

REAL ESTATE BULLETIN

Official Publication of the Division of Real Estate

EARL WARREN, Governor

Sacramento, July, 1953

D. D. WATSON, Commissioner

1953 License Law Changes Effective in September

Changes in Law Which Directly Affect Most Licensees Are Discussed in This Issue. More Technical Changes Pertaining to Administration and Enforcement of the Law Will Be Reported in September Bulletin. All Amendments Become Effective September 9

New "Limited Real Estate Salesman License"

A new type of license to be known as the "limited real estate salesman license" will supplant the provisional salesman license which has been in effect for a number of years. The change was provided for in A. B. 713, signed by Governor Warren.

In many respects the new "limited salesman license" is similar to the present provisional salesman license. It is issued for a period of 120 days, but may not extend past June 30th, the end of the license year. An examination is also provided for the limited license, as was the case for the provisional salesman license.

Permits More Rapid Issuance

The changes in the limited license are designed to permit more rapid issuance after application is made.

The reputation of the applicant for a limited salesman license will be checked but the limited license may be issued prior to completion of a full investigation, provided the preliminary investigation indicates the applicant's worthiness for license.

This means that the commissioner may issue the limited license without completing his investigation, but will have the right to withdraw the license without resorting to a hearing.

Cannot Contract for Broker

Another important change in the limited license prohibits the limited salesman from signing any contracts or agreements on behalf of his broker. Therefore, he may not sign for the acceptance of any listing agreement on behalf of his broker, or sign a deposit agreement on his behalf. This, in effect, largely restricts the limited salesman

Nominal Charge for 1953-54 Directory

An amendment to the real estate license law will require the Division of Real Estate to make a nominal charge of \$1 for the 1953-54 Directory of Licensed Brokers and Salesmen when it is ordered by a licensed California broker. The cost of the directory to anyone *not* a licensed broker will be \$3.50.

Requests for the 1953-54 directory must be made before October 1, 1953. Following that date orders will be filled only as long as the limited directory supply lasts.

Requests for the directory should be mailed to the Division of Real Estate, 1021 O Street, accompanied by checks for \$1 or \$3.50 as the case may be. Books are mailed postpaid. Orders not accompanied by remittances cannot be filled. That applies also to those requests which have already been received.

Directories will not be sold in the Division's branch offices.

to making contacts with prospects, showing property, and finding properties for sale or lease which may be listed by the broker or a regular salesman.

Commissioner May Allow Transfer

While the provisional license could not be transferred from one broker to another under any circumstances, the new limited license may be transferred with the consent of the commissioner. This more flexible arrangement will eliminate some hardship cases. For example, when the broker employing a provisional salesman died or quit the business, it left the provisional salesman without employment even though he may have just received his license. He was not able to get a second provisional license. With the "limited license," the commissioner may permit transfer to another broker in such cases.

Must Qualify by Examination

It should be borne in mind that the new limited licensee must qualify by examination. The new law does not prohibit a person who has held a provisional salesman license from obtaining a limited salesman license, but he is restricted to one such license. The new limited license is not issued for those engaging in the business opportunity or mineral, oil, and gas businesses.

Principals Entitled to Copies Of Contracts They Sign

Hereafter when a broker or salesman secures the signature of any person to a contract pertaining to the sale, purchase, exchange or leasing of real estate, he is required to deliver a copy of the agreement to the person signing it **at the time the signature is obtained.**

At present the law requires that a copy of a listing shall be given to the person signing it. The new law extends this requirement to any contract which the licensee gets signed.

(Cont. on Page 99, Col. 1)

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Sacramento, July, 1953

Published Bimonthly by the
DIVISION OF REAL ESTATE

STATE OF CALIFORNIA
EARL WARREN, Governor

D. D. WATSON
Real Estate Commissioner

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**No License—Sent to Jail
Stiff Sentence for Unlicensed Sales
Given Offender by Los Angeles Judge**

A 30-day sentence in the Los Angeles City Jail was meted out to Harold R. Espey, convicted on counts of operating without real estate and business opportunity broker licenses. Judge Lewis Drucker pronounced sentence of 30 days on each count, the sentences to run concurrently.

Investigation by the commissioner showed that Espey was engaged in the business of selling small machine shops together with the businesses without being properly licensed. He advertised extensively in prominent eastern newspapers.

Appearing before the court on March 2d, he changed his original plea of not guilty to guilty, and the sentence was imposed. Prior to conviction for operating without a license, Espey had appeared in Los Angeles County Superior Court at Santa Monica on the criminal complaint charging him with issuing checks without sufficient funds.

