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Christine Todd Whitman, Governor

Elizabeth E. Randall, Commissioner of Insurance

REAL ESTATE COMMISSION

**GLORIA A. DECKER, Executive Director
GAIL IAMMATTEO, Deputy Executive Director**

*The Commission Strongly Urges You
to Provide Copies of The REC News
to ALL licensees and Instructors.*

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GLORIA A. DECKER NAMED EXECUTIVE DIRECTOR

On March 28, 1996, Gloria A. Decker was sworn in as the new Executive Director of the Division of the New Jersey Real Estate Commission in the Department of Insurance. Anita B. Kartalopoulos, Esq., who had served as Executive Director of the Commission from August, 1994 until her promotion to Deputy Commissioner of the Department of Insurance administered the oath of office. Gloria has a long and impressive background in government and real estate. Commencing in 1974 she served in various senior capacities with the New Jersey Lottery Commission. In 1977 she was appointed as the Lottery Commission's Executive Director, a position she held through 1982. She has also served on the Phillipsburg School Board and the Warren County Tax Board. She has been a member of the Delaware River Joint Toll Bridge Commission since 1994 and is presently serving as its chairman. She also served as the first full-time mayor and Chief Executive Officer of Phillipsburg, New Jersey from 1991 through 1995, and was a member of the Town Council for two years prior to her election as mayor.

In the real estate field, Gloria had been a licensee in New Jersey and Pennsylvania for some 24 years and was a co-owner of Prudential/Vision Real Estate in Phillipsburg for the six years preceding her appointment as the Commission's Executive Director.

Gloria resides with her husband, Jay in Phillipsburg. She has two children and is the proud grandmother of Ryan, four and one-half, and Matthew, eight months.

Clearly, she brings a wealth of experience and knowledge to the Commission. New Jersey licensees and consumers are fortunate indeed to have the oversight of the Commission's operations in the hands of one so capable as Gloria A. Decker.

COMMISSION UPDATE: NEW MEMBERS APPOINTED AND NEW OFFICERS ELECTED

Recently, Governor Whitman appointed three new members to the Real Estate Commission. Jean T. Burgdorff, co-founder with her late husband of Burgdorff Realtors was appointed as a new broker member in December, 1995 to replace former Commission President Herbert M. Tanzman who retired in July of that year. As the guiding force behind one of the state's largest and most successful residential firms, Ms. Burgdorff brings a wealth of experience and knowledge to the Commission.

In February, 1996 Clementina Peña of Dover, Morris County was appointed to replace Joseph J. Grassi, Jr., who had succeeded Mr. Tanzman as Commission President. Ms. Peña is broker of record of C. Peña Real Estate, Inc., and brings to the Commission 30 years of experience as the broker of a successful urban-based residential firm. It is anticipated that Ms. Peña's input on how contemplated regulatory actions might impact upon small businesses will prove especially valuable.

Also in February, 1996, Michael McKitish was appointed as a new public member of the Commission, replacing Queen E. James who resigned from that position in October, 1995. Mr. McKitish is a Certified Public Accountant. He brings to the Commission his considerable knowledge in accounting and government, having worked for the state in various capacities for 16 years. He began his state service with the Lottery Commission and later moved on to the State's Treasury Department where he served as Administrator of the General Services Administration from 1988 through 1991. In 1991, he became employed with Drew University where he is now the Vice-President of Finance and Business Affairs. Clearly, Mr. McKitish comes well-equipped to make a significant contribution to the Commission's functions, particularly in matters involving questionable business and accounting practices.

Subsequent to the departure of former President Grassi, elections were held to designate a new Commission

President and Vice-President. On February 27, 1996 Thomas White, who had served as Vice-President under Mr. Grassi, was unanimously elected as the Commission's new President and Edward L. Goldberg was unanimously elected as Vice-President. The licensee community can rest assured that under the stewardship of these two seasoned real estate professionals the Commission will continue its policies of effective enforcement and a regulatory approach which, while recognizing the paramount importance of the public interest, is also cognizant of the burdens which excessive regulation can impose upon legitimate business interests.

ATTENTION BROKERS: DON'T TAKE YOUR RENEWAL OBLIGATIONS LIGHTLY!

Once again, the process of renewing all real estate licenses (with the exception of school and instructor licenses) is upon us. It is imperative that brokers take seriously and completely fulfill their responsibilities with regard to the completion and timely submission of renewal applications. Each renewal application contains questions inquiring as to any renewing licensee's recent involvement with the Criminal Justice System or loss of a real estate or other professional license. The integrity of the entire renewal process hinges on brokers making these two inquiries to every person for whom they submit a renewal application, and accurately reporting the responses received from those persons. Brokers are required to certify to the Commission that they have done so on the renewal application form.

