



OKLAHOMA REAL ESTATE COMMISSION COMMENT

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NO. 1

New Continuing Education Requirement in Full Force **Effecting License Holders With June 30, 2005 Expiration Date and Thereafter**

Continuing education courses are required for sales associates and brokers who desire to renew their license on an active status. Provisional sales associates have a *separate and unique postlicense* education requirement wherein they are not required to complete continuing education during their first license term; however, after their first license term they will be subject to the required 21 clock hours of continuing education each license term.

Upon being issued an active license, a sales associate or broker is required to complete 21 clock hours of continuing education every three (3) years. Licensees with an expiration date of June 30, 2005 and thereafter

are required to take 12 required clock hours consisting of 4 (four) core subjects as determined by the Commission and 9 (nine) clock hours of elective subjects each license term. The 4 (four) core subjects are listed as follows: (this requirement does not apply to a provisional sales associate during their first license term)

- Professional Standards of Conduct (PSC)
 - Fair Housing Requirements (FHR)
 - Broker Relationships Act (BRA)
 - Hot Topic (HOT)
- (this course will consist of a variety of issues ranging from Code and Rule updates to major industry concerns)

Caution: Remember, the required hours must total at least 12 hours and the electives must total at least 9 hours. If you fail to complete the required hours it will affect your license activation or active license renewal.

Some confusion has been caused by course offerings only being 2 hours in length - 2 hour courses can cause you to lack an hour in complying with requirements. For example, if you have completed all 4 required courses and they only total 11 hours, you will be required to take another course [in any required subject matter] in order to comply—you will not be allowed to just take the one hour you lack.

Licensees who maintain their license on *inactive* status are not required to complete continuing education; however, if a licensee desires an *active* license, the licensee must complete 21 clock hours for each license term in which an active license is held.

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The Oklahoma Real Estate
Commission Comment

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Martin VanMeter.....Durant
Charles BarnesMidwest City
Anne M. Woody, Executive Director.....Staff

Address all communications to the
Commission Office

"Use your zip code and ours
when you write to us"



**BY ORDER OF THE
COMMISSION
DISCIPLINARY ACTIONS AS
OF APRIL 6, 2005**

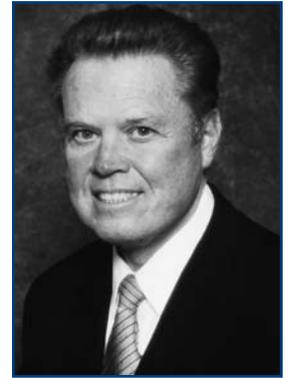
ALICE McNAIR (B) - Pryor. January 12, 2005, under case E-2004-01, Commission Ordered revocation of Alice McNair's Instructor Approval, due to violations of Title 59, O.S. §858-312, Subsections 2, 8 and 9; and Rules 605:10-17-4(12) and 605:10:13-1(12). McNair was found guilty of revocable offenses under case C-2001-05 and was assessed administrative fines, further, she failed to pay the doubled fines and her license was automatically revoked April 6, 2004.

JIMMIE D. WEATHERFORD (B)—Hugo. March 9, 2005, under case C-2004-23, Commission Ordered Jimmie D. Weatherford assessed an administrative fine of \$500, required to complete three (3) additional hours of continuing education on the Broker Relationships Act and assessed an administrative fine of \$500.

GERALD WAYNE WEATHERFORD (B) - Idabel. March 9, 2005, under case C-2004-23, Commission Ordered formal reprimand, assessed an

continued on page 12

**CHAIRMAN'S
CORNER**



*Bill Mizener
Chairman*

I remember back to 2002—three years have since past and yet it only seems like yesterday when I was appointed to serve on the Oklahoma Real Estate Commission. This honor fulfilled a personal goal to give back to the industry from which I have benefited so much. The industry continues to grow and prosper as an increasing number of new licensees are granted each year. It seems the Commission's work is always a work in progress as once again we face adjustments in the license law.

I believe the staff and fellow Commissioners carry out the goals of the Commission and provide an important service—protecting the public's interest. The raising of professional standards and education are primary responsibilities of the Commission and I'm confident the industry will be well served by these same people in the future. Thank you to Governor Henry and Governor Keating for allowing me to be one of them. Best wishes to the staff, fellow Commissioners and licensees in the future. Serving has been a real education for me. Keep learning and growing and never forget it's the client's needs that must be met and success will automatically follow.

