

REAL ESTATE BULLETIN

Official Publication of the Division of Real Estate

GOODWIN J. KNIGHT, Governor

Sacramento, September, 1954

D. D. WATSON, Commissioner

"Let's Stop This Racket!"

Editorial—By Bob Fawcett

(From the NATIONAL REAL ESTATE AND BUILDING JOURNAL)

One of the problems that the real estate industry must face squarely—and soon—is the abuse in the collection of advance listing fees. Although violations are relatively few, they are having an extensive effect. Fraudulent listing practices have reached the point of becoming a racket and they reflect discredit on every member of the real estate industry.

We recently discovered that one company, for example, sends letters to owners of certain types of businesses in a state, inquiring if they wish to sell their property. To those who reply that they do wish to sell, a company representative is sent for a personal interview. This representative places a valuation on the property that exceeds the highest expectations of the owner. Pleased with the valuation and especially with the representative's statement that his company "charges a lower commission," the owner is willing to pay an advance listing fee of several hundred dollars for "national advertising" and other rosy promises.

What the owner actually gets is a small ad in the company's own booklet which is mailed helter skelter across the country. That usually takes care of the "national advertising." But as far as any genuine effort to sell the property, there is little or none. A few sales are made—merely by strokes of luck—and the company hires a full-time lawyer to handle the rest of the owners' complaints.

The *Journal* is not so naive as to fail to see good reason for advance listing fees in some cases. **Certain types of properties require retainers. And when special services are needed, certainly such fees are justified. In fact, many legitimate companies work on an advance fee basis.** But we see no reason to condone or ignore a notorious racket of promising property owners something and then delivering nothing. Yet it's going on right under our noses.

The *Journal* has reported many of these cases, warning realtors and property owners alike to be on the lookout and urging action by license law officials. Earlier this year, we reported in this column the case of an individual broker who was charging monthly listing fees on a group of taverns. He charged each one of a dozen tavern owners \$10 a month for listing their property. **And the only service the broker rendered was to take a dummy buyer around to these listed taverns once a month—just to keep the owners "on the hook."** At last report, this broker's license had been revoked—but only after the *Journal* had awakened officials to what was going on in their own bailiwick.

We can no longer ignore this kind of property racketeering. Aside from the moral obligations involved, all real estate people stand to lose face in the eyes of the public.

Getting proof on these illegitimate operators and organizations is no easy job, particularly because they usually manage to stay within the fine line of the law. But we must stop the spread of this malignant growth now by setting the legal wheels in motion. Every violation should be reported to NAREB leaders, license law officials or to the *Journal* so that it can be thoroughly investigated. **Then, if the laws are not strict enough to punish violators, we must put more teeth in those laws. Every one of us is responsible for keeping our industry clean of such rackets.** (Reprinted with permission of *National Real Estate and Building Journal*.)

LEGITIMATE INDUSTRY HURT BY RACKETEERS— STATES COMMISSIONER

I hope you have read the editorial, "Let's Stop This Racket," appearing in the adjoining column. I agree with Bob Fawcett and the *Journal* that there are many real estate brokers who work on an advance fee basis and offer worthwhile services.

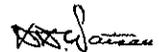
However, it is not difficult to distinguish between the methods of the legitimate brokers and the schemes of the racketeers who solicit advance listing and "advertising" fees and then make no real effort to sell the property. The latter usually offer no accounting and sue the owner for commission if a sale is made, even though they were in no way responsible for it.

These racketeers prey mostly upon the small businessman. Their activities are a fraud upon the public and undermine public confidence in the real estate profession which renders valuable services to those who desire to buy or sell property.

In California, operations of this type have been kept fairly well under control. Several licenses have been revoked where activities of this sort violated our Real Estate Law. However, I believe our law does not go far enough. It should be amended and made more specific, with severe punishment for those who "bilk" the public and bring disrepute to the real estate profession.

I will cooperate wholeheartedly in any movement by the industry in this direction.

I would be glad to hear from you and have your reactions in this respect.



Real Estate Commissioner

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Sacramento, September, 1954

Published Bimonthly by the
DIVISION OF REAL ESTATE

STATE OF CALIFORNIA
GOODWIN J. KNIGHT, Governor

D. D. WATSON
Real Estate Commissioner

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Appeal on Revocation

The real estate broker license of Claire F. Bohn, 7462 Lankershim Blvd., North Hollywood, was revoked on October 19, 1953, and announcement made in the *Bulletin*. On August 18, 1954, the district court of appeal granted Miss Bohn's third application for a stay order against the Commissioner's order of revocation.

