



REAL ESTATE

Bulletin

GOODWIN J. KNIGHT, *Governor*

July-August 1958

F. W. GRIESINGER, *Commissioner*

Salesmen Should Know Their Responsibilities To Buyer, Seller and Employing Broker

Many salesmen have probably wondered how their responsibilities to buyer and seller compare with those of their employing brokers. Initially, let it be stated that the law makes comparatively little differentiation as to their responsibilities.

For instance, both the broker and salesman are considered fiduciaries, which means simply that there is reposed in each of them an aura of trust and confidence.

Salesman's Responsibility to a Buyer

A salesman's responsibility to the buyer is to receive from him such offer as he may care to make and to prepare the written offer to purchase, on the exact and precise terms stipulated by the buyer. The salesman is charged with receiving the buyer's deposit and is his agent for that purpose until some proper disposition has been made of the funds received.

Not only must he make no misrepresentation to the buyer, but as a fiduciary the law imposes upon him the obligation to make known to the buyer any defects which exist and which are either within his knowledge or can easily be determined.

For instance, should the sale involve a vacant lot and there is filled ground on that lot, the buyer should be informed. If the sale involves improvements which have been illegally constructed, a salesman should inform himself and, of course, inform the buyer.

As pointed out many times in the past, a salesman should have knowledge or inform himself of any material fact in connection with the transaction and pass it on to the purchaser before—emphasizing “before”—he has accepted the buyer's written offer. Even though the salesman merely expresses an opinion as to the value of a property which is being sold, that opinion may consti-

tute justification for a suit in fraud or a disciplinary proceeding for misrepresentation.

He should be certain of his facts. Honesty and fairness with a purchaser will keep a salesman from getting into trouble, **but better still, will establish his position of integrity before the public.**

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TO ALL LICENSEES

As your commissioner, I would greatly appreciate it if you would send me any thoughts you might have for improving your *Bulletin* or submit ideas for articles that would be helpful to all licensees.

Real Estate Commissioner

Salesman's Responsibility to a Seller

The responsibility to a seller does not begin or end, necessarily, with securing the listing. The seller, too, is entitled to any fact within the salesman's knowledge on which he should base his decision to sell. A salesman

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Discounted Loans Can Be Usurious, Concludes California's Attorney General

In an official opinion, the Attorney General discusses the possibility of a real estate broker becoming involved in a usurious transaction when he arranges a real estate sale which depends on discounting a loan to complete the escrow. His analysis was based on the following set of circumstances outlined by the Commissioner.

An owner wants to sell his home and lists it with a real estate broker at \$10,000. The home is encumbered by a first deed of trust securing an \$8,000 note. The broker interested a buyer who is willing to assume the existing trust deed and note, but who does not have the necessary \$2,000 to complete the transaction. In order to get the \$10,000 price, the broker has the parties agree to a fictitious selling price of \$12,000 and the purchaser executes a note for \$4,000, bearing 10 percent interest, secured by a second deed of trust upon the same property. A third party deposits \$2,000 in the escrow, which \$2,000 is paid to the seller upon the seller assigning the \$4,000 note to the third party. The seller has no intention of holding the \$4,000 note which

passes directly from escrow to the third party.

In determining whether such an arrangement constitutes usury, the Attorney General says:

“ * * * Where the nominal assignee of the purchase note paid the money into the real estate escrow and received the note directly from said escrow, the probable finding of fact

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STATE OF CALIFORNIA

GOODWIN J. KNIGHT, Governor

F. W. GRIESINGER

Real Estate Commissioner

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REFERENCE BOOK

For those who are interested in entering the field of real estate as a vocation, as well as those already in the business who desire to improve their knowledge of certain of its aspects, the Division of Real Estate publishes a *Reference Book*.

It is available at any of the division's offices for the price of \$2.08 per copy.

As an aid to those preparing for their examination for renewable four-year license, a *Supplement to the Reference Book* has been published and may be purchased for \$1.04 per copy.

