

# REAL ESTATE BULLETIN

Official Publication of the California Division of Real Estate

GOODWIN J. KNIGHT, Governor

Sacramento, March, 1957

D. D. WATSON, Commissioner

## Watson Resigns as Commissioner

### Ends Long and Distinguished Service to Re-enter Private Industry

On March 6th, D. D. Watson tendered his resignation as Real Estate Commissioner effective May 1st. Governor Goodwin J. Knight accepted it with expressions of regret. As this is written, the Governor has not announced his successor.

The news of Commissioner Watson's resignation and his announcement that he will accept a responsible executive post with a large Southern California development enterprise came as a complete surprise to the industry and to Division of Real Estate personnel.

In his letter of resignation, Mr. Watson said to Governor Knight, "I feel that I have given the State a full measure of my energy and time away from home and family. As far as the work is concerned, I have never been happier and enjoyed my surroundings more than I have this assignment . . .

"I have come to the conclusion it is time that I start showing more consideration to my family's welfare and happiness and their future security."

#### Long Service

Mr. Watson served as Real Estate Commissioner for almost 8½ years, several years longer than any of his predecessors. Appointed in December, 1948, by then Governor, now Chief Justice, Warren, he brought a wealth of real estate and administrative experience to the Division of Real Estate. He had been actively engaged in real

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**LATE REPORT: Governor Goodwin J. Knight has announced he will appoint Fred W. Griesinger, Arcadia, as Real Estate Commissioner, the appointment to be effective May 2, 1957. The May Bulletin will carry details.**

## How Licenses Will Be Renewed This Year

Those licensees whose license rights were established prior to October 1, 1955, will go on a modified four-year license schedule as of July 1, 1957. The new license fees will also go into effect at the same time.

About 120,000 licenses of all types will expire June 30, 1957. In the past, the holders would have had the privilege of renewing for one year. Under the amended law, these licenses will be renewed for staggered periods ranging from 6 to 48 months.

Licensees entitled to renew their licenses will be notified of the length of time their initial renewal license will run and of the amount of fee to be paid. Licensees will be divided into groups on an alphabetical basis according to surnames. For example, those whose surnames begin with the letter "A" will probably fall in the group to renew for six months, that is, from July 1, 1957, through December 31, 1957. At the end of the six months period, this group will renew for a full four years. At the other

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## A Farewell Message

This is the last time my name will appear on the masthead of the Real Estate Bulletin as your commissioner, and now this farewell message to all licensees.

It has been impossible for me to meet each of you personally—much as I would have liked to—so, from the time I was first appointed, I have endeavored to use this Bulletin as a means of keeping in close touch with you. I have tried to keep you advised of all policies as applied to the operation of the Division of Real Estate and of matters which I felt would be helpful to you in your work as licensed brokers and salesmen.

I have tried to use the publication to bring the Division of Real Estate and licensees more closely together—all in the

interest of better practices and improved service to the public. So it is appropriate that my last message to you in my official capacity should appear here in the Bulletin.

As I told Governor Knight when asking that he accept my resignation, I do not want anyone to feel that I am "walking off the job." I leave sadly. But, in 1948, when I was first appointed commissioner by then Governor and now Chief Justice Warren, I agreed to serve no more than two years. Now I find the two years stretched to almost nine. Beyond the feeling that this is long enough for any one person to head up your Division of Real Estate, I came to the conclusion that it was time to stop my constant travel all

over the State and spend more time with my family and in providing for their future welfare.

In leaving the commissionership, I want all to know I have enjoyed the work and the associations I have made. I know literally thousands of you personally and I consider that I am a "millionaire" many times over in the worth of the friends I have made the past few years.

I must tell you also of my feeling of gratitude to the fine men and women I came to know as civil servants in the Division of Real Estate. They have been loyal, have worked unstintingly and intelligently, and credit for any success I might have had belongs with them.

I would be remiss if I did not express my thanks to the members of the State Real Estate Commission who have advised

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**DIVISION OF REAL ESTATE**

STATE OF CALIFORNIA  
GOODWIN J. KNIGHT, Governor

D. D. WATSON  
Real Estate Commissioner

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**BRANCH OFFICE LICENSE**

No application form is necessary for a broker to apply for a branch office. A signed letter giving the address together with the \$1 fee is all that is required.

If a branch office is established in a subdivision model home, the name or location of the tract may be used. This will allow the use of the same license if the office is moved to another home within the same tract.

Don't forget that licenses of salesmen, even though they may work full time out of a certain branch office, must be posted at the broker's main office.

**DISCIPLINARY ACTION—DECEMBER, 1956, AND JANUARY, 1957**

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. Names of persons to whom licenses are denied upon application or to whom a restricted license is granted after suspension or revocation are not published.

**LICENSES REVOKED DURING DECEMBER, 1956, AND JANUARY, 1957**

Name	Address	Effective date	Violation
Burke, Lawrence Perry..... Real Estate Salesman	2015 J St., Sacramento.....	12/ 6/56	Sec. 10177.6
Driscoll, Robert Francis..... Real Estate Salesman	1337 S. Towner St., Santa Ana	12/ 7/56	Secs. 10130, 10131, 10177 (b), (d) and (f)
Dexter, Phillip Anthony..... dba Dexter Realty Real Estate Broker	736 W. Manchester Ave., Inglewood	12/14/56	Secs. 10176 (a), (d), (g), (i) & 10177 (f)
Kahn, Sam..... Real Estate Salesman	9140 W. Adams Blvd., Los Angeles	12/14/56	Sec. 10177 (b)
Scitt, Corwin John..... Real Estate Broker	9610 S. Western Ave., Los Angeles	12/21/56	Secs. 10176 (a), (i) & 10177 (f)
Wallace, Lonnie Daniel..... Real Estate Salesman	Rt. 2, Box 5045, Anderson....	12/26/56	Sec. 10177 (b) & (f)
Beaumont, Charles LeRoy, Jr..... Real Estate Salesman	1361 Idahome St., West Covina	12/31/56	Sec. 10177 (b) & (f)
Brady, Thomas Jefferson..... dba Brady Investment Company Real Estate Broker	4621 W. Adams Blvd., Los Angeles	1/ 2/57	Secs. 10176 (i) & 10177 (f)
Shaddy, Kelly Joseph..... dba Shaddy Realty Real Estate Broker Business Opportunity Broker	594 18th Ave., San Francisco..	1/ 3/57	Sec. 10177.6
Domio, Joseph Clifton..... Real Estate Salesman	3501 San Pablo Ave., Oakland..	1/ 8/57	Secs. 10176.1, 10177 (c) & (j)
Weeda, G. Thomas..... Real Estate Salesman	371 N. Canyon Blvd., Monrovia	1/11/57	Sec. 10177 (b)
Owen, Harold Isaac..... Real Estate Salesman	357 Condon Court, Santa Clara	1/24/57	Sec. 10177 (f)
Baker, Charles James..... Real Estate Broker	612 Millbrae, Millbrae.....	1/24/57	Sec. 10177.6
Anderson, Kenneth Lee..... dba Sunland Park Realty Real Estate Broker	18450 Clemson Ave., Saratoga..	1/27/57	Secs. 10176 (e), (i), 10177 (f), & Secs. 2830, 2831 & 2832 of R. E. Comm. Rules and Regulations

