



Volume of Securities Dealers Applications Under Analysis

An intensive review of financing operations by agents is necessitated because relatively few real estate brokers had filed bonds in support of applications for endorsement as Real Property Securities Dealers when this *Bulletin* went to press. In all likelihood there are many more licensed brokers whose activities fall within the scope of the securities dealers sections (10237-10239.4, inclusive) of the Real Estate Law.

The law spelling out the requirements for this endorsement and conditions pertaining to practices authorized by it (AB 1344) was passed by the 1961 Legislature as an urgency measure and became effective June 27 of that year as Chapter 886, Statutes 1961.

Thus 11 months had passed when the May 30, 1962, statistics were compiled, 11 months during which, in addition to the widespread publicity given these regulations through the public press and several trade organs, a continued effort has been made by this agency to acquaint all licensees with the requirements of the law.

Ample Information Disseminated

The *Bulletin* which, with its circulation of 135,000 reaches every California real estate licensee, has run a series of explanatory articles including the detailed "Real Estate Broker or Real Property Securities Dealer" story in the March-April, 1962, issue. Since October, 1961, a statement as to the requirements of the new law has been sent to each subdivider, along with the Public Reports for his tract. Hundreds of letters have been mailed out to real property loan brokers whose activities might come within the scope of the act. The commissioner and various of his deputies have appeared before real estate groups throughout the state explaining the provisions.

With these opportunities for understanding readily and continuously available, it would seem reasonable

to state that, not only is ignorance an unacceptable excuse under the law, but all justification for it has been removed in fact.

In the public interest, as of April 30, 1962, 20 Desist and Refrain Orders based upon alleged violations of the Real Property Securities Dealers Law had been issued and a number of others were in various stages of processing in order to determine the need for further action.

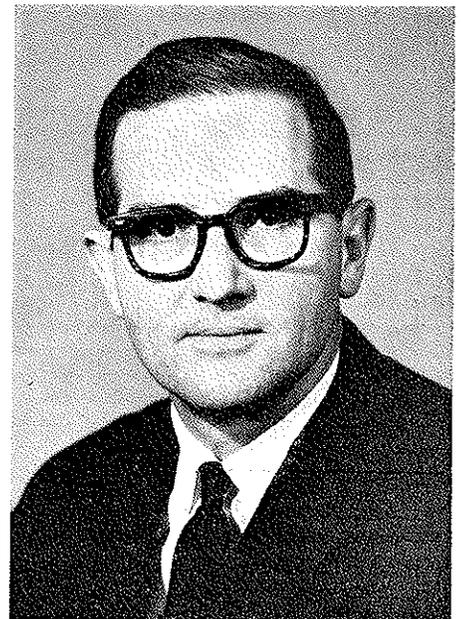
Commissioner Appoints New Assistant

John E. Hempel, former Chief Deputy, Examinations, was appointed by Commissioner W. A. Savage as the Assistant Real Estate Commissioner to carry on the administrative responsibilities formerly borne by Colonel Donald McClure, whose retirement became effective April 1, 1962. Mr. Hempel came to the Division of Real Estate in 1954 with an impressive background in both the real estate industry and in government.

With the exception of three years of active military service during World War II, the new Assistant Commissioner was a practicing real estate licensee from 1940 until becoming a deputy in 1954. During this period he served as President of the San Clemente Board of Realtors, 1951; Chairman, Orange County Realtor's Council, 1951 and 1953; 23d District Regional Vice President, California Real Estate Association, 1953; Member, San Clemente Planning Commission, 1951; Member, San Clemente City Council, serving consecutively as Commissioner of Water, Health and Sanitation, Police Commissioner, Commissioner of Parks and Recreation. He was Acting Postmaster, City of San Clemente, 1953.

Since entering state service in May 1954, Mr. Hempel has advanced through the following posts: Investigating Deputy, Senior Complaint Assignment Deputy, Senior Examination Deputy, and Chief Deputy, Examina-

tions. For the past year in addition to his examination duties, he directly assisted Commissioner Savage and McClure, particularly in matters relating to legislation and regulations.



JOHN E. HEMPEL
Assistant Real Estate Commissioner

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Real Estate Commissioner

JOHN E. HEMPEL
Assistant Commissioner

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THE BULLETIN REGRETS

That, in paying tribute to the late Frank L. Whitelock for his many contributions to the industry, to his community and to his state, a typographical error listed him as having been past President of the Santa Barbara Board of Realtors, instead of, as we should have stated, the San Bernardino Board of Realtors.

Disciplinary Action—March, April, 1962

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 are not published.