DISCIPLINARY ACTION—APRIL, 1958, AND MAY, 1958

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 APRIL, 1958, AND MAY, 1958

Name	Address	Effective date and term	Violation
Wadley, Preston DeForrest..... Real Estate Salesman	340 E. 120th St., Los Angeles...	4/ 8/58	Sec. 10177 (a) & (f)
Ellingwood, Curtis Warren..... Limited Real Estate Salesman	1032 Irving St., San Francisco ..	4/ 8/58 (In accordance with Secs. 10154 & 10155)	
Erickson's Real Estate..... R. Clarice Burnett—Member Clarence E. Erickson—Member	1575 Draper St., Kingsburg.....	4/10/58 (Granted right to restricted licenses)	Secs. 10176 (e), (i); 10177 (d), (f); Secs. 2830-2832 of R. E. Comm. Rules and Regula- tions
Erickson, Clarence E..... Business Opportunity Broker	1575 Draper St., Kingsburg.....	4/10/58 (Granted right to restricted license)	Sec. 10302 (e)
Hovey, Charles Orlando..... Restricted Real Estate Salesman	6322 Whittier Blvd., Los Angeles	4/11/58	Secs. 10177 (d) & (f)
Nordgren, Loretta Alice..... Real Estate Salesman	8133 MacArthur Blvd., Oakland..	4/14/58	Sec. 10177 (b) & (f)
Dillard, Theatrice..... Real Estate Broker	2128 E. 122d St., Compton.....	4/15/58 (Granted right to restricted license on conditions)	Secs. 10176 (i); 10177 (d) & (f)
Miles, Elvira Alma..... Real Estate Broker Business Opportunity Broker	Hwy 50 West, Placerville.....	4/24/58	Secs. 10176 (e), (i); 10177 (d), (f); 10302 (e); Secs. 2830-2832 of R. E. Comm. Rules and Regulations
Caldwell, Hugus Rhett..... Real Estate Salesman	1208-D Maple, Inglewood.....	4/25/58	Sec. 10177 (b) & (f)
Pruitt, J. T..... Real Estate Broker	15958 Leadwell, Van Nuys.....	4/25/58	Sec. 10177 (b) & (f)
Cowley, Ralph Edgar..... Real Estate Broker	4750 S. Figueroa St., Los Angeles	5/ 2/58	Sec. 10177 (b) & (f)
Sterrett, Donald Raymond..... Real Estate Salesman	18767 Center St., Castro Valley..	5/ 9/58	Secs. 10137; 10176 (a), (b), (c), (e), (i); 10177 (d) & (f)
Hillsborough, Helen..... Real Estate Salesman	733 Porter, Glendale.....	5/23/58	Secs. 10176 (i) & 10177 (f)
Caruso, Valentine..... Limited Real Estate Salesman	6272 Yucca, Hollywood.....	5/27/58	Sec. 10177 (a) & (f)
Allen, Ferné Catherine..... Real Estate Broker	656 31st St., Oakland.....	5/29/58	Secs. 10176 (e), (i); 10177 (d), (f); Secs. 2830 & 2832 of R. E. Comm. Rules and Regulations
Hastey, Junie Hasty..... Real Estate Broker	513 E St., Marysville.....	5/29/58 (Granted right to restricted license on conditions)	Secs. 10176 (e), (i); 10177 (d), (f), (g); Secs. 2830-2832 of R. E. Comm. Rules and Regu- lations
McLemore, Robert Rhymes..... Restricted Real Estate Broker	1232-C Berkeley, Santa Monica..	5/29/58	Sec. 10177 (d) & (f)
Murray, Evandus..... Real Estate Salesman	325 Fifth St., Richmond.....	5/29/58	Secs. 10176 (i) & 10177 (f)

LICENSES SUSPENDED DURING APRIL, 1958, AND MAY, 1958

Name	Address	Effective date and term	Violation
T. L. Stern & Son..... Robert Phillip Stern—Member Theodore Lawrence Stern—Mem- ber	4137 Sepulveda Blvd., Culver City	4/ 8/58 1 day (Stayed perma- nently)	Secs. 10137 & 10177 (f)
Kastin, Bernard..... Real Estate Salesman	139 W. El Segundo Blvd., Haw- thorne	4/ 8/58 30 days	Secs. 10137; 10176 (i) & 10177 (f)
Pasch, Bernard Eugene..... Real Estate Broker	716 S. Hawthorne Blvd., Haw- thorne	4/ 8/58 60 days	Secs. 10137; 10176 (i) & 10177 (f)
Barnewolt, Marvin Elton..... Real Estate Salesman	1212 E. Garvey Blvd., West Covina	4/11/58 15 days	Secs. 10176 (a), (i) & 10177 (f)
Weaver, Frank Clancy..... dba Inter City Co. Real Estate Broker	137 Montgomery St., San Fran- cisco	4/15/58 45 days (Stayed perma- nently on conditions except as to the first 5 days)	Sec. 10177 (g)
Stimson, Gerald Milton..... Real Estate Broker Business Opportunity Broker	1041 Solano Ave., Albany.....	4/28/58 60 days	Secs. 10177.5 & 10302.5
Day, Albert Louis..... dba Al L. Day Realty	1817 Grant St., Concord.....	4/29/58 15 days	Secs. 10176 (a); 10177 (f) & (g)
Edinger, Vincent Wendelin..... Real Estate Broker Business Opportunity Broker	Rm. 14, Mezzanine, 354 21st St., Oakland	4/29/58 30 days	Secs. 10176 (i); 10177 (f) & 10302 (e)
Paulson, Thomas Glenn II..... Member of Paulson and Paulson	12472 San Pablo Ave., Richmond	5/ 1/58 90 days	Secs. 10176 (a), (b), (g), (i) & 10177 (f)
Odell, Douglas Brevoort..... Real Estate Broker	Riverside Dr., Box 336, Monte Rijo	5/ 9/58 30 days	Secs. 10130; 10177 (d) & (f)
Hopp, Hilbert Eston..... Real Estate Salesman	14152 Gladeside Dr., La Mirada	5/23/58 5 days (Stayed for 1 year)	Secs. 10176 (a), (i) & 10177 (f)

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Guaranteed Mortgages Are Ruled "Securities"

Mortgage and investment companies which issue "guarantees" or create investment contracts in connection with the sale to the public of promissory notes secured by deeds of trust on single parcels of property are issuing securities under the Corporate Securities Law, according to a recent opinion issued by the State's Attorney General. Persons so engaged must obtain selling permits from the Corporation Commissioner's Office, emphasizes the ruling. This is in addition, of course, to the previous requirement that companies or individuals engaged in this business must be licensed by the Real Estate Commissioner.

