



OKLAHOMA REAL ESTATE COMMISSION COMMENT

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VOLUME 38

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NO. 2

EMERGENCY RULES EFFECTIVE NOVEMBER 1, 2003

CHAPTER 10. REQUIREMENTS, STANDARDS AND PROCEDURES 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 November 1, 2003 the disclosure statement is amended and all disclosure forms executed prior to 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.

Important Notice: The disclosure form that begins on page 7 contains emergency amendments that will become effective November 1, 2003. This sample form contains strike-out language that is being deleted and underlined language that is being added for your convenience to quickly see the changes that were made to the form (changes begin with question #27). The newly revised disclosure form will be available from the Commission web site (www.orec.state.ok.us) on and after November 1, 2003, under 4th Door, Publications.

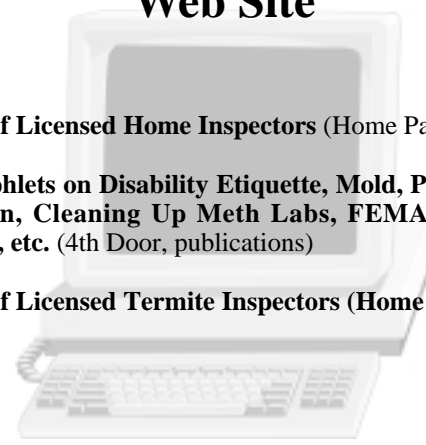
Broker Relationship Information

Effective November 1, 2003, a licensee acting as a Single-Party Broker for a party may sign for that party in accordance with Title 15, Section 136. Statute of Frauds, Supplement 2003.

Further, effective November 1, 2003, notice is hereby given that Attorney General Opinion "AG 02-009, Buyer requests that identify be kept confidential in a transaction," is no longer valid. See Commission web site for particulars, www.orec.state.ok.us, 4th Door, Attorney General Opinions.

New Items on Commission's Web Site

- List of Licensed Home Inspectors (Home Page)
- Pamphlets on Disability Etiquette, Mold, Pesticides, Radon, Cleaning Up Meth Labs, FEMA's Flood Regs., etc. (4th Door, publications)
- List of Licensed Termite Inspectors (Home page)



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The Oklahoma Real Estate
Commission Comment

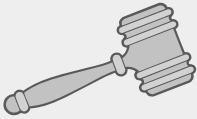
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THE COMMISSION

Pat Schafer, ChairmanBartlesville
Bill Mizener, Vice ChairmanTulsa
Harrison LevyOkla. City
Pete GalbraithSapulpa
Stephen ShermanOkla. City
Bud EngstromTulsa
E. R. AndrewEnid
Anne M. Woody, Executive DirectorStaff

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 OCTOBER 13, 2003**

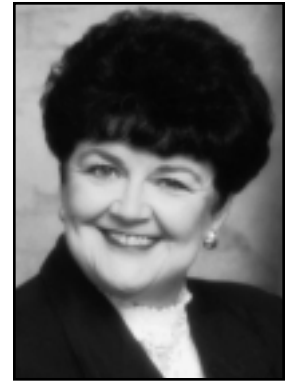
REVOCATIONS

SCOTT T. MUSE, JR.—B-040164—
Stratford. Case C-2002-28, on July 9,
2002, Commission Ordered a fine of
\$2,000. Violations: In a real estate
transaction, he failed to disclose to the
complainant his beneficial interest in
Valley Homes, Inc. Failed to pay the
fine within 30 days, the fine was statuto-
rily doubled to \$4,000. Failed to pay the
doubled fine within an additional 30
days and license was revoked effective
October 13, 2003.

SCOTT T. MUSE, JR.—B-040164—
Stratford. Case C-2002-21, on July 9,
2002, Commission Ordered a fine of
\$2,000. Violations: In a real estate
transaction, he failed to disclose to the
complainant his beneficial interest in
Valley Homes, Inc. Failed to pay the
fine within 30 days, the fine was statuto-
rily doubled to \$4,000. Failed to pay the
doubled fine within an additional 30
days and license was revoked effective
October 13, 2003.

(Continued on page 6)

**CHAIRMAN'S
CORNER**



*Pat Schafer
Chairman*

I want to begin my first Chairman's Corner by praising three Commissioners whose terms ended June 30, 2003: John Mosley, broker from Chickasha; Martin VanMeter, broker from Durant; and John Snodgrass, mortgage broker and lay member from Oklahoma City. These three individuals were dedicated and committed in their endeavor and served the public and real estate industry by contribution of their professional knowledge and expertise and it was indeed a privilege to serve with them.

Having been in the real estate business for 24 years, I have seen many changes and have completed numerous hours of continuing education. However, nothing compares to the education I have received while serving on the Real Estate Commission — it has been an ultimate learning experience. I commend anyone who serves on such and would suggest that you too seek out the opportunity, or at least sign up to attend one of our Commission meetings which will count as Required/Core continuing education credit.

