



**The Ohio
Department
of Commerce**

Winter 2002

Division of

Real Estate and Professional Licensing

◆ N E W S L E T T E R ◆

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GOVERNOR

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SUPERINTENDENT

◆ *Bill Allows Commercial Co-Brokering*

H. B. 272 To Benefit Both the Division and Entire Industry

The Division of Real Estate has worked in conjunction with the Ohio Association of Realtors and Representative Smith to support the enactment H.B. 272. If passed, this legislation will provide for several things that will benefit both the Division and the real estate industry. Here are some of the highlights:

Commercial Co-Brokering

The bill allows a real estate broker not licensed in Ohio, but licensed in another state, to transact business on commercial property in Ohio in cooperation with an Ohio licensed real estate broker.

There are of course some conditions. The out of state broker must work in cooperation with an Ohio broker, must enter into a written agreement with the Ohio broker, furnish the Ohio broker with a copy of a certificate of good standing from the jurisdiction in which the out of state broker maintains licensure, fill an irrevocable written consent to service with the Ohio broker, include the name of the Ohio broker in all advertising in Ohio, deposit any escrow funds or security deposits with the Ohio broker and deposit any transactional documentation with the Ohio broker.

Of course, the Ohio broker must act in accordance with license law and maintain all transactional files for a period of three years. Provisions are also made for salespersons working under the direct supervision of an out of state broker provided all requirements described above are met.

Three Year License

The bill requires the Ohio Real Estate

Commission to adopt rules providing for a three year license and three year renewal cycle by January 1, 2004. This change will

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combine on the same date the renewal deadline and the continuing education deadline, every three years.

Commission Payments to Unlicensed Business Entities

The bill includes changes that will allow brokers to pay commissions due a broker or salesperson to that broker or salesperson's unlicensed corporation, partnership, association, LLC or LLP. This provision will allow all licensees to capitalize on certain tax advantages of compensation through a business entity.

The unlicensed business entity must have at least one partner, member, officer or shareholder that holds an active license and is the same licensee that earned the

commission. The unlicensed business entity cannot engage in activity for which a license is required. The broker paying the commission must verify these requirements and must keep a record of the verification, the name of the licensee, the name of the unlicensed business entity and the amount of the commission paid.

Unlicensed Activity

The bill provides an additional enforcement mechanism for the Commission to deal with those persons or entities that engage in unlicensed activity. If the Superintendent determines there is evidence of unlicensed activity, the Superintendent will notify the person or entity of a hearing before the Real Estate Commission. The Real Estate Commission will review all evidence and hear any testimony and then determine if there has been a violation of license law. If there is a violation, the Commission may assess a civil penalty of not more than \$1,000.00 per day of violation; each day a violation occurs or continues is a separate violation. All civil penalties collected will be deposited in the Real Estate Recovery Fund.

Red Books Are Available!

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.

Pre-licensing Courses Valid for Ten Years

Recent changes in requirements for pre-licensing courses have left some people confused. However, all pre-licensing courses are valid until ten years from the date of completion, even those taken before August 1, 2001.

Previously, the 120 hours of required courses broke down as follows: 30 hours of core law, 30 hours of appraisal, 30 hours of finance, and 30 hours of principles and practices. Since August 1, 2001, the courses now break down as follows: 40 hours of core law, 40 hours of principles and practices, 20 hours of appraisal, and 20 hours of finance.

Some people are worried that a 30-hour core law or principles and practices course taken before August 1 will not count toward the requirement if the other courses are completed after August 1. Rest assured, though, that since all courses are good for ten years, even if the total number of hours may not be 120, each course completed will count toward the requirement.

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Pocket Cards New to Renewal Process

The Division's annual renewal process this year has a new addition: handy pocket cards.

Don't mistake these pocket cards for a license, though. Instead, the cards are a receipt for timely renewals. They also can serve as identification, verifying that you are licensed as a real estate broker or salesperson.

Once the Division updates your annual renewal, which must be received on or by your birthday, the RealPro computer system will automatically mark your file to print a pocket card. This pocket card in turn will be mailed to you. This is the only time a pocket card is issued.

The next item you'll receive from the Division is a renewal 60 days prior to your next birthday. If for some reason your card has a problem or needs correction, please make a copy of the card and mail the copy to the Division, along with the corrections. These corrections will be made, but another pocket card will *not* be issued at that time. Your file will not be marked to print another card until the Division approves the next year's renewal.