DISCIPLINARY ACTION—FEBRUARY, MARCH, APRIL, MAY*

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

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

LICENSES REVOKED DURING FEBRUARY, MARCH, APRIL, MAY, 1953

Name	Address	Effective date	Violation
Thomas, Haskell Clyde dba H. C. Tommy Thomas Real Estate Broker	18264 Sherman Way, Reseda	2/ 4/53	Secs. 10162; 10165; 10176 (a), (e), (i) & 10177 (f)
Riley, Cartellyou dba Universal-Triangle Realty Real Estate Broker	537 W. 53d St., Los Angeles	2/ 4/53	Secs. 10176 (e), (i); 10177 (d), (f) & Sec. 2830 of R. E. Comm. Rules and Regulations
Wassil, Stanley Real Estate Salesman Real Estate Broker (Inactive) (Right to renew)	1912 N. Canyon Dr., Hollywood	2/ 6/53	Sec. 10177 (b)
Nudelman, Jay Joseph Real Estate Broker	11227 S. Vermont Ave., Los Angeles	2/11/53	Sec. 10177 (b)
Hachlen, Rudolph Amos dba Hachlen Realty Real Estate Broker	10017 Long Beach Blvd., Lynwood	2/26/53	Secs. 10176 (a), (b), (g), (i) & 10177 (f)
Corona, Francisco Espinoza dba Corona & Corona Real Estate Broker	445 N. Ford Blvd., Los Angeles	5/22/52 (Lost appeal)	Sec. 10177 (f)
Corona, Clara Dominga dba Corona & Corona Real Estate Broker	445 N. Ford Blvd., Los Angeles	5/22/52 (Lost appeal)	Sec. 10177 (f)
Palmer, Norman Franklin Real Estate Broker (Right to renew)	3852 Legion Lane, Los Angeles	3/ 6/53	Sec. 10162
Fair, Irma Merrill Real Estate Broker	Rm. 323, 355 S. Broadway, Los Angeles	3/ 6/53	Secs. 10162, 10165 & 10177 (d)
Rosenblum, Joe dba Pacific Bond Inv. Co. Real Estate Broker	570 N. Rossmore Ave., Los Angeles	3/ 6/53	Sec. 10177 (f)
Sedan, Jack Dail Real Estate Salesman (Right to renew)	Monte Vista & Santa Fe Aves., Vista	3/ 6/53	Sec. 10177 (b), (f)
Yurman, Ruth Real Estate Salesman (Right to renew)	5880 Hollywood Blvd., Los Angeles	3/ 6/53	Sec. 10177 (b)
Miranda, Jose Cabigting Real Estate Broker Business Opportunity Broker	310 S. El Dorado St., Stockton	3/14/53	Secs. 10177 (b) & 10302 (b)
Pond, Stillman Inc. Heber Stillman Pond, Pres. Real Estate Broker	44400 Sierra Hwy., P.O. Box 987, Lancaster	3/25/53	Secs. 10176 (a), (b), (e), (i); 10177 (f) & Sec. 2795 of R. E. Comm. Rules and Regulations
Pond, Heber Stillman Real Estate Broker	44400 Sierra Hwy., P.O. Box 987, Lancaster	3/25/53	Secs. 10176 (a), (b), (e), (i); 10177 (f) & Sec. 2795 of R. E. Comm. Rules and Regulations
Lee, Aline Lange Real Estate Broker	1953 W. Jefferson Blvd., Los Angeles	3/26/53	Sec. 10177 (b), (f)
Flemmings, Celeste Cynthia Real Estate Salesman	1953 W. Jefferson Blvd., Los Angeles	3/26/53	Sec. 10177 (b), (f)
Resnick, Max H. Real Estate Broker (Right to renew)	17190 Gresham, Northridge	3/26/53	Sec. 10177 (b), (f)
Marshall, Thomas Oliver dba Tom Marshall Real Estate Broker	5609 Whittier Blvd., Los Angeles	4/ 7/53	Secs. 10162; 10165 & 10177 (d)
Irwin, Harry William Real Estate Salesman (Right to renew)	8207 Crenshaw Dr., Inglewood	4/14/53	Secs. 10137; 10176 (e), (i) & 10177 (d), (f)
Atkins, David Chadwick Real Estate Broker	Gilbert Hotel, N. Wilcox Ave., Hollywood	4/14/53	Secs. 10162; 10165 & 10177 (d)
Hocking, G. Robert Real Estate Broker (Right to renew)	1443 S. Canfield Ave., Los Angeles	4/14/53	Secs. 10177 (b), (f)
Stephens, Arlie Preston Real Estate Broker	9201 S. Broadway, Los Angeles	4/14/53	Secs. 10141; 10176 (g), (i) & 10177 (f)
McQuay, Herbert Real Estate Broker	5157 Hollywood Blvd., Hollywood	4/14/53	Sec. 10177 (b), (f)
Woolley, Edwin Benjamin Real Estate Salesman (Right to renew)	1420 Hazelwood Ave., Los Angeles	4/22/53	Sec. 10177 (b)
Williams, James Add. Real Estate Salesman (Right to renew)	2727 San Pablo Ave., Oakland	5/ 4/53	Secs. 10176 (e), (i) & 10137
Hamilton, Evalyn Real Estate Broker	170 El Camino Real, Sunnyvale	5/ 4/53	Secs. 10176 (e), (i); 10177 (f); Secs. 2830, 2831, & 2832 of R. E. Comm. Rules and Regulations
Rowland, Waldon Charles dba Coast Inv. Co. of Studio City Real Estate Broker	13025 Ventura Blvd., North Hollywood	5/12/53	Secs. 10176 (c), (e), (i), (g) & 10177 (f)
Rowland, Doris Irene Real Estate Salesman	13025 Ventura Blvd., North Hollywood	5/12/53	Secs. 10176 (i) & 10177 (f)
Seddon, Earl Llewellyn Real Estate Broker	1430 University Ave., San Diego	5/14/53	Sec. 10177 (f)
Kermott, Edward Eugene dba Ambassador Realty Real Estate Broker Business Opportunity Broker	7070 Hollywood Blvd., Los Angeles	5/14/53	Secs. 10176 (e), (i); 10302 (e); 10177 (f) & Sec. 2830 of R. E. Rules and Regulations

