

REAL ESTATE BULLETIN

Official Publication of the Division of Real Estate—D. D. Watson, Commissioner

VOL. IX

MAY, 1950, SACRAMENTO, CALIFORNIA

No. 5

RENEWAL APPLICATIONS TO BE MAILED BY MAY 25

Renewal Reminders—Please Read Carefully

License renewal application forms will be mailed from Sacramento to all licensees about May 25th. PLEASE WAIT FOR THESE FORMS and use them to make your renewal applications. However, if you do not receive your application forms by June 10th, you may obtain them at any of the division offices.

- Please read and carefully follow the instructions on the renewal application.
- Remember that renewals must be made on or before June 30th to avoid penalty. Mailed renewals postmarked before midnight of June 30th will make the deadline.
- Be sure application is complete in every respect and that proper fee is attached before mailing.
- Give any change in name or address on application. If change is to be made as of July 1st, no fee is required for the change. However, if change has been made or will be made prior to July 1st, enclose \$1 fee for each license involving a change of address.
- Please mail all applications and fees for a given broker and his salesmen in one envelope.
- Remit by money order or check. DO NOT MAIL CURRENCY. (If currency is lost, you have nothing to prove you enclosed it. You will have to pay another fee and, if delayed, a penalty may be involved.)
- Personal checks will be accepted subject to collection. If a check is returned by the bank unhonored, for any reason, and proper fee is not remitted prior to midnight June 30th, a double fee will be required. In most instances it will be impossible for us to notify the applicant of an unhonored check in time to allow him to avoid the double fee.
- Because of the great number of renewal applications always received during the last few days in June, it is

To All Licensees:

Your cooperation in filling out applications for renewal of your licenses—COMPLETELY AND ACCURATELY—will be very much appreciated.

The work-load during the renewal period is about 20 times normal, and there is little time for letter writing; therefore incomplete applications have to be placed in "suspense." We cannot get to the "suspense" files until after July 20th, and this means your license is delayed and extra expense and time are involved.

Also, please note that all your salesmen applications are to be enclosed in the same envelope with the broker applications and signed by both the salesman and the broker.

REASON—We cannot renew a salesman license until we renew his employing broker's license, and they must be kept together.

THANKS A LOT FOR YOUR HELP.

D. D. WATSON
Real Estate Commissioner

impossible to have all licenses issued and mailed to applicants by July 1st. Sections 10156.2 and 10279.2 of the Real Estate Law provide that licensees may continue to operate under their existing licenses after the expiration date if proper renewal applications and fees were filed before midnight of June 30th, of the year for which such licenses were issued.

New Reference Book Now Available

The newly revised Reference Book published by the Division of Real Estate is now ready for distribution.

Send your order and check for \$1.55 to the Sacramento office, 1021 O Street. The book will be sent promptly postpaid. Copies may also be obtained at branch offices.

The publication contains an up-to-date compilation of laws and information relating to real estate and business opportunity licensees and the practices of their businesses.

Renewing "Inactive" Licenses

An "inactive" broker licensee, or one not maintaining an office as required by law, who wants to retain his license status must submit a completed renewal application and the full renewal fee. The application should be accompanied with a signed request that the license be issued and immediately canceled.

An "inactive" salesman, one who had requested that his license be canceled during the year, must also have a renewal application sent in with full fee if he wishes to retain his "license status."

He must secure a broker willing to sign the application and should have this broker send it in. REASON—The Real Estate Division cannot issue a salesman license unless the applicant has an employing broker. By requesting that the salesman license be issued and immediately canceled, the signing broker is relieved of responsibility for that salesman so far as this division is concerned.

Renewal application forms are not being sent to "inactive" salesmen, but the forms may be obtained at any division office.

Published Bimonthly by the
DIVISION OF REAL ESTATE

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Real Estate Commissioner

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Broker's Responsibility
For Salesmen

In sending out mail to licensed salesmen, the division notes with concern that often it is returned marked "unknown at the address" of the broker under whom the salesman is licensed.

Brokers should recognize the responsibilities imposed upon them by law in regard to their salesmen.

Section 10161 of the Real Estate Law, states in part, "Immediately upon the real estate salesman's withdrawal from the employ of the real estate broker, the real estate broker shall return the real estate salesman's license to the commissioner for cancellation."

Section 10165 provides for the possible suspension or revocation of licenses for a violation of this provision.