Licensure with a Felony Conviction??

In Ohio, the only way convicted felons can be seated for the real estate license exam is to have the felony waived by the Superintendent or the Commission.

The petitioner must submit, in writing, a request for a waiver. Along with the request, the individual must include a copy of the journal entry from the court, a release for probation (if applicable), and any letters of recommendation or other supplemental materials that will help the Superintendent determine if he or she is truthful, honest, and of good reputation.

Upon review, the individual may be granted a letter waiving the felony, which must be submitted with the exam application. The two questions on the application regarding unsatisfied judgements and convictions must be answered truthfully. Present Division policy indicates that individuals currently incarcerated or on probation cannot be seated for the exam.

Avoid Delays in Deposit of Fiduciary Funds

Real estate license law has a specific statute regarding when trust payments must be deposited. Licensees must deposit trust payments within a reasonable time of when it first comes in to the licensees' possession. Past Ohio Real Estate Commission decisions indicate that a licensee can be deemed guilty of misconduct if the payments are not deposited within a reasonable time, unless the contract expressly states otherwise.

Licensees should examine the contract to see when the broker is to deposit earnest money. Often contracts say the money should be deposited "upon acceptance," which denotes a deposit as soon as possible, talking into account weekends and bank holidays. If the contract is silent on this matter, the funds should still be deposited as soon as possible.

If it takes longer than three days to deposit the funds, a licensee has the burden of explaining the delay to the Division. After five days' delay, a licensee can expect a possible charge. Remember that licensees are holding in trust fiduciary funds belonging to others, and they should conduct themselves accordingly.

Real Estate Law Quiz

Test your knowledge of license law with this true or false quiz. Answers appear on the next page.

1. Real estate brokers are required to have errors and omissions insurance.
2. Ohio real estate brokers can pay commissions or referral fees to a licensed real estate broker of another state for referrals.
3. Real estate broker's trust accounts are not required to have any specific designation.
4. License laws do not require that brokers' phone numbers appear in every advertisement.
5. Ohio license law requires that transaction records be maintained for seven years.
6. Agency disclosure forms do not have to be provided in commercial transactions.
7. In an advertisement, the salesperson's name cannot be more prominent than the broker's name.
8. The Ohio Real Estate Commission sets the commission rates that brokers may charge.

Real Estate Law Quiz Answers

1. **FALSE.** The Ohio Revised Code does not require brokers to maintain errors and omissions insurance; the Real Estate recovery fund is applicable.
2. **TRUE.** If disclosed, Ohio brokers can pay commissions for referrals to licensed brokers outside of Ohio. The out of state brokers cannot perform any functions of an Ohio real estate broker regarding property in Ohio unless they first obtain an Ohio real estate foreign license.
3. **FALSE.** A broker's trust account shall be designated as either "trust account" or "special account."
4. **TRUE.** The law only requires that advertisements contain name identification and the fact that the party is licensed.
5. **FALSE.** Under Ohio Revised Code 4735.18, transaction records need be maintained only three years.
6. **FALSE.** Agency disclosure forms must be provided in residential and commercial real estate transactions.
7. **TRUE.** The salesperson's name cannot be more prominent than the broker's in an advertisement.
8. **FALSE.** License law does not control the commission amount a licensee may charge. The amount of commission charged is determined by the real estate contract of which both parties (i.e. the buyer and seller) agree upon.

Core Law Courses Do Not Count for Agency Law Course

When a licensee violates one of the provisions of agency law, the Real Estate Commission may levy a fine and direct the licensee to take a three hour course specifically on the topic of agency law. Some licensees are under the mistaken impression that core law classes may fulfill the Commission's direction, but they do not. This special three hour agency law course is above and beyond any core law classes. Further, licensees do not receive any continuing education credits for this three hour agency law course. The course is considered a penalty for the violation.

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:

Robert Bartko
E-Rental Homes
4191 Pearl Road
Cleveland, OH 44120

William D. Howard
WDH Investments
260 Northland Blvd.
Cincinnati, OH 45246

Area Wide Real Estate
Attn: Loraine Porter
1929 S. Arlington Road
Akron, OH 44306

Inducements Legal If Properly Disclosed

You've probably seen the flashy advertisements from some licensees, offering cash back or a free home inspection if a customer lists with them. But are such inducements legal?

