



# Division of REAL ESTATE

# & PROFESSIONAL LICENSING

## Newsletter

Spring 1998

George V. Voinovich  
Governor

Donna Owens  
Director

Ronald J. Rotaru  
Superintendent

## Real Estate Course Provider Found Guilty of Fraud

*John McKenzie loses real estate license, receives suspended jail sentence*

It began with a phone tip to the Ohio Division of Real Estate and Professional Licensing. It ended with continuing education provider John McKenzie being convicted of three counts of making false statements to mislead a public official, resulting in the permanent loss of his real estate license.

A licensee tipped off a Division investigator that participants were receiving continuing education certificates from McKenzie and his Ohio Real Estate Academy without fulfilling their educational requirements. In fact, the caller said McKenzie announced at the outset that the courses would not be held for the entire scheduled time. Concerned that licensees were not receiving the instruction they needed, the Department launched an investigation.

On Saturday, April 4, 1997, a few minutes after 3 p.m., an investigator from the Division visited the Lancaster, Ohio hotel where the course was to have been held from 1 to 4 p.m., and found an empty classroom. The next day, Sunday, the investigator returned to the hotel a few minutes before 4 p.m. and again discovered an empty classroom where the course was scheduled to last until 5 p.m. On both days, the hotel's staff told the investigator that McKenzie had left at least 20 minutes prior to the investigator's arrival. And finally, on April 19, for a 9 a.m. class scheduled to last eight hours including a one hour lunch break, McKenzie ended class at 2 p.m.

In his application to the Division, Mr. McKenzie promised he would provide 30 hours of continuing education. To meet the law's requirement for continuing education, licensees had to be present 90 percent of the approved course time.

The Division waited for the participants to send in their compliance forms for the abbreviated courses and for McKenzie to submit his attendance course rosters, verifying that the participants had been present in the classes 90 percent of the scheduled time. Once these documents were received, Superintendent of Real Estate and Professional Licensing, Ronald J. Rotaru, filed a complaint through the Columbus

City Attorney's office charging McKenzie with misleading a government agency.

The Superintendent rejected all of McKenzie's courses for continuing education credits and letters were sent to all 32 agents who

attended the abbreviated course, informing them of the rejection of their education credit. The Superintendent decided in this case not to pursue criminal prosecution for those agents who submitted compliance forms for class credits.

Many of the agents who took McKenzie's courses mistakenly thought they only needed to be present for 90 percent of the time the instructor was there, and that McKenzie could offer the courses in any manner he chose.

*Continued on next page*

## A Letter to Real Estate Course Providers

My name is John McKenzie. I am 78 years old and I live in Circleville, Ohio. I have held a real estate salesman license in the State of Ohio since 1974 and I have been a real estate course provider/instructor at the Ohio Real Estate Academy since 1980.

On October 19, 1997 I pled guilty in Franklin County Municipal Court to three charges of Falsification, contrary to Ohio Revised Code 2921.13(A)(3), a Misdemeanor of the First Degree. The charge was based upon my foolishly, on two occasions, allowing students to be dismissed early and on one occasion combining the course material and not giving instruction at all on the fourth day. This was all done at the request of, and by the agreement of, my students. They signed a roster that they attended and I certified that they completed all 30 hours, when, in fact, they had not. I am not sure if this will adversely affect these students.

The Judge required me to cancel my real estate license. I cannot give future courses. I was given a suspended jail sentence. I was fined and placed on probation. The Judge made it clear that he felt this was a jailable offense and but for my age and failing health, I would have served time in jail.

At the time my actions did not seem to be wrong. Who was hurt anyway? Upon hindsight, I acknowledge my actions were wrong. When the Ohio Real Estate Commission says 30 hours, it means 30 hours of instruction and 30 hours of attendance. The law means what it says and I had no right to ignore it.

This unfortunate incident has caused me great

*Continued on next page*

# Failure to Pay Child Support Can Lead to Real Estate License Suspension

Real estate licensees should be aware that a new state law dubbed the "child-support reorganization act" requires child support agencies to notify state agencies to suspend the professional license of deadbeat parents. For example, the Division of Real Estate and Professional Licensing, as well as all other state agencies that issue professional licenses, must immediately suspend the license of a licensee when properly notified by a child support agency.

