

REAL ESTATE BULLETIN

Official Publication of the Division of Real Estate

EARL WARREN, Governor

Sacramento, January, 1952

D. D. WATSON, Commissioner

To Whom Does Deposit Belong?

Only When Specifically Authorized May Broker Hold on to Deposit Money

There has been a rather widespread misunderstanding on the part of brokers concerning their rights to "hold the deposit to protect the commission." While we have commented on this point previously we now have a rather concise statement on this subject furnished by *Herbert L. Breed, Esq.*, Counsel for the California Real Estate Association, and recognized as a leading real estate attorney.

Briefly, the broker has no right to the deposit unless his employment agreement specifically gives him the right to retain it to apply toward his commission. In the usual cases, the deposit belongs to either the seller or buyer during the course of the transaction.

The specific question and Mr. Breed's answer are given herewith:

"Q. Is it all right for a broker to withhold commission after he has found a buyer, provided he puts the balance of the money into escrow or into a trust fund?"

"A. Under ordinary circumstances a broker accepting a deposit on a piece of real property does so as the agent of the vendor, and the vendor is entitled to the deposit. This is true where the broker has a listing from the vendor in which authority to accept a deposit is given. The vendor has a right to demand the deposit from the broker, who cannot withhold the same legally.

"Situations wherein there is no listing or the listing does not contain a clause authorizing the broker to accept a deposit, the broker takes the deposit initially as the agent of the purchaser. In these circumstances, however, when the vendor accepts the offer by his signature to a deposit receipt, thus ratifying the acts of the

broker, after such time the broker then holds the deposit as agent for the vendor.

"Whether the deposit has come into the broker's hand by virtue of prior authorization to accept the same or by ratification of the taking of the deposit at a later date, the broker has no legal right to retain the deposit for purposes of securing payment of his commission from the vendor. The money in point of law belongs to the vendor.

"Unless the agreement between the vendor and the broker contains language to the effect that the amount of the deposit receipted for may be retained by the broker as his commission, the money legally belongs to the vendor. A broker must recover his commission from the vendor by some other means. The obligation to pay a commission is a general one, and does not relate to any specific fund."

Licenses Not Issued Until Fingerprints Cleared

The broker who is bringing new people into the business as real estate salesmen should understand that no original license of any kind is issued by the Division of Real Estate until the applicant's fingerprints have been checked and cleared by the California Bureau of Criminal Identification.

This clearance process takes time, so it is advisable for the applicant hoping to enter the real estate business to appear personally at one of the offices of the Division of Real Estate and have his fingerprints taken at the time he submits his application.

Directory Corrections

A few errors have been found in the 1951-52 directory of brokers and salesmen, recently issued. This is understandable when it is considered that the directory contains listings of more than 80,000 names.

The following have recently been called to our attention:

John R. Spring, 1859 W. Imperial Highway, Los Angeles, who was not listed, is a duly licensed real estate broker.

Anna N. Dick, 107 E. Weber Ave., Stockton, who was listed as a licensed business opportunity salesman, is actually a duly licensed business opportunity broker.

Mary Campbell Kling, dba Mary Campbell, is a licensed real estate broker, 1701 N. El Camino Real, San Clemente.

"South Pasadena" should appear at the top of page 694, rather than "South Gate."

"San Rafael" should appear at the top of page 656, rather than "San Pedro."

"East Palo Alto" and **"North Palo Alto"** are in San Mateo County.

A number of persons who had canceled their licenses have inquired about the omission of their names from the directory. Names of licensees who had canceled ("inactivated") their licenses were not included in the 1951-52 directory, because they held no active license at the time of printing. Furthermore the "inactive" broker would have no business address, and the "inactive" salesman would have no employing broker.

NEW MEXICO BOARD

The Governor of New Mexico has appointed a "Real Estate Board" composed of George Savage, Albuquerque; Theodore Benninghoven, Carlsbad; Seaborn P. Collins, Las Cruces; B. R. Durrett, Raton; Stanley H. Mathis, Roswell. New Mexico has been one of the less than a dozen states without a real estate licensing law.

