

## Two New Real Estate Commissioners

*Gordon Henderson and Chester Mallory have been appointed  
to the Alabama Real Estate Commission.*



**G**ordon Henderson from 1965 until 1976, worked as a Sales Associate for Fred Taylor Real Estate before forming his own company, Henderson Real Estate, Inc., which is now known as Re/Max The Real Estate Group. Commissioner Henderson was elected Mayor of Albertville in 1980 and served two terms. He served as president of the Albertville Chamber of Commerce, State president of the Alabama Poultry and Egg Association and the past president of Marshall County Board of Realtors. He has served on the Alabama Housing Finance Authority since its inception and has membership with the Marshall County Million Dollar Club, ReMax 100% Club, and the Albertville Rotary Club.



**C**hester Mallory since 1972 has been president and owner of Mallory Realty Company, Inc. Starting in 1964 he has been the Assistant Professor of Psychology at Alabama State University and has worked as management broker for the Veterans Affairs in Montgomery, Alabama. Commissioner Mallory earned a BA in 1962 and an MA in 1964 from North Carolina Central University. Other affiliations include Finance Committee Chairman, Alabama Real Estate Appraisers Board; past president, Montgomery Area Association of Realtors; Federal Coordinator for Representative Earl Hilliard; National Association of Realtors; Alabama Association of Realtors; National Association of Home-

builders; Alabama African American Chamber of Commerce; Greater Montgomery Home Builders Association; Women's Council of Realtors; Montgomery Chamber of Commerce; American Society of Real Estate Professionals; Central YMCA Board; and 1998-1999 Co-Chairman, Jubilee CityFest.

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# OPEN MOUTH- INSERT FOOT

*(What is it about equal you don't understand?)*

By: Brenda K. Russell, M. Ed., CRS, GRI, ITI

**Y**ou're penalized ten yards in football when the referee calls a clipping penalty against you for an illegal physical contact. In the real life game of real estate, an illegal verbal clipping call can cost you the entire game...and your career. The referees making the tough calls in real estate today aren't playing games...but they're playing for keeps. Remember — an illegal verbal clipping call can put you on the bench, kick you out of the game or end your career. It's your call: know the rules and stay in the game.

Although agents are inundated with paper, most communication with clients and customers is still verbal. We need to be careful that when we "open mouth" we don't "insert foot." The information delivered must be prepared, professional, and within the confines of the Federal Fair Housing Law. Sometimes it's not "what we say" but "how we say it" that can be a problem. We need to develop an internal stash of messages that are appropriate for the common problem areas we encounter. When a situation presents itself, the agent can turn on his or her "internal tape player" of acceptable responses.

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## INCREASING CULTURAL DIVERSITY

According to the Harvard University Joint Center for Housing Studies, the minority population is projected to increase by a total of 16.5 million during the 1990's. Furthermore, minorities are expected to account for more than three-quarters of total population growth between 2000 and 2010. Increased minority population will mean more minority buyers, sellers and renters. Agents must

be adept at working with diverse population groups in order to stay in the mainstream of the real estate market. They also must be prepared to deal with customer/client questions of a sensitive nature concerning existing property owners and the make-up of residential neighborhoods.

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## ANSWERING THE TOUGH QUESTIONS

The following examples are situations which agents are likely to encounter in their daily work. I have suggested dialogues and answers that I have used successfully in my own real estate business. Preparing and practicing in advance of these situations can make a positive difference in the agent's skill at handling sensitive topics.

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## SELECTING THE FIRST NEIGHBORHOOD TO SHOW

Customers/clients moving in from out of town often ask, "Where are you taking us first today? How did you decide where to start?" Rather than beginning with, "I've selected a nice area that fits your parameters to show you first." What if this "nice area" happens to be predominantly occupied by one particular race? The use of the word "nice" could be construed to mean the area selected is "nice" because of the racial composition. Instead, base your comments on objective data. "You told me you wanted to be no more than 30 minutes to your work. This first area is about 25 minutes from your office. The other areas are a little closer." OR: "You mentioned you wanted to be close to shopping. The first area is the closest in your price range that is very near shopping. The others are a bit further away."