Section 10178 requires the broker to report the discharge of any salesman for violations of law.

Other sections of the law indicate other responsibilities of the broker regarding his salesmen, and there are similar provisions under the chapters concerning business opportunity and mineral, oil and gas licenses.

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DISCIPLINARY ACTION TAKEN

With this issue of the *Bulletin* the commissioner is putting into effect the policy of publishing the names of licensees against whom disciplinary action has been taken. This is felt desirable for the proper protection of brokers, title and escrow companies and the public.

All formal hearings affecting licensees or applicants for licenses in the Division of Real Estate are conducted in accordance with the provisions of the Administrative Procedure Act.

It should be understood that any person whose license has been suspended or revoked, or whose license application has been denied, has the right to file a petition for writ of mandate in a court, generally within 30 days after the effective date of the decision. (See Section 11523, Administrative Procedure Act.)

From July 1, 1949 to May 1, 1950, 68 licenses were suspended. Since, in most cases, the suspension periods have been completed, the names of those persons who suffered suspensions during the first eight months of the fiscal year are not included on the following list.

LICENSES SUSPENDED DURING MARCH AND APRIL, 1950

Name	Address	Effective date and term	Violation
Robinson, Nathan Real Estate Salesman	1887 Ellis St., San Francisco	4/10/50 30 days	Sec. 10177 (a) & (f)
Bybee, Vern A. Real Estate Salesman	584 San Bruno Ave., Brisbane	4/10/50 50 days	Sec. 10176 (i), 10177 (f)
McDowell, Harvey J. Real Estate Broker	2809 MacDonald Ave., Richmond	4/10/50 30 days	Sec. 10177.5
Haacke, Galen F. Real Estate Broker	2809 MacDonald Ave., Richmond	4/10/50 30 days	Sec. 10177.5
Bultena, Joe H. Real Estate Salesman	1181 S. 29th St., Richmond	4/10/50 30 days	Sec. 10177.5
Angell, Thomas B. Real Estate Broker	1701 Market St., San Francisco	4/10/50 15 days	Sec. 10176 (i), 10177 (f)
Roadman, Roy Real Estate Broker	1701 Market St., San Francisco	4/12/50 60 days	Sec. 10176 (i), 10177 (f)
Hayden, John J. Real Estate Broker, Business Opportunity Broker	3977 17th St., San Francisco	4/26/50 15 days	Sec. 10176 (i), 10177 (f) 10301 (i), 10302 (e)
Jacobson, Wayne A. Real Estate Broker	3881 24th St., San Francisco	4/26/50 15 days	Sec. 10176 (i), 10177 (f)
Wilderson, Lawrence Real Estate Salesman	2741 California St., Berkeley	3/ 6/50 30 days	Sec. 10177 (a), (f)
Powers, Ray, Sr. Real Estate Broker	4500 E. Fremont St., Stockton	3/ 6/50 120 days	Sec. 10177 (f)
Tofanelli, Ray G. Real Estate Broker	540 El Camino Real, San Carlos	3/ 6/50 6 months	Sec. 10176 (e), (i)
Fox, Chas. W. Real Estate Broker, Business Opportunity Broker	1641 Castilleja, Palo Alto	3/ 6/50 6 months	Sec. 10176 (a), (i), 10302 (e)
McMahan, Newell W. Real Estate Salesman, Business Opportunity Broker	726 Moscow St., San Francisco	3/ 6/50 6 months	Sec. 10176 (a), (i), 10302 (e)
Lederer, Mary H. Real Estate Broker	332 N. Canon Dr., Beverly Hills	3/ 7/50 60 days	Sec. 10176 (f), (i), 10177 (f)
Sita, Michael T. Real Estate Broker, Business Opportunity Broker	3518 Geary Blvd., San Francisco	3/25/50 60 days	Sec. 10176 (i), 10177 (f), 10301 (i), 10302 (e)
Sita, Rose K. Real Estate Broker, Business Opportunity Broker	3518 Geary Blvd., San Francisco	3/25/50 60 days	Sec. 10176 (i), 10177 (f), 10301 (i), 10302 (e)

New Examination Schedule

Effective May 1, 1950, a new schedule of examinations for all licenses issued by the Division of Real Estate was put into effect. It follows:

City	Address	Each month
Fresno	Seventh Floor Court Room, Security Bank Building	First Friday
Long Beach	Municipal Auditorium, Committee Room No. 1	Third Wednesday
Los Angeles	RKO Building, 815 South Hill Street	Second and Fourth Fridays
Oakland	1730 Franklin Street	First Friday
Sacramento	1020 N Street, Room 102	First and Third Fridays
San Bernardino	633 D Street	First Tuesday
San Diego	Bank of America Building, Room 315	Second Tuesday
San Francisco	Examination Room, 300 McAllister Street	First and Third Wednesdays

It is believed that this new schedule will make for more efficient use of the division's facilities and personnel and provide adequate service to applicants.