In closing, I want to welcome our three new Commissioners: Harrison Levy, broker from Oklahoma City; Pete Galbraith, broker from Sapulpa; and Stephen Sherman, attorney and lay member from Oklahoma City. Together we can do great things.

Pat Schafer
Chairman

Commission Elects Chair and Vice Chair

At the regularly scheduled Commission meeting on July 9th, the Commissioners voted into office Ms. Pat Schafer, broker member of Bartlesville, to be Chairman and Mr. Bill Mizener, broker member of Tulsa, to be Vice Chairman. Congratulations !!!!!

Never measure the height of a mountain until you have reached the top.
—Dag Hammerskjold

Life has only the meaning and value that we give it.
—Anonymous

New Commissioners as of July 1, 2003

Three new Commissioners began service on the Commission on July 1, 2003. They are as follows:

Harrison Levy, broker member from Oklahoma City, is President of Harrison Levy Company, a commercial brokerage company of Oklahoma City. Levy has been active in real estate activities since 1961, including service on the Commercial Real Estate Council, and the local, state and national Association of Realtors. Levy served on the Commission from 1991 to 1995 and is the first Commissioner to serve for a second non-consecutive term on the Commission.



Levy's commitment to community service over the past 40 years includes: leadership roles in Economic Club of Oklahoma, Integris-Baptist Foundation, NAI New America International Advisory Board, Oklahoma City Chamber of Commerce, Oklahoma City Convention Bureau, Oklahoma City Philharmonic, Oklahoma City University, Oklahoma Medical Research Foundation, Research Institute for Economic Developments and Western Avenue Association, and a Director for BancFirst.

Levy and his wife Elaine have two children and six grandchildren. Levy's term began July 1, 2003 and shall run through June 30, 2006.

Levy replaces Commissioner John Mosley, from Chickasha, Oklahoma.

Pete Galbraith, broker member from Sapulpa, is the managing broker of the Terry Gartside Realtors Branch Office in Sapulpa and has held a real estate license since 1990. Galbraith was the 2000 recipient of the Sapulpa Main



Street Economic Development award for his work on renovation of the Collin's Ballroom, and renovation of the Berryhill building into 32 units of affordable senior housing.

Galbraith currently serves on the Advisory Board of Directors at First United Bank in Sapulpa, and is a Director of the Oklahoma Association of Realtors and President-elect of the Northeast Oklahoma Real Estate Services (Tulsa MLS).

He is past president of the Sapulpa Chamber of Commerce, a Board Member of the Sapulpa Main street, Past-president of the Sapulpa Rotary Club and Board Member and graduate of Leadership Oklahoma class XIII.

Galbraith and his wife Anne have two daughters. Galbraith's term began July 1, 2003 and shall run through June 30, 2006.

Galbraith replaces Commissioner Martin VanMeter, from Durant, Oklahoma.



Stephen Sherman, lay member from Oklahoma City, is an attorney at law and principal lawyer and founder of Stephen A. Sherman & Associates, established in 1984. He is an active lawyer and lecturer in the Oklahoma City real estate community, serving clientele on a statewide and national basis, in the areas of real property sale transactions, real property leases and related business matters, including contractual and litigation matters. Sherman is also active in various civic organizations having served on the board of various organizations over the years, and presently serves as associate municipal judge of the City of Nichols Hills.

Born and raised in Omaha, Nebraska, Sherman relocated to Oklahoma City in 1980 after receiving his undergraduate degree from the University of Michigan, and his JD and MBA degrees from the University of Santa Clara.

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.

John Mosley from Chickasha served from July 1, 1997 through June 30, 2003.

Martin VanMeter from Durant served from December 21, 1998 through June 30, 2003.

John Snodgrass from Oklahoma City served from May 16, 1995 through June 30, 2003.

Thank you gentlemen, your contributions are appreciated.

Effective October 1, 2003

Real Estate Licensees Will Not Be Allowed to Make Cold Telemarketing Calls to Persons Listed on the Federal Do-Not-Call Registry

On and after October 1, 2003, a real estate licensee desiring to cold call a consumer must first check to see if the consumer has registered their telephone number on the federal do-not-call registry. If the consumer has registered their telephone number on the federal registry they cannot be called, regardless of whether the call is an intrastate or interstate call. The federal government will charge the licensee a fee to access telephone numbers on the federal registry.

For Your Information:

- In 1991, Congress enacted the Telephone Consumer Protection Act (TCPA) in an effort to address a growing number of telephone marketing calls and certain telemarketing practices thought to be an invasion of consumer privacy and even a risk to public safety. In conjunction therewith, the Federal Communications Commission (FCC) adopted a broad set of rules to respond to the directives in the TCPA.
- Despite the enactment of the TCPA and the related FCC rules, telemarketing calls remained a growing problem for consumers, and a number of states, including Oklahoma, enacted do-not-call legislation. Oklahoma passed legislation in 1994 that set up a state do-not-call list, but exempted real estate licensees and others who were making calls for the purpose of setting a face-to-face appointment with a consumer.
- On March 11, 2003, Congress enacted the Do-Not-Call Implementation Act.
- On June 26, 2003, determining a need for one centralized do-not-call registry, the Federal Communications Commission (FCC), in consultation and coordination with the Federal Trade Commission (FTC), adopted a federal do-not-call registry which prohibits telemarketing calls to persons listed on the federal do-not-call registry. (Under Oklahoma law, anyone on the Oklahoma do-not-call list prior to June 1, 2003 is automatically placed on the federal do-not-call list.) The FCC exempts from the law calls made to persons with whom a telemarketer has a personal relationship. The FCC also exempts calls to consumers with whom the telemar-

