



OKLAHOMA REAL ESTATE COMMISSION COMMENT

OFFICIAL PUBLICATION OF THE OKLAHOMA REAL ESTATE COMMISSION

VOLUME 39

OKLAHOMA CITY, OKLAHOMA

2nd QUARTER 2004

NO. 1

Real Estate License Required to Manage Lake or Vacation Rental Properties

Any person who for a fee or other valuable consideration manages any interest in real property for an owner must possess a real estate broker license. This includes the renting or leasing of lake or vacation properties. License exemptions apply only to the owner of the property or their salaried employee as defined by the Internal Revenue Service.

If a licensee is aware of individuals performing these functions without a license, please have them contact the Real Estate Commission for assistance in obtaining the appropriate license. If you have any questions, please contact the Commission at (405) 521-3387.

Commission Received Numerous Questions Regarding Broker Relationships

The Commission is in the process of going through the numerous questions received in regard to their request to brokers seeking problem areas in regard to broker relationships. Many of the questions can be answered by staff with the assistance of counsel, and such will be posted on the Commission's website and published in a future newsletter. However, there are several questions that must be answered through Declaratory Rulings by the Real Estate Commission. These questions will be presented to the Commission in the near future for their consideration. If a ruling is made, it will be posted on the Commission's website as well as in a future newsletter.

Managing Brokers Should Post Calendars To Assist Associates and Themselves in the License Renewal Process

Brokers are encouraged to maintain wall calendars that are posted in an observable area in the office which includes the posting of all licensee's license expiration dates. This would also assist licensee's in meeting their continuing education requirements prior to their renewal deadline.

If an entity and/or a managing broker license expires, all associates under the entity or broker are placed inactive. Before the company, broker, or associates can be activated, the entity and broker must obtain signatures of all affected associates agreeing to sign up with the company again and a fee of \$25.00 is charged for each affected license. This is not an easy process for the broker or the Commission. It is a costly mistake; however, it can be avoided.

Brokers have recently called our office and asked "Why didn't you call me and tell me my license was lapsing" or "I didn't get my renewal notice so I should not be required to pay any late penalties?" Renewal and lapsed notices are generated by computer and the Commission mails out 1,000's of these each month. It is not the Commission's responsibility to personally notify licensee's regarding their license renewal, and notices are sent only as a matter of courtesy.

It is the licensee's responsibility to see that their license is renewed prior to their license expiration date. The Commission sends out "courtesy" notices approximately 45 days in advance of license renewal and it is our hopes that

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The Oklahoma Real Estate
Commission Comment

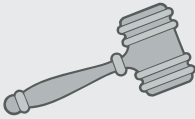
Official Publication of the
Oklahoma Real Estate Commission
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Address all communications to the
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“Use your zip code and ours
when you write to us”



**BY ORDER OF THE
COMMISSION
DISCIPLINARY ACTIONS
AS OF APRIL 6, 2004**

REVOCATIONS

DERRICK FARMER - SA - Oklahoma City. Case D-2004-01, Commission directed by DHS to revoke license of Derrick Farmer for failure to pay child support. Revocation effective (Immediately) January 28, 2004.

ERIC B. NEWELL - PSA - Mustang. Under case C-2002-89, on November 5, 2003, Commission Ordered \$500 fine. Violations: Title 59 O.S. §858-312, Subsection 3 and Rule 605:10-17-4(12); Newell disclosed himself as a “selling agent” on the release of earnest money form. Newell failed to pay the fine and the fine doubled to \$1,000; he failed to pay the doubled fine and his license was automatically Revoked February 20, 2004

DENA MARLER - SA - Yukon. Under case C-2002-13, on January 14, 2004, Commission Ordered License Suspended 6-months (March 1, 2004 to September 1, 2004); Fines totaling \$5,000, and fifteen (15) hours of additional continuing education. Violations: Title 59 O.S. §858-312, Subsections 2,

**CHAIRMAN’S
CORNER**



Pat Schafer
Chairman

I can’t believe that my term of office as a Real Estate Commissioner is ending — it’s been a short 3 years. It takes a lot of time to understand your role as a Commissioner and then it takes further commitment and dedication to ensure you act appropriately in all Commission matters. Being Chairman this year has had its own challenges but ones I thoroughly enjoyed — who knows one of these days I may be back.

Many issues surfaced during my tenure: predatory lending; requirement of Core Subject Matter for continuing education; formation of the Contract Committee; and continuing efforts to educate real estate licensees in the area of broker relationships due to the law change in November, 2000.

This brings me to my subject of concern. As licensees it is our nature to want to help our clients and customers. It is also in our nature to try and impress our clients and customers with our knowledge by giving them advice. They say you can’t do this as a transaction broker.

I believe that a majority of our licensees say they are transaction brokers but act as single-party brokers. An attorney I talked to said that vicarious liability is seldom a problem, if any, and that seemed to be the big reason the law of agency needed to be changed as an effort to eliminate this problem or liability. Someday I would like to see licensees give the public what they think they are getting now, and that is representation; however, I would like to perform these services within the law.

It has been an honor and a pleasure to serve on the Commission and represent this industry. Have a safe summer.

Pat Schafer
Chairman

3, 4, 8, 9 and 15; and Rules 605:10-15-1(a)(1) and (2), (b), (d)(1) and (2), and (e); 605:10-17-4(12) and (14); and 605:10-9-4. Marler made substantial misrepresentations or false promises in the conduct of business, which were intended to influence, persuade or induce others; failed to comply with the requirements of 858-351 through 858-363; accepted a commission or other valuable consideration as a real estate associate from parties other than her broker; her conduct constituted untrustworthy, improper, fraudulent or dishonest dealings; and her actions demonstrated unworthiness to act as a real estate licensee. Revoked April 6, 2004 for failure to pay fines/doubled (\$10,000) fines.

DENA G. MARLER - SA -Yukon. Under case C-2003-33, on January 14, 2004, Commission Ordered License Suspended 6-months (March 1, 2004 to September 1, 2004), a \$1,000 fine and twelve (12) hours of additional continuing education. Violations: Title 59 O.S. §858-312, Subsections 3, 4 and

9; Title 59 O.S. §858-355(D); and Rule 605:10-17-4(12). Marler accepted a commission from an entity other than the broker with whom she was associated, and disclosed she was acting as a licensee representing the seller and was representing herself as an agent. License revoked April 6, 2004: failed to pay fine/doubled (\$2,000) fine.

