

CALIFORNIA DIVISION OF REAL ESTATE

BULLETIN

J U N E 1 9 4 5

EARL WARREN, GOVERNOR OF CALIFORNIA

HUBERT B. SCUDDER, REAL ESTATE COMMISSIONER

SEVENTH WAR LOAN

Once again the Commissioner has appealed to real estate brokers and salesmen of this State to tackle their quota of bond sales in the Seventh War Loan with the same enthusiasm that they met the quota in previous loans. As a successful sales group, the real estate people of this State know that extra work and punch is needed each time a new drive is launched, especially when the quota is raised.

The sale of "E" bonds is the one that has lagged in previous drives, despite the fact that it is the most important type of sale. While the size of these bonds may not be as great, it is the bond that reaches the smaller investor and works directly to stifle inflation.

Report your sales each week, preferably on Fridays, between May 14th and June 30th to the Real Estate Board in your locality, or your Local Land Title Company. They have accepted the job of recording these sales and forwarding the total to headquarters.

Need we tell you that we must not relax in our war effort? News of stubborn resistance by the Japs should make you realize this. As a real estate group we have built great prestige in our War Bond work. LET'S MEET THE QUOTA THIS TIME!!!

HELPING RETURNING GI'S

It is encouraging to the Commissioner to receive the sentiment of various brokers throughout the State who have written and advanced plans whereby real estate brokers can offer their services in assisting our returning members of the armed forces in their real estate problems.

Some of these brokers have gone so far as to advance plans whereby the brokers' services would be given gratis in connection with the purchase of homes and farms. Business opportunity brokers have suggested that this be extended to the purchase of small businesses.

These proposals, however, are of such a nature that they hardly fall within the scope of work of the Division of Real Estate, which is primarily a licensing agency.

Brokers are taking seriously their obligation in advising and counseling with the GI to the end that he may wisely select the proper type of property to suit his needs.

The Division of Real Estate can, however, and will with determination protect our returning veterans against unfair and dishonest treatment by any of its licensees. Unfortunately complaints have already reached the Commissioner from returning veterans that they consider they have been dealt

with unfairly. While it is too early to announce the outcome of the Division's action in these cases, they can be described briefly: The first veteran gave a real estate broker a substantial deposit in connection with the purchase of a home, with the full understanding that the down payment would be financed with a GI loan, and if said loan was not approved the transaction could not take place. The broker demanded the deposit of the veteran for the purpose, as he stated, "To get things started." Later the application for the GI loan was denied because of possible condemnation proceedings affecting the property. After a period of four or five months when the veteran could not secure the return of his deposit, he complained to the Commissioner. This broker's license has been suspended.

The second case reported to the Division involved a veteran with 22 months service who was induced to give a broker a deposit of \$300 on the purchase of a house. There was no GI loan involved in this transaction, however, the veteran alleges that he made it clear to the broker that it was necessary for him to rent some rooms in the house in order to finance his payments. He alleges that the broker advised him that he could charge much more for rental of the rooms than the OPA would permit.

Upon discovering that he could charge approximately half of what the broker is alleged to have advised him he could charge, he demanded return of his deposit, which was refused.

These are recent complaints and further information may be developed to show the broker's innocence of any wrongdoing. They are, however, the type of complaints that the Commissioner urges all brokers and salesmen to avoid. Most veterans have a serious problem upon their discharge from service to establish themselves so that they may earn a living for themselves and their families. As a rule their funds are limited, and any losses they suffer in real estate transactions of this kind are usually serious to them.

It may go without saying, that when dishonest practices are uncovered in connection with treatment of returning veterans the Commissioner will not hesitate to remove the offender from the business.

DIVISION ACTIVE

At the close of April's business, there were 35,185 real estate licenses issued since last July 1st. In addition 8,311 licenses were written for branch offices, transfer of address, etc.

To indicate how the work of the Division is increasing, 1,154 new licenses were issued in April 1945, 483 in April 1944, 173 in April 1943. They therefore have increased approximately six fold over two years ago.

The number of licenses written in any one month does not necessarily correspond with the number of examinations given. In April 1945 1,154 examinations were given (which happens to be the number of licenses issued); in April 1944 there were 662 examinations given, and in April 1943 the number was 208.

During this license year through April 30th examinations were given to 9,330 applicants. Last year's corresponding total was 4,972, while the total for the same period two years ago was 1,504.

To meet this increased demand upon the services of the Division employees, a request for an increase in the budget has been made by Commissioner Scudder. At the present time the deputies and other employees must of necessity devote most of their time to the scheduled duties of the Division and more help is desired for investigation and other work.

