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Department of Banking and Insurance
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CHRISTINE TODD WHITMAN, Governor

ELIZABETH E. RANDALL, 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..*



New Jersey Real Estate Commission News

Summer, 1996



Letter From Executive Director Gloria A. Decker

As we move into the next millennium we will be confronted with many new issues concerning the sale of real estate. To prepare for these issues I have formed a "Director's Task Force Committee" to meet periodically for round table discussions on matters which impact directly on the real estate industry. The Committee is comprised of brokers, realtor members, educators, administrative staff members from the New Jersey Association of Realtors, and executive staff members of the Real Estate Commission. The first meeting was held on June 26, 1996 in Trenton and the following were invited to serve on the committee.

Joyce Andreoli, Edison; Valerie Bianco, Eatontown; Anthony Cali, Hawthorne; Lawrence Danks, Sicklerville; Ronald DePiro, West Orange; Diane Disbrow, Mystic Island; Candice Durborow, Phillipsburg; William S. Galloway, Basking Ridge; Bruce Graham, Warren; Thomas Higbie, Branchville; David Houston, Jr. Teaneck; John Illengwarth, Newark; David L. Japhet, Franklin Lakes; George Jenkins, Morristown; Bob Kennibrew, Willingboro; Leon Krajewski, South River; Inez Leif, Convent Station; Robert Levinson, Cranbury; Marty Matthews, Flemington; Dominic A. Natale, Pennsauken; Sally Nording, Brigantine; Fred Nussbaum, Short Hills; Joe Palermo, Wayne; Raymond Passaro, Atlantic Highlands; Thomas L. Phillips, Cinnaminson; Timothy Richards, Ocean City; Michael Schmidt, Washington; Sidney Schwarz, Dover; Jon P. Schweitzer, Piscataway; Constance Selby, Little Silver; Carol Skubik, Belle Mead; Loretta Smith, Morris Plains; Joan Sobeck, Westwood; Vincent A. Timoni, Clark.

Lively discussions on such relevant topics such as continuing education, technology, two year licensure, entry level education, internet, Megan's Law and disclosed dual agency created an excellent exchange of issues and ideas. The committee will serve as the vehicle by which communication can be established between the industry, the commissioners and members of the executive staff. The next meeting will be held in early fall.

ADVERTISING ALERT

All licensees should be mindful that the Commission's Advertising Rules, N.J.A.C. 11:5-1.15(a) through (n) apply to *"all categories of advertising."* This includes advertising on the Internet and through other electronic means. Among other things, the rules require that ads placed by salespersons must include the name in which they are licensed and the regular business name of their firm, and that where ads include home phone numbers they also include language limiting the use of such numbers to non-office hours. Violators of the advertising rules are subject to fines and other sanctions by the Commission.

GOVERNOR SIGNS BILL EXTENDING LICENSE TERMS TO TWO YEARS

Hallelujah!! On June 18, 1996 Governor Whitman signed into law A-1265. The bill, sponsored by Assemblymen Russo and Cohen at the urging and with the full support of the Commission, amended the license law to provide that broker, broker-salesperson, salesperson and branch office licenses shall have terms of two years. The law empowers the Commission to establish the start and end dates for the two year license terms. It also maintains current fee levels by providing that the current fees for one year licenses will be doubled for the two year licenses.

It is anticipated that the Commission will promulgate rules providing that, commencing with July 1, 1997 renewals all licenses issued on and after that date will have a June 30, 1999 expiration date. Consequently, there will be no need for brokers to complete renewal forms and collect renewal fees in 1998. How's that for good

news!

INSTRUCTOR LICENSE RENEWAL ALERT

All instructor licenses will expire on February 28, 1997. To qualify to renew their licenses, all instructors must attend an instructor continuing education seminar. See N.J.A.C. 11:5-1.28(l)(2) and N.J.S.A. 45:15-10.7.

The Commission is in the process of scheduling these seminars. The seminar will be offered on two dates, Monday, September 16, 1996 and Thursday, November 7, 1996. The seminar will not be offered at any other times. All currently licensed instructors who wish to renew their license in 1997 **MUST** attend one of these two seminars.