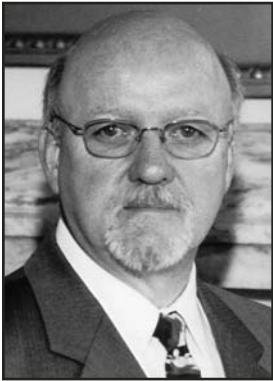
AVANT-GARDE REAL ESTATE GROUP, LLC

KERI L. HANES - B - Oklahoma City, OK. Under case C-2002-104, on February 18, 2004, Commission Ordered Revocation of licenses. Violations: Title 59 O.S. §858-312, Subsection 9 and Rule 605:10-13-1(m)(1). Keri Hanes failed to notify the Commission of a change of her home address, and both respondents failed to follow the Commission’s guidelines governing the cessation of their real estate activities. Licenses revoked March 19, 2004.

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New Commissioners as of July 1, 2004

Two new Commissioners have been appointed to the Commission by Governor Brad Henry, and confirmed by the Senate and will take office on July 1, 2004. The new Commissioners are Martin VanMeter, broker member, from Durant; and Charles Barnes, education member from Del City.



Martin VanMeter is a native of Calera, graduated from Calera High School in 1968, obtained an Associate Degree from Murray State College, and a BS Degree from Oklahoma State University. Martin began a real estate business in 1972 and has been in real estate ever since that time. Martin is owner of VanMeter Realty in Durant, with a branch office at Lake Texoma. Martin served on the Murray State College Board of Regents for 8 years before resigning to serve on the Real Estate Commission from 1998 to 2003. Martin's term on the Commission expired in 2003 and he has been reappointed to serve another term. Martin is past President and an active supporter of the Chamber of Commerce.



Charles Barnes was raised in Del City and graduated from Del City High School in 1968. Charles attended Central State University and Oklahoma City University. He entered the real estate business in 1971 and started the Charles Barnes School of Real Estate in 1978. Charles is past Director of the Midwest City-Del City Board of Realtors, past President of Realty World Broker's Council of Oklahoma, past Director of the National Association of Review Appraisers and former member of the Oklahoma Crime Commission. Charles has been married to Patty for 20 years and they have one son (Mack.)

Welcome aboard Commissioners.

FAREWELL

We want to thank the Commissioners who served prior to the aforementioned appointees. The Commission staff wants to personally thank you for your time, dedication, and your contribution to public protection and the real estate industry.

Pat Shafer from Bartlesville served from July 1, 2001 through June 30, 2004.

Bud Engstrom from Tulsa served from May, 1999 through June 30, 2004.

Thank you Commissioners, your contributions are appreciated.

Free Items Used in Advertising.

According to a ruling of the Commission on December 11, 1996, a real estate broker may advertise items, all of which would be of a minimal value, such as pens, notepads, rulers, cookbooks (with the company name, address and telephone number), as long as there is no requirement to buy anything or requirement for registration to receive such items.

Additional promotional items have recently surfaced on the internet such as home inventory software downloads and loan comparison software downloads. These items are considered of a minimal value and would fall within the ruling of the Commission as long as there is not a requirement to buy anything or a requirement for the consumer to register to receive the items.

Continued from Page 1

the licensee receives them. However, there are times that licensee's indicate they do not receive the notice and if this occurs it can be caused by the mail delivery, failure of the licensee to keep the business address updated, etc.

Managing Brokers please note:

We have received several calls from associates stating they have not received their renewal notices and that their broker has not informed them of receipt of any mail or notices. Please advise your associates of your policy regarding their mail, there should be some mention that they are responsible for checking into the office for their mail, etc.

DISCIPLINARY ACTIONS *continued from page 2*

ALICE N. McNAIR - B - Pryor. Under case #C-2001-05, on January 14, 2004, Commission Ordered Guilty of Revocable Offenses and fines totaling \$3,000. Violations: Title 59 O.S. §858-312, Subsections 2, 8, 9; and Rules 605:10-17-4(12) and 605:10-13-1(I). McNair made unauthorized withdrawal of funds from the company accounts of her employer and converted said funds to her own use; signed a promissory note in the amount of \$7,410.21 to repay a portion of said unauthorized withdrawals but failed to pay the promissory note (the complainant was awarded a judgment against McNair in the amount of \$4,384.42 in civil action involving the same issues as the complaint); and McNair failed to maintain accurate and complete records of all real estate transactions. Revoked MARCH 2, 2004 for failure to pay fines/doubled (\$6,000) fines.

MALISA S. STEVENS - B - Norman. Under case #C-2003-17, on January 14, 2004, Commission Ordered Revocation for Violations of Title 59 O.S. §858-312, Subsections 8 and 9; and Rule 605:10-17-4(9) and(12),and 605:10-9-3. Malisa Stevens engaged in licensable activities when her license was on inactive status; failed to keep the complainant informed regarding the transaction; used and advertised a trade name that was not registered with the Commission; failed to file a written response to the complaint filed against her; failed to appear for a scheduled interview with the Commission; and failed to furnish requested documents. License Revoked February 20, 2004.

WALLACE LAWRENCE - B - Oklahoma City. Under case #C-2003-16, Commission Ordered Revocation for Violations of Title 59 O.S. §858-312, Subsections 2, 3, 6, 9, 20, 23, and 27; and Rules 605:10-17-4(12) and (13); 605:10-17-5(1) and (2); 605:10-13-1(a)(1)(A) and (C). Wallace personally paid \$1,000 earnest money reflected in the contract between himself and the complainant; had actual knowledge of defects concerning the property but failed to disclose said defects to the complainant; improperly submitted a Residential Property Condition Exemption instead of a Residential Property Conditional Disclosure; submitted a false gift letter, which he knew to be false, to a lender so the complainant could obtain financing; failed to deposit the \$1,000 earnest money into his trust account; failed to make written disclosure to the complainant that he was licensed; and failed to make a written broker relationship disclosure. License Revoked March 8, 2004.