keter has an established business relationship, so long as the consumer has not been asked to be placed on the company's do-not-call list. However, the FCC declined to adopt an exemption for calls made to set face-to-face appointments with consumers. In its June 26, 2003 Order, the FCC said:

Thus, telemarketers must comply with the federal do-not-call rules even if the state in which they are telemarketing has adopted an otherwise applicable exemption. Because the TCPA applies to both intrastate and interstate communications, the minimum requirements for compliance are therefore uniform throughout the nation. We believe this resolves any potential confusion for industry and consumers regarding the application of less restrictive state do-not-call rules.

Consequently, a real estate licensee should not make a cold call within Oklahoma (intrastate) without first checking to determine if the consumer has registered with the federal do-not-call registry. If the consumer has not registered with the federal registry, then the licensee can make a cold call to a consumer for the sole purpose of setting up a face-to-face meeting with the consumer. Similarly, a real estate licensee should not make a cold call outside Oklahoma (interstate) without first checking to determine if the consumer has registered with the federal do-not-call registry. If the consumer has not registered with the federal registry, the licensee should first inquire about the laws of the state into which the licensee is calling relating to (1) telemarketing; (2) real estate licensing; and (3) jurisdiction (in other words, does calling into the foreign state subject the licensee to the jurisdiction of the foreign state's courts).

Written by:
Jan Preslar
Assistant Attorney General

An appeal has been filed in regard to the validity of this program. Check the Commission's web site for future update.

Agricultural Department Adopts Rule That Mandates Content of Termite Inspection

On and after October 1, 2003, the State Agricultural Department mandated that if a termite inspection is performed, the termite inspector must utilize state mandated forms (Form ODAFF-1 and ODAFF-2.)

Further, requirements include that once a termite inspection has been performed the inspector must "post a durable sign adjacent to the water heater or electric breaker box, beneath the kitchen sink, or in the bath trap that includes the name and address of the inspector, the date of inspection, the purpose of the inspection, and a statement indicating the posted notice shall not be removed under penalty of law."

Furthermore, to clarify who qualifies to perform a termite inspection, the Agricultural Department made a ruling that only a person

who is a "Certified Applicator" or a "Certified Service Technician" can perform such an inspection.

To locate a licensed and certified termite inspector go to the Commission's website at www.orec.state.ok.us and click on the "List of licensed Termite Inspectors." You can search by name, city or zip. You can also reach the State Agricultural Department at 522-6347 and ask to speak to Bill Taylor.

You may view the updated forms and rules by going to the Commission's website and clicking on the 1st door. Go to related links and locate the Agricultural Department. Below their listing are the links to the rules and forms.

MANUFACTURED HOMES TITLE SURRENDER CONVERSION TO REAL ESTATE

As of July 2002 with the passage of Senate Bill 983, manufactured home owners and finance companies are now able to surrender the titles on manufactured homes if the home is permanently attached to the real property.

Until July 2002 the law did not allow a homeowner or lender to surrender the title and have the home classified as real property. Under Oklahoma law if the title has been properly surrendered the manufactured home is no longer subject to title and registration under the motor vehicle code.

Only the Tax Commission may purge the title, not the finance company. If a lender believes they had surrendered title prior to July 2002 they have not. What they may have done is: 1) Given the owner a title with out a lien entered; or 2) Kept the title at the finance company also known as "holding the title" which is prohibited in Oklahoma.

There are several forms available from the Tax Commission, Motor Vehicle Division pertaining to surrender of title.

1. Application for Title Cancellation of a Manufactured Home Permanently Affixed to Real Estate.
2. Notice to County Assessor of Cancellation of Oklahoma Certificate of Title to a Manufactured Home.
3. Notice of Lien Holder of Application to Cancel Oklahoma Certificate of Title to a Manufactured Home.
4. Notice of Owner of the Existence of an Active Lien Upon receipt of application to Cancel Oklahoma Certificate of Title to a Manufactured Home.

When an owner or finance company properly surrenders the title to the manufactured home, the Motor Vehicle Division will notify the county assessor that the home is now permanently affixed to the real estate and the title has been surrendered. At this point the home will be assessed as any other real property being land and any and all

improvements, and no longer classified as a manufactured home.

Lenders that are holding titles may now apply to surrender those titles and have them purged. If the land/home was transferred by warranty deed or deed of trust or if you have any questions concerning the surrender of title procedure you may contact the Title Consultant Section of the Motor Vehicle Division in Oklahoma City at 1-800-522-8165, ext. 13221 or (405) 521-3221.