In effect, this means that Miss Bohn has been granted a real estate broker license until such time as the court has ruled on her appeal.

Great Activity in New Subdivisions

During July and August, 1954, 514 new subdivisions were filed with the Division of Real Estate, compared with 397 in the same two months last year—an increase of almost 30 per cent.

A record total of subdivisions was registered with the division during the last fiscal year, when filings averaged 212 per month.

DISCIPLINARY ACTION

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 FROM JUNE 20 THROUGH AUGUST 20, 1954

Name	Address	Effective date	Violation
Washington, L. C. dba Washington Realty Co. Real Estate Broker	5309 S. Broadway, Los Angeles ...	6/22/54	Secs. 10137 & 10177 (d), (f)
Sears, Elbert Jerome Real Estate Salesman	5862 S. Normandie Ave., Los Angeles	6/22/54	Sec. 10177 (d), (f)
StLorraine, Nikol Slater Real Estate Salesman	603 W. Seventh St., Los Angeles ..	6/23/54	Sec. 10177 (b), (f)
Robb, Dawson Earl dba Coast Realty Associates Real Estate Broker	1736 Saviers Rd., Oxnard.....	6/25/54	Secs. 10160; 10162; 10164; 10176 (e), (i); 10177 (d), (f) & Sec. 2771 of R. E. Comm. Rules and Regulations
Stonebraker, Ruth W. Real Estate Salesman	5276 W. Olympic Blvd., Los Angeles	6/25/54 (Granted right to restricted license)	Secs. 10130; 10131; 10137 & 10177 (d), (f)
Williams, Lela Mae Real Estate Broker	3991 S. St. Andrews Pl., Los Angeles	7/ 8/54	Secs. 10162; 10164 & Sec. 2771 of R. E. Comm. Rules and Regulations
Bryant, Ernest Thomas Real Estate Broker	852 S. Robertson Blvd., Los Angeles	7/ 8/54	Secs. 10160; 10162; 10176 (e), (i) & 10177 (d), (f)
Kensinger, Clarence Howard Real Estate Broker Business Opportunity Broker	900 Atlantic Ave., Long Beach....	7/ 8/54	Secs. 10160; 10162; 10164; 10177 (f); 10283; 10285; 10287; 10302 (e) & Sec. 2771 of R. E. Comm. Rules and Regulations
Whitby, Harold Lewis Real Estate Salesman	12218 S. Atlantic Blvd., Compton..	7/ 8/54	Secs. 10176 (e), (i) & 10177 (f)
Werner, Anton Joseph Real Estate Broker	7801 14th St., Westminster.....	7/ 8/54	Secs. 10160; 10162; 10164; 10177 (f) & Sec. 2771 of R. E. Comm. Rules and Regulations
Christensen, S. R. dba Piedmont Realty Co. Real Estate Broker	Rm. 58, 600 16th St., Oakland....	7/15/54	Secs. 10160; 10162; 10164; 10177 (f) & Sec. 2771 of R. E. Comm. Rules and Regulations
Richman, Covel Arnett Real Estate Broker	6708 S. Van Ness Ave., Los Angeles	7/16/54	Sec. 10162
Richman, Melba Lillian Real Estate Broker	6708 S. Van Ness Ave., Los Angeles	7/16/54	Secs. 10162 & 10177 (f)
Sierra Title Company John Joseph Touhy, Pres. Real Estate Broker Business Opportunity Broker	Treat Hotel Bldg., San Andreas...	7/19/54	Secs. 10177 (b), (f) & 10302 (b), (e)
Kent, Augusta Talley dba Kent's Realty Co. Real Estate Broker	2505 Adeline St., Oakland.....	7/22/54	Secs. 10160; 10162; 10164; 10176 (a), (i), (e); 10177 (d), (f); Secs. 2771, 2830, 2831 & 2832 of R. E. Comm. Rules and Regulations
Miller, Henry, Jr. Member Miller & Harrigan Real Estate Broker	800 Eighth St., Sacramento.....	7/29/54 (Order stayed for 60 days on terms and conditions)	Secs. 10177 (d), (f); 11000; 11010; 11020; Secs. 2794 & 2795 of R. E. Comm. Rules and Regulations
Benadom, Robert Eugene dba Imperial Realty Real Estate Broker	12218 S. Atlantic Blvd., Compton..	8/ 3/54	Secs. 10176 (a), (e), (i); 10177 (d), (f); Secs. 2830, 2831 & 2832 of R. E. Comm. Rules and Regulations
Hawkins, Lester Business Opportunity Salesman	712 Larkin St., San Francisco.....	8/ 5/54	Sec. 10302 (b), (e)
Coggins, Hayden Philip Real Estate Broker	815 11th Ave., Redwood City....	8/ 9/54 (Granted right to restricted license)	Sec. 10177 (b), (f)
Swital, Lucille A. Real Estate Broker	Castella.....	8/19/54	Secs. 10176 (i) & 10177 (f)
Harder, Henry John Real Estate Broker	1547 S. Cloverdale, Los Angeles...	8/20/54 (Granted right to restricted license)	Sec. 10177 (b), (f)

