



**The Ohio  
Department  
of Commerce**

Spring 2001

Division of

# Real Estate and Professional Licensing

◆ N E W S L E T T E R ◆

Bob Taft  
GOVERNOR

Gary C. Suhadolnik  
DIRECTOR

Lynne Hengle  
SUPERINTENDENT

## ◆ *The Ohio Real Estate Commission Up Close*

# Division Highlights OREC Activities

**S**ure, we all know President Owen Hall, Commissioner Cheryl Churchill, Commissioner Dale Marks, Commissioner George Sarap and Commissioner Lois Yeager. But do we know what they really do each month, as part of the Ohio Real Estate Commission?

The Ohio Real Estate Commission has been in existence since 1927 and was originally composed of three commissioners. Today, the Commission consists of five members that are appointed by the Governor with the advice and consent of the Senate. Four of the Commissioners were engaged in the real estate business as a licensed broker for at least ten years immediately preceding their appointment. One Commissioner represents the public.

For administrative purposes, the Commission is part of the Ohio Department of Commerce, Division of Real Estate & Professional Licensing and the Superintendent of the Division serves as the executive officer of the Commission.

### ***Obligations of the Commission***

The Commission is best known for its monthly review of hearing examiner reports regarding licensee violations of license laws and its consideration of licensee appeals on licensure issues. In addition to these activities, the Commission is charged with adopting a canons of ethics for the real estate industry, administration of the education and research fund, review of real estate education courses, dissemination to the public and licensees

information relative to the Commission's activities and decisions and notifying licensees on changes in state and federal civil rights laws. Finally, the Commission adopts all real estate rules that are included in the Ohio Administrative Code.



*From left: Commissioners Marks, Churchill, Hall, and Sarap. Commissioner Yeager not pictured.*

### ***The Commission Cannot...***

Although it appears there is much the Commission can do, there are certain issues that the Commission is without jurisdiction to address. For example, the Commission cannot award any form of monetary damages to a complainant. Even if a settlement is reached between a complainant and licensee, the Commission and Division will continue to investigate suspected violations of license law. Furthermore, complaints against a local board, contractual and civil issues are also not within the Commission's jurisdiction to review. Simply put, the Commission can only

review matters that pertain to a licensee and the administration of license law and once such a review is initiated, any settlement between interested parties is not considered.

### ***Hearings Before the Commission***

Clearly, the Commission hopes never to see any licensee appear before it for disciplinary purposes. Should a licensee need to appear before the commission, here is a description of the hearing procedure and a few tips to demystify and simplify the hearing process.

There are three general types of hearings the Commission conducts: 1) An appeal of the denial of an application to be licensed; 2) The review of the Superintendent's determination to close an investigative file without further action; 3) The review of the hearing officer's report following a formal hearing.

Each case before the Commission is scheduled for a 15-minute hearing. The allocated time for each hearing is divided equally between the parties appearing before the Commission. Prior to the Commission meetings, each Commissioner reviews detailed written summaries of each case and has copies of pertinent reports and documents. Because the Commissioners are familiar with the issues of each case, they look for licensees and witnesses to testify only as to new information or mitigating factors that may affect the Commission's determination.

# Payment of Real Estate Commissions Clarified

The Division of Real Estate often receives inquiries about payment of real estate commissions. Many of the questions involve disputes between brokers and salespersons, while others concern disputes between brokerages. The Division would like to explore these issues and clarify real estate license law.

## **Payment of Commissions to Salespersons**

Ohio Revised Code Section 4735.18(A)(31) requires brokers to render an accounting and promptly pay salespersons their earned share of a commission. Failure to do so within a reasonable time is grounds for discipline against the broker's license. While the definition of "reasonable time" depends upon the circumstances of each case, in general payment should be made promptly upon the broker's receipt of the commission.