Do not call the Commission staff for additional details on the location of the seminars. A notice providing all details on the locations and starting times will be mailed directly to all licensed instructors prior to August 15, 1996.

CORRECTION

A brief article in the Spring, 1996 Edition of the NJREC News discussed the recent adoption of final rules imposing disclosure requirements on real estate licensees with regard to the hazards of lead based paint. Unfortunately, through a typographical error the wrong 800 number was listed for the National Lead Information Clearinghouse. The **CORRECT NUMBER** is 800-424-LEAD. Licensees can obtain free copies of the rules and of an official Lead Hazard Information pamphlet by calling this number. The Commission regrets any inconvenience which this error may have caused.

REC GOES ON LINE

That's right! All you net surfers out there should wax up your mouse and dust off your keyboards! The Real Estate Commission's home page is now on the Internet. Information on such things as licensure requirements, application procedures, prelicensure school locations and out-of-state properties is available.

You can access this data through the Internet address of the New Jersey Department of Banking and Insurance, which is <http://www.naic.org/nj/NJHOME.PG.HTML> and then following the prompts for the Real Estate Commission.

DO YOU KNOW WHERE YOUR LICENSE POCKET CARD IS?

Many licensees ignore or are unaware of the law which requires that when working as a licensee they have in their possession their license pocket card. In most cases, the failure of the licensees to carry their cards is due at least in part to a failure by their employing broker to detach the card from the individual's license and provide it to them.

The License Law at N.J.S.A. 45:15-14, provides: *"All licenses issued to real estate brokers, broker salespersons, and salespersons shall be kept by the broker by whom such real estate licensee is employed, and a pocket card accompanying the same shall be delivered by the broker to the licensee who shall have the card in his possession at all times when engaged in the business of a real estate broker, broker salesperson, or salesperson."*

This law is intended to afford significant protections to the public. Periodically, accounts of criminals who have gained entry to listed premises by posing as real estate licensees are publicized. In addition, anyone can pick up

or have printed business cards indicating that they are a real estate salesperson or broker.

Before releasing keys to listed properties, listing brokers should, when dealing with an unfamiliar individual representing himself or herself as a salesperson, request to see the individual's pocket license card. Similarly, sellers should be advised to request the production of the pocket card before providing access to their property to unknown individuals representing themselves as real estate licensees.

IT IS THE OBLIGATION OF EVERY EMPLOYING BROKER AND BROKER OF RECORD TO DETACH THE POCKET CARDS FROM THE LICENSES AND DELIVER THE CARDS TO EACH INDIVIDUAL LICENSED THROUGH THEM. Each failure on the part of broker to do so constitutes a violation of N.J.S.A. 45:15-14 and subjects the offending broker to sanctions.

REMINDER -- THE COMMISSION IS TO BE NOTIFIED WHEN A LICENSEE IS CHARGED WITH OR CONVICTED OF A CRIMINAL OFFENSE

One of the amendments to the License Law which went into effect in May, 1993 imposed upon licensees the obligation to notify the Commission within 30 days of their having been convicted of any criminal offense or of criminal charges, i.e. an indictment, accusation or criminal complaint having been filed against them. Section 17(s) of the License Law, N.J.S.A. 45:15-17(s), subjects licensees to serious sanctions for failing to provide such notification.

Since 1993, the Commission has sanctioned several licensees who failed to comply with this notice requirement. All licensees should be aware of the reporting obligation imposed by this section of the License Law.

FAILURE TO MAKE TIMELY APPLICATION FOR LICENSE PROVES COSTLY

In recent months, the Commission staff has denied numerous applications from salesperson license applicants who, when applying for their license failed to comply with the requirements imposed by N.J.A.C. 11:5-1.2(c). This Commission rule requires applicants to both apply for and request the issuance of a salesperson's license "within one year after the date of successful completion of the prescribed course." (emphasis added). The rule also provides that an individual who fails to do so is required to again successfully complete the 75 hour salesperson prelicensure course and again pass the state license examination in order to be eligible for licensure.

