

S.C. Real Estate Commission News

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Renewals - Get It Right the First Time!

Renewals will be hitting your mailbox soon, so this is what to do in order to get it right the first time.

If your license expires in 2000 (and you can check this by looking at the left-hand corner of your pocket card for 6/00), you will be mailed a form sometime soon after you receive this newsletter. If you do not receive the notice, it does not relieve you of the responsibility of paying your renewal fee. You may not renew without the form. And you must renew by June 30, 2000.

All salesmen and brokers who are due to renew must also have met the eight-hour biennial MCE requirement (unless exempt). But even if you have not completed your MCE, you can renew and be placed on the inactive registry until you take your course(s). You may not, however, practice real estate after June 30, 2000, until you have completed the eight hours and received your active license.

Here's what you should do:

- 1) Keep this copy of the *S.C. Real Estate Commission News* for direction when your notice arrives.
- 2) Check off one of the options listed on the form (and reproduced below). Do not send any certificates of course completion with the form. Keep them in a safe place in the event you are audited.
- 3) Sign the form, affirming that it is true and accurate.
- 4) Mail it to the address indicated on the form, along with your check.

This is a reprint of the language your renewal form will contain:

Continuing Education Statement (Section 40-57-130):

(you must check one of the options below)

- I have not met continuing education requirements. Please renew my license and place it on inactive status.
- I have met and have proof of continuing education requirements of at least eight hours since my last renewal (do not send MCE certifications—save them for your records). I have not used these eight hours to activate my license.)

-or-

I am exempt from continuing education because:

- I have completed a post-licensing or broker's course during this renewal period.
- 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 my residence.
- I am an approved instructor and have requested in writing and received MCE credit for educational tasks.
- I am licensed as a property manager or time share salesman.

I affirm the above information is true.

Signature _____ Date _____

Failure to check one option and/or to affirm the information by signing the form will result in the notice being returned to you. Notices mailed back to the Commission after the deadline will be subject to late penalties. Forms must be postmarked not later than June 30.

You will not be allowed to renew unless you use the Commission's official form.

Do not lose it.

Remember: If your address has changed, it is your responsibility to notify us (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 your license. If your address has changed, notify us in writing today!

Penalty for Late or Non-renewal

Last year was the first time we operated under the new law that requires greater penalties for not renewing a license. Under the new law, the late penalty is \$25 per month or portion of a 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.

During the last renewal cycle, several former licensees were unpleasantly surprised when they found that they had missed renewing and did not do anything about it until after the six-month period when they would have still been able to use their past experience and examination to count toward relicensing. Some were faced with having to take all of their education over again (since it was more than five years old) and sitting for the examination—starting over completely, in other words. Don't let this happen to you. If you value your license, do not ignore notices, do not procrastinate, and do not let your license be cancelled involuntarily.

Renew on time—avoid the penalties!

Policy Statement on Licensee Transfers

Licensees wishing to transfer from one broker-in-charge to another must have the transfer form signed by both the losing and gaining broker-in-charge. Any licensee who presents, either in person or by mail, a transfer form without the signature of the losing broker will be required to wait five working days from the date of receipt by the Commission, or until the form is signed, whichever occurs first.



The South Carolina
REAL ESTATE
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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. Dates are subject to change.

Boland Named Licensing Manager



Robert "Robbie" Boland has been named licensing manager for the South Carolina Real Estate Commission effective April 1. Robbie, who began his career in state government with the Commission in 1985, comes back to the Commission from LLR's Nursing Board where he has been responsible for the licensing procedures for the past year and a half. Before that he was with LLR's Engineers and Land Surveyors Board for two years. He replaces Shirley Ryland, a 21 year staff member and licensing manager, who retired in December.

The Real Estate Commission welcomes Robbie back to the staff.

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.

Trust Account Legislation

The Commission has proposed a law change that will exempt some Brokers-in-charge from having to open and maintain trust accounts. The present law would be amended to read that "A broker-in-charge or property manager-in-charge, **when taking possession of funds belonging to another in connection with a real estate transaction**, shall establish and maintain control of and responsibility for an active real estate trust account..." Those BICs and PMICs who do, in fact, take possession of trust funds must continue to open and maintain accounts the same as before.

