

# REAL ESTATE BULLETIN

Official Publication of the California Division of Real Estate

GOODWIN J. KNIGHT, Governor

Sacramento, September 1957

F. W. GRIESINGER, Commissioner

## Dealer in Real Estate Securities

### Attorney General Rules License Is Necessary Even Though Own Money Is Used

Does an individual doing business as a mortgage loan company buying second deeds of trust at a discount and reselling them to a purchaser at a markup require a real estate broker license?

The answer is "yes," according to the Attorney General, who recently gave an opinion that the individual in this case clearly comes within the definition of a real estate broker as set forth in Section 10131.1 of the Business and Professions Code.

Since 1955, a person selling real estate securities has been exempt from the operation of the Corporate Securities Act; that is, he does not need a security broker's license. But he is required to have a real estate broker license in the cited case because of the "compensation" he gains in discounting the deeds of trust purchased and in selling them at a markup. The fact that he uses his own money in this operation is not important, as it is the compensation he receives that classifies him as a real estate broker. "Compensation," a court has stated, can be a gain received from the occupation in which one is engaged, or the work done, or a fair remuneration for services performed.

The Attorney General concluded that the 1955 Legislature intended to reclassify promissory notes secured by real estate and those dealing in such securities and exempt them from the Corporate Securities Act and transfer them to the jurisdiction of the Real Estate Commissioner, subject to the statutes governing real estate agents.

### When Note Is Assigned Directly

A further question was presented to the Attorney General as to whether the mortgage loan company is to be considered operating as a real estate broker when it buys real estate securities and transfers them directly to a purchaser without passing the securities through the company for endorsement or assignment to the purchaser.

In commenting on this question, the Attorney General thought it was doubtful that a company would be so benevolent as to complete a transaction without receiving compensation. **In such a transaction, the company negotiates for the purchase, sale and transfer of the real estate securities and a real estate broker license is required.**

### New License Needed When Partnership Is Formed, Terminated or Changed

When a new partnership is formed for the purpose of operating as a real estate broker, each of the partners who is to participate in the brokerage activities of the firm must be licensed as a real estate broker and each pays a \$50 fee for his license as a representative of the partnership. Now, according to the Attorney General, any change in the membership of the partnership—a member leaves it or a member is added—requires a new partnership license, with each of the brokers constituting its membership paying a \$50 fee.

In an opinion on the subject requested by the commissioner, the Attorney General said:

"A partnership is not considered an entity but an association of individuals

(Cont. on Page 317, Col. 2)

### SUPPLEMENT TO REFERENCE BOOK CAN NOW BE ORDERED

Designed primarily as an aid to those persons preparing for their final four-year license examination, a *Supplement* to the 1956 *Reference Book* is now available.

The 158-page publication contains study material which, together with the 1956 *Reference Book*, will cover areas included in the final examination. Following the various subjects are lists of questions included as an additional guide to those preparing for the examination.

### Cost of Publication

The *Supplement* to the *Reference Book* costs \$1.04 (including sales tax). The 1956 *Reference Book*, which is the latest edition printed, costs \$2.08 (including sales tax). Send your order with check or money order (PLEASE, NO CASH) direct to Division of Real Estate, 1021 O Street, Sacramento. On Page 319 of this *Bulletin*, there is a blank order form that may be used to order the *Supplement* and/or the 1956 *Reference Book*.

### Value to All Licensees

Many licensees may wish to add the *Supplement* to their reference libraries inasmuch as it contains detailed discussions on many subjects of interest to practicing brokers and salesmen. Some of the fields covered in the *Supplement* are: valuation (appraisal methods), finance (sources and procedures), income taxation, land development, escrows and public control.