I'd like to quote my friend, Dennis Hall, "If you learn the business, work hard and smart, you can make a good living, and make other people happy which is a reward in itself."

William (Bill) Mizener
Chairman

Real Estate Contracts Just Around the Corner

The Contract Committee has been making great strides and anticipates having a finished product by year-end. The products include a Residential Purchase Contract and Financing Addenda's for FHA, VA and Conventional. Cash transactions should not need an addenda. Also developed is an informational pamphlet that is designed to address the contract step-by-step through the provisions to include a detailed section on definitions.



Committee Members Lose a Friend and Member

As you know the Standard Contract Committee consists of 11 members and recently they lost a very dear friend and member, John G.W. Scherler of Lawton.

John passed away on May 7, 2005 from a medical condition which required him to resign from the Committee in December of 2004. Many of you knew John and his exuberant personality and zest for life. He displayed much of that while working on the contract committee, developing the standard form you may use one day.

Upon resignation from the committee, members kept John informed regarding their progress — they knew how much it took for him to resign from something he so much wanted to see materialize. His contribution and dedication to the industry and this project are greatly appreciated.

New Commissioners as of July 1, 2005

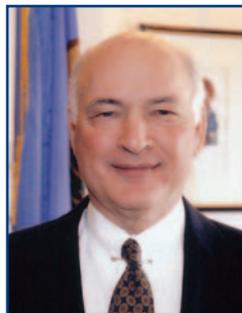
Two new Commissioners have been appointed to the Commission by Governor Brad Henry, and confirmed by the Senate and will take office on July 1, 2005. The new Commissioners are Randy Saunier, broker member, from McAlester; and John Mosley, broker member, from Chickasha (who previously served on the Commission from 1997-2003.)



Randy Saunier is President and managing broker of First Realty Inc. in McAlester. Randy has been licensed since 1985 and has served as past President of the McAlester Board of Realtors. Randy has been very active in community organizations such as the McAlester Chamber of Commerce and held positions in other organizations: Director of Arvest Bank, President

of the McAlester Rotary Club, and Director of the McAlester Boys and Girls Club. Randy received Top Production Realtor for the past 10 years from Southeastern Oklahoma and is President and CEO of Southeastern Oklahoma's oldest and largest real estate building and development company. Also Randy may be the first Commissioner to have been a professional baseball player [San Francisco Giants].

John Mosley is owner/broker of Century 21-Mosley Real Estate in Chickasha. John has been a broker since 1963 and served as past President for the Grady County Board of Realtors for 5 terms. John has been very active in numerous civic and community organizations such as



City Council Member, President of the Chickasha Chamber of Commerce, Board Member of both Southwest Federal Savings and Loan, and Chickasha Bank and Trust. He currently is Chairman of the Grady County Industrial Authority; member of both the Grady County Economic Council and Chickasha Rotary Club; and on the Board of Development of Oklahoma Christian University. He is an active member and officer of the Southern Oaks Church of Christ and has been very active in Chickasha Jaycees and was a Scoutmaster for 6 years. John is currently Chairman of the Commission's Standard Contract Committee and as indicated above he was appointed to serve on the Commission again after a two-year break. Welcome back John.

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.

Bill Mizener from Tulsa served from July 1, 2002 through June 30, 2005

E. R. Andrew from Enid served from July 1, 1999 through June 30, 2005

*Thank you Commissioners,
your contributions are part of history.*

Real Estate Commission Celebrates Its 55th Year Anniversary on April 22, 2005

The Commission began its celebration by hosting an open house from 2:00 p.m. to 4:00 p.m. at the Commission's office located at 2401 N.W. 23rd Street, Suite 18 in Oklahoma City. Refreshments were served and office tours were given. Historical pictures and documents were on display.

Later that evening the Commission hosted a reception at the State Capitol, Second Floor Rotunda. Vice Chairman of the Commission, Pete Galbraith, broker member from Sapulpa was MC of the program. The program consisted of stories being told by the Commission's past and present Executive Director's.

Joe T. Frizzell was the first Director and his son, Ted Frizzell, appeared and spoke on his father's behalf [Joe passed away in 1993.] Ted spoke of things as he remembered them when he was 12 years old and assisted his father in setting up the first Commission offices in 1949. Ted gave the Commission numerous pictures for the Commission's historical file that will be treasured for years to



come. Joe Frizzell evidently never threw away anything.