How Good Are Those Circular Listings You Get? Ability to Collect Commissions on Unsigned Announcements in Doubt

Nearly every broker from time to time receives through the mail a printed or typewritten "offering" of some property or properties for sale. Sometimes these are sent out by the owner of the property, such as a hotel company, owner of a ranch, etc. Usually they give a description of the property and recite the price, terms and often the rate of commission that will be paid.

Do these announcements give the broker any protection in event of a sale and in case he wants to bring suit for a commission? Maybe yes—maybe no. There are so many factors involved that the broker should take the matter to his attorney, before spending time and money as a result of such a circular.

A very interesting appellate court case treats with a situation of this kind. It is reported in 33 Cal.(2) 814.

In this case a hotel company sent out a typed announcement on its letterhead, making a number of carbon copies, which were forwarded to various brokers. One broker apparently went ahead and found a buyer, but was refused a commission on the grounds he did not have a signed authorization as required by law. He did not collect on the sale of the real estate.

The determinations made by the court are rather complicated for the layman, but among other things the court indicated as follows:

The signature required to satisfy the Statute of Frauds need not be

manually affixed, but may in some cases be printed, stamped or typewritten.

The Statute of Frauds is not satisfied unless the name relied on as a signature was placed on the document or adopted by the party to be charged with the intention of authenticating the writing.

Documents delivered by a hotel owner to a broker, some written in his hand and others typewritten, stating the terms under which the hotel would be sold and providing for a broker's commission, did not satisfy the Statute of Frauds where the documents were not signed by the owner and where there was nothing on their face to indicate that he intended to authenticate them.

In this case the fact that the information circularized was on the hotel stationery entered into the matter. The question as to whether or not the letterhead of the hotel indicated the signature of the hotel was considered.

Corporate Securities Law Applies to Merchandising Trust Deeds in Some Cases

In an official opinion, Attorney General Edmund G. Brown specified two types of operations where the dealer in promissory notes secured by trust deeds must be licensed as a broker by the Corporation Commissioner under the Corporate Securities Law and subject to its regulatory provisions.

In one case, certain individuals proposed to solicit clients for funds to be pooled for the purchase of promissory notes secured by deeds of trust. Under the terms of the proposal, the pooled funds were to be placed with a title company under a trust arrangement. For convenience, the title company would take title to the purchased notes and deeds of trust for the benefit of the clients (investors) and the notes would be serviced by a bank.

Trust Deed "Exchange"

Another group proposed to establish a mortgage or trust deed exchange and conduct public auctions for the sale of the lien instruments and notes.

In each of these two cases, the Attorney General held that the negotiating parties would be in violation of the Corporate Securities Law in so operating, unless they secured licenses as brokers to deal in securities. The opinion said that promissory notes secured by mortgages or trust deeds are "securities" within the meaning of the Corporate Securities Law.

For full details, see *opinion of Attorney General Edmund G. Brown, No. 54/82, August 25, 1954, pages 1394 through 1398*. Inquiries as to the application of, or exemptions under, the provisions of the Corporate Securities Law in specific circumstances should be addressed to the appropriate regional office of the Division of Corporations. Offices are located at 110 State Office Building No. 1, Sacramento 14; 243 State Building, San Francisco 2; 800 Mirror Building, Los Angeles 12.