The Division is *not* required to provide a hearing on the matter and licensees who believe the suspension is improper must contact the child support agency.

In 1997, the Division received from child support agencies three notices to suspend real estate licenses. However, in each case, no action was needed since the child support agency rescinded its suspension order due to compliance by the licensee.

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## The Super's Comments

By Ronald J. Rotaru, Superintendent

Just a few random thoughts to pass along as we start publishing a bigger, more helpful and informative newsletter. Not a day goes by when the division fails to receive numerous calls from licensees asking for legal advice about personal real estate matters. As employees of the State, we may answer questions about real estate license laws such as dual agency agreements and disclosure and advertising requirements, but we're not allowed to provide personal legal advice to callers.

Our division attorneys cannot determine legal conclusions or give any opinion in non-licensing matters. Agents who have questions about the interpretation of contracts, real estate transactions, closings or disputes about whether compensation is owed should consult with their in-house counsel or broker in charge. If a client or customer needs legal advice, the agent should suggest they consult with their own attorney to determine a course of action. When you do call for assistance, please have your file number available so we can expedite the process. The phones are manned from 8:00 a.m. to 5:00 p.m., Monday through Friday.

Finally, I need your help to get this bulletin into the hands of all licensees. This information needs to be read by every real estate agent. Please take the time to pass along a copy of this bulletin to your agents. Perhaps by disseminating this information we can avoid future problems. Any comments you may have regarding this column or this bulletin will be graciously appreciated. Thanks for your input.

## Letter to Providers

*Continued from page 1*

unwanted notoriety in the local newspaper. I have had to pay a substantial fine, court costs and attorney fees. I have lost my license to sell real estate.

The Judge wanted to make an example of me and I trust when you read this letter, you will agree that he has done so.

I advise you that saving a few hours class time is not worth it. Being a good guy at the request of the students is not worth it. I deeply regret my actions and I hope none of you will repeat my mistakes.

Very truly yours, John W. McKenzie.

## Found Guilty of Fraud

*Continued from page 1*

McKenzie was found guilty on all three counts of making false statements to mislead a public official. He was sentenced to a 60-day suspended jail term, fined \$1000, given two years probation and ordered to complete 200 hours of community service. He was also directed to write and send a letter to all continuing education course providers, telling them what he did and the consequences of his actions (see sidebar page 1).

In all, there are 360 continuing education providers in Ohio that offer more than 2,000 approved courses, and more than 10,000 offerings. These providers must meet strict professional standards when providing courses. Only a few times during the year does the Division receive reports of courses failing to meet state requirements, and in most cases, these are nothing more than a minor infraction.

"We want to make sure instructors are teaching what is required," says Superintendent Rotaru. "Even though we increased our spot checks of courses, only a minimal number of providers take short cuts when offering continuing education. The majority of real estate licensees know what they want and demand exactly what the instructor is supposed to provide. As licensees continue to report improvement, the quality of continuing education will improve."

## Change of Address Must Be Made in Writing

Have you moved? As a real estate licensee, you must notify The Division in writing of any change in your business and home address. If changing your brokerage business location or branch office location, a multiple change application must be completed and sent to the Division with the affected license(s). There is no fee for an address change. In addition, the Division should be notified of new phone numbers and name changes.

If you change your name and want to continue to transact real estate business, you must complete a multiple change form in order to have a real estate license issued in your new name. License law requires that you do business *only* in the name that appears on your real estate license.

# Agency Agreement Must Include Specific Fair Housing

## Language

A part of House Bill 354, which went into effect in December 1996, concerns fair housing language which must be included in each written agency agreement. In addition to a definite expiration date, each written agency agreement, such as a listing contract or a buyer's agency agreement, must state the following: "It is illegal, pursuant to the Ohio Fair Housing Law, Division (H) of section 4112.02 of the Ohio Revised Code and the federal fair housing law, 42 U.S.C.A. 3601, to refuse to sell, transfer, assign, rent, lease, sublease, or finance housing accommodations, refuse to negotiate for the sale or rental of housing accommodations, or otherwise deny or make unavailable housing accommodations because of race, color, religion, sex, familial status, ancestry, handicap, or national origin; or to so discriminate in advertising the sale or rental of housing, in the financing of housing, or in the provision of real estate brokerage services."