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Sacramento, September 1957

Published Bimonthly by the  
**DIVISION OF REAL ESTATE**  
 STATE OF CALIFORNIA  
 GOODWIN J. KNIGHT, Governor  
 F. W. GRIESINGER  
 Real Estate Commissioner

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**DISCIPLINARY ACTION—JUNE, 1957, AND JULY, 1957**

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 JUNE, 1957, AND JULY, 1957**

Name	Address	Effective date	Violation
Corlett, Ellen Jane* Real Estate Salesman	Box 104, La Quinta	6/ 8/57	Secs. 10130, 10131, 10132, 10137, 10176 (i) & 10177 (f)
Canney, Maurice James* Real Estate Broker	4819 E. Slauson Ave., Maywood	6/11/57	Secs. 10176 (a), (i) & 10177 (f)
McIntire, Kenneth Williams* Real Estate Broker	8025 Gardendale, Downey	6/11/57	Secs. 10176 (a), (i) & 10177 (f)
Inactive Real Estate Salesman			
Cooper, Margaret Mary Limited Real Estate Salesman	60 Orinda Highway, Orinda	6/12/57	Sec. 10177 (a), (b) & (f)
Wenmouth, Thomas Elmer Real Estate Broker	3239 Mission St., San Francisco	6/13/57	Secs. 10176 (c), (i) & 10177 (f)
Culley, William Walter Restricted Real Estate Salesman	1425 23d Ave., Oakland	6/17/57	Secs. 10156.5, 10156.6, 10156.7 & 10177 (f)
Sneed, Lola Alice dba Magi Realty Restricted Real Estate Broker	4532 Market St., Oakland	6/17/57	Secs. 10156.5, 10156.6, 10156.7, 10176 (e), (i); 10177 (d), (f) & Secs. 2830 & 2832 of R. E. Comm. Rules and Regulations
Stromberg, Martin Gregory Real Estate Broker	5645 Carlos Ave., Richmond	6/17/57	Sec. 10177 (b) & (f)
Inactive Real Estate Salesman			
Moore, A. Leslie Real Estate Broker	3650 S. Western Ave., Los Angeles	6/20/57	Sec. 10177 (b) & (f)
Howard, Michael James, Jr. Real Estate Broker	7151 W. Beverly Blvd., Los Angeles	6/20/57	Secs. 10176 (a), (i) & 10177 (f)
Larson, Max E. Real Estate Salesman	620 H St., Sacramento	6/24/57	Sec. 10177 (b) & (f)
Black, William Conant, Jr. Real Estate Broker	458 N. Robertson, Los Angeles	6/26/57	Sec. 10177 (b) & (f)
Bailey, Horace G.* dba Bill Bailey Real Estate Broker	Rm. 314, 521 B St., San Diego	7/ 3/57	Secs. 10176 (i), 10177 (f), 10177.5, 10302 (c) & 10302.5
Business Opportunity Broker			
Marshall, John David Real Estate Broker	929 Spring St., Anaheim	7/25/57	Secs. 10176 (e), (i); 10177 (d), (f) & Secs. 2830, 2831 & 2832 of R. E. Comm. Rules and Regulations
Crosby, Clarice Ruth Real Estate Salesman	2016 S. Main St., Santa Ana	7/27/57	Secs. 10177.6 & 10302.6
Business Opportunity Salesman			
Weiss, William Carl Real Estate Broker	Cambria Pines, Cambria	7/27/57	Secs. 10176 (d), (g), (i) & 10177 (f)

\* Order subject to modification upon compliance with terms and conditions.

**North Carolina Joins Other Licensing States**

Both houses of the North Carolina State Legislature recently voted overwhelmingly to add a real estate license law to the state's statutes.

Copied after a national model license law, the statute provides for a five-member commission. Both brokers and salesmen will have to pass an examination and submit satisfactory proof of character in order to be licensed. The new measure went into effect July 1, 1957.

The enactment of the North Carolina license law leaves only two states—Massachusetts and Rhode Island—off the list of states with real estate license laws.