LICENSES SUSPENDED FROM JUNE 20 THROUGH AUGUST 20, 1954

Name	Address	Effective date and term	Violation
Miller, Allen B. Real Estate Broker	1247 E St., San Bernardino	7/ 8/54 30 days	Secs. 10176 (e); 10177 (f); Secs. 2830 & 2832 of R. E. Comm. Rules and Regulations
Ng, Walter Joe Real Estate Broker	365-C Santa Clara Ave., Oakland	7/15/54 30 days	Secs. 10176 (a), (b), (i)
Cuddie, Gerard James Real Estate Salesman	888 Geneva Ave., San Francisco	7/ 1/54 6 months	Secs. 10176 (a), (g), (i) & 10177 (f)
Luring Development Co., Ltd. R. A. Luring, Pres. Real Estate Broker	4000 Eagle Rock Blvd., Los Angeles	7/16/54 120 days (Order stayed for 2 years on terms and conditions)	Secs. 10176 (e); 10177 (f); Secs. 2830 & 2832 of R. E. Comm. Rules and Regulations
Rhodes, Carl Real Estate Broker	1382 Hearst, Berkeley	7/21/54 10 days	Secs. 10176 (a), (i) & 10177 (f)
Mitchell, Edward Jack dba Del Monte Real Estate Co. Real Estate Broker	2107 Fremont Ext., Monterey	7/28/54 180 days	Secs. 10176 (e), (i) & 10177 (d), (f)

SUBDIVISION STOP ORDERS ISSUED

El Camino Village	Vallejo	7/21/54	Secs. 11012; 11013; 11019 & 11020
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Widened Sales Opportunities In VA Home Loans

VA Guaranty Officer Advises Brokers on Best Use of GI Loans in Resales; Advantages Told in California Real Estate Association Magazine Article

The Veterans Administration Loan Guaranty Program is again offering real help to the veteran interested in purchasing a "used" home when the broker is fully aware of the present potentialities of the program, said Arnold A. Wilken, VA Loan Guaranty Officer, Los Angeles Veterans Administration Regional Office, in an article appearing in a recent issue of the *California Real Estate Association Magazine*. Also present conditions offer the broker a powerful merchandising aid when negotiating "resales" to qualified veterans, stated the federal official.

Mr. Wilken traced the history of the GI Home Loan Program, and said that, for the past five years or more, real estate men have pretty much relinquished the favorable lending resources of the program to the builder. **However, he said the picture has changed in recent months, and present conditions justify the average broker, who sells used homes, in taking a new look at the possibilities offered by the GI program in effecting individual sales.**

He stated the general real estate fraternity now has an opportunity to make sales helped by the GI Loan Guaranty Program for the following reasons: "(1) The interest rate on the GI loan has been increased from 4 percent to 4½ percent; (2) the money market generally has eased at the same time so that the relative attractiveness of the GI loan for institutional investment by the eastern secondary market is increasing; (3) loan funds of California banks, savings and loan associations, insurance companies, and others, are starting to pile up, producing for the first time since 1949-50 a pressure on local money to seek GI loan investments; and (4) the law and the VA regulations have been amended to permit an originator of a GI loan to sell that loan to a secondary investor at a prescribed discount—and pass that discount on to the seller of the property."

As to the mechanics of the loan on the individual used house, Mr. Wilken said the first point to remember is that the originator of the loan may charge the veteran purchaser a fee of 1 percent in lieu of various loan closing charges customarily itemized. The

original lender may not charge the borrower or the seller any additional fee, but he may sell the loan after it is made at any prescribed discount. This discount may be passed to the seller; that is, charged to him, but never to the veteran purchaser. If the proper arrangements are made, Mr. Wilken said, the GI loan may be used favorably by all parties concerned.

Mr. Wilken said that VA officials are being swamped with requests for appraisals of existing properties and he attributes this deluge to the fact that many brokers are becoming aware of the full possibilities of the VA loan program.

In the CREA magazine article, he went on to suggest the following steps for each broker who is interested in making the GI home loan a maximum tool in his merchandising program. "(1) *Get your machinery perfected, i.e., locate and complete your arrangements with the firm that will handle the details of originating and selling these loans—(but remember that this firm will not receive from your seller or your buyer any fee or compensation other than the 1 percent it is permitted to charge the buyer)*; have a firm agreement as to the price at which the loans are to be sold—and the terms of the loan. GI loans may be made for as long as 30 years and for the full amount of the purchase price. The discount which the investor sets on such loans varies according to the terms. For example, your arrangement might be to have the investment institution buy these loans, when made on the basis of such terms as 5 percent down, plus loan closing costs, payable in 25 years, and carrying the maximum guarantee (which is \$7,500 or 60 percent of the amount of the loan, whichever is less), for a price of 98 percent.

(Cont. on Page 158, Col. 1)

State Real Estate Meeting Scheduled for San Francisco

The 50th (Golden Anniversary) convention of the California Real Estate Association will be held in San Francisco October 10th-14th. Convention officials have promised an inspiring and worth-while program touching on all phases of present-day real estate practice, with emphasis on money-making ideas. One of the best attended conventions in the history of the association is anticipated.