Since 1985 Oklahoma Law has allowed a manufactured home to be classified as real or personal property. If the home is situated on land owned by the owner of the manufactured home it should be classified as real property. If it is located on land owned by someone else it is classified as personal property. In either case the manufactured home is still subject to title and registration and should be designated as MH on the assessment roll and valued as a separate line item.

When a manufactured home is listed with the county assessor as real property the county assessor is required to separate the account into three (3) line items: 1) Land; 2) Mfg. Home; and 3) Other Improvements. The Owner will be assessed on the total assets listed.

When the home is listed as "personal property" the owner of the home is assessed only on the home and any other improvements they may have on the site. The person that owns the land is responsible for payment of the tax on the land only.

When valuing manufactured homes that have had the titles surrendered the appraiser should be aware of market conditions and adjustments that may affect the value of the assets. Conventional mass appraisal techniques may be used as with any other real property asset using proper market data and adjustments for this type of asset.

Important Facts to Remember

- A licensee is not allowed to complete the Disclosure or Disclaimer Forms in accordance with Title 60, Section 833 (C) which states that such must be completed, signed and dated by the seller.
- Three new prohibited acts have been added effective July 1, 2003, they are: 1) discouraging a party from obtaining an inspection on a property; 2) allowing access to, or control of, real property without the owner's authorization; and 3) failure to inform a party at the time the offer is presented what the brokerage service costs will be.
- Each licensee named in a complaint must file an adequate written response within the time period specified by the Commission.

Attention: The Internal Revenue Code Requires Transferees (Buyers) to Withhold Tax on the Amount Realized From Sales or Other Dispositions By Foreign Persons of U. S. Real Property Interests

By Ronald P. Rivelli, For Chief, Policies, Procedures and Guidance Branch Department of The Treasury Internal Revenue Service, Washington, DC

The Internal Revenue Service would like to take this opportunity to bring your attention to Treasury Decision (TD) 9082, which promulgates final regulations on the use of taxpayer identifying numbers for submissions under sections 897 and 1445 of the Internal Revenue Code.

The Internal Revenue Code requires transferees (buyer) to withhold tax on the amount realized from sales or other dispositions by foreign persons of U.S. real property interests, and to remit the withholding to the Internal Revenue Service on Form 8288, *U.S. Withholding Tax Return for Dispositions by Foreign Persons of U.S. Real Property Interest*, and Form 8288-A, *Statement of Withholding on Dispositions by Foreign Persons of U.S. Real Property Interests*, or to request a withholding certificate on Form 8288-B, *Application for Withholding Certificate for Disposition by Foreign Persons of U.S. Real Property Interests*.

Treasury Decision 9082 requires that all foreign transferors (seller) of U.S. real property interests provide their Taxpayer Identifying Number (TIN) on withholding tax returns, applications for a withholding certificate, and other notices or elections under sections 897 and 1445. TINs are required so that the IRS can identify foreign taxpayers, and more easily match applications, withholdings tax returns, notices, and elections with the foreign transferors' income tax return. **This TIN requirement is effective on November 4, 2003** which is 90 days from the issuance of TD 9082, to allow foreign transferors time to obtain TINs.

If an application for a withholding certificate, notice, or election is submitted to the IRS without a TIN, then it will be considered incomplete and generally not processed. The TIN of the transferee and foreign transferor must be provided to the IRS for the application or election to be considered complete. Because an application for a withholding certificate generally takes 90 days to process, these applications will not be rejected if a copy

of an application for a TIN on Form SS-5 or Form W-7 is submitted with the withholding certificate application. However, other notices and elections must contain the taxpayer's TIN.

Amounts withheld under section 1445 must still be timely filed and paid to the IRS on Forms 8288 and 8288-A, even if the appropriate TINs are not provided. However, even though the tax has been paid, the IRS will not date stamp, nor mail out, the receipt (Form 8288-A) to the foreign transferor, because such a Form 8288-A cannot be used by the foreign transferor on its U.S. tax return to establish the available credit amount.

It is important to disseminate to all real estate licensees the importance of obtaining their client's residency status and TIN as early in the process as possible. If during this process you discover that the foreign transferor or even the transferee does not have a TIN number, then instruct them to begin the process of obtaining a TIN as soon as possible, so that they can have it prior to settlement day. Remember, the foreign transferor must have a TIN in order to file their U.S. income tax return for the year of the disposition of the U.S. real property interest to obtain a refund, if any is due to them.

For U.S. individuals, the TIN is a social security number (SSN). For all other entities, it is an employer identification number (EIN). If you are a nonresident alien individual who is not eligible to obtain an SSN, you must apply for an IRS individual taxpayer identification number (ITIN).

Individuals can obtain a SSN by filing Form SS-5 with the Social Security Administration or an ITIN by filing Form W-7 or W-7SP with the IRS. To request an EIN, call the Tele-TIN Unit at 215.516.6999 (not toll free), between the hours of 9:00 a.m. and 5:30 p.m. Eastern Standard Time.