BONNIE L. WOODY - SA - Davis/Stratford. Under case C-2002-71, on November 5, 2003, through consent agreement Commission Ordered License Suspended for six months (September 6, 2002 to March 6, 2003); administrative fines of \$750 and completion of 3 hours of disciplinary continuing education. Violations: Title 59 O.S. §858-312, Subsections 4, 8, 9, and 20; and Rules 605:10-11-1(a), 605:10-17-4(12), 605:10-9-4(b)(1)-(3), and 605:10-17-4; advertised properties without disclosing she was licensed and without including her broker's name in the advertisements; engaged in licensable activities outside the supervision of her broker, and accepted fees/commissions from persons other than her broker for performing licensable activities. License Revoked February 11, 2004 for failure to pay fines/doubled (\$1,500) fines.

SUSPENDED/SUSPENSION

CHARLOTTE GREGANTI - SA - OKC. Under case C-2002-103, on January 14, 2004, Commission Ordered suspension with the suspension suspended (March 1, 2004 to September 3, 2005), and a \$750 administrative fine. Violations: Title 59 O.S. §858-312, Subsections 8, 9 and 19; and Rules 605:10-17-4(12); Greganti entered a plea of guilty to a felony crime of Grand Larceny, received a 3-year deferred sentence, required to pay fines of \$300 and required to perform 60 hours of community service. License on probation until September 3, 2005.

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Senate Bill 1312 Increases the Penalty for Persons Performing Licensed Activities Without a License

Effective November 1, 2004, Title 59, Section 858-401 states in part that persons found in violation of performing licensed activities without a license shall be subject to an administrative hearing conducted by the Commission and if found in violation the Commission could assess a fine of \$5,000.00 or the commission earned, whichever is greater. All fines collected will be deposited in the Commission's Education and Recovery Fund. All notices for hearings must be in compliance with the Administrative Procedures Act.

The above penalty is in addition to any civil or criminal actions which, if found guilty, could result in a fine of not more than \$1,000.00 and/or six months in the county jail.

The Commission also has the authority to apply to the appropriate court for an injunction or restraining order on the unlicensed person's activities.

House Bill 2627 Home Inspection Licensing Act Amended to Allow For a Single-Item Inspection Requested by a Client

Effective November 1, 2004, a client may request that an item, such as a roof, be inspected by a professional craftsman without the professional craftsman (qualified roofer) being in violation of the Home Inspection Licensing Act. Currently, a consumer who is in the process of purchasing a home is unable to obtain the services of a qualified roofer to inspect the roof if the roofer charges a fee for the inspection.

The problem arose due to the fact that when the Home Inspection Licensing Act took effect it only allowed a licensed occupation (electrician, plumber, etc.) to perform their inspection and a licensed home inspector to perform a home inspection. Since a roofer does not have to be licensed in the State of Oklahoma, the Home Inspection Licensing Law prohibited a qualified roofer from inspecting a roof for fee. Currently a licensed home inspector is required to include the inspection of a roof within the confines of the home inspection. However, after November 1, 2004, HB 2627 states in part that:

The Home Inspection Licensing Act shall not apply to: Any single-item inspection requested by a client, whether or not the item to be inspected is specifically included or excluded in the definition of home inspection pursuant to Section 858-622 of Title 59, may be performed by a professional craftsman whose expertise is in the specific area or by persons qualified by education or training to conduct that specific inspection. If a single-item that has been requested for inspection is an area of expertise that is licensed by the state, then the person conducting the inspection shall be licensed in respect to that particular area.

RULES TO BECOME EFFECTIVE JULY 1, 2004

Following are rules that were adopted by the Real Estate Commission on March 10, 2004. The rules were submitted to the Governor and Legislature for consideration and approval was obtained, and will become effective July 1, 2004.

Underlined language represents new language. Words that are hyphenated through indicates language that is being deleted. Three asterisks indicate that other existing language was not changed.

Please visit our web site at www.orec.state.ok.us for a revised License Code and Rule booklet on or after July 1, 2004. If you have any questions about the rules, please contact the Commission.

TITLE 605. OKLAHOMA REAL ESTATE COMMISSION CHAPTER 10. REQUIREMENTS, STANDARDS AND PROCEDURES

SUBCHAPTER 3. EDUCATION AND EXAMINATION REQUIREMENTS

605:10-3-7. Provisional sales associate postlicense education requirement

* * *

(m) Extension of time for completion of postlicense course for provisional sales associate who has received orders for active military service. A provisional sales associate who has received orders for active military service may request an extension of time to complete the postlicense education requirement if the request is received in writing prior to the expiration of the license. The request must be accompanied by a copy of the military orders for active military service. The extension of time shall be one (1) year from the date of return from active military service. In conformance with §858-309, a licensee on active military service shall request an inactive status prior to each term for which the license is to be issued. If an extension is approved, a provisional sales associate shall be allowed to renew their license by requesting an inactive status in writing prior to each term for which the license is to be issued.

SUBCHAPTER 9. BROKER'S OPERATIONAL PROCEDURES

605:10-9-4. Advertising

(a) Requirements and prohibitions.

(1) A broker, when advertising ~~real estate~~, must use his or her business trade name or the name under which the broker is licensed. The advertisement must indicate that the party is a real estate broker and not a private party, to include, but not limited to, "agency", "company", "realty", or "real estate", as the case may be. Legal abbreviations following the trade name or name under which the broker is licensed

shall be acceptable as long as they are easily identifiable by the public as such.

(2) No real estate advertisement shall show only a post office box number, telephone number or street address.

(3) ~~Each~~ A broker, when operating under a franchise trade name, shall clearly reveal in all office identification and in all advertising other than institutional type advertising designed to promote a common name, ~~that he or she is the person who owns the firm using such franchise trade name.~~ the franchise name along with the name of the broker or business trade name as registered with the Commission. A franchise name shall not be the complete business trade name. All institutional type franchise advertising shall indicate that each office is independently owned and operated.

(4) A licensee shall not advertise, either personally or through any media, to sell, buy, exchange, rent, or lease property when such advertisement is directed at or referred to persons of a particular race, color, creed, religion, national origin, familial status or handicap. The contents of any advertisement must be confined to information relative to the property itself, and any advertisement which is directed at or referred to persons of any particular race, color, creed, religion, national origin, familial status, or handicap is prohibited.

(5) Any advertising in any media which is misleading or inaccurate in any material fact or in any way misrepresents any property, terms, values, services, or policies is prohibited.

(6) A licensee shall not advertise any property for sale, rent, lease, or exchange in any media unless the broker has first secured the permission of the owner or the owner's authorized representative and said permission has a definite date of expiration.

(b) Associates advertising.

