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Department of Banking and Insurance  
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**CHRISTINE TODD WHITMAN, Governor**

**JAYNEE LaVECCHIA, Commissioner of Banking and Insurance**

**REAL ESTATE COMMISSION**

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



## **HAPPY HOLIDAYS**

**The members and staff of the Real Estate Commission  
wish all licensees a joyous and safe holiday season and  
a new year filled with good health and success!**



## **Mock Hearing**

### **Held At NJAR Convention**

**On December 3, 1998 at the NJAR Convention in Atlantic City the Real Estate Commission reprised its presentation of a mock hearing in a disciplinary action against a licensee. This presentation depicted the important role the Commission plays in protecting the public at large from uninformed but well-meaning licensees.**

**The script was loosely based in part upon a previously decided disciplinary action. The use of actual documentary exhibits, witness testimony, and direct and cross examination by attorneys realistically depicted**

**how disciplinary actions are investigated, litigated and decided.**

**The Commissioners in attendance were President Thomas H. White, Vice-President Edward L. Goldberg, Camille Maas, Barbara Grove, Robert L. Kinniebrew and Susan Toth, along with their legal counsel Deputy Attorney General Inge Cully. The program was moderated by Executive Director Gloria Decker.**

**Convincingly playing the part of the respondents were Doug Sinopoli, NJAR 1st District Vice President, Inez Lief, a past President of NJAR and Christina Clemens, NJAR Professional Development Officer. The respondent's attorney was played by Regulatory Officer Marianne Gallina and appearing as the prosecuting attorney was Special Assistant to the Director Robert Melillo, who also authored the script.**

**The ensemble cast also included staff members Charlene Overcash as a commission investigator, Craig Mitchell as a broker-salesperson whose firm practiced transaction brokerage, and Deputy Director Gail Iammatteo as the homeowner.**

**The hearing involved three respondents, a broker and two individuals licensed with that broker. The Respondents were notified that an initial deposit check they received on the purchase of a townhouse had been dishonored after it was placed into the broker's escrow account. They then failed to promptly disclose that information to the seller. The seller also was not informed that the buyer failed to pay the additional deposit called for in the contract. Further, at the time of taking the listing the salesperson neglected to make a reasonable effort to gather information material to the physical condition of the property. In addition, in marketing the property the agency did not offer full cooperation to other brokers, thereby limiting the scope of the property's exposure to potential buyers. Finally, after the initial transaction fell through the respondents failed to disclose information material to the transaction to their new buyer - clients who actually purchased the property.**

**In its ruling the Commission found the broker guilty of some of the violations and not guilty of others. A fine was imposed and she was required to complete certain educational courses. In addition to having his license suspended for six months the main respondent was fined and required to requalify before his license could be reinstated. The third respondent, whose involvement was limited to dealing with the second buyers, was also ordered to pay a fine.**

**The program was well received and the enthusiastic audience raised many interesting questions. Their favorable comments were deeply appreciated by the Commission and staff.**

**Special thanks to NJAR and its convention cast for their assistance and hospitality.**



### **ATTENTION BROKERS:**

**RESPONSES TO SURVEY ON LICENSEES' HOME ADDRESSES ,**

**DATES OF BIRTH AND SOCIAL SECURITY NUMBERS**

**MUST BE PROVIDED NOW**

**In mid - 1997 all brokers were sent survey forms directing that they provide to the Commission the home addresses, dates of birth and Social Security numbers of all persons licensed with them. As was indicated at that time, as a result of the enactment in New Jersey of P.L. 1996, c.7 the Commission was required to collect that data as part of the State's initiative, as mandated by federal legislation, to enhance its child support enforcement efforts.**

**Section 6 of that law provides: "For all licenses issued or renewed in the State after the effective date of P.L.**

**1996, c.7 (c.2A:17-56.40 et al.), the licensing authority shall record the full name, mailing address, Social Security number and date of birth of the applicant or licensee."**