On May 14, 1996 the Commission heard two formal appeals from persons whose applications for salesperson licenses had been denied by the staff because they failed to apply within one year of completing their education course. Notwithstanding substantial personal hardships which both individuals had pleaded were the cause for their delay in making application, because the requirements of Rule 1.2(c) had not been met in both cases the Commission affirmed the staff's initial denial of the application. In rendering these rulings, the Commission noted that each individual acknowledged that they had been advised through several sources of the time limitation imposed by the rule.

ALL BROKERS SHOULD BE AWARE OF THIS RULE. WHEN QUESTIONED BY PERSONS WHO HAVE PASSED THEIR SALESPERSON'S LICENSE EXAMINATION BUT HAVE NOT YET BEEN INITIALLY LICENSED, BROKERS SHOULD PROVIDE ACCURATE INFORMATION WITH RESPECT TO THE TIME PERIOD DURING WHICH SUCH PERSONS ARE ELIGIBLE TO MAKE APPLICATION FOR THEIR INITIAL LICENSE. AGAIN, THE TIME PERIOD IS ONE YEAR FROM THE DATE OF THEIR SUCCESSFUL COMPLETION OF THE PRELICENSURE EDUCATION COURSE.

AGENCY DISCLOSURE-ONE YEAR LATER

Since July, 1995 when Commission Rule N.J.A.C. 11:5-1.43 went in to effect many questions have arisen with regard to the manner in which firms throughout the State have implemented their office policy on agency. This article will attempt to address several of the most frequently asked questions and those which appear to have had a broad impact on brokerage operations in New Jersey.

DISCLOSURE REQUIREMENTS AT OPEN HOUSES AND NEW HOME MODELS

The Commission interprets Rule 1.43 to require that Consumer Information Statements be available for distribution at open houses and new home models. The Consumer Information Statements should be provided along with the fact sheets, brochures, and other written material provided to parties who tour the properties.

It is NOT necessary for licensees to disclose their business relationship with the seller to all parties before they view the property. Subsection (e)(1) of Rule 1.43 requires licensees to describe the available business relationships to prospective purchasers *"prior to the first discussion at which a buyer's motivation or financial ability to buy is discussed."* Thus, if parties wish to tour the property and ask questions of licensees about the physical structure, amenities available in the neighborhood, schools, taxes and other general information about the property and surrounding area, licensees can respond to such inquiries without first getting into a discussion about the brokerage business relationships available in New Jersey. Essentially, licensees can answer questions from buyers which do not touch upon their financial situation before making the disclosures required by the rule. However, before a licensee asks about or a prospect begins to discuss how much they have to spend, mortgage amounts or rates, or other information that pertains to the buyer's ability to purchase, the verbal disclosures must be made by the licensee.

TRANSACTION BROKERS

Many inquiries have been received seeking clarification on the transaction broker business relationship. Licensees who operate as such must be cognizant of the fact that they should provide no advice and take no action which can have the effect of maximizing the benefit of the bargain of one party over the other party to the transaction. Transaction brokers do not operate as agents of either party and assume no fiduciary obligations to either party. They make no commitment to maintain the confidentiality of any information provided to them.

Licensees have asked what information transaction brokers can safely provide without running the risk of falling into an implied agency relationship with a party. Our best response is that the information should be purely objective in nature. This can include information on the property, the surrounding area, and comparable properties. Thus, a licensee operating as a transaction broker can perform a comparative market analysis and provide the results of that CMA to the party with whom they are working. However, the licensee should not offer an opinion as to the amount of an offer a purchaser should make, nor as to the amount of a counteroffer a seller should make. Doing so interjects the licensee into the negotiation process and negates the neutrality which should characterize the transaction broker's role.

There is no prohibition in the License Law or the Commission Rules upon brokers operating as transaction brokers sharing their compensation with cooperating firms operating as transaction brokers or buyer brokers.

Another question which arose concerned whether listing brokers operating as transaction brokers can direct that all contacts with the seller must be made through their firm. There is no restriction upon licensees doing so in the Commission's Administrative Rules or the provisions of the License Law. As in all cases, it is suggested that if the property is to be marketed in that fashion a written transaction brokerage agreement setting forth all of the terms of the relationship between the seller and the listing firm be executed. A provision can be included in the agreement which specifically provides that all contacts with the seller are to go through the listing firm. If the listing firm does not wish to market properties in any other fashion, and a seller is unwilling to agree to

such a provision in the agreement, the firm could refuse to accept the listing on terms other than that which is consistent with its office policy.