(1) An associate is prohibited from advertising under only his or her name.

(2) All advertising by an associate must be under the direct supervision of his or her broker.

(3) In all advertising, the associate must include the name of his or her broker or the name under which the broker operates, in such a way that the broker's reference is prominent, conspicuous and easily identifiable ~~by the public~~. If allowed by a broker, an associate may include in the advertisement:

(A) The associate's personal insignia of which such approval is to be maintained by the broker and which cannot be construed as that of a company name.

(B) The associate's personal nickname or alias which must be registered at the Commission prior to its use and which cannot be construed as that of a company name.

(C) An associate's contact information.

(D) A team name, approved by the broker, so long as ~~all of the names of all of the associate team members are included near the team name reference~~ the broker's reference is prominent, conspicuous, and easily identifiable, and which cannot be construed as that of a company name; ~~however, in the case of personal business~~

~~cards, inclusion of all associate team members' names shall not be required; and.~~

(E) A slogan which cannot be construed as that of a company name.

(4) A sign rider with the associate's contact information may be attached to a yard sign if the yard sign contains the name or trade name and office telephone number of the broker.

(5) Open house or directional signs used in conjunction with broker's signs do not have to contain the name or trade name of the associate's broker and broker's telephone number.

(c) Licensee acting as owner, purchaser or direct employee of owner.

(1) When a licensee, either active or inactive, is purchasing real estate or is the owner of property that is being sold, exchanged, rented or leased and such is being handled either by the licensee or marketed through a real estate company, the licensee is required to disclose in writing on all documents that pertain to the transaction and in all advertisements that he or she is licensed.

(2) A licensee who is not acting in the capacity of a licensee but is engaged in buying, selling, leasing or renting real estate as a direct employee for the owner or as an officer for a corporate owner is not required to indicate in the advertising that he or she is licensed.

SUBCHAPTER 13. TRUST ACCOUNT PROCEDURES

605:10-13-1. Duty to account; broker

* * *

(l) **Record retention.** A broker shall maintain all records and files for a minimum of five (5) years after consummation or termination of a transaction. In the case of trust account records the five years shall commence with the date of disbursement of funds.

(m) Requirements for storage of records on alternative media. The Real Estate Commission establishes the following requirements for storage of trust account and transaction records on alternative media, e.g. compact disk, optical disk, microfilm, etc.:

(1) Trust account records shall be maintained by the broker in their original format for a minimum of two (2) years. Trust account records may then be transferred to an alternative media for the remaining required record retention time.

(2) Records, with the exception of trust account records, may be transferred at any time to an alternative media for the remaining required retention time.

(3) After documents are converted to alternative media, a quality assurance check shall be done to ensure that every document was imaged and can be reproduced in a legible and readable condition on a display device.

(4) After the quality assurance check is completed, the original documents may be destroyed.

(5) A broker shall maintain the alternative media and a means of viewing and retrieving records, and shall provide a true, correct and legible paper copy to the Commission upon request.

(6) A broker shall store copies of the alternative media and the equipment used to read the media in an environment and at a level of quality conducive to maintain the ability to reproduce the media throughout the retention period. Reproduce means a process in which a document can be converted from the alternative media to a paper copy that is legible and able to be read.

(7) A broker shall maintain no less than two (2) copies of the alternative media.

~~(m)~~ **(n)** Guidelines for cessation of real estate activities.

* * *

SUBCHAPTER 15. DISCLOSURES

605:10-15-4. Residential Property Condition Disclosure Act forms

(a) **Development and amendment of forms.** In accordance with Oklahoma Statutes, Title 60, Section 833 the Commission shall develop and amend by rule the forms for the Residential Property Condition Disclosure Statement and Residential Property Condition Disclaimer Statement. Effective ~~July 1, 2002~~, November 1, 2003 the disclosure statement is amended and all disclosure forms executed prior to ~~July 1, 2002~~ November 1, 2003 will remain in force and valid until expiration of the 180 days from the date noted thereon.

(b) Availability of forms. The forms shall be available to the public upon request on and after July 1, 1995.

(c) Copy of form format. The Residential Property Condition Disclosure Statement as referenced in this section is set out in Appendix A at the end of this Chapter. The Residential Property Condition Disclaimer Statement as referenced in this section is set out in Appendix B at the end of this Chapter.

(Revised disclosure form appears on pages 9-11)

Residential Property Condition Disclosure Statement Shall Not be Modified

No additions are to be made to the state mandated Residential Property Condition Disclosure Statement form unless such has been promulgated by rule by the Commission. A real estate firm is not allowed to add their own company header to the state form nor is it allowed to create an additional form and title it the same as the state mandated form.

If however, a company wants to accept the responsibility of asking the consumer to complete additional questions into other subject matters, such can be asked, but by law the consumer is not required to answer the questions. If a company does create an additional disclosure form, asking additional questions of the seller, the form shall clearly make a distinction that such is not a supplement or amendment to the state mandated Residential Property Condition Disclosure Statement form. Please contact the Real Estate Commission if you have questions.

NEW RESPA PROPOSAL LIKELY TO TRIGGER FIREWORKS ON CAPITAL HILL

Most of the real estate industry — and some members of Congress — are a bit miffed at HUD right now because, after a year and a half of stalling, the agency finally moved on a new and supposedly improved Real Estate Settlement and Procedures Act.

The plan HUD sent to the Office of Management and Budget could go a long way toward deciding who will take the point position in future home-buyers deals: Bankers or real estate agents.

Oddly enough, the cause of Washington's anxiety is the sudden swiftness with which HUD acted. To make matters worse, interested parties outside of HUD are only now beginning to see bits and pieces of what the Department is recommending.

In fairly rapid order, Republican Housing Secretary Mel Martinez resigned at the end of December (as expected) to make a run for the Senate seat being vacated in Florida. He was replaced by Deputy Secretary Alphonso Jackson (also as expected). Within days of becoming the acting secretary, however, Jackson sent HUD's RESPA proposal to OMB (which wasn't expected).

Since then, everyone from the National Association of Realtors to the Home Builders to the Mortgage Bankers, on down to members of Congress, has complained that HUD did not reopen hearings on the advisability of its revisions or how they would impact real estate professionals.

The groups also would have liked to have known what HUD was recommending before it was sent to OMB.

OMB is now reading out the initiative to check on a couple of things: It wants to make sure the final draft would not cost too much to implement; it needs to make sure the draft does not run counter to any other administration initiatives; and it wants to make sure the policy is legal and won't interfere with existing programs.