Licenses Revoked During March, April, 1962

Name	Address	Effective date	Violation
Descoteau, Aldor Victor Real Estate Salesman	4406 Menlo Ave., San Diego	3/ 1/62	Sec. 10177 (b)
Findahl, Bernard Lawrence dba Las Palmas Realty Real Estate Broker	902 E. 18th St., National City	3/ 1/62	Sec. 10177 (b)
Servillo Realty Michael James Servillo, Member Real Estate Partnership Real Estate Broker	9752 Sierra Ave., Fontana	3/ 2/62 (Granted right to restricted license on terms and conditions)	Secs. 10142; 10176 (a), (i); 10177 (f) & (l)
Dussault, Walter Francis dba Butte Realty Company Real Estate Broker	197 East Ave., Chico	3/ 5/62	Secs. 10176 (a), (b), (g), (i); 10177 (f) & 10177.5
Hall, Michael Dennis Real Estate Salesman	2220 J St., Sacramento	3/ 5/62	Sec. 10177 (b) & (f)
Sertich, Joseph Nicholas dba Sertich Investments Real Estate Broker	4090 24th St., Sacramento	3/ 5/62 (Granted right to restricted real estate salesman license on terms and conditions)	Secs. 10176 (c), (i) & 10177 (f)
Adkins, Philip Arthur Real Estate Broker Business Opportunity Broker	500 E. 4th St., Long Beach 320 Santa Ana Ave., Long Beach	3/ 6/62	Secs. 10177 (b) & 10302 (b)
Phillips, Jack Lawrence Restricted Real Estate Broker	324 S. Glendora Ave., Covina	3/ 6/62 (Granted right to restricted real estate salesman license on conditions)	Sec. 10177 (d)
Ashdown, Edward Henry Real Estate Broker	Suite 2, 8746 Sunset Blvd., Los Angeles	3/ 6/62	Sec. 10177 (b) & (f)
Gillis, Mary E. Real Estate Broker	16901 Hawthorne Blvd., Lawndale	3/15/62	Sec. 10177.6
Griebel, John Lee Real Estate Salesman	5715 Lakewood Blvd., Lakewood	3/15/62 (Granted right to restricted license on conditions)	Sec. 10177 (b) & (f)
Schad, Roger Lloyd Real Estate Salesman	647-D Duarte Rd., Monrovia	3/15/62	Sec. 10177 (b) & (f)
Wade, Sylvia Johnson Real Estate Broker	3727 Sawtelle Blvd., Los Angeles	3/15/62	Sec. 10177 (b)
Foster, Bobby Lee Member—Argo Realty Real Estate Broker	4427 N. Main St., Baldwin Park	3/20/62	Secs. 10130; 10137 & 10177 (f)
McDonald, Carlisle Joseph, Jr. dba Explorer Realty Company Real Estate Broker	1161 Laurel St., San Carlos	3/20/62	Secs. 10162 & 10177 (f)
Neeley, Kathryn Alice Real Estate Broker	12215 Santa Monica Blvd., Los Angeles	3/20/62	Sec. 10177 (b) & (f)
Page, George dba George Page & Co. Real Estate Broker Business Opportunity Broker	5275 Claremont Ave., Oakland	3/20/62	Secs. 10160; 10162; 10164; 10177 (f); 10283; 10285; 10287 & 10302 (c)
Plain, Virginia Mae Real Estate Salesman	P.O. Box 1214, Orange	3/20/62	Sec. 10177 (b) & (f)
Ruth, Roy Eugene Real Estate Salesman	563 Troy Dr., San Jose	3/21/62	Sec. 10177 (b) & (f)
Shewmaker, Charles Arthur Real Estate Salesman	3329 Agate Dr., Santa Clara	3/21/62	Sec. 10177 (b) & (f)
Canavesio, Florence Beatrice Real Estate Salesman	716 E. 5th Ave., Pomona	3/28/62	Sec. 10177 (f)
Certified Trust Deeds, Inc. dba Certified Home Loans Leo Gordon Thompson, President Real Estate Corporation	4200 Atlantic Ave., Long Beach	3/29/62 (Granted right to restricted license)	Sec. 10177 (d); Secs. 2830, 2831 & 2950 (d) of R.E. Comm. Regulations
Thompson, Leo Gordon Real Estate Broker	4200 Atlantic Blvd., Long Beach	3/29/62 (Granted right to restricted license)	Sec. 10177 (d); Secs. 2830, 2831 & 2950 (d) of R.E. Comm. Regulations
Ferraris, Aldo Augustus Real Estate Broker Real Estate Salesman	1217 Laurel St., San Carlos 620 El Camino Real, Redwood City	4/ 9/62	Secs. 10176 (c), (i); 10177 (d) (f); Secs. 2830 & 2832 of R.E. Comm. Regulations
Bryant, Phil Real Estate Broker	2220 J St., Sacramento	4/10/62	Secs. 10176 (c), (i); 10177 (f), (j) & Sec. 2832 of R.E. Comm. Regulations
Kamholtz, Stanley Real Estate Salesman	823 Eastman Pl., San Pedro	4/10/62 (Granted right to restricted license)	Sec. 10177 (b)
Kelly, James John dba Keleo Realty Real Estate Broker	4062 W. 7th St., Los Angeles	4/10/62	Secs. 10085- 10137- 10176 (c), (i); 10177 (f); 10305; Secs. 2830, 2832 & 2970 of R.E. Comm. Regulations
Barcus, Ford Samuel Real Estate Broker	1011 N. Fulton St., Fresno	4/18/62	Sec. 10177.6
Harwick, Nona Burt dba Nona Realty Real Estate Broker	788 21st Ave., San Francisco	4/18/62	Sec. 10177 (b) & (f)