Charles C. Case, Jr., second Director, Norris Price, the third Director, and myself shared our experiences and memories with the guests at the reception. All past Commissioners were each recognized along with recognition of Commission staff and attorneys both past and present.

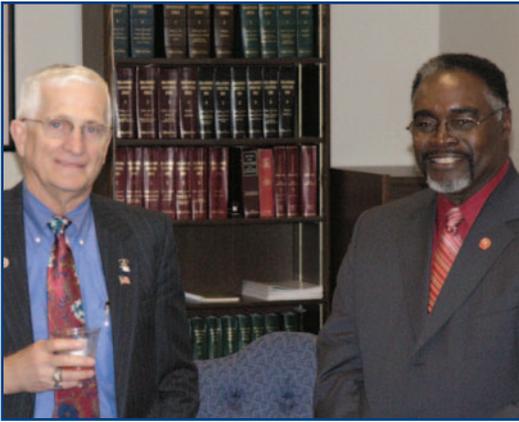
The Commission served hors d'oeuvres and the chocolate fountain was the hit of the evening. A beautiful ice sculpture served as the centerpiece with the focus being the "State Seal."

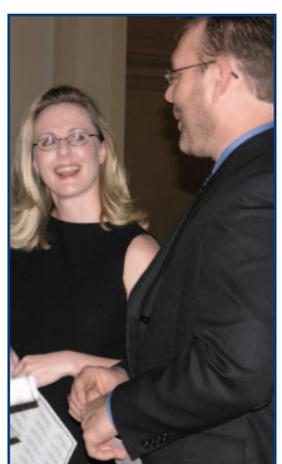
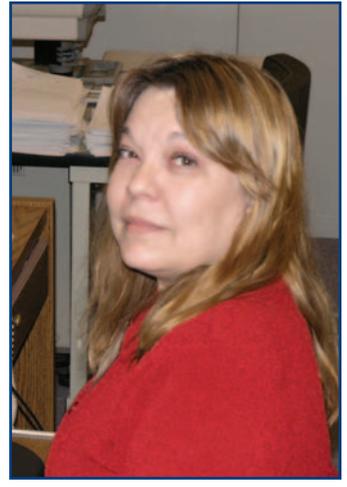
Here are a few pictures taken at the Open House and Reception...Congratulations OREC and thanks to all who participated.

You can also access all pictures of the event at www.orec.state.ok.us, and click on 55th Anniversary Pictures in the top right corner.











Oklahoma Sits on ARELLO's Board of Directors

For the past three years Oklahoma has had a seat on ARELLO's Board of Directors with that seat being filled by the Commission's Executive Director Anne M. Woody. ARELLO stands for the Association of Real Estate License Law Officials which is an international organization consisting of 70 member jurisdictions that regulate real estate across the globe.

The organization is invaluable in that it allows regulators to get out of their comfort zone and see how the rest of the world [Hong Kong, Africa, Australia, Canada, and even Texas] operates within the confines of real estate regulation. It makes one think twice about creating barriers in regard to real estate and focus more on the reason why regulators even exist, which is for public protection.

The Board of Directors of ARELLO recently reviewed the organization's structure and reason for existence. After many days of discussions, and the help of a consulting firm, ARELLO's Strategic Plan was reformed as follows:

Mission: To support jurisdictions in the administration and enforcement of real estate license laws to promote and protect the public interest.

Vision: To be the essential link for making regulation better.

Core Purpose: To promote excellence in real estate regulation.

Core Values: ARELLO values

- Protection of the public interest;
- Freedom from undue influence;
- The exchange of information and the creation of knowledge; and
- An inclusive community, with cooperation among regulators and jurisdictions.

Recently, the Canadian provinces joined together to study the issue of Agency so that each province did not go off in a different direction—sound familiar. Agency is not a local issue, it is an international issue and we all should be doing it the same way—Canada is to be commended.

The preceding paragraph is one of many reasons why ARELLO exist. Other reasons are ARELLO is an avenue wherein regulators can share their experiences, both good and bad, because eventually the issue has a global effect. In turn, it allows regulators to efficiently utilize the experiences of others to effectively handle local situations. Another reason is the matter of promoting license recognition—ARELLO must continue to eliminate barriers amongst jurisdictions, and support reciprocity that allows local regulation of activities. Further and foremost, the main reason ARELLO exists is stated in its Mission and Core Values—protection of public interest—it is also the reason any regulatory bodies exist today.