At the end of February, the proposal will go back to HUD with OMB's recommendations, theoretically clearing the way for it to be published in the Federal Register and then become part of real estate regulation.

As a practical matter, however, the policy will likely come under Congress' 60-day "do not enforce" rule that instructs agencies not to implement new regulations until Congress has had time to review them. During that same 60 days, the various private parties — NAR, the Home Builders, bankers and others — also will have an opportunity to review the proposal.

If any of the parties find something they can't live with, they would likely go to court and seek an injunction to stop enforcement of the new rule. After that, the whole process would enter into the court system and could take years to resolve.

All of this is important because the new RESPA will determine who assembles real estate deals in the future — and who is first in line to profit from those deals.

The proposal involves the bundling of real estate settlement services so consumers can compare one package to another. The hotly contested issue centers on who should be allowed to package those services.

If only lenders are allowed to bundle mortgage, title, insurance and other services, they will take a pre-eminent role in the transaction and be able to steer buyers and their money to affiliated companies. That role would isolate real estate brokers.

If, however, HUD allows anyone to bundle services — including real estate brokerages — then brokers would have a shot at steering home buyers to their affiliated companies.

Needless to say, brokers want to be allowed to compete.

It is that clash between settlement service vendors that has held up any action on RESPA — which by common agreement is an incomprehensible mess in its current form and needs to be replaced.

Among those complaining about HUD's sudden action is Rep. Don Manzullo, R-Ill., chairman of the House Small Business Committee.

He believes acting Secretary Jackson should have appeared before his committee to discuss the proposal. Instead, Jackson sent an underling. Manzullo said his committee was insulted because Jackson did not appear.

All this seems to be setting up an inevitable "round 2" when the proposal does emerge from OMB next month.

Reprinted from the Agency Law Quarterly, Real Estate Intelligence Report, January 2004

Alien Ownership of Real Property

An alien, or person who is not a citizen of the United States, who becomes a bona fide resident of this State may acquire real property in this State. Nonresident aliens cannot acquire real property in this State, except nonresident aliens may acquire real property in this State under any legal proceeding foreclosing liens in favor of such alien, and may hold the same for five (5) years from the date of so acquiring such Title. 60 O.S. 2001, sec. 121, 123.

Further, if an alien was a resident of this State, but is no longer a resident of this State, and they acquired property while being a resident of this State, then such alien shall be required to dispose of such property within five years upon condition of escheat or forfeiture to the State. Title 60 O.S. 2001, sec. 122.

FINES

JUNIOR TILLMAN - Hinton. Under case C-2002-74, on March 10, 2004, Commission Ordered assessment of administrative fines of \$2,050. Violations: Title 59 O.S. §858-356, §858-355(D), and §858-312, Subsections 8 and 23; and Rule 605:10-17-4(12). Failed to make proper broker relationships disclosures, failed to provide a properly executed Residential Property Condition Disclosure Statement, misrepresented an associate as a broker on an exclusive listing agreement, and represented that he was an "agent" on the contract.

LLOYD BRENT PECK - SA - Hinton. Under case C-2002-74, on March 10, 2004, Commission Ordered assessment of administrative fine of \$300. Violated Title 59 O.S. §858-312, Subsection 8; and Rule 605:10-17-4(12); misrepresented that he was a broker on an exclusive listing agreement.

M D CUSTOM REALTY, INC.

MELISSA A. BROWN - B - Mena, AR. Under case C-2003-46 on February 18, 2004, Commission, through consent agreement, Ordered M D Custom Realty, Inc., fined \$250; and Melissa A. Brown fined \$250 on two Counts (\$500), for violations of: Title 59 O.S. §858-312, Subsections 3, 8 and 23; and §858-351 through 363. Respondents failed to comply with requirements of the Broker Relationships Act, in that they disclosed themselves as Listing Agent and Selling Agent representing the seller. Further, Ms. Brown failed to furnish the required Oklahoma Residential Property Condition Disclosure form to the buyer, as she provided the buyer with a "Owner Property Disclosure" from the Arkansas Realtors Association.

AARON DILLEY - SA - Oklahoma City. Under case #C-2002-19, on January 14, 2004, Commission Ordered \$300 fine. Violations: Title 59 O.S. §858-312, Subsection 8; Mr. Dilley's conduct towards the complainant was improper.

AMKEL REAL ESTATE SERVICES, LLC - Mustang. Under case C-2002-89, on November 5, 2003, Commission Ordered \$500 fine. Violations: Title 59 O.S. §858-312, Subsection 6 and Rule 605:10-13-1(9) for their failure to insure that Metro Builders maintained a trust account in which to deposit earnest money.

LAKE EUFAULA REAL ESTATE COMPANY, INC.

KAREN A. WILLOBY - B - Eufaula. Under case C-2003-42, on January 14, 2004, Commission, through consent agreement, Lake Eufaula Real Estate Company, Inc. was fined \$250.00 and Karen A. Willoby was fined \$1,250.00 and Ordered to complete six (6) hours of additional continuing education for violations of Title 59 O.S. §858-312, Subsections 3, 8, 9 and 23; and Rules 605:10-17-4(6), (9) and (12). Respondents' conduct was improper in that they failed to supervise the activities of an associate. **KAREN WILLOBY** failed to comply with requirements of Section 858-363: failed to describe and disclose in writing the broker's role to the buyers; failed to insure that the buyers received a Residential Property Condition Disclosure Statement signed by the seller prior to their offer being accepted; and failed, upon demand in writing, to produce documents or records in their possession in that they stated the complainants/buyers signed a Residential Condition Disclosure Statement but failed to provide a copy of the document to the Commission upon request.

McGRAW DAVISSON STEWART, INC.

JOSEPH R. McGRAW, JR., - B

McGRAW DAVISSON STEWART, INC. - BO

SUZANNE SHERWOOD - B

MARY L. HAWS - SA - Tulsa. Under #C-2003-01 on January 14, 2004, the Commission Ordered McGraw Davison Stewart, Inc.,

Joseph R. McGraw, Jr., McGraw Davison Stewart, Inc. (BO), and Suzanne Sherwood each fined \$500 for Violation of Title 59 O.S. §858-412, Subsections 8 and 9 and Rule 605:10-17-4(6); they failed to properly supervise the activities of an associate. **Mary L. Haws** was fined \$1,500 for Violation of Title 59 O.S. §858-312, Subsections 8, 9 and 23 and Rule 605:10-17-4(6) and (12). Ms. Haws failed to insure that the "insufficient funds" earnest money check given by the buyers was replaced; failed to conform to the broker relationship made in that she disclosed herself as a transaction broker but engaged in activities in the best interest of the buyers and to the detriment of the sellers; and she used an out-of-date Residential Property Condition Disclosure and she failed to obtain an updated disclosure from the seller.

