



DIVISION OF REAL ESTATE NEWSLETTER

January/February 1990

RICHARD F. CELESTE
GOVERNOR, STATE OF OHIO

LINDA K. PAGE
DIRECTOR OF COMMERCE

MARGARET J. RITENOUR
SUPERINTENDENT OF REAL ESTATE

Superintendent's Column

Superintendent Ritenour Announces Resignation

By Margaret J. Ritenour, Superintendent

After nearly four years, I will be leaving my position as Superintendent of the Ohio Division of Real Estate in late February to pursue a new career opportunity.

As Superintendent, my goal has been to administer the real estate license laws in a consistent and fair manner to protect the public and to improve and enhance the real estate industry. One of the ways I have attempted to achieve this goal has been to educate and advise licensees of their responsibilities and duties under the license law. Hopefully, through the articles in this newsletter, speaking engagements, advisory letters, and answers to questions posed on our toll free number, the Division's staff and I have helped licensees in the practice of their profession.

The last four years have been incredibly busy ones for the Division and the industry. In 1986 interest rates dropped, sparking an upswing in the real estate market. As a result of this industry growth, more persons sought to enter the real estate profession.

Over the last few years, the Division has been active in legislative affairs and has made considerable strides to improve our license law and the functions of our office. During my tenure as Superintendent, the Division has accomplished the following:

- increased the number of broker and sales exams to meet the increased number of applicants
- developed new banks of test questions which will improve the quality and security of the tests
- tightened the criteria for approval of continuing education courses and the procedures for approval
- improved and expanded the automation of the Division's functions including the computerization of all enforcement records
- established endowment agreements with the University of Akron and the University of Cincinnati to support the real estate degree programs at these institutions
- promoted the passage of H.B. 470, which increased the educational requirements to become licensed
- assumed responsibility for regulation of the appraisal industry with the passage of S.B. 202

- established agency disclosure laws and instituted an education program to prepare licensees to comply with this new requirement
- developed five new brochures and an agency disclosure handbook, and improved the quality of the real estate newsletter
- amended many existing administrative regulations and introduced several new rules

The credit for accomplishing these goals belongs to many groups and individuals. The Ohio Real Estate Commission has initiated, assisted and provided support for many of the Division's programs. Former Director Kenneth Cox and current Director Linda K. Page have provided invaluable leadership. The real estate industry has also been largely responsible for the initiation and passage of our legislative accomplishments.

Finally, the Division's staff also deserves most of the credit for carrying out the Division's programs and fairly and consistently administering the real estate license law. These individuals are among the most dedicated, competent and professional employees you will find anywhere.

It has been a pleasure to meet and work with the licensees of the State of Ohio and the industry groups. Together, I feel we have done much to improve the professional image of the real estate industry and to protect Ohio's consumers.

ATTENTION BROKERS!

**Are you forwarding
copies of this newsletter
to your salespersons?**

Governor Celeste Appoints Appraiser Board

Governor Richard F. Celeste has appointed the five charter members of the Ohio Real Estate Appraiser Board. The Board, which will govern the appraiser certification process, was created under Ohio's recently enacted appraiser certification law.

The Board members and information on their experience is provided below:

- James T. Caldwell is a real estate appraiser with Buckholz, Caldwell & Associates, Inc. in Westlake, Ohio. In addition, he is President of the Cleveland Chapter of the Society of Real Estate Appraisers.
- Donald Casey Hambleton is a broker, appraiser, and real estate instructor. He is the former president of the Ohio Chapter of the American Institute of Real Estate Appraisers and the Canton Chapter of the Society of Real Estate Appraisers. Mr. Hambleton is also President and Chairman of the Board of the National Institute for Real Estate Consultants.
- Donald B. Leach, Jr. is a partner in the Columbus law

firm of Carlile Patchen Murphy & Allison. His areas of expertise are real estate banking and commercial law. Mr. Leach will be the Board's public member.