If you have any questions regarding this matter, you can contact Juan Santiago, Monday through Friday from 7:00 a.m.–3:30 p.m. EST, at 215.516.7648. This is not a toll free number.

DISCIPLINARY ACTIONS AS OF OCTOBER 13, 2003 (Continued from page 2)

DEBORAH A. MYERS—B-079366—Tipton. Case C-2002-41, on July 9, 2003, Commission Ordered license REVOKED effective August 20, 2003. Violations: Myers failed to notify the Commission that she had closed her trust account, an audit of the trust account maintained by Myers reflected a negative balance of \$927.47, and she failed to furnish the Commission with evidence that she had made arrangements to pay the monies owed to the complainant.

DARRELL L. MADDEN—PSA-138893—Washington. Case C-2002-10, on May 14, 2003 Commission Ordered license REVOKED effective July 10, 2003. Violations: On August 11, 2000, on an application for a Provisional Sales Associate license, respondent denied

that he had ever been convicted of a crime and denied he was serving a probation when in fact he was on probation in the State of California for Transporting a Controlled Dangerous Substance.

TIMOTHY LINN BRUCE—B-132558—Tulsa. Case C-2002-15, on May 14, 2003, Commission Ordered license REVOKED effective June 16, 2003. Violations: On March 6, 2002, Bruce received a two-year deferred sentence for the crime of Assault with Intent to Commit a Felony, Case #CF-1999-345; he violated the terms of his parole and a bench warrant was issued for his arrest. Further, Bruce failed to notify the Commission of his current home address.

(Continued on page 10)

RESIDENTIAL PROPERTY CONDITION DISCLOSURE STATEMENT [NEW]

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/ Control	N/A	Yes	No	Unk
Sump Pump	N/A	Yes	No	Unk	Intercom	N/A	Yes	No	Unk
Plumbing	N/A	Yes	No	Unk	Central Vacuum	N/A	Yes	No	Unk
Whirlpool Tub	N/A	Yes	No	Unk	Security System	N/A	Yes	No	Unk
Sewer System	N/A	Yes	No	Unk	___Rent___Own				
___Public___Septic					___Monitored				
___Lagoon					Smoke Detectors	N/A	Yes	No	Unk
Air Conditioning 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 Conditioner(s)	N/A	Yes	No	Unk	Gas Grill	N/A	Yes	No	Unk
Attic Fan	N/A	Yes	No	Unk	Vent Hood	N/A	Yes	No	Unk
Fireplaces	N/A	Yes	No	Unk	Microwave Oven	N/A	Yes	No	Unk
Heating System	N/A	Yes	No	Unk	Built-in Oven/Range	N/A	Yes	No	Unk
___Electric___Gas					Kitchen Stove	N/A	Yes	No	Unk
___Heat Pump					Trash Compactor	N/A	Yes	No	Unk

Buyer's Initials _____ Buyer's Initials _____

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
	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, including, but not limited to, residue from drug manufacturing? 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, e.g., mold? Yes No Unk

Buyer's Initials _____ Buyer's Initials _____

Seller's Initials _____ Seller's Initials _____

LOCATION OF SUBJECT PROPERTY _____

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

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/.

DISCIPLINARY ACTIONS AS OF OCTOBER 13, 2003

(Continued from page 6)

TABIO ASSET MANAGEMENT, LLC—130129—Bethany. **RADONDA KAREN WHITE**—B-10541—Yukon. Case C-2001-58, on November 20, 2002, Commission Ordered licenses REVOKED effective January 6, 2003. Violations: Through the management of complainant's property, respondents failed to furnish the check register and statements to complainant; failed to furnish explanations regarding checks written, failed to fulfill their obligation to competently manage the subject property, and failed to file an adequate written response to the complaint.

PAMELA G. STANLEY—SA-118192—Chickasha. Case C-2001-104, on May 14, 2003 Commission Ordered license REVOKED effective July 7, 2003. Violations: Failed to respond in writing to a complaint and failed to appear at the investigative session. Stanley entered a plea of guilty to the crime of "Obtaining Cash/Merchandise by Bogus check", she failed to notify the Commission of her change of address, she performed real estate activities during a time her license was on inactive status, and she received a commission after she had been advised that her license was inactive.

SHERRIE N. HUFFINE—SA-126591—OKC. Case C-2001-103, on May 14, 2003 Commission Ordered license REVOKED effective June 17, 2003. Violations: Respondent failed to submit a written response to the complaint and failed to appear at a formal hearing before the Commission.

SAMMIE M. SMOTHERS—B-065489—Oklahoma City. Case C-2001-94, on March 12, 2003, Commission Ordered REVOKED effective April 28, 2003. Violations: Sammie Smothers represented himself as actively licensed in order to obtain a commission on a real estate transaction during a time his license was on inactive status; and he failed to appear at the preliminary investigative session.