The Commission recommended this change because of numerous requests. BICs were faced with practicing in specialized transactions requiring no handling of funds, but they were handicapped by having to open an account, maintain it (including keeping minimum balances and/or paying bank charges) and have available journals and other documents required by law.

The bill has passed the House and is in the Senate awaiting action. It will hopefully proceed through the Senate this session so that it can take effect shortly after sine die adjournment in June this year. To track the action, you can visit **www.scstatehouse.net/bills/4304.htm**

BTW—The new Trust Account Guideline booklets are better than ever for licensees with questions about how to set up an account and maintain and reconcile it with bank records. It has separate sections for brokerage and property management accounting. Feel free to request as many copies as you want from our offices by calling (803) 896-4400.

It's the Law

The revised agency disclosure form prescribed by the Commission in the real estate license law (Section 40-57-139(A)(2) became effective January 1, 2000. The new form is the one you should be using. Brokers-in-charge were mailed information about this new four-panel brochure in July 1999. If you are not sure you have the correct form, either call us at (803) 896-4400 or visit the Commission web site at **<http://www.llr.state.sc.us/rec.htm>** to find this as well as other pertinent facts that might be of interest to you.

REFERRALS - REFERRALS Please Read

Now that we have your attention, this section is specifically directed toward those licensees and brokers-in-charge of dormant "so called" referral companies. If you are licensed under a referral company, your license is active just as if you were licensed under any other broker-in-charge of an operating company. This means that you must keep up with your continuing education requirements and keep the Commission informed of your current address. A failure on your part in either of these areas could have negative consequences involving your license.

Brokers-in-charge of referral companies similarly have responsibilities as outlined in the Code of Laws. Your office policy should address how you monitor licensee education, and home addresses, and how your licensees will receive important information that is mailed to the brokers-in-charge for dissemination. Failure in these areas could result in your being charged and found in violation of Section 40-57-135 in the "Black Book." Your review of this Section may be useful.

Dual Agency Revisited

The law requires that any agreement to represent a seller or a buyer in real estate transactions must be in writing. Such an agreement may be later modified in order to represent both seller and buyer (dual agency) in the same transaction provided each gives their written authorization and such is disclosed on the approved Real Estate Commission form. A licensee may not attempt to become a dual agent until and unless he or she first completes the process to become an agent for both a seller and a buyer and subsequently desires to represent both in the same transaction. In order to first become an agent for either seller or buyer completing the process requires obtaining a written agency agreement and disclosure form. In any given situation where licensee has created a dual agency, the following are written documents which are required and must be provided if applicable and requested:

- (1) an agency agreement signed by the seller
- (2) an agency disclosure form signed by seller indicating seller representation and seller's willingness to consider dual agency
- (3) an agency agreement signed by the buyer
- (4) an agency disclosure form signed by buyer indicating buyer representation and buyer's willingness to consider dual agency
- (5) a dual agency consent form signed by the seller
- (6) a dual agency consent form signed by the buyer

Note: The seller and buyer could sign the same dual agency consent form.

Reminder: Prelicensing Courses are now 60 hours

Due to an amendment to the real estate license law passed by the Legislature in the 1999 session, as of January 1, 2000, the Unit I course officially was increased to 60 hours from the previous 30 hours. Prospective licensees who took their 30-hour prelicensing course and submitted their applications before December 31, 1999, received approval to sit for the sales examination with the stipulation that they must pass the exam within the one year of eligibility to test. Those who do not pass within that time must qualify for examination under the new (60-hour) prerequisite that took effect on January 1, 2000.

Under the new law, anyone wanting to become licensed as a salesman after January 1, 2000, will have to take 60 hours of education prior to examination and 30 more hours of post-licensing education within the first year of licensure. Then, if he or she wants to become a broker after working in sales for three years, it will be necessary to take an additional 60 hours, the Units IIIA and IIIB, in order to sit for the broker's exam—a total of 150 hours.

Anyone who now has a sales license and wants to become a broker will not need to meet the 150-hour requirement, however. For instance, if you have been licensed for several years and were originally required to have only 30 hours of prelicensing or 60 hours of pre-and post-licensing education, then you will be allowed to sit for the broker's exam after taking the Units IIIA and Units IIIB.