Brokers can incur substantial penalties for failing to fulfill these obligations. On June 22, 1995, the Commission fined a South Jersey broker \$2,000. for failing to make these inquiries to a salesperson before signing the renewal form and submitting it to the Commission. All brokers who engage in similar conduct will likewise be subject to severe sanctions.

LICENSURE RENEWALS

The Real Estate Commission will commence the licensure renewal process in May, 1996. Each employing broker will be provided with a renewal notice/list that reflects the licensees who, according to the Real Estate Commission records, are licensed with that particular broker.

Each employing broker is responsible for obtaining pertinent information on each licensee as requested on the renewal notice and providing that information, along with the renewal notice and the appropriate fees to the Real Estate Commission by June 1, 1996.

The renewal fees associated with the licensure period of July 1, 1996 thru June 30, 1997 are as follows:

LICENSE TYPE	FEES
Corporate	\$50.00
Employing Broker	\$50.00
Partnership	\$50.00
Broker of Record	\$50.00
Broker Salesperson	\$50.00
Salesperson	\$25.00

Branch Office

\$25.00

Questions relating to the real estate renewal process should be directed to Mary Vargas who may be reached at 609-292-3706.

***NEW LAW SUBJECTS PERSONS
IN ARREARS ON CHILD SUPPORT
TO LICENSE REVOCATION***

On March 15, 1996 Senate Bill 355 was signed by Governor Whitman and went into effect. The new law provides that persons who are more than six months in arrears on their child support obligations or who are the subject of a child support warrant will have any professional license they hold revoked upon the licensing authority receiving a court order directing revocation of the license. Upon receipt of such a court order the Commission must immediately notify the licensee of the effective date of the revocation, which shall be 20 days after the postmark of the notice. The license will not be reinstated until the court or the Probation Division certifies that all arrearages have been satisfied. The law provides that licensing authorities have no jurisdiction to modify, remand, reverse, vacate or stay such a court order.

All persons whose licenses may be affected by this law should promptly take steps to make and keep their child support obligations current.

WALK-IN HOURS FOR LICENSING MATTERS

The Commission has established a policy limiting the times at which persons may come to its office in Trenton and receive assistance on licensing matters. Such service will only be provided on Wednesdays, Thursdays and Fridays between the hours of 1:00 p.m. and 4:00 p.m. on a first come - first served basis.

Many of your licensing questions may be answered by the Commission's automated licensing information system which can be reached by calling 609-292-7053 and 7055.

FEDS PROMULGATE FINAL RULES ON LEAD PAINT DISCLOSURES

In the March 6, 1996 edition of the Federal Register, notices appeared regarding the adoption by the Department of Housing and Urban Development and the Environmental Protection Agency of rules imposing disclosure obligations on owners of "target housing" which may contain lead-based paint. The final rules go into effect on December 6, 1996 with regard to owners of four or fewer residential dwellings, and on September

6, 1996 with regard to the owners of five or more residential dwellings. Target housing is generally defined as any housing constructed prior to 1978, except housing for the elderly or persons with disabilities (unless any child who is less than 6 years of age resides or is expected to reside in such housing).

Real estate licensees are personally obligated under these rules and the applicable federal law to ensure that all activities required of the sellers or lessors of target housing are completed. Licensees who fail to do so are subject to civil liability and criminal penalties.

Briefly stated, the requirements are:

- **Sellers and lessors of target housing must disclose the presence of known lead-based paint or lead-based paint hazards in the housing.**
- **Sellers and lessors must provide purchasers and lessees with any available records or reports pertaining to the presence of lead-based paint or lead-based paint hazards.**
- **Sellers must provide purchasers with a 10-day period to conduct a lead-based paint or lead-based paint hazards risk assessment or inspection prior to the purchaser becoming obligated on a contract.**
- **Sales contracts and leases must contain certain disclosure and acknowledgement language.**

Free copies of the rules and of an official Lead Hazard Information pamphlet can be obtained by calling the National Lead Information Clearinghouse at 800/424-LEAD (CORRECT NUMBER). The pamphlet is also accessible on the World Wide Web at <http://www.nsc.org/nsc/ehc/ehc.html>.

RECENT DISCIPLINARY ACTIONS

The licenses of the following persons were revoked, suspended or surrendered with prejudice on the dates indicated. Those persons whose period of separation from the business has concluded are marked with an asterisk.

