



**The Ohio
Department
of Commerce**

Fall 2000

Division of

Real Estate and Professional Licensing

◆ N E W S L E T T E R ◆

**HB 524
OVERVIEW
INSIDE**

Bob Taft
GOVERNOR

Gary C. Suhadolnik
DIRECTOR

Lynne Hengle
SUPERINTENDENT

Superintendent Reflects on Eventful First Year at the Division

Dear Real Estate Professional:

June 1, 2000 marked my one year anniversary as Superintendent of the Division of Real Estate and Professional Licensing. With the help of the real estate industry and the Division's hard working staff, we have achieved a great deal so far. To keep you up to date on the Division's activities, I'd like to summarize for you some of our accomplishments and highlight some of our ongoing projects.

The culmination of the past year was the passage of the first major changes to Ohio real estate license law since 1987. This new law, which received the strong support of the Ohio Association of Realtors (OAR), contains license law changes that reflect the developments in the industry and the marketplace during the last 13 years. Additionally, the Division is in the process of adopting rules to harmonize the implementation of these license law changes. To keep you aware of the most current license laws and administrative rules, the Division is publishing an update to the Real Estate Law and Regulations (Red Book). We expect the books to be available for sale in early October.

In addition to the law changes, the Division has been embracing and utilizing technology to improve customer service to the industry and to the public. As I hope you have noticed, we have been working hard to make it simpler and faster to transact business with the Division.

An example of our desire to incorporate technology is the new electronic testing process to allow applicants for the real estate sales, broker or appraiser license to schedule



their test at their convenience and take the test closer to home. Gone are the days of applicants driving long distances to Columbus or Cleveland to take a paper and pencil examination that was only offered once a month.

Now our new test administrator, Experior Assessments, LLC offers the computerized exam at least five days a week at 11 locations around Ohio and nine locations in our bordering states.

We are also utilizing our web site as a valuable resource for licensees to obtain interactive forms, bulletins and licensure information. Additionally, the Division is participating in a pilot credit card program for our walk-in customers. Our goal is to continue marching towards the day when a licensee can renew his/her license and remit fees online.

We are also exploring ways to utilize distance education as it relates to continuing education courses. The Division has established a focus group of real estate industry leaders and professionals to look into the types of courses that may be fitting for distance education and the possible methods of delivery, such as the Internet, telecommunications and CD ROM.

And as we all know, Internet advertising is having a profound influence on how real estate business gets done today. To make it

clear to licensees how Internet advertising should be conducted, the Division adopted an administrative rule that protects consumers from inaccurate and/or misleading advertising.

Hold on to your seats. If the last 12 months weren't exciting enough, we've got more in store. By November 1st of this year, we plan to have the staggered license renewal program in place. As part of the staggered renewal process, the Division has purchased the necessary software and hardware to compile and track information in a more user friendly and efficient format. Beyond this phase, the Division is committed to completing two other components: an Internet interface and an imaging system. When complete, the Internet interface will afford the Division the ability to:

- accept applications and renewals online
- electronically accept fees and signatures
- provide licensees with public information such as license information, continuing education courses and locations and status of credit hours.

We also anticipate being able to have continuing education providers transmit course completion certification electronically.

I hope this overview provides you with an idea of where the Division is heading. I continue to encourage you to provide us with your input and ideas; we remain ready and willing to listen!

Sincerely,

•Signed June 22, 2000—Effective September 22, 2000!

Modernization of Terms and Definitions

House Bill 524 modernized not only laws and procedures, but also terms and definitions. It eliminated some terminology licensees were familiar with, such as “escrow,” “cancel,” and “reinstate,” and instituted other terminology licensees will need to learn. The charts below summarize the language changes. Text of the bill and rules is available online at www.com.state.oh.us/real/.

