S.C. Real Estate Commission News

Volume V • No. 1 • A NEWSLETTER OF THE SOUTH CAROLINA REAL ESTATE COMMISSION • April 1999

Commission Changes Testing Vendor

On March 15, candidates for licensure began taking examinations developed and administered by Experior Assessments, LLC (formerly NAI-Block and ITC). Under the contract, Experior will supply testing services for real estate, property management and time share sales licensing candidates. This change will result in greater convenience to those seeking licensure in South Carolina. One reason is that computerized testing (with instantaneous results) will be available through the Sylvan Testing Center (STC) network, six days a week, in seven locations in and around the state, as well as in any state where an STC is located. Other changes that will be most notable are:

- Candidates will receive an eligibility letter good for one year (rather than six months). Candidates' information will already be in the computer system when they show up for testing, so there is no need to take the eligibility letter as a "ticket" to enter the test site.
- Candidates no longer pay their fees at

- the testing site. There are two options for payment over the phone when making an appointment, including using a credit card.
- Candidates can schedule their tests for any time of the day (from 8 a.m. to 6 p.m.), rather than having just two "seatings" per day.
- The computers that candidates will be using are similar to the ones they may have at home or work.
- Fees for real estate and property management testing remain the same (\$63).

There has been representation from the Commission at Experior's national advisory committee meetings to ensure that the tests reflect South Carolina practices and law. Experior also visited the state in January to familiarize the schools with testing procedures and to write state-specific portions of the tests. The Commission is looking forward to working with Experior in furthering our efforts to continually improve services to our licensees and the public.

New Look for Renewal Notices

It will soon be time for those whose real estate licenses expire on June 30, 1999 to renew. This year, there will be a different look to the renewal notice. Continuing education information will not be printed on the notice to show if licensees have or have not met continuing education requirements.

In keeping with the Advisory mailed to salesmen and brokers in October 1998 regarding MCE record keeping, the

renewal notice has been redesigned. Printed on page 2 is the section on continuing education. Licensees will have to check only one of the options listed. Failure to check one option and/ or to sign the renewal notice will result in the notice being returned to the licensee. Notices received at the Commission office near the end of June that

_____ See **Renewal** on page 2

Do You Know When Your License Expires?

Attention licensees! Do you know when your license expires? Look at the lower left-hand corner of your pocket card. If the expiration date reads 06/99 and you are not a **provisional** salesman, you must renew your license by June 30, 1999.

All salesman and broker licensees who are due to renew by June 30, 1999 must also have met the 8-hour continuing education requirement (unless exempt). You may send in your renewal application and fee even if you *have not* completed continuing education requirements. The license will be renewed and immediately placed on inactive status and cannot be reactivated until proof of completion of continuing education is received.

Renewal notices will be mailed around the middle of May. Failure to receive the notice does not relieve licensees of the responsibility of seeing that their license renewal fees are paid. Section 40-57-110(H) states, "It is the licensee's responsibility to renew the license whether or not notice is received."

REMINDER: It is also the licensees' responsibility to notify the Commission of any change in their mailing address (see Section 40-57-180(D) of the Real Estate License Law). Failure to do so is a violation of law and could result in cancellation of the license. If your address has changed, notify us in writing today!



The South Carolina REAL ESTATE COMMISSION NEWSLETTER

Official Publication of the South Carolina Real Estate Commission and the Department of Labor, Licensing and Regulation

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The SCREC News is published as an informational and educational service to all licensees of the Real Estate Commission.

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Views expressed in articles by guest authors are not necessarily those of the Commission nor LLR nor should they be mistaken for official policy.

COMMISSION MEETINGS

The regularly scheduled meetings of the South Carolina Department of Labor, Licensing and Regulation, Real Estate Commission, are held at 10 a.m. on the third Wednesday of each month at the Commission offices. These meetings are open to the public.

Penalty for Late or Non-renewal It's Not Just Money!

One of the many changes brought about by the new Real Estate License Law, which became effective on January 1, 1998 is the penalty for renewing late. In the past, licensees had until the beginning of the <u>next</u> renewal period to pay late fees. Under the new law, the late penalty is \$25 per month until December 31, at which time the license is canceled. After that date, anyone wishing to be relicensed must qualify for and pass the appropriate examination.

