



OCTOBER 2000

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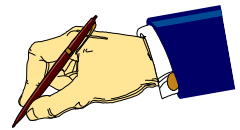
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ARKANSAS

Real Estate Commission

N E W S L E T T E R



From the Desk of ...

The Executive Director

Happy Retirement

Mary F. Izard, Chief Investigator, retired August 31, 2000 after 20 years with the Arkansas Real Estate Commission.

Mary joined the Commission staff as an Investigator in March 1980 after graduating from UALR Law School, and was later promoted to Chief Investigator. In Mary's 20 years with AREC she investigated hundreds of complaints and had a story about almost every one. Mary enjoyed speaking to real estate groups and sharing her experiences about Complainants and Hearings she had been involved with over the years. She always wanted to help licensees stay out of trouble with AREC and avoid a Complaint being filed. However, if a member of the public appeared to have been damaged, she would aggressively investigate the matter. Mary helped many buyers and sellers recover losses. She answered thousands of questions from licensees and consumers

about problems or situations concerning real estate transactions. Her knowledge and practical experience about Arkansas Real Estate License Law and Regulations and how it applies to real estate transactions will be missed by licensees and by the Commission.

Mary will now keep busy at her home in Bryant, solving problems and answering questions not about real estate, but about her five grandchildren.

Thank you Mary for your contribution to the AREC, the real estate industry, and the state. The Commissioners and staff of AREC wish you a long and happy retirement.

Scholarships one more time!

As many of you know, the Commission has offered scholarships to Brokers and Salespersons that covered a portion of the cost of completing the Broker Course and the Salesperson Course. To qualify for the reimbursement a Broker or

Salesperson had to complete the entire 18-hour Salesperson Course or 30-hour Broker Course. The majority of licensees who completed the courses gave course content and instructors high marks.

The 18-hour Salesperson Course was developed as a practical "how to" course for Salespersons. The course covers practical applications of a real estate transaction. The course starts with **Agency** and covers completion of the most common **Contracts**, and ends with the **Closing** process. This is a great course for training new Salespersons or updating seasoned Salespersons.

The 30-hour Broker Course was also developed as a practical "how to" course for Brokers. New Broker applicants must complete this course as a part of the education requirement to sit for the Broker exam. The course consists of five 6-hour

CONTINUED ON PAGE 4

FORMAL



DECISIONS

The following information is extracted from Findings of Fact, Conclusions of Law and Order which were issued for Hearings conducted by the Commission from May through July 2000. Formal Hearing Decisions that have been appealed are not listed.

Danny Wheeler, Principal Broker, Marshall: In Formal Hearing #1997 by Consent Order the Commission ordered that "The Respondent shall complete the 30 hour broker course, as soon as practicable and no later than six (6) months after the date of this Order and he shall not be eligible to receive any scholarship offered by the Arkansas Real Estate Commission. The Respondent is placed on a one-year probation beginning with the date of this Order. During this term, the Respondent shall comply with the Real Estate License Law, Arkansas Code Annotated §17-42-101 et seq., and Commission Regulations; any violation may subject the Respondent to revocation of his real estate license. The Commission shall conduct office examinations of trust account, transaction, and other applicable records for Wheeler Realty or other firm where the Respondent is or has been licensed since the date of this Order. Said examination shall be approximately six (6) months and twelve (12) months after the date of this Order. The Respondent is hereby assessed a penalty of \$500.00 and is also ordered to reimburse the Commission the cost for the court reporter and hearing officer for appearance at the scheduled

hearing date. The Respondent shall pay said penalty and costs to the Commission within thirty (30) days of the date of this Order."

The Commission found Mr. Wheeler guilty of violating Arkansas Code Ann. §17-42-311(a)(6), (11) & (13) (Repl. 1995), and Regulations 10.7(b)(1), 10.8(c) & (g)(1) & (2), 10.9(b) and 10.10(a).

Mr. Wheeler agreed to hold the warranty deed signed by the Complainant and to deliver the deed with revenue stamps along with a title insurance policy to buyer when the contract was paid in full. Funds were deducted at closing to purchase title insurance and revenue stamps for the deed. Subsequently, the sale was terminated by the Bankruptcy Court and the property was sold to another buyer. Mr. Wheeler did not produce a title insurance policy or account for or remit the funds deducted to purchase a title insurance policy or the funds to purchase revenue stamps.

Mr. Wheeler did not properly account for funds collected and disbursed for the following transactions: a) He failed and refused to prepare closing statements for the funds collected for a transaction; b) In another transaction the seller was charged \$268.00 for the cost of title insurance when the actual cost was \$115.00.

Mr. Wheeler had a verbal agreement with a seller to hold seller's proceeds from the sale of her property and to make expenditures for monthly payments on the trust property and other miscellaneous upkeep.

The following actions of Mr. Wheeler are conduct which constitutes improper dealings: a) He gave the Commission Investigator documents

showing seller received \$60,775.60 from the sale of her property but produced an accounting for the Bankruptcy Court which stated she received \$60,700.05; and b) He forwarded checks from his trust account to the Bankruptcy Court before he had received the funds for the purchase of the trust property.

Mr. Wheeler did not keep accurate and detailed trust account records. He did not maintain a balance in the trust account checkbook. Some checks were written on the trust account to disburse funds that could not be identified to a specific transaction. In a certain transaction no record could be located that showed the earnest money was deposited in the trust account.

He did not reconcile his trust account bank statement at least monthly and balance it to the total amount of funds that had not been disbursed.

On June 14, 1999, Mr. Wheeler's trust account had a negative balance of \$395.05.

Trust account and transaction records were not complete or had not been maintained for three years.

In a transaction Mr. Wheeler failed to account for or remit \$307.88 of funds deposited for the transaction that were not disbursed.