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Division of Real Estate  
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(614) 466-4100

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### **Real Estate Commission Members**

Owen V. Hall, President

Cheryl A. Churchill

Dale W. Marks

George M. Sarap

Lois L. Yeager

### **State Auctioneers Commission Members**

H. John Kramer

Douglas B. Smith

Pamela Rose

### **Real Estate Appraiser Board Members**

Richard H. Hoffman, Chairman

Shelly M. Harsha

Lawrence A. Kell

Barbara E. Marihugh

Robert J. Weiler

## **Earned Share Disputes**

License law does not govern the earned share that the salesperson is entitled to receive. Instead, the share is a matter of negotiation between a broker and salesperson. The salesperson and broker should establish the commission amount at the time the salesperson associates with the broker, and the agreed upon amount should be set forth in a written independent contractor agreement between the broker and salesperson. The Division advises that the company place its commission policy in a policy manual that all salespersons read and initial. Any later changes to the policy should also be put in writing and read and initialed by salespersons. By using such a policy, manual brokers can avoid disputes concerning the amount a salesperson is entitled to receive.

## **Set Offs**

Brokers often want to deduct from a commission any charges the salesperson owes the firm for advertisements, board dues, business cards, cash advancements, or legal fees. The written contract between the broker and salesperson should address what deductions will be made from a salesperson's commission. Unless specified in such a written agreement, set offs should be limited to actual expenses incurred with respect to that transaction (i.e., advertising costs). Brokers should not set off expenses incurred in one transaction from a commission owed in another unless this is agreed to by the salesperson.

## **Payment After A Salesperson's Termination**

When a salesperson leaves a brokerage, it is not unusual for there to be outstanding commissions owed to that salesperson. In this situation, many brokers are concerned with how and if they must pay such salespersons. If their former salesperson is no longer licensed, brokers question whether it is a violation of license law to pay an unlicensed person. If the agent has transferred to another broker, they wonder whether the commission check should be made payable to the salesperson's new broker.

Ohio Revised Code Section 4735.18(A)(11) prohibits a broker from paying or dividing commissions with an unlicensed person. However, as long as the person was a licensed salesperson or broker at the time the commission was earned, the

Division has not considered this section to be violated. In such a case, the Division considers that the commission was earned at the time the parties entered into the contract to purchase or lease. Likewise, brokers may directly pay a former salesperson a commission after the salesperson has transferred to another brokerage. The check does not need to be made payable to the salesperson's new brokerage since that company has no legal entitlement to a portion of the commission.

Brokers also ask whether they must pay a salesperson a commission if the salesperson is no longer with the brokerage when the transaction closes, or whether they may reduce the amount owed to the salesperson. Both of these issues are a matter of contract between the broker and salesperson and should be addressed in the independent contractor agreement and the broker's policy manual. Any forfeiture or reduction in the amount of commission should be clearly set forth and agreed to by the salesperson.

## **Co-op Disputes**

The Division of Real Estate receives calls daily from brokers with questions involving disputes with other brokers over commissions. As most brokers should know, Ohio license law does not require brokers to cooperate in the sharing of commissions with one another. While this is a common practice that has evolved in the industry, it is not mandatory or governed in any way by the laws the Division enforces. The Division cannot investigate or give its legal opinion about the right to a commission in such disputes. Brokers should seek advice from a source other than the Division, such as personal legal counsel or the local board, and they should make sure their salespersons bring questions of this nature to their broker.

Most commission problems with salespersons can be avoided with a policy manual and a clear and concise written agreement with each salesperson. Both the manual and the agreement should include provisions covering the amount of commission salespersons will be paid, set offs, and how outstanding commissions owed will be handled if the salesperson is no longer licensed with the brokerage. These steps can head off brokers' disputes with their salespersons that can result in disciplinary action by the Real Estate Commission and civil lawsuits.

# Enforcement Section Identifies Top Compliance Issues

Each month the Division's enforcement section sends its investigators to perform 50 to 70 audits to confirm that brokers are in compliance with Ohio law. Even though the audits are typically pre-scheduled to allow brokers to prepare and to gather pertinent materials, investigators find compliance violations in almost half of the cases. The enforcement section has identified the most common compliance violations so that brokers may prevent future infractions.

## **Fair Housing Language**

During a compliance audit, investigators will examine some of the broker's transactions that are either pending or closed. Investigators often find problems with the language of listing agreements. According to Ohio Revised Code Section 4735.55(A)(2), listing agreements must contain the current fair housing language.