**LICENSES SUSPENDED DURING DECEMBER, 1956, AND JANUARY, 1957**

Name	Address	Effective date and term	Violation
Schulmann, Max Mordecai..... Real Estate Salesman	7673 Beverly Blvd., Los Angeles	12/ 2/56 30 days	Secs. 10176 (i) & 10177 (f)
Watkins, Robert Lee..... dba Watkins Realty & Investment Company Real Estate Broker	14822 E. 14th St., San Leandro	12/27/56 20 days	Secs. 10176 (a), (i), 10177 (f) & (g)
Sherk, Linden Samuel..... Real Estate Broker	Danville Hwy. 21 at Stone Valley Rd., Alamo	1/ 8/57 60 days	Secs. 10176 (a), (b), (i), & 10177 (f)
Bernhardt, Reba Tee..... Real Estate Salesman	Danville Hwy. 21 at Stone Valley Rd., Alamo	1/ 8/57 60 days	Secs. 10176 (a), (b), (i), & 10177 (f)
Lawton, Arthur Fletcher..... Real Estate Salesman	Main Hwy. South, Danville ..	1/ 7/57 15 days	Secs. 10176 (a), (b), (i), & 10177 (f)
Frazier, Clifford Benjamin..... Real Estate Broker	3914 Drycreek Rd., Del Paso Heights	1/23/57 30 days	Secs. 10176 (e) & 10177 (f)

**License Renewals**

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extreme of the alphabet, those licensees whose surname begin with the letter "Z" will probably renew for the full four years, starting July 1, 1957. Eventually all, of course, will be on a full four-year license basis. The reason for issuing licenses of varying terms at the start of the program is to provide assurance of an even flow of license renewal work throughout the year. Thus the delays, errors, and confusion generally resulting from a greatly augmented staff necessary to

process the renewal when everyone renews at the same time should be eliminated.

License renewal application forms will be mailed to licensees on or about June 1, 1957, setting out the term for which they are to renew and the proportionate fee they are to pay.

Those who fail to apply for renewal prior to midnight, June 30, 1957, will be required to renew for the full four-year period and pay a fee in an amount of 1 1/4 times the amount otherwise required for renewal.

## Highlights of Watson's Administration

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estate and industrial activities for 25 years and, under Governor Merriam, had served two terms as a member of the State Real Estate Commission. He had been very active in the affairs of organized real estate on both the state and national scene, serving one term as President of the California Real Estate Association and having been Vice President and Director of the National Association of Real Estate Boards for many years.

Resigning as commissioner, Mr. Watson also gives up his post as Director of the National Association of License Law Officials. He was president of this organization in 1955.

### Reorganized Division

Mr. Watson's term as commissioner was marked by progressive and constructive changes. During his term he completely reorganized the operation of the Division of Real Estate in accordance with current business principles to enable it to handle its expanding functions efficiently.

At the time of his appointment, the volume of real estate activity in California was increasing rapidly and this was reflected in the increasing number of licensees. **The division had to be geared to the task of licensing and regulating the almost 25 percent of all brokers and salesmen in the entire Nation who are located in California, and to carry out its responsibilities in connection with new subdivisions in California, which in the past few years reached a volume amounting to 150 to 175 millions of dollars per month.**

Commissioner Watson systematically personally interviewed and secured competent manpower for the division, organized grades of deputies providing incentives for advancement, initiated stricter supervision and defined responsibilities. He opened a new office at Fresno for the San Joaquin Valley area, and expanded the services in the other offices, set up area field supervision, established a modern and uniform system of filing, developed management guides, and published "Operating Manuals" for

the training and guidance of all employees.

### License Law Administration

Shortly after Commissioner Watson took office, he was confronted with the problem of putting into effect and administering the then new amendments to the Real Estate Law, which required certain qualifying experience or education on the part of broker applicants. The complications involved were handled smoothly and fairly, and the operation proved to be one of the major achievements of his administration, resulting in higher standards for licensing of brokers.

Commissioner Watson inaugurated and followed through on the policy of an intensive check into the background of applicants for license through the medium of fingerprints. Many a would-be licensee with an undesirable record has been barred from obtaining a license because of this policy.

### Examinations

Commissioner Watson took an early interest in the quality of the examinations being given for license. Besides taking a personal interest, he assigned personnel to study and improve the examinations and invited the assistance of the industry. Examinations have been constantly improved in fairness and practicality, and the California tests have served as models in devising examinations in many other states.

Upon enactment of the 1955 amendments to the license law setting up a program of additional examinations before renewable licenses could be granted, the commissioner programed a greatly expanded examination operation. He organized an examination staff to develop examinations of all types and to give oral supplementary tests. **The program has given every evidence of satisfactory progress and is considered by many as the greatest single step forward in raising qualification standards since the license law went into effect in 1919.**

### License Law Enforcement

Commissioner Watson has been extremely diligent in his efforts to re-

move from the ranks of licensees "racketeers," "fringe operators," the dishonest and the incompetent whose operations distress the industry and injure the public.

**During his term in office, he revoked, suspended and denied more licenses than the total rolled up in the 30 years of previous division history.**

He established strict regulations for the handling of trust funds by brokers; adopted specific regulations regarding signs, thereby eliminating many "fly-by-nighters"; instituted an extensive and definite program for intensive investigation of various real estate and business opportunity "rackets." He enlisted the cooperation of organized real estate in a state-wide program of checking office locations and licenses; enforced added disciplinary provisions in the law relating to negligence, incompetence and lack of reasonable supervision of salesmen by brokers; assumed the obligation of enforcement of provisions in the Civil Code regulating mortgage loan brokers and adopted appropriate regulations to aid the enforcement of this law.

Early in his career as commissioner, he began a campaign to eliminate the "advance fee" rackets through investigations and hearings, and at one time simultaneously revoked 40 licenses in this connection. He launched and continued a program of extensive investigation of so-called "rental rackets" and numerous license revocations and criminal prosecutions resulted.

