



Alabama Certification of Licensure

By D. Philip Lasater, Executive Director

tion of Licensure. This licensee is accessing the same electronic license file data that a Commission staff member would—the same as if it were initiated within the Commission. The very same document and information prints to the individual licensee as does to a Commission staff member.

Since the certifications are generated electronically from automated records, greater accuracy is probable and error less likely than if manually generated subject to human error. The Certifications of Licensure have a software encrypted watermark seal and are no more subject to falsification than any other hard copy document. If there are any questions regarding authenticity, a call to the Commission noting the order identification number (“Orderid”) can be made. Future reference will also include a Web site link that will allow any jurisdiction to verify the Commission issuance of a certification with the order identification number. ■

The Alabama Real Estate Commission issues OFFICIAL Certifications of Licensure from licensee records electronically. We process all our license transactions electronically. The Commission has introduced and are implementing Web-based license transactions. License renewal was the first Web transaction last summer and Certifications of Licensure followed in the late fall.

Printed above is a sample of a Certification of Licensure that was issued by the Alabama Real Estate Commission. The Commission issues these certifications in two ways. A licensee may contact the Alabama Real Estate Commission directly by submitting a fee with a written request for a Certification of Licensure. When requested directly, a Commission staff member will print the license history from our electronic license file data and send it to the licensee or to the location requested. Or a licensee may go to our Web site at www.arec.state.al.us to access his or her license history and immediately view and print a Certifica-

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LICENSING TIDBITS

By Annie Hall, Licensing Supervisor



■ Notification of Change of Home Address

When submitting change of home address, please be sure to include either your license number or Social Security number so that the change will be applied to the proper individual. Include also any change in home phone, fax or email. Please print clearly.

■ Change of Business Address

Qualifying brokers, when changing your company address, please be sure to return all licenses along with the fee of \$25 for each license to be reprinted. If you have a mailing address that is different from the physical location, please indicate this. If the mailing address changes or is no longer valid, you must notify the Commission in writing. There is no fee to change or delete the mailing address nor do the licenses need to be returned in cases where the company does not physically move.

■ Prelicense and Post License Certificates

Please submit the Original 60-Hour Prelicense Course Certificate with the Application for Temporary Salesperson License. Also, the Original 30-Hour Post License Course Certificate must be submitted with the Application for Original License. Copies are not acceptable. They must bear the original signature of the instructor.

■ Revised Application for License Activation Form

The revised Application For License Activation Form must be submitted when activating a license. The new form contains a statement of declaration that the licensee has completed the required hours of continuing education prior to activating his/her license. This form can be obtained from the Commission Office or from the "Forms and Applications" section on our Web site at www.arec.state.al.us.

BRIEFLY LEGAL

Buying a Property Listed by Your Company

By Charles R. Sowell, General Counsel

There are situations where someone licensed at a company considers buying a property that is listed for sale by the company. The license law contains very specific provisions dealing with this subject. The purpose of this article is to point out those provisions, and to explain how they are to be applied. Here is a step by step procedure you can follow to make sure you cover the major considerations. These steps apply regardless of whether the company is acting as an agent of the seller, or is a transaction broker of the seller.

- 1** Any salesperson or associate broker having any thought of interest in buying a listed property should immediately go to the qualifying broker, and state his or her intentions. The qualifying broker should evaluate the situation, then either grant or deny permission to approach the seller. If permission is granted, go to step 2.
- 2** A letter to the seller should be drafted immediately that names the potential buyer. It should clearly tell the seller that this licensee is licensed with the listing company. It should go on to explain that this licensee is interested in possibly buying the property. If the buyer on the contract will be any other individual or family member, organization, or business entity in which the licensee has a personal interest, this must be disclosed, too. At this point we should review the applicable provisions of the law. They are Sections 34-27-36(a)(18) and 34-27-84(a)(6) Code of Alabama 1975, as amended. Here they are in pertinent part.

...(18) Failing to disclose to an owner the licensee's intention to acquire, directly or indirectly, an interest in property which he or she or his or her associates have been employed to sell.

...(6) To act on behalf of the licensee or his or her immediate family, or on behalf of any other individual, organization, or business entity in which

the licensee has a personal interest only with prior timely written disclosure of this interest to all parties to the transaction.

- 3** The listing agent should hand-deliver this letter to the seller as soon as possible, explaining the situation. If the letter is mailed or faxed, no further actions should be taken toward the purchase until the seller has the letter in hand, and gives permission to proceed.

Let me pause here for a commercial break, to drop a hint. If you skip steps 1, 2, and 3 and you write an offer to purchase and put in it "the buyer has a real estate license"—well, that will not do.

- 4** The biggest remaining issue is the listing agreement. If the listing agreement makes the company an agent of the seller, many brokers require the seller to cancel the listing agreement for purposes of working the offer of the licensee buyer. Although RECAD is not specific about this, it is hard to see how a company can truly be an agent for the seller under this circumstance. Some brokers might want to proceed as a limited consensual dual agent, but I do not recommend it. If the listing agreement makes the company a transaction broker for the seller, documentation of steps 1, 2, and 3 should be sufficient.