“Yesterday’s Sum of Licensee Acts Equals Today’s Real Estate Image.”

Disciplinary Action—Continued

Name	Address	Effective date	Violation
Reese, John Hurley Restricted Real Estate Salesman	249 S. Holliston, Pasadena	4/18/62	Sec. 10177 (d) & (f)
Justus, Lonnie Glynn Real Estate Broker	4006 8th St., Riverside	4/24/62	Secs. 10176 (i) & 10177 (f)
Marrone, Victor Emmanuel Real Estate Broker Business Opportunity Broker	13312 Van Nuys Blvd., Pacoima	4/27/62 (Granted right to restricted licenses on conditions)	Secs. 3081.3 (b) & (c) of Civil Code (now Sec. 10242 (b) & (c) of B & P Code) per Secs. 10176 & 10176.1 of B & P Code
Marrone, Vic Co., Inc., Valley Trust Deed Co., Victor Emmanuel Marrone, President Real Estate Corporation	13312 Van Nuys Blvd., Pacoima	4/27/62 (Granted right to restricted licenses on conditions)	Secs. 3081.3 (b) & (c) of Civil Code (now Sec. 10242 (b) & (c) of B & P Code) per Secs. 10176 & 10176.1 of B & P Code
Fleischman, Leonard B. dba Manor Investment & Realty Co. Real Estate Broker	1255 Post St., Ste. 828, San Francisco	4/30/62 (Granted right to restricted license on conditions)	Secs. 10177 (f) & 10177.5

Licenses Suspended During March, April, 1962

Name	Address	Effective date and term	Violation
Clark, Glenn Newman Real Estate Broker	197 East Ave., Chico	3/ 5/62 90 days	Secs. 10176 (a), (b), (g), (i) & 10177 (f)
Cody, Joseph LaVerne Real Estate Salesman	1548 Laurel, San Carlos	3/19/62 30 days	Sec. 10177 (b) & (f)
Morrison, John Paris dba Premium Realty & Rentals Real Estate Broker	1448 Haight St., San Francisco	3/19/62 120 days	Secs. 10176 (a), (b), (i); 10177 (f) & (j)
Putnam, Leonard Scott Real Estate Salesman	1129 Lincoln Ave., San Jose	3/23/62 30 days	Secs. 10176 (a), (b), (i); 10177 (f) & (j)
Shannon, Richard Martin dba Trinity Company Real Estate Broker Business Opportunity Broker	6779 Mission St., Daly City	3/27/62 60 days	Secs. 10176 (a), (i); 10177 (f) & 10302 (c)
Brown, Charles James Real Estate Broker	716 E. 5th Ave., Pomona	3/28/62 30 days	Sec. 10177 (f)
Henderson, Kenneth Harold dba Home Loan Service Real Estate Broker	470 N. Reservoir, Pomona	3/28/62 10 days (Stayed for period one year on conditions)	Sec. 2830 of R.E. Comm. Regulations
Kirkes, Leonard McClain Real Estate Salesman	2115 Cataline St., Laguna Beach	4/10/62 until 3/10/64 (Indefinitely thereafter on conditions)	Sec. 10177 (b) & (f)
Simmer, Richard Samuel Real Estate Broker	2506 1/2 W. Beverly Blvd., Montebello	4/23/62 6 months (Stayed for period one year on conditions)	Secs. 10176 (e), (i); 10177 (d) (f) & Sec. 2830 of R.E. Comm. Regulations
Vest, William James Real Estate Broker	741 Alamo Dr., Vacaville	4/26/62 90 days	Secs. 10176 (a), (b), (i); 10177 (f) & (j)

RESTRICTED LICENSES RAISE SOME QUERIES

What is a restricted license? When is it granted? And how are the restrictions lifted? In the first place, the reader should know that the restricted license looks like any other license except that it bears a circled "R," looking like this (R).