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## HANDLING THE "SAFETY" ISSUE

When the customer/client says, "Please show me homes in a safe area," agents need to ask questions back. "What do you mean by 'safe' area?" Once I had a client who repeatedly asked to be shown homes on a safe street. As my tension mounted as to how to handle the touchy issue, she finally commented, "Oh, great. Finally a safe street." We were on a dead end street or cul-de-sac. To her "safe" meant no traffic. If the issue is crime, be sure to refer those questions to the proper source. "Are there crime problems in this area?" A good response might be as follows: "I don't know of any (if you in fact don't), but if you are interested in crime statistics, I'll be happy to give you the number of the police department. They can furnish you with that information."

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## RACIAL COMPOSITION QUESTIONS

Questions about ethnic make-up or national origin can be difficult whether they are positive or negative in tone. Once a client of mine said in a very upbeat, enthusiastic manner, "You know, I like all kinds of people. What is the racial composition of this neighborhood?" On any questions along these lines, an agent is best advised "Don't go there." A good answer: "Federal law prohibits our discussing race or national origin. If you want specific population data, it is available from local census information." OR: "You know, anyone can live wherever he or she can afford to live. We are not allowed to discuss racial issues under the federal fair housing law." One agent in our office had a particularly difficult situation in this regard.

There were only four houses in the subdivision, and she lived in one of them. Of course, she knew the answer to the question! Still she prudently chose option one answer above.

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### **CONDUCTING A KID SEARCH**

“Will my kids have other kids to play with?” This could be simply another way of saying, “Are there other children in the area?” However, the customer/client could be implying, “Will my (minority) kids be accepted in this area?” Try to involve the individuals in answering these types of questions. When showing property to clients with children, we often conduct a “big wheel count.” We keep track of the number of big wheels we see in the yards. Sometimes information can be obtained from the listing agent who may know specific gender and ages of neighboring children. Also encourage agents to make this suggestion to the family. “I don’t know who lives in these particular houses, but you may want to come back to the area just after school is out or on a Saturday morning to see how many kids are out playing.” The buyers can do some of their own due diligence. It is dangerous for an agent to make any comment about community acceptance. On the flip side of this issue are the people who do not want to live around children for whatever reason. Families are a protected class under the law, so we should use caution when dealing with buyers who want an adult only environment. These buyers can also visit neighborhoods in afternoons and on weekends to draw their own conclusions about the age range of the occupants.

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### **APPRECIATION OF THE NEIGHBORHOOD**

A concern of all buyers is the soundness of the monetary investment they are making by buying a home. This leads to difficult questions about whether the buyer can expect to experience appreciation in the selected area. It also can bring up issues such as “declining” or “changing” neighborhoods. If the customer/client is represented by a buyer’s agent, he or she is entitled to solid factual information provided by the agent regarding sales and listings in

the area. Restricting comments to the printed data is the best approach. “In the past two years house prices in this area have risen approximately 10% according to this sales data.” Above all, resist the temptation to predict the future. Although agents would welcome a crystal ball, one does not exist! Statements such as, “You’re sure to make money in this area,” or “This area is sure to appreciate” should be avoided. You could be held liable if such predictions don’t come true.

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### **INQUIRES CONCERNING RELIGIOUS AFFILIATIONS**

What if you are asked, “Can you show me homes in a good Jewish neighborhood?” (Substitute any denomination for Jewish in the sentence.) Ask questions to get more information. “Do you want to live close to a synagogue (or church or temple)?” If the buyers do want proximity to a particular place of worship, you can look for neighborhoods that are a certain distance from it. “Which places of worship are you considering? Would you like to be in walking distance or a short drive away? Tell me your distance requirements, and I’ll try to find homes within your parameters that meet them.” Make certain that the buyers do their own research on the religious facilities available. Supply a Yellow Pages or perhaps the name of a resource person. One of my agents/friends has a list of people in the community her buyers can contact about various religious facilities and activities in the city and surrounding areas.