Under Ohio Revised Code 4735.18(14), inducement can be anything of value offered in return for entering into a contract for the purchase or sale of real estate. Some other common inducements include gift certificates, reduced commissions, use of moving vans, free carpet cleaning, home warranties, and various types of material gifts.

An inducement is considered legal, as long as the inducement is disclosed in writing as a consideration to all parties of the transaction. If there are any restrictions on the offer, the advertising must state them. The advertisement can employ the catch-all phrase "restrictions apply," or the phrasing can be more specific. For instance, any dates that limit the offer should be included in the advertisement; in another example, if the customer needs to bring the coupon to the office for it to be valid, a statement to that effect should appear on the coupon.

ATTENTION BROKERS!

On October 1, 2001, the regulatory responsibility for Ohio Revised Code Chapter 4707, which pertains to auction activity in the state of Ohio, was transferred to the **Ohio Department of Agriculture.**

The contact address for the Ohio Department of Agriculture is:

*Auctioneer Program
Enforcement Division
8915 East Main Street
Reynoldsburg, OH 43068
(614) 728-6240*

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The ZIP Code for the Division of Real Estate has changed to **43215-6133.**

Use of the old ZIP Code may cause mail delays.
Discard any forms using the old ZIP Code.

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Please direct your salespeople to download this newsletter at **www.com.state.oh.us/ODOC/real/realpub.htm**

Important Information About Appraiser Continuing Education

All certified and licensed appraisers currently are required to complete fourteen (14) classroom hours of approved appraisal continuing education instruction in courses or seminars within one year immediately following the original issuance of a certification or license and every year during licensure. If a certificate holder or licensee fails to meet these requirements, then the certificate or license is automatically suspended. Each certificate holder or licensee has three (3) months from the suspension date to satisfy and supply to the Superintendent evidence that the fourteen (14) hours of appraisal continuing education instruction has been satisfied or the certificate or license will be revoked.

Two Continuing Education Compliance Forms

Appraisers must submit an "Appraiser Continuing Education Compliance Form" (A-92) if the education is taken and approved in Ohio. Appraisers must also submit a copy of the attendance certificate that verifies the date of the course offering and state certification to the Division to demonstrate completion of the required fourteen (14) classroom hours of appraisal continuing education.

Appraisers who complete fourteen (14) hours of appraisal continuing education out-of-state must complete an "Appraiser Out-of-State Compliance Form." The "Appraiser Out-of-State Compliance Form" requires the appraiser's name, address, certificate or license number and signature, as well as a copy of the attendance certificate; the name and signature of the school administrator, course title, and the address or location where the course was conducted; and the name of the school sponsoring the course.

If you have completed your education at more than one school, please feel free to duplicate this form.

If the course is approved by the Appraiser Board in your state of residence, please enclose a \$10.00 fee for this out-of-state compliance form. In the

event the course is not approved by the Appraiser Board in your state of residence, please enclose a \$25.00 processing fee and outline or syllabus for each non-approved course. Mail a check or money order made payable to: Ohio Division of Real Estate and Professional Licensing, 77 S. High St., 20th Floor, Columbus, Ohio 43215-6133. Both forms are available on the Division of Real Estate and Professional Licensing's web site at www.com.state.oh.us.

Appraisal Qualification Board Adopts New USPAP Education Criteria

The Appraisal Qualification Board adopted new criteria for Uniform Standards of Professional Appraisal Practice Education that all certified and licensed appraisers must complete and for qualifying instructors for the approved National USPAP Course.

Effective January 1, 2003 all state certified and state licensed appraisers are required to take seven (7) classroom hours of instruction in an approved National USPAP Course or its equivalent every two (2) years to maintain their certification or licensure. The National USPAP Course must have at least one instructor that has been certified through the AQB and is either a state certified residential real estate appraiser or state certified general real estate appraiser to satisfy the new USPAP education criteria for appraisers to maintain certification or licensure. Only the AQB Course Approval Program can determine if a course is equivalent to the approved National USPAP Course. An advisory committee consisting of qualified state regulatory officials will make equivalency recommendations to the AQB regarding specific courses.