**To avoid problems and delays in renewing licenses when they expire next summer, brokers who have not yet responded to the survey should do so IMMEDIATELY!**



## **BROKER PAYS HEAVY PRICE FOR OFFICE STAFF'S FAILURE TO PROCESS LICENSE APPLICATIONS**

**Long hours of hard work and hands-on experience qualify a salesperson to take the Broker Course and to sit for the State Broker's License Exam. A substantial portion of that test covers the administrative responsibilities which, by law, brokers must perform. Compliance with these laws in the "routine" functions of office management and record keeping is a critical and ongoing responsibility of every broker. Whenever there are serious or repeated violations, the broker's license may lie in the balance.**

**In cases where the broker delegates these functions to a support person, it is the responsibility of the individual broker, (sole proprietor or broker of record) to regularly monitor the efforts of their office managers or support personnel to fulfill these *statutory obligations of the broker*. It cannot be taken for granted that the delegated responsibilities have been discharged .**

**In a recent case (see related article on Disciplinary Actions) a Broker of Record was fined \$12,500 and ordered by the Commission to complete 60 hours of broker education because his office manager, to whom he had assigned the responsibility of processing licensing transactions, had utterly failed to do so. The office manager was also fined and directed to complete 60 hours of broker education. As a result of the failures by the manager and the broker, some 25 salespersons were unlicensed for various lengths of time, in some cases for years! Many of these individuals faithfully paid their renewal fees and had their checks cashed by the brokerage firm, only to learn that the applications were never submitted to the commission! (This again highlights the importance of licensees securing from their brokers the pocket card supplied with each license which, by law, licensees must carry when engaged in brokerage activity.)**

**In addition to their administrative liability, brokers who "drop the ball" on licensing transactions may be exposed to claims by the affected individuals, and their right to sue for compensation is jeopardized whenever individuals involved in a transaction are not properly licensed.**

**Given these facts, it seems that every broker who delegates to another the job of properly processing licensing transactions should make monitoring the performance of these individuals a TOP PRIORITY**

**COMMISSION RULES READOPTED AND RECTIFIED  
LOOK FOR UPDATED STATUTE AND RULES MANUALS.**

Effective October 5, 1998, the Commission readopted its administrative rules (Chapter 5 of Title 11 of the New Jersey Administrative Code) which, pursuant to an Executive Order, had been scheduled to expire unless readopted prior to October 15, 1998.

After reviewing the expiring rules, the Commission proposed many housekeeping and technical amendments (see Summer, 1998 edition of the NJREC News) and several more substantive amendments, all of which were adopted. These include an amendment to the rule on employment agreements between brokers and salespersons (recodified as 11:5-4.1(a)) which permits brokers and salespersons to agree that the salesperson's compensation can be paid on a schedule other than within ten business days of the broker's receipt of a gross commission, or as soon thereafter as the funds clear the broker's account. Another very significant amendment was made to one of the rules on brokers' escrow accounts, 11:5-5.1. This rule now provides that any other signatories on an escrow or trust account in addition to the sole proprietor broker or broker of record must be actively licensed individuals.

The Commission took the opportunity of the readoption to reorganize all of its rules according to their subject matter. Thus the entire chapter has been recodified under specific subchapter headings such as Education, Licensing, Trust Accounts/Records, etc. This was a time-consuming and onerous task, but it has resulted in the adoption of a body of rules which is significantly more "user-friendly" than the prior set of rules.

Updated Statute and Rules Manuals containing the amended and recodified rules were recently sent to all licensed brokerage offices. Brokers should make them easily available to their licensees and salespersons should confirm that their brokers have received them. Additional copies can be obtained by sending a certified or cashiers check, or money order, or broker's business account check for \$10.00 to the New Jersey Real Estate Commission, P.O. Box 328, Trenton, New Jersey 08625-0328, Attn: Education Section. The \$10.00 fee covers the cost of copying and mailing, and should be made payable to The State Treasurer of New Jersey.

It is anticipated that eventually all of the Commission's rules, and possibly the provisions of the license law as well, will be available on the Internet.