* The May *Bulletin* was largely devoted to complete coverage of subdivision procedures and to renewal information. Lack of space prevented publication of February and March disciplinary actions.

(Cont. Next Page)

More on License Law Changes Slated for September, 1953

(Cont. from Page 97, Col. 3)

Note further that the new law requires the delivery of the copy of the agreement at the time the signature is obtained. Formerly the law was silent as to when the copy must be delivered and this point occasionally arose in civil lawsuits. The law now specifies a definite time.

In some respects, this provision for giving copies of signed agreements is the most far-reaching change made in the license law during this legislative session. This provision also applies to business opportunity contracts.

Brokers To Pay \$1 for Directory

The new directory of licensees to be published this fall will cost any broker

desiring a copy the sum of \$1. Herebefore he could obtain a copy without charge upon request.

The reason for this charge is to assure that the broker has a use for the copy, and does not obtain one just because it is free. Actually these books cost the division over \$3.50 per copy to publish, plus cost of mailing, so the nominal charge now provided by law is much less than the cost of publication. The regular price for the directory is \$3.50 per copy which must be paid by anyone other than a licensed broker. *Salesmen must also pay the regular price.* Others who ordinarily order the directory are banks, escrow companies, etc.

Commingle Restrictions Broadened

The law has provided that a license may be revoked or suspended if the agent commingled (mixed or confused) the property of his principal with his own. A number of licenses have been revoked or suspended for this reason. The new law provides that the license may be revoked or suspended if the broker or salesman commingles with his own the money or property of *any others* with whom he is transacting real estate business.

This means that he may not commingle his own money with that of either the buyer or the seller.

It would also apply to any money or property entrusted to him by anyone in connection with a transaction, such as collections or payments on trust deeds, contracts, rentals, etc. In actual practice the commissioner has maintained that commingling would apply to any money mishandled by the broker or salesman, but the law now clarifies this point.

Provision for Inactive License

While thousands of persons hold inactive real estate licenses through the simple process of renewing and canceling their licenses each June, the law has made no specific provision for this.

The new law provides that a licensed real estate broker or salesman may request that his license be inactivated. It further provides that the commissioner shall issue to each such person an "inactive license certificate." This certificate will probably consist of the license itself prominently stamped "INACTIVE" and bearing a statement to the effect that it does not permit the holder to transact business under it.

An investigation problem has existed when brokers who are not active in the business permit their licenses to remain active. In many such cases they do not properly display their license or the required sign, as they do not maintain an office in a business area, and give their license address at their home. The new law facilitates making such licenses inactive, in which case the necessity of maintaining an office and a sign is eliminated.

LICENSES REVOKED DURING FEBRUARY, MARCH, APRIL, MAY, 1953—Continued

Name	Address	Effective date	Violation
Campbell, James Vaughn Real Estate Broker Business Opportunity Broker	3228 E. Broadway, Long Beach	5/14/53	Secs. 10177 (b), (f) & 10302 (b), (e)
Hornaday, Theodore Thomas Real Estate Broker (Right to renew)	6729 Foothill Blvd., Tujunga	5/27/53	Secs. 10176 (a), (i) & 10177 (d), (f)
Lane, William Joseph dba Wm. J. Lane, Jr. Realty Inv. Real Estate Broker	4700 S. Figueroa St., Los Angeles	5/27/53	Secs. 10176 (e), (i); 10177 (f); Secs. 2830, 2831 & 2832 of R. E. Comm. Rules and Regulations
Marin Village Subdivision (Parcel Sales Stopped)	Marin County	4/24/53	Secs. 11012; 11019 & 11020
Tobiasson Subdivisions Unit No. 1 & Unit No. 2 (Parcel Sales Stopped)	Shasta County	4/23/53	Secs. 11012; 11019; 11020; Secs. 2794 & 2795 of R. E. Comm. Rules and Regulations