### Subdivisions

**As Real Estate Commissioner, Mr. Watson has investigated and signed public reports on more than 20,000 subdivisions representing untold billions of dollars of value, thus giving them the "go-ahead" for public sale.** From the start, Mr. Watson undertook to eliminate unnecessary red tape in the matter of subdivision filings. He was acquainted with the problems of land development, and fully aware of the necessity of protecting the public from the danger of questionable offerings.

He first established policies and procedures regarding the use of notice of

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## Commissioner's Record

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intention forms for subdivisions and then successively: he revised the subdivision questionnaire forms to secure necessary information and eliminate unnecessary work for subdividers; insisted on enforcement of the regulations requiring the furnishing of subdivision public reports to prospective purchasers; assumed the regulation of community apartment house projects as subdivisions, and adopted policies regarding health department approval of sewage disposal methods in subdivisions.

A great forward step was the adoption of regulations, policies and procedures for the issuance of "preliminary subdivision public reports" to allow subdividers to take reservations without lessening protection to the buying public. The commissioner then developed a short form of subdivision questionnaire for filing a tract meeting FHA or VA standards and inspections. He enlisted the advice of the industry by forming a Subdivision Advisory Committee and he cooperated in work with a Senate interim committee on subdivision development and planning, and in the issuance of a report on the committee's findings and recommendations.

To protect home buyers, he adopted impound regulations which later formed the basis for new legislative enactments on this subject.

### Education and Publications

Commissioner Watson took the position that only a very few licensees might deliberately violate the law, but that the informed licensee would be less prone to carelessness, would be more competent and best live up to his duties and responsibilities. Prior to his assuming office as commissioner, the Real Estate Bulletin was issued on an irregular schedule. He put it on a firm bimonthly basis. He secured funds to enlarge the Bulletin to 8 pages and to 12 when necessary. He considered the Bulletin his "pet project," insisted on simple language, and used it as a medium of keeping in close touch with all licensees, particularly calling attention to those matters

which he felt would be of benefit to them in their business.

Under Mr. Watson, the Reference Book issued by the division was revised several times and has assumed a position of "best seller" among state publications. He planned a supplement to the Reference Book covering the new second examination on which work is proceeding.

In March, 1956, the commissioner published a Subdivision Manual, a pamphlet designed for the information and guidance of subdividers and others interested in subdividing.

In 1951, the commissioner cooperated fully in the establishment of a program to bring real estate education to working licensees by means of the Real Estate Certificate Program offered by University Extension, University of California. Moneys from the Real Estate Fund were appropriated for a continuing program to provide for this and other real estate education at university level. For many years, he has been a member of Dr. Gordon Sproul's Real Estate Education Advisory Committee.

As commissioner, Mr. Watson attended hundreds of meetings throughout the State, bringing to the industry first-hand information about his policies and program. Last year, he organized a series of 33 question and answer "Forums" throughout the State to which all licensees were invited. More than 15,000 attended the series and several hundred letters endorsing the program were received with the request that it be repeated.

### Conclusion

The above sums up at least a part of the record of accomplishment resulting from the many long hours the commissioner put to his task, and it should be enough to indicate that he can look back with pride on a job well done.

**EDITOR'S NOTE:** The editor, on behalf of his fellow employees in the Division of Real Estate, takes the liberty and this opportunity to report that Mr. Watson won the respect, admiration and affection of those privileged to work with him. At all times he displayed interest in their personal welfare. As he leaves us to resume private life and take a new and responsible position in the real estate industry, he carries with him our best wishes for his success. We hope that he and the gracious Mrs. Watson will have many years of health and happiness.

## Farewell Message

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and worked with me so unselfishly during the years. My thanks also go to the members of special advisory committees who have unhesitatingly given of their time and counsel in assisting me with the many problems facing us, especially those involving what I have felt was unnecessary red tape in many instances.

While the problems have been many and varied and some of them of great scope, I will always look back with much pride on the fact that all policies during my administration were set and my decisions rendered without political pressures being exercised or considered. My aim has been to carry out what appeared to be the intent of the law to the best of my ability and with fair and equal treatment for all.

As I write this I have no idea who my successor as commissioner might be, but I know he will have the same whole-hearted support and cooperation from all of you and from the division's employees which I have been fortunate enough to enjoy.

Although I am resigning as your Real Estate Commissioner, I intend to become active again in the real estate field. So let's not say goodbye, but rather I hope and expect to be seeing many of you quite often.

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## Directory Omissions

The 1956-57 Directory of Licensees lists the names of licensees as of October 1, 1956. If a change in business address occurred at that time, it is possible the licensee's printing plate was omitted when the Directory run was made.

The following names should have been listed in the 1956-57 Directory:

Emma L. Tyler (B) 6051 Monroe Ave., Oakland; Clara B. de Curtioni (S) 1171 N. Palm Canyon Dr., Palm Springs.

The distribution of the Directory has been completed to those who made advance reservations prior to November 1, 1956.

## **Advance Fee Case**

### **Suit for "Advertising" Service Fee Denied; Court Holds License Required**

In a recent Los Angeles case, judgment was denied in an action brought by an "advance fee" operator for payment of his fee. Municipal Judge Lucius P. Green found that the plaintiff did not have a business opportunity license, thus possibly evading regulation of his activities, but this lack of license also barred him from collecting through the courts such commissions or fees as he may have felt he had earned.

Although the plaintiff alleged that he only agreed to furnish to property owners information as to prospective buyers and to supply direct mail help to owners selling their businesses, the court ruled that the activities of the plaintiff came within the purview of the business opportunity licensing provisions of the law as amended.

Some persons or firms engaging in "advance fee" listings for "advertising" businesses or real property have long contended that their method of doing business puts them beyond the scope of the license law.

#### *Method of Operation*

The usual method of operation is something like this. By means of extensive advertising in newspapers, periodicals and the radio, advance fee operators obtain leads on persons desiring to sell their businesses or real estate. These leads are followed up by salesmen who are employees of the advance fee operators. In the process of following up, the salesmen attempt to obtain signed contracts. The contracts provide for publication of an advertisement in several issues of the publication produced by the operator at a stipulated price, payable all or partly in advance, but in any event payable on the sale of the property or after a certain stated period of time has elapsed.

Many complaints have been received by the Division of Real Estate from customers of the advance fee operators, complaining about misrepresentations made by salesmen soliciting contracts from property owners. Some of the complainants indicated that salesmen guaranteed a sale of the property and that no payment need be made unless the property was sold.

#### *Advance Fee Amendments Enacted*

As a result of these complaints, the Legislature, in 1955, concluded that

the advance fee type of business should be regulated under the real estate and business opportunity licensing laws. It was felt that the activities of advance fee operators could be better controlled in the public interest if licenses were required, and accordingly the sections relating to "advance fee" dealings were enacted, effective September 7, 1955.