## **MELILLO ADDRESSES NEW JERSEY JUDICIAL COLLEGE**

### **ON DISCLOSED DUAL AGENCY**

On November 24, 1998 Special Assistant to the Director Robert J. Melillo made a presentation on disclosed dual agency to New Jersey Superior Court judges attending a program on General Equity Special Problems at the annual Judicial College. Mr. Melillo was requested to address the session because several cases involving licensees acting as disclosed dual agents had recently been filed in Burlington County.

In his address, Mr. Melillo gave a brief history of the agency disclosure trend, which precipitated a heightened interest in buyer-brokerage and the resulting emergence of disclosed dual agency. He then discussed how the Commission's rules focus on what disclosures licensees must make when they contemplate operating as a disclosed dual agent, the authorizations which must be obtained from both parties, the form in which those two requirements must be met, i.e. securing from the parties their written Informed Consent to disclosed dual agency, and when licensees must secure the parties' Informed Consent.



## **JUDGE RULES REPRESENTATION OF COMPETING BUYER-CLIENTS PLACES FIRM IN DUAL AGENCY POSTURE**

The discussion then focused on a case recently heard by Superior Court Judge Myron Gottlieb who sits in

**Chancery in Burlington County.** (The Chancery Division hears civil cases in which the plaintiffs seek equitable relief, as opposed to legal damages.) The case involved a brokerage firm which was simultaneously acting as the agent for the seller of a home and for two buyers competing to buy that property. After a hearing Judge Gottlieb ruled that the firm was in a dual agency posture vis-à-vis the two buyers and that, based upon its fiduciary obligation of full disclosure to Buyer B, the firm had to reveal to Buyer B the amount which Buyer A had bid on the property.

**Mr. Melillo indicated that, to date, the Commission has not construed the simultaneous representation of competing buyers or sellers as constituting dual agency in the absence of one or both parties and the broker having explicitly agreed that the broker would only represent that buyer or seller, to the exclusion of all other competitors, during the term of their agency relationship.**

**Licensees are again reminded that attempting to impartially serve two (or more!) masters can be a perilous undertaking. Even if all of the requirements imposed by the Commission's rules are met, in applying the general precepts of Agency Law judges may conclude that licensees have failed to meet their fiduciary obligations to a client.**

**Given Judge Gottlieb's recent ruling, firms which represent sellers and multiple buyers may want to consult with counsel on how their brokerage agreements and informed consent forms might be revised to address the question of whether the simultaneous representation of competing buyers (or sellers) will be considered by the principal to place the firm in a dual agency role, and to more explicitly state whether certain information i.e. the amount of an offer from one buyer-client, will or will not be deemed information which the firm must disclose to a competing buyer-client. Because such a disclosure could affect a seller's interests, steps may also need to be taken to memorialize the seller's agreement to any conclusions on how such situations will be handled by the brokerage firm.**

**As this was written, at least one other dual agency matter was pending before Judge Gottlieb and it appears highly likely that additional disputes on a firm's obligations as a dual agent will be brought before the courts in the future.**

*Stay tuned for further developments!*



## **ATTENTION BROKERS:**

### **NEW JERSEY'S WORKERS' COMPENSATION LAW MAY APPLY TO YOU**

**In May, 1997 a trial court in Atlantic County held that, for the purposes of New Jersey's Workers' Compensation Law, salespersons are employees of the brokerage firms through which they are licensed. That ruling was recently affirmed on appeal.**

**In the case of ReMax of New Jersey v. Wausau Insurance, 304 N.J.Super.**

**59 (Ch. Div. 1997) the trial court noted that "under the Workers' Compensation Act the term 'employee' is given a broad definition and includes all natural persons...who perform services for an employer for financial consideration" and that "the term employee is to be liberally construed so as to bring as many persons as possible within the coverage of the Act."**

**The opinion then discussed the two tests which courts have used to determine whether persons denoted as "independent contractors" fall within the statutory definition of "employee", and are therefore covered by the Act. The court found that regardless of whether the older "control test" or the "relative nature of the work**

test" was applied, for these purposes salespersons are employees of their brokerage firms. The key factors noted by the court in reaching those conclusions were, with respect to the former test, that the employer has the right to control the manner in which work is completed ( even if that right is not exercised to any significant degree) and, with respect to the latter test, that the nature of the work done by the individual is an integral part of the regular business of the employer and the worker is economically dependent on that business.