## **Advertising**

Another area of investigation is the advertising of properties. Brokers should comply with all aspects of Ohio Revised Code Section 4735.16 and OAC Section 1301:5-1-02 on advertising in any medium. Ads must be completely accurate in description of the properties, and may not be misleading in any way. The broker's and agent's names must be displayed in equal prominence, and any restrictions must be noted.

## **Trust Account**

Sometimes an audit reveals that the

broker's trust account violates O.A.C. Section 1301:5-5-08(B), which provides that broker trust accounts must be non-interest bearing and must be labeled as either "trust account" or "special account." Investigators also determine if the broker deposits funds into the account in a timely manner.

## **Columnar Ledger**

Compliance audits include the examination of the broker's columnar ledger for their trust accounts. The ledger is required by O.A.C. Section 1301:5-5-09(A).

## **Company Policy**

Investigators will want to see the company's policy, which must state for potential clients what kind of agency relationships the broker offers, whether they represent only sellers, only buyers, or both in dual agency agreements. Both Ohio Revised Code Section 4735.54 and O.A.C. Section 1301:5-6-03 require brokers to maintain an updated company policy.

When enforcement section investigators find a compliance violation, they explain to the broker how to rectify the problem. The broker must then supply evidence that the correction has been made and demonstrate that he or she is now in compliance. If the broker refuses to come into compliance, investigators can initiate a complaint and the Commission may take action.

# 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:

## **Theodore Jeanneret**

P.O. Box 5120  
Akron, OH 44334-0120

## **Carol Cottom**

807 E. Church St.  
Marion, OH 43302

## **Columbus Management Co.**

425 W. Schrock Rd. #201  
Westerville, OH 43081

## **Chris Duke**

### **Tri State Relocation Services**

906 Main St.  
Cincinnati, OH 45202

## **Pamela Blatter**

### **Vicki Masonbrink**

### **VIP Homebuyers, Ltd.**

848 Northern Parkway  
Cincinnati, OH 45224

## **Gerald A. Lasson**

### **RTO/Best Homes**

1628 Springfield St.  
P.O. Box 186  
Dayton, OH 45401-0186

## **Aaron Hansome**

### **C/O Ms. Melanie Mills**

48 W. Star Ave.  
Columbus, OH 43201-3430

## **Ramesh Shah**

### **C/O Mortgage Vision, Inc.**

750 Alpha Dr. Suite D  
Mayfield Village, OH 44143

## ATTENTION LICENSEES!

It is your responsibility to ensure the Division has your current home address at all times. The Division will send your annual renewal form to this address only. When notifying the Division about address changes, please include your file number.

## Frequently Asked Questions

**Q:** How long can a broker lay claim to a potential buyer after a listing agreement has expired?

**A:** There is no statute covering this situation, but the listing agreement should address the issue. Remember the Division does not handle matters of contract interpretation, so licensees should consult with their private legal counsel for the answer.

# New License Renewal Process Implemented January 1, 2001

New Year's Day brought with it a new real estate license renewal process that promises to be easier and more efficient for everyone. However, although the Division mailed out letters regarding the new process last summer, some licensees are still getting acclimated to the changes.

Gone are the days you could rely upon your brokers to notify you about renewal dates. Instead, you are the only one responsible for meeting the renewal deadline. Remembering the deadline should be easy; license renewal is due on or by your birthday. There is no grace period, and if it is not renewed on time, the license is suspended. From the date of suspension, you have one year to reactivate the license, but if it is not reactivated within that time, the license will be revoked.

With the new process, renewal notices are mailed to your home address 60 days before the your birthday. It is of paramount importance that the Division has on file your

current home address, because even if you do not receive a renewal notice due to an outdated address, you are still required by law to renew your license.

The Division attempts to find current addresses, but if you have recently moved, filling out an address change form ensures you will receive your renewal notice. The Division website at [www.com.state.oh.us](http://www.com.state.oh.us) offers the "Home Address Change Form," which you may email to [webreal@com.state.oh.us](mailto:webreal@com.state.oh.us). You may also fax the change to (614) 644-0584, or mail it to the Division.