#### *Constitutionality Tested*

The constitutionality of these amendments is being tested in a case pending before the superior court in Los Angeles. For the present, all criminal charges of unlicensed activity instituted by the commissioner have been restrained by a temporary injunction pending outcome of this case.

However, collection actions on advance fee contracts being brought in civil courts by advance fee operators, will be affected by Judge Green's decision.

### **Payment of Commissions to a Salesman From Escrow**

Can a broker instruct an escrow holder to pay a commission directly to a salesman? The answer is that under certain circumstances and with proper procedure it can be done. An employing broker can instruct someone else to pay money to a salesman. In such cases a separate written order signed by the broker must be given each time, because it is improper to give a "blanket" order to an escrow for payment of commissions to a salesman. That is, it appears contrary to the intent of the law if a broker instructs the escrow to pay all or a part of all commissions to a salesman. Among other things, this would seem to indicate possible lack of reasonable supervision.

There are also some complications. One of them is withholding tax. If the

### **IMPORTANT TO HOLDERS OF "ORIGINAL" LICENSES**

About four months prior to the time an original license will expire, its holder should receive in the mail an application form for a renewable license examination—the second or "final" test. However, if you do not receive such a form at least three months prior to the expiration of your original license, write to the Sacramento office of the division and request one, or obtain the form at the nearest branch office.

Notices can go astray in several ways. Where the holder of an original real estate salesman license changes brokers or address or inactivates his license, the danger is especially great. Another thing to remember is that the application form, in the case of the salesman licensee, is sent to the employing broker except where the license is properly inactivated and the division has the home address of the inactive licensee.

*Remember!* The holder of an original license must take and pass the examination for renewable license within the last three months of the original license year. If you do not receive the application form three months before the expiration of your original license, get in touch with the division.

broker-salesman relationship is such that the broker is required to withhold part of the compensation for income tax purposes, this would, of course, have to be done. Just how this could be accomplished as a practical matter raises some problems which the broker would have to solve for himself.

Incidentally, the matter of whether or not withholding tax applies depends upon some rather technical features of the employment relationship between broker and salesman. For further information regarding this, the Bureau of Internal Revenue should be consulted. It would, therefore, seem in the best interests of the broker to avoid possible infractions by refraining from ordering commissions paid direct to salesmen.

## Commissioner's Forum

In the January issue of the *Bulletin*, we started to publish a series of questions and answers dealing with the commissioner's rules and regulations. We will continue this month to select those questions presented by licensees who desire answers to specific problems which we feel will be of general interest to all licensees.

Of course, questions directed to the commissioner dealing with specific license problems will be answered by letter. But, if you feel your question would be of general interest, drop a card or line to the Editor, Real Estate Bulletin, 1021 O Street, Sacramento 14.

Most of the questions following relate to rules and regulations which have been adopted by the commissioner in order to clarify certain provisions of the law. Other questions are of a general nature.

*Q. In the commissioner's rules and regulations, I notice one that states that real estate broker licenses will not be issued until 60 days or more have elapsed after passing the examination. What is the purpose of this?*

A. It is to give the commissioner a reasonable time in which to investigate the applicant. Before this rule was passed, some applicants inquired almost daily about the progress of their applications. This delays the work of the division. However, as a matter of practice, when the commissioner has completed his investigation and the applicant has met all requirements he does not arbitrarily hold up the issuance until the 60-day period has elapsed.

*Q. Does the commissioner check to see whether a corporation actually exists before he issues a license based upon an application by a corporation?*

A. Yes, definitely. He checks with the Secretary of State to see that the articles of incorporation have been filed (Rule 2742).

*Q. My partner and I have dissolved partnership after being in business together for many years. Our firm name, "Brown and Smith," is well known in the area and has much advertising value. I intend to remain in business. Can I continue to use this firm name?*

A. You may continue to use the firm name with written consent of the former partner or his successors in interest. You then apply for the fictitious name under your individual license and pay the necessary fees. Unless the former partner consents, the license will not be issued.

*Q. A real estate firm in Sacramento uses a fictitious name which I would like to use in San Diego. Is there any objection to this?*

A. Yes. The policy is to issue only one particular fictitious name in the

State. What if the Sacramento firm should decide to establish a branch across the street from your office in San Diego?

*Q. For years I have shared my office with an insurance agent, and we have split expenses. Now we want to form a partnership and divide our respective earnings. Can I do this?*

A. Yes, provided you apply for and receive a partnership broker license, showing your partner will be inactive in the real estate business. Such a partnership license will be issued under Rule 2743.

*Q. What happens to a corporation when its sole licensed officer leaves it? Is the license still in effect?*

A. No. Corporations can be licensed only through some living person who is an officer of the corporation.

*Q. My 17-year-old son is going to junior college, and wishes to work for me week-ends as a salesman. Can he secure a license?*

A. No. He must wait until he is 18 years of age. This is covered by Rule 2750.

*Q. I am a salesman and have been doing very well, making my broker a substantial sum of money last year. Another broker has offered me a better deal, and I have given notice that I expect to transfer. My broker refuses to sign the transfer form, as he does not wish to lose my services. What can I do?*

A. Rule 2752 requires the salesman who transfers to get the signatures of the old and new brokers to the transfer form. However, if the old broker refuses, the salesman can write to the commissioner explaining the circumstances. The old broker will be given a short time in which to explain the reason for his refusal to sign. If he fails to do so or the reason is not sub-

stantial, the transfer will be made anyway.

*Q. I am leaving my old broker's employ and transferring to a new broker. I want to start work for him tomorrow, as Sunday is his good day. Must I wait a week or more until the new license arrives from Sacramento?*

A. No. Rule 2753 states that a transferred salesman license will be effective the date the completed transfer form and fee are received in any office of the division. In your case, it would be well to visit the nearest office personally and receive a receipt to show that you have applied for transfer of license to the new broker.

*Q. May a salesman lease an office to a broker and then work for him as a salesman?*

A. The law does not prohibit it. However, this cannot be done as a subterfuge for a salesman to operate actually as a broker. Any broker who does not exercise reasonable supervision over his salesmen is subject to having his license revoked.

*Q. If a salesman does not give the employing broker reasonable and satisfactory service, can the employing broker discharge the salesman and prevent him from transferring his license to another broker? By unsatisfactory service I mean refusal by the salesman to work an eight-hour day, to show property when requested, and be generally uncooperative and lazy.*

A. These are not valid reasons for preventing a salesman from transferring to another broker. The commissioner cannot refuse to transfer the license unless the salesman has in some way violated the provisions of the license law. If this has happened, the broker is required by law to make the report. Then a hearing may be held and, if the salesman is found in violation, his license can be revoked or suspended.