AGENCY AND THE OBLIGATION TO CO-OPERATE

Reports were received that some firms operating as buyer brokers or transaction brokers encountered difficulties in attempting to show the listings of other firms. The listing firms, operating as sellers agents, had indicated that they do not cooperate with transaction brokers and/or buyer brokers. The adoption of such restrictive marketing policies by listing brokers, if done without the knowledge and authorization of their seller-clients, would violate certain Commission rules and the listing firm's fiduciary obligations to their sellers.

Such restrictive policies are inconsistent with the listing firm's legal obligation to fully cooperate with other brokers unless they have complied with commission rule N.J.A.C. 11:5-1.23(c). This rule provides, in pertinent part that: *"Every licensee shall fully cooperate with all other New Jersey licensees utilizing cooperation arrangements which shall protect and promote the interests of the licensee's client or principal... Full cooperation also requires listing brokers not to place restrictions upon the showing of properties listed with them to prospective purchasers who are working through cooperating brokers. This obligation shall be a continuing one unless the client or principal, with full knowledge of all relevant facts, expressly relieves their agent from this responsibility."*

The extent to which their seller-clients have, *"with full knowledge of all relevant facts,"* expressly relieved the listing firm of its obligation to fully cooperate with other firms is unclear. As seller's agents, listing firms are required to provide a substantial amount of information to ensure that the seller's agreement to have their property marketed in a less than fully cooperative manner was made in accordance with this standard. Listing licensees would have to inform sellers that by refusing to permit showings by, or to share commissions with transaction brokers and/or buyer-brokers, the extent to which their property will be exposed to potential buyers may be significantly reduced. The sellers should also be informed that marketing their property in such a restrictive manner increases the likelihood of an in-house sale, resulting in the entire commission being retained by their firm. Thus the interests of the listing firm may be promoted above those of their seller-clients through such a restrictive marketing approach. This can constitute a serious violation of the firm's common law agency obligations. As was noted above, licensees acting as sellers' agents who market properties in a less than fully cooperative manner without adequately informing the sellers and obtaining their authorization to do so are operating in violation of N.J.A.C. 11:5-1.23(c). In addition they would not be protecting and promoting the interests of their clients as required by N.J.A.C. 11:5-1.23(a).

Beginning last July, some firms barred buyer-agents from showing their listings because the buyer-broker was not to be paid by the buyer. The firms indicated they would provide access to their listings to such licensees if they switched their business relationship from buyer-agent to subagent. Some of the barred cooperating firms responded by proposing to work as a disclosed dual agent, but were denied the opportunity to do so. The listing firm proposed that the switching firm operate as a sub-agent and keep confidential the information they learned about the buyer prior to the switch.

Such a limitation on the full disclosure fiduciary obligation a subagent owes to a seller would cause the relationship between the seller and the firm to be something other than true subagency. It is, in fact, much closer to disclosed dual agency. Section (a)4 of the N.J.A.C. 11:5-1.43 provides that, in order to obtain informed consent to dual agency, brokerage firms must disclose to each consenting party *"all material facts which might reasonably impact on that party's decision to authorize dual agency, including the extent of the conflicts of interest involved and the specific ways in which each consenting party will receive less than full agency representation from the dual agent."* A firm which attempts to switch from being a buyer-broker to a subagent, while no longer negotiating offers on behalf of the buyers but still maintaining the confidentiality of certain information learned about the buyers is essentially acting as a disclosed dual agent in accordance with N.J.A.C. 11:5-1.43. The explanation of disclosed dual agency contained in the Consumer Information Statement indicates that a brokerage firm acting as a disclosed dual agent *"cannot advise or counsel either party on how to gain an advantage at the expense of the other party on the basis of confidential information obtained from or about the*

other party." N.J.A.C. 11:5-1.43(h). This language further supports the conclusion that a firm which switches from a being a buyer-broker to a subagent, but with the caveat that confidential information learned prior to the change will not be disclosed to the seller should, under the regulatory scheme established in New Jersey, conduct itself as a cooperating dual agent, rather than a subagent of the seller.