LLR Speakers Bureau



Want to know more about the S.C. Department of Labor, Licensing and Regulation, or about specific programs it administers?

Speakers are available through the agency's Speaker's Bureau to talk to groups and organizations throughout the state. Many people do not realize that in addition to the State OSHA program, LLR provides administrative support to the State Fire Marshal's Office, the S.C. Fire Academy and several professional and occupational boards, including Real Estate.

For more information, call Barbara Foster, Office of Public Information at (803) 896-4380.



DISCIPLINARY ACTIONS

HEARINGS

Eugene C. Edwards

Formerly Broker-in-Charge

Danac Corporation, Mt. Pleasant, SC

For converting a buyer's earnest money deposit to his own use and for failing to make his trust account records available to the Commission's investigator.

By Order of the Commission: License revocation and \$3,000 fine and restitution to the buyer.

Robert Holt

Inactive Salesman

For twice being convicted of a crime of moral turpitude and failure to report same.

By Order of the Commission: License revocation.

Marsha M. McKinney, Broker-in-Charge

Real Estate Connection, Greenville, SC

For failure as the broker-in-charge to insure that her salesman, Marena Smith, held a current license. Smith was involved in 27 real estate transactions while not licensed.

By Order of the Commission: License suspension stayed immediately upon payment of a \$3,500 fine and completion of a 30-hour broker management course.

Marena S. Smith, Formerly with Real

Estate Connection, Greenville, SC

For failing to renew her real estate sales license and for conducting 27 real estate transactions while not licensed.

By Order of the Commission: Reprimand and \$2,000 fine and 180-day license suspension. Prior to reinstatement Respondent must take 30 hours of real estate education.

CONSENT ORDERS

Debra E. Abraham, Salesman

The Space Company, Charleston, SC

For failure to complete the required continuing education prior to license renewal.

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

Lolan C. Adams, Salesman

Epic Resorts, Hilton Head Island, SC

For failure to complete the required continuing education prior to license renewal.

By Consent: Public reprimand and a \$500.

Audrey J. Baxter, Broker-in-Charge

Prestigious Services, Sumter, SC

For conduct which demonstrates bad faith, dishonesty, untrustworthiness or incompetency in her real estate business and failure to account for money belonging to others in that she managed a property without a written management agreement and failed to remit rents collected.

By Consent: License revocation.

Glenn Brown, Salesman

Coldwell Banker, Tom Jenkins

Columbia, SC

For conduct which demonstrates bad faith, dishonesty, untrustworthiness or incompetency in a real estate transaction.

By Consent: Public Reprimand, previous stay of license suspension and probation continued until December 1, 2003. Additionally, Respondent must satisfy a judgement relating to a 1989 real estate transaction and take 30 hours of continuing education beyond that required for license renewal.

Cynthia M. Campbell, Salesman

Rainbow Realty, Myrtle Beach, SC

For failure to complete the required continuing education prior to license renewal.

By Consent: Public reprimand and a \$200 fine.

Braxton M. Cutchin, Broker-in-Charge

BMC, Inc., Greenville, SC

For failure to complete the required continuing education prior to license renewal.

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

John H. Cutter, IV, Inactive Salesman

Charlotte, NC

Offered to settle a pending matter that if proven could provide factual and legal basis for disciplinary action.

By Consent: Voluntary surrender of his real estate license for a period of five years.

Jeff F. Davis, Broker-in-Charge, Piedmont

Land Company, Pendleton, SC

For becoming involved as a principal of Haig Point Realty Company in a license request by a Haig Point salesman who had moved from North Carolina. Respondent's involvement in duties that should have been performed by the broker-in-charge caused the erroneous issuance of a license to Eric Metzger wherein Metzger was licensed with Piedmont Land Company, but selling under Haig Point Realty.

By Consent: Reprimand and a fine of \$1,000.

Robert J. Doran, Jr., Broker-in-Charge

James Doran Company, Mt. Pleasant, SC

For failure to complete the required continuing education prior to license renewal.