2005 Legislation

SB 673 went into effect June 6, 2005. It requires brokers *be available* to receive all written offers and counteroffers, reduce offers or counteroffers to a written form upon request of any party to a transaction, and present timely, such written offers and counteroffers. Further, the law requires a broker to inform the party in writing of the costs the party will be expected to pay in connection with the transaction. The law language is on the Commission's web page at www.orec.state.ok.us. The Commission is currently considering rules that may be promulgated through emergency procedures to give licensees further guidance in relationship to this law—we will keep you advised.

HB 1608 has an effective date of November 1, 2005. The bill increased the limits a consumer can recover from the Education and Recovery Fund from \$15,000.00 per claim to \$25,000. It further provides that an attorney can file a claim to recover

legal fees up to 25% of the claim amount approved by the Commission. Other items of the bill allow the Commission to provide food to members who volunteer for committee service. The bill also requires that the Executive Director have an annual service review that is to be sent to the legislature.

HB 1510 has an effective date of November 1, 2006. The bill increases the prelicense requirement for a provisional sales associate/sales associate from 45 clock hours to 90 clock hours; and increases the prelicense broker requirement from 75 clock hours to 90 clock hours. The postlicense provisional sales associate course remains at 45 clock hours.

The Education Advisory Committee will begin work on the additional course content beginning this month.

Rules to Become Effective July 1, 2005

Following are rules that were adopted by the Real Estate Commission on March 9, 2005. The rules were submitted to the Governor and Legislature for consideration and approval was obtained, and will become effective July 1, 2005.

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, 2005. If you have any questions about the rules, please contact the Commission.

SUBCHAPTER 5. INSTRUCTOR AND ENTITY REQUIREMENTS AND STANDARDS

605:10-5-1. Approval of prelicense course offerings

(e) **Instructor application and approval requirements.** An individual determined by the Commission to possess one or more of the following qualifications may, upon receipt of an application and evidence of education and/or experience, be considered for approval as an approved instructor. Each application for approval must be accompanied by a One Hundred Dollar (\$100.00) application fee, and documentation required for compliance necessary to verify citizenship, qualified alien status, and eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. In order to qualify, an individual must possess proof of one of the following:

605:10-5-1.1 Approval of postlicense course offerings

(e) **Instructor application and approval requirements.** An individual determined by the Commission to possess one or more of the following qualifications may, upon receipt of an application and evidence of education and/or experience, be considered for approval as an approved instructor. Each application for approval must be accompanied by a One Hundred Dollar (\$100.00) application fee, and documentation required for compliance necessary to verify citizenship, qualified alien status, and eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. In order to qualify, an individual must possess proof of one of the following:

605:10-5-2. Approval of continuing education offerings

(i) **Instructor application and approval requirements.** An individual determined by the Commission to possess one or more of the following qualifications may, upon receipt of an application and evidence of education and/or experience, be considered for approval as an approved instructor. Each application for approval must be accompanied by a Ten Dollar (\$10.00) application fee, and documentation required for compliance necessary to verify citizenship, qualified alien status, and eligibility under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. In order to qualify, an individual must possess proof of one of the following:

SUBCHAPTER 11. ASSOCIATE'S LICENSING PROCEDURES

605:10-11-3. Associate's corporation or association.

Within the meaning of subsection 14 of Section 858-312 of the "Code" payment of a commission by a broker to an associate's corporation or association does not constitute a payment of a fee (commission) to an unlicensed person provided the corporation or association, the associate and the broker, abide by the following guidelines requirements:

SUBCHAPTER 13. TRUST ACCOUNT PROCEDURES

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

(a) Deposit and account of trust/escrow funds.

(1) The obligation of a broker to remit monies, valuable documents and other property coming into his or her possession within the meaning of subparagraph six (6), Section 858-312 of the "Code" shall be construed to include, but shall not be limited to, the following:

(A) Shall deposit all checks and monies of whatever kind and nature belonging to others in a separate bank account in a financial institution wherein the deposits are insured by an agency of the federal government, and is required to be a signor on the account.

(B) The broker is required to be a signor on the account.

~~(B)~~ (C) ~~Such~~ The account must be in the name of the broker as it appears on the license or trade name as registered with the Commission and styled as a trust or escrow account and shall be maintained by the broker as a depository for deposits belonging to others.

~~(C)~~ (D) All escrow funds shall be deposited before the end of the ~~next~~ third banking day following acceptance of an offer by an offeree unless otherwise agreed to in writing by all interested parties.