*Q. Can a construction company send unlicensed persons out to locate lots upon which they will build houses?*

A. This depends upon a number of things. Persons employed by a builder to secure a building contract are not required to be licensed; or, if they are just "land scouts" and do no negotiating, a license is not required by law. However, if they are sent out to induce owners to sell to a certain contractor, and receive pay for their services, a license is required.

## Fictitious Business Names

Many requests are received by the commissioner to add a fictitious name to a broker's license for operation of a real estate business. In asking for a particular fictitious name, all brokers should exercise caution in making a choice. While the commissioner may determine that a license shall be issued under a particular fictitious name, providing it is not the same or similar to others issued, brokers should realize the possibility of serious consequences from civil law proceedings.

If a broker should adopt a fictitious business name which is already in use by another licensee, he may find himself subject to civil action for injunction to restrain his use of that name. In some cases, the courts have allowed damages as well as injunctive relief.

A court case illustrating this situation in a similar business is *Eastern Columbia Inc. v. Waldman* (30 C. 2d 268 (1947)). A corporation operated under the business name of "Eastern Columbia" and five years later, a competitor opened a similar business under the name of "Western Columbia" in the same city. The court granted Eastern Columbia a permanent injunction against Western Columbia on the grounds that the latter name had a tendency to mislead the public.

Also in another case, a restaurant operating under the name of "Carolina Pines" was held entitled to a temporary injunction restraining a competitor from using the name of "Catalina Pines."

Mere geographical distance between the two competitors does not, in itself, preclude the possibility that a given establishment is a branch of an enterprise having its principal place of business elsewhere and affords no defense to a suit for an injunction against the use of a trade name. For example, the trade name of the New York night club, The Stork Club, was entitled to protection by injunction from use of that name by a small tavern in San Francisco.

Other hazards to be faced are the possibility of claim of fraud or deceit and confusion of identification among the general public.

Section 2468 of the Civil Code requires every person transacting busi-

## COMMISSION POLICY

### Experience Claims By Broker License Applicants

The real estate license law contemplates that an applicant for real estate broker license must have had two years of full-time active experience as a real estate salesman as a requisite in applying for a real estate broker license. However, there may be certain applicants who have had broad experience in the general real estate field who are sufficiently qualified from an experience stand-

point although they have not engaged in the real estate brokerage business. In order to give proper consideration to this limited class of applicants, the law provides that they may submit an experience claim based upon "equivalent experience." Also, to encourage study of the business on a college or university level, the law permits consideration of certain educational background to apply toward qualification.

**The law specifically places the responsibility of determining whether or not a particular applicant has sufficient equivalent experience upon the members of the State Real Estate Commission.** A committee of at least three members of the commission considers each equivalent experience claim and approves or disapproves it.

**No member of the commissioner's staff is authorized to advise whether a particular equivalent experience claim will be approved.** No member of the staff can predict what action the commission members will take after weighing all of the factors.

The only sure way to determine whether or not the equivalent experience submitted will be considered

ness in California under a fictitious name to file with the county clerk and publish that information. A person who fails to file may not be able to maintain action in the courts under his fictitious name. Before making a choice, an investigation of like or similar fictitious names appears worth while for the licensee's benefit.

The practical consequences of using a fictitious name, or one substantially similar thereto, which is already in use by another broker, could be costs and expenses of litigation and, in addition, if the action was lost, having to obtain a new fictitious name and loss of whatever good will was acquired under the name appropriated.

by the commission to be equivalent to two years' full-time active salesman experience is to submit an application and experience claim. The commission will consider a claim based upon part actual experience and part equivalent experience.

Fees paid by applicants whose experience claims are disapproved will be held to their credit for three years. They are not refundable.

The Real Estate Commission has made the following statement of policy which applies at the present time in considering experience claims.

a. Full-time salesman activity means at least 40 hours per week actively devoted to the business. No additional credit will be given for more than 40 hours' activity.

b. Part-time activity as a real estate salesman will be given credit on a pro-rata basis. For example, 20 hours' activity per week would be given credit as half-time employment, and four years of such employment would be required to qualify for a broker license.

c. Salesmen who claim full-time employment of 40 hours per week, but who are employed as full-time employees in another industry, will not ordinarily be credited in excess of 20 hours per week maximum, or half-time employment in the real estate business.

d. Out-of-state experience. The Commission normally will not consider out-of-state broker or salesman experience as the equivalent of that gained in California.

e. Previous experience as a real estate broker in California will be considered on the same basis as salesman experience in California.

f. Members of the California bar will generally qualify for real estate broker license on the basis of their education and experience.

g. Graduate attorneys, not members of the California bar. Consideration will be given by the Commission to their educational record and other experience related to real estate in determining what credit shall be given.

h. The Commission will give consideration to applicant's experience in such vocations as building contractor, escrow officer, title company employee, bank employee, employee of land department of some company, real estate speculator, land developer or subdivider. However, the Commission will not evaluate such experience as being equal to that of the experience of an applicant having had an equivalent period of time as a full-time active real estate salesman. Certain credit may be given, however, depending upon circumstances in the individual case.

(Cont. on Page 293, Col. 3)

## New Regulations Adopted

### Rental Agencies Charging Advance Fees Affected

Better service to the public is the objective of a series of official regulations dealing with licensees operating in the advance rental fee business. The new regulations, adopted by the commissioner and in effect March 21, 1957, should provide means of more effective and conclusive investigations into complaints about advance rental fee operations.

A common complaint has been that lists of rentals furnished to prospective tenants were of no value in that the rentals were unsatisfactory or had long since been rented. Other persons complained that they had been promised the advance fee would be returned if a satisfactory rental was not found and later they were refused the refund.

Also effective on March 21st were several other new regulations relating to special situations in licensing, examinations and fictitious names. The full text of all the new regulations follows. Since official regulations of the Real Estate Commissioner have the force and effect of the law itself, licensees should be familiar with them.

#### Text of Regulations

**2713. License Renewal Periods Staggered.** As provided in Sections 10206.5, 10326.5 and 10586.5, renewal licenses expiring on June 30, 1957, will be renewed for periods ranging from 6 to 48 months.

The determination of the group into which a licensee will fall will be made on an alphabetical basis according to the surname of the licensee.

Renewal application forms will be mailed to licensees setting out the term for which they are to renew and the proportionate fee they are to pay.

Those who fail to apply for renewal prior to midnight, June 30, 1957, will be required to renew for the full four-year period and pay a fee in an amount  $1\frac{1}{4}$  times the amount otherwise required for renewal.

**2714. Successive Original Licenses.** The issuance of a second original license within a period of 30 days of the expiration of the first original license shall be deemed to be a successive original license within the meaning of Sections 10153.9, 10278.9 and 10518.9.