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### **INQUIRIES ABOUT AIDS**

The new fair housing question of the ‘90’s is this one: “Does the seller of this house have AIDS?” Although this is not the typical question about race or religion or ethnicity that we expect, it will probably be asked with increasing frequency in the next few years as buyers conscientiously question every possible aspect of their home purchase. The most poised and professional agent can be thrown by this inquiry. Prepare your answer and practice in advance. We are usually more comfortable talking about national origin issues than about Acquired Immune Deficiency

Syndrome. However, the responses should be similar. AIDS is considered a handicap in the fair housing law under the 1988 amendments; therefore, it is a protected class just as is national origin. None of the protected classes should be discussed as a criterion to select or reject a particular property. Suggested responses: “AIDS is classified as a handicap under the federal fair housing law. Agents are not allowed to discuss this issue.” OR: “Federal fair housing laws prohibit agents from discussing this issue. AIDS is a protected class just as is race or national origin.” Being a helpful agent does not mean that one has to answer every question the client raises.

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### **MAKING THE FINAL HOME SELECTION**

Often persons relocating from out of town to the area can pose particularly challenging queries. Many times I have had the customer/client turn to me and say, “O.K., Brenda. We’re down to two home choices. You live here; which one should we buy?” Never put yourself into the position of “choosing” the home for the buyer, no matter what the circumstances. If the agent picks the house, then the agent could be blamed later for whatever the buyers decide they don’t like about the new neighborhood. You could be charged with “steering” either away from or to a particular area for racial or national origin reasons. When faced with this situation, I put on a big smile and say, “You know what, John? It’s not up to me. It’ll be your house, not mine. Let’s take a sheet of paper and list the pros and cons of your final two selections.” Then hand the buyer the pen and paper. The agent can assist in recalling the objective features that were either positive or negative, but the buyers make their own list. For example: “You really seemed to like the room sizes in the house on Sycamore Street, but you commented that the lot was smaller than you wanted.” After the buyers have made their list, the decision usually becomes simplified.

The Super Bowl of real estate is played out every day on the phone, at your office, in your car, at an open house or at a house

*(Continued on Page 4)*



## ARELLO Has New Executive Vice-President

The Association of Real Estate License Law Officials (ARELLO) Board of Directors recently selected **Craig Cheatham** to serve as its Executive Vice-President. He will be the fourth person to hold this position since 1930 when the association was founded. Craig will be responsible for serving ARELLO jurisdictions both in the United States and abroad, which regulate the practice of more than two million real estate licensees. ARELLO's membership includes jurisdictions in the United States and its territories, Canada, Australia, South Africa, Bermuda and the Philippines. His duties include managing headquarters' operations, international conferences, publications, educational programs and staff support and serves as the liaison between ARELLO and organizations representing segments of



the real estate industry.

Craig holds a BA from Harding University and a MBA from Samford University. He comes to ARELLO from the Alabama

Association of REALTORS where he held the position of Assistant Executive Vice-President. At the Alabama Association of REALTORS, he worked in the areas of communication, member service programs, meeting planning, strategic planning, technology, education, and financial and staff administration. He is also an adjunct instructor at Faulkner University.

Craig is now serving as Executive Vice-President at the new ARELLO headquarters, which has relocated from Salt Lake City, Utah to Montgomery, Alabama. The new address for ARELLO is 4170 Carmichael Court, Montgomery, Alabama, 36106. The new telephone number is 334.260.2902; fax number 334.272.7128; Web site address [www.ARELLO.org](http://www.ARELLO.org) and email address [Mailbox@ARELLO.org](mailto:Mailbox@ARELLO.org). ■

### Open Mouth — Insert Foot

*Continued from page 3*

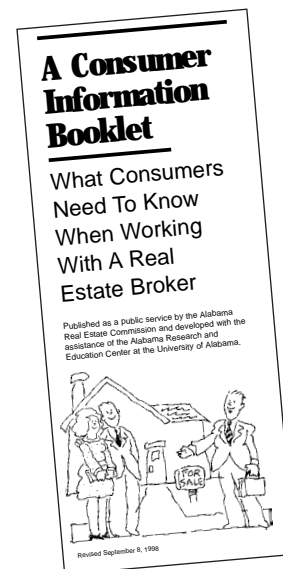
for sale. Any time you're "on the field" going toe-to-toe with buyers or sellers the clock is running. And the referees are watching, itching to blow their whistles, throw down their flags and make a penalty call against you. No matter how long you've been in the business, you can never, ever let your guard down. You're never out of the game; there are no time outs. You must expect the unexpected and prepare for it by practicing your verbal game plans - scripts of what to say when - over and over and over again until you don't have to think about what your lips are going to say. In sports it's called muscle memory: the training of the body to instinctively respond in a pre-determined way to a given situation automatically, without hesitation, without thinking. This reflex action in real estate I call "mouth memory." "The training of the brain to protect you by pre-learning what to say to avoid a catastrophic, career-crippling "slip of the tongue."