LICENSES SUSPENDED DURING FEBRUARY, MARCH, APRIL, MAY, 1953 *

Name	Address	Effective date and term	Violation
Stillwell, Albert Cecil Real Estate Salesman	3945-51 Market St., Riverside	2/ 6/53 60 days	Secs. 10130; 10132; 10134 & 10177 (d)
Smith, Dorothy Lillian Real Estate Broker	59 Fifth St., San Francisco	2/ 9/53 5 days	Secs. 10160 & 10164
Gerfen, Frank William Real Estate Broker Business Opportunity Broker	324 N. Main St., Bishop	2/15/53 6 months	Secs. 10176 (a), (b), (e), (i); 10177 (f); 10302 (e); Secs. 2830 & 2831 of the R. E. Comm. Rules and Regulations
Haggard, Bob Lansing Real Estate Broker Business Opportunity Broker	1409 Marcelina Ave., Torrance	2/26/53 30 days	Secs. 10176 (i); 10177 (f) & 10302 (e)
Ryan, Nancy Barbe dba Peninsula Realty Company Real Estate Broker	207 Forest Ave., Pacific Grove	4/11/53 10 days	Sec. 10176 (b)
Baciu, Eugene Real Estate Salesman	9 W. DeLaGuerra St., Santa Barbara	4/15/53 5 days	Sec. 10177 (b)
Widasky, Isadore dba Dore's Realty Real Estate Broker dba Dore Widasky Business Opportunity Broker	902 Pacific Ave., Santa Cruz	5/11/53 10 days	Secs. 10177.5 & 10302 (e)
Malooof, David Allen Real Estate Broker Business Opportunity Broker	3208 Marshall Way, Sacramento	5/11/53 10 days	Secs. 10177.5 & 10302 (e)
Harris, Haden Real Estate Broker	13075 West Ave., Garden Grove	5/14/53 30 days	Sec. 10176 (i)
Frankfurt, Grace Anne Real Estate Broker	1133 El Camino Real, Menlo Park	5/18/53 5 days	Sec. 10177 (b), (f)
Myall, Franklin Charles Real Estate Salesman	1580 MacArthur Blvd., Oakland	5/29/53 90 days	Sec. 10177.5

* The May Bulletin was largely devoted to complete coverage of subdivision procedures and to renewal information. Lack of space prevented publication of February and March disciplinary actions.

Scope of Subdivision Law Defined by Court

Court Rules Lease of Individual Dwellings on Single Plot Creates a Subdivision

When several homes on a plot of land are individually leased for a period of time, it is fundamental that each lease includes the land upon which the house stands. On this premise, such a project constitutes a subdivision if the project includes five or more separate houses.

This situation arose in connection with a project launched in Palm Springs. The promoters had a parcel of real estate upon which they proposed to erect some 38 "building units," a parking area, walks and a swimming pool. They filed a plot plan with the Building Department of the City of Palm Springs indicating areas of approximately 20 x 30 feet upon which individual dwelling units would be erected. No subdivision map was prepared or submitted to the City of Palm Springs, nor was any filing of the subdivision made with the Real Estate Commissioner.

As a matter of fact, the promoters maintained that this development did not constitute a subdivision, as there was to be no physical division of the land into lots, and each "purchaser" was to be merely a lessee—for a term of 99 years—of a dwelling unit to be erected. "Lessees" were to agree to pay certain sums to take care of taxes, maintenance, etc.

Land Divided Into "Areas"

The appellate court held that a tract of land divided into more than five parcels or, as in this case, into 38 separate "areas" to which access is afforded by means of walks and drive-ways, constitutes "subdivided lands" within the meaning of the subdivision laws administered by the Real Estate Commissioner.

The court pointed out that the fact that these were designated in agreements for lease as "building units" and not as "lots" was of no significance. Further, it pointed out that the word "lot" applies to any portion, piece, or division of land, and is not limited to parcels of land laid out into blocks and lots regularly numbered and platted. In other words, designating "lots" by some other term, such

as "units," "parcels," etc., does not change their character.

The matter was presented to the court in an appeal by a purchaser or lessee who sought to rescind the contract entered into with the company on three grounds: (1) that the execution of the agreements in question was procured by the fraud of the defendants; (2) that the agreements constitute "securities" within the meaning of the Corporate Securities Act and hence are void because the sale and issuance thereof was not authorized by a permit of the Commissioner of Corporations; (3) that they are violative of the provisions of the Business and Professions Code regulating the sale and leasing of subdivided lands.