As was discussed above listing firms which market properties in such a restrictive fashion must be cognizant of their common law fiduciary obligations to sellers and of the requirements imposed by Commission rule N.J.A.C. 11:5-1.23.

Questions have also been raised about other "switching" scenarios, i.e. working with buyers as a subagent on listings where subagency is offered, but being their buyer broker or transaction broker on listings where it is not. The staff would not encourage attempts to "switch" from a subagent to a buyer broker. Once a licensee has acted as a buyer broker, they and the other licensees in their firm cannot easily take off that hat. In all probability they will have learned information which the buyers will want kept confidential. If buyers then decide to pursue a listing on which the firm has previously worked as a subagent problems can result. The firm would be confronted with the practical difficulties of trying to operate as a cooperative dual agent, requiring the firm to keep track of what properties all salespersons have worked on as subagents. The selling firms would also have to obtain a seller's informed consent before working as a cooperative dual agent on that seller's property.

The other suggested alternative is more viable. The firm switching from a subagent to a transaction broker would not have previously worked with the buyers as their agent. As a transaction broker they will not assume any fiduciary obligations to buyers. Remember, a firm can only be a subagent of a seller who offers subagency. From the outset of their dealings with buyers salespersons can explain that it is their firm's policy to accept offers of subagency and explain all that this means. They can also indicate that on properties where no subagency is offered, they will work with the buyers as a transaction broker. As such, their firm will not represent them as their agent and they will not be bound to keep confidential any information the buyers reveal about their bargaining position. Presuming they understand this, they will probably not reveal such information. That is the same posture they will assume when dealing with the salesperson acting as a subagent if they understand that business relationship.

The Commission intends to revisit Rule 1.43 in the fall, with the intention of fine-tuning it. Licensees are invited to submit specific suggestions on how certain provisions in the rule can be improved. (Please don't just tell us what you don't like and not suggest an alternative approach.) Your suggestions can be sent to the Commission and directed to the attention of Gloria A. Decker, Executive Director.

RECENT DISCIPLINARY ACTIONS

1. Joseph Louis Belle , salesperson, Morristown, N.J.
1/11/96
Salesperson's license was revoked under N.J.S.A. 45:15-19.1 for a period of 5 years based on a conviction of theft by deception.
2. Demetria Abad, a/k/a Demi Santiago , unlicensed person, Rufus Grant, Jr., broker of record of Detrech Enterprises, Montclair, N.J.
2/14/96
Abad's license as a real estate salesperson had been revoked by the REC for commingling violations in 1991. Thereafter, she was hired by Detrech Enterprises to act as a business broker. The evidence at the hearing established that Abad represented herself to be a real estate salesperson and engaged in unlicensed real estate activity with the knowledge and consent of broker Grant when she negotiated the sale of a nursing home business and of the real estate on which it stood. Abad was ordered to cease and desist from engaging in real estate activity, declared ineligible to ever hold a real estate license in New Jersey and fined \$20,000. Grant's broker's license was suspended until June 30, 1996. He was also fined \$20,000 and is required to complete the two thirty hour broker pre-licensure education courses on

agency/ethics and office management.

3. Kenneth Kanoff , salesperson, Hackensack, N.J.

3/12/96

Salesperson's license was revoked under N.J.S.A. 45:15-19.1 for a period of 5 years based on a conviction of theft by deception. Mr. Kanoff was also found guilty of failing to report the criminal conviction to the Commission, and the Commission found that the conduct underlying the criminal conviction demonstrated that Mr. Kanoff did not possess the good moral character, honesty, integrity and trustworthiness required of all licensees. The case remains under appeal. However, on May 7, 1996 the New Jersey Supreme Court vacated a stay of the Commission's order revoking Mr. Kanoff's license which had been entered by the Appellate Division of the Superior Court.