**LICENSES SUSPENDED DURING JUNE, 1957, AND JULY, 1957**

Name	Address	Effective date and term	Violation
Estrin, Milton M. dba Rem Realty Company Real Estate Broker	2168 Market St., San Francisco	6/18/57 6 months	Secs. 10176 (a), (b), (i) & 10177 (f)
Schiller, Paul Real Estate Salesman	1322 El Camino Real, Redwood City	6/18/57 10 days	Secs. 10176 (a), (i) & 10177 (f)
Simons, Charles Sherl dba Farm Hill Realty Real Estate Broker	1322 El Camino Real, Redwood City	6/18/57 10 days	Secs. 10176 (a), (i) & 10177 (f)
Perry, Cora Rebecca dba Cora R. Branum Real Estate Broker	1934 W. Florence Ave., Los Angeles	6/20/57 60 days	Secs. 10137, 10176 (a), (d), (i); 10177 (d) & (f)
Biery, George Monroe Real Estate Salesman	244 N. L St., Livermore	6/24/57 60 days	Secs. 10176 (g), (i) & 10177 (f)
Harabadian, Perry Real Estate Salesman	1068 W. First St., Box 1021, Livermore	6/24/57 60 days	Secs. 10176 (g), (i) & 10177 (f)
Palmer, Stephen George Member of Wilson & Palmer Realty	1068 W. First St., Box 1021, Livermore	6/24/57 60 days	Secs. 10176 (g), (i) & 10177 (f)
Wilson, Albert LeRoy Real Estate Broker	1068 W. First St., Box 1021, Livermore	6/24/57 60 days	Secs. 10176 (g), (i); 10177 (f) & 10302 (c)
Business Opportunity Broker			

# Importance of Properly Drawn Contracts

## Broker Denied Commission When Court Compares "Listing" and Deposit Receipt

Most active brokers and salesmen have probably experienced the frustration of working hard on a deal and building it to a point where it seems ready for consummation only to have it collapse for some reason beyond control of the negotiator.

Consider then the case of a broker who has a deposit on an offer which seems to meet the terms of the listing and then finds his commission which would have amounted to \$3,825 "gone with the wind," because the "contracts" he has drawn are ineffective. Here, briefly, is the unhappy story.

The owner of a trailer park signed a listing authorizing a broker to sell it for a price of \$76,500 with a down payment of \$15,000. Some 10 days after the original listing was signed, a new "owner's statement" setting forth new terms under which the owner would dispose of her property was prepared and signed. In the latter instrument the price remained at \$76,500, but other terms were changed, and the body of the new "authorization" said in part:

"I agree to the following \$6,000.00 Cash. . . . Price to be the same as previous listing. . . ."

There was no mention of a policy of title insurance and no reference to an escrow in the "owner's statement."

Shortly thereafter the broker procured a written offer entered on a deposit receipt signed by the broker and prospective buyers which acknowledged payment of \$600 as a deposit on account of the purchase price (\$76,500) and which contained the clause: "Balance of (\$5400) Fifty-four hundred dollars to be deposited in

escrow 30 days from date, rents to be prorated outside of escrow, possession when deal comes out of escrow."

The other terms incorporated in the deposit receipt met the owner's authorization except that the printed portions called for a policy of title insurance, a return of the deposit in event of failure of sellers to perfect title within a reasonable time, and the further clause reading: "Seventh—Place of escrow....." It also provided "that the property is sold subject to the approval of the owner." When this offer was presented to the owner, she refused to sign it nor would she sign escrow instructions based upon it.

### Claim for Commission

The broker brought a court action to recover commission, which was denied. The denial was later affirmed in appellate court.

**The trial court held that the deposit receipt with its provision of cash payment of \$600 and deposit of \$5,400 in escrow (instead of \$6,000 in cash), amounted to a rejection of the owner's terms and the making of a new proposal which the owner could decline without liability for commission, "as the broker had failed to perform."**

(Cont. on Page 317, Col. 1)

## DISCIPLINARY ACTION

Beginning with this *Bulletin*, a short description of a recent disciplinary case will be printed in each issue. Many requests have been received by the commissioner for an explanation in the *Bulletin* of typical violations and the section of law violated.

### Recent Revocation

In the following case, the commissioner revoked the license for a violation of Section 10177(f) of the Business and Professions Code (where the licensee "acted or conducted himself in a manner which would have warranted the denial of his application for a real estate license").

### Facts Cited

The individual was a former real estate broker who was currently operating under a restricted salesman license as a result of a formal hearing. His employing broker also operated a good-sized insurance business. The salesman possessed an insurance agent's license and followed leads on insurance business given to him by the broker.

An insurance premium of \$60 was received by the salesman in the process of negotiating a real estate transaction. The premium was deposited with a local title company. Later, without the knowledge or consent of any of the principals, and after the insurance policy had been written, he went to the title company and withdrew the \$60 premium, which he spent on a trip.