Definitions of Licensed Activity
Included in 4735.01 (A) <ul style="list-style-type: none">Limited Liability CompaniesLimited Liability Partnerships
Excluded in 4735.01 <ul style="list-style-type: none">Brokering sale of business assets, unless real estateSale of manufactured homes per 3781.06(C)(4), unless real estate includedSale of mobile homes per 4501.01(O), unless real estate included

Status of Licensure	
Inactive <ul style="list-style-type: none">For salespeopleNo association with a brokerAnnual renewal requiredContinuing Education requiredIndefinite	“On Deposit” <ul style="list-style-type: none">For brokersAnnual renewal requiredContinuing Education requiredIndefinite
Suspended <ul style="list-style-type: none">Failure to renew, submit education, comply with citationsDisciplinary sanctionCannot provide licensed services12 month maximum	Revoked <ul style="list-style-type: none">License is voidLicense is not eligible for reactivationTo get a new license, must complete all requirements for initial licensure

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Terminology	
Added <ul style="list-style-type: none">ReactivateInactive, On Deposit, or Suspended StatusNotice of Renewal	Removed <ul style="list-style-type: none">Cancelled Status, CancellationReinstatementEscrowCertificate of Continuation

Brokers License on Deposit 4735.13 & 1301:5-1-07
<ul style="list-style-type: none">No FeeAutomatic, when broker license is returned to the DivisionMust give notice to salespersons when applying to place license on deposit 4735.13(E)May remain on deposit indefinitely, if:<ul style="list-style-type: none">Compliant with continuing education requirements of 4735.141License is renewed per 4735.14 and 1301:5-1-20May be reactivated at any time by the licensee upon proper application

Salesperson’s License in an Inactive Status
<ul style="list-style-type: none">No FeeAutomatic, when license is returned to the DivisionMay remain inactive indefinitely, if:<ul style="list-style-type: none">Compliant with continuing education requirements of 4735.141License is renewed per 4735.14 and 1301:5-1-20May be reactivated at any time by the licensee upon proper application

ATTENTION BROKERS!
If you have a branch office not receiving this newsletter, please notify Customer Service at (614) 466-4100

License Return Requirements Expanded

With the implementation of House Bill 524 and associated administrative rules comes changes to the process and requirements for returning a salesperson's real estate license. Effective September 22, 2000:

- A salesperson may directly make a written request for the return of his/her license. Within three business days of written notice being received by the salesperson's broker, the broker must return the license to the Division. Should the Division be

provided a copy of the written request for the return of a sales license, but the broker fails to return the license to the Division within three business days of the broker's receipt of the notice, the broker's conduct will be considered prima facie evidence of misconduct.

- Unless requested by the salesperson or the Division, within three business days of a broker returning a salesperson's license to the Division, the broker must notify the

salesperson that the license is being returned and that it will be placed in an inactive status. The notification of license return must also inform the salesperson that the license can be reactivated, provided all renewal and education requirements have been met.

- If applying to deposit the broker's license with the Division will result in the closing of the brokerage, the broker must give written notice of this fact to all salespeople.

Order forms for the updated *Real Estate Rules & Regulations (Red Book)* are online at our Website. The books will be available in early October.

New Advertising Citation System

HB 524 creates a citation system, by which clear-cut advertising violations will be handled expeditiously. This will allow a licensee to handle the violation without a formal hearing with a hearing officer or a hearing before the Real Estate Commission.

When prima facie evidence of a violation of advertising statutes or rules exists, the Superintendent may issue personally, or by certified mail, a citation upon the licensee.

Each citation will contain the following:

- Notice of the violation charged, the opportunity to request a hearing, and a statement of a fine of \$200 per violation, with a maximum of \$2,500 per citation.
- If the licensee does not request a hearing within 30 days of the issuance of the citation, the citation becomes final. The licensee has an additional 30 days from the date the citation becomes final to pay the fine. If the fine is not paid, the licensee's license is automatically suspended.
- If any licensee is cited three times within 12 consecutive months, the disciplinary sanction process will be initiated for any additional violation within that same 12 month period.

House Bill 524 and Rules Change Education Requirements

House Bill 524's modernization of real estate law will change the way licensees are educated, both before and after licensure. The bill leaves intact the current pre-licensure education requirements for a broker applicant licensed as a salesperson prior to August 1, 2001 and for salespeople beginning instruction prior to August 1, 2001. The changes will be instituted thereafter.

The total hours of pre-licensure education will remain the same, at 120, but the distribution of those hours will change. Concerns from the academic community spurred the change from a 30 to a 40 hour class on real estate laws; from a 30 to a 40 hour class on principles and practices; from a 30 to a 20 hour class on finance; and from a 30 to a 20 hour class on appraisal. The bill also updates the broker and salesperson

examination procedures to accommodate the new outside testing vendor and requires that an applicant be tested within 12 months of the notice of eligibility from the testing vendor.