In addition, agency contracts must contain a statement about blockbusting that must be printed exactly as follows:

"It is also illegal, for profit, to induce or attempt to induce a person to sell or rent a dwelling by representations regarding the entry into the neighborhood of a person or persons belonging to one of the protected classes."

Finally, the written agency agreement must include the United States Housing and Urban Development Department's equal housing opportunity logo (see below.)

Brokers and agents must make sure this statement is printed in their agency agreements to avoid disciplinary action for failure to comply with Ohio Revised Code 4735.55 concerning fair housing. Variations from the statutory language are not permitted.



EQUAL HOUSING  
OPPORTUNITY

# Real Estate Recovery Fund Distributes Largest Payment Yet

A Cincinnati class action suite set the stage in 1997 for the Ohio Real Estate Recovery Fund to distribute \$185,999.46, the largest payment in the fund's history. The class action suit was against the Alliance of Real Estate Cooperates, Authorized Rent Certificate Organization, plus three other licensees that went out of business, leaving more than 40 parties who were awarded judgments against the licensee without recourse to satisfy their loss if not for the fund.

To receive payment from the recovery fund that is administered by the Ohio Division of Real Estate and Professional Licensing, a party must already have a final, unsatisfied judgment against a licensed real estate agent who was acting in his or her capacity as a real estate licensee. This judgment must be based on conduct that could be considered a violation of Ohio Revised Code Chapter 4735. This does not cover losses resulting from real estate a broker's failure to pay a sales person their earned share of a real estate commission. Parties who can demonstrate that they have tried to satisfy their judgment from the real estate licensee but were not successful may be entitled to payment from the fund.

In addition to the class action suit, two other payments were made from the Ohio Real Estate Recovery Fund in 1997, one for \$31,000 and another for \$5,000. Total payments made from the fund last year were \$221,999.46. Since 1986, the recovery fund has paid 134 claims totaling \$1,427,176.51.

Real estate agents should not consider the fund as a substitute for errors and omissions insurance. One reason is that when a payment is made out of the recovery fund, the agent on whose account payment was made usually has their real estate license suspended indefinitely.

# Using Incorrect Zip Code Will Cause Mail Delay

Licensees must make sure they are using the correct zip code to avoid costly delays when sending mail to the Division of Real Estate and Professional Licensing. For first-class mail, use the 43266-0547 zip code. For courier services, including Federal Express, use 43215 as the zip code.

# News from the Ohio Real Estate Appraiser Board

## Appraisers must include disclosure statement

Although House Bill 304, effective March 1996, repealed the requirement that appraisers must use the board approved Appraiser Disclosure Statement, licensed and certified appraisers, including those signing a report as a supervisor or co-appraiser, still must include the disclosure information mandated by Ohio Revised Code Section 4763.12(C) in their appraisal reports of specialized services. The appraiser disclosure statement is mandatory if the information is not included in the report.

Appraisers who have questions regarding appraiser disclosure requirements should call the appraisal enforcement section in our Cleveland office at (216) 787-3100.

## Appraisers must evaluate report

Appraisers conducting appraisal reviews must comply with the Uniform Standards of Professional Appraisal Practice (USPAP) Standard 3. The intent of Standard 3 is for the reviewer to evaluate an appraisal report in order to form an opinion of the appropriateness and reasonableness of the analysis, opinions, and conclusions.

The appraisal enforcement section receives many complaints from review appraisers that are based on reviews not complying with Standard 3. Failure to comply with Standard 3 is a violation of Ohio Revised Code Chapter 4763.13(A).

## Examination fee increases

The Professional Examination Service has announced that effective February 1, 1998 the fee to take the real estate appraiser exam will be \$60. This \$25 increase is the first fee increase since testing began by the Division.

To be admitted to the examination, applicants must first present a certified check or money order for \$60 payable to the Professional Examination Service. Personal checks, cash, and credit or debit cards will not be accepted as payment.

# 1998 Exams Scheduled

The following dates are tentative only.