Growth of Practice

The past 12 years have witnessed the growth in California of mortgage companies which purchase at large discounts promissory notes usually secured by second deeds of trust. Recently, a growing volume of advertising directed at the general public promises 10 percent or more interest on investments in "secured real estate loans." This type of advertisement has given these mortgage companies the connotation of "10 percenters."

Advertisement of Guarantees

In some instances, the seller guarantees payment of the first two installments on a promissory note, or that he will protect the first deed of trust from default. By other agreements, the investor provides funds with which the mortgage company selects a mortgage, collects payments and agrees to reinvest the money in some other mortgages.

The Attorney General's opinion points out that agreements whereby the investor relies upon the efforts of a third party to use the investor's money and to return a profit through these efforts constitute investment con-

tracts and a security for which a permit must be obtained.

Selling Permits are Required

The Corporation Commissioner states that the requirement of a permit should not prove unduly burdensome provided investment contracts being offered to the public meet the legal test of being "fair, just and equitable."

Examples of situations where selling permits must be obtained from the Corporation Commissioner's Office are:

(1) When the mortgage or investment company makes an outright guarantee to the buyer that the buyer will receive his monthly installments should the obligor default. Here the collateral guarantee of the underlying security is itself a security.

(2) When a seller agrees to repurchase a note or resell in event of default, again the collateral agreement by itself is a security.

(3) When, under collateral agreement the seller guarantees to protect the promissory note by keeping the first lien current, the agreement is regarded as a security.

(4) When an investment contract is created by the buyer depositing with the seller a sum of money which is commingled by the seller with money received from other prospective buyers in a bank account which pays interest until withdrawn.

False Educational Claim Leads to Denial of License Application

The Real Estate Commissioner recently denied an application for real estate broker license because the applicant " * * * attempted to procure a real estate license * * * by fraud, misrepresentation, or deceit, or by making any material misstatement of fact in an application for a real estate license." (Sec. 10177(a) B. & P. Code.)

Facts Cited

The applicant based his claim of prerequisite qualification mainly upon education.* In support of his claim of qualification, the applicant presented a transcript of his university work. The transcript did not furnish course titles or descriptions, except by number. The applicant, however, supplemented the transcript with his own detailed statement of course content, which indicated he had completed a number of courses devoted primarily to real estate. He labeled the courses in his own fashion and would have had the Real Estate Commission believe he had completed courses in "Real Estate Financing"; "Real Property Management"; "Real Estate Appraisal," etc.

A check with the university revealed it was not offering any such courses and that the applicant had renamed and redefined the contents of certain general business administration and economics courses to suit his own purposes.

Application Denied

A formal hearing was held and it was determined that the educational claims made by the applicant were false and constituted material misstatements of facts made for the purpose of procuring a real estate broker license. The Real Estate Commissioner, applying the provisions of Section 10177(a), signed the order denying the license.

* The State Real Estate Commission can credit real estate education at university level in lieu of experience as a real estate salesman toward qualification for broker license examination.

LICENSES SUSPENDED DURING APRIL, 1958, AND MAY, 1958

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Name	Address	Effective date and term	Violation
Lehman, Donald Blynn Real Estate Broker Business Opportunity Broker	7614 State St., Huntington Park and 14112 Pioneer Blvd., Norwalk	5/23/58 5 days (Stayed for 1 year)	Secs. 10176 (i); 10177 (f) & 10302 (c)
Ordos, Harold Wayne Real Estate Salesman	14329 Valley View, Norwalk	5/23/58 5 days (Stayed for 1 year)	Secs. 10176 (a), (i) & 10177 (f)
Parsons, Wallace Wayne Real Estate Salesman	11611 Garfield Ave., Hollydale	5/23/58 5 days (Stayed for 1 year)	Secs. 10176 (a), (i) & 10177 (f)
McCree, Johnnie Mae Real Estate Salesman	433 Seventh St., Richmond	5/29/58 30 days	Sec. 10177 (f)
Sanchez, Julian R. Restricted Real Estate Salesman	Ste. 403, 785 Market St., San Francisco	5/30/58 60 days	Secs. 10156.7; 10177 (d) & (f)

FHA Cites Unlawful Practice of "Faking" Sales Prices

Officials of the Federal Housing Administration report the agency has found many cases where real estate brokers have "faked" or "kited" the actual sales prices of homes on which the mortgages were insured by FHA. In five states where he ordered investigations, FHA Commissioner Norman Mason said the evidence indicated the practice was widespread.

In many instances the falsification of sales prices results in a violation of the statutory minimum FHA cash down payment. The lender who is thus influenced to make a loan in excess of the lawful minimum may be damaged. In all cases, an erroneous element is introduced into FHA's mortgage data.