Continuing education requirements will change slightly as well. If continuing education is not submitted to the Division within 12 months (reduced from 24 months) from the date the license was suspended for failure to submit continuing education, the license is automatically revoked. The bill removed language requiring that all continuing education courses be taken in a classroom setting, which will provide for the possibility of distance learning in the future. In conjunction with the changes made by the bill, an administrative rule will soon permit licensees to "carry over" up to ten (10) hours of continuing education credits.

REMINDER!

Please consult your Summer 2000 Newsletter for information regarding staggered renewal fees and education due dates

Reciprocity Reached With Other States

The Division has negotiated real estate licensure reciprocity with five states: Arkansas, Kentucky, Nebraska, Oklahoma, and Wyoming. If you have any questions regarding securing an Ohio real estate license through a reciprocal state, contact the Division's Testing Section or reference our website. Ohio licensees seeking licensure in any of the reciprocal states should contact that state's Real Estate Division.

BE ADVISED:

When transferring or reactivating your license, you cannot provide any real estate related services until such time as the Division issues your new license. The date your license is issued will be reflected on the license itself. Conducting business prior to your license being issued by the Division can result in disciplinary action being taken against both the involved salesperson and the broker. Contact the Division if there is any question as to the date your license is issued.

Robert W. Patchen Named Assistant Superintendent

Robert (Rob) Patchen joined the Division on June 5th as Assistant Superintendent. He replaces Bill Damschroder, who accepted a legal position with the Department of Commerce, Division of Administration.

Before joining the Division, Rob served as the Chief of the Bureau of Operations and Maintenance for the Division of Industrial Compliance. He also formerly served as that Division's chief counsel

and Chief of the Bureau of Licensing and Certification.

From 1986 to 1995, Rob was an Assistant Attorney General, representing the Bureau of Underground Storage Tank Regulations and numerous state boards and commissions.

Rob earned his BBA degree from the University of Notre Dame and his Juris Doctor degree from the University of Toledo College of Law.

New Canons of Ethics Adopted

On February 16, 2000, the Ohio Real Estate Commission adopted new canons of ethics as a result of the recommendations of the Canons of Ethics Task Force.

The Commission elected to change the Canons in order to remove redundancy between them and the already established Ohio Real Estate statute. The overlap between the Canons and the statute created some confusion, and the task force recommended that the Canons be purely aspirational, separate and distinct from the statute.

When House Bill 524 was signed, another recommendation of the task force became law. From now on, continuing education instructors will be required to

teach O.R.C. Section 4735.18 in the ethics course. Furthermore, two new disciplinary sanctions were added. They are:

- 4735.18(A)(35): "Having knowingly inserted or participated in inserting any materially inaccurate term in a document, including naming a false consideration."
- 4735.18(A)(36): "Having failed to inform the licensee's client of the existence of an offer or counter offer or having failed to present an offer or counter offer in a timely manner, unless otherwise instructed by the client, provided the instruction of the client does not conflict with any state or federal law."

More Advertising Basics: Advertising Agent Owned Property

Licensees advertising their own property for sale, lease, rental, or exchange, must be aware of some very basic requirements. These basic requirements are set forth in O.R.C. Section 4735.16.

When advertising your own property and the property is NOT listed with your brokerage:

- All advertising must contain the licensee's name as it appears on the license to conduct business.
- There must be some indication that the person is a real estate licensee.

For illustration purposes, we have John Doe, as sales agent with Sunshine Realty, selling his own property. He does not have it listed with any broker. When advertising this property, he must include in the advertisement his licensed name and some identification of his licensed

status. He can do this in a number of ways. All of the following are compliant with real estate license law:

- John Doe, owner/agent
- John Doe, real estate agent
- John Doe, REALTOR (provided John Doe is indeed a REALTOR)

When advertising your own property, and the property IS listed with your brokerage:

- All advertising must contain the licensee's name as it appears on the license to conduct business.
- If the licensee is a salesperson, the name of the brokerage must appear in at least equal prominence to that of the salesperson.
- If the licensee is a broker, the brokerage name must also appear in the advertisement. The equal

prominence provision does not apply to this situation.

Examples of when John Doe lists the property through his brokerage:

- John Doe/Sunshine Realty
- John Doe, agent, Sunshine Realty
- John Doe, agent/owner, Sunshine Realty

These examples are not meant to be exhaustive. There are many ways an agent may disclose license status, and if necessary the name of the brokerage, to be in compliance with real estate license law.