Since the law took effect, we have had many former licensees who were unpleasantly surprised when they found that even though they may have been licensed for many years, that licensed experience alone could no longer qualify them for the examination. Educational requirements have increased over the years and those former licensees who may have had some hours, or in some instances, no hours, now must meet the requirements of the current law.

RENEW ON TIME - AVOID THOSE PENALTIES!

Renewal - continued from page 1		
must be returned for correction will be subject to late penalties if mailed back to us with postmark later than June 30. After July 1, audit letters will be sent to a random selection of licensees asking for certificates of completion for the continuing education courses they affirmed had been taken prior to June 30. Do not take a chance on having your license suspended and/or other disciplinary action. Make sure you have completed the continuing education course(s) before you sign the form stating that you have.		
This section will be located at the bottom of the renewal form:		
CONTINUING EDUCATION STATEMENT (Section 40-57-130): (check one) I have not met continuing education requirements. Please renew my license and place it on inactive status. I have met continuing education requirements of at least 8 hours (2 of which are core hours) during the period prior to this renewal. I have not used these 8 hours to activate my license during the past two years.		
I AM EXEMPT BECAUSE: I have completed a post licensing or broker's course during the past two years. I am at least 65 years old and have been licensed for 25 or more years. I am a non-resident and have satisfied the requirements of the jurisdiction of residence. I am an approved instructor and have requested in writing and received CE credit for educational tasks. I am licensed as a property manager or time share salesman.		
Signature Date		

Operation Support Services Section of the Office of Real Estate and Building Codes Professions (OREBCP)



Leigh Padgett Manager, Operation Support Services



Tobi Bellamy Receptionist (803) 896-4400



Carol Cragin Administrative Support (803) 896-4443



Rene´ Walker Imaging and Certification (803) 896-4644



Sheila Frasier Information Resource Coordinator (803) 896-4451

The Operation Support Services
Section of the Office of Real Estate and
Building Codes Professions is a unique
group of individuals who not only handle
job duties for the SC Real Estate Commission but for all boards under the OREBCP
umbrella. Included are Barrier Free
Design, Building Codes Council, Contractors' Licensing Board, Manufactured
Housing Board, Appraisers Board and the
Real Estate Commission.

Leigh Padgett serves as the manager of the OSS section. Included in her duties are maintenance of the Fax-on-Demand system, telecommunications, special projects and customer service coordinator. Tobi Bellamy is the receptionist for the Real Estate Commission and the S.C. Appraisers Board. She also is responsible for receipting funds that come into the office. Tobi completes special projects sent her way when another board is in need of help.

Carol Cragin provides administrative assistance for all boards regarding procurement, returned checks, deposits and in-house employee needs such as travel, timesheets, etc. If you have questions about any funds paid to the OREBCP and/or returned checks, Carol will assist you in this area.

Rene' Walker is responsible for the

filing system for OREBCP. Presently, our office is in the process of imaging all files for each board. She maintains the daily updates for the Real Estate Commission and the Real Estate Appraisers Board. Rene' performs certification of licensure for the Commission as well. If you have a question in regard to your history and/or needs in this area, Rene' will assist you.

Sheila Frasier is the information resource coordinator for the OREBCP. She ensures that all computer network operations are maintained on a daily basis. She also serves as the administrative support for the Time Share Program.

In Memoriam

FRANK A. BURGDORF

Frank A. Burgdorf, Columbia, former Commission member, passed away March 2, 1999. He represented the Second Congressional District from March 1988 to June 1998 and served as vice chairman from 1994-1996.

Burgdorf taught real estate courses for more than 25 years and held the professional designations of GRI, Graduate of Realtors Institute and CRB, Certified Residential Broker. Burgdorf served on the National Association of Realtors (NAR) Education Committee and as chairman in 1979. He was president and regional vice president of the South Carolina Association of Realtors (SCAR), president of the Columbia Board of Realtors, and a charter member and president of the Realtors Education Foundation (REF). He was an active member of the Association of Real Estate License Law Officials (ARELLO).

He received many honors during his career including Realtor of the Year, the first annual SCAR Educator of the Year Award, and the Order of the Palmetto presented to him in 1998 by Gov. David Beasley.

W. CALVIN WHITE

W. Calvin White, Spartanburg, former Commission member, passed away in

November 1998. A businessman, real estate broker and Realtor, he represented the Fourth Congressional District from 1977 to 1996. He served as chairman for 17 years.