In another transaction Mr. Wheeler disbursed \$605.00 in excess of funds received leaving a negative balance for this transaction. No record could be identified that he replaced these in the trust account.

FORMAL HEARINGS
CONTINUED ON PAGE 3

New Executive Director Appointed for the Arkansas Real Estate Foundation

Cliff Goodin, Chairman of the Arkansas Real Estate Foundation (AREF), announced that former Hot Springs Mayor Jim Randall has been appointed as Director of the Foundation. "Randall comes to us with a great background in the real estate business and success in his community." He is a former President of the Hot Springs Board of Realtors and has served in several capacities in the Arkansas Realtors Association.

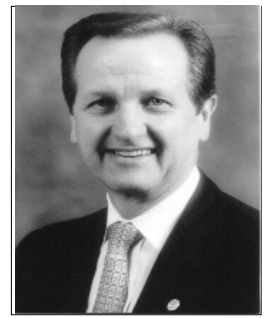
Randall presently serves on several boards including Garland County Economic Development Corporation, Ouachita Boy Scouts Area Council, Regions Bank, Arkansas Foundation for Medical Care, Friends of Mid-America Park Board, and Member of the Board and Trustee of the First United Methodist Church.

Randall is excited about this challenge because the Foundation represents an

"... the Foundation represents an opportunity for the real estate brokers in the state to participate in the support of projects such as broker education, real estate instructor training, scholarships, rehabilitation projects for homeless families, studies regarding retirees, and the Arkansas Business Academy..."

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Academy which attracts top high school students across Arkansas to UALR for a summer program about business practices.



JIM RANDALL

AREF is a non-profit corporation that receives interest from the trust accounts of participating brokers. The Foundation has been in operation since 1990 and has granted over \$368,000 to various recipients through 1999. Randall noted that the interest collected can be used to fund grants that promote economic development, research, education, and such other public service purposes as may be determined by the Foundation.

Jim and his wife Jane reside in Hot Springs. The AREF office will be located at 307 Broadway in Hot Springs.

Formal Hearing Decisions - Continued

Brian C. Smith, Principal Broker, Fayetteville: In Formal Hearing #2003 by Consent Order the Commissioners ordered that "...the broker's license of Respondent Brian Smith is revoked, effective immediately. It is further ordered that Respondent Smith shall pay a penalty of \$5,000.00 to the Arkansas Real Estate Commission within ninety (90) days of the date of this Order (8-21-00)."

The Commission found Mr. Smith guilty of violating Arkansas Code Ann. §17-42-311(a)(4), (6), (7) & (11) (Repl. 1995), and Regulations 8.5(a), 10.4(d)(2) and 10.10(a).

Mr. Smith committed acts involving moral turpitude, fraud, dishonesty, untruthfulness, or untrustworthiness: 1) He failed and refused to record the mortgage signed by himself and his wife to protect the Complainants' interest in the property, and 2) He applied for and

received two different loans on the property and each time failed and refused to disclose the debt owed to the Complainants or their security interest in the property.

Mr. Smith made substantial misrepresentations to First Greensboro Home Equity, Inc. and United Bank when he failed and refused to disclose the debt owed to the Complainants and that he and his wife had signed a mortgage to the Complainants for approximately \$81,000.00.

Mr. Smith, as Principal Broker of Realty Executives Metro Brokers, Inc., failed to see that the closing of the transaction of the Complainants to himself was conducted properly. Charges were shown on the closing statement for recording the mortgage and the deed. Mr. Smith recorded the deed but failed and refused to record the mortgage.

He charged the Complainants \$550.00 for prorated 1996 taxes and credited a like amount to himself. He failed and refused to pay the 1996 taxes or otherwise account for or remit the funds to the Complainants.

He did not deal honestly with the Complainants when he failed to record their mortgage and removed their name as payee from the insurance policy on the property.

Mr. Smith failed and refused to prepare a written contract which set out the terms for his purchase of the Complainants' property.

A Recovery Fund Hearing was held. Pursuant to Arkansas Code Ann. §17-42-401 et seq., the Commission awarded the Complainants a Recovery Fund award in the amount of \$15,000.00.



Arkansas Real Estate Commission
612 South Summit Street
Little Rock, AR 72201-4740

BULK RATE
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SCHOLARSHIPS **one more time!**

(CONTINUED)

modules that cover **Broker Responsibility, Trust Account & Record Maintenance, Office Management, Real Estate Contracts and Agency & Disclosure.**

This year the Commission will again offer a Scholarship opportunity. However this year's program will be a little different in that ***only one of the modules must be completed*** to qualify for the Broker Course or Salesperson Course. The Scholarships will be paid to individuals who complete one of the 6-hour topics highlighted above offered by approved instructors. This education can also be used to meet the Continuing Education requirement.

Look for information on how you can apply for this Scholarship opportunity financed by the Arkansas Real Estate Recovery Fund. Only a limited number will be available on a first come basis.

AREC ***Staff Changes!***

Kathy Timmerman recently joined AREC in the Licensing Department. Kathy and her husband Rick have one daughter, Trisha, a freshman at Harding University in Searcy.

Shynnon Greer is the cheerful, friendly voice you will hear when calling AREC. Shynnon is married to Kirby and has two daughters, Shindarra and I'm-Unique.

Welcome, Kathy and Shynnon!

LOUISIANA **RECIPROCAL LICENSE AGREEMENT**



Arkansas recently entered into a Reciprocal License Agreement with Louisiana. AREC already has agreements in place with the following states: Alabama, Colorado, Florida, Georgia, Iowa, Kansas, Mississippi, Missouri, Nebraska, New York, North Carolina, Ohio, Oklahoma, Tennessee and West Virginia. For further information contact AREC.

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