4. Fred Potok , broker, and Island RMA, Inc., t/a Atlantic Properties, Atlantic City, N.J.

4/2/96

Atlantic Properties was the property manager for several owners of rental properties in the Atlantic City area. Potok and his firm were found guilty of commingling the funds of others which were to have been held by them as brokers acting as the temporary custodians of the funds of others in real estate transactions, and failing to pay over those monies to the owners and/or tenants to whom the money belonged. The evidence at the hearing established that the rents and security deposits which the broker collected were converted by Potok for his own use. Potok's license as a broker was revoked for 10 years. He was also declared ineligible to hold a salesperson's license for 7 years, fined \$30,000, and is required to make restitution of over \$12,000.

5. Joseph Tumolo , salesperson, and Barbara S. Rossell , t/a Rainbow Realty, broker, Ventnor, N.J.

4/16/96

The REC revoked the salesperson's license of Joseph Tumolo for a period of 5 years, imposed a fine of \$5,000 and required that he make restitution of over \$10,000. Ms. Rossell's license as a broker was revoked for 10 years, and she is ineligible to hold a salesperson's license for 7 years. She was fined \$20,000 and is required to make restitution of over \$10,000. Rainbow Realty acted as the property manager for owners of various properties in Atlantic County. Tumolo and Rossell were found guilty of commingling and failing to pay over monies collected from tenants at the properties which they managed. These monies included rents and security deposits which were to have been held by them as the temporary custodians of the funds of others in real estate transactions. The evidence presented established that the monies were converted to their own use. Broker Rossell also failed to maintain escrow ledger and bank records and did not provide business records to the Commission in response to a subpoena demanding their production.

6. Joseph J. Diaz , broker, J.J.D. Enterprises, Inc., Sea Girt, N.J.

4/23/96

After a full hearing, the REC found Mr. Diaz guilty of making substantial misrepresentations and procuring a license by fraud, misrepresentation or deceit for stating on three applications for licensure that there were no criminal charges pending against him. In fact, Mr. Diaz was under indictment for theft at the time he completed both applications. The Commission revoked the broker's license for 3 and 1/2 years, declared him to be ineligible to hold a salesperson's license for 6 months, and imposed a fine of \$5,000.

GOVERNOR WHITMAN NAMES SUSAN M. TOTH AS GOVERNMENTAL APPOINTEE TO THE COMMISSION

On May 20, 1996 Governor Christine Todd Whitman designated Susan M. Toth as the governmental appointee to the New Jersey Real Estate Commission. Mrs. Toth has been employed by the New Jersey Department of Banking for the past twenty-two years. During that time, she has held various positions including Chief of Consumer and Licensing Services, Executive Assistant, and Supervisor of Licensing. On March 6, 1995 she was appointed Director of the newly-formed Division of Licensee and Consumer Services. In that capacity she has

oversight responsibility for all aspects of the licensure and regulation of fifteen different categories of licensed lenders, including mortgage bankers, mortgage brokers, secondary mortgage lenders, consumer loan lenders, sales finance companies, motor vehicle installment sellers, home repair contractors, pawnbrokers, and check cashers. Her Division also oversees the examination and monitoring of all state-chartered credit unions. The Consumer Services unit within this Division is charged with the investigation of complaints from the consuming public in New Jersey relating to both depository institutions and licensed lenders.

A 1972 graduate of Muhlenberg College in Allentown, Pennsylvania with a Bachelor of Arts degree in English and a minor in Education, she has also done post-graduate work in English at Lehigh University.

Mrs. Toth is a certified Public Manager, and currently serves as a member of the Board of Directors of the American Association of Residential Mortgage Regulators, a national organization of state mortgage regulators. In the past, Mrs. Toth has served as a member of the Governor's Task Force on Professional and Occupational Licensure in New Jersey, a designee for the Banking Department on the Governor's Consumer Education Consortium, and as a member of the Elder Rights Advisory Council. She is also a past recipient of the TWIN award (Tribute to Women in Industry and Government) from the Trenton YWCA.

Mrs. Toth is vice-president of the North Hunterdon Football Club. She has served as president of the Franklin Township Parent Teachers Association, vice-president of the Hunterdon County Council of PTAS, and as president and secretary of Flemington Midget Football Inc., a non-profit, community-sponsored children's athletic organization.

Mrs. Toth resides in rural Pittstown, New Jersey, with her husband and two children.