He was a member of the Association of Real Estate License Law Officials (ARELLO), South Carolina Association of Realtors, and the Spartanburg Board of Realtors.

The Commission, as well as the industry, will miss these distinguished gentlemen. We extend our sympathy to their families.



DISCIPLINARY ACTIONS

HEARINGS

Nikolika X. Egemonye, Salesman Sherman & Hemstreet, BH&G North Augusta, SC

For engaging in conduct which demonstrates incompetency in a real estate transaction by failing to disclose her agency relationship with the buyer to the sellers (Respondent and buyer were husband and wife) and for failing to amend the Purchase and Sale Agreement eliminating special stipulations concerning the transfer of personal property items from the sellers to the buyer and the retention of all tax insurance escrow money to the buyer as instructed by the Respondent's broker-incharge.

By Order of the Commission: License revocation and a fine of \$500.

Caroline J. Hall, BIC Seashell Realty Folly Beach, SC

For engaging in conduct which demonstrates bad faith, dishonesty, untrustworthiness or incompetency in a real estate transaction and for failing to secure written management agreements on properties advertised. Also, for failing to maintain a separate trust account record keeping system in compliance with the Commission laws and regulations which would prevent commingling of funds and account for monies coming into her possession belonging to others. Further, for failing to furnish Commission investigators a copy of her real estate records when requested.

By Order of the Commission: License placed on two years' probation, a fine of \$5,000, complete a BIC course within 12 months of the Order, public reprimand.

Liu Hong, Salesman Peachtree Realty, Inc. Spartanburg, SC

For making a substantial misrepresentation and engaging in conduct which demonstrates bad faith, dishonesty, untrustworthiness or incompetency in a real estate transaction.

Respondent entered into an agency relationship as the buyer's agent and drafted and

submitted an offer that the seller accepted. When the buyer was unable to obtain conventional financing, as requested in the contract, the Respondent changed the contract by crossing out conventional financing and checking FHA financing. The Respondent failed to inform the seller and failed to obtain the seller's approval for the changes. **By Order of the Commission:** Public reprimand, a fine of \$500 and complete a continuing education course in contract law.

Ernest Louis, BIC Ernest Louis Realty Columbia, SC

For engaging in conduct which demonstrates bad faith, dishonesty, untrustworthiness or incompetency in a real estate transaction in a manner as to endanger the interest of the public, for issuing a check which was returned for insufficient funds, for failing to keep an accurate journal or accounting system in a manner to properly reconcile the trust account, and for failing to deposit and maintain earnest monies into a trust account in accordance with the law. The Respondent failed to keep an accurate journal or accounting system to enable him to account for the funds received or to reconcile his trust account.

By Order of the Commission: Public reprimand; a fine of \$500; 2 years probation, and during probation, submit quarterly his escrow account and accounting journal to the Commission staff for review.

Greg H. Richardson, BIC Real Estate Center North Myrtle Beach, SC

For violating the terms of his probation resulting from an earlier Commission Order by engaging in conduct which demonstrates bad faith, dishonesty, untrustworthiness or incompetency in a real estate transaction in a manner as to endanger the interest of the public, for failing to keep an accurate journal or accounting system in a manner to properly reconcile the trust account, for failing to remit monies coming into his possession which belong to others, and for issuing checks which were returned for non-sufficient funds.

By Order of the Commission: One year license suspension and a fine of \$5,000.

Michael Smalls, BIC American Trust Company Florence. SC

For failure to establish and maintain control of and responsibility for a real estate trust account. During an office inspection, the Respondent produced a checkbook that did not contain all deposit entries or a running balance, no deposits or entries or a running balance was maintained in the journal, and bank statements were unopened. The condition of the Respondent's records prevented the performance of a competent audit.

By Order of the Commission: License revocation.

Linda L. Weger, PMIC Seaside Villas Resort Rentals Hilton Head Island, SC

For not complying with the terms of her probation resulting from an earlier Commission Order.

By Order of the Commission: To impose the original sanction revoking the Respondent's property manager's license.