JIMMY MARK SMITH—SA-134163—Ponca City. Case C-2001-92, on January 8, 2003, Commission Ordered license REVOKED effective February 18, 2003. Violations: Respondent pled guilty to Count I (felony), Count II (felony), Count III (felony), and Count IV (misdemeanor), to the crimes of cultivating a controlled substance (respondent trespassed onto a farmer's property to grow and cultivate a controlled substance), unlawful possession of controlled drug with intent to distribute, possession of controlled dangerous substance without tax stamp affixed, and unlawful possession of drug paraphernalia. Respondent received a five year deferred sentence (until December 11, 2006), with 90 days served in jail, and was ordered to pay \$14,997.50 in fines, costs and fees.

JOHN R. MAYBERRY—B-023653—Tulsa. Case C-2001-91, on November 20, 2002, the Commission ORDERED respondent's license REVOKED effective December 5, 2002. The Commission had Ordered respondent's license SUMMARILY SUSPENDED September 11, 2002. Violations: Did not have his address listed with the Commission and had not been at the location listed for a year; and the Commission was unable to locate him. Also misappropriated large sums of money that belonged to the complainant.

JAMES KENT SAMPLES—PSA-138867—Edmond. Case D-2003-01, on June 24, 2003 Commission REVOKED license effective immediately. Revocation Ordered by DHS for failure to pay child support.

SUSPENSIONS

REMAX PREMIER, INC.—Corporation -137929—Enid. Case C-2001-22, on September 11, 2002, Commission Ordered license suspended with the suspension suspended for 1-year (April 1, 2003 until April 1, 2004.)

GARY LYN YOUNG—B-035429—Ordered license suspended for one year with imposition of the sentence suspended except for the

first six months. Suspension: 4-1-03 to 10-1-03. Ordered license reduced from Broker to Sales Associate; assessed a \$2,000 fine and 12-hours of additional education. Violations: REMAX Premier, Inc. and Gary Lyn Young failed to maintain escrow funds in an escrow account until the transaction was consummated/terminated and failed to remit money coming into their possession which belonged to the complainant. Earnest money was disbursed without the knowledge or consent of complainant which was contrary to the terms of the contract.

LISA A. (SNIDER) GUINN—BA-132434—Enid. Case #C-2002-20, on May 14, 2003, the Commission Ordered the license of Lisa D. (Snider) Guinn suspended for three (3) months (June 4 through September 4, 2003); assessed an administrative fine of \$1,000, and required to complete six (6) hours of additional continuing education. Violations: Guinn directed and permitted her daughter, an unlicensed person, to conduct and hold an open house and offer for sale the property owned by complainants.

AGNES MITCHUM—SA-118352—Oklahoma City, OK. Case #C-2002-06, on May 14, 2003, Commission Ordered the license of Mitchum suspended for a period of six (6) months, with the suspension retroactive from August 9, 2002 through February 10, 2003, assessed a \$250 fine on each count (total of \$1,000), and required to complete six (6) hours of additional continuing education. Violations: Mitchum performed licensable activities after she was released by her broker and while her license was on inactive status, she advertised an apartment locator service without disclosing that she was licensed and without including her broker's name, she was engaged in licensable activities outside the supervision of her broker, and she accepted fees/commission from persons other than her broker.

JOHN D. WILLIAMS—B-056996—Norman. Case #C-2001-52, on November 20, 2002 Commission Ordered respondent's license suspended with the suspension suspended except for the first three months: SUSPENSION: 1-13-03 to 4-15-03 (probation until 7-14-03). Fines of \$4,000 (\$1,000 unlicensed activities; \$600 submitting false information; \$400 failure to disclose brokerage relationship; \$2,000 using license to gain unfair advantage over a potential buyer,) and required to complete 12-hours of additional continuing education. Violations: Williams permitted an unlicensed individual to hold an open house, show property and answer questions concerning the property; he submitted false, misleading and inaccurate information to the Commission; failed to describe and disclose, in writing, his role to the party and his brokerage relationship; failed to properly explain the complainant's offer to the seller and used his license to gain an unfair advantage over the complainant by purchasing said property for himself.

OTHER DISCIPLINARY ACTIONS

LYNDA J. EWING—B-037673—Wagoner.

LEATEICH WILLIAMS—SA-059945—Wagoner. Case C-2002-44, on September 3, 2003, Commission Ordered **Lynda J. Ewing** fined \$800, and formally reprimanded. Violations: Failed to supervise activities of an associate and failed to properly identify the \$3,000 payment to the sellers in the contract. **Leateich Williams** was fined \$300, and formally reprimanded. Violations: Failed to properly identify the \$3,000 payment to the sellers in the contract.

BONNIE D. MONSON—B-084944—Tulsa. Case C-2002-62, on September 3, 2003, Commission Ordered a fine of \$500. Violations: Failed to disclose her broker relationship in writing to the parties involved in the transaction.

GOODYEAR GREEN REAL ESTATE, INC.—BO-111921—Edmond

GEORGE MAX GREEN, JR.—B-045505—Edmond.