- 5** It would be a good idea to repeat the disclosure required by Section 34-27-84(a)(6) in the body of the contract.

There have been plenty of cases where a licensee of the listing company has bought listed property and the transaction worked out just fine. In fact, we do not see a lot of complaints about this subject. I believe that is because the sellers feel they were treated courteously and fairly. That, and compliance with the law will take you a long way in this business. ■

DISCIPLINARY ACTIONS TAKEN

February through May 2003

Disposition: The below were found guilty for violating Section 34-27-36(a)(16) by presenting to the Alabama Real Estate Commission, as payment for a fee or fine, a check which was returned unpaid by the bank upon which it was drawn.

Name: Marlene Spitzer, Salesperson, Columbus, Mississippi
Date of Hearing: February 20, 2003, Fined \$250

Name: William R. Hanna, Salesperson, Madison, Alabama
Date of Hearing: April 25, 2003, Fined \$250

Name: Jeff Kaufman, Salesperson, Birmingham, Alabama
Date of Hearing: April 25, 2003, Fined \$250

Name: Leia Pires Mercial, Salesperson, Huntsville, Alabama
Date of Hearing: April 25, 2003, Fined \$250

Name: Donna J. Daniel, Inactive Salesperson, Birmingham, Alabama
Date of Hearing: April 25, 2003, Fined \$250

Disposition: The below was found guilty of violating Section 34-27-36(a)(19) via Rule 790-X-3-.01 for changing his or her place of business as set out on his or her numbered license certificate, and failing to notify the Commission in writing within thirty days after the change.

Name: Frank L. Sullivan, Qualifying Broker, New York, New York
Date of Hearing: February 20, 2003, Fined \$250

Disposition: The below were found guilty of violating Section 34-27-36 (a)(8)a. and



Section 34-27-36 (a)(8)b. for a broker and company to fail to deposit in a separate federally insured account or accounts funds to be held in trust for others at all times (trust funds were placed in a sweep account which was not federally insured at all times), and by commingling company funds with funds to be held in trust for others.

Name: Charles M. Miller, Jr., Qualifying Broker, Birmingham, Alabama

Name: Birmingham Realty Company, Birmingham, Alabama

Date of Hearing: May 16, 2003, Reprimanded

Disposition: The below was found guilty of violating Section 34-27-36 (a)(21) for misrepresentation of or failure to disclose the true terms of a sale of real estate. Further she was found guilty of violating Section 34-27-36 (a)(19) via Section 34-27-35(k), performing an act for which a license is required while licensed on inactive status. Additionally, she was found guilty of violating Section 34-27-36 (a)(10) by failing to voluntarily furnish a copy of a lease agreement to the party executing the lease with reasonable promptness.

Name: Christi M. Harpe, Salesperson, Dothan, Alabama

Date of Hearing: March 21, 2003, License Suspended six months, Reprimanded and fined a total of \$2,250
Ms. Harpe has appealed this case to the Circuit Court.

Disposition: The below were found guilty for violating Section 34-27-36 (a)(19) via Section 34-27-31(j) by failure to notify the Commission within ten days of the institution of a civil suit and summons, and via Section 34-27-31(k) by failure to notify the Commission of a judgment in the civil suit, and by violation of Section 34-27-36 (a)(23)b. in having a final money judgment rendered against them.

Name: Clellon K. Baeder, Inactive Associate Broker, Huntsville, Alabama
Date of Hearing: April 25, 2003, License Revoked

Name: Jimmy L. Manley, Qualifying Broker, Huntsville, Alabama

Date of Hearing: April 25, 2003, Fined \$750

OTHER ADMINISTRATIVE ACTIONS

Determination for Licensure

Approved 1
 Denied 0

Determination of Eligibility

Approved 4
 Denied 0

COMPLAINTS AND INQUIRIES HANDLED BY LEGAL AND INVESTIGATIVE STAFF

From Licensees 706
 From Public 372
 Anonymous 22

Welcome New Commission Auditor



Denise Blevins recently joined the Commission Investigative and Legal Division as an auditor. She is now randomly examining Alabama real estate companies for compliance with real estate law requirements.

Denise graduated from Troy State University Dothan in May 2001 with a bachelor of science degree in Business Administration and Accounting. Denise and husband are expecting their first child in September. She has a number of hobbies but is most passionate about baseball. ■



**October 9, 2003
Advanced
Fair Housing
Workshop**

**October 10, 2003
Annual
Instructors'
Seminar**

Auburn Hotel and
Conference Center
Auburn, Alabama

IN MEMORIAM

Mary L. Goodwin



Mary L. Goodwin, former Executive Director of the Alabama Real Estate Commission, passed away on May 11, 2003. Ms. Goodwin worked as the Executive Director of the Commission from January 1, 1972, until her retirement on March 31, 1987. Survivors include her daughter, Carolyn (Don) Galbraith of Milton, Florida; grandchildren, Wendy Fisher of Chesapeake, Virginia, Penny Mills of Thomasville, Georgia, and Kristy Galbraith of Clarksville, Tennessee; three great grandchildren; numerous nieces and nephews.