The restricted license may be issued under certain conditions set forth in the Real Estate Law (Sections 10156.5 et seq. and similar sections in the business opportunity and mineral, oil and gas chapters), and may be suspended without hearing pending the final determination made after a formal hearing.

Restrictive Conditions for Public's Protection

A restrictive license may be issued to a broker or salesman who, at a hear-

ing, is found in violation of the law, violation which would justify the suspension or revocation of his license; or it may be issued to an applicant for license who has met the experience and examination requirements, but, after hearing, has failed to make a satisfactory showing that he meets all the other requirements for licensure—usually failure to measure up absolutely to the standards for honesty, truthfulness and good reputation.

The restricted license then is one which may be granted at the commissioner's discretion on a showing of extenuating circumstances by the licensee or applicant for license.

Nature of Restrictions Imposed

The restrictions imposed on the holder of a restricted license may be

varied. They may set a specific time before which the holder of a license cannot petition for an unrestricted license; the salesman licensee might have his activity limited to employment by a particular broker; the licensee might be required to file a surety bond for the protection of persons with whom he may deal, or he might have to file with the commissioner regular reports of his activity as a licensee.

In two significant ways a restricted license is different than any other license issued by the commissioner: It confers no property rights whatever upon the licensee in the privileges which it permits—in other words, the holder of a restricted license does not have the right to renewal of such a license and it can be suspended at any time pending a final hearing.

Secondly, and most important, regardless of the nature of the restrictions, their removal is not automatic; the restricted licensee must petition for removal of the limitations on his privilege to act as an agent and show cause why his request should be granted.

DOLLARS, BOOKS AND THE REFERENCE BOOK!

For those who wonder what a really complete real estate office library would cost them, the *R.E.C.I. Newsletter* editor's daughter totaled the list price of all books included by the University of California Real Estate Research Program in its booklet "*California Bookshelf*" and came up with the figure of \$1,706.84. While you're waiting for enough escrow checks to come in to cover that amount, however, may we suggest that the 1962 edition of the real estate *Reference Book* is now available through any district office of the Division of Real Estate for \$2.60, including tax.

THE OFFICE GREMLIN SAYS:

"In business, industry, or the professions, sincerity is a necessary teammate but never a substitute for knowledge and skill."

ONCE UPON A TIME

The *Bulletin* editor had the privilege recently of sitting in on one of those "What is wrong with real estate?" gab fests by a representative group of California brokers. The problems bandied across the coffee cups left him with a nostalgic hangover and, back at his desk, he pulled from the file a remembered letter from an old-timer who spoke of conditions in real estate sixty years ago.

"At that time," he said, "the status of the profession (so called) was none too high. The real estate man was virtually unrestricted and unrestrained as far as any official rules and regulations were concerned. . . . A state real estate license was unheard of and no Real Estate Commissioner or Commission existed."

The Real Estate Image of 1902

"To become a real estate agent," he continued, "one simply had to paint a sign on the door, print a few business cards, and you were in business." The result: "A large and varied assortment of agents," a goodly number of whom "were totally unfitted for the job; they had nothing but a vision of easy money—no real selling ability and no technical knowledge as to the various legal steps and documents involved in making a deal." Most of these, he recalls, took "a brief fling at the game, became disillusioned, and dropped out."

He further referred to a prevalent type of real estate agent "who gave the profession a black eye." Possessing a "gift-of-gab but shy on ethics," said he, "this character had a free hand to paint the rosy picture and sign up the victim on some dubious deal without fear of reprisal or loss of license. 'Caveat emptor' was his creed. It was a mark of special distinction . . . to put together a highly complicated three-cornered deal involving dummies, illusive equities—and other now banned deceptive et ceteras—all parts dovetailing in one escrow, jigsaw-puzzle fashion, without any of the principals involved knowing what was really going on."

He said much more which we omit in our hurry to get to his conclusion that "the rating of the average real estate man was not the highest. By many he was 'viewed askance'—they kept their weather eye open when he was around."

The old-timer reminisced of sixty years ago. To set this picture over against that of today, the industry still has its problems, as any industry must, but it has come a long, long way.