In support of the latter conclusion, the opinion noted that the broker provides the listings, the office, the equipment and the support staff and that the agents work exclusively for the broker. The court also alluded to the statutory basis for the agent's dependence upon the broker found in several provisions of the license law.

The court's ruling was appealed and, as noted above, the Appellate Division recently affirmed the trial judge's decision. As of the time this article was written it was uncertain whether an attempt would be made to appeal the case to the New Jersey Supreme Court.

Companion bills (S-1113 sponsored by Sens. Cardinale and Singer, and A-2489 sponsored by Assemblyman Luongo) which would explicitly exempt real estate licensees from the Workers Compensation Act have been introduced in the Senate and Assembly, respectively. However, until the appellate court's decision is reversed or the Workers' Compensation Act is amended, brokers should be cognizant of their obligations under the Act and of their exposure for non-compliance. Brokers who presently are not providing workers' compensation coverage should seriously consider conferring with their business insurance provider, or private counsel, or both about this important issue.

Further developments on this matter will be reported in future editions.



## **SCHOOL AND INSTRUCTOR LICENSES TO EXPIRE IN FEBRUARY, 1999**

Renewal applications will soon be sent to prelicensure schools and instructors, all of whose licenses will expire on February 28, 1999.

All applications and fees should be returned to the Commission no later than February 13, 1999. Untimely submissions will be assessed a reinstatement fee. Individuals and schools who choose not to renew are requested to so indicate on their renewal form and return the form to the Commission.

Questions on the renewal procedures can be addressed to the Commission's Education Section at (609) 292-8579.

## **ALERT ON RESIDENTIAL RENTALS**

In some parts of the state a common practice has developed on how firms which broker residential rental transactions are compensated. The practice calls for the tenant to pay the entire brokerage commission on the transaction, regardless of the business relationship(s) in which the brokerage firm(s) involved in the rental are operating.

All brokers who participate in transactions of this nature should be mindful of Commission rule N.J.A.C. 11:5-7.1(d). This rule recognizes that transactions may be structured so as to provide that all or a portion of a broker's compensation will be paid by a party the broker is not representing. However, the rule states that such

arrangements are permissible "provided that where a licensee prepares a contract or lease full written disclosure of the agency relationship and of the compensation arrangement is made to both parties to the transaction in the contract or lease." The rule goes on to state that where the licensee seeking compensation from a party they do not represent does not prepare the contract or lease, the licensee's agency relationship and the compensation arrangement shall be disclosed to all parties in a separate writing prior to execution of the contract or lease.

If you or your firm are involved in rental transactions structured in this way (typically involving the firm which represents the landlord collecting its commission from the tenant) you should ensure that any leases prepared by licensees comply with these disclosure requirements.

## **\$11,000 FINE**

### **FOR NON-COMPLIANCE WITH LEAD-BASED PAINT REGULATIONS**

According to a recent USEPA news release, an Oklahoma real estate agency was assessed an \$11,000 civil penalty for failing to provide the required Lead-based Paint notification to a mother with a young child who leased a house through the firm.

If your firm has not established an office policy for compliance with these federal rules, it should do so immediately. In other words, **GET THE LEAD OUT!**

(For more information on the requirements themselves, see the Summer, 1997

and Winter, 1997 editions of the NJREC News, which can be accessed through the Commission's website at <http://www.njdobi.org/remnu.shtml>. In addition, you can call 800-424-LEAD, or check the web site of the National Lead Information Clearinghouse at <http://www.nsc.org/nsc/ehc/ehc.html>.)

