

The Georgia Real Estate Commission Newsletter

Winter – Spring 2011

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Winter 2011 Newsflash:

Ignorance of the Terrain can lead one down a Slippery Road in Georgia.

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Real Estate Commissioner

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Deputy Commissioner

Sometimes Things Can Just Snowball...

Consider this actual case and decide how you would have handled it.

As illustrated in the following case, a licensee's ignorance can lead him down a slippery road and his actions can easily snowball into multiple violations of the Georgia License Law, Rules and Regulations.

A salesperson decided to transfer his license from brokerage Firm A to brokerage Firm B. Upon request, the Broker of Firm A promptly released the salesperson's license from the firm. However, they did not consult the salesperson's independent contractor agreement regarding the handling of several existing listings obtained by the salesperson while affiliated with Firm A. The salesperson affiliated with Firm B and informed his new Broker in writing that no listings would be transferred from Firm A to Firm B.

Two months after affiliating with Firm B, signs, web postings, and multiple listing services still advertised properties with the salesperson's name and Firm A's name and contact information. Even an expired listing and a listing withdrawn from Firm A were still being advertised! In addition, the

salesperson conducted negotiations on several of these listings but no contracts were written.

Several violations occurred:

1. The salesperson continued to advertise properties under a Broker with which he was no longer affiliated.
2. The salesperson conducted misleading advertising on multiple properties.
3. The salesperson continued to advertise a listing that was expired. License Law requires removal of all advertising within 10 days of the listing's expiration.
4. The salesperson continued to perform real estate brokerage activity as if affiliated with Firm A while he was affiliated with Firm B without the knowledge and approval of Broker B.

These activities are false and misleading to the public and violate the License Law.

In determining the appropriate disposition in this case, the Commission determined that the salesperson's actions demonstrated a disregard for the License Law but resulted in no monetary harm to the public. The Commission issued a Citation and the salesperson was required to pay \$1,000.00 and complete several education courses. If he did not comply with

these conditions within 45 days, other disciplinary action could be taken against him by the Commission

Licensee Laws Violated:

43-40-25(b) (2) (7) (13) (14), 43-40-19(d), 520-1-.07(1) (5) (c) (e), 520-1-.09 (2) (2.1)

(Each issue of this newsletter will contain an actual case study with reference to specific license laws that can be used in broker-licensee training meetings.)

Citations:

- 1) **Maximum of \$1,000 for each violation**
- 2) **Maximum of \$5,000 for multiple violations in one citation**
- 3) **Usually requires completion of a certain course of study**
- 4) **May require the filing of periodic reports on the broker's trust account(s) by an independent accountant**
- 5) **May require any combination of the above.**

Georgia Real Estate Commission News and Recent Changes to the License Law, Rules and Regulations

William L. Rogers Jr. was sworn in as the new Real Estate Commissioner for the state of Georgia on Tuesday January 18th. He serves as the Executive Officer for the Georgia Real Estate Commission and the Georgia Real Estate Appraisers Board. His administrative responsibilities include overseeing the day-to-day operations of the state agency responsible for implementing the license law regulating Georgia's over 90,000 real estate brokers and salespersons and the law regulating Georgia's 5,000 real estate



appraisers.

A native of Gainesville, Georgia, Commissioner Rogers earned his Bachelor degree in History at Emory University and a JD degree at the University Of Georgia School Of Law. After a brief stint as a 2nd Lieutenant in the U.S. Army Signal Corps, Commissioner Rogers was admitted to the State Bar of Georgia in 1971. Prior to joining the Real Estate Commission, he was a partner at Whelchel, Dunlap, Jarrard & Walker, LLP in Gainesville practicing real estate and banking law.

In other news, recent law changes address the registering of Appraisal Management Companies.

On June 2, 2010 the Governor signed Georgia House Bill 1050 that requires Appraisal Management Companies in Georgia to register with the Georgia Real Estate Appraisers Board. This bill amends O.C.G.A. Title 40-39A. The Commission web site provides a list of Appraisal Management Companies.

The electronic newsletter of the Real Estate Commission announces changes in License Laws, Rules and Regulations as they are adopted. Go to www.grec.state.ga.us to sign up for the GREC RENEWSletter.

Common Property Management Violations

Property management issues are getting a lot of attention from investigators at the Real Estate Commission. Licensees must realize that managing their own property is still property management. In addition, Brokers must establish clear policies and procedures regarding security deposits and management agreements.

Jumping into property management requires planning and knowledge of the license laws and use of different management systems. Listed below are some of the recent, and unfortunately common, violations resulting in investigations; citations; sanctions:

- An associate broker did not notify his/her broker when renting out her own personal real estate
- A licensee did not place a rental security deposit in the broker's trust account.
- A Broker did not register a trust

account he had established for property management activities.