SANDRA K. PASCHALL—SA-120444—Edmond. Case C-2002-81, on September 3, 2003, Commission Ordered **Goodyear Green**

Real Estate, Inc. fined \$500, and **George Green** fined \$500 and required to complete three (3) hours of additional continuing education. Violations: Failed to supervise activities of an associate by failing to insure the associate properly turned over earnest money in a timely manner, failed to insure the associate followed the provisions of the Residential Property Condition Disclosure Act, and failed to deposit earnest money in a trust account before the end of the next banking day following acceptance of an offer. Commission Order **Sandra K. Paschall** fined \$1,000 and required to complete three (3) hours of additional continuing education. Violations: Failed to remit monies coming into her possession which belonged to others to her broker in a prompt manner, failed to obtain a disclaimer or disclosure form and any amendment required by the Residential Property Condition Disclosure Act from the seller, and failed to make such statement available to potential purchaser prior to acceptance of an offer to purchase.

ALLISON & ASSOCIATES CO.—Corporation-121605.

LARRY L. ALLISON—B-1054846—Broken Arrow.

B. GAIL STARNES—SA-123463—Broken Arrow.

Case #C-2002-23, on May 14, 2003, Commission **Ordered Allison & Associates Co.**, and **Larry L. Allison** fined \$750 and formally reprimanded. **B. Gail Starnes** fined \$1,000, formally reprimanded and ordered to complete 6 hours of additional continuing education.

Violations: **Larry Allison and Allison & Associates Co.**, failed to properly supervise the activities of an associate by failing to insure the associate properly disclosed to the buyers, defects which were actually known and were not included in the disclaimer/disclosure form, failed to inform the complainants of previous termite treatment at the time the offer was presented, and waited approximately 15 days before disclosing such facts; failed to disclose to the buyers defects which were actually known; and permitted the relocation company to submit a disclaimer when they knew and were aware of a prior defect.

B. Gail Starnes failed to properly disclose to the buyer defects which were actually known and which were not included in the disclaimer/disclosure forms; permitted the relocation company to fill out a disclaimer statement when she knew they were aware of a prior defect; failed to inform the complainants of previous termite treatment at the time the offer was presented, and waited approximately 15 days before disclosing such facts.

SBC DEVELOPMENT CORPORATION—#084866.

FRANK J. SHIDLER, Jr.—B-034136—Oklahoma City. Case C-2002-46, on July 9, 2003, the Commission Ordered each fined \$500 (\$1,000 total) and issued a letter of caution for failure to deposit all rental proceeds in a trust account. Violations: Respondents had failed to timely deliver the \$300 security deposit to the complainant upon request.

T&T REALTY INC.—Corporation -139375—Oklahoma City.

TRINA TAHIR—B-130243—Oklahoma City. Case C-2002-09, on July 9, 2003, the Commission Ordered both formally reprimanded. Violations: Respondents acted as an agent for the Sellers by signing a counteroffer on behalf of the Sellers and by committing the Sellers to pay for installation of countertops and a tile floor. Respondents erroneously disclosed a transaction broker relationship with the buyer when they were actually acting as a single-party broker working for the benefit of the buyer, and erroneously disclosed a transaction broker relationship with the sellers when they were actually acting as a single-party broker for the benefit of the sellers. Licensees acted as a single-party broker for both the buyer and sellers.

VICTOR JAMES MCALISTER—B-110131—Oklahoma City. Case #C-2002-06—May 14, 2003, the Commission Ordered a formal reprimand. Violations: Engaged in improper conduct by permitting an associate to operate as a broker, failed to supervise the activities of an associate, and failed to maintain a proper sign at the broker's office.

DIANE JANE BEN—B-063092—Clayton. Case C-2002-07, on March 12, 2003, Commission Ordered a fine of \$400, formal reprimand,

and completion of six (6) hours of additional continuing education. Violations: Respondent failed to comply with requirements of §858-351 through §858-363 as she engaged in conduct in a real estate transaction which demonstrated bad faith or incompetence by failing to properly disclose her broker relationship to the parties in the contact, she used the term "agency" and disclosed herself as "agent" for the seller, and she failed to properly disclose the broker relationship to the complainant.

JOHN H. COCKE—B-024227—Antlers.

JIMI ANN COCKE—BA-026060—Antlers. Case C-2001-97, on May 14, 2003, the Commission Ordered a fine of \$500 each (\$1,000) and formally reprimanded. Violations: **John Cocke** failed to properly supervise the activities of an associate. **Jimi Cocke** failed to properly and fully explain the nature and extent of an easement on the subject property, which easement was not listed on the Residential Property Disclosure Statement.

CAROLE & COMPANY—Corporation—129157—Seminole.

CAROLE O'DANIEL—B-115077—Seminole.

CURTIS O'DANIEL—Branch Broker-021514—Maud. Case #C-2001-32 on May 8, 2002, the Commission Ordered each be formally reprimanded. Violations: Failed to clearly disclose to the buyers and sellers the brokerage relationships.

GARY CRISWELL AUCTION SERVICE & REAL ESTATE, INC.—139122—Duncan.