The Commission benefited greatly from her leadership and dedication to the real estate industry. We wish to express our deepest sympathies to her family and friends. ■

EDUCATION CORNER

Commission Prescribed Continuing Education Courses and Code of Ethics

By Pat Anderson, Education Director

Let's try to clear up the confusion between the "required" continuing education course in Risk Management and the "mandatory" courses of License Law/Trust Funds; RECAD; and Fair Housing/Equal Opportunity/ADA. Because the words "required" and "mandatory" have virtually the same meaning, there must be a better way to distinguish between Commission continuing education course requirements.

There is — following is a quote of Rule 790-X-1-.11(1) and (2).

- “(1) To meet continuing education requirements, licensees must complete one of the following three (3) clock hour courses prescribed by the Commission once each license period:
- (a) License Law/Trust Funds — Course Code 990
 - (b) Fair Housing, Equal Opportunity and ADA — Course Code 100
 - (c) RECAD — Course Code 700
- (2) In order to meet continuing education requirements, licensees must complete, prior to October 1, 2000 and thereafter, a three (3) clock hour course in Risk Management (Course 500) as prescribed by the Commission once each license period.”

You will note that Commission rule does NOT refer to either the word “required” or “mandatory.” Therefore, all reference to these terms will be discontinued when addressing continuing education course requirements.

Here is what you should remember. Commission rule states that every licensee must complete a prescribed course in Risk Management once each license period. Further, Commission rule states that every licensee must complete one of the following prescribed courses once each license period: License Law/Trust Funds, RECAD, and Fair Housing/Equal Opportunity/ADA. It is just that simple.

Paragraphs 1 and 2 of the rule address a minimum of 6 hours: 3 hours in Risk Management and 3 hours in either License Law/Trust Funds; RECAD; or Fair Housing/Equal Opportunity/ADA. The remaining 9 hours of the 15 hour requirement can be completed in approved elective credit courses. These approved courses include the ones mentioned above. For example, if you took Risk Management and chose to take License Law/Trust Funds to meet the requirements of Rule 790-X-1-.11(1) and (2), you may still take RECAD and Fair Housing/Equal Opportunity/ADA for 6 hours of elective credit.

One more note. This is about Code of Ethics. Code of Ethics is considered an ELECTIVE CE course by the Commission. You will notice in the portion of the rule stated above that Code of Ethics is not mentioned. Those licensees who are members of the Alabama Association of REALTORS® may have an additional requirement imposed by the local, state or national association. Licensees should not confuse that requirement with what is required by License Law and the Alabama Real Estate Commission. For the record: Code of Ethics is not a Commission prescribed course and will not meet any of the six hours as required in Rule 790-X-1-.11(1) and (2). It will however, meet the part of the remaining nine clock hours of approved electives.

The Alabama Real Estate Commission is Proud to Sponsor an

Advanced Fair Housing Training Program

FOR INSTRUCTORS, BROKERS AND LICENSEES

Thursday, October 9, 2003

Auburn Hotel and Conference Center

Auburn, Alabama

9 a.m. to 4 p.m.

The featured speaker and trainer is Sara Pratt who is based in the Washington, D.C. area. Prior to 1991 Ms. Pratt practiced civil rights law in Louisville, Kentucky, held a variety of positions with the Kentucky Commission on Human Rights and served as a national and international consultant on fair housing matters. From 1991-1993 she served as the Deputy Assistant General Counsel for Fair Housing in HUD's office of General Counsel. From 1993-1999 Ms. Pratt was the Director of

the Office of Enforcement in HUD's Office of Fair Housing and Equal Opportunity in Washington, D.C. From May 1999-December 2000 she served as Director of Enforcement and Compliance for the National Fair Housing Alliance. Ms. Pratt has worked with a number of federal agencies including HUD, EEOC, the Department of Justice and the U.S. Department of Agriculture to ensure fair enforcement of the law. She has testified before Congress on fair housing issues. Ms. Pratt has trained thousands of investigators, conciliators, industry representatives and advocates on fair housing and other civil rights issues.

The program will focus on conducting business in compliance with fair housing laws and the ADA, dealing with customers and clients on fair housing issues, recent court cases and their outcomes and how those outcomes affect the real estate industry. This is truly an opportunity to learn from someone experienced in the law and who has this kind of training expertise.

This program is open to licensees as well as instructors. It will be terrific for brokers and/or company trainers. Attendees will receive 6 hours of continuing education credit; 3 in prescribed hours and 3 in elective hours. Attendance by instructors will fulfill the requirement for instructor training in Fair Housing. More information about registration costs and procedures will be available by mid August on the Commission's Web site at www.arec.state.al.us. Or licensees may contact the Commission office to have their names placed on a list to receive this information when it becomes available. Instructors will receive the information in the next edition of "The Educator" newsletter. ■





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**Commission Meetings
Open to the Public**

All Commission meetings are open to the public and that includes real estate licensees. Commissioners welcome and encourage attendance and observation by any licensee in any location. Locations, dates and times can be found on the Commission's Web site at www.arec.state.al.us.

License Renewal Dates

Real Estate licenses expire September 30, 2004. Remember to renew all broker, salesperson and company licenses in every even year.

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