The FHA advises there is ample legal basis for criminal proceedings against those brokers who resort to

faking or kiting of sales prices. Section 1010, Title 18, of the U. S. Criminal Code, provides:

"Whoever, for the purpose * * * of influencing in any way the action of such administration * * * makes, passes, utters, or publishes any statement, knowing the same to be false * * * shall be fined not more than five thousand dollars (\$5,000), or imprisoned for not more than two years, or both."

In addition, the FHA may institute "Section 512" proceedings against a real estate broker, which would have the effect of barring FHA mortgage insurance on any property with which he is involved.

Commissioner's Note: While the law would seem to be well equipped to cope with the violator, this problem goes beyond the individual who may have been tempted into "kiting"

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Sales and Discontinued Loans Under Scrutiny

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would be that the substance of the transaction was a loan from said assignee to the buyer of the real estate and that such was the intent of the parties. Where a \$4,000 note bearing 10 percent interest and secured by real property is given for a loan of \$2,000, the return to the lender is in excess of that allowed by Section 3081.3(c) of the Civil Code and is in violation thereof * * * any real estate broker who arranges for a loan in violation of said section is subject to disciplinary action as provided in Section 10176.1 of the Business and Professions Code.

A further question was presented to the Attorney General: If the seller of the property should hold the \$4,000 note for a day or two after the transaction closed and then sell it for \$2,000, this arrangement having been made prior to the consummation of the transaction, would such an action also make the loan usurious?

In this case, the Attorney General said that the presence of the broker as the one who made the arrangement for the assignment and any other additional factors which would tend to connect the assignee of the note to the real estate transaction would add to the probability of a finding that the parties intended to negotiate a loan at a usurious rate of interest.

As every broker knows, the "Usury Law" prohibits an interest rate in excess of 10 percent on loans secured by real property. As one court put it:

"* * * Any benefit or advantage exacted by the lender from the borrower, whatever be its name or form, which, added to the interest taken or reserved, would yield to the lender a greater profit upon his loan than is allowed by the law is deemed usury."

In discussing the questions raised, the Attorney General pointed out that the crucial point to determine in transactions of this type is the relationship of the lender to the real estate transaction itself. An element showing such a relationship would be the broker making the arrangement for the discounting.

Who Makes the Home Loans in California?

What type of lender would you say makes the largest *number* of nonfarm mortgage loans of \$20,000 or less in California? Commercial banks? Savings and loan associations? Insurance companies? Wrong—according to the Federal Home Loan Bank Board. **Individuals granted more such loans in 1957 than any of the above named groups.** Surprised? You are not alone.

Savings and loan associations had the largest *dollar volume* of nonfarm mortgage loans of \$20,000 or less, making 159,343 such loans in 1957. But individuals were the mortgagees (beneficiaries) in 219,300 such loans recorded the same year.

A compilation of nonfarm mortgage

loans of \$20,000 or less was obtained from the Federal Home Loan Bank Board by the State Treasurer for publication in a brochure to advertise the sale of an additional 100 million dollars in California veterans' assistance bonds. According to the bank board, more than 550,000 individual mortgages (trust deeds) with a dollar volume exceeding 4½ billion dollars were recorded in 1957. In comparison, the California Veterans Farm and Home Purchase Plan accounted for a total of 17,667 contracts totaling about 201 million dollars in 1957, which represents about 4.6 percent (by volume) and 3.2 percent (by number) of the activity in the field.

* Estimated Number and Amount of Nonfarm Mortgages of \$20,000 or Less Recorded by Type of Mortgagee—California, 1957

	<i>Number</i>	<i>Amount</i>
Savings and loan associations.....	159,343	\$1,633,956,000
Insurance companies	21,069	252,248,000
Commercial banks	85,227	855,921,000
Individuals	219,300	1,153,327,000
Miscellaneous	71,020	653,535,000
Totals	555,959	\$4,548,987,000

* SOURCE: Federal Home Loan Bank Board.

Commissioner's Forum

Handling a Deposit Forfeiture

Q. In case of a deposit forfeiture, it has been our practice to advise the purchaser that, unless additional funds are paid within 10 days, the deposit will be forfeited and paid out in accordance with the terms of the deposit receipt unless we are restrained by operation of law. We would appreciate your opinion since we have been told that we may be involved in a lawsuit.

—W. J. S., Broker.

A. As to the disposition of trust funds upon a forfeiture, a broker should be guided by his contract of employment and other subsequent written contracts, such as a deposit receipt, etc. Different forms prescribe different actions in case of forfeiture. A broker in doubt should not hesitate to seek the advice of his attorney.

Investigation of Malpractice

Q. How do you bring about an investigation of misconduct by a California broker?

—D. W. B., Salesman.

A. The Real Estate Commissioner, upon the verified complaint in writing of any person, must investigate the actions of any person engaged in the business or acting in the capacity of a real estate licensee within this State. The complaint need not be in any prescribed form. All complaints received are thoroughly investigated. Investigations are also often initiated by the commissioner when there are indications—but not necessarily a complaint—that a broker or salesman may be in violation of the law.

License for Office Secretary

Q. Although I'm considered an attractive office secretary, I have been told that I may need a license to keep my job. Could you tell me if employees in a broker's office should be licensed?