## **LOOSE LIPS... (YOU KNOW THE REST!)**

Licensees are often careless with the terms they use when discussing real estate matters with clients or customers. A perfect example is the common use of the term "cash buyer."

Many licensees utilize this term when referring to a buyer who has contracted to purchase a property without including a mortgage contingency in the Agreement of Sale. BUT - that does not mean the buyer is not going to finance the purchase through a mortgage. It merely means that their obligation to perform the contract has not been made subject to their receipt of a mortgage commitment on certain terms and by a specific date.

Problems arise when sellers hear the purchaser described as a "cash buyer" and conclude that the buyer has sufficient funds on hand at the time of signing the contract to pay the purchase price. Many times that is not the case, or the licensee using the term has no knowledge of whether that is the case. In practice the actual financial situation of the "cash buyer" can be of great importance to sellers, particularly in situations where they have to evaluate competing offers.

As professionals, licensees should endeavor to be circumspect and precise in the terms they use when describing any aspect of, or party to a real estate transaction. The creation of erroneous impressions in the minds of clients or customers through the use of loose terminology can have serious consequences.



## **IT'S THE LAW**

**Real Estate Salesperson and Broker licenses are legal documents and must be issued in the licensee's legal name. According to N.J.A.C. 11:5-6.1(b) that is the name which must appear on all business cards and in all advertisements. If a licensee is better known in the industry by a nickname, that name may also appear on business cards or in ads, but only in addition to the name in which the individual's license has been issued.**

***REMEMBER: A ROSE BY ANY OTHER NAME MAY BE ROSEMARY, ROSEMARIE OR ROSIE!***

**SAY WHAT YOU MEAN,**

**MEAN WHAT YOU SAY.**

**Real Estate professionals must be careful to ascertain the true meaning of the words and phrases they hear from all persons with whom they interact as professionals.. They must also be aware that words used daily in conducting business may mean different things to different people. For example there is an extremely important distinction between how the English terms "client" and "customer" are use in the real estate business. However both translate as "cliente" in Spanish.**

**Licensees who operate in areas where Spanish is spoken should make the necessary inquiries to ascertain what business relationship actually exists between a consumer and another licensee who refers to that individual as their "cliente."**

***REMEMBER: ASSUMPTIONS BASED ON THE USAGE OF TERMS SUSCEPTIBLE TO TWO MEANINGS CAN BE DANGEROUS. (SEE RELATED ARTICLE ON "CASH BUYERS.")***

## **DID YOU KNOW.....?**

**As a result of legislation signed by Governor Whitman earlier this year, Home Inspectors in New Jersey are now required to be licensed by the Board of Professional Engineers and Land Surveyors in the Division of Consumer Affairs.**

**Licensees who recommend to clients or customers a particular Home Inspection Service should assure themselves that the inspector and any persons they employ to conduct home inspections hold the required licenses. It has long been recognized as a prudent business practice for real estate licensees to identify at least three different settlement service providers when providing a recommendation of this sort to a consumer. This is one way in which licensees can reduce the risk that they will be sued by a dissatisfied customer of a service provider they recommended. Obviously, recommending or referring a firm which lacks the necessary credentials to provide the services would increase a licensee's risk. In addition it could be grounds for a finding by the Commission that the licensee's conduct demonstrated incompetence, thereby subjecting them to sanctions pursuant to NJSA 45:15-17e. Finally, it should be common knowledge for all licensees that they are prohibited by both federal and state law from collecting a referral fee or any other from of monetary benefit from a service provider in return for referring consumers to that person or firm.**

## **ABRUPT DEPARTURE OF BROKER OF RECORD**



## **A PRESCRIPTION FOR SERIOUS PROBLEMS**

**Section 9 of the Real Estate Licensing Law (NJSA 45:15-9) requires that the authorized broker ("Broker of Record") of a licensed corporation be an officer of the corporation. There is no requirement that the Broker of Record own a controlling interest, or any interest at all, in the licensed entity. This law has created the opportunity for corporations owned by unlicensed persons and/or non-broker licensees to retain the services of a licensed broker as their Broker of Record and then, through the individuals licensed under the corporate broker licensee, engage in the brokerage business. However, such business structures are saddled with the potential for major difficulties if the "Hired Gun" Broker of Record's affiliation with the corporation abruptly terminates**