- William MacConnell is the owner of MacConnell & Co., a professional engineering appraisal firm in Cincinnati. In the past 20 years, the company has performed more than 8,000 appraisals. Mr. MacConnell is a graduate of the U.S. Naval Academy with a B.S. degree in engineering.
- Selma (Penny) Triplett is a real estate broker and has been an appraiser for more than 20 years. She is a lecturer and instructor at Malone College and the University of Akron-Wayne College. Ms. Triplett is the president-elect of the National Organization of Master Appraisers and was the 1988 chairman of the National Organization of Professional Real Estate Appraisers.

The first meeting of the Appraiser Board was held on December 17. At that meeting, public member Donald Leach was unanimously elected Chairman of the Board.

3 Reciprocity Agreements Ended

The Ohio Real Estate Commission cancelled Ohio's reciprocity agreements with New York, Nebraska, and Tennessee effective January 1, 1990. These agreements were cancelled because Ohio's additional educational requirements beginning this year are more comprehensive than the educational requirements of these three states.

Ohio continues to maintain reciprocity agreements with Kentucky and West Virginia.

Under these agreements, applicants who have obtained their license through examination in one of the states may qualify to have the exam waived in the other state. Please note that under these reciprocal agreements there are certain criteria that must be met before the examination can be waived. These requirements relate to length of time licensed, residency, etc. Because the reciprocal agreements with each of these states may vary somewhat, licensees interested in applying for a reciprocal license with Kentucky or West Virginia should contact the Ohio Division of Real Estate or the Real Estate Commission in the respective state.

The addresses for the Kentucky and West Virginia Real Estate Commissions are provided below:

STATE OF OHIO
DIVISION OF REAL ESTATE
DEPARTMENT OF COMMERCE
77 S. HIGH STREET, COLUMBUS, OHIO
43266-0547
614/466-4100
800/344-4100

The Ohio Real Estate Commission

PAUL J. EVERSON, President
JOHN C. KEALY
EDWARD J. KIZER
MARCELLUS H. SMITH
LOIS YEAGER

Dennis Ginty, Newsletter Editor

Kentucky Real Estate Commission
10200 Linn Station Road
Louisville, KY 40223
(502) 425-4273

West Virginia Real Estate Commission
1033 Quarrier Street—Suite 400
Charleston, WV 25301
(304) 348-3555

Test Results

Below are the examination statistics for the second half of 1989. Due to an increase in both sales and broker applications, extra exams were given in almost every month between July and December.

TEST DATE	BROKERS		
	TOTAL TESTED	TOTAL PASSED	PASS RATE
July	45	38	84%
August	66	61	92%
September	46	40	87%
October	41	34	83%
November	47	42	89%
December	158	146	92%

TEST DATE	SALES		
	TOTAL TESTED	TOTAL PASSED	PASS RATE
July	691	525	76%
August	919	638	69%
September	1,052	759	72%
October	774	584	75%
November	1,045	746	71%
December	1,808	1,282	71%

TEST DATE	FOREIGN REAL ESTATE SALES		
	TOTAL TESTED	TOTAL PASSED	PASS RATE
July	28	20	71%
August	22	12	55%
September	24	14	58%
October	27	14	52%
November	27	17	63%

No foreign real estate sales exams given in December.

Disciplinary Actions

Here is a summary of 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 licensees:

REVOCATION

JOSEPH C. RICE, broker, formerly of Cleveland, had his broker's license revoked for violating Section 4735.18(A)(5), (A)(6), (A)(24) and (A)(28) of the Ohio Revised Code. This revocation became effective September 27, 1989. Mr. Rice had a judgment entered against him in the Cuyahoga County Court of Common Pleas in the amount of \$10,000 plus costs. This is an unsatisfied final judgment which arose out of Mr. Rice's conduct as a licensed real estate broker. In a separate case, Mr. Rice issued a check from his real estate trust account which was returned due to insufficient funds. This check represented money given to Mr. Rice in a fiduciary capacity in connection with a buyer's agreement to lease a property.