NAME	LOCATION	LICENSE	DATE
Demetria Abad aka Demi Santiago	Montclair	SP	04/96
Lona M. Bailey	Wildwood	B	12/94
Mark Eric Bailey	Wildwood	B-SP	12/94
Joseph L. Belle	Morristown	SP	03/96
Richard Bergstein	Parsippany	SP	01/95
Cesarina Calderon*	Plainfield	B	12/94
Mark Cammarota*	Kenilworth	SP	04/95
Kelly Ann Casiero*	Bayville	SP	05/95
Joseph Celeste	No. Bergen	B	02/95
Ronald Cervelli	No. Bergen	SB	04/95
William Clayton	Bay Head	B	05/94
Raymond Cron	Edgewater	SP	11/95

John R. Cupo	Bayonne	B	05/95
Patrick Curley	Trenton	B-SP	12/95
Maureen Emich*	Englewood Cliffs	B-SP	08/95
Loreli Faiva	Lanoka Harbor	SP	06/95
William J. Feehan	Hawthorne	SP	01/95
Maria a/k/a Daisy Fernandes	Livingston	SP	12/95
Anthony T. Gallagher	Wildwood	B	06/94
Joseph M. Gallagher	Wildwood	B-SP	06/94
Robert Geiger*	Summit	B	01/94
Yvonne Grady	Manahawkin	B-SP	09/94
Rufus Grant, Jr.	Montclair	B	04/96
Gary Greiser	Manasquan	SP	11/95
Pamela Heggie	Shrewsbury	SP	11/95
Beverly Jones	No. Plainfield	SP	07/95
Paula Jukel	Cinnaminson	B	12/94
Kenneth Kanoff**	Hackensack	SP	03/96
Cynthia Lelinho*	Cream Ridge	SP	10/94
Salvatore Loffredo*	Passaic	SP	06/94
Robert Lopez	Princeton	SP	04 /96
John P. Maher*	Manahawkin	B	09/94
Frank McVey	Lavalette	B	07/94
Vincent Morocco	Maplewood	B	11/95
Gary Nelson	Cliffside Pk	B	03/95
Anthony Parks	Maplewood	SP	10/95
Lawrence Pinilis	Livingston	B	10/95
Morton Popok	Oakhurst	B & Instr.	07/95
Kathryn Ramsey	Franklinville	B	06/94
Richard Reich	Parlin	SP	03/96
Edmond Robins, III	Medford	SP	07/95
Ian Rolston	Aberdeen	SP	11/95
Donald J. Scott	Linden	SP	03/95
Trudy Sentak	Bordentown	B	01/96
Phyllis Shaw	Frenchtown	B	07/95
Nancy Steingart*	Metuchen	SP	03/95
Bin Eissa Syed	Middlesex	B	01/95
Robert Tagliarini	Lyndhurst	B	10/94
Norman L. Tobin*	Maplewood	B	07/94
Theodore Wolfson*	Tenafly	B	09/95

** *Stayed Pending Appeal*

ENFORCEMENT UPDATE

During 1995, the Commission staff issued 378 letters to licensees citing them for various infractions. Such letters are generated when evidence is obtained indicating that a regulatory violation which may not be so serious as to warrant the imposition of severe sanctions, but which nevertheless requires an enforcement response has occurred. Some of the letters warned the recipients that the results of a Commission investigation indicated they had violated a provision of the license law or a Commission rule, and that any similar violations in the future would subject them to sanctions. Other letters proposed that the recipient pay a monetary penalty to informally resolve more serious infractions. The total amount of penalties paid by the recipients of these letters was \$96,850.

47% of the cases which generated these letters involved infractions which occurred in the course of the licensee's dealings with the public. These included matters involving misrepresentations, failures to fulfill fiduciary obligations and/or make required disclosures, and violations relating to required contract and listing agreement clauses.

Advertising violations were the next most common category, comprising about 21% of the total. Another 14% of these cases involved the licensees' dealings with the Commission. These included negligent misrepresentations on application forms, failures to submit office closing affidavits, issuing bad checks to the Commission, and minor failures to produce business records.

The remainder of the cases involved minor trust/escrow account and office procedure infractions, violations of the Real Estate Sales Full Disclosure Act and/or the rules relating to that Act, and infractions by licensed schools and instructors.