Soon the Division will issue a pocket card, another part of the changes in the renewal process. This pocket card indicates that you hold a real estate license, when the renewal is next due, and when continuing education is due. This handy, wallet-size reminder card is issued every year.

If you still have questions regarding the renewal process, please visit the Division website or call the Division at (614) 466-4100.

## Continuing Education Course Identification Numbers Change

The next time you receive your continuing education course completion certificate, don't be surprised when you find a different format for the course identification number. Effective January 1, 2001, the numbering system changed to accommodate the Division's new computer system.

The new identification numbers have ten digits and one letter; each provides a different type of information. Here's an example:

The Course Certification Number is **110-1105-01-B-1**. The first three numbers indicate the continuing education course provider, in this case, the Dayton Area Board of Realtors. In the next set of four digits, the first stands for the year the course was taken—"1" for 2001—and the next three are the course number. The next two numbers signify the month; in this example, it's January. Next comes the letter indicating the course type, and the

last digit shows the number of times the course has been given during the year.

Licensees have wondered how the new numbering system indicates what course type they have completed. The course types have been given the following letter designations:

- A** Appraiser Course
- B** Computer Basic
- C** Canons of Ethics
- D** Core Law
- E** Elective
- F** Computer Specific
- G** Civil Rights

Note that the letters are not the initials of the course titles, but instead are assigned alphabetically.

So don't panic when you get your course completion certificate; all those digits tell the Division exactly what, when and where you took your continuing education course and speeds the information efficiently along its path.

## Equal Prominence in Advertising

The Ohio Revised Code contains only one sentence on equal prominence in advertising. That one sentence, though, contains an important message for all licensees who choose to advertise properties in any media.

Ohio Revised Code 4735.16(B)(1) provides, "The name of the broker shall be displayed in equal prominence with the name of the salesperson in the advertisement," but some licensees do not understand the code. As a result, the Division receives numerous calls of complaint every day about violations of the equal prominence law.

Equal prominence is more than just making sure the broker's name is in the same size type as the salesperson's. For example, if only the salesperson's name is in boldface type, it could be more prominent than the broker's, even if it is the same type size. Color can also make a difference; with everything else the same, the salesperson's name in red may be more noticeable than the broker's name in black.

Another area of equal prominence violations comes from salespersons whose brokers are franchisees of companies like Coldwell Banker or Century 21. In such cases, the name of the licensed brokerage rather than the franchise name, must be displayed in equal prominence.

The bottom line is to be sure the advertisement does not imply that the salesperson's name is the company's name or that the salesperson is the broker. If the salesperson doubts that his or her advertisement complies with the code, it is probably best to revise the advertisement so that the broker's name clearly is equal to or even larger than the salesperson's name.

### Red Books Have Arrived!

They are available for purchase at a cost of \$13/copy. Check our website for the order form or contact the Customer Service Section with questions at (614) 466-4100.

## Record Keeping Requirements For Appraisers

**Q:** What are the record keeping and retention requirements for appraisers?  
**A:** Section 4763.14 of the Revised Code provides that a person licensed, registered, or certified under Chapter 4763 must retain for a period of five (5) years the original or a true copy of each written contract for the person's services relating to real estate appraisal work and all appraisal reports and supporting data used in the preparation of the report. The retention period begins on the date the appraisal is submitted to the client unless, prior to expiration of the retention period, the certificate holder, registrant or licensee is notified that the appraisal or report is the subject of or is otherwise involved in pending litigation in which case the retention period begins on the date of final disposition of the litigation.

## Out of State Appraiser Continuing Education

Appraisers who have taken appraisal continuing education courses in other states to satisfy the 14 hours required annually must complete and submit the "Appraiser Out-of-State Compliance Form" to:

### The Ohio Division of Real Estate and Professional Licensing

77 South High Street, 20<sup>th</sup> Floor  
Columbus, OH 43266-0547

The form is available through our website at [www.com.state.oh.us](http://www.com.state.oh.us).