CONSENT ORDERS

The Palace Resort, LLC Myrtle Beach, SC

Ocean Forest Resort Myrtle Beach, SC

Resort Management Services Myrtle Beach, SC

Caribbean Resort & Villas Myrtle Beach, SC

Shores of Surfside Rental, Inc. Surfside Beach, SC

C. W. Management, Inc. Myrtle Beach, SC

See Disciplinary Actions page 5

Disciplinary Actions - continued from page 4

For failing to ensure that all advance rental monies received were deposited into the trust account. A periodic office inspection revealed a shortage in the Respondent's property management trust account due to failure to deposit and maintain all advanced rental deposits into the trust account. The escrow account deficiencies were immediately corrected and there was no indication of any intent to deceive or to convert escrow money by the property manager-in-charge.

By Consent: Public reprimand and a fine in the amount of \$2,000.

Frances L. Brinegar, BIC LaDean Brinegar Realty Lugoff, SC

For failing to secure and maintain for five years a written management agreement and lease while managing property. During the course of investigating a complaint from the property owner, the Respondent was unable to produce to the Commission investigator a copy of a written management agreement or a lease for the property.

By Consent: A public reprimand and a fine of \$300.

Bruce P. Clayton, Salesman Real Estate Plus, Inc. Inman, SC

For engaging in conduct which demonstrates incompetency in a manner as to endanger the interest of the public. Respondent misidentified property that he had shown his client. When the buyer realized that the property on which he made the offer was not the property he thought he was buying, he was not willing to continue with the transaction. Although unintentional, this misidentification of property created unnecessary confusion for the sellers and the buyers and a dispute over the earnest money deposit.

By Consent: Public reprimand and a fine of \$500.

Gilbert L. Daniel, Sr., PMIC Bayside Rentals Hilton Head. SC

For entering into an agreement to manage property without a written agreement. Through a business transaction, the Respondent purchased the owner's agreement from

another property management company but failed to secure a written management agreement from the owner. The Respondent continued to manage the property to include securing a new one-year lease from the tenant. Prior to expiration of the lease, the owner notified the Respondent in writing that he would be entering into an agreement with another management company at which time the Respondent deducted from the tenant's rent his management commissions for the balance of the tenant's lease period.

By Consent: Public reprimand and refund \$420 in commissions.

Joseph R. Denbleyker, BIC Bella-May Realty Little River, SC

For engaging in conduct which demonstrates bad faith, dishonesty, untrustworthiness or incompetency in a real estate transaction in a manner as to endanger the interest of the public and for failing to hold all monies received by the broker-in-charge in connection with a real estate sales or exchange transaction and deposited in the real estate trust account until consummation or termination of the transaction. The Respondent admitted that he wrote two checks from the company escrow account to pay company bills. He subsequently funded the escrow account from personal funds leaving a shortage not accounted for.

By Consent: License suspended for six months stayed to two years' probation, public reprimand and a fine of \$1,000.

Archie B. Elliott, Time Share Salesman Bluegreen Resorts Myrtle Beach, SC

For failing to report on his application for time share license that he had been convicted of a crime involving moral turpitude.

By Consent: Public reprimand and a fine of \$500.

Donald R. Eubanks, Broker Coldwell Banker Middleton & Associates Orangeburg, SC

For failing to write a listing agreement or to provide an Agency Disclosure Form to a seller he was representing.

By Consent: Public reprimand, a fine of \$300

and complete a four-hour continuing education course on agency.

Algie M. Grubbs, Sr., Broker Re/Max Island Realty Hilton Head Island, SC

For failing to secure an agency agreement and Agency Disclosure Forms in a real estate transaction.

By Consent: Public reprimand, a fine of \$300 and attend a four-hour course on agency.

Leroy P. Gunnels, Inactive Goose Creek, SC

For practicing the profession or occupation while under the influence of alcohol to such a degree as to render him unfit to practice his profession or occupation and for engaging in conduct which demonstrates bad faith, dishonesty, untrustworthiness or incompetency in a real estate transaction in a manner as to endanger the interest of the public. Respondent acknowledged that during a real estate transaction his abuse of alcohol made him incapable of acting responsibly.

By Consent: License suspension for two years stayed to two years' probation, public reprimand, continue in an alcohol abuse program through MUSC until termination by the MUSC staff.