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

William H. Falls, Broker-in-Charge, Haig

Point Realty Company, Hilton Head Island

For failure to properly perform his duties as broker-in-charge which resulted in his aiding and abetting unlicensed persons to sell real estate. Respondent was in an organizational structure that placed him in a position as a nominal broker-in-charge whereby a total of 41 real estate transactions were conducted by unlicensed persons.

By Consent: Indefinite license suspension stayed upon a reprimand, payment of a \$4,250 fine and probation for 36 months. Before Respondent was allowed to continue as broker-in-charge the company had to submit an organizational chart and a letter attesting that the Respondent had unencumbered authority as broker-in-charge.

Ronald Blake Frazier, Salesman, Haig Point

Realty Company, Hilton Head Island, SC

For conducting four real estate transactions for Haig Point Realty before becoming licensed.

By Consent: Indefinite license suspension stayed upon a reprimand, payment of a \$4,000 fine and probation for 24 months.

Barbara J. Gantt, Salesman, Coldwell

Banker, Tom Jenkins, Columbia, SC

For failure to complete the required continuing education prior to license renewal and for failure to respond to the Commission's audit.

By Consent: Public reprimand and a \$300 fine.

Robert E. Gardinier, Jr.,

Inactive Salesman, Morehead City, NC

For conviction of a crime of moral turpitude and failure to notify the Commission of same within the prescribed period.

By Consent: Public reprimand.

Russell B. Hebert, Broker-in-Charge

Re/Max Foothills Real Estate, Seneca, SC

For failure to complete the required continuing education prior to license renewal.

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

David A. Hurst, Salesman, Haig Point

Realty Company, Hilton Head Island, SC

For conducting four real estate transactions for Haig Point Realty before becoming licensed.

By Consent: Indefinite license suspension stayed upon a reprimand, payment of a \$4,000 fine and probation for 24 months.

Charles W. Jacobs, Broker
Century 21, Fairfield
North Myrtle Beach, SC

For being convicted of a crime of moral turpitude and failure to report same.

By Consent: Voluntary surrender of his broker's license in exchange for issuance of a time share license. Public Reprimand and 24 months probation.

Donald W. Johnson, Salesman
Professional Realty, Inc.
Moncks Corner, SC

For failure to complete the required continuing education prior to license renewal.

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

Patrick H. Kelly, Salesman
Haig Point Realty Company
Hilton Head Island, SC

For conducting six real estate transactions for Haig Point Realty before becoming licensed.

By Consent: Indefinite license suspension stayed upon a reprimand, payment of a \$6,000 fine and probation for 24 months. Fine not paid, suspension continues.

Rachel R. Lindsay, Broker-in-Charge
Perdue & Lindsay, Inc.
Summerville, SC

For managing property under an agreement that did not meet the requirements of the law. Respondent purchased a company and continued to manage property under existing assignable management agreements. Those assignable, automatic renewable agreements do not meet the requirements of the law.

By Consent: Reprimand and a \$300 fine.

Richard K. Lodge, Salesman
Harold Goodwin Realty, Columbia, SC

For failure to complete the required continuing education prior to license renewal.

By Consent: Voluntary license surrender.

Stephen M. Marlis, Broker-in-Charge
The Marlis Company, Hilton Head Island,

For being convicted of a crime of moral turpitude and failure to report same.

By Consent: License suspension for one year or to coincide with period of incarceration, which ever is longer, followed immediately by 36 months probation.

Christopher S. Matoska, Salesman
Haig Point Realty Company,
Hilton Head Island, SC

For conducting three real estate transactions

for Haig Point Realty before becoming licensed.

By Consent: Indefinite license suspension stayed upon a reprimand, payment of a \$6,000 fine and probation for 24 months.

Thomas E. Nance, Sr., Broker-in-Charge
Nance Realty and Construction
Hartsville, SC

For conduct which demonstrates bad faith, dishonesty, untrustworthiness or incompetency in his real estate business wherein he sold six lots to owners of manufactured homes knowing that the lots could not be sold because of restrictions imposed by the Darlington County Planning Commission.

By Consent: Indefinite suspension stayed upon payment of restitution to the owners. Reprimand and 24 months probation.

Vanessa K. Patrick, Salesman
Re/Max Realty Executives of the Midlands,
Columbia, SC

For failure to write a buyers' agency agreement for clients that she was representing in a real estate transaction.