The advertising provisions in real estate license law outline the minimum information necessary for advertising real estate for sale. It should be noted that brokers may impose additional advertising requirements, or disclosures, for an agent's advertising.

Common Complaints

Every year, a wide variety of appraisal related complaints are investigated by the Division's Cleveland Office. Some of the more common complaints investigated include allegations that:

- The estimate of the market value of the subject property is either too low or too high.
- The appraiser has acted as an advocate of the client by providing an estimate of market value that reflects what the client needs instead of an objective opinion.
- Comparables were used that were not representative of the subject property when better suited comparables were available.
- The physical condition of the property was not accurately represented.
- The appraiser failed to verify market data received from a secondary source, such as the MLS, PACE, and Metroscan.
- Information on a previous sale or the listing history of the subject property was not disclosed.
- The appraiser failed to disclose that significant professional assistance of another was used in preparing the report.
- Inconsistent units of comparisons were utilized, such as comparing a ranch to a colonial.

- The appraiser failed to do a before and after value in eminent domain or takings situations.
- An inappropriate conclusion was rendered regarding the highest and best use of a commercial, industrial or agricultural property.

There must be objective violations of appraisal law before the Division can take action. Complaints that focus on an appraiser's subjective opinion when the appraisal is objectively proper will not result in charges against an appraiser. To discuss these distinctions in appraiser's performance guidelines, you may contact our Cleveland Office at (216) 787-3100.

Appraiser Disciplinary Actions

DONALD W. CONN, a licensed residential appraiser from Celina, Ohio, was issued a formal reprimand for violating Ohio Revised Code Section 4763.11 (G)(5) as it incorporates the USPAP Standards Rule 2-2 (b)(x). In developing a real estate appraisal on agricultural property, Mr. Conn failed to explain and support the reason for excluding the income approach in his valuation analysis.

LEROY RICHARDS, a certified general real estate appraiser from Cleveland Heights, Ohio, had his certification suspended for thirty (30) days for violating Ohio Revised Code Section 4763.11 (G)(6) and (7). The suspension commenced on July 1, 2000. He was also required to complete a fifteen (15) hour course in the Uniform Standards of Professional Appraisal Practice. In developing a real estate appraisal, Mr. Richards failed to accurately disclose the type of inspection he performed and the specific role and identity of personnel furnishing professional assistance.

TONY L. WILLIS, a certified general real estate appraiser from Cleveland, Ohio, had his certification suspended for three (3) months for violating Ohio Revised Code Section 4763.11 (G)(5) as

it incorporates USPAP Standards Rule 1-1 (b)(c), and Ohio Revised Code Section 4763.11 (G)(7). This suspension will commence upon Mr. Willis fulfilling all requirements issued in regards to a previous disciplinary action. In developing an appraisal, Mr. Willis failed to report an active listing of the subject property; failed to note the reporting option utilized; and used inappropriate sales comparison adjustments. In a separate case, Mr. Willis had his certification suspended for an additional three (3) months, to run consecutively with the most recent previous suspension. Mr. Willis was found to have violated Ohio Revised Code Section 4763.11 (G)(5) as it incorporates USPAP Standards Rules 1-1 (b) and (c) and Section 4763.11 (G)(7). In developing a real estate appraisal, Mr. Willis produced an appraisal report that contained inaccurate data and non-existent comparable sales.

RONALD M. POPEK, a certified residential appraiser from Cleveland, Ohio, had his certification suspended for fifteen (15) days for violating Ohio Revised Code Section 4763.11 (G)(5) as it incorporates USPAP Standards Rule 1-1 (c) and Ohio Revised Code Section 4763.11 (G)(7). The suspension commenced on July 1, 2000. He was also

required to complete a fifteen (15) hour course on the Uniform Standards of Professional Appraisal Practices. While performing a review appraisal, Mr. Popek neglected to verify data in the appraisal report that contained inaccurate and misleading information.

ANNETTE LAWRENCE, a certified residential appraiser from Euclid, Ohio, was issued a formal reprimand for violating Ohio Revised Code Section 4763.11 (G)(5), (6), and (7). She was also required to complete a fifteen (15) hour course on the Uniform Standards of Professional Appraisal Practices. In developing a real estate appraisal, Ms. Lawrence was found to have been careless and negligent for having failed to exercise due diligence in verifying the accuracy of market data used.