**. In recent years the Commission staff has been confronted with numerous instances where this has occurred. It can happen for a variety of reasons, including the broker moving on to accept a better position, or due to failing health, retirement or philosophical differences with the firm's owners, or the Broker being discharged.**

**When this happens, serious problems are created for the corporate licensee and all of the individuals licensed through it because section 9 of the License Law specifically provides: "The license of said general partnership or corporation shall cease if at least one partner or officer does not hold a license as its authorized broker at all times". Other sections of the law provide that salespersons must be licensed under a broker (read that to mean a duly licensed broker), and that suits for commissions may only be brought if the plaintiff can prove they were duly licensed as a broker at the time the cause of action arose. (Two recent rulings by the Appellate Division of the Superior Court and Commission Rule NJAC 11:5-4.1 all construe the phrase "at the time the cause of action arose" to mean when the brokerage services which form the basis for the claim to commissions were rendered.**

**All of which leads to the inevitable conclusions that the continuation of brokerage activity by a corporation and the salespersons licensed with it after a Broker of Record has departed and before he or she has been replaced exposes the firm and its salespersons to administrative liability for unlicensed activity and imperils the firm's ability to collect compensation for that activity.**

**What can be done to avoid such problems?**

**The best guidance the Commission's staff can provide is to suggest that licensed entities anticipate the departure of their non-owning Broker of Record and provide for a smooth transition in their retainer or employment agreement with that individual. A requirement that the Broker of Record provide adequate written notice of their intent to sever the relationship is one obvious approach. A period of at least 60 days would seem to be a reasonable time-frame. Unfortunately, in several situations with which the staff has recently dealt no such provision was contained in the firm's retainer agreement with the broker, and in some cases no written agreement had ever been executed by the company and the broker! ( This is another indication of the casual attitude with which some individuals- hopefully a dwindling number- approach their business relationships and legal obligations as licensees).**

**In any event, the purpose of this article is to highlight the potential for problems which exists whenever persons who do not have a controlling interest in a licensed entity are hired to serve as the firm's broker of record. Firms and individuals in such relationships should consider how they might minimize the risk that their relationship may abruptly terminate, so to avoid the difficulties that, by operation of law, inevitably ensue when such departures occur.**

## **LICENSE EXAMINATION**

## **ADMISSION REQUIREMENTS REVISED**

Effective January 1, 1999 candidates for Real Estate broker, salesperson and instructor examinations **MUST** bring to the examination administration center two forms of signature-bearing identification, one of which must be photo-bearing. Acceptable forms of photo-bearing identification include a driver's license, passport, employment or student identification, or credit card.

## **FORMAL DISCIPLINARY ACTIONS (JULY-NOV, 1998)**

**Rodrigo Molina, salesperson, Essex County, July 14, 1998 --** At a full hearing, Mr. Molina's salesperson license was placed on probation for three years and a fine of \$500 was imposed. He was disqualified from taking the real estate broker's licensing examination during the period of his probation. Mr. Molina was found guilty of violations of N.J.S.A. 45:15-17(a), misrepresentation and 45:15-17(e), bad faith. Mr. Molina had taken the real estate broker's license examination and had attempted to use notes during the exam.

**John W. Jardine, broker, Eagle Marketing Services, Camden County--** On September 8, 1998, the Commission approved a settlement whereby Mr. Jardine admitted to violations of N.J.S.A. 45:15-17(c), (e) and (n) and agreed to a suspension of his license for six months and a \$7,500 fine for pursuing a flagrant and continued course of misrepresentation to the Commission regarding the location of his office and obtaining a real estate license through misrepresentation.