Foundations for New Image

Every one of the 50 states now has a license law, principally through the efforts of organized real estate. In California we have a Real Estate Commissioner with a Real Estate Commission to counsel him and a Division of Real Estate to carry out his policies for public protection and industry improvement throughout the state; and, most important of all, we have a sound body of law upon which to base all of this constructive activity.

This law is a living thing, growing and changing as public awareness of need grows and changes, but always steadfast in safeguarding the public good. A significant thing about it is that the vision of leaders in the real estate industry set in motion the forces which put it there. And the constant, effective concern of industry leadership, working co-operatively with the commissioner and his team, serve to keep that law and its implementing regulations abreast of the needs of the times.

Desist and Refrain Order: Its Authority, Purpose, Procedure

What is a Desist and Refrain Order? Is it the same as an injunction? If not, what is the difference? Under what conditions and by what procedure does the commissioner issue such an order? These and many similar questions from licensees prompt the following treatment of the subject.

An injunction is an order or decree of a court either preventing or compelling an act. A Desist and Refrain Order, on the other hand, is an order of an administrative agency, under statutory authority, arresting or halting a particular activity. The Desist and Refrain Order, while a remedy similar to an injunction, is much narrower in scope and can order only negative acts. It can be issued only under the conditions prescribed in the authorizing statute. It is more summary in nature in that the commissioner, or administrative officer with the authority, can issue it on the basis of his own findings.

The Real Estate Commissioner may petition the Superior Court for an injunction where one has violated, or is about to violate, the Real Estate Law or any order, license, permit, decision, demand, or requirement, or of any part or provision of the Real Estate Law.

Commissioner's General Authority to Act

The 1961 session of the State Legislature made certain changes affecting the use of the Desist and Refrain Order so that Section 10086, B & P Code, now provides, in part, that "no person shall engage in any activity after receiving an order in writing from the commissioner directing him to desist and refrain from so doing . . ." Under this section, the Real Estate Commissioner may issue such an order when in his opinion a particular activity violates the Real Estate Law. If, within 30 days, the respondent requests a hearing wherein he alleges that the order precludes him from engaging in a substantial portion of his business, the commissioner must institute action for injunction in the Su-

(Continued next page)

perior Court within 10 days. If a hearing is requested within 30 days, where no allegation of substantial interference is made, the commissioner must grant a hearing within 15 days and must render a decision within 45 days after this submission.

Commissioner's Specific Authority to Act

In addition to the general authority vested in the Real Estate Commissioner for issuance of Desist and Refrain Orders, he is given the specific power to issue such an order in connection with the Real Property Securities Dealers Law:

1. When a person violates the Real Property Securities Dealers Law;
2. When a person is conducting his business in an unsafe and injurious manner;
3. The further sale of real property securities would be unfair, unjust or inequitable, or
4. The method of sale of a real property security would tend to work a fraud on the purchaser thereof.

The Desist and Refrain Order is used as an interim measure when further formal action seems indicated, or it may serve as a formal notice to discontinue a particular activity until the person or firm against whom it is directed complies with pertinent provisions of the law. In any event, its major purpose is to halt immediately a harmful or unlawful activity pending whatever further investigation or formal action may be necessary. If the respondent fails to seek the relief afforded in the statute, the order, in effect, becomes permanent. It is just one more effective means for the protection of the public and the improvement of the real estate industry.

THE OFFICE GREMLIN SAYS:

"That real estate broker who carries carelessness and ignorance, either on his sales staff or in his briefcase, will inevitably be—broker!"

Proving Qualification for Broker License

Each month the Division of Real Estate receives a substantial number of applications for original real estate broker license based upon claimed equivalent experience or education in lieu of the otherwise required two years of full time employment as a licensed real estate salesman. Those must be put in order by deputy personnel and submitted to the State Real Estate Commission upon which rests, by law, the full responsibility for determining the validity of such claims.

Analysis of this process during recent months points up two facts of significance to all potential applicants: (1) a high percentage of rejections which would seem to indicate some haziness in the field of what constitutes "equivalent experience"; and (2) an even higher percentage of applications which require additional correspondence, telephone calls, and conferences in order to put them in proper order for submission to the commission members. This latter quite clearly indicates either lack of understanding as to what is necessary to substantiate such claims or carelessness in preparation of applications, or both.

Unsatisfactory Verification

With respect to rejections by the Real Estate Commission, the 20 applicants who were turned down in February, the 18 in April, and the 34 in March of 1962, would have profited by knowing before applying that their quest was to be a fruitless one. By the same measure a considerable expenditure of time on the part of commission members and deputy commissioners would have been saved.