REAL ESTATE BULLETIN

Sacramento, January, 1952

Published Bimonthly by the
DIVISION OF REAL ESTATE
 STATE OF CALIFORNIA
 EARL WARREN, Governor

D. D. WATSON
Real Estate Commissioner
 M. R. GRIFFIN, *Administrative Assistant*

STATE REAL ESTATE BOARD

| | |
|-----------------------------------|------------------------------------|
| LELAND P. REEDER Beverly Hills | CHESTER B. SHATTUCK Los Angeles |
| MAURICE G. READ Berkeley | CHESTER MACPHEE San Francisco |
| FRANK WHITELOCK San Bernardino | CURTIS M. ROBBINS Stockton |

OFFICES AND AREA ADMINISTRATORS

GAYLORD K. NYE, Chief Deputy, Northern Calif.
 Sacramento, Principal Office.....1021 O Street
 San Francisco, Room 204, 1182 Market Street
 Saxon A. Lewis, Supervising Deputy
 Oakland505 California Building
 Fresno1312 Blackstone Avenue

RAY D. WESTCOTT, Chief Deputy, Southern Calif.
 Los Angeles.....Room 1101, Ninth and Hill Building
 Long Beach531 American Avenue
 San Diego.....604 Orpheum Theater Building

Applicants Screened Closely

Nature of Business Demands High Standards

By D. D. Watson, Commissioner

What do a person's drinking habits or his private life have to do with his right to hold, or become eligible for, a real estate broker or salesman license?

Answering this question, I might first point out that no license is issued until the applicant's fingerprints have been checked. When his record shows a series of arrests for drunkenness, disturbing the peace, drinking in or about an automobile, or drunken driving, usually a hearing is held to determine whether or not the applicant's reputation meets certain standards in addition to his honesty, truthfulness and integrity.

It is realized that anyone might get into trouble because he has taken "one too many" at a social gathering. This happens quite often, but where one's record shows continual or a large number of arrests for drunkenness or drunken driving, the applicant must produce satisfactory evidence that such a "pattern" has changed, or his application for license may be denied. The same will apply to one who has been convicted on a morals charge.

DISCIPLINARY ACTION—OCTOBER, NOVEMBER

NOTE: Any person whose license has been suspended or revoked, or whose license application has been denied, has the right to seek a court review. This must usually be done within 30 days after the effective date of the commissioner's decision.

Therefore a list of actions is not published in this *Bulletin* until the period allowed for court appeal has expired; or if an appeal is taken, until a final determination of the court action. A list of persons to whom licenses are denied upon application is not published.

LICENSES REVOKED DURING OCTOBER AND NOVEMBER, 1951

| Name | Address | Effective date | Violation |
|--|--------------------------------------|----------------|--|
| Godbolt, Willie William..... Db a W. W. Godbolt Realty Real Estate Broker | 5025 S. Broadway, Los Angeles | 10/ 3/51 | Secs. 10176 (a), (b), (g), (i) & 10177 (f) |
| Colarocco, John Liberate..... Db a Jack Cole Real Estate Broker Business Opportunity Broker | 521 N. La Cienega Blvd., Los Angeles | 10/10/51 | Secs. 10176 (a), (e), (i); 10177 (f) & 10302 (e) |
| Pauley, Gilbert B..... Real Estate Salesman (Renewal right) | 914 12th St., Santa Monica | 10/10/51 | Sec. 10177 (b) & (f) |
| Larison, Joseph Allen..... Real Estate Broker | 758 E. Main St., El Cajon | 10/18/51 | Sec. 10177.5 (Restricted RE Broker license granted) |
| Cane, Gordon Frederic..... Real Estate Salesman (Renewal right) | Loomis | 10/22/51 | Secs. 10137; 10176 (a), (b), (e), (i) & 10177 (d), (f) |
| Rachal, Oscar John..... Real Estate Salesman (Renewal right) | 1152 S. Fedora, Los Angeles | 10/30/51 | Sec. 10177 (b) & (f) |
| LaFrance, Arnold..... Real Estate Broker | 2110 University Ave., San Diego | 10/31/51 | Secs. 10176 (a), (g), (i) & 10177 (d), (f) |
| Hafing, Owen Russell..... Real Estate Broker | 2200 Bayshore Blvd., San Francisco | 11/ 9/51 | Secs. 10176 (a), (b), (g), (i) & 10177 (f) |
| Kidd, L. E..... Db a Kidd's Real Estate Real Estate Broker | 2212 S. San Pedro St., Los Angeles | 11/14/51 | Secs. 10176 (i) & 10177 (f) |
| Mills, William Riley..... Real Estate Broker Business Opportunity Broker | 1429-31 N. El Dorado St., Stockton | 11/20/51 | Secs. 10176 (e), (i); 10177 (d), (f); 10301 (e), (i); & 10302 (d), (e) |