## Appraiser Reciprocity

The State of Ohio and State of California have executed an appraiser Reciprocal Agreement effective December 13, 2000. For more information, please contact:

### State of California

#### Office of Real Estate Appraiser

1755 Creekside Oaks Drive, Suite 190  
Sacramento, CA 95833-3637  
(916) 263-0880/(916) 263-0886 FAX

## 2001 USPAP Available

The Uniform Standards of Professional Appraisal Practice (USPAP) edition for 2001 can be obtained through the Appraisal Foundation. Contact:

### The Appraisal Foundation

P.O. Box 96734

Washington, DC 20090-6734

Or

### The Appraisal Foundation

1029 Vermont Avenue NW

Suite 900

Washington, DC 20005

(202) 624-3056

(202) 624-3062

(202) 347-7727 FAX

<http://www.appraisalfoundation.org>

## Appraiser Disciplinary Actions

**VICTORIA ROSSI (RA)**, a state licensed residential real estate appraiser from Grove City, Ohio, had her license suspended for nine (9) months for violating Ohio Revised Code Sections 4763.11(G)(5) and (7) as it incorporates the Uniform Standards of Professional Appraisal Practice, Standards Rule 1-1(c) and 1-5. She also was required to complete 90 hours of appraisal continuing education with at least one course in Market Value Analysis and one course in Appraisal Principal and Practices taken from the Appraisal Institute. The continuing education courses also can be used for appraisal continuing education credits. In developing and communicating three separate appraisal reports, the respondent, in rendering the comparative market analysis, failed to accurately reflect the sales price of the subject property, failed to utilize comparable properties similar to the subject in size, incorrectly reported a prior sales price, and failed to address or analyze loan

charges and concessions made by the seller.

**PAUL J. ZORICH (RA)**, a state licensed residential real estate appraiser from Middleburg Heights, Ohio, had his license suspended for fifteen (15) days for violating Ohio Revised Code Section 4763.11(G)(7). He was also required to take a 15 hour continuing education course in Uniform Standards of Professional Appraisal Practice. In developing an appraisal report, the respondent failed to note a prior transfer of the subject property while incorrectly noting that no prior sales occurred in the past year. Also his failure to discuss the difference in the \$5,000.00 sale price and \$61,000.00 value estimate constituted negligent preparation of an appraisal.

**WILLIAM J. HAMILTON (GA)**, a state certified general real estate appraiser from Cleveland, Ohio, had his general certification suspended for six (6) months for violating Ohio Revised Code Section 4763.11(G)(5) as it incorporates the Uniform Standards of Professional Appraisal

Practice, Standards Rule 1-1(b), (c) and Ohio Revised Code Section 4763.11(G)(7). He also was required to complete ninety (90) hours of appraisal continuing education courses. In developing and communicating an appraisal report, the respondent failed to accurately disclose the cost of major repairs and that the value estimate was "subject to repairs" instead of an "as is" condition which rendered the appraisal report misleading and incomplete.

**FRIEDA LAYMAN (RA)**, a state licensed residential real estate appraiser from Cincinnati, Ohio, was issued a written reprimand urging closer attention to the Uniform Standards of Professional Appraisal Practice, Standards Rule 2-2(c)(xi). She certified eleven appraisal reports prepared for others that 1-4 units of residential property were within the scope of her license and failed to disclose the appropriate "use restriction" in the appraisals which would have cited the conditions of limited reliance on the report.

# Real Estate Disciplinary Actions

**JOSEPH R. HARRIS**, sales associate, Wooster, Ohio, had a \$500.00 fine levied against his license and was required to complete and to submit proof of completion of a three (3) hour course on ethics and the ten (10) hour sales post-licensure course for violating Sections 4735.18(A)(6) and (A)(10) of the Ohio Revised Code. Mr. Harris demanded from the sellers of a property, a commission. This demand for a commission was without reasonable cause, and for a commission to which he is not entitled.

**DUTTON AUCTION & REALTY CO.**, corporation, Navarre, Ohio, had a \$400.00 fine levied against the corporate license for violating Section 4735.18(A)(6) of the Ohio Revised Code. The corporation entered into a written exclusive agency agreement to sell a property by way of auction. However, the agreement did not contain the specific fair housing language required by Section 4735.55 of the Ohio Revised Code.