EN BY THE COMMISSIONER

LICENSES REVOKED FROM JULY 1, 1949, TO MAY 1, 1950

In the case of revocation of a license a petition for reinstatement cannot be made to the commissioner until at least one year has elapsed from the effective date of the revocation. The following is a complete list of licenses revoked to date during the current fiscal year.

Name	Address	Effective date	Violation
Hoyle, Robert L. Real Estate Broker, Business Opportunity Broker	458 23d Ave., San Francisco	4/10/50	Sec. 10177 (b) & (f), 10302 (b) & (e)
Norris, Grady M. Real Estate Salesman	222 First Ave., Chula Vista	4/18/50	Sec. 10177 (a), (f)
Parry, Nelson M. Cemetery Salesman	234 La Verne Ave., Apt. B, Long Beach	4/28/50	Sec. 10402 (a), (e)
Steele, Alfred N. Real Estate Broker	1156 El Camino Real, San Carlos	3/ 6/50	Sec. 10177 (b), (f)
Rasmussen, Jay N. Real Estate Salesman	2811 14th Ave., San Francisco	3/ 6/50	Sec. 10177 (a), (f)
Jenkins, Erna B. Real Estate Salesman	239 E. Eighth St., National City	3/ 7/50	Sec. 10177 (f)
Gilbert, Rubie M. Real Estate Broker, Business Opportunity Broker	519 Taft Bldg., Hollywood	3/ 7/50	Sec. 10177 (b), 10302 (b)
Vance, Doris B. Real Estate Broker	Rm. 812, 830 Market St., San Francisco	3/10/50	Sec. 10176 (a), (b), (e), (i), 10177 (f)
Chohon, A. T. Real Estate Broker (Restricted Real Estate Broker License Issued 4/10/50)	4925 Santa Monica Blvd., Los Angeles	3/10/50	Sec. 10176 (a), (f), (g), (i)
Moore, Arby R. Real Estate Broker	17401 E. 14th St., Hayward	3/20/50	Sec. 10176 (a), (b), (e), (f)
Sandoval, Joe L. Real Estate Broker	7924 S. San Pedro St., Los Angeles	2/ 7/50	Sec. 10177 (a), (b), (f)
Colton, Ivan G. Real Estate Salesman	310 E. Carson Blvd., Torrance	2/ 7/50	Sec. 10176 (e), (i), 10177 (f)
Lanza, John G. Real Estate Salesman	223½ W. 24th St., Los Angeles	2/16/50	Sec. 10177 (a), (f)
Grosh, William H. Business Opportunity Broker	901 N. Hill St., Oceanside	2/28/50	Sec. 10302 (e)
Sponheim, O. C. Real Estate Broker	320 Third Ave., San Mateo	1/12/50	Sec. 10176 (a), (b), 10177 (f), 11020
Ernis, William S. Real Estate Salesman	501 S. 14th St., San Jose	1/12/50	Sec. 10177 (f)
Flemmings, Augustus Real Estate Salesman	2911½ La Salle Ave., Los Angeles	1/17/50	Sec. 10177 (a), (f)
Karesh, Howard C. Real Estate Salesman	c/o Lawrence R. Hughes, 1809 E. Fifth Ave., Pomona	1/17/50	Sec. 10177 (a), (f)
Betar, John E. Real Estate Broker	9518½ S. Main St., Los Angeles	1/24/50	Sec. 10177 (a), (f)