No criminal action was taken, but the insurance agent's license was revoked. While the handling of insurance premiums is not an act which requires a real estate license, his conduct in this transaction warranted a formal hearing.

As a result of the hearing, his restricted salesman license was revoked based on Section 10177(f) of the Business and Professions Code.

## DISCIPLINARY ACTION—Continued

Wilson & Palmer Realty	1068 W. First St., Box 1021, Livermore	6/24/57 60 days	Secs. 10176 (g), (i) & 10177 (f)
Albert LeRoy Wilson—member			
Connert, John Robert	520 Van Ness Ave., San Francisco	6/28/57 30 days	Secs. 10177 (f); 10301 (a), (i) & 10302 (e)
Real Estate Broker			
Business Opportunity Broker			
Plant, Thomas Oliver	1197 A St., Hayward	6/28/57 90 days	Secs. 10176 (e), (i); 10177 (f) & 10302 (e)
dba Tom Plant Realty			
Real Estate Broker			
Business Opportunity Broker			
D'Artois, Beatrice Phillips	324 S. Creseent Dr., Beverly Hills	7/ 3/57 60 days	Sec. 10177 (f)
Real Estate Salesman			
Clifford, Calvin Henry Edward	4800 Melrose Ave., Los Angeles	7/ 3/57 60 days	Secs. 10301 (a), (b); 10302 (c) & 10177 (f)
Real Estate Broker			
Business Opportunity Broker			
Armstrong, George Albert	2415 19th Ave., San Francisco	7/16/57 180 days	Secs. 10177 (d), (f) & 11020
Real Estate Broker			

## Commissioner's Forum

It is the commissioner's policy that all requests for information about the operation of the California Real Estate Law be answered individually. However, if you feel you have a question of general interest, please send it in, specifying that you would like to see the question and answer in the Forum.

Here are questions recently received on a variety of subjects with their answers.

*Q. My salesman quit yesterday and wants to take his salesman's license with him. Should I give it to him?*

A. You should immediately return the real estate salesman license to the commissioner for cancellation. Upon receipt of application and payment of fee for reinstatement of his license, he can reinstate his license at any time during the period for which the license was issued.

*Q. Six weeks ago I discharged one of my salesmen for continually misrepresenting to my clients. I don't wish to "tattle" on him but want to do the right thing.*

A. For the protection of the public and other employers and in compliance with Section 10178 of the California Real Estate Law, you should immediately file a certified statement of the facts with the commissioner. Investigation will disclose whether or not disciplinary action will be taken against the salesman's license.

*Q. How many times may a real estate salesman take the second examination, fail, take the first one over again and continue in business? Is there any limit to the times he may do this?*

A. When an original real estate salesman fails the required additional examination for renewable license under two successive original licenses, he may not apply for another salesman license unless at least one year has elapsed since the expiration date of the last license.

*Q. How many parcels in a subdivision can be sold prior to receiving the public report?*

A. No parcels in a subdivision can be sold, leased, or offered for sale until the commissioner has issued a public report.

*Q. I have a letter from Sacramento stating that my renewed license was mailed the first of the month. As yet, I have not received it. Will the Sacramento office issue a new one?*

A. Yes, upon remitting a fee of \$1 for a duplicate license.

*Q. Does California have any reciprocal agreements as to licenses with other states or vice versa?*

A. California has no reciprocal licensing agreements with other states, nor does any other state honor a California broker's license for operation within its borders. However, practically all states allow their licensed brokers to split commissions with brokers of other states.

*Q. If I have a four-year salesman license and then get a renewable broker license before the four-year period has run on the salesman license, do I get a credit or refund on the fee?*

A. The law specifically bans refund of license fees in whole or in part once they are paid. Once a fee is paid for a particular type of license, it cannot be applied to another type of license, and no credit for the unused time on the salesman license can be applied to the broker license. The pertinent section of the Business and Professions Code provides that "no part of any fee paid [for licenses, etc.] is refundable."