**2724. Broker Becoming Licensed Salesman.** The holder of a broker license may, during the term of that license, request in-

activation of his broker license, and upon filing the appropriate application and fee be issued a salesman license of the same class. Under this procedure he need not qualify in the salesman examination.

**2730.6. Violation of Federal Law.** No fictitious name bearing the words "national," "federal," "United States," "reserve," or "deposit insurance" shall be issued unless the applicant for such name submits adequate proof that the use of the above words in the name is permitted by the laws of the United States and is not in violation of Title 18, USC, Section 709.

**2761. Must be Written.** Examinations shall be written, and pen and ink or indelible pencil shall be used. A written examination may be supplemented by oral interview at the commissioner's discretion. (Note: amended.)

**2766. Renewal License Examination.** The additional examination for renewal license must be taken before the expiration of the original license. Failure to appear for the examination within the last three months of the term of the original license, for any reason, will be construed the same as failure of the examination.

One additional examination only will be given in connection with an original license.

**2767. Time Limit After Renewal License Examination.** An applicant who qualifies in the additional examination for a renewal license must file his application and fee for such renewal license not later than three months after expiration of his original license.

The applicant may request the license be issued on an active or inactive basis. Failure to apply within the three months period will constitute forfeiture of all rights gained in the examination.

**2850. Definition.** An "advance fee rental agent" shall mean:

(a) Any real estate licensee who negotiates rentals or furnishes rental information to prospective tenants whereby said prospective tenants are charged a fee or are obligated to pay a fee for such services;

(b) Any real estate licensee who solicits or otherwise secures from landlords or managers, listings of places for rent or lease, with or without compensation from the owner or landlord, but in expectation of compensation by including them in advance fee rental listings to be supplied to prospective tenants.

**2851. Supervision of Salesmen.** No real estate salesman shall act as an "advance fee rental agent" unless the salesman's employing broker (1) is actively engaged in the real estate or rental business at the same office; (2) is aware of and familiar with the operation and listing of all advance fee ren-

tals in the office; (3) conducts immediate and close supervision of said salesman; and (4) approves all listings of places for rent and all listings of prospective tenants.

**2852. Written Contract Required.** Any real estate broker who acts as an "advance fee rental agent" shall enter into a written contract with each prospective tenant which contract shall state clearly:

1. Upon what conditions the service is to be furnished.

2. The type of rental to be furnished to said prospective tenant.

3. That said property is then available.

4. The conditions, if any, under which said fee is refundable. Said contract shall be signed by all parties and dated as of the date of signing such agreement. Said contract shall be signed in the name of the employing broker and the salesman if negotiated by a salesman and shall state the license number of the broker and of the salesman if negotiated by a salesman. A written receipt shall be given by the real estate broker or salesman to the prospective tenants for any moneys received for advanced rental listings, and shall contain the information which is required herein.

**2853. Disposition of Contracts.** An exact copy of said contract shall be furnished to the prospective tenant and the original shall be retained by the broker for a period of three years subject to the inspection of the commissioner and his deputies.

**2854. List of Addresses.** A list of all addresses given to said prospective tenant shall be prepared in duplicate, and the list shall clearly indicate the address of the property, a brief description thereof, and the amount of the monthly rental.

Where subsequent addresses are furnished to said prospective tenant by telephone or otherwise, said addresses shall be noted on the broker's copy of said list. Said list shall indicate by which broker or employee of the broker said addresses were furnished and the broker's copy shall be retained by him for a period of three years subject to examination by the commissioner and his deputies.

**2855. Registry of Advertisements.** Any real estate broker who acts as an "advance fee rental agent" shall make a written registry of all advertisements published or caused to be published by said licensee together with the address of the property advertised, the name of the party who offered the property for rent and his or her telephone number, if any. Said register shall be retained by the broker for a period of three years subject to inspection by the commissioner and his deputies.

**2856. Authorization Required.** No "advance fee rental agent" shall furnish a prospective tenant with the address of a prospective rental unless such licensee has received specific authorization to offer said property for rent from the owner or his authorized agent.

## Educational and Sales Conference Scheduled

### All Licensees Invited to Attend CREA Program

The California Real Estate Association has announced the program for its "1957 College of Real Estate Knowledge," a series of one-day educational and sales conferences to be held in a number of localities throughout the State. For years these conferences have been conducted with increasing success, and in those places where space is limited a sellout is anticipated before this year's sessions start.

The Real Estate Commissioner has been advised that all licensees, whether or not affiliated with the state association, are invited to participate. Because of their demonstrated educational and inspirational value, these conferences are to be highly recommended. The licensee who is interested in his work and in increasing his earning power can hardly afford to miss attending the conference in his area.

The one-day sessions have been planned to give maximum benefit to those in attendance. Two groups of seminars will be conducted throughout each session.

An opening talk on "The Greatest Business on Earth," which will give an insight on business conditions and economic trends affecting 1957 real estate sales, will start the program. The audience will then be divided into two groups, each person having the choice of attending a selling seminar or a management seminar.

#### Group Programs

Group one, the selling seminar, will present ways to "Get That Exclu-

sive". On this subject a film will be shown. The second part of the seminar will stress "Selling the Amenities," and will conclude with "How to Close a 'We'll Think It Over' Buyer."

The group two seminar, with emphasis on management problems, will open with methods of "Selecting Sales Personnel," followed by a report on "Training Sales Personnel." Group two morning seminar will conclude with a discussion on "How to Reduce Sales Personnel Turnover."

After a recess for lunch, group one will hear how "Creative Financing Makes Today's Sales," while group two will hear an explanation of "Home Trade-in Plans."

#### Featured Speaker

In midafternoon all registrants will reassemble to hear the featured speaker give a practical message on "The Negotiation of Price."

It should be noted that enrollment in the educational and sales conference is by advance registration only and should be made through the local real estate board in your area.

## Chief Deputy Resigns

Chief Deputy Commissioner Ray D. Westcott tendered his resignation to Real Estate Commissioner D. D. Watson, effective January 15, 1957.

The commissioner accepted it with expression of his regret in losing the assistance of such a valuable aide.

Mr. Westcott was honored for his long career in public service by the State Real Estate Commission at its recent meeting in San Francisco. Mr. Maurice Read of Berkeley, member of the State Real Estate Commission and Director of the National Association of Real Estate Boards spoke for the State and National Associations, praising Mr. Westcott for distinguished and devoted service to the State, the public and real estate industry. Mr. Read pointed out that Mr. Westcott had acted as Secretary to the State Real Estate Commission since 1937.

#### Official Resolution Presented

Mr. Read read and presented to Mr. Westcott an official resolution testifying to the quality of his services and the warm regard in which he is held by the commission members.

Mr. Westcott joined the division as an oil lands investigator in 1935, moving steadily upward to more responsible posts until in February, 1950, he was appointed chief deputy in Los Angeles. Mr. Westcott was directly responsible, under the commissioner, for all administration and law enforcement work in Southern California.