—B. L. F., Secretary.

A. It would seem that your employer is better qualified to advise you on this matter than we are. If you do not perform any of the services listed in the definition of a salesman, then you need not be licensed.

As a practical matter, however, it is often difficult for an office employee who is unlicensed to refrain completely from slipping into a situation where there may be a technical violation of the law.

Restricted Licenses

Q. After reading the disciplinary section in the last Bulletin, I have a question regarding restricted licenses. If a felony conviction is cause for disciplinary action, what chance is there of obtaining a restricted license?

—R. T. S., Broker.

A. Restricted licenses are issued with great care and only in those cases where mitigating circumstances clearly appear to warrant. Licenses may be restricted in various ways, such as: by term, by employment to a particular real estate broker, or by other special conditions set forth in the order granting restricted licenses.

Examples of special conditions are: requiring a surety bond; requiring regular reports of all transactions; requiring special report of transactions; requiring special treatment of trust funds, and so forth.

This section is open to letters from licensees on matters of general interest concerning the Real Estate Law, subdivisions, and mortgage loan laws.

Address your letter to the Editor of the *Bulletin*, Division of Real Estate, 1015 L Street, Sacramento.

Renewal License Fee

Q. I just moved here from Montana where I paid a \$10 renewal fee for my broker license. How come California's license fees are so high?

—H. H. B., Broker.

A. California's renewal fee for broker is \$50 for a four-year license or \$12.50 a year. A check of license fees in 11 western states shows eight with a higher annual fee for real estate broker license than California. Only two states—Montana and Utah—have a lower fee and then not much—\$10 in each case.

It must also be remembered that in California one-fourth of the license fees is credited to the Real Estate Education and Research Fund for the advancement of education and research in real estate at the University of California, state colleges and junior colleges.

Why Have a Trust Account?

In some areas of California, it has been found that fewer than half the real estate brokers maintain or use a trust account, yet some figures indicate that over 85 percent collect or manage rentals at some time during the year.

Apparently, many brokers are under the impression that a trust account is intended for use only where deposits are taken on the sale of real estate and not otherwise. However, it is definite that a trust account is required whenever a broker receives money belonging to another—whether it is a \$50 rental payment or a \$5,000 deposit—and the money is not immediately placed in a neutral escrow depository or turned over to his principal.

One of the reasons some brokers give for not maintaining a trust account is the bank charge involved, which, while not large, may seem an unnecessary expense to the broker who handles only a few rentals earning small commissions. This argument cannot, of course, be regarded as valid, any more than could an argument to the effect that the broker need not pay rent on his office for any month in which he did not complete a commission sale. A bank charge for maintaining a trust account has to be regarded as one of the expenses incident to doing business.

Trust Account Used as Record

A trust account might be considered a "tool of a trade" as is the deposit receipt or listing agreement. A broker's records regarding it should at least reflect from whom money is received, the date, and to whom money was paid.

Checks should not be drawn on the trust account to discharge personal obligations. When commissions accumulate in a trust account, they should be withdrawn at regular intervals by the broker in his name, to his commercial or personal account, but not to some third person. Otherwise it may appear to be a commercial account in fact, even though labeled a trust account.

Are Your Office Signs and Licenses in Order?

Possession Date—Have It Settled in the Contract!

Have you experienced difficulty in the question of an agreeable possession date upon the sale of a single-family dwelling? Since your answer is probably "Yes," if you work on home sales, you may be interested in some observations based upon contacts on "both sides of the fence."

Many letters of complaint are received by the Division of Real Estate from purchasers and sellers alleging misrepresentation of the possession date. It seems obvious that much misunderstanding and ill feeling is created by not solving this problem and arriving at a complete understanding between buyer and seller at the proper time. The proper time would be when the transaction is being negotiated and not after a deposit receipt has been signed and accepted by both parties or after the escrow has been completed.

Seller's Viewpoint

Often the seller of a single-family dwelling is given anywhere from 10

to 30 days "free" occupancy after the close of escrow if he desires and the purchaser is agreeable. Since the date of close of escrow is often indeterminate, it does not appear unreasonable that a seller would not want to move until he receives the funds from the sale of his property.

Many conditions may arise between execution of a contract and the passage of title which could postpone, delay, or even kill a sale. For example, in the use of VA-guaranteed or FHA-insured loans it is often impossible to predict when the funds will be made available for the close of escrow. Consequently, many sellers wish 10 to 30 days after close of escrow to move out of the property and make arrangements for other housing.

Buyer's Viewpoint

On the other hand, the buyer may balk at paying the property taxes, insurance, and the interest on the loan

from the date of the close of escrow, in cases where the seller remains in possession of the property. An agent's failure to reveal these conditions to the buyer before the contract is signed usually results—to put it mildly—in less than good relations thereafter.

Some types of deposit receipts in use do not have a clause which makes reference to occupancy; and, therefore, there is apparently no written understanding between the buyer and seller upon this important question. Other standard forms provide space to spell out conditions of the possession and occupancy. However, if the filling in of blanks is neglected, again the problem is not settled.

Possession Date Should be Settled

Licensees can avoid the potential ill will, litigation, and complaints by spelling out exact terms of possession in writing in the deposit receipt during negotiations rather than avoiding the point for fear of creating arguments.