FREQUENTLY ASKED QUESTIONS

Q.- I had my buyer sign the Consumer Information Statement and we checked off the box that says I'm acting as a buyer broker. Is this enough?

A. - NO. The CIS is not a buyer agency contract. Just as a listing agreement creates the relationship of a seller's agent, there must be an agreement which creates the relationship of a buyer's agent. That agreement should be in writing and should contain necessary terms such as a description of the services to be provided, the duration of the relationship, the amount and method of compensation, etc.

Q. - If I have been arrested or convicted of a criminal offense, will it affect my license?

A. - Yes, it may. You must notify the Commission of any arrest, indictment or conviction within 30 days. A failure to do so will subject you to penalties. N.J.S.A. 45:15-17(s). The notification should be made in writing. Whether or not any additional action is taken will depend on the type of crime at issue. For example, N.J.S.A. 45:15-19.1 requires that the Commission revoke a license when a licensee has been convicted of certain offenses, including theft and related offenses. N.J.S.A. 45:15-19.2 allows the Commission the discretion to suspend a license if a licensee is indicted for certain types of crimes, including theft and related offenses. Licensees should review these laws for further guidance on this issue.

Q -. Can licensees use a contest or drawing to promote the sale property?

A -. NO. N.J.S.A. 45:15-17(g) prohibits licensees from using any plan, scheme, or method for the sale or promotion of the sale of real estate which involves a lottery, a contest, a game, a prize, a drawing or the offering of a lot or parcel of lots or parcels for advertising purposes.

Q. - Can a bonus be paid directly to the selling agent?

A. - Pursuant to N.J.S.A. 45:15-16, any compensation paid to a salesperson must be paid through their employing broker. Therefore any bonus offered by a seller or listing firm to selling salespersons with cooperating firms must be paid to the selling salesperson's broker. The disposition of the bonus will then be governed by the terms of the employment agreement between that salesperson and broker.

Q. - What types of out-of-state real estate must be registered under the Real Estate Sales Full Disclosure Act?

A. - Residential properties, including subdivided lands, condominiums, time-shares and properties subject to homeowner associations offered for sale through a common promotional plan. Commercial projects and individual listings are exempt. Exemptions for certain types of projects, i.e. small subdivisions, etc. may be applied for. Brokers should ascertain the status of the project under the Act before offering or advertising any covered properties in New Jersey.

Q. - Are there any special requirements for licensees to market registered properties?

A. - Yes. A developer must designate a currently licensed New Jersey broker as the project's "Broker of Record" in the initial property registration. The developer may also designate additional or "supplemental" brokers to offer and market the registered property. After applications have been filed and accepted by the Commission, all authorized brokers are issued a "Broker's Release". This is a special license authorizing the broker to offer the registered property in New Jersey.

Q. - How can I obtain information on becoming a New Jersey licensee and a copy of the License Law and Commission Rules?

A. - For information on becoming a New Jersey licensee send a legal size, stamped, self-addressed envelope with the initials Q/L in the lower left hand corner to the address indicated below.

To obtain a copy of the Statute and Rules send a written request for a copy of the "Regs" along with a check in the amount of \$10.00 made payable to the "State Treasurer of New Jersey." NO PERSONAL CHECKS. Acceptable forms of payment are: money order, cashier's check, certified check or broker business account check.

Mail the request to: Education Bureau, New Jersey Real Estate Commission, CN-328, Trenton, New Jersey 08625.

Be sure to include your name and address.

Q. - How can a New Jersey salesperson become a New Jersey broker?

A. - Requirements for becoming a broker in New Jersey are as follows:

- 1. You must be a licensed salesperson in New Jersey and have worked as such on a full-time basis under the direction of a broker for the 3 full years immediately preceding application. You are required to take 150 hours of broker prelicensure education. The 90 hour broker general course must be completed first. Thereafter, the 30 hour Agency/Ethics course and the 30 hour Office Management/Related Topics course may be taken in any order.**
- 2. Upon successful completion of the courses, the applicant must submit a fully executed school certificate, Experience Activity Report(s) completed by the broker(s) the applicant has worked for during the last 3**

years, and a \$25.00 processing fee to the Commission for approval. If approved, a Certificate of Examination Eligibility will be issued which will allow the applicant to make a reservation to challenge the broker examination. Applicants must pass the examination and make application for a license within one year of completing the second 30 hour course.