What is Full-time Employment?

In the first place, an applicant should know that two years of full-time employment for at least two years within the five year period immediately preceding the date of his application means 104 forty-hour weeks of time expended in the actual practice of real estate. Valid substantiation of this claim to qualification is a signed statement from the employing broker (or brokers) setting forth from office records the exact time of the employment and nature of the salesman's activity while under his direction. This documentation should be obtained at the time of each transfer so when one ultimately applies for

a broker license he is not faced with the necessity of checking back through a long list of employing brokers, some of whom are out of business and others of whom may have poor memories and even less adequate records.

The Time to Verify Experience

The point here is that the salesman who gets his record of service from each employing broker at the time that service is rendered has solved his problem before it arises. The information must be specific, detailed, signed and dated. Generalizations are not of much value.

The same necessity for timely recording and careful keeping of service records applies both to those who offer employment in fields closely related to real estate for evaluation by the commission and to those who would substitute real estate education in lieu of licensed salesman experience. In the latter case, however, this proof must come in the form of an official transcript of credit from the educational institution involved.

In summation, then, all applicants for original broker license should assure the prompt weighing of their qualifications by submitting valid documentation of specific facts at the same time the application is filed. One substantiated fact may be worth a sheaf of "Joe is a great guy" letters, no matter who signs them!

KEEP UP TO DATE

Statutes change, regulations change, procedures change, and Division of Real Estate forms must be changed accordingly. Be sure the ones you use are current.

Ten Percenter Bill Has First Birthday

California's "Ten Percenter" Control Law, fashioned by an aroused administration and the 1961 Legislature to stop unconscionable practices in the trust deed and contract of sale markets, passed its first birthday June 27, 1962 and, while some points of possible strengthening and clarification are under discussion, the conclusion of those involved in its enforcement may be summed up in the words of Assistant Attorney General David Richman, "It's very forward looking legislation." He referred to AB 1344, Hanna, which was enacted into law as Chapter 896, Statutes 1961.

Present indications are that the law has succeeded in stopping the manufacture of second trust deeds on worthless land, a practice which had become painfully common.

It is believed that "it has also stopped the wholesale collection of money by the companies. Now they cannot accept money until the investor has the deed of trust in his hand."

As of April 30, 1962, the Division of Real Estate had issued 20 Desist and Refrain Orders to companies believed in violation of the law and other such orders were in prospect.

Salient Facets of Law

The various facets of this legislation have been explained in previous issues of the *Bulletin* and need not be dealt with in detail here; but the following essentials may be stated: (1) It placed under the control of the Real Estate Commissioner all firms guaranteeing a return to second trust deed investors and such companies can sell real property securities only under permit issued by the commissioner; (2) vested in the commissioner the power to determine that an offering of real property securities is "fair, just and equitable"; (3) made subject to severe penalty advertising which contains elements of misrepresentation of fact; (4) empowered the commissioner, in the public interest and under specified conditions, to take over trust deed firms.

Freeway Repercussions

Exactly what happens to market value of property in the path of, or adjacent to, projected freeways may be a controversial question and certainly is the subject of much study, but no one can question the fact that freeways affect values and that, positive or negative, it is a broker's fiduciary responsibility to tell a prospective buyer of such properties all the known facts about pending development.

It should be emphasized, in this connection, that feigned ignorance based upon the allegation that "the owner didn't tell me" can hardly be considered an excuse for malpractice. In his position as an expert and an agent, the broker should know, or attempt to determine, the tentative or actual routings of freeways within the area of his business activity. Having done this, he must make full disclosure of the facts to his principals or risk the imposition of disciplinary action.

Complaint Lodged With Highway Department

A case in point occurred in Sacramento recently which not only illustrates the importance of complying with this requirement, but testifies to the co-operation of state agencies in processing complaints.

A complainant reported to the State Division of Highways that a broker had attempted to sell property in a proposed freeway right of way without disclosing this fact to the prospective buyer. The complaint was immediately communicated to the division's district office and a deputy assigned to determine the facts.

The investigation which followed showed that the broker had made a disclosure and that the allegation was, apparently, based upon misunderstanding rather than fact. The licensee, however, was impressed with the seriousness of such a charge and put on guard against allowing any basis for misunderstanding to creep into his sales presentation.

ZONE NUMBERS, PLEASE!