Groom, Leslie E. Real Estate Broker	2479 Pacific Ave., Long Beach	1/24/50	Sec. 10177 (f)
Mero, Harold E. Real Estate Salesman	824 Marrila St., Santa Barbara	1/25/50	Sec. 10177 (a), (f)
Von Pein, William Real Estate Salesman	337 Linden Ave., Long Beach	1/25/50	Sec. 10177 (a), (f)
Brasher, John Lomax Real Estate Broker, Business Opportunity Broker	8537 E. 14th St., Oakland	1/27/50	Sec. 10176 (a), (b), (e), 10177 (f), 10301 (a), (b), (e), 10302 (e)
Mason, Thomas S. Real Estate Broker	1182 Seventh St., Oakland	1/27/50	Sec. 10176 (a), (b), (e), 10177 (f)
Harvey, Gerald H. Real Estate Salesman	Rt. 1, Box 369B, Martinez	1/27/50	Sec. 10137, 10176 (a), (b), (e), 10177 (f)
Herbst, William F. Real Estate Broker	830 Market St., San Francisco	12/14/49	Sec. 10162, 10164, 10177 (f)
Schwimley, Don H. Real Estate Broker	2014 Park Blvd., Oakland	12/14/49	Sec. 10176 (a), (b), (e), 10177 (f)
Corey, Dorothy J. Real Estate Salesman	760 N. Joaquin Ave., San Leandro	12/22/49	Sec. 10177 (a), (f)
Benson, Peter Paul Real Estate Broker, Business Opportunity Broker	2915 W. Olympic Blvd., Los Angeles	12/28/49	Sec. 10177 (b), (f), 10302 (b), (e)
Holton, Don Real Estate Broker, Business Opportunity Broker	222 Wall St., Chico	11/12/49	Sec. 10141, 10176 (a), (d), (g), (i), 10302 (e), 10150-53, 10177 (f)
Pidcock, Benjamin H. Real Estate Broker	2110 Sol St., San Leandro	11/14/49	Sec. 10177 (a), (f)
Payne, Reno Real Estate Broker, Business Opportunity Broker	4610 Austin Dr., San Diego	11/ 5/49	Sec. 10177 (b), (f), 10302 (b), (e)
Wells, Maymee K. Real Estate Salesman	8285 La Mesa Blvd., La Mesa	11/28/49	Sec. 10177 (a), (f)
Brown, Patrick F. Real Estate Broker (Restricted license issued 9/16/49)	120 W. Compton Blvd., Compton	9/15/49	Sec. 10177 (f)
M.G.M. Real Estate Mathew W. McClean-Mem. Bertha A. Germon-Mem. Real Estate Copartnership	6040 W. Adams Blvd., Los Angeles	9/20/49	Sec. 10177 (d), (f), 11010, 11013, 11019 & 11020
Robar, Lyle D. Real Estate Salesman	6040 W. Adams Blvd., Los Angeles	9/20/49	Sec. 10177 (d), (f), 11010, 11013, 11019 & 11020
Seymour, William H. Real Estate Salesman	8928 Tope Ave., Los Angeles	9/21/49	Sec. 10177 (a), (f)
Kahn, Irene Real Estate Broker	1170 W. Jefferson Blvd., Los Angeles	8/10/49	Sec. 10177 (a), 10177 (f)
Watkins, Aaron J. Real Estate Broker	1749 W. 35th Pl., Los Angeles	8/23/49	Sec. 10157, 10176 (a), (b), (c), (d), (e), & (i)
rum, Elton M. Real Estate Salesman	152 N. Monterey St., Gilroy	7/12/49	Sec. 10177 (d), 11010, 11020