ATTENTION BROKERS!

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

Real Estate Disciplinary Actions

REVOCATIONS

ROBERT A. INGBRITSON, sales associate, Solon, Ohio, had his license revoked for violating four counts of Section 4735.18(A)(6) and one count of Section 4735.18(A)(29) of the Ohio Revised Code. Mr. Ingebritson had a judgment obtained against him, which remains unsatisfied. He failed to remit an earnest money deposit to his broker for placement into the brokerage's trust account, but utilized the funds for purposes other than that for which they were intended. He failed to provide his broker with forms related to real estate brokerage transactions and he collected money in his capacity as a real estate agent, in connection with various transactions. These funds he deposited into an account other than his broker's trust account.

INTEGRITY CONCEPT GROUP, Ltd., dba BUYER'S PREFERENCE, corporation, South Euclid, Ohio, had its corporate license revoked for violating Sections 4735.18(A)(6) and (A)(24) of the Ohio Revised Code. The corporation failed to maintain complete records of all real estate brokerage transactions.

GUSTAV J. SIMON, broker, South Euclid, Ohio, had his broker's license revoked for violating two counts of Section 4735.18(A)(6) and one count of Section 4735.18(A)(24) of the Ohio Revised Code. Mr. Simon failed to maintain complete records of all real estate brokerage transactions. In addition, he failed to personally oversee and direct the operations of the brokerage; thereby permitting the use of his license for the benefit of another.

HOWARD B. STITT, sales associate, Cadiz, Ohio, had his sales license revoked for violating Section 4735.18(A) of the Ohio Revised Code. Mr. Stitt was convicted of theft in office, in violation of Ohio Revised Code Section 2921.41 in Harrison County Common Pleas Court in case number 99-209-CR. Mr. Stitt acquired a new computer in a scheme he orchestrated with a county vendor. The computer was used for personal use, but Mr. Stitt never reimbursed the county for the computer.

SUSPENSIONS, FINES, EDUCATION

JAMES F. ORMOND, broker, Granville,

Ohio, had a \$100.00 fine levied against his license for violating Section 4735.18(A)(21) of the Ohio Revised Code. Mr. Ormond listed property for sale and proceeded to advertise the property as having a full basement and two full baths. However, this information was incorrect.

RON V. HOBELMAN, broker, Hilliard, Ohio, had \$1,500.00 in fines levied against his license and was required to complete and to submit proof of completion of the ten (10) hour brokerage post-licensure course for violating two counts of Section 4735.18(A)(6) of Ohio Revised Code, one as it incorporates Ohio Revised Code Section 4735.58(A), and for violating Ohio Revised Code Section 4735.18(A)(20). Mr. Hobelman advertised property for sale without the knowledge or consent of the owner. In addition, he advertised and marketed the property for sale prior to preparing and submitting to the owner, for approval, an Ohio agency disclosure form.

P. R. A. REALTY, INC., corporation, Columbus, Ohio, had a \$100.00 fine levied against the corporate license for violating Section 4735.18(A)(6) of the Ohio Revised Code. The corporation allowed or caused an agent to engage in conduct requiring a real estate license on behalf of the brokerage during a period of time when the agent's license was in a cancelled status.

LYNNE M. WITTMAN, broker, Pickerington, Ohio, had a ten (10) day suspension of her license, which commenced on April 17, 2000, a \$1,000.00 fine levied against her license, and was required to complete and to submit proof of completion of the ten (10) hour brokerage post-licensure course for violating two counts of Ohio Revised Code Section 4735.18(A)(6). Ms. Wittman failed to provide purchasers with an Ohio agency disclosure form as required by Ohio Revised Code Section 4735.58(B). In addition, she prepared an agreement for the purchase property and on the contract acknowledged receipt of a sum of money, which per the terms of the contract, was to be deposited by her, in her brokerage trust account, upon acceptance. However, Ms. Wittman never attempted to deposit the check for the earnest money, although it was

required by the purchase contract.

JAMES T. STOTTS, sales associate, Cincinnati, Ohio, had a \$500.00 fine levied against his license 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 Section 4735.18(A)(6) as it incorporates Ohio Revised Code Section 4735.58(B). Mr. Stotts prepared an offer for the purchase of property, and in connection with the offer he prepared and submitted to the parties a dual agency disclosure statement. However, prior to that time, he failed to prepare and submit to the purchasers an Ohio agency disclosure form.

