohio, had his broker's license suspended for 20 days for violating Section 4735.18(I) as it incorporates Section 4735.21 of the Ohio Revised Code. However, imposition of this suspension was waived by the Commission due to mitigating circumstances. Murphy collected funds in connection with the management of a property in a name other than his broker's and without the consent of his broker.

**Disciplinary Actions** (continued from page 3)  
 JOAN A. PECHAUER, sales associate, Columbus, Ohio, had her sales license suspended for 20 days for violating Section 4735.18(F) of the Ohio Revised Code. However, due to mitigating circumstances, imposition of this suspension was waived by the Commission. Pechauer failed to inform the sellers of a property or the listing agent that an earnest money check received from a potential buyer had been returned by the bank for insufficient funds.

MARTHA L. WHITING, sales associate, Marietta, Ohio, had her sales license suspended for 60 days for violating Section 4735.18(A) and (F) of the Ohio Revised Code. This suspension began on February 23, 1987. Whiting entered into an agreement to purchase a property by means of a land contract. Whiting failed to provide the sellers with complete and accurate information about her financial ability to purchase the subject property. This included several income tax liens against her which she knew or should have known would hinder her ability to obtain the financing required under the purchase agreement. Whiting's failure to disclose the information constituted a knowing misrepresentation.

**RECOVERY FUND ACTIONS**

VINCENT KOLLEN, broker, Vermilion, Ohio, had his broker's license automatically suspended pursuant to Section 4735.12(E) of the Ohio Revised Code. This suspension was a result of a payment made from the Real Estate Recovery Fund on March 18, 1986, of an unsatisfied judgment in the amount of \$5,000. This judgment was obtained as a result of Kollen's representation to the owners of a property that he would list and manage their property when in fact he brought about foreclosure on the property by neglecting to pay the mortgage payments.

DONALD OSFELD, sales associate, Cincinnati, Ohio, had his sales license automatically suspended pursuant to Section 4735.12(E) of the Ohio Revised Code. This suspension was a result of a payment made from the Real Estate Recovery Fund on March 30, 1987, of an un-

satisfied judgment in the amount of \$17,000. This judgment was the result of Osfeld's failure to disclose to the buyer of a home that he owned the home, and that it was in foreclosure. Also, Osfeld misrepresented the investment potential of the property to the buyer.

PACESETTER REAL ESTATE, INC., a corporate broker, Cincinnati, Ohio, had its corporate broker's license automatically suspended pursuant to Section 4735.12(E) of the Ohio Revised Code. This suspension was a result of a payment made from the Real Estate Recovery Fund on March 30, 1987, of an unsatisfied judgment in the amount of \$13,526.03. This judgment was the result of Pacesetter's failure to pay real estate commissions to one of its salespersons.

**UPCOMING TEST DATES**

The following are the tentatively scheduled dates for the real estate sales, brokers and foreign real estate sales examinations for the coming months:

	SALES COLUMBUS/CLEVELAND		BROKERS COLUMBUS
July	1	23	13
August	5	20	10
Sept	9	24	14

NOTE: Additional examinations may be added in the months to come to accommodate applicants.

**FOREIGN REAL ESTATE SALES**

	COLUMBUS		
July	7		21
August	4		18
Sept	1	15	29

The foreign real estate sales examination is given *only* in Columbus. Because of the small number of applicants for the foreign real estate dealer examination, these exams are scheduled on an individual basis as the applications are received.

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