All state certified and licensed appraisers beginning January 1, 2003 must complete the approved National USPAP Course or its equivalent and from an instructor who is an AQB Certified USPAP Instructor that is either a state certified residential appraiser or a state certified general real estate appraiser.

Appraisers are advised to verify if an instructor is an AQB Certified USPAP Instructor by searching the registry of real

property AQB Certified USPAP Instructors at the Appraisal Foundation web site at www.appraisalfoundation.org.

Prequalifying USPAP Education

Currently, an appraiser applicant must complete a fifteen (15) classroom hour course for the USPAP as a prerequisite for sitting for the appraiser certification/licensing examination. Beginning on January 1, 2003 the fifteen (15) classroom hour USPAP course must be an AQB National USPAP approved course with at least one instructor who is an approved AQB certified instructor and holds a state certified or general real estate appraiser certificate for an applicant to satisfy USPAP prequalifying education.

AQB Certified USPAP Instructor

Each instructor who desires to become an AQB certified USPAP Instructor must complete the USPAP Instructor Training Course Enrollment Form before being able to take the two and a half day USPAP Instructor Course and Examination. The Enrollment Forms are available on the Appraisal Foundation web site at www.appraisalfoundation.org.

The prerequisites for becoming an AQB Certified USPAP Instructor are as follows: (a) have at least seven (7) years of appraisal experience in any discipline, and (b) at least 35 classroom hours of appraisal teaching experience within the last five (5) years.

Each instructor approved as an AQB Certified USPAP Instructor also must complete a seven (7) classroom hour USPAP update for Instructors Course and pass an exam once every two (2) years to be renewed as an AQB certified Instructor.

If any additional information is needed regarding the criteria changes that become effective January 1, 2003 or the interpretation regarding the two (2) year USPAP seven (7) classroom hours of continuing education needed every two (2) years that also become effective January 1, 2003, please contact Monica Kleso at 1-202-624-3050 or mavis@appraisalfoundation.org.

Appraiser Disciplinary Actions

ROBERT P. ASHENFELTER (CA) a state certified residential real estate appraiser from Archbold, Ohio was found to have violated Ohio Revised Code Section 4763.11(G)(7) as it incorporates Ohio Revised Code Section 4763.12(C)(3). For this violation Roger P. Ashenfelter was issued a written reprimand and admonished to properly identify the problem to be addressed and to have the necessary knowledge and experience to competently complete the appraisal assignment. Mr. Ashenfelter included an inaccurate and incorrect statement in the appraisal report that indicated the appraisal was within the scope of his licensure when it was not. Additionally, he was required to complete a (15) fifteen hour Uniform Standards of Professional Appraisal Practice Course within ninety (90) days of the date of the Appraiser Board's Order.

ROBERT RUDOLPH RUCKSTUHL (RA) a state licensed residential real estate appraiser from Mayfield Village, Ohio was issued a written reprimand. He failed to comply with Ohio Revised Code Section 4763.11(G)(5) as it incorporates Uniform Standards of Professional Appraisal Practice, Standards Rule 2-2. The Appraiser Board issued this amended order after reconsideration of the original order made in this matter.

JUDSON EMMETT MCCANN (RA) a state licensed residential real estate appraiser was found to have violated Ohio Revised Code Section 4763.11(G)(5) as it incorporates Uniform Standards of Professional Appraisal Practice, Standards Rule 1-1(c). For these violations Judson Emmett McCann was issued a written reprimand and admonished to be more diligent in obtaining the best and most recent comparable sales in the marketing area of the subject property and to be more selective in developing and communicating market data. Mr. McCann, in performing an appraisal assignment, incorrectly identified the location of the comparable properties used in the report; incorrectly indicated the distance of the comparables from the subject property; and incorrectly indicated the amount of gross living space and room counts for the comparable properties. Additionally, he was ordered to complete a thirty (30) hour course in the Comparable Market Analysis Approach to Value and a fifteen (15) hour course in the Uniform Standards of Professional Appraisal Practice

within ninety (90) days of the Appraiser Board's Order.

JAMES M. FIALA (RA) a state licensed residential real estate appraiser from Fairview Park, Ohio was found to have violated Ohio Revised Code Section 4763.11(G)(5) as it incorporates Uniform Standards of Professional Appraisal Practice, Standards Rule 1-1(c). For this violation James M. Fiala was issued a written reprimand and admonished to clearly acknowledge any significant assistance provided to him by others in developing and preparing an appraisal report.