## Sale Agents

Columbus/Cleveland

April 7/16

May 6/14

June 3/11

July 8/16

Aug. 5/13

Sept. 2/17

Oct. 7/15

Nov. 4/19

Dec. 17 (Cleveland Only)

## Brokers

Columbus only

April 6

May 11

June 8

July 13

Aug. 10

Sept. 14

Oct. 5

Nov. 9

Foreign real estate examinations are given only in Columbus, and because of the small number of applicants for both dealer and sales licenses, these exams are scheduled as applications are received. Appraiser exams are scheduled in Columbus and Cleveland each month as needed.

If you require assistance or special accommodations, please call (614) 466-4100 at least two weeks prior to the exam.

## Real Estate Fee Schedule is Outlined

Listed below are fees charged by the Ohio Division of Real Estate and Professional Licensing.

Broker Application	\$69.00
Broker Reinstatement	\$69.00
Broker Reciprocity	\$69.00
Limited Broker	\$69.00
Sales Application	\$49.00
Sales Reinstatement	\$49.00
Sales Reciprocity	\$49.00
Broker Activate Sales	\$25.00
Broker Transfer	\$25.00
Sales Transfer	\$20.00
Broker Renewal	\$49.00
Sales Renewal	\$39.00
Branch Office License	\$8.00
Broker on Deposit	\$13.00
Limited Sales	\$49.00

To avoid processing delays, applications must be accompanied by the correct fee. No cash is accepted by the Division.

# Disciplinary Actions Revocations

**WILLIAM F. SCHRAM, JR.**, sales associate, Bay Village, Ohio, had his sales license revoked for violations of Section 4735.18(A)(6) of the Revised Code and Section 4735.18(A)(9) as that section incorporates Section 4735.21 of the Ohio Revised Code. This revocation became effective May 1, 1996. In connection with the purchase of two properties, Mr. Schram was given earnest money deposits. However, these funds were not remitted to his broker for deposit into the brokerage's trust or special account. In connection with another transaction Mr. Schram collected a commission in his own name. He collected these funds in his own name and without the consent of his broker.

## Suspensions

**LINDA E. ACKERMAN**, sales associate, Amherst, Ohio, had her sales license suspended for 90 days for violating Section 4735.18(A)(6) of the Ohio Revised Code. However, due to mitigating circumstances, 45 days of the suspension were waived by the Ohio Real Estate Commission. Ms. Ackerman began serving the 45-day balance of this suspension on December 30, 1996. Business cards and advertising in publications referenced Ms. Ackerman as being associated with an unlicensed builder, with no reference made to the broker with whom she was actually licensed. While she was not involved in the original preparation of the ads, she did not timely object to further dissemination of the inappropriate materials even though having the opportunity to do so.

**AKRON TOWN & COUNTRY REALTY, INC.**, corporation, Akron, Ohio, had its corporate license fined \$5,000.00 for violating Sections 4735.18(A)(6) and (A)(26) of the Ohio Revised Code. In connection with an agreement to purchase property, the company collected an earnest money deposit. The funds were collected in a fiduciary capacity, however, the company failed to continuously maintain the funds in its real estate brokerage trust account. There was a period when checks were issued from the trust account and sufficient funds were not available in the account. In addition, checks were issued from the trust account for reasons not connected with real estate transactions.

**CHARLES D. AMATO**, sales associate, Parma, Ohio, had his sales license suspended for 1 year

for violating Section 4735.18(A)(6) of the Ohio Revised Code. Mr. Amato began serving this suspension on April 8, 1997. Mr. Amato made changes to a transaction document and signed the owner's name without the owner's knowledge or consent. Upon the request of the owner, Mr.

Amato agreed to remove the lock box and the sale signs from the property, however, he was no longer associated with the company who had the box and the sign on the property.

**BENNY BONANNO**, sales associate, Cleveland, Ohio, had his sales license suspended for 18 months for violating Section 4735.18(A) of the Ohio Revised Code. Mr. Bonanno began serving this suspension on November 1, 1996. Mr. Bonanno was convicted of theft in office in Cuyahoga County Common Pleas Court.