COMMISSION PROPOSES AMENDMENTS TO ADVERTISING RULE

Many licensees have construed N.J.A.C. 11:5-1.15 m(2) to permit them to promote their businesses by offering discounts or premiums, or to pay one or more of the expenses typically incurred by consumers when buying and selling real estate. For example, licensees have offered free home inspections, pest inspections, radon inspections, or to pay mortgage points or the mortgage application fee. Based upon the opinion of the Appellate Division in *Coldwell Banker v. New Jersey Real Estate Commission*, 242 N.J. Super. 354 (App. Div. 1990), the Commission has concluded that such offers constitute the use of a method for the sale or promotion of the sale of real estate which involves a prize, contrary to N.J.S.A. 45:15-17 (g).

The Commission has also determined that such offers are inconsistent with the original intent of section (m) of rule 11:5-1.15. That intent was to permit licensees to provide free offerings which are informational or educational in nature, such as comparative market analyses and seminars. To address these concerns, the Commission is proposing to amend N.J.A.C. 11:5-1.15(m).

The proposed amendment eliminates the exception in subparagraph (m)2 to offerings which are "ancillary to the real estate transaction process" and substitutes text referring to offerings which are informational or educational in nature. The proposal also makes a grammatical correction by replacing the word "or" with "and" between the descriptions of the two types of permissible free offerings mentioned in this subparagraph.

The proposal also adds new text establishing a definite standard on free offerings of promotional items which are permissible because they are of token value. This change will resolve the uncertainty which has existed as to what items are and are not considered to be of token value. Coupons redeemable for discounts on purchases from affiliated or unaffiliated service providers or merchants would be prohibited if the value of the discount exceeded \$5.00. Similarly, premiums such as frequent flyer miles and reward programs which confer a monetary benefit in excess of \$5.00 could not be offered. In addition to constituting a "prize" prohibited by N.J.S.A. 45:15-17 g, in some cases providing such premiums or discounts is the equivalent of paying a rebate, contrary to N.J.S.A. 45:15-17 k. Finally, as amended subparagraph 3 would conclude with a list of examples of prohibited free offerings.

The Commission is also proposing to revise section (1) of rule 11:5-1.15. Section (1) refers to the offering of homeowners warranties. Under the proposed amendments, the offering of such policies by licensees for free or at a subsidized rate would be prohibited, as is specifically recited in proposed new subparagraph (m)3. As amended, section (1) clearly will indicate that the cost of such policies must be borne by one or both of the parties to the transaction.

Interested parties may submit written comments on this proposal by on or before July 17, 1996. Comments should be sent to *Gloria A. Decker, Executive Director, New Jersey Real Estate Commission, CN 328, Trenton, New Jersey 08625-0328.*

The full text of the proposal follows (additions are indicated in boldface thus; deletions indicated in brackets {thus}).

11:5-1.15 -- Advertising Rules

(a) through (k) - No change

(l) Any home warranty offer contained in any advertisement shall comply with all Federal and State warranty legislation, including the New Home Warranty and Builder's Registration Act, c.467, L.1977, N.J.S.A. 46:3B-1, et seq., and the Magnuson-Moss Warranty Act, P.L. 93-637, 15 U.S.C. 2301 et seq. Such advertising shall specify clearly whether the warranty is by inspection or non-inspection of the premises, whether the warranty is mandatory, and whether the purchaser or the seller is responsible for payment for the warranty. No advertisement shall contain an offer for a warranty unless a warranty may be secured for the property being advertised.

(m) Except as herein provided, no free offering, including the offering of a free appraisal, shall be made in any advertisement or promotional material. "Appraisal" as used herein is given its technical meaning as a complete study and analysis by a specialist or expert to ascertain fair market value using a process in which all factors that would fix price in the market place must be considered.

- 1. Nothing herein shall be construed as prohibiting the use of such words as "included" or "included in the purchase price" in reference to item included by the owner in the sale of any real property or interest therein.**
- 2. Free offerings {ancillary to the real estate transaction process} which are informational or educational in nature, including but not limited to offerings of market studies {,} or seminars, {or} and offerings in the nature of promotional items of token value, such as calendars or pens are not prohibited. A market study is not an appraisal as herein defined.**
- 3. The prohibition upon licensees making free offerings of items of more than token value applies to all offerings which confer upon consumers a monetary benefit of a value of more than \$5.00 retail. Examples of prohibited free offerings include free or subsidized homeowners warranties, property, radon and pest inspections, surveys, mortgage fees and other costs typically incurred by parties to real estate transactions.**

(n) - No change.