*Q. Why are the Extension Division, University of California, real estate courses publicized in your "Real Estate Bulletin" with no mention of courses offered by other educational institutions?*

A. The University of California real estate educational program has been mentioned in the *Real Estate Bulletin* because the program has been assisted by legislative appropriations from the *Real Estate Fund*, which in turn came from license fees. It has been felt that it is only right and proper to publicize the program as much as possible so that licensees cannot help but be aware of it and share in it, if possible.

*Q. If a seller gives a buyer 24 hours to accept a counter offer, is the listing broker obligated under the laws of agency to reveal to the seller a new offer if such be presented in the interim?*

A. The broker would be violating his responsibility to the seller if he concealed from him the fact of another offer.

*Q. Why isn't something done to eliminate "part-time" real estate salesmen?*

A. We suppose this questioner recognizes this is a matter entirely beyond the jurisdiction of the division. He may be interested to know that the Florida Real Estate Commission by rule and regulation attempted to prohibit part-time salesmen in the larger communities in that state. However, as the result of an action immediately filed, the court concluded that the commission had exceeded its powers in promulgating and attempting to enforce such a rule. The court went further, stating that there was considerable doubt about the constitutionality of any legislation which might be passed aiming at the barring of part-time real estate salesmen.

*Q. Does the division take action against licensees who illegally use and display real estate signs on public property?*

A. Ordinarily, no. However, it hardly seems necessary to point out that it is not good business or good practice for a broker to place his signs in public areas in violation of local ordinances. Of course, the Real Estate Commissioner does not have the power to enforce local ordinances of this type.

*Q. Can the Real Estate Commissioner control real estate schools?*

A. The Real Estate Law gives the commissioner no jurisdiction over private or public real estate schools.

*Q. I am wondering what the difference is between revocation and suspension of a license.*

A. As its name implies, the revocation of a license means that the license right is taken away completely. To all intents and purposes, it means that the individual whose license is revoked may not again engage in the business for which he was so licensed.

On the other hand, a license may be "suspended" for a definite period of time. It may be for a period as brief as a few days or again the license may be suspended for as long as one year. When the period of suspension is ended, the licensee is again free to engage in business.

## New Tax Ruling on Loan Prepayment Penalties

The Internal Revenue Service has announced that a penalty payment to discharge a mortgage debt ahead of schedule may now be considered by taxpayers as interest, and therefore is a deductible item on federal income tax returns.

Previously, the revenue service has said that the individual homeowner had to consider mortgage prepayment penalties as the cost of gaining a release from a contract and not as interest for use of the money. But the tax court recently ruled that such payments were interest income to a life insurance company, so the revenue service announced in Ruling No. 57-198, Bulletin 20 for 1957, that consistency suggested such payments by the taxpayer be treated as interest paid.

In the past, the revenue service has permitted deducting penalty charges for prepaying mortgages on property used in a trade or business, but as a business expense, not as interest.

## Commission Denied

(Cont. from Page 315, Col. 2)

The broker pointed out it was customary to handle the agreed down payment in the manner set forth in the deposit receipt; that is, through escrow and with the protection of a policy of title insurance. The broker admitted that the "customs" he spoke of were usually spelled out in the contract forms used and this had not been done in the "owner's statement" previously referred to. In setting aside the claim of customary usage, the court quoted from the Andrews case, "where the known usage and the contract are in conflict, the contract prevails."

This case well illustrates at least two points:

- (1) Use contract forms which have been tested, and
- (2) If you are faced with the preparation of a contract which offers complications, seek the advice of your attorney.

(Case reported, *Dea v. Davy*, 150 A.C.A. No. 3.)

## UC Extension Offers Real Estate Courses

The Extension Division of the University of California planned a broad schedule of real estate courses throughout California for the 1957 fall term, which begins about the middle of September. The program of continuing education leading to a certificate in real estate has been designed for the purpose of aiding individual brokers and salesmen in widening their knowledge of specialized fields in real estate.

This program is presented by the university extension in co-operation with the Division of Real Estate and the California Real Estate Association. A nominal enrollment charge is made for each course.

Complete information concerning description of courses, number of meetings, instructors, etc., can be obtained for the northern area by writing to the University Extension Real Estate Certificate Program, 2288 Fulton Street, Berkeley 4. For information regarding the southern area, write to the University Extension, 813 South Hill Street, Los Angeles 14.