In four separate transactions, Mr. Rice received earnest money from buyers in connection with their agreements to purchase properties. The buyers were unable to purchase the properties, and the sellers did not demand the earnest money. Mr. Rice failed, however, to remit the earnest money deposits to any of the buyers. In five transactions, Mr. Rice also failed to maintain copies of his trust account records, including earnest money receipts and/or receipts and disbursements of all funds for three years from the transaction dates.

SUSPENSIONS

JOANN DEAN, sales associate, Dayton, Ohio, had her sales license suspended for 30 days for violating Section 4735.18(A)(1) of the Ohio Revised Code. Due to mitigating circumstances, however, 20 days of the suspension were waived by the Commission. Ms. Dean began serving the 10-day balance of this suspension on December 8, 1989. After a buyer entered into an agreement to purchase a property, Ms. Dean received the results of a water test conducted on the property. The results indicated, that for a second time, the water had not been rated safe because of a high bacteria count. Ms. Dean failed to explain and/or disclose the results of this second water test to the buyer.

THORNTON B. FLORER, broker, Cincinnati, Ohio, had his broker's license suspended for 10 days for violating Ohio Revised Code Section 4735.18(A)(6), (A)(19) and (A)(21) as it incorporates Section 4735.16. However, due to mitigating circumstances, imposition of the suspension was waived by the Commission. Mr. Florer negotiated the sale of a property directly with the seller and/or the seller's legal counsel when he knew that there was a written outstanding contract granting exclusive agency to another real estate broker. Also, Mr. Florer advertised the subject property for sale and failed to include in these advertisements his name and the fact he is a licensed real estate broker.

LOUISE R. FORRER, broker, Northfield, Ohio, had her broker's license suspended for 30 days for violating Section 4735.18(A)(26) of the Ohio Revised Code. Due to mitigating circumstances, however, 20 days of the suspension were waived by the Commission. The 10-day balance of the suspension began on October 27, 1989. Ms. Forrer received an earnest money deposit from a

buyer in connection with the buyer's offer to purchase a property. Ms. Forrer deposited the earnest money into her real estate trust account; however, for approximately four months, she failed to maintain this money in the account.

GARDEN REALTY EAST, INC., broker, Euclid, Ohio, had its corporate broker's license suspended for six months for violating Section 4735.18(A)(6) and (A)(26) of the Ohio Revised Code. This suspension shall commence upon reinstatement of the corporate real estate broker's license. Garden Realty East received an earnest money deposit from the buyers of a property in connection with their agreement to purchase the property. However, the corporation failed to deposit and/or maintain this earnest money in its real estate trust account. Also, on three separate occasions, the corporation issued checks from its trust account which were returned by the bank due to insufficient funds. These checks represented money given to Garden Realty East in a fiduciary capacity.

JERRY HILLELSON, broker, Dayton, Ohio, had his broker's license suspended for 30 days for violating Section 4735.18(A)(6) and (A)(30) of the Ohio Revised Code. This suspension began on December 1, 1989. Mr. Hillelson failed, within a reasonable time, to pay a real estate salesperson his earned share of a commission received by Mr. Hillelson on the sale of the property.

HELEN HRYNDA, broker, Youngstown, Ohio, had her broker's license suspended for 60 days for violating Ohio Revised Code Section 4735.18(A)(1), (A)(6) and Ohio Administrative Code Section 1301:5-5-05 as it incorporates Section 4735.18(A)(4) of the Ohio Revised Code. However, due to mitigating circumstances, 30 days of the suspension were waived by the Commission. Ms. Hrynda began serving the 30-day balance of the suspension on December 8, 1989. Ms. Hrynda prepared an offer to purchase and submitted it to the listing brokerage. However, she failed to provide an agency disclosure form noting who she was representing signed by the buyer.

In a separate transaction, Ms. Hrynda prepared an offer in which she represented that she had received a \$500 cash earnest money deposit. However, Ms. Hrynda only received \$100 cash and a promissory note for \$400 from the buyer. Furthermore, Ms. Hrynda did not deposit the \$100 cash earnest money she received in a fiduciary capacity into her trust account within a reasonable time.