Governor Goodwin J. Knight is slated to speak at the "Highlight Luncheon" on October 12th. Other speakers of national prominence will address full sessions of the convention. Among them are Dr. Allen Stockdale, the convention keynoter, who will be heard for the first time on the coast. Others include Dr. Kenneth McFarland; Mr. James C. Downs, Jr., whose analyses of real estate trends are familiar to many students of the subject; Mr. Herbert U. Nelson, Executive Officer of the National Association of Real Estate Boards; Hon. Harold J. Powers, California's Lieutenant Governor; Mr. Charles B. Shattuck, Past President of the National Association of Real Estate Boards, and former member of the California State Real Estate Board; Mr. Herbert L. Breed, General Counsel of CREA; Dean E. T. Grether, industrial and business administration expert, University of California.

According to John J. Garland, chairman of the convention program committee, the speakers have been selected not only for their inspirational qualities but for their ability to impart information on the "bread and butter" phases of the real estate business as related to today's conditions.

Aside from the general sessions, there will be a series of round-table discussions and conferences led by specialists in all real estate fields. There will be conference groups on education, general brokerage, advertising, appraisals, mortgage loans, multiple listings, exchanges, office management, salesman supervision, farmlands, industrial development, public relations, etc.

Federal and State Laws Ban False Loan Information

A prominent title and escrow company official reminds that it is a Federal offense to be a *party to an application* for a FHA or VA insured loan wherein the assets of the applicant, source of down payment or other information in relation to his financial condition are falsified. Infractions in these respects occur most frequently in connection with secondary financing, "under the table" payments or the making of personal notes, the existence of which are not disclosed in the application.

Carrying this caution a bit farther, it is noteworthy that Sections 532-3-4 of the California Penal Code define several types of offenses of the same nature, punishable by law in this State. **Among them are the making of false statements regarding the assets of a person in order to obtain credit in money or in property, falsely representing oneself as a veteran or ex-serviceman, selling land twice, and so forth.** These sections of the Penal Code are concerned one way or another with prohibiting the obtaining of money or credit for the purchase of real estate through false representations.

It should also be pointed out that conviction on a charge involving moral turpitude, such as swearing falsely to information in an application for a loan, can be the basis of disciplinary action by the Real Estate Commissioner against a licensee. (See case of *Ivan P. Andes v. D. D. Watson*, No. 627426 Los Angeles Superior Court.)

California Veteran Population Goes Up

War veterans living in California as of June 30, 1954, numbered 1,726,000, according to the latest estimate made by the Veterans Administration. This is an increase of 96,000 over the figure reported six months previously.

VA's revised estimate of the number of veterans residing in this State still falls short by 349,000 of the estimate made by the California Department of Veterans Affairs.

Award of Deposit After Escrow Is Canceled

Purchaser May Recover Deposit If No Damage Shown, Court Holds in Key Case

When a purchaser, after executing a binding escrow agreement, repudiates such agreement and demands a refund of his deposit, it is likely that the portion in excess of the actual damages suffered by the seller may have to be returned to the defaulting vendee.

In a matter decided by the Supreme Court of this State in April, 1951, the plaintiff agreed to purchase certain real property for \$18,000. He deposited \$2,000 pursuant to his agreement and signed escrow instructions. After plaintiff-purchaser repudiated his contract, the defendant-seller sold the property to another for \$20,000. When the plaintiff brought suit on the contract for specific performance it was held that the plaintiff, having repudiated his agreement, was not entitled to specific performance, but was entitled to the return of his \$2,000 deposit, less any damages which the defendant-seller had suffered as a result of the sale.

The Supreme Court held that if the defendant were allowed to keep the deposit in excess of his expenses of sale, he would be enriched and the plaintiff would suffer a penalty in excess of the damage caused.

While recognizing that if recovery was based on Civil Code Section 3275, wilfulness would preclude recovery, the court stated that there is a right of recovery in the defaulting vendee independent of Section 3275 of the Civil Code based on the policy against punitive damages. Accordingly, the court ruled that since punitive damages are not allowed in actions on contracts and since this forfeiture could not be enforced as a liquidated damages clause, the plaintiff was entitled to the return of his deposit, less defendant's expenses of sale and any other damages that were due.

In effect the court in this case held that notwithstanding the provisions of Section 3275 of the Civil Code, a vendee, who wilfully breaches a contract to purchase real estate, may be entitled to return of that portion of his deposit in excess of the vendor's actual damages. (See May, 1954, *Bulletin*, page 142, "Reason for Canceling Escrow Must Be Good.")

Case is reported in 37 Cal. (2d) 16.

Brokers Working as Salesmen Subject to Unemployment Act

(This article is printed at the request of the State Department of Employment.)