COREY M. HAZEL, sales associate, Worthington, Ohio, had a thirty (30) day suspension of his license, which commenced on April 17, 2000, a \$1,000.00 fine levied against his license, and he was required to complete and to submit proof of completion of the ten (10) hour sales post-licensure course for violating four counts of Section 4735.18(A)(6) of the Ohio Revised Code, one as it incorporates Ohio Revised Code Section 4735.58(C), and for violating Sections 4735.18(A)(1) and (A)(14) of the Ohio Revised Code. Mr. Hazel prepared an offer and submitted the offer to the seller, without preparing and submitting an Ohio agency disclosure form. In addition, he prepared an offer that called for an earnest money deposit. However, he failed to have the earnest money deposited into the brokerage's trust account due to the purchaser advising that there were insufficient funds available, and he further failed to promptly convey this material information regarding the status of the earnest money to the seller. In another transaction, in connection with the closing, a check was issued to Mr. Hazel, of which payment was not disclosed on the purchase agreement. Finally, he represented that a property had homeowner's insurance, when this information was incorrect.

ALMEDA C. PRINCE, sales associate, Worthington, Ohio, had a \$500.00 fine levied against her license and was required to complete and to submit proof of completion of a three hour course on agency law for violating Section 4735.18(A)(6) of the Ohio Revised Code.

Ms. Prince failed to complete the in-company portion of the agency disclosure form in connection with an offer to purchase property listed by Ms. Prince, in which the purchasers were represented by another agent within the same brokerage.

DIANA J. EYINK, broker, Celina, Ohio, had a twenty (20) day suspension of her license, which commenced on May 22, 2000, a \$1,000.00 fine levied against her license, and was required to complete and to submit proof of completion of the ten (10) hour brokerage post-licensure course for violating three counts of Ohio Revised Code Section 4735.18(A)(6). Ms. Eyink entered into a written agency agreement (listing) for property that did not contain the specific fair housing language required by Section 4735.55 of the Ohio Revised Code. She also entered into a written agency agreement (exclusive buyer representation agreement) that did not contain the specific fair housing language required by Section 4735.55 of the Ohio Revised Code. Finally, Ms. Eyink prepared and submitted an Ohio agency disclosure form to potential buyers, after showing them property.

DEBRA M. DICKENS, broker, Ironton, Ohio, had a \$250.00 fine levied against her license 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 Section 4735.18(A)(6). Ms. Dickens' brokerage marketed a property for sale without first having prepared and submitted to the seller an Ohio agency disclosure form as required by Ohio Revised Code Section 4735.58(A).

ELIZABETH A. KEATING, sales associate, Ironton, Ohio, had a \$250.00 fine levied against her license 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 Section 4735.18(A)(6). Ms. Keating entered into a written agency agreement that did not contain the specific fair housing language required by Section 4735.55 of the Ohio Revised Code Section.

RHONDA M. BROWN, sales associate, Cambridge, Ohio, had a \$250.00 fine levied against her license 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 Section 4735.18(A)(6) as it

incorporates Ohio Revised Code Section 4735.71. Ms. Brown listed a property for sale with her brokerage, and in connection with this listing agreement, at the time, gave the sellers a dual agency disclosure statement. At this time, no dual agency was in existence. Thereafter, a dual agency situation was created when an offer to purchase was submitted. However, she did not prepare and submit a dual agency form to the sellers. She had prematurely submitted the form to the sellers previously.

KEITH L. BROWN, broker, Columbus, Ohio, had a \$250.00 fine levied against his license and was required to complete and to submit proof of completion of a three (3) hour course on agency law for violating Ohio Revised Code Section 4735.18(A)(6). Mr. Brown listed property for sale through his brokerage, but failed to provide the seller with an Ohio agency disclosure form prior to marketing or showing the property.

LYDIA S. MONTALVO, sales associate, Parma, Ohio, had a \$500.00 fine levied against her license 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 Section 4735.18(A)(6). Ms. Montalvo prepared an offer for the purchase of property, and in connection with this offer she was given a promissory note as an earnest money deposit. The note was to be redeemed within three (3) days after acceptance. There was an accepted agreement, but the note was not redeemed within the time frame specified and Ms. Montalvo did not convey this information to the sellers or their agent until over two weeks after the note was to be redeemed.