The appellate court found that there was a violation of the subdivision laws and that the agreements in question are illegal and void, and appellant is entitled to recover the moneys paid by her thereunder. The court stated that this finding made it unnecessary to go into the matter of the violation of the Corporate Securities Act.

Contend Leases Applied to Personal Property

The defense of the promoters was largely that they did not lease any land, but only a bungalow which, by written agreement of the parties, was to be regarded as personal property only.

"The very converse is true, for since the days of Lord Coke it has been recognized that the lease of an entire house or building operates as a lease of the land upon which it stands," the court pointed out. "The general rule is that the lease of an entire building *eo nomine* is a lease of the land on which the building stands, at least as far as needed for its support, and adjacent land belonging to the lessor which is used with the building as necessary to its proper occupation for the purpose for which it was intended."

The court also commented that inasmuch as the statute under consideration expressly included *leases* of sub-

(Cont. on Page 104, Col. 3)

Case Reversed

Reversal of a case reported in the May, 1952, issue of the *Bulletin*, on page 44, has been brought to our attention. The story was headed "Both Joint Tenants Must Sign Sales Contract." The Appellate Division of the Superior Court for Los Angeles County has reversed the Los Angeles Municipal Court decision in Case No. 1027441, in which the latter court ruled in effect that when a broker is dealing in property which he knows is held in joint tenancy, he should make sure that he gets any offer for less than the listed price accepted by both joint tenants.

The appellate division has since ruled that the wife, who accepted the offer at the lower price, may be held for the commission, provided that her acceptance was not conditional upon her husband's approval. The court stated in part, "The circumstance that the defendant was not the sole owner of the premises, but was a joint tenant with her husband, and that all parties knew this fact, is no defense. Many cases in support of this conclusion could be cited . . ."

The case was appealed to the Appellate Division under Civil Appeals No. 8030.

Rental Agents Convicted Broker Employed Unlicensed Spouse

Daniel L. Funchess and his wife, Marjorie Funchess, were both found guilty of violating the Real Estate Law by Judge Shepard in the Los Angeles Municipal Court.

Marjorie Funchess was found guilty of operating without a license, and her husband of employing an unlicensed person. Fines were imposed upon each by the court.

Funchess held a real estate broker license, doing business as The Funchess System of Realty Service. An accusation was issued against Funchess, based upon employing an unlicensed person, and following a hearing his license was revoked by the commissioner.

The two were engaged in conducting a rental service, and various complaints had been filed against them.

How to Maintain an "Inactive" Broker License No Charge for License Cancellation But Mailing Address Should Be Kept Current

The Division of Real Estate had many thousands of "inactive" broker licensees during the 1952-53 license year, licensees who had voluntarily canceled their licenses for various reasons. Chief reason for "inactivation" was because the licensees had turned to a field of endeavor other than real estate and found it inexpedient to maintain a business address and place for transacting real estate business as required by law.

Some, who would have maintained offices in their residences, found local zoning ordinances prohibiting the display of signs showing their status as real estate or business opportunity brokers as required by the license law. Rather than risk the loss of their license rights by failure to adhere to the provisions of the law in respect to maintenance of a place of business and display of sign, these licensees voluntarily turned in their licenses for cancellation or "inactivation."

By renewing their licenses from year to year, "inactive" licensees retain the right to reinstate their licenses on an active basis at any time upon request, the payment of a \$1 fee and the establishment of a business address.

There is no charge for cancellation or "inactivation" of a license. Broker licenses are canceled by the commissioner upon written request signed by the holder of the license. Salesman licenses can be canceled or "inactivated" at the request of the licensee or his employing broker. Licenses should be turned in upon cancellation.

"Inactive" License Fees

There is no fee for cancellation or "inactivation" of a broker license except a \$1 charge where the mailing address is to be changed.

There is a \$1 fee for each subsequent change of mailing address for the "inactive" broker licensee.

The "inactive" broker license must be renewed each year and a \$5 renewal fee paid to maintain the right to "activate" or reinstate the license.

There is no charge for cancellation of a broker license, but if the request for cancellation results in a new mailing address for the "inactive" broker, there is a \$1 charge to cover the cost of changing the division's records and addressograph plates. Anytime an inactive broker requests a change in his

Report Correct Sales Price Phony Figures Hurt the Business

Let's play fair with the newspapers in reporting real estate deals. This is particularly important when a broker requests a publicity story and asks the newspaper to publish the sales price. If the sales price is given it should be correct.

It has come to our attention that some brokers have put newspapers "behind the eight ball" reporting as a news story that a specified property has been sold at a certain price which, as a matter of fact, is far in excess of the actual sales price. It is natural for a broker to be proud of a large and difficult transaction, and naturally he wants people to know about it. However, he defeats his own purpose if he falsifies by reporting a fictitious high price. He not only establishes a false value for the property in the minds of owners but places the entire industry in disrepute.