## Change in Partnership

(Cont. from Page 313, Col. 2)

and exists as long as such individuals remain associated. **The death, increase or decrease in the number of individuals so associated terminates the partnership. Any continuance of the association by the surviving, increased or decreased individuals of the terminated partnership creates a new partnership.**

### *Status of the Salesman Employed by Partnership*

In considering the status of a salesman's license when there is a change in the partnership, the Attorney General stated:

"A real estate salesman's license grants to the licensed salesman the personal privilege of engaging in the business as a real estate salesman. By virtue of the provisions of Section 10132 of the Business and Professions Code, a licensed real estate salesman is required to be employed by a licensed real estate broker. The termination of a partnership by which a real estate salesman

## Notary Public Cannot Avoid Personal Liability

The Attorney General of California recently declared that a notary public can be liable for fraud in the careless authorization of documents. The opinion of the Attorney General stated that "a notary who is willing to execute an acknowledgment when he, in fact, does not know the party to the transaction, is clearly in violation of his duty."

In discussing the personal liability, the State's attorney noted that the law may be harsh on a notary public, but added that he is the only protection to "the other party." Section 8214 of the Government Code specifically makes the notary liable for fraud, misconduct or neglect.

### *Important to Real Estate Licensees*

The above opinion is deemed important inasmuch as many real estate licensees are notaries. Since California law requires most instruments affecting real property to be executed and acknowledged before the instrument is eligible for recordation, it is common practice for real estate agents to provide the services of a notary public.

**Careless authorization of documents is to be avoided, as fraud charges could affect the license right granted under the Real Estate Law.**

is employed does not affect the personal license issued to the real estate salesman.

"A real estate salesman, whose employment no longer exists by virtue of the termination of his partnership real estate broker employer, need not apply for a new license, but may request a transfer of his privilege to act as such salesman under another or new licensed real estate broker."

### *Example*

Suppose the John Doe Co. is a licensed partnership with four licensed members. A fifth member is added, making a new partnership. The participating brokers would each pay a \$50 fee for the new partnership license, but a salesman employed by the John Doe Co. would pay only \$1 to have his license transferred to the new employing firm.

## Gaylord K. Nye Has Longest Service With Division

Gaylord K. Nye, chief deputy in charge of enforcement in Northern California, headquartering in San Francisco, began his continuous employment with the Division of Real Estate in the Sacramento office in August, 1921. Since that time, he has worked under eight Governors and nine Real Estate Commissioners and is the division's oldest employee in point of service.

Born in Los Angeles, Nye was educated in Sacramento public schools, going on to further study of university extension courses in real estate, law, and business. Eight years after his start with the division in Sacramento, he was promoted to supervising deputy in San Francisco and in 1931 supervised the largest of the division's branch offices at Los Angeles.



GAYLORD K. NYE

From 1934 through 1952, Nye had the added duty of acting as hearing officer for Northern California, hearing evidence offered in disciplinary cases against licensees or in cases involving possible denial of licenses, and preparing proposed decisions for the Real Estate Commissioner. In 1950 the division was reorganized, and Nye was assigned as chief deputy in charge of licensing statewide with headquarters in Sacramento. In 1953 he was advanced to his present post.

Under the working title of assistant commissioner, Nye personally represents the Real Estate Commissioner in law enforcement problems, public and civic contacts, and makes decisions on various phases of the division's work in the Northern California area. Under his general supervision are four division offices located in Sacramento, Oakland, Fresno, and San Francisco.

In his many years of close association with the real estate industry, Gaylord K. Nye has contributed substantially to the spirit of co-operation characteristic of the relations between licensees and the Division of Real Estate.

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## Publicizing Revocations And Suspensions

For the past seven years the names of licensees against whom disciplinary action has been taken have been published in the *Bulletin*. This is for the protection of brokers, title and escrow companies, banks, and the general public.

The division attempts to recover all suspended and revoked license certificates, but is not always successful. It is possible that a revoked licensee could present what appears to be a valid license certificate even though his license had been cancelled on the record in Sacramento. Of course, criminal action could be taken against the individual in this case; but other parties to the transaction might be involved since it is unlawful to pay a commission to an unlicensed person.