**Dennis Tapalaga, broker, Passaic County--** At a full hearing on September 15, 1998, the Commission revoked Mr. Tapalaga's license for a minimum of three years or until he is released from criminal probation, whichever is longer and assessed a \$2,500 fine for violations of N.J.S.A. 45:15-17(s), (n), (a) and (t) for having been convicted of crimes and failing to inform the Commission of same and for specifically stating on his license renewal form that he had not been convicted or charged with any offenses.

**George N. Markakis, salesperson (inactive), Camden County--** At a full hearing on September 23, 1998, the Commission found that Mr. Markakis had violated N.J.S.A. 45:15-17(e) unworthiness and 45:15-17(s) when he failed to notify the Commission within 30 days of the filing of formal criminal charges against him. At such time as Mr. Markakis seeks to reinstate his license, same will be issued on a probationary basis for two years. Mr. Markakis' application for a broker's license was denied.

**Gerald A. Calabrese, broker, and Mary Ann Maiorana, broker-salesperson, Bergen County --** On October 7, 1998, the Commission entered an Order Approving Settlement in which Gerald Calabrese as broker of Anderson Group Associates agreed to pay a fine in the amount of \$12,500 acknowledging his responsibility as broker under N.J.A.C. 11:5-1.18 to properly supervise the activities of his office manager. Mr. Calabrese also agreed to complete 60 hours of broker precensure education. Ms. Maiorana admitted to a violation of N.J.S.A. 45:15-17(e) and agreed to a suspension of her broker-salesperson license until June 30, 1999, a fine of \$2,500, and agreed to complete 60 hours of broker precensure education. Mr. Calabrese had delegated to Ms. Maiorana the duty to handle all licensing transactions, including initial applications, transfers, reinstatements and renewals. When Ms. Maiorana failed to perform those duties, the result was that 25 salespersons were unlicensed for various lengths of time.

**Richard Calanni, salesperson, Middlesex County--** At a full hearing on October 20, 1998, the Commission suspended Mr. Calanni's license pursuant to N.J.S.A. 45:15-19.2 pending the final disposition of the criminal

**charges pending against him involving fraud in the purchase and resale of real estate.**

**DeAndre Rudolph, salesperson (inactive), Middlesex County-- On October 20, 1998, the Commission determined that Mr. Rudolph was subject to the provisions of N.J.S.A. 45:15-12.1, 45:15-17(e), and 45:15-19.1 based on his criminal conviction and that he is ineligible for re-licensure until October 23, 2001.**

**Donna Graziano, salesperson, Atlantic County-- On October 27, 1998, after a full hearing, the Commission revoked Ms. Graziano's license for one year and imposed a fine of \$1,000 for violations of N.J.S.A. 45:15-17(a) and (e) and N.J.A.C. 11:5-1.23(a) and (g). At such time as Ms. Graziano becomes eligible to reinstate her license, she must complete the salesperson precursure education course. Ms. Graziano was found to have made substantial misrepresentations to the Commission and to the principals in a rental transaction and to have failed to fulfill her fiduciary obligations as an agent in that transaction.**

**Damien Ostrowski, salesperson, Middlesex County-- On November 10, 1998, at a full hearing, the Commission found that Mr. Ostrowski was guilty of violations of N.J.S.A. 45:15-17(a) and (n) when he failed to reveal his criminal convictions to the Commission on his initial application for a salesperson's license. Mr. Ostrowski's license was revoked until July 1, 2001 and he must pay a fine in the amount of \$1,000. If Mr. Ostrowski wishes to apply for a license after July 1, 2001, he must completely re-qualify for same and any license will be issued on a probationary basis for one year.**



### **FOLLOW UP ON ATTORNEY REVIEW**

**The last edition of the REC News contained a brief item reminding licensees that rulings of the New Jersey Superior Court allow them to prepare certain contracts and leases on residential properties without subjecting themselves to sanctions for engaging in the unauthorized practice of law. Although it went unstated in that "Licensee Alert", all licensees should know that such documents must contain the ATTORNEY REVIEW**