An Explanation of Salesman's Responsibilities

(Cont. from Page 353, Col. 3)

should be fair with the seller in discussing the merits of the property and the advantages and disadvantages of the sale, as the case may be.

When an offer is presented to the seller, a salesman should be sure that the offer is accurately stated on the deposit receipt. Needless to point out, the seller should be informed of any reasonable bona fide offer made.

Salesman's Responsibility to His Employing Broker

Obviously, in dealing with any of the principals of the transaction, the salesman is the employing broker's spokesman, and the things he says or does may be held against the broker, subjecting him to civil suit or disciplinary action, or both, if the salesman speaks or acts improperly. **By the same token, by his sincerity and good acts, he can establish a better reputation for both himself and his broker.** Under

the Real Estate Law, a salesman can only be employed by his broker and receive compensation from him. Funds received by a salesman are trust funds and should, in all cases, be turned over to his employing broker. Immediately these funds must be placed in a trust account or into an escrow—if an escrow is opened—or handed to the principals, if the agreement so provides.

Although the law permits a salesman great latitude, nevertheless, the broker-salesman relationship is recognized, as witness the following examples. Advertising shall not be under the name of the salesman unless the name of the employing broker also appears. A salesman is not permitted to handle trust funds without the written authorization of his employing broker. This authorization may permit the salesman to deposit or withdraw trust funds for proper purposes. He is not permitted to withdraw funds by a check unless the broker's signature also appears on the check. (*See Sec. 2834, Rules and Regulations of the Real Estate Commissioner.*)

Working Relations

The Division of Real Estate is not concerned directly with agreements between brokers and salesmen as to working arrangements and division of commissions. However, the commissioner strongly recommends that such agreements be drawn up and signed whenever brokers employ salesmen. Not only is this good business practice, but it can save endless arguments, re-creations and even litigation.

The division is concerned, however, when a salesman to all intents and purposes operates as a broker, merely borrowing a broker's license to try to legalize his position. Larger offices frequently employ salesmen to manage branch offices. There is no objection so long as there is reasonable supervision by the employing broker. But when, in fact, there is no supervision, then both the broker and the salesman may be subject to disciplinary proceedings.

Except for his relationship with his employing broker, a salesman's status could be generally summarized as being that of a broker in dealing with everyone else.

1958 Fall Program

Real Estate Certificate Program for Continuing Education

The fall, 1958, schedule of classes for the Certificate in Real Estate Program presented by the University Extension, University of California, has been announced. A number of cities have been added to the list of locations where courses are offered this fall. The program also provides for more courses than in the past, all giving real estate licensees an opportunity for specialized education at a professional level.

Since 1950 this program has been offered by the University of California Extension Division in co-operation with the State Division of Real Estate and the California Real Estate Association. To obtain the certificate in real estate, eight courses must be completed. A minimum grade of "C" is required in each course. Courses are also

open to individual enrollment apart from the certificate program.

Schedule of Classes

All classes will meet from 7 to 9.30 p.m. and an enrollment charge is made for each course. Additional information regarding the certificate program in real estate can be obtained by writing to the University Extension at 813 S. Hill Street, Los Angeles 14, California, or 2288 Fulton Street, Berkeley 4, California. The schedule follows:

NORTHERN AREA

- Berkeley**—Berkeley Campus
 Legal Aspects of Real Estate 824AB—Thurs., Sept. 25; 12 meetings.
 Real Estate Finance 806ABC—Mon., Sept. 8; 18 meetings.
 Property Management 842AB—Thurs., Sept. 25; 12 meetings.
 Principles of Real Estate Appraisal 860-ABC—Mon., Sept. 8; 18 meetings.
- Burlingame**—San Mateo-Burlingame Board
 Real Estate Practice 804AB—Tues., Sept. 16; 12 meetings.
- Fresno**—Fresno Realty Board Auditorium
 Real Estate Finance 806ABC—Wed., Sept. 24; 18 meetings.
 Legal Aspects of Real Estate 824AB—Thurs., Sept. 25; 12 meetings.
- Hayward**—21144 East 14th Street
 Real Estate Finance 806ABC—Tues., Sept. 16; 18 meetings.
 Real Estate Exchanges and Taxation 822-AB—Wed., Sept. 17; 12 meetings.
- Los Altos**—Los Altos High School
 Real Estate Practice 804AB—Thurs., Oct. 2; 12 meetings.
- Merced**—Merced Union High School
 Real Estate Finance 806ABC—Mon., Sept. 29; 18 meetings.
- Modesto**—Modesto Junior College
 Essentials of Residential Design and Structure—Tues., Sept. 23; 12 meetings.
- Redwood City**—Sequoia Union High School
 Trends and Factors Influencing Real Estate—Thurs., Sept. 18; 12 meetings.
- Oakland**—Trends and Factors Influencing Real Estate 886AB—Tues., Oct. 7; 12 meetings.