The Post Office Department is becoming more and more insistent—and understandably so—upon the inclusion of zone numbers, where such have been assigned, in all mail addresses. To this end, every license application, and every communication of any kind, coming to the division should contain this information so that our records may be complete; and, more important, so that you may receive your mail without unnecessary delay!

PROPER DEPOSIT RECEIPT SPEEDS FHA FINANCING

Because of the volume of sales agreements or deposit receipts submitted with applications to FHA, which have to be returned for correction because they fail to include required language, with a resulting loss of time, loss of client's good will, and, in many cases, even cancellation of the offer involved, the following paragraph is quoted from a Federal Housing Administration circular letter of June 6, 1962:

"Mortgagees, builders and realtors are reminded that when a purchase contract is entered into prior to the time the FHA appraised value has been established, the contract or deposit receipts submitted with the application, must contain amendatory language permitting the purchaser to withdraw from the transaction in the event the FHA appraised value does not equal the amount stipulated in the amendment . . . The certification made on the back of the commitment at closing is not intended to take the place of this amendatory language but only to confirm that the contract contained the language."

IN LIEU OF HINDSIGHT

If every real estate broker and salesman were as blessed with foresight as he is with hindsight, the golden age would indeed be here.

In lieu of this unexpected miracle, suggested are hard study, hard work and close analysis of experience.

Insurance Not the Complete Answer

Ours is an insurance conscious age. One may obtain a policy, if he is willing to pay the price, to cover almost any conceivable contingency.

On the whole, this is good, both for the peace of mind of the individuals involved and for the stability of our economy, but there is another aspect of the insurance picture which needs consideration. Insurance can—and, in some cases, unquestionably does—promote carelessness by promising a possible easy escape from the consequences of one's acts.

Ordinarily, this would be no official concern of the Division of Real Estate, but the recent flood of promotional materials among licensees, setting forth the advantages of insuring themselves against the liability of "errors, omissions and fraud" in the conduct of their business, justifies an added word of counsel, not against insurance, but that insurance may be given its proper perspective in the agent's conception of professional responsibility.

The Law Imposes What the Public Demands

It is certainly true as one proponent of liability insurance says that "Today,

as never before, the law has imposed upon the real estate broker and salesman the duty of the highest degree of good faith toward his client, undivided service and loyalty, and an obligation to use the skill and ability he possesses to the utmost in every phase of the transaction he undertakes to negotiate."

It is also true that the increasing ethical sensitivity of the real estate industry has been, to a considerable degree, responsible for the more rigid impositions demanded by law.

This latter fact highlights the point of this article: that the best insurance against error, omission, and fraud remains what it has always been, the good faith of the licensee toward a client, the undivided loyalty, the dedicated service, the real knowledge of his calling and skill in administering that knowledge. In sound business judgment, the counsel of wisdom would seem to be "Insure yourselves by all means," but before you insure and after you insure take a long, hard, and continuing look at the whole "error, omission, and fraud" picture.

Sad Tale of Last-Minute Charley

Rarely does a working day go by that some panting applicant for a renewable salesman or original broker license doesn't dash breathlessly up to a district office counter, plank down his application and fee and exclaim, "My license expires in a couple of days, please schedule me for an examination right away—or maybe sooner!"

Inevitably, the girl at the counter must patiently explain, "I am so sorry, but scheduling takes approximately 30 days, depending upon the accuracy and completeness of information submitted and the number of other applications now pending."

If he is a broker license applicant, she will inform him that approval of his qualification claim may defer his scheduling for as many as 60 days.

"Well," he replies (if he is typical), "since you have my fee and application, I suppose it will be all right for me to continue working until you know whether I pass or not."

The answer again is inevitable, and again it is "No! You will be out of business between the expiration date of your present license and the effective date of your new one—assuming, of course, that everything goes well with your examination."

Obviously, these words are not designed to assuage his breathlessness nor to calm his disposition to apoplexy, but they constitute a simple statement of fact.

To avoid playing the role of "Last-Minute Charley," the licensee should be familiar with the termination date on his license and apply for renewal or examination, as the case may be, far enough ahead of that date to allow for all possibilities—including a possible necessary re-examination.

He (or, in the case of a salesman, his broker) will receive an "application for examination" form from the Division of Real Estate approximately four months prior to the terminal date of his license. But, if he desires to continue in business without interruption, he will realize that he alone has the responsibility for filing his application properly and on time.

GET A TRADE NAME CHECK-UP

The Division of Real Estate will be glad to check the records for any broker considering the adoption of a fictitious business name to ascertain whether the name under consideration is currently in use.