### ABOUT BRENDA K. RUSSELL, M.Ed., CRS, GRI, ITI



Before entering real estate in 1979, Brenda Russell, with a Bachelor's and Master's degree in education, established a national reputation conducting seminars: "Teaching Teachers How To Teach." During her real estate career her unique teaching style earned her the title "Tennessee Realtor-Educator of the Year." Brenda is a Vice President/Broker at Crye-Leike Realtors, Inc., the largest real estate firm in Tennessee. She is also the Director of the Success Real Estate School in Memphis and one of the first two instructors in the United States to be certified by the nationally recognized Instructor Training Institute. Brenda was an invited speaker at the 1997

and 1998 annual REEA conventions. A Co-Founder of The Learning Curve, Inc., she develops and markets "Advanced Basics Training" seminars and instructional materials for career oriented professionals. ■



The revised "Consumer Information Booklet" brochures and camera-ready slicks are available at the Real Estate Commission. Or download a copy from our Web site at [www.arec.state.al.us](http://www.arec.state.al.us).

# AGENCY: The Issue Licensees “Love to Hate”

FROM THE DIRECTOR

By: *D. Philip Lasater, Executive Director*

It wouldn't surprise me to see RECAD show up in the revised dictionary of derogatory slang, such is that regard which is expressed by so many actively practicing in Alabama. Probably the only thing that minimizes discussion about the issue of agency, is the weariness that all the talk brings on for some. Many still do not believe there is an issue and have ignored it. Many believe that too much has been made of the issue and wish it would go away. Others still begrudgingly acknowledge, well yeah there is something to it but try to figure out how to keep on doing things as they have always been done. A large number treat it as a cursory issue in the way of doing business and whatever it takes to get around it, over it or under it, is what must be done to get that part of the transaction behind.

So emotionally charged is the agency issue with fixed opinions held by those who have enough knowledge to have one, that an attempt at rationale will be withheld. It would be appropriate; however, to step back and refresh on a couple of simple thoughts.

Agency is about how a licensee relates to a member of the public. The manner in which that is accomplished is by or through disclosure. That any given member of the public knows more or less or needs and wants more or less than another is beside the point. Part of the basis for licensing individuals to assist the public is so that those who have the knowledge can use their discretion and judgment to assist in whatever varying degree one may need.

The view that many of the public does not want the kind of assistance that has been regulated for licensees to provide may

be short sighted. In that, what one doesn't know may not cause harm until it does and then where are we? It is just at this point that having a license obligates one to the responsibility to convey information and to determine with clarity certain matters, whether members of the public choose to be concerned or not. Any member of the public who may exhibit a lack of awareness or concern will not alleviate a licensee's responsibility or liability. The responsibility calls for the licensee to inform the public about what and how things should proceed. Along with that naturally comes the opportunity for the licensee to be the solution or render the service a member of the public may choose to elect for which the licensee is an expert in providing.

Why does this regulation exist in the form it does? The natural course of interaction did not result in all parties to a transaction understanding the respective roles of the various parties involved. The current regulation while it does require disclosure with more specificity than previous, is still permissive and allows for the exercise of judgment and discretion in determining the

appropriate timing for disclosures.

A great deal has been made of the form which documents that the appropriate disclosures have been made and that the parties agree. It is understandable and appreciated that licensees wish to know how to successfully accomplish and acknowledge the regulation with which they are expected to comply. It is at this point though the temptation becomes strong to focus on form over substance.

All this is to say beware of any tendency to emphasize to the exclusion or slighting of the doing. Completing the form and not giving as much attention to making disclosures such that those with which you relate (1) know and understand their options and (2) informed elect (or not) representations or services based on your disclosures. Granted there are circumstances that do not fit the mold. But for the most part, the majority of situations encountered by licensees will be well served by the model. This urging is about making it work in the basic common exchanges and the others always take a little extra to workout anyway. ■

## A RENEWAL SALUTE

The recently concluded renewal period was so much more successful there is just no comparison to the last two. The level of compliance increased dramatically. Consequently, fewer fallout problems were created and it was all around better for all concerned. It was particularly good that there was a minimum drop off in regular turn around, processing or service in and around October 1.