Effective July 1, 1954, real estate, business opportunity, mineral, oil and gas, and cemetery brokers who perform services for another broker are not exempt under the California Unemployment Insurance Code.

As of September 22, 1951, licensed real estate salesmen were excluded by law. The Department of Employment interpreted the exemption as applicable to salesmen and brokers alike, where the broker performed services for another broker and was remunerated solely by way of commission. Effective September 9, 1953, the exclusion was extended by law to business opportunity, mineral, oil and gas, and cemetery salesmen. By departmental interpretation, the exemption was also applied to brokers in the enumerated categories.

The California Unemployment Insurance Appeals Board, in Regulation Decision No. 20, held that the exclusion is applicable solely as to licensed salesmen. Licensed brokers are not excluded, even though they perform services as salesmen.

Effective July 1, 1954, therefore, the status of licensed brokers for Unemployment Insurance purposes, will be determined solely by application of the usual common-law tests of an employer-employee relationship. If the broker is an employee, his earnings (up to \$3,000 in a calendar year) must be reported to the Department of Employment and the contributions due thereon paid.

For interpretation in any specific case, contact the local office of the State Department of Employment.

County Not Liable for Damages Before Streets Accepted Motorist Who Was Injured Due to Hole in Street Fails to Collect in Suit

Who is responsible for an accident caused by defective streets in a new subdivision after the streets have been accepted for dedication, but before the subdivider's contractor has finished the work?

A suit was brought against Kern County by a woman injured in an automobile accident due to a hole in one of these new streets which could not be detected as it was filled with water. The superior court, in which the case was tried, found that the county was not responsible. The appellate court, upon reviewing the case, agreed with the superior court.

A section of the Subdivision Map Act provides that acceptance of a street in a new subdivision in county territory remains conditional until the work itself has been completed and accepted as being in accordance with the standards established by the governing body. This section of the law may not reasonably be interpreted to mean that the condition was met and the acceptance complete when the subdivider agreed to do the work.

There is a distinction between a "dedication" and an "acceptance" of streets, according to the law, and while the dedication may be said to be complete when it is accepted by the governing board, the doing of the work is a condition precedent to ac-

ceptance of the streets. It was pointed out that the board of supervisors in approving the subdivision map and ordering it to be recorded, had no authority at that time to accept the streets shown on the map other than conditionally.

The court held that the county was not liable for personal injuries sustained by a motorist when her automobile struck a depression in a street in a new subdivision in county territory where the street work had not been accepted by the board of supervisors until some two months after the accident occurred.

(Case reported in 118 C.A.(2) 139.)

Reveal Nature of Deposit Failure to Advise Seller That Note Or Check Is Taken May Cause Trouble

Do you put your seller on notice as to the nature of the deposit you have received when you request him to accept an offer?

If you do not, you may be subjected to some embarrassment, financial loss, and possible loss or suspension of your license. This is exactly what happened to a broker in the northern part of the State.

In this case, the purchaser represented to the broker that he had plenty of money in the bank to cover a \$1,000 deposit which was requested to accompany the offer, but that it was not in a checking account. As it was after bank closing time, he agreed to give a promissory note for \$1,000 in connection with the offer. The broker failed to inform his principal as to the nature of the deposit he had received, and the latter assumed the broker had the money.

It turned out that the buyer defaulted and refused to go through with the deal. In the meantime, the seller had to turn down other offers feeling he had a sound deal. Because the broker violated his duty to disclose material facts to his principal, the Real Estate Commissioner took action and suspended his license, and was upheld by the appellate court. (95 C. A. 2d 862.)

Brokers interested in the GI home loan process were further advised: First, to get appraisals before starting to sell; second, to stipulate clearly in deposit receipts or escrow agreements that the veteran buyer's deposit will be refunded if for any reason he is unable to obtain a GI loan; third, to make everyone concerned clearly understand that no part of the discount on the sale of the GI loan can be passed on to the veteran purchaser in any way (seller agrees to absorb this); and, fourth, to get good, legitimate listings and show the bedrock price the seller is willing to accept for a quick sale and all cash.

(For further information, contact a Veterans Administration Regional Office.)

VA Home Loans Offer Sales Opportunities

(Cont. from Page 156, Col. 2)

"(2) Arrange with your seller that he will agree:

(a) To pay for a GI appraisal. This will cost him between \$20 to \$25. He signs the request for appraisal, VA Form 4-1805, but he can state in it that the appraiser is to contact you, the broker, for payment of the appraisal fees and for gaining access to the property.