By and large, brokers are pretty fair in reporting sales prices, the papers tell us, but a few offenders have caused them trouble. If the matter becomes sufficiently serious, papers may have to adopt restrictive policies regarding the publishing of sales prices, which of course will adversely affect all brokers. If sales prices are reported, they should be accurate.

mailing address, he must accompany his request with a fee of \$1.

The "inactive" broker licensee, who wants to retain the privilege of reinstating his broker license to active status, will be well-advised to keep the above mentioned details in mind. Due to a change in the licensing law, after September 9, 1953, the division will furnish a card or canceled license to "inactive" licensees showing their status.

Rural Real Estate Appraisal Course

A course in the appraisal of rural real estate will be presented at the Davis Campus of the University of California, August 17 through 29, 1953, by the Northern California Chapter of the American Institute of Real Estate Appraisers and the University Extension, University of California.

This will be an advanced case study course with students organized into field groups making individual appraisals and reports on specialized subjects of their choice, such as a farm, an orchard, or a ranch. A series of lectures will be given on general appraisal principles as they apply particularly to rural properties.

The American Institute of Real Estate Appraisers will give credit toward the M. A. I. designation to students who secure satisfactory grades. Registration is open to mature persons whose academic training or practical experience is equivalent to graduation from an accredited four-year high school.

Dormitory facilities will be available on the campus at a moderate charge and meals will be available near the campus. Tuition fee for the entire two-week course is \$85, plus \$8.50 for textbook material. For further information, write to University Extension, University of California, Berkeley 4, California, or the American Institute of Real Estate Appraisers, 22 W. Monroe St., Chicago 3, Illinois.

California Licensee Fined for Acting Without Oregon License

California licensees should bear in mind that licenses issued to them to do business in this State do not entitle them to do business in other license law states.

Recently, James R. Cavitt, licensed as a salesman with a firm with headquarters in California, was prosecuted for operating without a license in Oregon and fined \$245, plus costs. He was charged with listing real estate. His firm, in addition to securing listings, publishes them in a catalog for distribution.

Antelope Valley Broker's License Is Revoked

Criminal Action Also Pressed on Charges Arising From Realty Transactions

Two sets of court actions affecting an Antelope Valley real estate broker came to conclusion recently. After more than 18 months of appeals by the licensee to the superior court, the district court of appeals, and the California Supreme Court, the revocation of the licenses of Heber Stillman Pond and of Stillman Pond, Inc., became effective.

In a separate court action the broker was sentenced to a year in jail and put on probation for 10 years after being found guilty of grand theft. One of the conditions of probation is that he is "not to engage in real estate business during probationary period." The criminal conviction has been appealed and therefore is not yet final.

At the commissioner's hearing, Pond was found guilty of eight counts of law violation set forth in the accusation, and his license and that of the corporation were ordered revoked by the commissioner on July 5, 1951. However, the several appeals delayed the effective date until March 25, 1953.

The charges considered by the commissioner involved various transactions in which Pond participated in the Lancaster area. Generally speaking, the charges involved commingling of client's money with his own, refusal to return deposit money, and misrepresentation of land that was part of a subdivision.

Question on Deposits Unanswered

When Pond was asked at the hearing what he did with certain deposit moneys, he refused to answer on the ground that answering the question would tend to incriminate him. In this connection, the court stated, "An inference could be drawn from his refusal to answer this question that he did not immediately place the deposit money in a neutral escrow depository, or in the hands of principals, or maintain a trust fund account with a bank or recognized depository."

Pond testified that he did not do business with any bank of any kind. It was brought out that there were six unsatisfied judgments against him, ranging from approximately \$3,700 to approximately \$9,400.

Pond was also found guilty in the action before the commissioner of failing to give purchasers of lots in the subdivision a copy of the Real Estate

Commissioner's Public Report; also of representing that the subdivision land would grow anything but citrus fruits, whereas it was alkali land. He also represented that wells would be drilled and chicken houses erected on the land, which was not done.

The two sets of actions were necessary, although involving much the same matters, because only the Real Estate Commissioner can revoke a real estate license, and only a court of law can convict a person of a criminal charge such as grand theft.

More About Usury

10 Percent Maximum Allowable for Most Lenders

Correcting an impression created in some quarters by an article in our March *Bulletin*, brokers and others must limit interest charges on real estate loans to a maximum of 10 percent per annum unless the lender falls into one of the few special exempted categories. Before attempting to charge more than 10 percent, anyone would be well advised to seek competent legal advice on the legality of such charge.

In the March *Bulletin* discussing a case involving a claim of usury on a real estate loan, the statement was made: "The maximum interest which may be charged in California is 12 percent on most obligations." In its implications this statement would disregard the effect of a constitutional amendment adopted in 1934 which changed the Usury Law to reduce the maximum permissible interest rate from 12 percent to 10 percent, leaving certain specific classes of lenders exempted from the reduction.