- Real Estate Practice 804AB—Wed., Oct. 1; 12 meetings.
 Real Estate Exchanges and Taxation 822-AB—Wed., Oct. 1; 12 meetings.
 Essentials of Residential Design and Structure 857AB—Tues., Oct. 7; 12 meetings.
 Advanced Real Estate Appraisal 887ABC—Wed., Sept. 17; 18 meetings.

Palo Alto—Wilbur Junior High, Room 19A
 Real Estate Finance 806ABC—Tues., Sept. 16; 18 meetings.

Redwood City—Sequoia Union High School
 Principles of Real Estate Appraisal—Thurs., Sept. 18; 18 meetings.

Richmond—Ells High School, Room 310
 Principles of Real Estate Appraisal 860-ABC—Tues., Sept. 16; 18 meetings.

Sacramento—1020 N Street
 Property Management 842AB—Tues., Sept. 30; 12 meetings.
 Principles of Real Estate Appraisal 860-ABC—Mon., Sept. 8; 18 meetings.

San Francisco—55 Laguna Street
 Trends and Factors Influencing Real Estate—Wed., Sept. 24; 12 meetings.
 Real Estate Practice 804AB—Mon., Sept. 29; 12 meetings
 Legal Aspects of Real Estate 824AB—Mon., Sept. 29; 12 meetings.
 Real Estate Finance 806ABC—Wed., Sept. 17; 18 meetings.
 Principles of Real Estate Appraisal 860-ABC—Wed., Sept. 17; 18 meetings.
 Advanced Real Estate Appraisal 887ABC—Mon., Sept. 15; 18 meetings.
 Essentials of Residential Design and Structure—Wed., Sept. 24; 12 meetings.
 Real Estate Exchanges and Taxation 822-AB—Thurs., Oct. 2; 12 meetings.
 Brokerage Administration and Procedures 885AB—Mon., Sept. 15; 12 meetings.

San Jose—Abraham Lincoln Senior High
 Essentials of Residential Design and Structures 857AB—Wed., Oct. 1; 12 meetings.
 Real Estate Exchanges and Taxation 822-AB—Mon., Sept. 15; 12 meetings.

San Rafael—San Rafael High School
 Essentials of Residential Design and Structure—Wed., Sept. 10; 12 meetings.

Santa Cruz—Santa Cruz High School
 Principles of Real Estate Appraisal 860-ABC—Thurs., Sept. 11; 18 meetings.

Stockton—Stockton College
 Legal Aspects of Real Estate 824AB—Wed., Sept. 10; 12 meetings.
 Commercial and Investment Properties 880AB—Mon., Sept. 22; 12 meetings.

Vallejo—Vallejo Senior High School
 Commercial and Investment Properties 880AB—Mon., Sept. 22; 12 meetings.

Visalia—Mt. Whitney High School
 Trends and Factors Influencing Real Estate 886AB—Wed., Sept. 24; 12 meetings.
 Real Estate Exchanges and Taxation 822-AB—Tues., Sept. 23; 12 meetings.

(Cont. on Page 360, Col. 1)

FHA Loan Investigation

(Cont. from Page 356, Col. 2)

to complete a sale. As is frequently the case, the actions of those few who resort to dishonesty can have harmful effects on the law-abiding and ethical brokers who make up the great majority of the whole body of licensees. Some reactions which might be expected are: the impairment of public confidence; more difficult financing, and distortion of the market structure.

We are, of course, concerned with keeping the California real estate brokerage business free of any such harmful activities. Several years ago in a somewhat analagous situation, this office made an extensive investigation into the activities of a particular group of brokers who were obtaining unusually high loans. It was disclosed that about eight licensees were engaged in the practice of inducing buyers to misrepresent the selling price, the down payment and the amount of cash paid out of escrow in loan applications. Disciplinary action in the form of revocations and suspensions followed. This is recounted only to point up the fact that a licensee cannot expect to escape responsibility for his wrongful acts by merely having someone else sign the statement or application which contains false information.

Certificate Courses

(Cont. from Page 359, Col. 3)

Walnut Creek—Las Lomas High School
 Legal Aspects of Real Estate 824AB—
 Mon., Sept. 22; 12 meetings.

SOUTHERN AREA

Los Angeles—Hillsstreet Bldg.
 Elements of Real Estate and Urban Land
 Economics XL 180—Thurs., Sept. 18; 18
 meetings.
 Real Estate Practice X 482AB—Wed.,
 Sept. 17; 12 meetings.
 Legal Aspects of Real Estate X 483AB—
 Mon., Sept. 15; 12 meetings.
 Real Estate Finance X 484ABC—Mon.,
 Sept. 15; 18 meetings.
 Valuation of Real Property XL 181—
 Tues., Sept. 16; 18 meetings.
 Advanced Real Estate Appraisal X 490-
 ABC—Wed., Sept. 17; 18 meetings.
 Property Management X 491AB—Tues.,
 Sept. 16; 12 meetings.
 Essentials of Residential Design and Struc-
 ture—Mon., Sept. 15; 12 meetings.
 Real Estate Exchanges and Taxation X
 494AB—Wed., Sept. 17; 12 meetings.