(b) To pay the discount. You will have arranged for the discount on the GI loan when made through your originating lender. Your seller should be made to understand that VA will not increase reasonable value to compensate him for this discount. It is strictly his cost.

"(3) Now order the appraisal. This you do by sending to Veterans Administration the Request for Appraisal, VA Form 4-1805, which your seller executed. This is to be mailed to the appropriate Loan Guaranty Division of the Veterans Administration. Be sure you have put on this form your

name, address and phone number, so that the appraiser may contact you for his fee and make arrangements to inspect the property.

"(4) When you receive your Certificate of Reasonable Value, VA Form 4-1843, from the Veterans Administration, you will know the upper limit of the price your seller can charge for the property, if it is to be financed with a GI loan. At this point "firm" your listing with your seller so that you are in a position to advertise for a veteran purchaser.

"(5) As soon as you produce a buyer who appears to have acceptable credit standing, you are in a position to take him into escrow and furnish your originating lender with required documents and information. Once you get your machinery perfected and have handled two or three of these transactions, you will find that the pieces fall into place pretty readily, and once again you will be 'in business' under the GI loan program."

Mail License Applications Direct to Sacramento Office

Applications for broker or salesman license, if mailed, should be sent directly to the division's Sacramento office, 1021 O Street, Sacramento, for faster action. Applications mailed to one of the division's branch offices must be remailed to the Sacramento office with consequent delay in final processing and examination.

Of course the broker who is sponsoring an applicant for original real estate salesman license will remember **that the applicant's license will not be issued, even though he is successful in passing his examination, until such time as the applicant's fingerprints have been recorded with the Division of Real Estate and the necessary checking and investigation completed.**

It is to the advantage of the applicant who wants early issuance of his license to appear at a division office and have his fingerprints taken. The applicant can have this done at the same time he presents his application.

However, the division will accept fingerprints taken by local law enforcement officials when the fingerprint card is properly verified. Fingerprints thus taken should be forwarded to the division's office at Sacramento, preferably with the application itself.

Whitelock Made Member of HHFA National Credit Group

Frank L. Whitelock of San Bernardino, member of the State Real Estate Board appointed by the Governor, was given new honors this past month. Mr. Whitelock was appointed member of the newly-created National Voluntary Mortgage Credit Extension Committee. The appointment was announced from Washington, D. C., by Albert Cole, Housing and Home Finance Agency head.

The committee, set up in the Housing Act of 1954, is charged with facilitating the flow of funds for residential mortgage loans into areas or communities where there may be a shortage of local capital for housing loans.

Accounts of Cases Where Licenses Lost

Bulletin readers have evidenced considerable interest in the series of case histories of lost licenses appearing in this publication. Below are more brief accounts of conduct on the part of licensees which has resulted in disciplinary action by the Commissioner.

Subdivider Did Not Keep Commissioner Posted

A broker respondent had secured a subdivision public report on a subdivision he owned. In filing his questionnaire he made known the existence of certain trust deeds. Subsequent to the issuance of the Commissioner's report he executed additional trust deeds, failing to notify the Commissioner of the material change. The trust deeds did not contain proper release clauses as required by law. At the same time he permitted mechanics' liens to be levied against the property. The Commissioner had further relied upon the broker's representations as to the existence of a water company. The water company was found to be inadequate. Because of the above conditions, sales made were found to be fraudulent and revocation followed.

Broker's Wife Worked Without License

A real estate and business opportunity broker operated a rental office in conjunction with his regular business. His wife was employed in the office and negotiated with clients for the rental of properties. The wife was not licensed. The broker not only lost his license but suffered a criminal conviction, which, in effect, made him a principal with his wife in operating without a license, despite the fact that he was a real estate licensee.

Can't Sell Without Subdivision Report

Owner and subdivider entered into an offer to purchase and sell agreement without delivering to purchasers copies of the preliminary subdivision report. He also entered into binding contracts to sell certain lots prior to the issuance of the Commissioner's final subdivision report. This was sufficient for a suspension.

Broker Pocketed Fake Bonus Payment

Respondent was employed to negotiate a loan in order to enable his client to purchase some real property. He advised his client that the lender would require a bonus payment. The client relied upon this representation and agreed to make the payment. A commission order was set up including the alleged bonus payment. About a year later the client learned that the lender had never required any bonus payment. License of broker was revoked.

Must Reveal All Offers

Broker who had a listing on property, received a written offer to purchase with a deposit. Prior to the time that he submitted this offer to the sellers, an associate broker within the office received a higher offer. The listing broker did not reveal to the sellers the existence of the higher offer. Failure to communicate material fact to his principal resulted in revocation.