- A salesperson acting as a principal set up her own company to conduct property management, did not inform her broker, and failed to get the new company licensed by GREC.
- A Salesperson acting as a principal in renting out her house did not disclose her licensure in the lease agreement nor give a copy to her Broker.
- A Broker failed to supervise the property management activities of a salesperson and his unlicensed assistant.
- A Broker did not review management agreements and rental forms resulting in incomplete and poorly written documentation.
- A Broker allowed an unlicensed assistant to perform the activities of a property manager.

All of these situations are clear violations of the License Law, Rules and Regulations.

If listing activity is slow, leasing out vacant properties may be an option, but it requires serious planning, otherwise one violation can lead to multiple violations. Property management is a specialty area of real estate. It requires established procedures for the handling of security deposits and rental deposits, clear ledger and journal entries, certain accounting systems, and familiarity with specific License Laws, Rules and Regulations.

Both the firm and the individual performing Property Management services are required to have a real estate license.

Second Online CE Course Regarding Broker Issues is Free to All Licensees

The Broker of the firm carries the responsibility for the licensed firm. The Commission introduced a new online course in October written to assist the Broker in managing those responsibilities. The online course titled, "**Being a Broker and Staying Out of Trouble**," is for Brokers and all other licensees. Every licensee can benefit from the ideas, including those

for contract review, an advertising review checklist and ideas for preparing for a trust account office examination. These tools are not only part of the course, but those



lists are also available from the Georgia Real Estate Commission School web page Resource Section at www.jmre.com/grec

The 2 GREC online courses are PC and MAC compatible and require an Internet connection with either Foxfire™ or Internet Explorer™ as the browser.

To enroll go to www.jmre.com/grec

Summary of Recent Violations

Although the Real Estate Commission works on a variety of investigative cases, certain License Law violations seem to occur repeatedly. They are listed below:

- Advertising violations
- Improper Trust account activities
- Activities of expired and inactive licensees
- Improper property management activities
- Improper documentation
- Lack of broker supervision

- Failure to obtain broker's approval
- Licensees acting as principals without proper disclosure and failure to notify their broker
- Individuals conducting real estate activities without a license

Depending on the facts of the individual case, License Law violations lead to different types of disciplinary actions.

The following actions were ordered by the Commission over the previous 6 months:

- 123 Citations
- 17 Disciplinary Sanctions
- 29 Suspensions
- 52 Cease and Desist Orders
- 39 Revocations of Licensure

The Suspensions category includes licenses suspended due to a default on the repayment of a student loan. This type of suspension is carried out by the Commission at the direction of the Georgia Higher Education Assistance Corporation.

- *The Commission's web site at www.grec.state.ga.us regularly posts the names of those licensees receiving disciplinary actions, such as Suspensions and Revocations. Citations are not posted.*
- *Anyone (a licensee or the public) can search by licensee to view what disciplinary actions the licensee has received.*

Absolutely Must Know SectionDo you know the AMKs?



Every issue will include up to 3 critical items from the License law.



A Licensee can never convert the form of the trust funds received. If \$500 cash is provided as earnest money, the same cash must be given to the Broker for deposit or deposited according to the Broker's Policies and Procedures.



Advertising real estate in any type of social media, such as Facebook® or Twitter®, must comply with the License Law, Rules and Regulations. Media includes all forms of advertising.



Every real estate advertisement, including signs, web sites, etc., must include the brokerage firm name as it is licensed and the main phone number of the firm.

Calendar of Classes

Brokerage Class Schedule

March 30, 2011
 GAMLS-South (770) 961-2203
April 27, 2011
 Camden Board (912) 882-5806
May 18, 2011
 Rome Board (706) 295-1727
June 15, 2011
 Athens Assoc. (706) 353-1126
July 13, 2011
 Cobb Assoc. (770) 422-3900

Trust Account Class Schedule

March 31, 2011
 GAMLS-South (770) 961-2203
April 28, 2011
 Camden Board (912) 882-5806
May 19, 2011
 Rome Board (706) 295-1727
June 16, 2011
 Athens Assoc. (706) 353-1126
July 14, 2011
 Cobb Assoc. (770) 422-3900

Common Violations Class

March 23, 2011
 Athens Assoc. (706) 353-1126
April 20, 2011
 Hall County Board (770) 534-1564
April 26, 2011
 Valdosta Board (229) 242-2085
May 2, 2011
 GIRE Atlanta (404) 252-6768
May 4, 2011
 Savannah Board (912) 354-1513

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Semi-Annual Publication for all Georgia Real Estate Licensees

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