By Consent: Reprimand and a fine of \$300.

John F. Pennett, Broker-in-Charge
Able Realty, Surfside Beach, SC

For failure to complete the required continuing education prior to license renewal.

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

Terri G. Russell, Salesman, S.R. Stewart, Inc., Greenville, SC

For failure to properly disclose to the buyers, on a form approved by the Commission, the fact that she represented the seller.

By Consent: Reprimand and a fine of \$300.

Angelika Schmidt, Salesman
The Prudential C. Dan Joyner, Mauldin, SC

For failure to properly disclose to the buyers, on a form approved by the Commission, the fact that she represented the sellers and the buyers.

By Consent: Reprimand and a fine of \$300.

Christina M. Thompson
Formerly of Darby Development
Charleston, SC

For stealing funds from her broker's account.

By Consent: License revocation.

George L. Tupper, Jr. Broker
Re/Max Professional Realty
Charleston, SC

For failure to maintain a current listing and for failure to properly disclose to the buyers, on a form approved by the Commission, the fact

that he represented the sellers and the buyers.

By Consent: Reprimand and a fine of \$300.

Barry L. Watts, Salesman
Watch Care Property Management, Inc.
Lancaster, SC

For failure to complete the required continuing education prior to license renewal and for failure to respond to the Commission's audit.

By Consent: Public reprimand, completion of sixteen hours of education and a \$500 fine.

Van Watts, III, Broker-in-Charge
Pace Realty, Myrtle Beach, SC

For conduct which demonstrates bad faith, dishonesty, untrustworthiness or incompetency in a real estate transaction. Respondent promised to deed a portion of property containing a guardhouse to the River Hills Property Owners Association in exchange for the Associations' support of a rezoning proposal before county council. After the county council approved the rezoning request, the Respondent sold the property and failed to transfer the guardhouse to the owners' association.

By Consent: Reprimand and a fine of \$1,000. Guardhouse parcel to be conveyed by the present owners.

Frederick A. Wells, Salesman
Sherman and Hemstreet/BH&G
North Augusta, SC

For failure to complete the required continuing education prior to license renewal and for failure to respond to the Commission's audit.

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

Mark D. Yarborough, Salesman
Haig Point Realty Company
Hilton Head Island, SC

For aiding and abetting unlicensed persons to conduct real estate transactions. Respondent, in his position of vice president of sales, knew that unlicensed persons were employed with the company. Respondent's hiring practice resulted in a total of 41 real estate transactions being conducted by unlicensed persons.

By Consent: Indefinite license suspension stayed upon a reprimand, payment of a \$4,250 fine and probation for 36 months.

Disciplinary Actions - continued on page 6



SOUTH CAROLINA REAL ESTATE COMMISSION
S.C. REAL ESTATE COMMISSION NEWS

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Cease and Desist

The following individuals were issued Cease and Desist Orders by the Commission for unlicensed real estate activity.

Linda Kaminski
Sloan Street Apartments
Clemson, SC

Unlicensed property management activities.

Miriam McFalls
North Carolina Broker
Pineville, NC

Licensed in North Carolina. Transacted business in South Carolina without a license.

Adam T. McTeer
Formerly licensed with Porter Realty
Sumter, SC

Allowed first year license to lapse and continued to transact real estate business.

Robert J. Parker, Unlicensed
Cheraw, SC

Unlicensed solicitation of a listing. Respondent had attended a "how to make money in Real Estate" seminar offered by a California based company.

Ernest J. Porter
Formerly Porter Realty
Sumter, SC

Allowed license to lapse and continued to conduct real estate transactions.

Juan Jackson
1st USA Realty
Columbia, SC

Licensed revoked in 1997. Found to have conducted a VA transaction in February 2000.

• See additional Disciplinary Actions on page 4.

In This Issue

Renewals 1
 Penalty for Late or
 Non-renewal 1
 Policy Statement
 on Transfers 1
 Trust Acct. Legislation 2
 Its the Law 2
 Boland Named Manager .. 2
 Referrals 3
 Dual Agency Revisited 3
 New 60-hour Prelicensing
 Courses 3
 Disciplinary Actions 4