## Broker Qualifications

(Cont. from Page 291, Col. 3)

i. Real Estate education gained in out-of-state colleges or universities will not ordinarily be evaluated as being equal to similar training in California colleges and universities.

j. Graduates of colleges or universities who complete recognized courses in real estate subjects after graduation will be afforded the same credit as if those courses were taken as part of the undergraduate work.

k. In order to fully qualify on the basis of education, graduates of California colleges and universities who have specialized in real estate, must have gained at least three units in the "Fundamentals of Real Estate," three units in "Real Estate Law," three units in the "Valuation of Real Property," and three units in related subjects in the general field of real estate. Any lesser claim based upon education will not qualify, but may shorten the time one must work as a salesman.

### Educational and Sales Conference Schedule

City	Date	Location
Torrance	March 25	Civic Auditorium
Santa Ana	March 26	Ebell Club
San Diego	March 27	U. S. Grant Hotel—Palm Room
Riverside	March 28	Mission Inn—El Loro Room
Los Angeles	March 29	Ambassador Hotel
Monterey	April 8	Mark Thomas Inn
Santa Rosa	April 9	Memorial Building
Stockton	April 10	Native Sons' Hall—809 North Hunter
Oakland	April 11	Municipal Auditorium
San Mateo	April 12	Villa Hotel
Ventura	April 22	Civic Recreation Center
San Fernando	April 23	Encino Women's Club
Long Beach	April 24	Lafayette Hotel
Pasadena	April 25	Huntington Hotel
Bakersfield	April 26	Bakersfield Inn
Ukiah	May 6	_____
Redding	May 8	_____
Marysville	May 10	Marysville Hotel

## Broker Loses License Even Though Principal

### New Jersey Court Upholds Revocation; Similar Conclusion in Ohio Case

Recently Bemis Lawrence, Secretary Counselor of the Kentucky Real Estate Commission reported two interesting court cases involving brokers dealing with their own properties and their accountability under their respective state real estate license laws.

The first case involved Louis Ponci, a licensed broker in New Jersey. He, his wife and son were the owners of all of the stock in a particular corporation. Mr. Ponci was president and as such he agreed to sell certain real property owned by his corporation to a purchaser, whose agreement to buy was contingent upon being able to obtain a mortgage loan in the amount of \$17,200 within a period of 30 days. A deposit of \$2,150 was placed with Ponci's attorney, to be applied on the purchase price if the loan could be obtained and to be refunded if it could not be.

It resulted that the purchasers were unable to obtain the mortgage loan and they made demand for the refund of the \$2,150 deposit. Mr. Ponci declined to authorize his attorney to return the deposit, although he himself deemed it the contractual obligation to do so. It was necessary for the purchasers to employ counsel to recover the deposit, and eventually they received \$1,950 instead of the full amount, due to the arbitrary attitude of Ponci, who claimed that his wife and child constituted a majority of the board of directors and they refused to authorize the return of the money in full.

#### Complaint Filed With Commission

The purchasers later filed a complaint with the New Jersey Commission to the effect that Ponci unconscionably and with evil purpose circumstantially extorted \$200 from them. A formal hearing was held, at the conclusion of which the New Jersey Commission first recommended that Ponci refund the \$200 balance of the deposit and reimburse the complainants for the fee paid to their attorney. Ponci declined to accept the recommendation of the commission, which then revoked his license.

Upon appeal to the New Jersey Superior Court, Ponci contended that, since he did not act in the particular

transaction in the capacity of a real estate broker, the commission did not have the authority to determine the character of his conduct; that it was not necessary for him to have a license to engage in the transaction complained of; that the commission had no authority to take any disciplinary action against him.

In affirming the order of revocation of the commission, the court observed that an applicant for a license must produce evidence to good moral character; **that any conduct which demonstrated unworthiness, bad faith, fraud or dishonest dealing, whether of the same or of a different character from that outlined in the real estate license law, could be grounds for suspension or revocation.** In a strong and vigorous opinion, the court upheld the revocation in its entirety.

#### An Ohio Case

A case analogous to the Ponci case was recently decided by the Court of Appeals of Ohio (*Bourse v. Board of Real Estate Examiners*, 135 N. E. (2d) 274). In this instance, the broker and his wife owned the property and allegedly could not give good title but refused to refund the deposit. The main issue involved the question of marketable title and a refund of the deposit.

Although he was not acting in the capacity of a broker, the Ohio Board of Real Estate Examiners found that the respondent's conduct constituted violation of the law and proceeded to revoke his license. The broker appealed, and upon a trial before the lower court, the revocation was affirmed. Upon appeal to the higher court, the order of revocation was set aside and held for nought on the grounds that the evidence did not justify revocation of a license for re-

## Original Licensees— Please Note

If you hold an original one-year license and want to stay "in business," do not delay unnecessarily in applying for examination for renewable four-year license.

It appears that some "original" licensees delay in applying for examination, perhaps to have more time to study. However, if they do not pass the written examination for renewable license but do qualify for supplementary oral interview, the original license can expire before the process is completed.

The law provides that the examination for renewable license must be taken sometime during the last three months of the year for which the "original" license is issued. Thus an "original" licensee runs the risk of loss of license status by delaying application for examination for renewable license.

Applications for the renewable license examination are sent out at least four months prior to the expiration of the original license to allow ample time for both written and oral examination, if the latter is necessary. **The prudent licensee will not delay his written examination if he desires to obtain a renewable four-year license.**

### REMEMBER

Permanent licenses should be renewed prior to July 1st. You should receive your application with amount of fee specified about June 1, 1957.

fusing to return a down payment where the testimony disclosed that there was a question of law as to whether the buyers were entitled to a return of a down payment.

However, as in the Ponci case, the court held—and this is important—that a real estate broker was amenable to the license law in dealing with his own property. It will be observed that in determining whether disciplinary action should be imposed, it is necessary that the conduct and qualifications of a licensee conform to grounds for revocation of his license.

# Real Estate Education and Research — Part II

By SENATOR ARTHUR H. BREED, JR.

**Editor's Note:** This is the second and final article in a report on the program for Real Estate Education and Research in California prepared by Senator Arthur H. Breed, Jr. The first article described how the State Legislature has recognized the need for organized real estate education and research and as a result, established the Institute of Real Estate at the University of California. A state-wide program was described and projects in research and improving the Real Estate Certificate Program were presented. This article describes the aims and completed studies in real estate research.

In the spring of 1956, 69 scheduled classes were held in the Certificate Program, with 2,111 students enrolled; of these 75 percent were licensees. Since the program was founded in 1950 and up to and including the fall semester of 1956, 539 classes have been held for 16,422 students.