MAXINE CORNISH - SA - Luther. Under case C-2002-39, on January 14, 2004, Commission Ordered assessment of a \$500 fine. Violations: Title 59 O.S. §858-312, Subsections 8 and 9; and Rule 605:10-17-4(12), for failing to timely and properly notify the broker that a complaint had been filed against her and the broker in that Cornish received the broker's notice of complaint and failed to notify the broker that such complaint had been filed.

DONNIE H. BUTLER - B - Idabel. Under case C-2002-91, on January 14, 2004, Commission Ordered assessment of fines of \$1,000. Violations of Title 59 O.S. §858-312, Subsections 8 and 9, Title 60 O.S. §836; and Rules 605:10-13-1(a), 605:10-17-4 (6), (8) and (12), and 605:10-13-1(1). Butler failed to properly handle and account for earnest money, failed to obtain a Residential Property Condition Disclosure Statement from the seller, failed to inform the seller and buyers of the approximate amount of costs they would be expected to pay at closing, failed to maintain all records for a minimum of five (5) years after termination of the transaction, and failed to properly supervise the activities of an associate.

LAVELDA STUART - B - Ochelata. Under case C-2002-91, on January 14, 2004, Commission Ordered an administrative fines of \$400. Violations: Title 59 O.S. §858-312, Subsection 8 and Title 60 O.S. §836; and Rules 605:10-17-4 (8) and (12). Stuart failed to obtain a Residential Property Condition Disclosure Statement from the seller, and failed to inform the seller and buyers of the approximate amount of costs they would be expected to pay at closing; and cautioned for receipting earnest money that was not received.

BRYAN PROPERTIES, INC. - Tulsa. Under case C-2003-44, on January 14, 2004, through consent agreement, Commission Ordered administrative fines of \$1,500 for violations of Title 59 O.S. Title 59 O.S. §858-312, Subsections 6 and 8; and Rules 605:10-13-1 (a,1,A) and (a,1,D). Respondent failed, within a reasonable time, to account for monies coming into their possession which belonged to others by failing to maintain such funds in a bank account until the transactions involved were consummated or terminated and a proper accounting was made; engaged in untrustworthy and improper conduct by failing to deposit all checks and monies belonging to others in a separate bank account and failed to establish the managing broker as a signor on trust account records.

JACKIE R. KURTZ - B

ALENE KURTZ - BA

LAQUITA LITTLEBIRD - SA - Weatherford. Under case C-2001-35, on January 14, 2004, Commission Ordered assessment of administrative fines. Violations: Jackie Kurtz was fined \$500 for violating Title 59 O.S. §858-312, Subsections 6 and 8 and Rules 605:10-9-4(6) and 605:10-17-4(12), failed to properly supervise the activities of an associate, and receipted for earnest money which was never received; Alene Kurtz was fined \$250 for violating Title 59, O.S. §858-312, Subsection 8 and Rule 605:10-15-2(b), failed to conform to the relationship disclosure made in the transaction;

continued on page 12

APPENDIX A. RESIDENTIAL PROPERTY CONDITION DISCLOSURE STATEMENT

Oklahoma Law (the "Residential Property Condition Disclosure Act," 60 O.S. §831 et.seq., effective July 1, 1995) requires Sellers of 1 and/or 2 residential dwelling units to complete this form. A Seller must complete, sign and date this disclosure form and deliver it or cause it to be delivered to a purchaser as soon as practicable, but in any event no later than before an offer is accepted by the Seller. If you become aware of a defect after delivery of this statement, but before you accept an offer to purchase, you must deliver or cause to be delivered an amended disclosure statement disclosing the newly discovered defect to the purchaser. If the disclosure form or amendment is delivered to a purchaser after an offer to purchase has been made by the purchaser, the offer to purchase shall be accepted by you only after a purchaser has acknowledged receipt of this statement and confirmed the offer to purchase in writing.

The declarations and information contained in this disclosure statement are not warranties, express or implied of any kind, and are not a substitute for any inspections or warranties the purchaser may wish to obtain. The information contained in this disclosure statement is not intended to be a part of any contract between the purchaser and seller. The information and statements contained in this disclosure statement are declarations and representations of the seller and are not the representations of the real estate licensee.

Instructions to the Seller: (1) Answer ALL questions. (2) Report known conditions affecting the property. (3) Complete this form yourself. (4) If some items do not apply to your property, circle N/A (not applicable). If you do not know the facts, circle Unk (unknown). (5) The date of completion by you may not be more than 180 days prior to the date this form is received by a purchaser.

LOCATION OF SUBJECT PROPERTY: _____

SELLER IS ___ IS NOT ___ OCCUPYING THE SUBJECT PROPERTY.

Appliances/Systems/Services: (The items below are in **NORMAL** working order)