**COMMISSION PROPOSES RULE CHANGE REGARDING
RESALES OF MOBILE AND MANUFACTURED HOMES**

New Jersey's Motor Vehicle Dealer Licensing Law, N.J.S.A. 39:10-19 was recently amended to provide that licensed real estate brokers may, although not licensed as motor vehicle dealers, act as an agent or broker in the resale of certain motor vehicles. Those vehicles are mobile homes without their own motor power other than recreational vehicles as defined in N.J.S.A. 39:10.11, and manufactured homes as defined in N.J.S.A. 54:4-1.4. Such mobile or manufactured homes are required by law to bear motor vehicle titles. The amended law also provided that the Commission, after consultation with the Division of Motor Vehicles, shall promulgate rules to effectuate the provisions of the amended act. Having had such consultations, the Commission has proposed amendments to N.J.A.C. 11:5-1.23 and 11:5-1.27 to implement the provisions of N.J.S.A. 39:10-19 as amended.

The proposed amendment to rule 11:5-1.23 would add new section (i) to the rule. This section reiterates the provisions in the amended law and requires licensees who broker such resale transactions to be familiar with all applicable laws. These laws include, but are not limited to N.J.S.A. 39:1-1 et seq. as it applies to the resale of, and transfers of the titles to such motor vehicle units, N.J.S.A. 46:8C-1 et seq. as it applies to the resale of such units when situated in mobile home parks, and New Jersey's Truth in Renting Act, N.J.S.A. 46:8C-43 et seq. The proposal also provides that when involved in these types of transactions, licensees who demonstrate a lack of familiarity with the applicable laws will be subject to sanctions for having engaged in conduct demonstrating incompetency pursuant to N.J.S.A. 45:15-17(e).

The proposed amendments to N.J.S.A. 11:5-1.27 revise the syllabi of the salesperson and broker prelicensure education courses to require instruction on the laws applicable to resale transactions involving mobile home and manufactured housing motor vehicle units. In addition, a reordering of the topics listed in subparagraph (g)1.xv. of rule 1.27 is being proposed, so as to clarify the reference in it to New Jersey's Law Against Discrimination immediately follow the reference to the Federal Fair Housing Laws. Generally, instruction on these two topics is provided in a single unit.

Interested parties are invited to submit written comments on this proposal by on or before July 17, 1996. Comments should be sent to: *Gloria A. Decker, Executive Director, New Jersey Real Estate Commission, CN 328, Trenton, New Jersey 08625-0328.*

The full text of the proposal follows (additions are indicated in boldface thus; deletions are indicated in brackets {thus}):

11:5-1.23 - Obligations of licensees to the public and to each other

(a) - (h) - No change

(i) Licensees may engage in brokerage activity in transactions involving the resale of mobile and manufactured homes as provided in N.J.S.A. 39:10-19. Licensees who do so shall be familiar with all laws applicable to such transactions. These laws include N.J.S.A. 39:1-1, et seq. as it applies to the resale of the transfer of the titles to such motor vehicle units, N.J.S.A. 46:8C-1, et seq. as it applies to the resale of such units when situated in

Mobile Home Parks, and New Jersey's Truth in Renting Act, N.J.S.A. 46:8C-43, et seq. Licensees who, when involved in transactions of this type, evidence a lack of familiarity with these laws either through acts of omission or commission shall be subject to sanctions by the Commission for having engaged in conduct demonstrating incompetency, in violation of N.J.S.A. 45:15-17(e).

11:5-1.27 - Education requirements for salespersons and brokers in making application for licensure examination

(a) - (e) - No change

(f) The salesperson's course of 75 hours shall include:

1. through 8. - No change

9. Other {states} state, federal and municipal laws and regulations, including N.J.S.A. 39:1-1 et seq., 46:8-43 et seq. and 46:8C-1 et seq. as they pertain to the resale of mobile and manufactured housing units which bear or are required to bear motor vehicle titles.

10. and 11. - No change.

(g) 1.i. through xiv. - No change.

xv. Laws: Federal Fair Housing and {New Jersey "Mount Laurel" requirements,} the New Jersey Law Against Discrimination, New Jersey "Mount Laurel" requirements, RESPA, Truth in Lending, rent control, {and} New Jersey Land Use Law, New Jersey's Truth in Renting Law, and the provisions in that law, in N.J.S.A. 39:1-1 et seq. and in N.J.S.A. 8C:43 et seq. which pertain to the resale of mobile and manufactured housing units which bear or are required to bear motor vehicle titles.

(g) 1. xvi. through (j) - No change.

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