LICENSES SUSPENDED DURING OCTOBER AND NOVEMBER, 1951

| Name | Address | Effective date and term | Violation |
|---|--------------------------------------|-------------------------|--|
| Wood, Romie..... Real Estate Broker | 117 W. Main St., Visalia | 10/ 1/51 5 days | Secs. 10160 & 10164 |
| Edison, Hazel Belle..... Real Estate Broker (Renewal right) | 2500 Sutterville Rd., Sacramento | 10/22/51 6 months | Secs. 10176 (e) & 10177 (f) |
| Garner, Harold Elgin..... Real Estate Broker | 887 Harvard Ave., Menlo Park | 10/22/51 30 days | Sec. 10176 (a), (b) & (i) |
| Pierson, Alfred V..... Real Estate Salesman | 5998 Mission St., Daly City | 10/29/51 10 days | Sec. 10177 (a) |
| Parks, Ernest Lester..... Real Estate Salesman | 6410 Blackstone Ave. at Shaw, Fresno | 11/ 5/51 6 months | Secs. 10137; 10176 (a), (i) & 10177 (c), (f) |

In the course of his business, the real estate broker or salesman drives around day and night showing properties—often in isolated places. His passengers frequently are women and children who should not be subjected to the hazards attendant upon a drunken driver or one whose reputation for moral conduct is questionable. I do not believe that anyone should be given a license if it might easily result in innocent people suffering therefrom. The State stamp of approval should be used with at least reasonable caution.

It must be remembered that the real estate business by its very nature is a special, perhaps quite personal, kind of calling or profession. Those seeking

to go into the business should be screened carefully to make sure that they meet sound moral standards along with other necessary qualifications.

Census Statistics

Of 1,455,500 occupied dwelling units in Los Angeles metropolitan area on April 1, 1950, 811,800 were owner-occupied and 643,700 were renter-occupied. Those vacant numbered 76,900. The latter includes seasonal, dilapidated, and "held off the market" properties. An average of three persons occupied each dwelling unit. The figures were released by Bureau of Census, U. S. Department of Commerce.

What About Your Ethical Conduct?

Realtor Code Stands Test of Time

Much has been written about the proper ethics of those engaged in business, and there seems to be somewhat of a divergence of opinion as to what constitutes proper conduct under certain conditions.

Fortunately, those engaged in the real estate business have a splendid guide in the form of the Code of Ethics advanced by the National Association of Real Estate Boards. This statement of proper ethical conduct is applicable to anyone engaged in the real estate brokerage business, whether or not he is a member of some real estate board. The real estate broker and salesman is more restricted by law and ethical standards than the average business man. In most cases the broker becomes an agent of a principal, and owes loyalty in the protection of the interests of his principal.

The Realtors' Code of Ethics has stood the test of time and is highly regarded as a fair statement of proper conduct for the broker and salesman. Let us consider some of the provisions of Part II of the code, dealing with relations of the broker to his clients.

"ARTICLE 12.

In justice to those who place their interests in his hands, the Realtor should endeavor always to be informed regarding the law, proposed legislation, and other essential facts and public policies which affect those interests."

Comment. Laws and policies affecting real estate transfers are constantly changing. Just as you would expect your family doctor to keep up on new medical developments, your clients may expect you to keep posted on new developments in the real estate business. Membership in a real estate organization is helpful in this respect because of bulletins and periodicals they issue covering these points. In any event, a broker can advantageously subscribe to a good real estate publication and avail himself of public school real estate classes.

"ARTICLE 13.

In accepting the agency for property, the Realtor pledges himself to be fair to purchaser or tenant, as well as to the owner

REFUNDS

Fees paid to the Division of Real Estate in connection with license applications are not refundable. Therefore, applicants should satisfy themselves that they have a reasonable chance of meeting the qualifications and that they desire to pursue their application, before they part with their money.

Occasionally an applicant changes his mind about following through with the application, and requests a refund. This must be denied. In the case of broker applicants who are judged to lack sufficient experience, the story is the same. In the latter case the fee will remain to the applicant's credit for a reasonable length of time in event he wishes to try again.

Definite expense occurs during the processing of applications, and it is for this reason that the law states that fees are deemed to be earned when paid.

whom he represents and whose interests he should protect and promote as he would his own."

Comment. While your seller is ordinarily the person to whom you owe loyalty, you should be fair to the buyer, and not take the attitude "let the buyer beware." Fairness to the buyer is not only ethical, but good business, as the buyer today may be the seller tomorrow and wish to retain your services.

"ARTICLE 14.

A Realtor should not buy for himself property listed with him, nor should he acquire any interest therein, without first making his true position clearly known to the listing owner."

Comment. This is not only a statement of good ethical practice, but practically repeats one of the rules of agency. A broker may find himself in the position where he has to make restitution and perhaps pay damages as the result of a civil court action, if he fails to disclose his position as a purchaser of property listed with him. This civil liability may even extend to him in the event his salesmen buy property listed with him without full disclosure of the circumstances.