GARY M. CRISWELL—B-026999—Duncan. Case C-2001-59, on May 14, 2003, the Commission Ordered each be formally reprimanded. Violations: Respondents encouraged and attempted to influence buyers to withdraw from purchasing property wherein respondent's actions frightened and intimidated the buyers. The buyers withdrew from the contract and respondent Criswell purchased the property three days later at a reduced price.

ARTHUR L. CUNNINGHAM—B-022780—Frederick. Case C-2002-17, on May 14, 2003, Commission Ordered a fine of \$750 and formally reprimanded. Violations: Cunningham failed to properly disclose his broker relationship with the seller prior to entering into a listing agreement.

PROVIDE REAL ESTATE GROUP, LLC—132792—Chickasha.

CLIFFORD R. SPOTTS—B-050076—Chickasha. Case C-2001-104, on May 14, 2003, the Commission Ordered a fine of \$1,250 each (\$2,500) and formally reprimanded. Violations: Failed to insure that an associate's license had been obtained and activated after she had been released from her previous broker, and paid an associate a commission after being informed by the Commission that her license was on inactive status.

C B ADVANTAGE REAL ESTATE LLC—132030—Oklahoma City. Case #C-2001-103, on May 14, 2003, the Commission Ordered a fine of \$200 and formally reprimanded.

JOHN M. CASSIDY—B-031624—Oklahoma City. Fined \$450 and formally reprimanded. Violations: Allowed an associate to act in the capacity of managing broker, and failed to timely submit a written response to the complaint.

PHILIP ODOM—BA-113355—Oklahoma City. Fined \$250. Violations: Acted in the capacity of a managing broker when he was licensed as a broker associate.

FAITH THOMASON—SA-139582—Fined \$200. Violations: failed to timely submit a written response to a complaint.

JERRY L. SEBRING—B-036623—Moore. Case #C-2001-99, on March 12, 2003, Commission Ordered a fine of \$400 and completion of six (6) hours of additional education. Violations: Failed to disclose in writing on all documents pertaining to the transaction that he was a licensed real estate broker.

(Continued on page 12)

OKLAHOMA REAL ESTATE COMMISSION

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

PRESORTED STANDARD
U. S. POSTAGE
PAID
PERMIT #432
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.

AMERICAN SERVICE AGENCY, INC.—105266—Gore.

JAMES DAVID HOLMAN—B-020879—Gore. Case C-2001-86, on March 12, 2003, the Commission Ordered each be fined \$300 (\$600) and ordered Holman to complete six (6) hours of additional continuing education. Violation: Advertised real estate for sale without disclosing they held a real estate license.

CB ADVANTAGE REAL ESTATE, LLC—132030.

JOHN M. CASSIDY—B-031624—Oklahoma City.

PHILLIP ODOM—BA-113355—Oklahoma City.

MATTHEW J. MARCACCI—PSA-136190—Oklahoma City. Case C-2001-81, on May 14, 2003, Commission Ordered each licensee fined \$250 (total of \$1,000.) Violations: Respondents failed to file an adequate response with the Commission to a complaint within fifteen days of notice.

DANIEL M. PERRY—B-118670—Tulsa. Case #C-2001-72, on May 14, 2003, through consent, Commission Ordered assessment of a \$750 fine on Count 1 and Count 2, (\$1,500 total) and formally reprimanded. Violations: Failed to file an adequate response to a complainant against him, and the acquiescence by respondent in his attorney’s refusal to allow access to his office records to conduct an office/trust account inspection, and failed to allow an investigation interview.

WRIGHT REAL ESTATE, LLC—126742—Tahlequah.

TOMMYE SUE WRIGHT—B-056505—Tahlequah. Case C-2001-74, on March 12, 2003, Commission Ordered each respondent

assessed an administrative fine of \$1,000 (\$2,000 total.) and formally reprimanded. Violations: Respondents’ conduct in purchasing, using and refusing to release domain names of or similar to complainant’s name constituted misleading advertising, misrepresentation and demonstrated bad faith. Wright had purchased and owned domain names substantially similar to those used by the complainant in her long-standing real estate business; respondents had no interest in the complainants business name; and at one time users accessing the domain name were directed to Century-21 Wright Real Estate’s website. When the complainant requested release of the domain names, respondent refused to release them.

JENNIFER A. JOHNSON—SA-070003—Edmond. Case C-2001-106, on November 20, 2002, Commission Ordered assessment of a \$700 fine (Count 1 \$500 and Count 2 \$200) and formally reprimanded. Violations: Failed to obtain complainants’ authorization to modify a contract, failed to insure that the escrow fund holder maintained a trust account in which to deposit earnest money; and failed to timely disclose herself as a transaction broker.

MICHAEL BIDDINGER REAL ESTATE, INC.

MICHAEL L. BIDDINGER—B-085035—Muskogee. Case C-2001-80, on November 20, 2002, Commission Order (through a consent) assessment of a \$200 fine and formally reprimanded. Violations: Respondents failed to submit a written response to the complaint filed against them with the Commission.

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.