**language mandated by the Supreme Court opinions and Commission Rule N.J.A.C. 11:5-6.2(g) when they are prepared by licensees.**

### **CORRECTION**

**Through a printing error, the final letter in the Commission's Web site was erroneously identified as a "P" in the Summer, 1998 edition of the REC News. The correct website location is: <http://www.njdobi.org/remnu.shtml>**

**Our postal address is: New Jersey Real Estate Commission**

**P.O. Box 328**

**Trenton, New Jersey 08625-0328**

**Our main phone numbers are 609-292-7053 and 609-292-7055**

**Our fax number is 609-292-0944 and our current E-mail address is [inndeck@superlink.com](mailto:inndeck@superlink.com).**

**In 1999 it is anticipated that several senior staff members will have their own individual E-mail addresses. We'll**

**keep you "posted"!**

## **COMMISSION MEETING SCHEDULE FOR 1999**

**Reprinted below is the schedule of Real Estate Commission meetings for 1999. The meetings will be held in the Real Estate Commission Hearing Room on the 2nd Floor of the Mary Roebling Building at 20 West State Street, Trenton, New Jersey. All meetings commence at 9:30 a.m. and are open to the public.\***

**JANUARY TUESDAY, JANUARY 5, 1999**

**TUESDAY, JANUARY 12, 1999**

**TUESDAY, JANUARY 26, 1999**

**FEBRUARY TUESDAY, FEBRUARY 2, 1999**

**TUESDAY, FEBRUARY 9, 1999**

**TUESDAY, FEBRUARY 23, 1999**

**MARCH TUESDAY, MARCH 2, 1999**

**TUESDAY, MARCH 9, 1999**

**TUESDAY, MARCH 16, 1999**

**TUESDAY, MARCH 23, 1999**

**TUESDAY, MARCH 30, 1999**

**APRIL TUESDAY, APRIL 13, 1999**

**TUESDAY, APRIL 20, 1999**

**TUESDAY, APRIL 27, 1999**

**MAY TUESDAY, MAY 4, 1999**

**TUESDAY, MAY 11, 1999**

**TUESDAY, MAY 18, 1999**

**TUESDAY, MAY 25, 1999**

**JUNE TUESDAY, JUNE 8, 1999**

**TUESDAY, JUNE 15, 1999**

**TUESDAY, JUNE 22, 1999**

**TUESDAY, JUNE 29, 1999**

**JULY TUESDAY, JULY 13, 1999**

**TUESDAY, JULY 20, 1999**

**TUESDAY, JULY 27, 1999**

**AUGUST NO HEARINGS**

**SEPTEMBER TUESDAY, SEPTEMBER 14, 1999**

**TUESDAY, SEPTEMBER 21, 1999**

**TUESDAY, SEPTEMBER 28, 1999**

**OCTOBER TUESDAY, OCTOBER 5, 1999**

**TUESDAY, OCTOBER 19, 1999**

**TUESDAY, OCTOBER 26, 1999**

**NOVEMBER TUESDAY, NOVEMBER 9, 1999**

**TUESDAY, NOVEMBER 16, 1999**

**TUESDAY, NOVEMBER 30, 1999**

**DECEMBER TUESDAY, DECEMBER 7, 1999**

**TUESDAY, DECEMBER 14, 1999**

**TUESDAY, DECEMBER 21, 1999**

**\*For a variety of reasons, meetings are occasionally canceled on short notice. If you plan to attend a meeting as an observer, as opposed to a party or participant on an Agenda item, you should call the Commission staff the day before to confirm that the meeting is still scheduled to take place on the date previously announced. Such calls can be made to 609-292-8295.**

## **ATTENTION**

### **BROKER-IN-CHARGE**

**This newsletter is sent to all brokers in the state. Your sales agents will not see it unless you circulate it or post it on your bulletin board. Please see that this important information is disseminated to everyone in your office. Thank you.**

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