"ARTICLE 15

When asked for an appraisal of real property or an opinion on a real estate problem, the Realtor should never give an unconsidered answer; his counsel constitutes a professional service which he should render in writing over his signature and only after having ascertained and weighed the facts, for which he should make a fair charge. The Realtor should not undertake to give an appraisal on any property in which he is in any way interested whatsoever, unless such interest is specially disclosed in the appraisal report, and under no circumstances should he undertake to give an appraisal or opinion when his employment is contingent upon the amount of his appraisal or the character of his opinion."

Comment. While this article seems to apply to those persons specializing in giving appraisal service, the average broker may well consider it. Careless statements regarding the value of properties may do much damage to both the owner and the broker himself. If you or your family have any financial interests in a property, any opinion of value given to a client should be accompanied by a statement of your interest. A broker who attempts to "kill" another broker's deal by expressing an opinion of value designed to discourage the transaction, is guilty of one of the most unethical acts in the business.

"ARTICLE 16.

The Realtor should encourage the naming of the actual or an

(Continued on page 32)

University Real Estate Program

Courses designed to fulfill three-fold purpose—

To assist those desiring to specialize in some particular branch of the business

To train those planning to make a career of real estate

To educate the public at large in the matter of real estate investments

By Senator Arthur H. Breed, Jr.

The California Legislature, in 1950, appropriated \$50,000 a year to the University of California for a period of three years for a total of \$150,000 for the purpose of conducting a program of education in the science and practice of real estate. This program was worked out jointly by the Real Estate Commissioner, the President of the University of California, representatives of real estate licensees and the legislators. Dr. Robert G. Sproul, President of the University of California, then appointed an advisory committee on real estate education to meet with him to advise as to the program to be conducted by the University and also as to the apportionment of the funds. It was agreed that the program would be conducted throughout the State. Courses in various subjects relating to real estate would be given at the Berkeley and Los Angeles campuses in the upper division and at the graduate level. This on-campus program is being conducted under the Schools of Business Administration.

The second and larger phase of the program has been established under the University Extension, with courses being offered wherever there is evidence of demand. These extension classes are now being conducted in 18 communities of the State.

On-Campus Program

The object of the on-campus program is to give a thorough, over-all training in the general principles of real estate, covering all of its major subjects such as real estate law, appraising, marketing, property management, factors of growth and development, city planning and zoning, as well as economics and related basic business courses, so that the graduates will be able to obtain a position in the field of real estate because they will have an over-all knowledge of the theory of real estate principles.

Likewise, it is the purpose of the on-campus program to have courses that students not specializing in real estate can take in order to understand the basic principles of real estate and the important part it plays in business life; *our thinking being that the knowledge of real estate is just as important to persons in business as it is for them to have some knowledge as to business law or accounting. We are confident*

that some time during the lives of the students, after they graduate, they will have some contact with the purchase, sale or management of real estate. Therefore, a properly selected course should be of benefit to young men and women alike regardless of their profession or business careers after graduation. The students who specialize in real estate will be a source of recruits for the licensed brokers who are looking for young people to build up in their organizations. Without this university program, there is no major supply of trained persons where a broker can call for personnel to build an organization.

Off-campus Program

The University Extension Program is designed to be of particular benefit to the existing real estate licensees, both salesmen and brokers. The purpose here is to supply the need for special training where a licensee may obtain education in a particular part that he is following in his chosen profession or to round out his education in the principles and practices of some branch of real estate; such as appraising, property management, industrial real estate, subdivision development or agricultural real estate.

If You Want to Benefit

Anyone desiring a course to be offered by the University Extension Program in his particular area should make his desires known to his local real estate board, which will then survey its area to ascertain whether there are others who would be interested in enrolling in a similar course. The University Extension will then offer the course desired, if there is a sufficient interest evidenced in that particular course. In this way, every one of the 90,000 licensees of the State has an opportunity of obtaining some tangible benefits from the University of California education program. Licensed real estate brokers now have a means of offering to their salesmen through the University Extension program a series of courses for their sales people, conducted by the university rather than endeavoring to train the salesmen within their own offices by their own methods alone.

Policies of Program

This University of California educational program does *not* supplant the educational program conducted by the various real estate boards. It does, in fact, supplement these programs so that all of the licensees, whether they belong to an organized board or not, have an opportunity of obtaining greater knowledge concerning their business.

Coupled with this program is a proper amount of research, conducted by the university, on real estate problems so that the sum total of knowledge of real estate information is enlarged upon by virtue of this research. *It is the expressed policy, however, that the primary emphasis in conducting both the on-campus and off-campus programs of education be designed to be as practical as possible so that all who enroll in these programs will be able to furnish a better service to the public.* These programs should enable all of the licensees to increase their earning power. It is likewise a basic principle that these programs will result in the raising of the standard of service of those engaged in real estate in California.