~~(D)~~ (E) ~~Shall~~ The broker shall maintain such funds in said bank account until the transaction involved is consummated or terminated and proper accounting made.

~~(E)~~ (F) ~~Shall~~ The broker shall at all times, maintain an accurate and detailed record thereof.

(2) Funds referred to in this subsection shall include, but are not limited to earnest money deposits, money received upon final settlements, rents, security deposits, money advanced by buyer or seller for the payment of expenses in connection with closing of real estate transactions, and money advanced by his or her principal or others for expenditures on behalf of subject principal.

(b) **Commingling prohibited.** A broker may not keep any personal funds in the trust account except amounts sufficient to insure the integrity of the account and cover any charges made by the ~~bank~~ financial institution for servicing the trust or escrow account.

(c) **Interest bearing account.** A broker shall not be prohibited from placing escrow monies in an interest bearing account; however, he or she must disclose in writing to all parties that the account bears interest and identify the party receiving the interest. The Commission does not prohibit the broker from receiv-

ing the earned interest. In the event the interest is credited to the broker, the broker should, upon final consummation of the transaction, immediately disburse the interest from the account or insure that the amount does not exceed a reasonable amount to cover normal bank financial institution charges. The broker is required to maintain complete and accurate records of the interest earned. The interest bearing account must be a demand type account; this prohibits the use of certificate of deposit or other types of time deposits as trust/escrow accounts.

(n) ~~Guidelines for cessation~~ **Cessation of real estate activities.** Upon a firm ceasing a portion of real estate activities or ceasing all real estate activities the broker shall:

(1) Notify the Commission in writing of the effective date of such action and advise as to the location where records will be stored and comply with the following:

(A) Return the broker's license certificate and pocket identification card and all license certificates of those associated with the broker to the Commission and advise the Commission as to the circumstances involving any not returned.

(B) Release forms must be filed for all licensees affiliated with the firm.

(C) The broker must either transfer to a new firm or place his or her license on inactive status.

(2) Notify in writing all listing and management clients, as well as parties and co-brokers to existing contracts advising them of the date of cessation of real estate activities.

(3) All advertising in the name of the firm must be terminated and offering signs removed within thirty (30) days of cessation of real estate activities.

(4) Funds in trust accounts and pending contracts must be maintained by the responsible broker until consummation of transaction and final proper disbursement of funds. Upon final disbursements of funds the broker is required to close the account and notify the Commission in writing that the account is closed.

(5) In the event the responsible broker is unable to continue to maintain the funds and/or pending contracts, funds and/or pending contracts may be transferred to another authorized broker, entity or legal representative until consummation and proper disbursement of funds. In this event, the broker must submit a request in writing to the Commission for approval to transfer the contracts and/or funds. Upon written approval by the Commission, the broker must secure approval and obtain new agreements from all parties for transfer of the contracts and/or funds.

(6) If funds, items and/or contracts are transferred to another authorized broker, entity or legal representative and approved by the Commission, the broker transferring such shall be required to compile a record of the following, retain a copy for his or her file and give a copy to the receiving authorized broker, entity or legal representative:

(A) A copy of the written approval from the Commission authorizing the transfer of the contracts and/or funds.

(B) The name and address of the authorized broker, entity or legal representative.

(C) A trust account reconciliation sheet indicating ledger balance and bank financial institution balance at time of transfer to include the name of each depositor, amount of deposit, date, and purpose of the deposit.

(D) A statement indicating that written agreements were obtained from all parties to each transaction

agreeing to the transfer of the funds and/or contracts to another responsible broker, authorized entity or legal representative and that each depositor was notified of the effective date of transfer, and the name of the responsible person or entity.

SUBCHAPTER 17. CAUSES FOR INVESTIGATION; HEARING PROCESS; PROHIBITED ACTS; DISCIPLINE

605:10-17-5. Substantial misrepresentation

Substantial misrepresentation within the meaning of Paragraph 2 of Section 858-312 of the "Code" includes, but is not limited to:

(1) The recommendation or use by a licensee of a fictitious or false contract instrument for the purpose of inducing any lender or Government Agency to loan or insure any sum of money.

(2) Failure to disclose to a buyer or other cooperative licensee or company a known material defect regarding the condition of a parcel of real estate of which a broker or associate has knowledge.

(3) The use by a real estate broker of the name or trade name of a licensee whose license has been revoked or currently on suspension.