**SIDNEY BUCHLER**, broker, Cleveland Heights, Ohio, has his broker's license suspended for 30 days for violating Sections 4735.18(A)(6) and (A)(26) of the Ohio Revised Code. However, due to mitigating circumstances, 20 days of the suspension were waived by the Ohio Real Estate Commission. Mr. Buchler began serving the 10-day balance of his suspension on March 27, 1997. In an agreement to purchase property, in which Mr. Buchler's brokerage was representing the seller, an earnest money deposit was provided by the potential purchaser. However, the transaction did not close and Mr. Buchler authorized the return of the earnest money deposit to the purchaser, without the consent of his client, the seller, or pursuant to a court order. He also failed to deposit and maintain the funds in the brokerage's trust account.

**RUDOLPH J. CALET**, broker, Akron, Ohio, had his broker's license suspended for 60 days and was fined \$1,000.00 for violating Sections 4735.18(A)(5) and (A)(6) of the Ohio Revised Code. Mr. Calet began serving this suspension on May 19, 1997. In connection with an agreement to purchase property, an earnest money deposit was collected. The funds were to be applied to the purchase price and eventually to be paid to the seller. The transaction closed with the execution of a land contract and Mr. Calet refused and failed to remit the funds to the seller.

**P. J. CONNOR**, sales associate, Westerville, Ohio, had disciplinary action taken against his license for violating Section 4735.18(A)(6) of the Ohio Revised Code as it incorporates Ohio Administrative Code Section 1301:5-5-05. The Ohio Real Estate Commission required Mr. Connor to complete three hours of approved continuing education in accordance with Ohio Administrative Code Section 1301:5-1-18, and that the three hour course must involve a review

of agency relationships under the real estate license laws. Mr. Connor entered into a listing agreement with the owners of a property, thereby entering into an agency relationship with the owners. Later, Mr. Connor had the owners complete an agency disclosure form which noted that he was only representing the buyers. This could not be the case since he had a listing agreement with the owners. Mr. Connor was a dual agent, but he failed to prepare and submit to the parties an agreement acknowledging consent to such representation.

**PAOLO A. CUGINI**, broker, Westerville, Ohio, was fined \$4,800.00 for violating Sections 4735.18(A)(34), (A)(9) as it incorporates Ohio Revised Code Section 4735.02 and 4735.18(A)(6). During a period of time when Mr. Cugini's license was suspended for education, along with the licenses of the salespeople associated with him, he permitted and authorized the salespeople to continue to conduct real estate business in the name of his brokerage.

**DEBORAH A. DECHANT**, sales associate, Chesterland, Ohio, had her sales license suspended for 90 days for violating Section 4735.18(A)(6) of the Ohio Revised Code. However, due to mitigating circumstances, 45 days of the suspension were waived by the Ohio Real Estate Commission. Ms. DeChant will receive the 45-day balance of the suspension upon reinstatement of her real estate license. Business cards and advertising in publications referenced Ms. DeChant as being associated with an unlicensed builder, with no reference made to the broker with whom she was actually licensed. While she was not involved in the original preparation of the ads, she did not timely object to further dissemination of the inappropriate materials even though having the opportunity to do so.

**NANCY E. DECKARD**, sales associate, Strongsville, Ohio, had her sales license suspended for 30 days for violating Sections 4735.18(A)(19) and (A)(6) of the Ohio Revised Code. Ms. Deckard began serving her suspension on March 10, 1997. While an owner had an exclusive listing agreement with another brokerage, Ms. Deckard prepared an offer on behalf of a buyer, but failed to submit this offer to the listing real estate company, but instead, proceeded to negotiate directly with the owner.

**MICHAEL EDMONDS**, broker, Trotwood, Ohio, had his broker's license suspended for 90 days for violating Section 4735.18(A)(26) of the Ohio Revised Code. Mr. Edmonds began serving this suspension on December 30, 1996. Mr. Edmonds set up a second real estate trust account

and within this account he deposited his own money for use toward a variety of personal activities. By engaging in such conduct, he failed to maintain a trust account that was separate and distinct from any personal or other account of the brokerage.