(Continued on next page)

*(Continued from preceding page)***Advisory Committee Duties**

To insure that the program will meet the needs of the licensees and that the program will be practical, President Robert G. Sproul of the University of California appointed an advisory committee, which consists of the Real Estate Commissioner and leaders in the California Real Estate Association who have evidenced their particular interest in education. Likewise serving on the board are two bankers, an architect and myself, as a legislator. Numerous conferences have been held with President Sproul, the deans in charge of the University Extension and the Schools of Business Administration of both the Berkeley and Los Angeles campuses so that these policies will be carried out in a manner to meet the needs of all of the licensed salesmen and brokers of the State.

STATE NEEDS JUNIOR REAL PROPERTY AGENTS

There are a number of openings throughout California for Junior Real Property Agents whose work is connected with appraisal and acquisition of real property for the State. The jobs start at \$295 and offer opportunity for training and advancement. Applications must be made to the State Personnel Board, 1015 L Street, Sacramento, on or before February 9, 1952.

Bay Area Man Receives First U. C. Extension Realty Certificate

The first Certificate in Real Estate issued by the University of California in connection with its real estate edu-

ational program, will go to Charles W. Corbitt, a member of the staff of Norris, Beggs and Simpson, of San Francisco, loan correspondents for various prominent insurance companies.

Mr. Corbitt, who lives in Berkeley with his wife and two children, qualified for the certificate at the early date for the reason that he completed various courses prior to the official beginning of the program. He enrolled after the official start in the spring of 1951, and this past fall completed the full eight-course requirements of the program.

We congratulate Mr. Corbitt on being the first to receive this certificate, and predict that he will be the forerunner of thousands who will complete this popular course in years to come.

Spring Class Schedule—U. C. Extension Certificate Courses

A wide range of courses leading to a Certificate in Real Estate will be offered this spring by University of California Extension Division. The classes will be held in various locations throughout the State, making them available to those who wish to continue real estate study leading to the certificate. Information concerning enrollment may be obtained by contacting Business Administration Extension, University of California, 140 Montgomery Street, San Francisco, or 813 South Hill Street, Los Angeles. Local Real Estate Boards in the area where the courses are scheduled can also furnish assistance.

NORTHERN AREA

Berkeley Campus:

Real Estate Practice—Feb. 12, 7 p.m.
Valuation of Real Property—Feb. 14, 7 p.m.
Sales Analysis and Sales Management—Feb. 4, 7 p.m.
Construction Costs and Estimating—Feb. 5, 7.30 p.m.
Estimating for Construction—Feb. 13, 7.30 p.m.
Investment Policies—Feb. 6, 7.30 p.m.

Contra Costa County:

To be announced. Contact the Contra Costa Real Estate Board.

Fresno:

Real Estate Practice—Mar. 12, 7 p.m.
Real Estate Finance—Jan. 7, 7 p.m.

Marin County:

Real Estate Appraisal and Valuation—Feb. 12, 7 p.m.

Monterey:

Real Estate Management—Feb. 18, 7 p.m.

Oakland:

Real Estate Law—Feb. 12, 7 p.m.
Real Estate Appraisal and Valuation—Feb. 13, 7 p.m.
Real Estate Management—Feb. 11, 6 p.m.

Sacramento:

Real Estate Practice—Feb. 11, 7 p.m.
Construction Costs and Estimating—Feb. 13, 7 p.m.

San Francisco:

Real Estate Principles—Feb. 11, 7 p.m.
Real Estate Practice—Feb. 13, 7 p.m.
Real Estate Law—Feb. 13, 7 p.m.
Real Estate Appraisal and Valuation—Feb. 12, 7 p.m.
Real Estate Finance—Feb. 14, 7 p.m.
General Insurance—Jan. 29, 7 p.m.
Construction Costs and Estimating—Feb. 1, 7 p.m.
Salesmanship—Feb. 4, 7 p.m.
Investment Policies—Feb. 7, 7 p.m.
Estimating for Construction—Feb. 14, 7.30 p.m.

San Jose:

Real Estate Appraisal and Valuation—Feb. 18, 7 p.m.

San Mateo:

Real Estate Principles—Feb. 4, 7 p.m.
Real Estate Finance—Feb. 6, 7 p.m.

Santa Cruz:

Real Estate Practice—Feb. 18, 7 p.m.

Stockton:

To be announced. Contact the Stockton Realty Board for further information.

SOUTHERN AREA

Long Beach:

Real Estate Finance, Section IV—Feb. 6, 7 p.m.