### Special Requests

From time to time, title and escrow companies ask that notices of all suspensions and revocations be mailed to them immediately after the penalties are effective because of their understandable desire to safeguard against dealing with suspended or revoked licenses. It has been considered impractical to set up a special service of this kind. Of course, inquiries about license status of specific individuals are and will be promptly answered.

## California Leads in Taxable Real Property

Approximately 4.7 million separate pieces of real property are assessed in California, more than any other state, according to a study from the 1957 Census of Governments, just announced by the San Francisco field office of the United States Department of Commerce. At the low end is Nevada, with only 103,000 local real-property assessments.

The study further states that the property tax is the financial mainstay of local government in the United States. Nearly nine-tenths of all tax revenue of local governments is from this source. Local property tax collections now approach 12 billion dollars a year, and state property taxes amount to another half billion. As a result, nationwide property tax collections average about \$70 per person.

### Types of Properties

Of the approximately 4.7 million taxable real properties in California, about 3 million are residential properties, and nearly all of these are single-family houses. Farm properties in California amounted to over 500,000, of which 175,000 had improvements. There were over 1 million vacant lots and 210,000 pieces of taxable commercial and industrial property.

Statistics for all states and major local assessing jurisdictions, including percent distributions, are contained in the complete report, "Real Estate Assessments in the United States," which can be obtained from the Department of Commerce.

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The publishing of disciplinary actions in the *Real Estate Bulletin* serves as notice to all licensees and the many title and escrow companies, attorneys, banks, and so forth, who receive the *Bulletin* and are interested in the effective dates of license suspensions and revocations.

It should be noted that any person whose license has been suspended or revoked has the right to file a petition for writ of mandate in a court, generally within 30 days after the effective date of the decision.

## Court Rules on Claim For Commission by Unlicensed Persons

A person not licensed as a real estate broker or salesman, who actually does practically everything to complete a sale of real property, cannot recover compensation by reason of a prior agreement to introduce a licensed broker to the people who become the purchasers. This situation came up in the recent case of *Pawlak v. Cox* (148 A. C. A. No. 2), which hinged on Business and Professions Code Sections 10130, 10131, 10132, regulating real estate brokers and salesmen.

In the case, a husband and wife who were unlicensed brought action against a licensed real estate broker to recover a percentage of commissions earned by the broker who had been introduced to the prospective purchasers of real property by the plaintiffs.

### Negotiations by Claimants

In the trial court it developed that the husband and wife not only had the purchasers in mind and assisted in the dealings, but also had the motel in mind which, in their opinion, was exactly tailored to meet the desires of the prospective purchasers. However, neither husband nor wife had a license. They contacted a real estate broker, giving him full particulars regarding the location and terms respecting the motel, but at this time withheld the names of the prospective purchasers they had in mind. The motel was listed with the assistance of the plaintiffs and thereafter they arranged a meeting between the broker and the eventual purchasers.

Before the transaction was completed, the husband and wife advised the purchasers that the motel was a "good deal" and gave them advice as to how to further proceed in the negotiations if their first offer was rejected.

The trial court concluded that the husband and wife were dealing unlawfully and were not entitled to recompense by the broker. The trial court's judgment was upheld by the appellate court.

### ORDER FORM

Division of Real Estate  
1021 O Street  
Sacramento 14, California

Please send me a copy of the Supplement to Reference Book  and/or a copy of the 1956 Reference Book .

Price of Supplement..... \$1.04 (inc. sales tax)

Price of 1956 Reference Book..... \$2.08 (inc. sales tax)

I enclose my check  money order  in the sum of \$.....

Name (please print).....

Address (please print).....

Street

City

State

## Public Opinion Influenced by Acts of Licensees

Recently, a real estate news letter published a thought-provoking article enumerating some of the ways in which a real estate broker can antagonize his clients and customers. The article makes the point that these actions are not only harmful to the offending agent himself—they undermine public trust and confidence and bring discredit on the whole business of real estate.

Upon request, the article is reprinted here.