Westwood—U. C. L. A.
 Elements of Real Estate and Urban Land
 Economics XL 180—Tues., Sept. 16; 18
 meetings.
 Real Estate Practice X 482AB—Thurs.,
 Sept. 18; 12 meetings.
 Legal Aspects of Real Estate X 483AB—
 Mon., Sept. 15; 12 meetings.
 Real Estate Finance X 484ABC—Wed.,
 Sept. 17; 18 meetings.
 Real Estate Finance X 484ABC—Mon.,
 Sept. 15; 18 meetings.
 Valuation of Real Property XL 181—
 Mon., Sept. 15; 18 meetings
 Valuation of Real Property XL 181—
 Tues., Sept. 16; 18 meetings.
 Advanced Real Estate Appraisal X 490-
 ABC—Tues., Sept. 16; 18 meetings.
 Property Management X 491AB—Tues.,
 Sept. 16; 12 meetings.

Essentials of Residential Design and Struc-
 ture—Wed., Sept. 17; 12 meetings.
 Real Estate Exchanges and Taxation X
 494AB—Wed., Sept. 17; 12 meetings.

Downey—Downey South Junior High School
 Real Estate Practice X 482AB—Thurs.,
 Sept. 18; 12 meetings.

Fullerton—Fullerton Junior College
 Real Estate Practice X 482AB—Wed.,
 Sept. 17; 12 meetings.

Lancaster—Antelope Valley Junior College
 Real Estate Practice X 482AB—Tues.,
 Sept. 16; 12 meetings.

Long Beach—John Dewey High School
 Commercial and Investment Properties X
 492AB—Mon., Sept. 15; 12 meetings.

Manhattan Beach—Aviation High School
 Legal Aspects of Real Estate X 483AB—
 Wed., Sept. 17; 12 meetings.
 Real Estate Finance X 484ABC—Mon.,
 Sept. 15; 18 meetings.

North Hollywood—Madison Junior High
 Real Estate Practice X 482AB—Tues.,
 Sept. 16; 12 meetings.

Legal Aspects of Real Estate X 483AB—
 Mon., Sept. 15; 12 meetings.
 Real Estate Finance X 484ABC—Wed.,
 Sept. 17; 18 meetings.
 Real Estate Exchanges and Taxation X
 494AB—Tues., Sept. 16; 12 meetings.

Riverside—University of California
 Real Estate Practice X 482AB—Wed.,
 Sept. 17; 12 meetings.
 Legal Aspects of Real Estate X 483AB—
 Tues., Sept. 16; 12 meetings.
 Real Estate Finance X 484ABC—Tues.,
 Sept. 16; 18 meetings.
 Valuation of Real Property XL 181ABC—
 Mon., Sept. 15; 18 meetings.
 Commercial and Investment Properties X
 492AB—Wed., Sept. 17; 12 meetings.

Oceanside—Oceanside-Carlsbad College
 Legal Aspects of Real Estate X 483AB—
 Tues., Sept. 23; 12 meetings.
 Essentials of Residential Design and Struc-
 ture—Thurs., Sept. 25; 12 meetings.

Chula Vista

Real Estate Practice X 482AB—Tues.,
 Sept. 23; 12 meetings.

Legal Aspects of Real Estate X 483AB—
 Thurs., Sept. 25; 12 meetings.

San Diego—Roosevelt Junior High School
 Real Estate Practice X 482AB—Thurs.,
 Sept. 25; 12 meetings.

Legal Aspects of Real Estate X 482AB—
 Thurs., Sept. 25; 12 meetings.

Legal Aspects of Real Estate X 483AB—
 Tues., Sept. 23; 12 meetings.

Real Estate Finance X 484ABC—Wed.,
 Sept. 24; 18 meetings.

Principles of Real Estate Appraisal X
 481ABC—Mon., Sept. 22; 18 meetings.

Principles of Real Estate Appraisal X
 481ABC—Tues., Sept. 23; 18 meetings.

Property Management X 491AB—Tues.,
 Sept. 23; 12 meetings.

Commercial and Investment Properties X
 492AB—Tues., Sept. 23; 12 meetings.

Real Estate Exchanges and Taxation X
 494AB—Wed., Sept. 24; 12 meetings.

San Luis Obispo—San Luis Obispo J. C.
 Valuation of Real Property XL 181—
 Tues., Sept. 16; 18 meetings.

Santa Ana—Santa Ana Junior College
 Legal Aspects of Real Estate X 483AB—
 Wed., Sept. 17; 12 meetings.
 Advanced Real Estate Appraisal X 490-
 ABC—Mon., Sept. 15; 18 meetings.

Santa Barbara—Real Estate Board Building
 Real Estate Exchanges and Taxation X
 494AB—Thurs., Sept. 18; 12 meetings.

Temple City—Temple City High School
 Real Estate Finance X 484ABC—Mon.,
 Sept. 15; 18 meetings.

Valuation of Real Property XL 181—
 Thurs., Sept. 18; 18 meetings.

Ventura—Anacapa Junior High School
 Real Estate Practice X 482AB—Mon.,
 Sept. 15; 12 meetings.

Westchester—Westchester High School
 Legal Aspects of Real Estate X 483AB—
 Wed., Sept. 17; 12 meetings.

Commercial and Investment Properties X
 492AB—Thurs., Sept. 18; 12 meetings.