JOHN G. MCNALLY (RA) a state licensed residential real estate appraiser from Loveland, Ohio was found to have violated Ohio Revised Code Section 4763.11(G)(5) as it incorporates Uniform Standards of Professional Appraisal Practice, Standards Rule 2-2 and Section 4763.12(c) of the Ohio Revised Code. For these violations John G. McNally was issued a written reprimand and admonished to exercise greater care in developing and communicating appraisal reports. He also was ordered by the Appraiser Board to complete within ninety (90) days of the Appraiser Board's Order a thirty (30) hour course in the Market Analysis Approach to Value and a fifteen (15) hour Uniform Standards of Professional Appraisal Practice Course. The fifteen (15) hour Uniform Standards of Professional Appraisal Practice Course can be used for the fourteen (14) hours of required annual continuing education. Mr. John McNally prepared an appraisal report that failed to identify in the report which reporting option was utilized as required in the Uniform Standards of Professional Appraisal Practice Standards Rule 2-2 and failed to disclose whether or not the appraisal services performed was within the scope of his license as required in 4763.12(c) of Ohio Revised Code.

CHRISTOPHER J. MEYER (CA) a state licensed residential real estate appraiser from Cincinnati, Ohio was found to have violated Ohio Revised Code Section 4763.11(G)(5) as it incorporates Uniform Standards of Professional Appraisal Practice, Standards Rule 2-2. For this violation Christopher J. Meyer was issued a written reprimand and admonished to exercise due diligence when communicating or reporting an appraisal. Christopher Meyer prepared an appraisal report that failed to identify in the report which reporting options were being utilized as required under the Uniform Standards of Professional Appraisal Practice.

DOUGLAS WILLIAMS (CA) a state certified residential real estate appraiser from Phoenix, AZ was found to have violated Ohio Revised Code Section 4763.11(G)(5) as it incorporates Uniform Standards of Professional Appraisal Practice, Standards Rule 1-1(c) and Ohio Revised Code Section 4763.11(G)(7). For these violations Douglas Williams was issued a written reprimand and admonished to accurately reflect information when communicating an appraisal report. Additionally, Douglas Williams must complete within one hundred twenty (120) days a thirty (30) hour course in the Sales Comparisons Approach to Value that includes at least eight (8) hours in report preparation and appraisal reporting; and a fifteen (15) hour course in the Uniform Standards of Professional Appraisal Practice that can be used for the fourteen (14) hours of required annual appraisal continuing education. Douglas Williams prepared an appraisal report that failed to include more similar comparable properties in the immediate area of the subject property. He also incorrectly reported that the subject property had 1650 square feet of gross living space when it only had 1067 square feet of gross living space and also reported the subject property included a two car garage when it was a one car garage.

RAYMOND PETERS (GA) a state certified general real estate appraiser from Smithville, Ohio was found to have violated Ohio Revised Code Section 4763.11(G)(5) twice as it incorporates Uniform Standards of Professional Appraisal Practice, Standards Rule 1-1(c) and Standards Rule 2-2 and Ohio Revised Code Section 4763.11(G)(7). Raymond Peters was issued a written reprimand for these violations and admonished to exercise due diligence in developing and communicating an appraisal report that only certifies work actually completed. He was also required to complete a fifteen (15) hour course in the Uniform Standards of Professional Appraisal Practice within sixty (60) days of the Appraiser Board's Order. The appraisal education taken can be used for the annual fourteen (14) hours of appraisal continuing education requirements. Raymond Peters prepared an appraisal report that failed to acknowledge the significant contribution or assistance supplied by others that he relied on in developing and communicating an appraisal report. He also failed to state the reporting option utilized in preparation of the appraisal report as required by Uniform Standards of Professional Appraisal Practice Standards, Rule 2-2.

Real Estate Disciplinary Actions

REVOCATIONS

JOSEPH R. HARRIS, sales associate, Wooster, Ohio, had his sales license revoked for violating Ohio Revised Code Section 4735.18(A)(6) and for violating Ohio Revised Code Section 4735.18(A)(10) in two separate cases. Mr. Harris, in each of the two separate real estate transactions, demanded, without reasonable cause, fees he was not entitled to receive. In one of these transactions, he wrongfully asserted he was entitled to a fee because he had brought the buyer and seller together. In the other transaction, without any foundation to do so, he initiated actions for a commission against the seller.