Cash Outside Escrow Just a Myth

In the sale of a residence property a broker set up two escrows, one for the sale and the other for the purpose of obtaining funds on a second trust deed. The escrow instructions indicated that a considerable sum of cash had been paid outside of escrow. The lender on the second trust deed, relied upon these representations in extending the loan. He had no knowledge that the purchasers had not paid the amount of cash indicated. This was held to be a material fact, failure to disclose the same constituting dishonest conduct. The license was revoked.

Open and Shut

Respondent operated a rental business. He was in business for a short time and then closed his offices. A number of people were unable to receive either refunds or service. Revocation followed.

Attempts to Make Trouble And Finds It Instead

Broker attempted to sell property without a written authorization but with tacit consent of the owners. He incurred some expense in attempting to negotiate the sale. The sale, however, was not made. Shortly thereafter the owner sold the property to someone else. The broker then recorded a document purporting to be an interest in the property. The sellers had to file a quiet title action before the broker quit-claimed his interest and removed the cloud on the title. The license was revoked.

Trust Fund Looted

Broker in a series of transactions received substantial sums of money as deposits or otherwise and placed these moneys in a bank account labeled "Real Estate Trust Fund." However, withdrawals were made from the trust fund and the moneys diverted to the broker's own use rather than going into escrows. Real estate and business opportunity broker licenses revoked.

**DIRECTORY OF LICENSEES
PLACE YOUR ORDER NOW**

The 1954-55 Directory of Licensed Brokers and Salesmen is now being compiled. **This publication will be available to all brokers who order it before October 31, 1954.**

The directory costs the licensed broker \$1.03 (includes sales tax). To anyone not a licensed broker, the price is \$3.61 (includes sales tax). Send your order with remittance direct to Division of Real Estate, 1021 O Street, Sacramento.

If additional copies are wanted for branch offices, the regular price, \$3.50 plus sales tax, must be charged in accordance with the law. However, if an individual is licensed both as a business opportunity and as a real estate broker, he is entitled to order two copies at the lower price.

Each directory costs more to print than it sells for to brokers. Brokers are charged a nominal price for the directory, so that it will not be ordered unless there is a genuine use for it.

Large Number Take Exams in August

During August the division gave 1,941 examinations, of which 1,655 were for regular and limited real estate salesman licenses. The number of examinations given in August exceeded the figure for any single month since May, 1953, and is unusually high for a fall month. Of the persons taking the regular real estate salesman license examination, 1,002 passed and 572 failed their tests.

**Job Openings for State
Lands Purchasing Officers**

Two state park lands purchasing officers will be appointed by the State Division of Beaches and Parks in Los Angeles following a civil service examination December 4th.

Applications will be accepted by the State Personnel Board until November 12, 1954. The jobs start at \$481 per month with yearly increases to a maximum of \$584.

To qualify for examination, applicants should have at least four years' experience in the appraisal of real property or the acquisition of land, improvements, or rights of way for public use. College graduation (or in lieu additional experience) is also required.

Further information and official application forms may be obtained from the State Personnel Board offices in Sacramento, San Francisco and Los Angeles and from all offices of the Department of Employment.

**Real Estate Convention
License Law Officials Will Also Meet**

Cleveland, Ohio, will be the scene of the convention of the National Association of Real Estate Boards set for November 6th-11th. Last year the national convention was held in Los Angeles.

The National Association of License Law Officials, of which Commissioner D. D. Watson is First Vice President, will convene just prior to the NAREB meeting, allowing participation in matters of joint interest.

**LICENSE APPLICANTS'
NAMES ARE POSTED
PUBLICLY**

The names of all applicants for original licenses issued by the Division of Real Estate are now listed for inspection by any interested parties at each of the division's offices. The lists are prepared daily in the Sacramento office and distributed to each of the branch offices for posting in the lobby.

The names are not segregated by areas within the State. For example, the list appearing in the Los Angeles office will show the names of *all* applicants for original licenses, no matter where located in the State, whose applications were processed in the Sacramento office on the day indicated.

Licensees and any others interested may inspect these lists during regular office hours.

**Choice Commercial Property
To Be Sold by State**

Located at the southwest corner of Ninth and L Streets in downtown Sacramento, an 80 x 160 foot lot will soon be sold by the State of California. The parcel is presently improved with a two-story, modern type garage building in good condition—capacity 130 cars.

For information as to terms and conditions of proposed sale and final date by which offers must be submitted, write Department of Finance, Room 5113, State Capitol, Sacramento, or phone GI lbert 2-4711, Ext. 2725.

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