DOLORES L. MARKS, broker, Kettering, Ohio, had her broker's license suspended for 15 days for violating Section 4735.18(A)(6) and (A)(30) of the Ohio Revised Code. This suspension began on December 1, 1989. Ms. Marks failed, within a reasonable time, to pay a real estate salesperson her earned share of a commission received by Ms. Marks on the sale of a property.

CALEB S. MORRIS, broker, Shaker Heights, Ohio, had his broker's license suspended for 30 days for violating Section 4735.18(A)(5), (A)(6) and (A)(26) of the Ohio Revised Code. This suspension began on December 8, 1989. Mr. Morris received two earnest money deposits in connection with a buyer's offers to purchase two properties. Mr. Morris failed to maintain these deposits in his real estate trust account. Both real estate transactions closed without the deposits being applied to the purchase price of either property. The buyer requested that Mr. Morris return the earnest money deposits, however, Mr. Morris failed to remit this money in a timely manner.

JAY MORRIS, sales associate, Englewood, Ohio, had his sales license suspended for 10 days for violating

Disciplinary Actions

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Section 4735.18(A)(6) of the Ohio Revised Code. However, due to mitigating circumstances, imposition of the suspension was waived by the Commission. Mr. Morris received money from the seller of a property which was to be used to purchase a home warranty plan for the benefit of the purchasers. However, Mr. Morris failed to purchase the home warranty plan.

RICHARD A. REINHORN, sales associate, Columbus, Ohio, had his sales license suspended for 30 days for violating Sections 4735.18(A)(6) and (A)(9) as it incorporates Ohio Revised Code Section 4735.02. This suspension began on August 30, 1989. Mr. Reinhorn submitted an offer to purchase a property at a time when he was not licensed as a real estate sales associate. In the offer, he represented himself to be the agent for the buyer, represented that he was a broker, and requested a commission as the procuring agent.

ANGELA SKUR, sales associate, Euclid, Ohio, had her sales license suspended for 30 days for violating Section 4735.18(A)(6) of the Ohio Revised Code. However, due to mitigating circumstances, 15 days of the suspension were waived by the Commission. Ms. Skur began serving the 15-day balance of this suspension on December 8, 1989. On three separate occasions, Ms. Skur caused checks to be issued from her broker's real estate trust account which were returned due to insufficient funds. These checks represented money given to Ms. Skur's broker in a fiduciary capacity.

SULPHER SPRINGS REALTY, INC., broker, Toledo, Ohio, had its corporate broker's license suspended for 10 days for violating Section 4735.18(A)(6) of the Ohio Revised Code. Due to mitigating circumstances, however, imposition of this suspension was waived by the Commission. Sulpher Springs Realty, Inc., acting through its authorized officers, agents, and/or employees, received an earnest money deposit in connection with a purchase agreement. The corporate brokerage received this money in its fiduciary capacity and unreasonably delayed depositing it into its real estate trust account.

Later, the brokerage disbursed the earnest money to the buyer of the property without a mutual release, and without the consent of the seller.

RECOVERY FUND ACTIONS

The following persons had their real estate licenses automatically suspended pursuant to Section 4735.12(E) of the Ohio Revised Code. These suspensions were a result of payments made from the Real Estate Recovery Fund:

Isabella Jones	\$640.55	Paid on 09/27/89
Dale Jones	\$25,410.00	Paid on 09/27/89
Dale Jones	\$7,590.00	Paid on 09/27/89
Elaine Clark	\$13,200.00	Paid on 09/27/89
Duane Miller	\$2,500.00	Paid on 10/23/89
Wayne Joyce	\$2,506.00	Paid on 11/06/89
Duane Miller	\$8,000.00	Paid on 11/22/89

Upcoming Test Dates

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

	SALES COLUMBUS/CLEVELAND		BROKERS COLUMBUS
February	7	15,16	12
March	7	22	12
April	4	19	9

(Additional exams will be added if warranted)

FOREIGN REAL ESTATE SALES

February	6, 20
March	6, 20
April	3, 17

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.

State of Ohio
Department of Commerce
Division of Real Estate
77 S. High Street
Columbus, Ohio 43266-0547

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