Deborah A. Lawrence, Temporary BIC Watson Real Estate Mt. Pleasant, SC

For engaging in conduct which demonstrates bad faith, dishonesty, untrustworthiness or incompetency in a real estate transaction in a manner as to endanger the interest of the public, for entering into an agreement to manage property without a written agreement and for failing to maintain her escrow account in the manner required by the law. During investigation of a complaint by a Commission investigator, it was revealed that the Respondent gave a security deposit to the owner instead of placing it into a trust account. By Consent: Two year license suspension and a \$5,000 fine stayed to two years' probation, relinquishment of BIC license, public reprimand and a fine of \$250.

See Disciplinary Actions page 6

Disciplinary Actions - continued from page 5

Douglas E. McConville, PMIC Gunny Property Management Group Surfside Beach, SC

For failing to ensure that all advance rental monies received were deposited into the trust account. A periodic office inspection revealed a shortage in the Respondent's Property Management Trust account due to his failure to deposit and maintain all advanced rental deposits into the trust account.

By Consent: Public reprimand, a fine of \$1,000, two years' probation and voluntary surrender of PMIC license.

Mariam McFalls, Unlicensed Pineville. NC

For conducting real estate business in South Carolina after cancellation of Respondent's South Carolina real estate broker's license by her failure to renew the license. Respondent is licensed as a broker in North Carolina. *By Consent:* License will remain canceled,

By Consent: License will remain canceled, immediately cease and desist from any and all real estate activities in South Carolina.

Dana Moore, Inactive Salesman Darlington, SC

For issuing a check in connection with her real estate business which was returned for insufficient funds or closed account. Respondent issued a check payable to the Commission for license fee which, when deposited, was returned for insufficient funds. The Respondent demonstrated no effort to comply with Commission's request after being advised that issuance of a bad check violates the real estate licensing law.

By Consent: License revocation stayed to 12 months' probation, public reprimand, fine of \$100 and remittance of certified funds to cover dishonored check, fees and penalties.

Steven D. Payton, Inactive Broker Ft. Mill, SC

For engaging in conduct which demonstrates bad faith, dishonesty, untrustworthiness or incompetency in a real estate transaction in a manner as to endanger the interest of the public, for entering into an agreement to manage property without a written agreement and for failing to maintain his escrow account in the manner required by the law. Also, for failing to remit monies coming into his possession which belong to others. The

Respondent managed properties for an individual related to him by marriage at the individual's request, without condensing the request to a written agreement. Rents were collected by the Respondent but were not placed into an escrow account and were later used by the Respondent for his personal use. *By Consent:* Public reprimand and broker's license suspended for six months stayed to six months' probation, complete a 30-hour broker's course, provide restitution in the amount of \$2,300 plus simple interest, and shall not activate his broker's license until all requirements of probation have been met.

Gurry A. Roberts, Salesman Realty Executives Sims & Barker, Inc. Greenville. SC

For being convicted of a crime involving moral turpitude.

By Consent: Public reprimand and five years' probation.

Olender O. Simmons, Jr., Inactive Greer, SC

For acting as a real estate broker without a valid license issued by the Department.
Respondent failed to renew his real estate broker's license because he failed to complete the required continuing education courses.
While unlicensed, the Respondent entered into an agency relationship to assist buyers in the purchase of real property.

By Consent: Public reprimand and voluntary surrender of broker's license.

Jeanette S. Templeton, Inactive Greenwood, SC

For engaging in conduct which demonstrates bad faith, dishonesty, untrustworthiness or incompetency in a real estate transaction in a manner as to endanger the interest of the public; failing, within a reasonable time, to account for or to remit any monies coming into her possession which belong to others; and failing to place funds received by her in a separate escrow account. During Respondent's employment as PMIC, funds that were received by her company were never deposited in the company bank accounts. A large portion of the funds not accounted for were security deposits.

By Consent: License revocation and public reprimand.

Edna H. Torian, Salesman Frank Washington Realty Columbia, SC

For issuing a check in connection with her real estate business which was returned for insufficient funds or closed account. Respondent issued a check payable to the Commission for license fee which, when deposited, was returned for insufficient funds. The Respondent demonstrated no effort to comply with Commission's request after being advised that issuance of a bad check violates the Real Estate License Law.

By Consent: License revocation stayed to 12 months' probation, public reprimand, fine of \$250 and remittance of certified funds to cover dishonored check, fees and penalties.