		<u>Circle below</u>					<u>Circle below</u>		
Sprinkler System	N/A	Yes	No	Unk	Humidifier	N/A	Yes	No	Unk
Swimming Pool	N/A	Yes	No	Unk	Gas Supply	N/A	Yes	No	Unk
Hot Tub/Spa	N/A	Yes	No	Unk	___ Public ___ Propane				
Water Heater	N/A	Yes	No	Unk	___ Butane				
___ Electric ___ Gas					Propane Tank	N/A	Yes	No	Unk
___ Solar					___ Leased ___ Owned				
Water Purifier	N/A	Yes	No	Unk	Ceiling Fans	N/A	Yes	No	Unk
Water Softener	N/A	Yes	No	Unk	Electric Air Purifier	N/A	Yes	No	Unk
___ Leased ___ Owned					Garage Door Opener/				
Sump Pump	N/A	Yes	No	Unk	Control	N/A	Yes	No	Unk
Plumbing	N/A	Yes	No	Unk	Intercom	N/A	Yes	No	Unk
Whirlpool Tub	N/A	Yes	No	Unk	Central Vacuum	N/A	Yes	No	Unk
Sewer System	N/A	Yes	No	Unk	Security System	N/A	Yes	No	Unk
___ Public ___ Septic					___ Rent ___ Own				
___ Lagoon					___ Monitored				
Air Conditioning					Smoke Detectors	N/A	Yes	No	Unk
System	N/A	Yes	No	Unk	Dishwasher	N/A	Yes	No	Unk
___ Electric ___ Gas					Electrical Wiring	N/A	Yes	No	Unk
___ Heat Pump					Garbage Disposal	N/A	Yes	No	Unk
Window Air					Gas Grill	N/A	Yes	No	Unk
Conditioner(s)	N/A	Yes	No	Unk	Vent Hood	N/A	Yes	No	Unk
Attic Fan	N/A	Yes	No	Unk	Microwave Oven	N/A	Yes	No	Unk
Fireplaces	N/A	Yes	No	Unk	Built-in Oven/Range	N/A	Yes	No	Unk
Heating System	N/A	Yes	No	Unk	Kitchen Stove	N/A	Yes	No	Unk
___ Electric ___ Gas					Trash Compactor	N/A	Yes	No	Unk
___ Heat Pump									

Buyer's Initials _____ Buyer's Initials _____
(OREC-11/03)

Seller's Initials _____ Seller's Initials _____

LOCATION OF SUBJECT PROPERTY _____

Source of Household Water	Other Items _____	Yes	No	Unk
_____ Public _____ Private _____ Well	Other _____	Yes	No	Unk
Yes No Unk	Other _____	Yes	No	Unk

IF YOU HAVE ANSWERED NO to any of the above, please explain. Attach additional pages with your signature(s).

Zoning, Flood and Water

Circle below

- | | | | |
|--|-----|----|-----|
| 1. Property is zoned: (Check one) _____ residential _____ commercial
_____ historical _____ agricultural _____ industrial _____ office
_____ urban Conservation _____ other _____ unknown | | | |
| 2. Are you aware of any flood insurance requirements concerning the property? | Yes | No | Unk |
| 3. Do you have flood insurance on the property? | Yes | No | Unk |
| 4. Has the property been damaged or affected by flood, storm run-off, sewer backup, drainage or grading problems? | Yes | No | Unk |
| 5. Are you aware of any surface or ground water drainage systems which assist in draining the property, e.g. french drains? | Yes | No | Unk |
| 6. Has there been any occurrence of water in the heating and air conditioning duct system? | Yes | No | Unk |
| 7. Are you aware of water seepage, leakage or other drainage problems in any of the improvements on the property? | Yes | No | Unk |

Additions/Alterations/Repairs

- | | | | |
|--|-----|----|-----|
| 8. Have any additions or alterations been made without required permits? | Yes | No | Unk |
| 9. Are you aware of previous foundation repairs? | Yes | No | Unk |
| 10. Are you aware of any alterations or repairs having been made to correct defects or problems? | Yes | No | Unk |
| 11. Are you aware of any defect or condition affecting the interior or exterior walls, ceilings, slab/foundation, basement/storm cellar, floors, windows, doors, fences or garage? | Yes | No | Unk |
| 12. Has the roof ever been repaired or replaced during your ownership of the property? | Yes | No | Unk |
| 13. Approximate age of roof, if known _____ Number of layers, if known _____ | | | Unk |
| 14. Do you know of any current problems with the roof? | Yes | No | Unk |
| 15. Are you aware of treatment for termite or wood-destroying organism infestation? | Yes | No | Unk |
| 16. Do you have a termite bait system installed on the property? | Yes | No | Unk |
| 17. If yes, is it monitored by a licensed exterminating company? | | | |
| (Check one) _____ yes _____ no Annual cost \$ _____ | | | |
| 18. Are you aware of any damage caused by termites or wood-destroying organisms? | Yes | No | Unk |
| 19. Are you aware of major fire, tornado, or wind damage? | Yes | No | Unk |

Environmental

- | | | | |
|---|-----|----|-----|
| 20. Are you aware of the presence of asbestos? | Yes | No | Unk |
| 21. Are you aware of the presence of radon gas? | Yes | No | Unk |
| 22. Have you tested for radon gas? | Yes | No | Unk |
| 23. Are you aware of the presence of lead-based paint? | Yes | No | Unk |
| 24. Have you tested for lead-based paint? | Yes | No | Unk |
| 25. Are you aware of any underground storage tanks on the property? | Yes | No | Unk |
| 26. Are you aware of the presence of a landfill on the property? | Yes | No | Unk |
| 27. Are you aware of existence of hazardous or regulated materials and other conditions having an environmental impact? | Yes | No | Unk |
| 28. Are you aware of existence of prior manufacturing of methamphetamine? | Yes | No | Unk |
| 29. Have you had the property inspected for mold? | Yes | No | Unk |
| 30. Have you had any remedial treatment for mold on the property? | Yes | No | Unk |
| 31. Are you aware of any condition on the property that would impair the health or safety of the occupants? | Yes | No | Unk |

Property Shared in Common, Easements, Homeowner's Association, Legal

- | | | | |
|---|-----|----|-----|
| 32. Are you aware of features of the property shared in common with adjoining landowners, such as fences, driveways, and roads whose use or responsibility has an affect on the property? | Yes | No | Unk |
| 33. Other than utility easements serving the property, are you aware of easements or right-of-ways affecting the property? | Yes | No | Unk |

Buyer's Initials _____ Buyer's Initials _____

Seller's Initials _____ Seller's Initials _____

LOCATION OF SUBJECT PROPERTY _____

34. Are you aware of encroachments affecting the property? Yes No Unk
35. Are you aware of a mandatory homeowner's association? Yes No Unk
 Amount of dues \$ _____ Special Assessment \$ _____
 Payable: **(Check one)** ___ monthly ___ quarterly ___ annually
 Are there unpaid dues or assessments for the Property? **(Check one)** ___ yes ___ no
 If yes, amount \$ _____ Manager's Name: _____
 Phone No. _____
36. Are you aware of any zoning, building code or setback requirement violations? Yes No Unk
37. Are you aware of any notices from any government or government-sponsored agencies or any other entities affecting the property? Yes No Unk
38. Are you aware of any threatened or existing litigation or lawsuit(s), directly or indirectly, affecting the property? Yes No Unk
39. Is the property located in a fire district which requires payment? Yes No Unk
 Amount of fees \$ _____ To Whom Paid _____
 Payable **(Check one)** ___ monthly ___ quarterly ___ annually
40. Is the property located in a private utility district? Yes No Unk
(Check applicable) water ___ garbage ___ sewer ___ other ___
 If other, explain: _____
 Initial membership fee \$ _____ annual membership fee \$ _____
 If more than one (1) utility, attach additional pages.