Although the commissioner cannot withhold the issuance of a license under a fictitious business name simply because that name is already being used by another licensee (see *Real Estate Bulletin*, Jan.-Feb. 1962, p. 529), a record check, prior to actual application, may well prevent the embarrassment and expense involved in the adoption of a duplicate trade name.

THE OFFICE SCRIBE SAYS:

"Speed the day when applicants aspire to real estate as an unfolding career rather than retire into real estate as an escape from a career."

EXAMINATION PREPARATION

In the April issue of *P.C.O. News*, a commissioner of examinations for the State Board of Structural Pest Control, referring to a 100 percent failure of operators in one examination category, said, ". . . it still was the feeling that much of the trouble could be corrected by more thorough preparation on the part of the candidates."

Looking through a sampling of original real estate license examination booklets with big red "F's" marked on them, one might readily decide that the Pest Control examiner may have been pulling his punches when he said "he had a feeling" that more thorough preparation was needed.

While the failure rate of real estate examinees falls far short of 100 percent, it is still high enough to establish a firm conviction that for admission to a practice as challenging as real estate, the price of thorough preparation is more than justified.

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Real Estate And the Unruh Act

Archie Hefner, Legal Counsel to the Sacramento Real Estate Board, wrote the following analysis of the applicability of current anti-discrimination laws to California real estate licensees, which we believe deserving of state-wide distribution.

"The Unruh Act passed by the California Legislature in 1959 provides in effect that all persons within this State regardless of their race, color, religion, ancestry or national origin are entitled to equal service in all 'business establishments' of every kind whatsoever. A violation of this act by any party who denies, or aids or incites such denial shall be liable to the person denied for actual damage plus \$250.00 for each such occurrence.

"Is a real estate business a 'business establishment' within the meaning of this Act? Yes, said the Supreme Court in *Lee v. O'Hara*, 57 A.C. 517, March 26, 1962. Not only is a real estate brokerage a business within the meaning of this Act, but if the owner of the property lists it for sale or lease to the general public, the real estate salesman and broker are liable to any person to whom they deny the right to buy or lease on the basis of his race or color.

"Of course, the broker will be liable for the acts of his salesmen even though such acts are intentional and malicious. So said the Court in *Hudson v. Nixon*, 57 A.C. 523, one of four companion cases.

"Suppose a private owner of land refuses to sell to members of a certain race. Is the real estate broker or salesman liable to members of that race who they must turn down because of the owner's refusal to sell? The Supreme Court in another companion case, *Vargas v.*

DIVISION OF REAL ESTATE PUBLICATIONS

With the 1962 edition of the *Reference Book* now off the press and available for immediate delivery, the Division of Real Estate has for sale the following current publications. They may be obtained from any office of the agency, or by writing to the State Division of Real Estate, 1015 L Street, Sacramento 14, California.

PLEASE DO NOT SEND STAMPS OR C.O.D. ORDERS

REFERENCE BOOK, 708 pages \$2.60*

This book contains laws and information relating to real estate, real estate licensing, and examinations; real property securities dealers, subdividing, etc.; as well as the full text of the Real Estate Law and the Commissioner's Regulations.

The topics of business opportunities and mineral, oil and gas brokerage are outlined in the book. In addition, special parts of the book contain information concerning license examinations, reference materials and tables.

The Reference Book is recommended for anyone preparing for a license examination and for all licensees as a reference source.

CALIFORNIA REAL ESTATE LAW, 160 pages..... \$1.04*

This pamphlet contains the full text of the Real Estate Law as found in the Business and Professions Code. In addition, it contains the Commissioner's Regulations, as well as a digest of pertinent sections of other state codes affecting the practice of real estate.

SUBDIVISION MANUAL, 102 pages..... \$0.78*

A comprehensive treatment of the multiple aspects and procedures of subdivision development from planning to marketing. Spells out in detail the application of law relating to subdividing as administered by the Real Estate Commissioner, the Subdivision Map Act, and the Commissioner's Regulations affecting subdivisions.

* Tax included. 10% discount is given on a purchase of 50 or more books of the same type.

Hampson, 57 A.C. 519, said No. 'In some circumstances of course both a broker and an owner may be guilty of discrimination, but a broker who in good faith does all within his power to serve a member of a racial minority is not liable if the broker's failure to complete the transaction is due solely to the owner's refusal to sell because of buyer's race or color.'

(by Courtesy of Sacramento Realtor)

Every bearer of a California license to do business in any area of the real estate field will want to understand thoroughly both the Unruh Act and the court interpretations of it. Particularly, will he want to note the phrases "all within his power to serve" and "solely to the owner's refusal" in the last quoted paragraph.