John A. Wilder, BIC The Prudential Carolinas Realty Charleston. SC

For engaging in conduct which demonstrates bad faith, dishonesty, untrustworthiness or incompetency in a real estate transaction in a manner as to endanger the interest of the public. Respondent canceled a contract prior to the contract date and supplanted it with a backup contract causing the original buyers to hire an attorney to protect their interests in the contract.

By Consent: Public reprimand and reimbursement to the original buyers for any and all costs associated with his decision to cancel their contract.

John A. Wilder, BIC The Prudential Carolinas Realty Charleston. SC

For engaging in real estate appraisal activity without a license and for committing a dishonorable, unethical or unprofessional act that is likely to deceive, defraud or harm the public Respondent conducted an unspecified number of appraisals without first obtaining a license, knowing that his work required an appraiser license. When asked to verify his licensure status, the Respondent falsified appraiser credentials.

By Consent: License revocation stayed to five years' probation, public reprimand, a fine of \$5,000, a personal apology to the South

See Disciplinary Actions page 7

SC Travel Guides Available

The S.C. Department of Parks, Recreation and Tourism has extra copies of the 1998 edition of the South Carolina Travel Guide and is making the 144-page booklet available to members of the South Carolina real estate community free of charge.

If you would like to have this guide to use as a marketing tool, please call (803) 734-1700 with your request. The guide offers extensive information about the state's natural, historic and cultural assets. The offer for free copies of the guide is good as long as the supply lasts. Requests will be filled on a first-come, first-served basis.

Copies of the 1999 guide are also available. The first copy is free and additional copies are available at a cost of \$1 per guide. Eighty-five percent of the information in the two guides is identical. The most significant changes include revised layouts and cover photography, an updated calendar of events, and updated area code information.

You Earned It...Protect Your License

Listed below are some violations that are needlessly causing licensees problems with the Commission:

- 1. The writing of dual contracts is a violation. The law does not make exceptions to the law against dual contracts because the mortgage broker says, "It's the only way to obtain financing." We are finding real estate agents and appraisers falling prey to creative financing that includes writing a second contract for more than the price agreed upon by the buyer and seller.
- 2. If you disclose that you are representing the buyer, you must have a buyer's agency agreement in place and signed by the buyer(s). Far too many calls received by the Commission indicate that not all licensees are complying with the new law.
- 3. Earnest money does not have to be held by the listing company. Although that may be the most common scenario, the custodian of the earnest money is a matter of contract and is negotiable. The contract, however, must list the holder of the earnest money. Most important, the total amount of earnest money recited must be in the possession of the custodian.

Our Website Address Has Changed!



Check out the S.C. Real Estate Commission on LLR's home page at our new address:

www.llr.state.sc.us/rec.htm

The page includes general information about the agency, and key data on individual programs.

If you have ideas or suggestions, contact Lesia Shannon Kudelka, 896-4376 or Donna Delia, 896-4377. And don't forget to change your bookmarks!

Disciplinary Actions - continued from page 6

Carolina Real Estate Appraisers Board, notify each financial institution for which he performed appraisals that he was not licensed and could not legally render appraisal services, and perform 1,000 hours of community service as approved by the Commission.

Jemmie Williams, Salesman Re/Max Advantage Group Columbia, SC

For engaging in conduct which demonstrates bad faith, dishonesty, untrustworthiness or incompetency in a real estate transaction in a manner as to endanger the interest of the public and for

failing to prepare an Agency Disclosure form as required by law. Respondent also failed to prepare a contract until day of closing. Respondent and his company, while representing the sellers, became involved in loaning money to the buyers for the down payment. The manner in which the loan was structured totally confused the seller.

By Consent: Public reprimand and a fine of \$2,000.

Lee J. Wyatt, II, BIC Shorty Wyatt Real Estate Corp. Spartanburg, SC

For issuing a check in connection with her real estate business which was returned for

insufficient funds or closed account.
Respondent issued a check payable to the Commission for license fee which, when deposited, was returned for insufficient funds. The Respondent demonstrated no effort to comply with Commission's request after being advised that issuance of a bad check violates the Real Estate License Law. *By Consent:* License revocation stayed to 12 months' probation, public reprimand, fine of \$250 and remittance of certified funds to cover dishonored check, fees and penalties.



SOUTH CAROLINA REAL ESTATE COMMISSION

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