SUSPENSIONS, FINES, EDUCATION

KEVIN SULLIVAN, sales associate, Worthington, Ohio, had a \$500.00 fine levied against his license and was required to complete and to submit to the Division proof of completion of a three (3) hour agency course, for violating Ohio Revised Code Section 4735.18(A)(6) as it incorporates Ohio Revised Code Section 4735.58(A). Mr. Sullivan listed property for sale and failed to provide the seller with an Ohio agency disclosure form prior to marketing or showing the property.

AARON J. CLARK, sales associate, Gahanna, Ohio, had a \$300.00 fine levied against his license and was required to complete and to submit to the Division proof of completion of a three (3) hour agency course, for violating Ohio Revised Code Section 4735.18(A)(6) as it incorporates Ohio Administrative Code Section 1301:5-6-06. Mr. Clark showed a property, but prior to showing the property, he indicated that he had submitted to the buyers, an Ohio agency disclosure form. Further, he indicated the buyers never signed the form nor returned the form to him. However, he failed to note on the form; the party to whom it was presented, the date and time the form was presented, the fact that the party declined to sign the form and the reason why the party declined to sign.

RICHARD R. RESATKA, broker, Columbus, Ohio, had a five (5) day suspension of his license, which commenced on September 10, 2001, a \$750.00 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 Ohio Revised Code Section 4735.18(A)(31). Mr. Resatka failed, within a reasonable time, to provide a salesperson, formerly associated with his brokerage, with an accounting of commissions he determined were due the salesperson. Further, he failed, within a reasonable time, to pay the salesperson those commissions.

DALE E. TAYLOR, broker, Pomeroy, Ohio, had a fifteen (15) day suspension of his license, which commenced on September 10, 2001, a \$500.00 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 Ohio Revised Code Section 4735.18(A)(6). Mr. Taylor failed to have prepared and submitted to the parties an Ohio agency disclosure form as required by Ohio Revised Code Section 4735.58. The only disclosure of agency form prepared and submitted to the parties was a dual agency disclosure statement.

JULIUS L. CARTWRIGHT, broker, Shaker Heights, Ohio, had a \$1,000.00 fine levied against his license and was required to complete and to submit proof of completion of a three (3) hour civil rights course, for violating Ohio Revised Code Section 4735.18(A)(6). Mr. Cartwright listed property for sale with his brokerage and utilized a written agency agreement form that did not contain the specific fair housing language required by Ohio Revised Code Section 4735.55.

MARY L. SHAW, sales associate, Cleveland, Ohio, had a fifteen (15) day suspension of her license, which commenced on September 10, 2001, 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. Shaw listed property for sale with her brokerage and thereby created an agency relationship with the sellers. Subsequently, she entered into an exclusive buyer representation agreement with an individual and prepared an offer on behalf of this person to purchase the

property, making her a dual agent. However, she failed to prepare and submit to this person an Ohio dual agency disclosure form as required by Ohio Revised Code Section 4735.71.

DANIEL M. GLENN, 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 a three (3) hour course on agency for violating Ohio Revised Code Section 4735.18(A)(6). Mr. Glenn, throughout 1999, engaged in conduct on behalf of a company, which required him to be licensed as a real estate broker; he acted as a real estate broker for a corporate brokerage when he was only licensed as a salesperson.

CHESTER E. COLE, broker, Columbus, Ohio, had a \$500.00 fine levied against his license for violating Ohio Revised Code Section 4735.18(A)(6) as it incorporates Ohio Administrative Code 1301:5-1-14 and for violating Ohio Revised Code Section 4735.18(A)(31). The corporation, of which Mr. Cole was the broker, collected a real estate commission from the sale of property, but failed to pay a salesperson, who represented the buyers of the property, an earned share of the commission. In addition, throughout 1999, he failed to direct the operation of the company of which he was licensed as the sole broker.