As a matter of practical operation, most lenders are therefore limited to charging a maximum of 10 percent interest per annum on real estate loans and only in specific situations can that rate be exceeded.

Rental Convictions Upheld

Two Los Angeles Agencies Found Guilty of Unlicensed Operations

The convictions of Clara M. Timmons and Joseph Campo in the Los Angeles Municipal Court for operating rental agencies without the proper license, were sustained on appeal by the Appellate Division of the Superior Court in and for Los Angeles County. Other counts against these defendants were dismissed or reversed.

The plan of operation of these rental agencies involved the sale of lists of dwelling units for rent for a fee of a few dollars.

In the case of Joseph Campo, there was no direct evidence that he had personally dealt with the customers of his rental agency. The court stated, however, "While defendant Campo did not personally do any of those acts, he was the directing head of the organization, he set it up for the purpose of doing those acts, and he was in close touch with the conduct of the business so as to know what was going on. This is enough to charge him with criminal responsibility for the charges of violating the Real Estate Law."

Division Counts Four More Twenty-five Year Employees

Since November, 1952, four more people employed by the Division of Real Estate have completed 25 years of service with the State. As tokens of their service, Commissioner Watson presented each of these employees with "Twenty-five Year Pins" and certificates appropriately engraved. These awards are authorized by the State.

The four new members of the 25-year group include: Mrs. Vivian Cogswell, Mrs. Betty Manning, Miss Ida Misphey and Mr. Edmund Eberling. The latter is presently a Deputy Real Estate Commissioner in the division's Los Angeles office. Mrs. Cogswell supervises the processing of applications and the maintenance of files and records in the Sacramento office, with Mrs. Manning as one of her assistants. Miss Misphey checks original applications for salesman licenses.

The Division of Real Estate now has no less than 17 employees who have been in state service 25 years or more.

Court Upholds Important Licensing Provision

Act of Being Convicted Declared Sound Basis for License Revocation

A real estate broker who allows his conviction of a crime involving moral turpitude to become final conducts himself in a manner which would have warranted the denial of a license to him in the first instance.

This was the important decision of the Second District Court of Appeal in the case of *Barbara W. Karrell v. D. D. Watson*, Real Estate Commissioner.

The section of the license law involved, 10177(f), provides that the commissioner may revoke or suspend a license if the broker or salesman has been guilty of any conduct which would have been basis for refusing him a license on application. In other words, the conduct need not necessarily be in connection with his acts as a broker or salesman. It is the first higher court ruling specifically upholding the application of this section.

VA Appraised Valuation Exceeded

In this case, back in 1946 the broker sold lots to veterans for construction purposes. These parcels had been appraised by the Veterans Administration, but were sold by the broker at prices in excess of the appraised valuation. In some cases the lots were sold to a dummy and then resold to the veteran at a higher price. These excess sums were not reported to the Veterans Administration. Due to this manipulation, the banks which made the loans caused false statements to be certified to the Veterans Administration which guaranteed the loans solely on its reliance on the bank's certification.

The broker was indicted by a federal grand jury for making false statements and was convicted on six counts of the indictment, the sentence being suspended, but probation for five years imposed on condition that full restitution be made.

Inasmuch as more than three years had elapsed since the acts occurred, the commissioner relied upon the date of the conviction by the federal court. The judgment was based upon the fraud, dishonesty and deceit of the respondent in transactions with the veterans, the bank, and the Veterans Administration.

Claimed Conviction Not Relevant

The broker contended that the fact of her conviction did not constitute "acts or conduct" as set forth in the

Guide to Real Estate Readings Recommended

"A Key to Readings in Real Estate," which lists books on all phases of real estate, is a valuable reference work for every real estate licensee and those interested in real estate. This bibliography, which is published by the University of California, serves as a guide in picking reading material on specific real estate subjects.

In "A Key to Readings in Real Estate," books are named and the author, publisher, address of publisher, date of publication, number of pages, price and a short description of the contents of each book are given.

Each office of the Division of Real Estate has a copy of the reading guide available for reference.

You can order your own copy of "A Key to Readings in Real Estate" from the University Press, Berkeley 4, California. The cost of the pamphlet is \$1.03, and checks should be made payable to the Regents of the University of California.

license law. The court, as stated, held that the fact that the broker allowed the conviction to become final was an act or conduct which would have warranted the denial of the license, therefore the revocation under Section 10177(f) of the license law was proper.

The court stated, "If the final judgment of conviction is not an act or a conduct warranting disciplinary action and the crime itself is barred, then Section 10177(f) does not fulfill the purpose clearly intended by the Legislature."

In reply to the claim that the commissioner was barred from taking action because more than three years had expired since occurrence of the acts, the court stated, "Would one be so

You Can't Serve Two Masters!