**RAY EMMONS**, sales associates, Tipp City, Ohio, had his sales license suspended for 30 days for violating Section 4735.18(A)(6) of the Ohio Revised Code as it incorporates Ohio Administrative Code Section 1301:5-5-05(B). However, due to mitigating circumstances, 15 days of the suspension were waived by the Ohio Real Estate Commission. Mr. Emmons began serving his suspension on December 30, 1996. Mr. Emmons prepared an offer on behalf of a buyer for the purchase of property. On the agency disclosure form, Mr. Emmons noted that he was representing the buyer and the owner. However, he failed to have a written agreement signed by the parties acknowledging their consent to such dual representation attached to the agency disclosure form.

**NESTA F. FOSTER**, sales associate, Westerville, Ohio, had disciplinary action taken against her real estate sales license for violating Section 4735.18(A)(6) of the Ohio Revised Code. Ms. Foster began her 30 day suspension on May 18, 1997, was fined \$500.00, and was required to complete and submit proof of 9 hours of continuing education involving ethics/disclosure and agency issues. In connection with the purchase of property, a county health department inspection report was done and was unfavorable. However, Ms. Foster neglected, prior to closing, to inform the buyers of the information received from the report.

**SUE FRAZIER**, broker, Urbana, Ohio, had disciplinary action taken against her broker's license for violating Ohio Revised Code Section 4735.18(A)(6) as it incorporated Ohio Administrative Code Section 1301:5-5-05. Ms. Frazier's license was suspended for 30 days, however, due to mitigating circumstances, 20 days of the suspension were waived by the Ohio Real Estate Commission. Ms. Frazier began serving the 10 day balance of the suspension on May 19, 1997, and was required to complete and submit 3 hours of continuing education involving agency issues. In connection with property listed with her brokerage and owned by she and her husband, Ms. Frazier prepared and submitted an offer without providing an agency disclosure form to the buyers.

**FULL SERVICE REAL ESTATE CO., dba GRAND TRADITIONS**, corporation, Westerville, Ohio, had its corporate brokers

license fined \$2,000.00 for violating Section 4735.18(A)(21) of the Ohio Revised Code. The company permitted advertising, consisting of yard signs and newspaper print, promoting a salesperson's name with their company while that salesperson's real estate license was under disciplinary suspension.

**HARMONY HOMES REALTY, INC.**, Maple Heights, Ohio, had its corporate license suspended for 15 days for violating Sections 4735.18(A)(6) and (A)(30) of the Ohio Revised Code. However, due to mitigating circumstances, imposition of the suspension was waived by the Ohio Real Estate Commission. The corporation, acting through its authorized officers, agents and/or employees, failed to pay a real estate salesperson their earned share of commissions, and failed to, within a reasonable time, render an accounting of commissions due the salesperson for the sale of property.

**SHERRY L. HORN**, sales associate, Coshocton, Ohio, had her sales license suspended for 60 days for violating Section 4735.18(A)(6) of the Ohio Revised Code. Ms. Horn began serving this suspension on February 3, 1997. Ms. Horn prepared an offer on behalf of potential buyers to purchase property. The purchase agreement called for an earnest money deposit due three days after acceptance. On the agency disclosure form she noted that she represented the owners. A contract was entered into, but Ms. Horn failed to collect the earnest money deposit. She also neglected to promptly inform her clients, the owners, that the purchasers had not paid the deposit as called for by the purchase agreement.

**ALLEN H. HOTCHKISS**, broker, Toledo, Ohio, had disciplinary action taken against his broker's license for violating Section 4735.18(A)(6) of the Ohio Revised Code. Mr. Hotchkiss was required to complete a three hour course involving Landlord Tenant Law/Property Management issues and was ordered to pay a fine of \$300.00. Mr. Hotchkiss, while managing property for an out-of-state client, remitted a security deposit to the tenants from rent proceeds without his clients authorization or consent and against the client's instructions.

**STEPHEN N. JUNKER**, broker, Cincinnati, Ohio, had his broker's license suspended for 15 days for violating Section 4735.18(A)(24) of the Ohio Revised Code. However, due to mitigating circumstances, imposition of the suspension was waived by the Ohio Real Estate Commission. Mr. Junker failed to maintain a copy of a completed Ohio agency disclosure form for the mandatory three year period.