LEONA C. JURLINA, sales associate, Cleveland, Ohio, had a thirty (30) day suspension of her license, which commenced on October 9, 2001, 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 Sections 4735.18(A)(6) and 4735.18(A)(21). Ms. Jurlina listed property for sale; thereafter, she proceeded to advertise and market the property as "ready to build"; however, such a claim was inaccurate and misleading.

SKIP MACKLEM, sales associate, Cortland, 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). In connection with an offer to purchase a

property, Mr. Macklem collected an earnest money deposit; however, he failed to remit this money promptly to his broker for deposit into the brokerage's trust account.

SAMUEL DELAQUILA, SR., broker, Warren, 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 Ohio Revised Code Section 4735.18(A)(26). Mr. Delaquila maintained a trust or special bank account that earned interest; he failed to maintain a non-interest bearing trust or special bank account.

ELIAS H. FREY & SONS, INC., corporation, Archbold, Ohio, had a \$500.00 fine levied against the corporate license for violating Ohio Revised Code Section 4735.18(A)(6). The corporation accepted an earnest money deposit in connection with the purchase of property; however, the buyers did not proceed with the purchasing of the property, but the company remitted the money to the buyers, without the written consent of the seller or a court order.

COUNTRYTYME, INC., corporation, Grove City, Ohio, had a \$500.00 fine levied against the corporate license. The broker for the corporation was required to complete and to submit proof of completion of three (3) hours of continuing education, for violating Ohio Revised Code Sections 4735.18(A)(6) and 4735.18(A)(21). The corporation caused to be published that a property was located in one school district, when, in fact, it was located in another school district.

DAWN L. PERKINS, sales associate, Columbus, Ohio, had three fifteen (15) day suspensions of her license, to be served consecutively, which commenced on October 11, 2001, three \$500.00 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. Ms. Perkins was found to have violated Ohio Revised Code Section 4735.18(A)(6) as it incorporates Ohio Revised Code Section 4735.58. Ms. Perkins prepared an offer for the purchase of property, and in connection with this agreement she prepared and submitted to the parties an Ohio dual agency disclosure statement and an Ohio disclosure of agency relationship. However, on the Ohio disclosure of

agency relationship form, she failed to check-off that she was representing the purchaser, and she failed to provide the parties with a properly completed Ohio disclosure of agency relationship form. Also, she violated Ohio Revised Code Section 4735.18(A)(6) when she entered into a listing agreement, and thereafter, she had the sellers execute a residential data correction form; whereby, she attempted to extend the expiration date of the listing that had expired. She further completed this form in such a way as to create an appearance that the extension had been in place, when in fact, this was not the case. Lastly, she also violated Ohio Revised Code Section 4735.18(A)(25) when she entered into a listing agreement, and thereafter, had the seller execute a residential data correction form. She failed to provide the sellers with a copy of the residential data correction form at the time they signed the document.

DONALD L. THOMPSON, broker, Zanesville, Ohio, had a \$300.00 fine levied against his license for violating Ohio Revised Code Section 4735.18(A)(6) as that section incorporates Ohio Revised Code Section 4735.55(A)(4). Mr. Thompson entered into an exclusive right to sell contract. The written agency agreement failed to include a copy of the US - HUD equal housing opportunity logotype, as set forth in 24 C.F.R. 109.30.

MARTHA E. BONECUTTER, sales associate, Grove City, Ohio, had a five (5) day suspension of her license, which commenced on October 11, 2001, 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 Ohio Revised Code Section 4735.18(A)(6). Ms. Bonecutter prepared an offer for the purchase of property, and in connection with this offer, she was given an earnest money deposit. The offer provided for the earnest money to be deposited upon acceptance; however, she failed to deposit the money into her brokerage's trust account as required by the purchase contract. Instead, she did not have the check deposited until several days after acceptance.

CONNIE L. KONDRAT, sales associate, Cincinnati, Ohio, had two \$100.00 fines levied against her license and was required to complete and to submit proof of completion of a three (3) hour agency

course, for violating two counts of Ohio Revised Code Section 4735.18(A)(6), one as it incorporates Ohio Revised Code Section 4735.58(A). Ms. Kondrat, when she took over the listing of a property, failed to provide the seller with an agency disclosure form prior to marketing their property. She also failed to assure that on behalf of her client, the seller, that the purchasers had initialed a change that was made to the purchasers' original offer respecting the occupancy date.