Q. -. How long can a real estate license remain inactive?

A. - N.J.S.A. 45:15-9 provides that your license can be reinstated without requalification within two years after the expiration date of the last license issued in your name.

Q. - Can an employing broker withhold my license if I request that he release it to me in order to transfer to another broker?

A. - No. The licensee's current broker MUST deliver the license, properly inscribed for termination, to the licensee. The broker must also send the Notice of Termination section to the Commission within five business days, and send a copy of it to the licensee's residence address. N.J.A.C. 11:5-1.31(b).

MEET THE STAFF --

As a new, ongoing feature articles will periodically appear in the "News" identifying various staff members and explaining their duties. This inaugural column focuses on the staffs of the Licensing and Education/Broker Qualification Sections.

The Commission's licensing section is comprised of four extremely dedicated and conscientious individuals. The group is headed by Carmen Collazo , a 19 year veteran state employee. Ms. Collazo has been with the Commission's licensing operation for all of those 19 years. In addition to supervising the other members of her staff, she directly handles the review and processing of all sole proprietor and corporate non-resident broker applications, the generation of license certifications, business address changes initial broker applications, office closings, broker status changes, and problem resolution. Carmen also represents her section at ongoing meetings aimed at improving the Commission's computerized licensing and record keeping system.

Second in command in the licensing section is Theresa Ford . Ms. Ford has been employed in the Commission's licensing operation for the past 23 years. She is directly responsible for reviewing and processing all applications for corporate, sole proprietor, and partnership broker licenses, and company changes.

Completing the licensing staff are Belinda Edwards and Japonica Harvey. Ms. Edwards is a Technical Assistant II who provides support and assistance to Ms. Ford and Ms. Collazo and reviews all initial salespersons applications, salesperson and broker license transfers, and reinstatements. She has been assigned to the Commission's licensing section since 1988.

Ms. Harvey is a Technical Assistant II who has been with real estate licensing for the past eight years. She performs all of the clerical functions necessary to support the licensing system's operations.

In addition to the duties mentioned above, each member of the licensing staff spends a substantial portion of each day providing assistance to licensees, applicants and members of the public who call the Commission seeking information on licensing matters. Given the volume of calls they handle, the fact that they fulfill their responsibilities in a timely and competent manner is remarkable. Yet this small group of

dedicated public servants consistently do just that!

The Commission's Education/Broker Qualification Section is comprised of two individuals, Gail Iammatteo , the Education Coordinator and Deputy Executive Director of the Commission, and her secretary/assistant, Ann Marie Agoes . A third staff member who had provided technical support was recently reassigned to new duties within the Department of Insurance. A replacement is expected to be named to fill this position during the early summer.

Ms. Iammatteo has been with the Commission since May, 1995. In March of this year she was promoted to the position of Deputy Executive Director. Prior to joining the Commission she had been self-employed as a management consultant. She was also an independent business woman, owning and operating several retail businesses. In addition to her other duties as Deputy Executive Director, as the Commission's Education Coordinator Ms. Iammatteo is responsible for overseeing the licensing of all schools and instructors and for monitoring their performance after licensure. In that regard, part of her duties involve organizing and presenting seminars for instructor license and school director candidates and renewing instructors. She also is the Commission's contact person with the private firm which administers the State's real estate license exams. As such, she is in constant communication with that firm, reviewing and updating exam questions and resolving issues and problems that arise in the administration of the license examinations. Salesperson, Broker and Instructor license exams are now offered five days per week at two locations and every Saturday at four additional sites.

A nine year veteran of the staff, Mrs. Agoes provides clerical support and other assistance to Ms. Iammatteo. In addition to her numerous education-related duties, she also reviews all experience approval applications submitted by broker license candidates.

As is the case with the licensing staff, the depth of Ms. Iammatteo's and Mrs. Agoes' commitment to performing their duties and providing the highest level of service to the public is readily apparent from the results they consistently achieve.

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