No doubt the recent announcement that priorities for homebuilding would be more liberal has accounted for the increased subdivision activity throughout the State. Many subdividers are now getting new subdivisions in order to meet what they believe will be a brisk market for vacant lots.

During the present fiscal year, since last July 1st, there has been 284 new subdivisions filed with the

Division, as compared to 169 new tracts during the same period last year.

In April 1945 there were 39 new tracts placed on the market as compared to 28 in April 1944. The figures so far available for May indicate even a much greater increase.

Investigators of the Division are paying particular attention to water conditions in connection with proposed cabinsite projects and tracts located in desert areas.

INVESTIGATING NEW SALESMEN

Recently the Division received an application for salesman license which carried the endorsing signature of a well-established real estate broker, vouching for the honesty, truthfulness and good reputation of the applicant and recommending that the license be granted him.

The prospective salesman passed the qualifying examination, however, before a license was issued to him, the fingerprint check disclosed that he had been convicted of a long series of offenses over a period of years, starting with a term in a reform school when he was a mere youth. He had stated in his application that he had not at any time entered a plea of guilty or been convicted of any violation of law. As is usual in such cases, the Division notified the salesman applicant that before any action was taken to issue a license, a hearing would be held to determine the fitness of the applicant to receive a license. The prospective salesman appeared at the hearing with the broker who had recommended him. It developed that just prior to attending the hearing, the salesman had confessed one or two of his old difficulties to the broker, but apparently had not made a clean breast of his record.

After hearing the testimony and admission of the prospective salesman to the series of crimes and convictions, the employing broker stated that he desired to withdraw his recommendation and the salesman withdrew his application.

This particular story is related for the reason that it is somewhat typical of many applications received by the Division, although in this case the carelessness or indifference on the part of the broker in recommending a salesman for license was glaring. The Commissioner is using every effort to weed out undesirable persons from the business and prevent new undesirables from entering. Careless recommendations by brokers makes this work more difficult. Although the average broker does not have the resources and is not equipped to conduct a thorough investigation of an applicant's background, he should at least use due diligence and not be too hasty in recommending a man as being honest, truthful and of good reputation without knowing something of his history.

LICENSE RENEWAL

The time of year has arrived for renewal of your real estate broker or salesman license, if you wish to continue in business next year. This is also true of other licenses issued—Business Opportunity, Cemetery and Mineral Oil and Gas Licenses.

When you received your present license, a renewal form for 1945-46 license was included. Simply fill this out, attach your check or money order, and mail to the main office, Division of Real Estate, 584 Business and Professions Building, Sacramento 14, California. If more convenient you may submit the application and fee to any branch office.

The law requires the Commissioner to charge a double fee for renewal of real estate licenses received after the close of business June 30, 1945. Envelopes dated July 1st or later containing applications and fees will be considered late renewals and licenses withheld pending receipt of an extra fee.

Your present license expires at midnight June 30th. Unless your complete renewal application is on file, you are without license after that time. There are cases on record where commissions have been lost because the licensee was not licensed for a few days due to late renewal. The number of licensees has increased while the clerical help to process renewal applications has decreased. Therefore, mail your renewal application *now*. You will help the Division in its work and insure your receiving your new license on time.

SALESMEN CONVICTED

Late in April several California salesmen were convicted in the Federal Court at El Paso, Texas, on various fraud counts involving the sale of worthless Texas lands as oil lands.

The indictment alleged that the defendants defrauded numerous investors residing principally in California of large sums of money, in connection with the sale of barren desert land, induced by promises and agreements respecting the drilling of test wells and the leasing of the land by a major oil company. Three Texas men were also convicted as being implicated in the scheme.

Frank Mansfield, of San Antonio, Texas, and William Sims Bailey (also known as Harold W. Barton and W. Al Bradford) of Dallas, Texas, and L. G. Thigpen, of San Antonio and Los Angeles, each received a sentence of five years and three months in prison. J. Trent Barnett, of Oakland, W. O. Browne, E. W. Negley, M. J. Dobson, Merrill Newman, Morris J. Newman and Ben T. Stowell, all of Los Angeles, each received a sentence of four years and three months imprisonment. O. H. Woodard, of Los Angeles, was sentenced to three years and three months in prison. Sentences were imposed by Judge Charles A. Boynton in U. S. District Court of El Paso.

Investigation was conducted under the supervision of the SEC, Fort Worth Office. Personnel of the California Division of Real Estate cooperated in the investigation. The convictions formed another important step in the closing of Oil Land Bunco Practices in this State.