Collecting Fees From Both Sides of Deal Without Disclosure Is Forbidden

Another case where a broker received a commission from both buyer and seller, without the consent and knowledge of both, was determined in favor of the commissioner, after he had suspended the broker's license for 90 days.

The broker had a 20-acre ranch listed for sale, and found an interested buyer. The buyer, however, had to sell a home in Fresno before entering the deal. He gave the same broker a listing on the home, but this was later canceled and the owner of the home himself found an interested purchaser.

The ranch deal was then revived, but the broker insisted that the buyer pay him \$480 commission. Sellers of the ranch, who were his principals, paid \$640 commission. They knew nothing of the payment by the buyers. The appellate court sustained the superior court, which held that the commissioner was not in error when he suspended the broker's license.

The broker raised an interesting defense, namely that he was acting merely as a "middleman," and not as an agent. The court, however, pointed out that he was acting under written appointment as agent for the sellers of the ranch, and that he carried on extensive negotiations with the buyers, handled many of the details, etc., all of which were the duties of an agent.

(Case is *Obanesian v. Watson*, 118 A.C.A. 442.)

rash as to declare that notwithstanding the constant vigilance of the Legislature and the assiduous enforcement of the act, as evidenced by court decisions, the commissioner is powerless to remove a faithless broker because he has deferred action until the affirmance of the judgment of conviction? . . . For any person to have suffered a final judgment for such grave offenses as those embodied in the indictment against respondent would require any commissioner to reject the application of such a person for license. If he must, under the circumstances, deny a license, then under subsection (f) it was the duty of the appellant to revoke the license of the respondent."

New Law on "Send-out" Lists Owners' Authorization Needed Before Properties Are Offered for Sale

Business opportunity brokers are affected by a new amendment to the license law which becomes operative September 9th. Contracts whereby prospective buyers agree to pay a commission if they do not deal through the broker's office may still be used, but with an important exception: The broker who uses these contracts setting forth a list of businesses or properties for sale, in consideration for which the prospective buyer agrees to deal with him, cannot insert descriptions of properties which he does not have listed.

Complaints have been received in the past that certain business opportunity brokers have entered in such contracts the description of properties which they have never been authorized to sell, in some cases making long lists of such businesses. Then, watching the advertised notices of sale in the newspapers, they would claim a commission if any such properties were sold to the person signing the contract.

The new amendment to the law will make it cause for revocation or suspension of license for such unfair practices. Fortunately, most business opportunity brokers have not resorted to such practices.

The law does not specify that a written and signed listing must be held by the broker before passing out information on such properties. He must, however, be able to substantiate a verbal authorization to offer them for sale.

Former Brokers Convicted Revocation of Licenses Often Delayed Pending Various Court Reviews

From time to time, former brokers and salesmen whose licenses have been revoked by the commissioner are prosecuted by district attorneys.

The press has reported the conviction of two former brokers, Milton S. Frankfort and Jay J. Nudelman, formerly connected with the Spa Country Club at Lake Elsinore and engaged in the sale of subdivided lots in that area. Both men were convicted in 1950 on 67 counts of conspiracy and grand theft, and had carried on a legal battle for over two years to set aside the conviction.

Superior Judge Clement D. Nye sentenced both to serve 1 to 10 years, and stated, "Let this be notice to other predatory individuals that such actions will not go unpunished."

Occasionally the division is asked how a broker whose license has been ordered revoked by the commissioner can continue to operate. Usually, this is done by petitioning the superior court for a review of the commissioner's decision, and the court will sometimes grant a stay of execution pending the review. If the revoked licensee is unsuccessful in the superior court, he may appeal to higher courts, sometimes getting a further stay of the commissioner's order. **These actions are often time-consuming, but, after all, they are a part of our American system.**

Palm Springs Subdivision

(Cont. from Page 100, Col. 2)

divided land, it is of no moment that such leases are, in law, regarded as a class of personal property rather than realty.

The court apparently suspected that a deliberate effort had been made to devise a plan of operation which would circumvent the subdivision laws, as it states in the opinion, "We have no doubt that the draftsman of the lease agreement, for reasons not too difficult to discern, strove valiantly to bring forth a document which, in legal effect, would operate as an agreement for the erection and sale of a bungalow with the right in the purchaser (for a consideration independent of the price to be paid for the building) to maintain the same upon a designated parcel of real property for 99 years, and yet would not, in contemplation of law, constitute a lease of the land upon which it was to stand for this prolonged period. His efforts, however, proved unavailing, for inevitably the result of his labors was precisely that which he so studiously sought to avoid. **Looking through form to substance, we experience no difficulty in ascertaining its true character, namely, that which in fact was intended and understood by both parties—a lease of real property for a term of 99 years.**" (This case is reported in 116 A.C.A. 662.)

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