Business Opportunity Commission Case

In the March *Bulletin*, we commented upon a business opportunity commission case in the Los Angeles Municipal Court, where judgment was given for the defendant, based partly upon the provisions of Section 10263 of the Real Estate Law, which require a broker to give a copy of any prepared listing to the person who signs same. The court construed this section to indicate that all business opportunity listings must be written.

We are now advised that an appeal was taken, and the decision of the municipal court was reversed by the Appellate Department of the Los Angeles County Superior Court.

The decision of the latter court was to the effect that an oral agreement to pay a business opportunity broker a commission is binding. The appeal court held that the license law section does not declare that all agreements for the sale of business opportunities must be in writing. In its opinion the court cited *Rutherford vs. Berick*, 82 Cal. App. 2d 331, 332, and *Webster vs. Parra*, 72 Cal. App. 639, 647.

The court also reversed the municipal court decision which held that the signer of the "send-out" list was not bound to pay a commission, in this particular case.

Workmen's Compensation

Many inquiries have been received as to the significance of the phrase appearing in license and renewal applications as follows: "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for Workmen's Compensation." The application also has space for stating the name of the applicant's workmen's compensation insurance carrier.

Section 16545 of the Business and Professions Code makes it obligatory for the Real Estate Commissioner to include the above-quoted wording on applications.

This statute applies to every state agency which licenses any kind of business or profession. Therefore, this is not a matter of discretion with the commissioner, but an actual statutory provision.

A Note Is Not "Cash" Broker Must Disclose Material Facts

On April 3, 1950, the State Supreme Court in San Francisco refused to reverse the decision rendered by the First District Court of Appeals, Division I, in the case entitled *Eugene Albert de St. Germain*, Respondent, v. *D. D. Watson*, Real Estate Commissioner, et al., Appellants (95 A.C.A. 1005).

On February 3, 1950, the First District Court of Appeals, Division I, rendered a decision reversing a judgment of the Superior Court of the City and County of San Francisco, vacating the suspension of a real estate broker license by the Real Estate Commissioner.

In effect, this action sustained the commissioner's order and the District Court of Appeals held in part:

"A real estate broker, like a trustee, has an affirmative duty to disclose all material facts which might influence his principal's decision; and a broker who impliedly represented to his principal that he had received cash from a purchaser as a down payment and did not disclose that he had actually accepted a nonnegotiable promissory note violated the Real Estate Law regardless of his intent to defraud or ability to make good on the note, since the principal was entitled to determine for himself whether he was satisfied with the note before agreeing to a sale. (Bus. and Prof. Code, Sec. 10176, subs. (a) (i).)"

This is an interesting case because it emphasizes the principle that a real estate broker is bound to disclose to his principal all the material facts in a transaction which might influence the judgment or decision of his principal.

The Real Estate Commissioner in this case suspended the license of the real estate broker for a period of 15 days because he accepted a promissory note as a deposit in a transaction and failed to disclose it to his principal.

Salesman Licenses Not Issued Until Fingerprints Clear

An applicant for provisional or regular real estate salesman license will not be issued a license until his fingerprint record has been cleared. The applicant's fingerprints are taken either at the time of examination or when he presents his application in person at one of the division's offices.

The fingerprints are submitted to the Bureau of Criminal Identification for reading **WHEN THE APPLICANT PASSES THE EXAMINATION** and ordinarily it requires from 10 to 20 days before results of the investigation are available.

This means that the salesman applicant may receive notice that he has passed the examination but his employing broker will not receive the salesman's license for another week or two, or until his fingerprints have cleared and any subsequent investigation completed.

Broker Responsibility

(Continued from Page 2, Col. 1)

Moreover, a broker may at times be liable in a civil court for the action of salesmen who represent him.

There have been cases in which judgment was given against a broker because of the actions of his salesman even when the broker had no knowledge of such acts. It is important to keep in mind that the salesman acts for and in the name of the broker. The broker may be responsible to others for things the salesman may say or do.

CAUTION TO BROKERS: If you have salesmen licensed under you, their licenses must be displayed.

If they are not working for you, you should send in their licenses for cancellation.

To aid in eliminating the possibility of a former salesman claiming to represent you, the salesman's pocket identification card should also be obtained and forwarded with the license for cancellation.

"Canceled" Licenses

A large number of licenses have been turned in as a result of *Bulletin* articles in January and March regarding the canceling of licenses by inactive brokers and those not maintaining an office as required by law.

The commissioner wishes to emphasize that the law does provide for the retention of broker status for those who thus "inactivate" their licenses.

Furthermore, no broker need fear that the commissioner will take any action against a licensee when the license is voluntarily turned in because its holder has not been active or is not in a position to maintain an office.

Cancellation or "inactivation" of a license does not mean that the license right is lost. The licensee can reinstate any time during the license year upon request and the payment of a \$1 fee.

He does, however, have to renew the license on or before June 30th of each year. At that time he can again request immediate cancellation.

One other point should also be kept in mind: The volume of business done by a licensee has nothing to do with the need for canceling a license. If a licensee displays a sign and maintains an office for conducting such business as he may have, the volume of business he does has no bearing upon his license status.

Do not send cash with your renewal application. Use personal check, money order or cashier's check.

Cemetery Licensees

All communications relative to cemetery broker or salesman licensing should be addressed to the Cemetery Board, Room 511, 1020 N Street, Sacramento, which has assumed this function, formerly a duty of the Real Estate Commissioner.