Los Angeles:

Elements of Real Estate and Urban Land Economics, Sect. I—Feb. 12, 7 p.m.
Real Estate Practice, Sect. I—Feb. 28, 7 p.m.
Real Estate Law, Sect. I—Feb. 27, 7 p.m.
Valuation of Real Property, Sect. I—Feb. 27, 7 p.m.
Real Estate Appraisal and Valuation, Sect. I—Feb. 25, 7 p.m.; Sect. II—Feb. 25, 7 p.m.
Real Estate Finance, Sect. I—Feb. 26, 7 p.m.
Real Estate Management, Sect. I—Feb. 28, 7 p.m.

Pasadena:

Real Estate Appraisal, Sect. I—Feb. 20, 7 p.m.

San Bernardino:

Real Estate Appraisal and Valuation, Sect. V—Feb. 26, 7 p.m.
Real Estate Finance, Sect. V—Feb. 27, 7 p.m.

San Diego:

Real Estate Practice—Feb. 7, 7 p.m.
Real Estate Law—Jan. 29, 7 p.m.
Valuation of Real Property—Feb. 6, 7 p.m.
Real Estate Finance—Feb. 7, 7 p.m.
Real Estate Management—Feb. 19, 7 p.m.

San Fernando Valley:

Elements of Real Estate and Urban Land Economics, Sect. III—Feb. 20, 7 p.m.
Real Estate Practice, Sect. III—Feb. 18, 7 p.m.
Valuation of Real Property, Sect. III—Feb. 18, 7 p.m.
Real Estate Finance, Sect. III—Feb. 21, 7 p.m.
Real Estate Appraisal and Valuation, Sect. IV—Feb. 20, 7 p.m.

Santa Barbara:

Real Estate Finance—Feb. 21, 7 p.m.

U.C.L.A. Campus, Westwood:

Elements of Real Estate and Urban Land Economics, Sect. II—Feb. 18, 7 p.m.
Real Estate Practice, Sect. II—Feb. 19, 7 p.m.
Real Estate Law, Sect. II—Feb. 21, 7 p.m.
Valuation of Real Property, Sect. II—Feb. 19, 7 p.m.
Real Estate Appraisal and Valuation, Sect. III—Feb. 19, 7 p.m.
Real Estate Finance, Sect. II—Feb. 20, 7 p.m.

A recent check of license applications showed that only 26 percent of the broker applicants were born in California, and only 18 percent of salesman applicants were born in this State. A survey was made in connection with study of ways and means whereby better records may be obtained of the background of applicants born in other states.

Why Law Violation Question Must Be Answered Fully on Application for License

Question No. 6 on all applications for real estate and business opportunity licenses requires that the applicant report all violations of law, without exception, including minor traffic violations.

Recently, a broker wanted to know why the commissioner should be interested in minor traffic violations. In answer, the law requires the commissioner to satisfy himself as to an applicant's good character and to judge whether the applicant is honest, truthful, and of good reputation.

When the question relative to violation of law was worded more broadly on the application, it was found that sometimes applicants concealed important violations and, when confronted with the apparent deceit on the application, would try to justify themselves with the contention that they thought the violations were minor and that the commissioner would only be interested in major violations of law.

Using the old form of question, applicants have answered "No" to the question and then the fingerprint records have shown time served in prison on a manslaughter charge in connection with drunken driving, or on a charge of having stolen an automobile, both of which charges, of course, are felonies, but have to do with traffic or automobile cases. Obviously, such cases are not "minor traffic violations" and the commissioner feels he should know more about the circumstances of such cases before issuing a license.

Investigation of the simpler violations sometimes leads to disclosure of more serious violations, such as known association with criminals, or continual and flagrant disrespect of the law.

The very nature of the real estate business requires licensees to show properties and homes during the day and night, and the commissioner is of the opinion that it would be wrong to issue licenses to those whose moral character was extremely questionable in the community.

Those who answer truthfully to application question number 6 need not fear that truly minor violations of law will jeopardize their chances for licenses.

LACK OF SALESMAN SUPERVISION DANGEROUS

We have previously pointed out in the *Bulletin* that a broker who conducts a real estate office and has as employees licensed salesmen and even other real estate brokers, is quite likely burdened with a civil responsibility for their acts. We cited one instance wherein a brokerage firm had to make good a secret profit gained by salesmen in its employ.

Occasionally we hear of some broker who devotes the greater part of his time to other business and permits employees to run his real estate business. Recently, a case was reported where the broker was engaged in farming operations in another state, and conducted a real estate office in California in charge of salesmen without his personal supervision. Under the law there is no requirement as to what part of a broker's time must be devoted to his real estate business, but as we point out, he does face certain civil hazards in conducting an office in this manner.

Delivery of Signed Acceptance

Do you make it a practice to deliver to the buyer a copy of the seller's signed acceptance of the offer to purchase?