**HOWARD HANNA CO.**, corporation, Poland, Ohio, had a \$1,000.00 fine levied against the corporate license for violating Sections 4735.18(A)(6) and (A)(24) of the Ohio Revised Code. The corporation failed to maintain agency disclosure forms, which were to be completed in connection with real estate transactions, for 2 separate properties.

**EUGENE T. ROURKE**, broker, Cuyahoga Falls, Ohio, had a \$500.00 fine levied against his license and was required to complete and submit proof of completion of the ten (10) hour brokerage post-licensure course for violating Sections 4735.18(A)(6) and (A)(24) of Ohio Revised Code. Mr. Rourke failed to maintain copies of all documents in connection with the sale of property and failed to provide the seller with an agency disclosure form prior to marketing the property.

**JOHN C. WOLFE, JR.**, sales associate, Columbus, Ohio, had a thirty (30) day suspension of his license, which commenced on November 17, 2000, a \$1,000.00 fine, 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

4735.21. Mr. Wolfe received a commission check for the sale of property and deposited this check into his own personal account without the knowledge and consent of the broker with whom he was licensed at the time. He failed to be compensated through his broker.

**MARTHA W. SMITH**, sales associate, Gallipolis, Ohio, had 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 sales post-licensure course for violating two counts of Ohio Revised Code Section 4735.18(A)(6), one as it incorporates Ohio Revised Code Section 4735.58(C), and one as it incorporates Ohio Revised Code Section 4735.55. Ms. Smith listed property for sale, however, the listing agreement she prepared did not contain the specific fair housing language required by Section 4735.55 of the Ohio Revised Code. In connection with the same property, she subsequently, proceeded to market it, but prior to marketing she failed to provide the seller with a completed Ohio agency disclosure form.

**RUSSELL D. WOOD**, broker, Gallipolis, Ohio, had a fifteen (15) day suspension of his license, which commenced on November 17, 2000, a \$2,500.00 fine, 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), one count as it incorporates Ohio Revised Code Section 4735.58(C), and one count as it incorporates Ohio Revised Code Section 4735.55. The brokerage for which Mr. Wood was a broker, listed property for sale. The listing agreement utilized by the brokerage did not contain the specific fair housing language required by Section 4735.55 of the Ohio Revised Code. Mr. Wood submitted an offer to purchase property, but prior to the submission of the offer he failed to provide the seller with a completed Ohio agency disclosure form. In addition, he prepared an offer to purchase property and represented in the offer that he had deposited, with his brokerage, an earnest money deposit. However, he failed to deposit these funds into the brokerage's trust account.

**LINDA D. HOLDERBAUM**, sales

associate, Cleveland, Ohio, had a \$500.00 fine levied against her license for violating Section 4735.18(A)(6) of the Ohio Revised Code. Ms. Holderbaum entered into a written agency agreement (listing) regarding the selling of real property, which agreement did not contain the specific fair housing language required by Section 4735.55 of the Ohio Revised Code.

**LORETTA E. MEISTER**, sales associate, Cleveland, Ohio, had a total of \$600.00 in fines 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 two counts of Ohio Revised Code Section 4735.18(A)(6). Ms. Meister entered into an agency relationship with a buyer and executed a written document identified as a nonexclusive agency agreement. However, this document did not contain a definite expiration date or the specific fair housing language required by Section 4735.55 of the Ohio Revised Code. In addition, she completed the in-company transaction portion of the Ohio agency disclosure form; wherein, it was represented that she was representing both the buyer and the seller. If she was indeed representing more than one party in the transaction, she was a dual agent and should have had a dual agency form completed. If she was representing only one party in the transaction, then she should not have identified that she was representing more than one party.

**PHYLLIS J. FISHER**, broker, Springfield, Ohio, had a thirty (30) day suspension of her license, to commence upon reactivation, a \$2,000.00 fine, and was required to complete and to submit proof of completion of the ten (10) hour brokerage post-licensure course for violating Section 4735.18(A)(6) of Ohio Revised Code. Ms. Fisher acted as a disclosed dual agent in a transaction. She had been advised by a representative of the Clark County Combined Health District, that the area of the property where an excavated test hole was done, was unsuitable for an on-site sewage disposal system. However, she failed to disclose this material information to the purchasers prior to their closing on the property. This was non-compliance with 4735.67 of the Ohio Revised Code Section.