FORMAL HEARINGS

Fourteen formal hearings were held by the Division during the month of April, which resulted in the suspension of six licenses, the revocation of four licenses, and the denial of one license application. In addition one hearing resulted in the requirement that a business opportunity broker take a special examination because he showed ignorance of the business in his practice.

The following is a brief summary of the cases in which action was taken by the Commissioner:

(1) San Diego County. Business opportunity broker license was suspended based upon dishonest handling of deposit money.

(2) San Diego County. Real estate broker license suspended for same reason.

(3) Orange County. Real estate broker license suspended for attempt to represent two parties to the transaction without knowledge and consent of both.

(4) Los Angeles County. Real estate salesman license suspended for dishonest handling of deposit money.

(5) Los Angeles County. Real estate broker license revoked upon discovery of undisclosed previous criminal record.

(6) Los Angeles County. Real estate salesman license revoked for making secret profit while acting as agent, and discovery of undisclosed previous criminal record.

(7) Riverside County. Real estate salesman license revoked for making transactions as agent and collecting commissions without knowledge and consent of the broker.

(8) Los Angeles County. Business opportunity broker license application denied for giving false information on application.

(9) San Francisco City and County. Business opportunity broker required to qualify by examination before renewal of license. Broker indicated lack of knowledge of business opportunity brokerage business.

(10) San Mateo County. Real estate salesman license suspended for attempting to make secret profit in dealing with a client of the office.

(11) Alameda County. Real estate broker license suspended for secretly acquiring property which rightfully belonged to the principal.

(12) Monterey County. Real estate broker license revoked for using unfair methods to force an optionee to exercise his option.

RECENT COURT DECISIONS

Two important Los Angeles County Superior Court decisions arising from petitions for writ of mandate by persons whose licenses have been revoked or denied were handed down by Judge Emmett H. Wilson in the month of May. Both decisions are very important to the Real Estate Commissioner, as they are a guide to the consideration of evidence and hearing procedure.

In denying Irvin Lossman, former broker in the Palos Verdes area of Los Angeles County, a license for the current year the Commissioner took into consideration that Lossman's license had been revoked for the year 1942-43 for conduct constituting dishonest dealing, and the fact that his license was denied for 1943-44. Furthermore, evidence was presented that Lossman had continued to act as a real estate broker after his license had been revoked.

The court gave the opinion that the evidence adduced at the previous hearings was admissible to show the honesty and truthfulness of the applicant, or the lack of either. It further stated that such matters are not criminal cases in which the evidence of other offenses are inadmissible and the rules of evidence in criminal cases are not applicable. The court further stated: "The revocation or the denial of a license is not for the purpose of punishing the applicant, but is to protect the public against fraud."

Lossman produced various witnesses to testify as to his honesty and truthfulness. In this connection, the court stated: "Witnesses who have never heard anything to the detriment of an applicant may honestly testify as to his good reputation, his honesty, if he is dishonest, not being known to them."

The court went on to say that a broker who loses his license is not necessarily barred forever from obtaining a new one. He may become rehabilitated and may conduct himself so as to warrant giving him another opportunity to show his worth; but that engaging in business after revocation of his license does not point to rehabilitation.

While the Superior Court case was pending Lossman was convicted in Justice Court of operating without a license.

LAW AMENDMENTS

Statewide interest has been evidenced in Senate Bill No. 179 in which are made several amendments and additions to the Real Estate Law which were felt necessary based upon the experience of the Division in administering this law.

The bill unanimously passed both Assembly and Senate and was signed by the Governor on June 4, 1945. It will be effective 90 days thereafter.

Commissioner Scudder has expressed his gratification for the support of this bill by the licensees themselves throughout the State. In his opinion it indicates the desire of the vast majority of real estate brokers and salesmen to improve the standards of their business.

Although there was considerable controversy over the wording of the bill as it was first presented to the Legislature, those who opposed certain provisions showed a fine sense of cooperation and worked closely with the Commissioner.

From the outset it was evident that all factions were agreed upon the purposes of this legislation, but there was considerable difference of opinion as to how it should be accomplished. Had the various groups and individuals not been broad-minded and cooperative it is possible that certain sections of the proposed law would not have been clarified as they stand today. Much more important is the fact that through this cooperation harmony and agreement have been maintained.

This bill will place in the hands of the Commissioner the means of controlling certain practices in the business which are generally believed to be undesirable. It will further facilitate the reestablishment of the licenses of broker and salesmen veterans who are returning, place the Division on a sounder financial basis, and enable the Commissioner to enlarge his investigation of new persons entering the business. The Commissioner will publish an analysis of the provisions in this Bulletin, together with an interpretation of the various sections. Arrangements will be made to publish copies of the amended law at an early date.

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