HOMEOWNER CONSULTANTS, INC., corporation, Cincinnati, Ohio, had a \$200.00 fine levied against the corporate license. Also, the broker for the corporation was required to complete and to submit proof of completion of a three (3) hour agency course, for violating Ohio Revised Code Section 4735.18(A)(6). The corporation obtained a listing on a property. Thereafter, another person was appointed to serve as the listing agent and to market the property. The corporation failed to have this delegation placed in writing and signed by their client.

JERRY G. GROVER, broker, Worthington, 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 brokerage post-licensure course for violating Ohio Revised Code Section 4735.18(A)(6) as it incorporates Ohio Revised Code Section 4735.58(A). Ms. Grover, in serving as a property manager, failed to furnish the landlord-client with a copy of the Ohio agency disclosure form and/or failed to retain a copy of the form.

CRAIG A. ENGLISH, broker, Cleveland Heights, Ohio, had three thirty (30) day suspensions of his license, to be served consecutively, which commenced on November 15, 2001, three \$500.00 fines were levied against his license, and he was required to complete and submit proof of completion of the ten (10) hour brokerage post-licensure course. Mr. English was found to have violated three counts of Ohio Revised Code Section 4735.18(A)(6), one as it incorporates Ohio Revised Code Section 4735.58(B). Mr. English failed to prepare and to submit to the buyers an Ohio agency disclosure form. He also misled the buyers, by representing that he was a real estate agent for a company when he was not associated with that brokerage. Finally, he prepared and submitted for another agent, an Ohio agency disclosure

form, without noting on the form who the individual would be representing.

JAMES D. MROWCA, broker, Concord Township, Ohio, had a \$250.00 fine levied against his license for violating Ohio Revised Code Section 4735.18(A)(6). Rather than preparing the Ohio dual agency disclosure form, Mr. Mrowca had the parties approve the in-house transaction portion of the standard agency disclosure. Because he was a management level licensee, Mr. Mrowca was required to prepare the Ohio dual agency disclosure form.

JOANNE M. WINKLER, sales associate, Parma Heights, Ohio, had two \$500.00 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), as they incorporate Ohio Revised Code Section 4735.58(B). Ms. Winkler failed, on two separate occasions, to present the Ohio agency disclosure form before marketing the property for the seller.

JOSEPH BELINSKE, IV, sales associate, Toledo, 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 agency course, for violating Ohio Revised Code Section 4735.18(A)(6), as it incorporates Ohio Revised Code Section 4735.58. Mr. Belinske negotiated on behalf of a client for the potential lease of a property, without providing all of the parties with an Ohio agency disclosure form, disclosing whom he would be representing.

VICKI WEATHERLY, broker, Centerville, Ohio, had a fifteen (15) day suspension of her license, which commenced on November 15, 2001, a \$500.00 fine levied against her license, and was required to complete and to submit proof of completion of a three (3) hour agency course, for violating Ohio Revised Code Sections 4735.18(A)(6) and 4735.58(B). Ms. Weatherly failed to provide the buyer with the "Disclosure of Agency Relationship" form indicating she was representing the buyer as the buyer's agent.

WILLARD L. BURSON, broker, Columbus, Ohio, had two fifteen (15) day suspensions of his license, to be served consecutively, which commenced on November 15, 2001, two \$500.00 fines

levied against his license, and was required to complete and to submit proof of completion of ten (10) hours of continuing education. Mr. Burson was found to have violated two counts of Ohio Revised Code Section 4735.18(A)(6), one as it incorporates Ohio Revised Code Section 4735.58(B), and one as it incorporates Ohio Revised Code Section 4735.58(A). Mr. Burson showed property and prior to the showing of the property, he failed to prepare and to submit to the buyers an Ohio agency disclosure form. Mr. Burson also marketed property without first preparing and submitting to the owner of the property an Ohio agency disclosure form.

WILLARD L. BURSON, broker, Columbus, Ohio, had a thirty (30) day suspension of his license, which commenced on December 15, 2001, and a \$1,000.00 fine levied against his license, for violating Ohio Revised Code Section 4735.18(A)(6), as it incorporates Ohio Revised Code Section 4735.02. Mr. Burson, during a time when his real estate license was in an inactive status, listed property for sale.



**The Ohio
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Division of Real Estate and Professional Licensing
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