**TYRONNE A. BROWNING, SR.**, sales associate, Columbus, 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 two counts of Ohio Revised Code Section 4735.18(A)(6), and one count of Ohio Revised Code Section 4735.18(A)(3). Mr. Browning entered into an agreement to purchase property. Thereafter, he assigned his interest to someone else, but continued to represent and hold himself out as the buyer. He entered into an agreement to purchase the property and said agreement called for him to submit, upon acceptance, an earnest money deposit. He failed to submit the funds, per the agreement, or verify that his broker received and deposited the funds.

**THOMAS P. PIOLATA**, sales associate, Dublin, Ohio, had a five (5) day suspension of his license, which commenced on November 17, 2000, a \$750.00 fine, 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(A). Mr. Piolata listed property for sale, but prior to marketing the property he failed to prepare and submit to the seller an agency disclosure statement.

**ELLEN SHKAEV**, sales associate, Highland Heights, Ohio, had a fifteen (15) day suspension of her license, which commenced on December 22, 2000, a \$1,000.00 fine, and was required to complete and to submit proof of completion of the ten (10) hour sales post-licensure course for violating Section 4735.18(A)(19) of Ohio Revised Code. Ms. Shkaev negotiated the sale of property directly with the owner. She engaged in such direct negotiations with the owner, when she knew or should have known that the owner had, at the time, a written outstanding contract granting exclusive agency with respect to the property to another real estate broker.

**LENNY N. HERBERT**, sales associate, Middleburg Heights, Ohio, had a \$500.00 fine levied against his license and was required to complete and to submit proof of completion of a three (3) hour course on agency for violating Section 4735.18(A)(6) of the Ohio Revised Code. Mr. Herbert prepared an offer on behalf of a purchaser for the purchase of

property. In connection with this offer, he prepared and submitted to the buyer an Ohio agency disclosure form noting he was representing him as a buyer's agent. However, the property was also listed with his brokerage, so a dual agency or in-company transaction was created, however, he failed to compete and submit to the purchaser, before preparing the offer, either a dual agency disclosure form or the in-company portion of the agency disclosure form. It was not until after the offer was submitted to the seller that he prepared the in-company transaction portion of the agency disclosure form.

**ROSEMARY S. EISENHAUER**, sales associate, Dayton, Ohio, had a \$100.00 fine levied against her license for violating Section 4735.18(A)(24) of the Ohio Revised Code. Ms. Eisenhauer listed property for sale, but failed to keep a copy of the Ohio agency disclosure form, which was to be provided to the sellers prior to the marketing of their property.

**LINDA G. SOWERS**, sales associate, Zanesville, Ohio, had a \$500.00 fine levied against her license and was required to complete and to submit proof of completion of a three (3) hour course on agency for violating Ohio Revised Code Section 4735.18(A)(6). Ms. Sowers prepared an offer for the purchase of property, however she did not prepare and submit to the purchaser a dual agency disclosure statement until five days later. She failed to timely present the form to the buyer.

**GREGORY K. JADWIN**, sales associate, Zanesville, Ohio, had a \$500.00 fine levied against his license and was required to complete and to submit proof of completion of a three (3) hour course on agency for violating Ohio Revised Code Section 4735.18(A)(6). Mr. Jadwin listed a property for sale, and thereafter an offer to purchase was submitted. Subsequently, a dual agency disclosure statement was prepared, however he failed to obtain for his client, the sellers, their written consent on the dual agency disclosure form.

**DARREL L. HAYES**, sales associate, Wauseon, Ohio, had a \$500.00 fine levied against his license and was required to complete and to submit proof of completion of a three (3) hour course on agency for violating two counts of Ohio Revised Code Section 4735.18(A)(6). Mr. Hayes

listed property for sale, however, prior to marketing the property he failed to provide the sellers with an Ohio agency disclosure form. In connection with the same property, he prepared an offer for the purchase of the property on behalf of potential buyers, and prepared and submitted this offer without first completing and submitting to the buyers an Ohio agency disclosure form.