Miscellaneous

41. Are you aware of other defect(s), affecting the property, not disclosed above? Yes No Unk
42. Are you aware of any other fees or dues required on the property that you have not disclosed? Yes No Unk

If you answered "YES" to any of the items 1- 42 above, list the item number(s) and explain. (If needed, attach additional pages, with your signature(s), date(s) and location of subject property.

On the date this form is signed, the seller states that based on seller's **CURRENT ACTUAL KNOWLEDGE** of the property, the information contained above is true and accurate.

Are there any additional pages attached to this disclosure (circle one): Yes No. If yes, how many? _____

 Seller's Signature Date Seller's Signature Date

A real estate licensee has no duty to the Seller or the Purchaser to conduct an independent inspection of the property and has no duty to independently verify the accuracy or completeness of any statement made by the seller in this disclosure statement.

The Purchaser is urged to carefully inspect the property and, if desired, to have the property inspected by a licensed expert. For specific uses and restrictions for this property, contact the City Planning Department. The Purchaser acknowledges that the Purchaser has read and received a signed copy of this statement. This completed acknowledgement should accompany an offer to purchase on the property identified.

 Purchaser's Signature Date Purchaser's Signature Date

The disclosure and disclaimer statement forms and the Oklahoma Residential Property Condition Disclosure Act information pamphlet are made available at the Oklahoma Real Estate Commission (OREC), Shepherd Mall, 2401 NW 23 St, Suite 18, Oklahoma City Oklahoma 73107-2431, or visit OREC's Web site www.orec.state.ok.us/.

OKLAHOMA REAL ESTATE COMMISSION

Shepherd Mall
2401 N.W. 23rd Street, Suite 18
Oklahoma City, Oklahoma 73107-2431

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OKLAHOMA CITY, OK 731

If you have a license with an expiration date of May 31, 2005 and before, you have a continuing education requirement of 9 required and 12 electives.

If you have a license with an expiration date of June 30, 2005 and thereafter, you have a continuing education requirement of 12 required and 9 electives, of which the required hours consist of core subject matter.

IMPORTANT

Record of Continuing Education Hours

NOTE: If you are a Provisional Sales Associate, the CE requirement does not apply to you, because you are required to complete a Commission approved 45 clock hour post-licensing course prior to the expiration date of your license.

The address label above contains information regarding the number of hours we have recorded for you in each category—“R” denotes required hours and **“E” denotes elective hours. The center date reflects the expiration date of your current license term.**

If your license is on an **inactive status**, it is possible that these hours may only be applied toward activation of your license.

* This label only reflects hours which were posted to your record prior to the label being extracted, which occurred approximately 30 days prior to the current date.

LaQuita Littlebird was fined \$500 for violating Title 59 O.S. §858-312, Subsection 3, and Rule 605:10-15-2(b), acted for more than one party in a transaction without the knowledge of all parties, and failed to conform to the relationship disclosure made in the transaction.

MARY FERONTI BUTLER - SA - Oklahoma City. Under case C-2002-45, on September 3, 2003, the Commission Ordered respondent assessed an administrative fine of \$500. Violations: Title 59 O.S. §858-312, Subsections 8 and 9; and Rule 605:10-17-4(6), for failure to obtain and make available to the buyer a Residential Property Condition Disclosure Statement prior to the acceptance of an offer.

PEGGY L. BAILEY - B

PAMELA SPARKS - BA - Vinita. On September 3, 2003, Commission Ordered respondents each assessed an administrative fine of \$500. Peggy Bailey violated Title 59 O.S. §858-312, Subsections 8 and 9, and Rule 605:10-17-4(6) for her failure to properly supervise the activities of an associate. Pamela Sparks violated Title 59 O.S. §858-312, Subsections 9 and 23, for providing a Residential Property Disclosure Statement which was dated more than 180 days prior to the receipt of same by the purchaser.

JESSE DALE NASH - B - Lawton. Under case C-2002-101, on March 10, 2004, through consent agreement, Commission Ordered administrative fine of \$300 and completion of three (3) additional hours of continuing education. Violations: Title O.S. §858-312,

Subsection 3, §858-351 through 363, and Rule 605:10-17-4(12). Respondent’s conduct in a real estate transaction demonstrated bad faith or incompetency by his failure to comply with the requirements of the Broker Relationships Act. Respondent had failed to properly disclose his broker relationship to the complainant, and had disclosed himself as an agent.

MARKETIA GREEN - SA - Oklahoma City. Under case C-2001-57, on March 12, 2003, Commission Ordered formal reprimand, assessment of \$1,000 administrative fine and completion of 12-hours of disciplinary continuing education. Violations: Title 59 O.S. §858-353(4)(a), and Rule 605:10-17-4(12). Failed to present a contract extension counteroffer to the complainants for acceptance or acknowledgement, she made changes to the contract that were not initialed by the seller, and her relationship was not properly disclosed on the form given to the complainant.

MEGAN BANGS - SA - Oklahoma City. Under case C-2003-25, on January 14, 2004, Commission Ordered assessment of administrative fines of \$2,600 and completion of three hours of additional continuing education on Prohibited Acts. Violations: Title 59 O.S. §858-312, Subsections 3, 8, 9, 12, and 21; and Rules 605:10-17-4(3) and (12). Bangs misrepresented the actual construction date of the property; as an inducement to assist the seller to purchase new property she agreed to pay the rent of the seller’s former residence if Bangs was unable to find a tenant; and signed a lease agreement exceeding one year with the tenant for the principal.

This publication, printed by The University of Oklahoma Printing Services, is issued by the Oklahoma Real Estate Commission as authorized by Anne M. Woody, Executive Director. 20,000 copies have been prepared and distributed at no cost to the taxpayers of the State of Oklahoma. The entire cost of preparing this publication has been borne by the Real Estate Licensees through their Education and Recovery Fund Fees. Copies have been deposited with the Publications Clearinghouse of the Oklahoma Department of Libraries.