HARBOUR HOMES REALTY, INC., corporation, Vermilion, Ohio, had a \$1,000.00 fine levied against the corporate license for violating Sections 4735.18(A)(6) and (A)(11) of the Ohio Revised Code. In connection with a real estate brokerage transaction, the corporation paid a referral fee to an individual who did not have a real estate license.

LOUISE C. WOehrLE, broker, Vermilion, Ohio, had a fifteen (15) day suspension of her license, which commenced on June 26, 2000, a \$500.00 fine levied against her license, and was required to complete and to submit proof of completion of the ten (10) hour brokerage post-licensure course for

violating Sections 4735.18(A)(6) and (A)(11) of Ohio Revised Code. In connection with a real estate brokerage transaction, Ms. Woehrle paid a referral fee to an individual who did not have a real estate license.

E. G. LEWIS, broker, Dayton, Ohio, had a \$1,000.00 fine levied against his license and was required to complete and to submit proof of completion of the ten (10) hour brokerage post-licensure course for violating Sections 4735.18(A)(6) and (A)(10) of the Ohio Revised Code. Mr. Lewis demanded, by way of a counterclaim, a real estate commission without reasonable cause and to which he was not entitled.

DANIEL A. LEPKOWSKI, sales associate, Toledo, Ohio, had a five (5) day suspension of his license, which commenced on June 26, 2000, a \$1,000.00 fine levied against his license, and was required to complete and to submit proof of completion of the ten (10) hour sales post-licensure course for violating Sections 4735.18(A)(6), (A)(9) and (A)(21) of the Ohio Revised Code. Mr. Lepkowski published advertising, which failed to display his broker's name in at least equal prominence with his name, and continued to publish such advertising even after being cautioned by the Division.

PREMIER REALTY, L.L.C., corporation, Toledo, Ohio, had a \$1,500.00 fine levied against the corporate license for violating Ohio Revised Code Section 4735.18(A)(6) as it incorporates Ohio Revised Code Section 4735.16(B). In connection with a real estate brokerage transaction, the corporation permitted a licensee to publish advertising which failed to display the company's name in at least equal prominence with the licensee's name and continued to permit such advertising even after being cautioned by the Division.

MARK SCHECTER, sales associate, Middleburg Heights, Ohio, had a five (5) day suspension of his license, which commenced on June 26, 2000, a \$500.00 fine levied against his license, and was required to complete and to submit proof of completion of the ten (10) hour sales post-licensure course for violating two counts of Section 4735.18(A)(6) of the Ohio Revised Code. Mr. Schecter listed property for sale with his brokerage. The written agency agreement did not contain the specific fair housing language

required by Section 4735.55 of the Ohio Revised Code. In addition, a contract to purchase property was entered into and the transaction closed; however, Mr. Schecter never provided the purchaser an Ohio agency disclosure form.

THOMAS A. HUGHES, sales associate, Mayfield Village, Ohio, had a fifteen (15) day suspension of his license for violating Section 4735.18(A)(6) of the Ohio Revised Code. However, due to mitigating circumstances, imposition of the suspension was waived by the Ohio Real Estate Commission. Mr. Hughes assisted a couple seeking to purchase a home; however, a written agency agreement was not entered into and he further neglected to disclose to the couple that he or his broker charged a service fee, and what the fee would be for his services. Through his broker, he demanded compensation, even though he had no prior agreement with the buyers relating to such compensation.

Cease and Desist Orders Issued

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/companies have been issued Cease and Desist Orders:

Auction By Owner

1330 Reed Ave. #4
San Diego, CA 92109

Trinity Mortgage

9466 Dayton-Lebanon Pike
Centerville, OH 45459

Linda Connolly

Jones Lang LaSalle Americas, Inc.

3500 Piedmont Rd. Suite 600
Atlanta, GA 30305

Michael Lampers, Sr.

854 Martindale Dr.
Tallmadge, OH 44278

Benchmark Properties, Inc.

630 Hay Ave.
Brookville, OH 45309

William Andrews

No Place Like Home

23950 S. Woodland
Shaker Heights, OH 44122

MAGTECH Services, Inc.

604 Ft. Wayne Ave.
Indianapolis, IN 46204-1307



**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 43266-0547

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