While the California License Law does not specifically make this requirement it is good business, as court cases seem to hold that an offer to purchase may be revoked up to the time when notice of acceptance has been communicated to the buyer. (*Carr v. Lawritson*, 41-CA-2nd-31.)

Utah License Requirements

Progressive Features Added to Real Estate License Law

From time to time the real estate commissions of other states send us information concerning new legislation and policies adopted in those states.

Recently the commissioner received from the State of Utah a copy of the amended Real Estate License Law of that state, together with a bulletin pointing out some of the new provisions, which are interesting. Among them are the following requirements:

(1) Broker applicants must have had three years experience as a salesman, or its equivalent.

(2) Annual real estate broker license fee is \$20, with \$10 penalty for late renewal.

(3) In addition to requirement that principals be furnished with a copy of any listing they sign, each party to a transaction must be furnished with a copy of any sales agreement contract.

Licenses may be revoked or suspended if the holder fails to keep an accurate record of all transactions made for a period of three years, including trust funds received, how held, disposition, etc. Also all instructions of parties and a record of sales prices and commissions must be kept.

The Utah law specifically gives the salesman the right to fill out an approved earnest money receipt agreement, and brokers the right to fill out any necessary and approved legal forms.

It appears that the Utah agency will approve all sales contract forms and they must be ordinarily in quadruplicate so that copies are available for all parties. The bulletin comments: "Inasmuch as the law requires that copies of contracts must be furnished to parties, it will be construed that a buyer can withdraw his offer without sacrificing earnest money at any time prior to delivery of a copy signed by seller, or specific notice has been given of acceptance."

The Utah Commission is also given the right to audit records of brokers without giving notice, subject only to the discretion of the commission.

More About Losing Licenses

Variety of Causes Result in Loss or Suspension of License Status

The great interest which seems to be shown by licensees in our previous comment on cases which resulted in revocation or suspension of licenses seems to justify the brief description of a few more cases which have been handled fairly recently by the commissioner. Other than the news interest involved, they may serve a useful purpose in preventing other licensees from inadvertently getting involved in similar situations.

Making Money Too Fast

While secret profit complaints are more common on a rising market, they are still being received from time to time by the division. In this case the broker secured an exclusive listing, worked to sell the property for a time, and then told the owners that the listing price was too high. He said, however, that he had a buyer who would pay \$2,500 less than the listing price, and the sellers agreed. The deal was escrowed and a second escrow opened wherein the broker sold to a buyer he had previously committed to pay the full listing price. He collected his commission on the original sale to himself, and pocketed \$2,500 additional. Both his real estate and business opportunity broker licenses were revoked.

Concealed Discount on a Note

This broker sold a home to buyers which was subject to both a first and second deed of trust. He put over the sale by securing a substantial discount on the second trust deed note, as the buyers were in a position to pay it off. It later turned out that the broker received more discount than he revealed to the buyers, and had pocketed the difference. His license was suspended.

Good Morals Essential

Recently a salesman was convicted on charges of lewd conduct, and his license was revoked following a hearing. Even isolated cases of improper conduct might do great harm to the good name of the business.

This Is Bad

After receiving a \$500 check from a buyer, payable to the seller, this broker forged the name of the seller, cashed the check, and used the funds. It should have been quite apparent to him what

would happen if discovered, but apparently he chose to jeopardize his license for \$500. Revocation of his license was not the only penalty, as he was later convicted on forgery counts in a criminal court.

Past Record Came Out

A real estate broker had secured his license by concealing convictions of drunkenness and intoxication in public places. All was well until he was arrested for drunk driving and convicted. The previous convictions then came to light, and his license was revoked after a hearing.

Forgot About His Trust Fund

This broker received an initial \$250 deposit on a home, which he placed in escrow and had instructions prepared providing for \$1,500 additional to be placed in escrow within a certain time. He secured the \$1,500 from the buyer, but proceeded to use it for his own purposes. When the show-down came, he did not have the money to place in escrow and complete the deal, and his license was revoked on the grounds that he had not put the money in a trust fund, but had commingled it.

Shortages Cause Investigation

When it was learned that a real estate broker was in difficulties with the Insurance Commissioner because of temporary shortages in his insurance accounts which he made good, the Real Estate Commissioner decided to investigate his real estate trust fund account. Shortages were found in that account and his real estate broker license was revoked.

What's in a Name?

There is a question on license applications asking if the applicant had ever used another name. This applicant answered "no" and his license was

subsequently issued. Later he was convicted of grand theft and served a term in the county jail, after which he made restitution of the stolen sum. The conviction was under another name, but the fingerprints told the story. The license was revoked.