**RICHARD D. LEANZA**, broker, Maple Heights, Ohio, had his broker's license suspended for 30 days for violating Sections 4735.18(A)(6) and (A)(30) of the Ohio Revised Code. Mr. Leanza began serving this suspension on December 9, 1996. Mr. Leanza failed to pay a real estate salesperson their earned share of commissions, and failed to, within a reasonable time, render an accounting of commissions due a salesperson for the sale of property.

**STEPHEN C. LENKER**, broker, Dublin, Ohio had disciplinary action taken against his license for violating Section 4735.18(A)(6) of the Ohio Revised Code as it incorporates Ohio Administrative Code Section 1301:5-5-05(B). The Ohio Real Estate Commission required Mr. Lenker to complete three hours of approved continuing education in accordance with Ohio Administrative Code Section 1301:5-1-18, and that the three hour course must involve agency law under the newly adopted real estate license laws. Proof of completion of this course must be submitted to the Division within 45 days after Mr. Lenker reinstates his license. While a sales associate, Mr. Lenker prepared an offer to purchase property for a company of which he was the president. On the agency disclosure statement, he noted that he was representing the buyer and the seller as a dual agent. Mr. Lenker claimed he had a separate dual agency agreement, but was unable to produce the document.

**ROBERT C. NEWELL**, broker, Carrollton, Ohio, had disciplinary action and a fine levied against his broker's license for violating Section 4735.18(A)(6) of the Ohio Revised Code. Mr.

Newell was required to complete the 10 hour post-licensure brokerage course and to pay a fine of \$100.00. Mr. Newell failed to designate additional contracts as back-up or contingent upon the primary contract being terminated.

**FREDERICK W. RECTOR**, sales associate, Columbus, Ohio, had his license suspended for 60 days and was fined \$1,500.00 for violating Section 4735.18(A)(6) of the Ohio Revised Code. Mr. Rector began his suspension on February 3, 1997. Mr. Rector's previous broker paid him a commission on the sale of property for which he procured the purchasers. Later, the owner of the same property had another commission payment issued to his current broker, and pursuant to his employment agreement with the present broker, the company remitted the entire commission payment to Mr. Rector. Upon receipt of this second commission, he failed to inform the present broker that the previous broker had paid him a share of the commission on the same transaction. An overpayment was made, but Mr. Rector neglected to bring this to the seller's attention.

**GARY N. SHEAFFER**, broker, Centerville, Ohio, had his broker's license suspended for 30 days for violating Section 4735.18(A)(6) of the Ohio Revised Code. Mr. Sheaffer began serving this suspension on December 16, 1996. In an agreement to purchase property, Mr. Sheaffer's brokerage was the selling broker. In connection with the agreement, an earnest money deposit was received by the brokerage. A dispute ensued between the buyer and the seller and the transaction did not close. However, the earnest

money deposit was returned to the buyers without the consent of the sellers and contrary to language in the purchase contract.

**DONALD W. SMITH**, broker, Cincinnati, Ohio, had his broker's license suspended for 180 days for violating Sections 4735.18(A)(1), (A)(4) and (A)(6) of the Ohio Revised Code. Mr. Smith began serving this suspension on January 21, 1997. In connection with property listed for sale with his brokerage, Mr. Smith and the seller entered into a purchase agreement. Mr. Smith was acting for himself in this agreement, but without the knowledge and consent of the seller. In connection with this same transaction, Mr. Smith noted on the agency disclosure form that he was only representing the seller. He knew, or should have known, that he was also acting for himself as a party in the transaction. Another broker had commission rights in this transaction, but at closing Mr. Smith made statements that were false and received the entire commission.

**RICHARD D. TIPTON**, broker, Centerville, Ohio had his broker's license suspended and was fined for violating Section 4735.18(A) of the Ohio Revised Code. Mr. Tipton's license was suspended for 2 years and he was ordered to pay a fine of \$2,500.00. Mr. Tipton began serving his suspension on May 19, 1997. Mr. Tipton was convicted of felony bank fraud in the U.S. District Court of Cincinnati.



State of Ohio  
Department of Commerce  
Division of Real Estate and Professional Licensing  
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BULK RATE  
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