**GOLD STAR REALTY, INC.**, corporation, Wauseon, Ohio, had a \$200.00 fine levied against the corporate license for violating Section 4735.18(A)(21) of the Ohio Revised Code. The corporation through 1997, 1998 and 1999 advertised and held itself out as "Gold Star Realty & Auction" when it was licensed in the name of "Gold Star Realty, Inc."

**ANN B. LAMBERT**, sales associate, Columbus, 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 Section 4735.18(A)(6) of the Ohio Revised Code. Ms. Lambert executed a listing agreement and residential worksheet for a property. However, she did not fully complete significant portions of the residential worksheet until sometime later. She completed documents subsequent to execution of them by the parties, without then obtaining acknowledgment to said additions, by her, from the parties.

**E & D REALTY & INVEST. CO., INC.**, corporation, Cleveland, Ohio, had a \$750.00 fine levied against the corporate license for violating Section 4735.18(A)(6) of the Ohio Revised Code. In addition, the brokers for the corporation were required to complete and to submit proof of completion of a three (3) hour course on agency. The corporation listed property for sale. However, the written agency agreement did not contain the specific fair housing language required by Section 4735.55 of the Ohio Revised Code.

**WALTER T. KRUMM**, broker, Columbus, Ohio, had an one hundred twenty (120) day suspension of his license, to commence upon reactivation, and had a \$1,000.00 fine levied against his license for violating Section 4735.18(A)(6) of the Ohio Revised Code. False statements were contained in the continuing education reporting form submitted to the Division by Mr. Krumm. He had not personally attended several courses, while stating on

the form that he did.

**BARRY RUSSELLO**, broker, Vandalia, Ohio, had a \$500.00 fine levied against his license and was required to complete and to submit proof of completion of a three (3) hour course on agency for violating Section 4735.18(A)(6) of the Ohio Revised Code. Mr. Russello showed a property, but failed to prepare and to submit an Ohio agency disclosure form until a couple of days later. He failed to provide an Ohio agency disclosure form to the buyers, prior to showing them the property.

**RONALD J. SMOTHERS**, sales associate, Broadview Heights, Ohio, had a fifteen (15) day suspension of his license, to commence upon reactivation, and was required to complete and to submit proof of completion of the ten (10) hour sales post-licensure course for violating Section 4735.18(A)(6) of Ohio Revised Code. Mr. Smothers held himself out as a licensed real estate agent, through an Ohio agency disclosure form and purchase agreement. However, at the time he was not actively licensed as a real estate agent.

**CHARLENE J. HILTY**, sales associate, Kenton, Ohio, had a \$200.00 fine levied against her license and was required to complete and to submit proof of comple-

tion of the ten (10) hour sales post-licensure course for violating two counts of Ohio Revised Code Section 4735.18(A)(21). Ms. Hilty advertised property as being in "excellent condition," when it was not in such condition. Also, she advertised that the property had "new central air," when the air conditioning system was about nine years old.

**PATRICIA A. RUSSELL**, sales associate, Dover, 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 Section 4735.18(A)(6) of the Revised Code. Ms. Russell prepared an offer for the purchase of property, however, she failed to prepare and submit to the buyer an Ohio agency disclosure form as required by Ohio Revised Code Section 4375.58(B).

**HAZEL D. PIATT**, sales associate, Portsmouth, Ohio, had a fifteen (15) day suspension of her license, which commenced on February 2, 2001, a \$500.00 fine, and was required to complete and to submit proof of completion of the ten (10) hour sales post-licensure course for violating Section 4735.18(A)(6) of the Ohio Revised Code. Ms. Piatt held herself

out has an agent for a brokerage, through a listing and an agency disclosure form she prepared. However, at that time, she was not licensed with the brokerage.

**ELAINE Y. GAITHER**, sales associate, Shaker Heights, Ohio, had a \$300.00 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 and a three (3) hour course on agency for violating Ohio Revised Code Section 4735.18(A)(6) as that section incorporates Ohio Revised Code Section 4735.58(B). Ms. Gaither prepared an offer for the purchase of property. However, she failed to provide an Ohio agency disclosure form to the purchaser until a day later. She failed to timely prepare and submit the form.

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