### Ways and Means to Tear Down Public Trust and Jeopardize Your License:

1. Quote to a prospective buyer a higher price than what the property is listed for.
2. Knock your fellow broker.
3. When you are acting as owner and principal of a property, do not disclose to buyer that you are the owner.
4. Do not disclose information regarding improvement bonds, etc., until escrow is ready to close at the title company.
5. Do not inform buyers of trust fund balances.
6. Do not hesitate to sell to an incompetent person or persons whom you feel will not be able to fulfill obligations.
7. Think only of the commission and not service and ethics.
8. Make it a habit to argue with your customer.
9. Misquote the interest rate on the assumed loan.
10. Be sure papers are not ready when buyer and/or seller go to the title company.
11. When you have the opportunity to undermine the integrity of a fellow broker, do not hesitate as it works both ways and to the disadvantage of all parties concerned.
12. Use blind advertising so you can mislead prospects and fellow brokers.
13. Advise the seller that you have a cash buyer waiting and to call when listing expires as you don't co-operate with others.
14. Disregard the "due diligence" clause in your listing contract since it isn't important and is put in only to fill up space and make the contract sound good.
15. After you have listed the property, take pains not to call the owners or keep them advised of the activity or lack of activity on their property.
16. When you discover that a seller has his property listed with another broker be sure to let him know that it was listed too cheaply and you could get him more money.

A real estate broker is not "an island to himself"; his actions—good or bad—sway public opinion of the whole body of licensees.

Sec. 34.66, P. L. & R.  
 U. S. POSTAGE  
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 Permit No. 157  
 SACRAMENTO, CALIF.

## Complaints Alleging Misrepresentation Lead the List

A recent survey of division district offices shows that misrepresentation complaints against licensees outnumber any other single type of complaint.

A typical misrepresentation complaint arises in the following circumstances. The buyer does not wish his monthly payments to exceed \$75 per month and informs the agent of that fact. The agent makes the sale, informing the buyer that the monthly payments will not exceed \$75. After the sale is completed, the buyer receives his payment book on the loan and finds his monthly payments are \$85 per month. The buyer quite rightly feels that the agent should have known what the actual payments would be and he files a complaint against the agent with the Division of Real Estate.

### Salesman's Viewpoint

In any salesman's job, it is often said that a certain amount of "puffing" is necessary to make a deal. A real estate salesman recently wrote to the editor of the *Bulletin*, giving his thoughts on the real estate business. We quote from his letter.

"The trend seems to work this way: In order to get a listing, you intimate that you have buyers looking for just that type of property. \* \* \* The main idea seems to be to get the listing. You take any price the seller gives you and write it in the contract.

In a few days you contact the seller and tell him your buyer doesn't care to pay that much—then, you very diplomatically criticize the seller's property in order to get the lowest possible price, terms, and agreement \* \* \*."

**The Division of Real Estate maintains that the higher his standard of ethics the more secure will be an agent's position in his business dealings and in his neighborhood. The division complaint records support this observation.**

### Acreage Offered by State

Approximately 558 acres of citrus grove land, presently owned by the State of California, will be offered for sale by public auction in November. The property includes 34 acres which are described as suitable for subdivision purposes. Located adjacent to the Porterville State Hospital in Tulare County, the acreage may be of interest to real estate licensees for development by citrus growers and subdividers.

Complete information on the property may be obtained by writing to the Property Acquisition Division of the Department of Finance, Room 5154, State Capitol, Sacramento.

## Annual License Fees In the Western States

With the raise in license fees a number of brokers and salesmen have inquired as to how California fees compare to those currently charged in sister states. The following table shows that in eight western states the annual fee for real estate broker license is higher than in California, in two others it is slightly lower.

In five states the fee for real estate salesman license is higher than in California, in one it is the same and in four others it is lower.

State	Annual fee, salesman license	Annual fee, broker license
Nevada .....	\$20.00	\$40.00
Idaho .....	25.00	25.00
Oregon .....	15.00	25.00
Washington .....	15.00	25.00
Arizona .....	10.00	25.00
New Mexico .....	5.00	20.00
Wyoming .....	7.50	15.00
California .....	7.50 *	12.50 *
Colorado .....	5.00	15.00
Montana .....	5.00	10.00
Utah .....	2.00	10.00

\* One-fourth of four-year license fee.

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. Moneys from this fund are appropriated directly by the State Legislature.