605:10-17-6. ~~Guidelines~~ Requirements for suspended/ revoked brokers and associates

(a) A suspended/revoked broker or associate must return his or her license certificate and pocket identification card to the Commission office on or before the date the suspension/revocation becomes effective.

(b) When the suspension/revocation period becomes effective, the broker or associate shall comply with the following ~~guidelines~~ requirements:

Summary of Changes Effective July 1, 2005

- All real estate instructors must show proof of citizenship prior to being approved by the Commission.
- Escrow funds must be held in a financial institution wherein the deposits are insured by an agency of the federal government.
- Escrow funds shall now be deposited before the end of the 3rd banking day following receipt rather than the next banking day.
- The Commission can take disciplinary action regarding a licensee recommending or using a fictitious or false instrument—use to only indicate fictitious or false "contract."



Special Notice: The Commission will no longer provide continuing education hour information on the mailing label. A project is currently being developed to allow all licensees access [through the Commission's website] to their continuing education hours. We anticipate this project being completed by the end of the year. We appreciate your patience.

administrative fine of \$500, and completion of three (3) additional hours of continuing education on the Broker Relationships Act. Violations: Title 59 O.S. §858-312, Subsections 8 and 9; and Rules 605:10-17-2(b) and 605:10-17-4(6). Respondents failed to properly supervise the activities of an associate, in that the associate: failed to disclose his broker relationship to the complainant (buyer); use a Residential Property Condition Disclosure form that was over 180 days old; failed to use the proper Residential Property Condition Disclosure form; failed to timely provide the Residential Property Condition Disclosure to the complainant; failed to properly disclose in what capacity he could act in the transaction; failed to timely submit his written response to the Commission; and disclosed himself as a receiving/selling agent in the contract.

CHADERIC W. WEATHERFORD (SA) - Idabel. March 9, 2005, under case C-2004-23, Commission Ordered a formal reprimand, assessment of administrative fines totaling \$1,450 (\$200-Count 1, \$500-Count 2, \$250-Count 3, \$250-Count 4, and \$250-Count 5) and completion of three (3) additional hours of continuing education on the Broker Relationships Act. Violations: Title 59 O.S. §858-312, Subsections 3, 9, and 23; Title 59 O.S. §858-355(D), 356(E), 833(D), 836(B), and Rule 605:10-17-4(12): Chaderic Weatherford disclosed himself as receiving/selling agent in the contract; failed to disclose his broker relationship to all parties in the transaction; provided the complainant with a Residential Property Disclosure Statement that was more than 180 days old; failed to timely provide the complainant a copy of the Residential Property Condition Disclosure Statement; failed to properly disclose what capacity he would act in the transaction in that he submitted a broker relationship form which indicated he could work in the capacity of a Seller's Agent, Buyer's Agent, Consensual Dual Agent or a Transaction Broker; and he failed to timely file a written response to the complaint filed against him.

PAMELA JEAN SLAYDEN (SA) - Claremore. March 9, 2005, under case C-2003-05, Commission Ordered a formal reprimand and assessment of a \$200 fine. Violations: Title 59 O.S. §858-312, Subsections 8 and 9; and Rule 605:10-17-4(12). Respondent took her minor son to the Complainant's property and the son later burglarized the property. Respondent had an obligation to inform and advise her broker that her son had burglarized Complainant's home.

JACQUELINE MARSHALL (B) - Lawton. Under case C-2005-11, on March 9, 2005, Commission Ordered License Summarily Suspended effective March 10, 2005. Possible violations: Title 59 O.S. §858-312, Subsections 6, 8, 9 and 16; and Rules 605:10-13-1(b), 605:10-13-1(e), 605:10-13-1(a)(1)(B), (D), and (E), 605:10-9-1(g), 605:10-9-1(a), and 605:10-17-4(12). Marshall made two personal deposits (\$6,450 on February 22, and \$8,000 on February 24) into her Trust Escrow Account, and the account was still deficient; Maintained various security deposit and rental management operating accounts which were not registered with the Commission; refused to issue certain documents upon written request by homeowner pertaining to lease of their property; removed security deposits from her trust account and deposited them into her operating account without consent/knowledge of the parties; failed to properly manage rental funds in that two property owners were notified of mortgage foreclosure for nonpayment and repeated attempts of property owners to contact Marshall were unsuccessful; failed to provide all trust account documents to Commission Investigator upon request; failed to be available and insure brokerage office was open and available to public to conduct business relating to property management; and allowed unsupervised, unlicensed person to conduct licensable activities for a significant period of time.