Pays Debt With Client's Money

This broker was entrusted to sell a trust deed and note owned by a client. He sold them all right, but happened to personally owe money to the purchaser. He authorized the purchaser to deduct the amount of the debt from the payment. He then made various excuses to the client for not turning over the full amount, and finally had to admit what had happened. After being persuaded, the client reluctantly took the broker's note for the unpaid amount. When he failed to make payments on the note, the matter was finally reported to the commissioner, who revoked the broker's license.

"Phantom" Brokers

One of the problems is to "keep tab" on brokers who move from one location to another without notifying the division. While the law states that such licenses are "canceled" if notification is not given, nevertheless the commissioner holds a hearing and establishes the violation. Licenses are then revoked or suspended depending upon circumstances. Brokers should also bear in mind that their commissions may be jeopardized for such a violation.

Bookmaking and Real Estate Don't Mix

A real estate salesman attempted to augment his income from selling real estate by doing a little bookmaking on the horses on the side. The law caught up with him and he was sentenced to the county jail for 30 days, which was suspended, and he was put on three years' probation after paying a fine. A hearing was called by the commissioner who suspended the salesman's license for 30 days. While such a court sentence may not necessarily indicate inherent dishonesty, the crime showed disregard for the law and caused the reputation of the salesman and the business at large to suffer. The commissioner felt a penalty was justified.

Joint Tenancy

One large title insurance company has announced that it will insure titles as formerly, on the basis of death certificates and affidavits without the necessity of court proceedings to dissolve a joint tenancy upon the death of one joint tenant. The policy was adopted upon belief that the controversial joint tenancy law adopted at the last session of the Legislature will be repealed at the special session this coming spring. The move to repeal is said to have the support of the State Bar of California, various boards of supervisors, city councils, labor groups, veterans, property-owners and taxpayers.

Advertising by Salesmen

May real estate salesmen list their names in the yellow classified section of the telephone directory under "Real Estate" without naming their employing brokers?

This practice is contrary to the Commissioner's Rules and Regulations which read: "Advertising of any service for which a license issued under the provisions of the Real Estate Law is required, shall not be under the name of a salesman unless the name of the employing broker is set forth."

This rule is construed to apply to listings in the classified section of the telephone directory.

A Sioux Falls, South Dakota, realtor is still active at 96. He drives his own car, wears no glasses, plays golf, and is a member of a bowling league. He has been in the real estate business for 70 years. The name? F. L. Blackman.

Ethics

(Continued from page 27)

obviously nominal consideration in a deed."

Comment. Padding the sales price by inserting in the deed a consideration higher than that actually paid, and adding additional revenue stamps in order to create a false record of value, is an extremely bad practice. If it is done to mislead a future buyer, it may even be considered by the commissioner as misrepresentation. Usually a nominal consideration in the deed is preferable.

"ARTICLE 17.

When acting as agent in the management of property, a Realtor should not accept any commission, rebate, or profit on expenditures made for the owner, without his full knowledge and consent."

Comment. Taking of secret profits under these conditions is of course dishonest practice, and may lead to revocation or suspension of a license.

"ARTICLE 19.

The acceptance by a Realtor of an exclusive listing imposes the obligation of rendering skilled and conscientious service; when a Realtor is unable to render such services either himself or with the aid of his fellow-Realtors, he should not accept the listing."

Comment. A great harm can be done to property owners when the broker ties them up with an exclusive

listing without making a real effort to perform a service. This type of practice puts real estate agents in bad repute and makes it more difficult to secure exclusive listings when they are justified. Taking "exclusives," and sitting back with the hope some other broker may sell the property, is a good way to injure your reputation in the neighborhood.

Scare Advertising

Now and then we receive advertising matter used by real estate brokers which is of the "scare" variety. It ranges from dire predictions of forthcoming depressions to atomic bomb attacks.

While much of this material does not constitute outright misrepresentation, many people feel it borders being distasteful and of questionable value.

A mail circulated advertisement recently received warns property owners in a certain district that thousands of new homes at low down payments are to be built there. They are urged to sell before the competition gets too "tough." This type of practice is causing some resentment and may lead to measures to correct what might be construed as misrepresentation.

The Oxnard-Port Hueneme was recently declared a critical defense area which is subject to suspension of real estate credit restrictions as provided by Title IX of the National Housing Act. Applications for the construction of 800 dwelling units, 400 for rental, and 400 for sale, were received from January 1 to 15, 1952.

Sec. 34.66, P. L. & R.
U. S. POSTAGE
PAID
Permit No. 157
SACRAMENTO, CALIF.

DIVISION OF REAL ESTATE
1021 O Street
Sacramento 14, Calif.
RETURN POSTAGE GUARANTEED