When courses were initially being established, a problem existed in the procurement of satisfactory material. Advice and opinion were solicited from scholars and from successful professional men practicing real estate. The struggle to improve the curriculum and provide practical course syllabi continues through the constructive suggestions of former students, university faculty, university extension faculty, and the California Real Estate Association Educational Committee.

## *Expanded Education Program*

It is expected that the new Real Estate Research and Education Fund may lead to some type of coordinated state-wide program of real estate education in junior colleges, state colleges, and universities. Its result should be a larger group of individuals who are well equipped to furnish a better service to the public. The combination of education and research should continue to improve the opportunities for those engaged in the real estate profession to achieve a profitable and respected career.

## *Aim of Real Estate Research*

Real estate research has made great forward strides in filling the gap of fundamental knowledge necessary to improve the facilities for real estate education. The program aims at the

over-all encouragement of the real estate profession and at raising its standards through making available a high degree of professional knowledge concerning various specialized phases of the real estate business. In addition to basic fundamental research, the programs have provided research assistance to public agencies.

A study was recently completed at Berkeley on *The Characteristics and Performance of Real Estate Brokers and Salesmen in California*. This study was followed by a project now in progress providing assistance in the preparation and review of a final examination for renewable licenses for real estate brokers and salesmen. Both of these undertakings were at the request of the Real Estate Commissioner. Important related research on the Los Angeles campus has analyzed factors contributing to successful operation of real estate firms.

Members of the program are presently serving on the advisory committee to the California State Senate Interim Committee on Subdivision Development and Planning. Work for this committee has already resulted in two special reports on the analysis of problems and recommendations concerning the improvement of subdivision development in California and, currently, editorial assistance is being provided on a subdivision manual for the State. It is anticipated that this work will aid materially in facilitating more efficient subdivision procedure and in improving future land development throughout the State. Plans for the future include the scheduling of special conferences dealing with the subdivision problem on the campuses of the University of California.

Several contracts entered into with the U. S. Housing and Home Finance Agency have resulted in helping to answer some of the basic questions regarding urban real estate. The Urban Renewal Administration arranged recently with the program for an analysis of the financial feasibility of rehabilitation in an urban renewal area by owners within the framework of

available or potential mortgage financial aid.

In order to maintain a program of practical value and to assist in improving the standards of real estate practice through education and research, members of the program participate in the educational and research programs of such organizations as The National Association of Real Estate Boards, The American Institute of Real Estate Appraisers, The Society of Residential Appraisers, U. S. Savings and Loan League, Mortgage Bankers Association of Northern California, California State Assessors Association, California Right of Way Association, National Association of Homebuilders, California Real Estate Association, and others. Through cooperation and consultation with these professional societies and private industry groups, the real estate research program is able to maintain a constant understanding and awareness of the needs and progress of the industry and thereby insure the practical application of research efforts and supporting funds.

The research staff of the program is composed primarily of resident faculty members who are enabled to substitute some research activities for part of their teaching time. Faculty members on leave from other institutions are frequently invited to Berkeley and together with the graduate students are able to engage in their own research or to develop projects along the lines of research already in progress. Full-time research economists, part-time consultants, and student research assistants may also be employed. The number of part-time personnel varies according to research activities in progress.

## *Conclusion*

The real estate industry is recognized today as a professional endeavor influencing the Nation's most valuable natural resource. It is expected that, with the present guarantee of increased state support, real estate education and research in California will take rapid strides toward its objective of providing the industry with a framework of valuable knowledge for the improvement of its standards and service to the public.

## Safeguard Against Liability For Double Commission

How can an agent protect his principal in the matter of paying commissions? Is it a duty of the agent to protect his principal from liability for paying two commissions on the same transaction?

Sellers have complained to the commissioner of transactions where they have obligated themselves in writing to pay two commissions because they understood the brokers would cooperate and split one commission.

A typical case in point is where a seller gave an exclusive listing to a broker and accepted an offer through another broker who later refused to split the commission. In such cases, it is generally represented to the seller that "he will not have to pay two commissions," that "the exclusive listing is no good," or that "the other agent will be taken care of."

It is apparent that sellers do not always realize the full significance of their action in signing up their property on an exclusive basis with more than one agent or on an exclusive with one and an open listing with another. Trusting brokers to render a service and cooperate with each other, sellers can be misled into a position of having to pay two commissions on the same transaction.

**A conscientious licensee certainly will not purposely place a seller in this position. It would seem to make common sense for a licensee, in obtaining a listing of property, to find out from the seller whether or not any other listings are actually in force. If it proves reasonable to be-**

## Brokers' Endorsements On Salesman Applications

During his last series of panel meetings, the commissioner has emphasized the seriousness of the broker making a correct and honest endorsement of a salesman applicant on the application. The real estate broker makes very definite statements when he endorses a salesman for a license, and, although the commissioner may make an independent investigation of an applicant and does so by requiring and checking fingerprints, reliance must also be placed upon the endorsement of the employing broker.

If it should prove that the employing broker endorsed the applicant lightly and without making any investigation and the application for salesman license were denied by the commissioner after a hearing, the broker's license itself might be in jeopardy.

**NOTE:** If a broker wants to qualify his endorsement or make any exception to it, his qualifying statement should be attached to the application, if possible, to the endorsement clause in the application itself.

lieve that a licensee had or should have had knowledge of the seller's liability for another commission, the burden will fall on the licensee's shoulders to explain the matter. The licensee should protect his principal and not subject him to possible double liability.

Taking into account those few sellers willing to pay more than one commission to dispose of a property, the facts should be clearly set forth to avoid future disputes.

## FHA Director Emphasizes No Secondary Financing

James C. Belda, Director of FHA's San Francisco insuring office, has stated that today's difficulty in securing mortgage financing has not lessened the need for strict observance of the single mortgage plan which is basic in the FHIA system.

The growing trend to second mortgages in conventional financing may be construed by some as a relaxation of the strict prohibition against that practice in connection with FHA insured loans. This interpretation is obviously wrong, and Mr. Belda cautioned that the unwitting use of secondary financing in connection with FHA insured loans could lead to serious consequences for all parties involved.

For purposes of clarification at this time, Mr. Belda reiterates that it is, with but few exceptions, a legal requirement for the mortgagor to establish at the time of presentation for mortgage insurance that the underlying property is free and clear of all liens other than the FHA mortgage and that there is not outstanding any other unpaid obligations incurred in connection with the transaction, except obligations which are secured by property or collateral owned by the mortgagor independently of the mortgaged FHA property.

Those cases where it appears the licensee misrepresented or acted dishonestly, thereby subjecting the seller to the payment of two commissions, could result in jeopardizing his license status.