This is a salute to all licensees who successfully met the requirements by the deadline. For all the motion and activity we generate successfully accomplishing any aspect of licensing is ultimately worth it. Licensing is one of the basic reasons the Alabama Real Estate Commission is here. The more cooperation we have from licensees the less it ultimately costs us to do the job that will have to be done one way or the other. I hope you agree with us. We like it better this way!

ALABAMA REAL ESTATE RESEARCH & EDUCATION CENTER NEWS

# The Dimensions of the Legal Liability Problem Facing Licensees in Alabama

By: Leonard V. Zumpano, Executive Director

It is a widely held belief that the common law doctrine of caveat emptor, a doctrine to which Alabama courts subscribe, protects real estate brokers and salespersons from being sued. However, while it is true that absent a fiduciary relationship, buyers have historically lost their battles to hold brokers liable for property defects and misrepresentation, this does not mean licensees aren't sued. In fact, a recent study by the Alabama Real Estate Research and Education Center indicates that just the opposite is the case. Alabama appears to have one of the highest errors and omissions claims rate in the country.

The study, Legal Liability in Alabama and the Real Estate Salesperson, was undertaken with two goals in mind. First, examine the extent to which Alabama real estate licensees are exposed to legal liability in the day to day business activities and identify the reason(s) for this problem. The second goal of this research was to propose and evaluate possible ways to mitigate licensee exposure to legal action.

The empirical section of this study revealed that there have been 487 claims on the group errors and omissions insurer since the inception of mandatory errors and omissions insurance in 1993. This does not count claims made against other E&O insurers that did not underwrite the group policy. The total amount of money paid to plaintiffs during the four and a half years mandatory E&O insurance has been in force totaled a little over \$1.8 million.

As Table 1 indicates, paid losses represent only half the story. An additional \$1.6 million was paid out by the insurance company in paid expenses incurred in litigating

and or settling these claims; almost as much as was paid in losses. The combined cost of these claims, therefore, totaled \$3.5 million. This does not include insurance premium costs or amounts paid in

es, but it does not discourage legal actions against real estate salespeople.

A look at the types of lawsuits brought against licensees is equally revealing. Fully 76% of all the lawsuits brought against real estate professionals had something to do with the condition of the property. Most of these claims involved buyer charges of misrepresentation by licensees. Thus, while caveat emptor may provide an effective defense against lawsuits, it appears highly probable that it could be the proximate cause of many legal actions since property disclosures are discouraged in such a legal environment. Interestingly, the research found only a very limited number of suits concerning a broker's breach of fiduciary duties.

A comparison of claims data in three neighboring states that also require mandatory E&O insurance indicates a dramatically higher incidence of claims in Alabama. Specifically, Alabama experienced an average claim rate of 83.6 per year compared to 29, 9.8, and 7.7 for Mississippi, Kentucky, and Louisiana, respectively. These numbers are calculated from the periods beginning with the inception of mandatory insurance in these states through the period ending July 26, 1996.

This claims comparison becomes even more dramatic when adjusted for the number of licensees in these respective states. Alabama, again, leads its neighbors with 6.12 claims per 1000 licensees, compared to Mississippi's approximately 5 claims per 1000 licensees. Kentucky and Louisiana experience a claims rate per 1000 licensees of approximately 0.76 and 0.57 respectively.

(Continued on page 15)

**TABLE 1**  
**Summary Claims Data for the**  
**Period 10/1/93 to 3/31/98**

Total Number of Claims . . . . .	487
Amount of Paid Losses . . . . .	\$1,854,431
Amount of Paid Expenses . . . . .	\$1,649,127
<b>Total Cost . . . . .</b>	<b>\$3,503,558</b>

deductibles. What also doesn't show up here is the opportunity costs associated with these claims. Time spent in depositions, court appearances, and in consultation with lawyers is time not spent making money or managing an office.

Although Table 1 does not shed any light on the outcomes of these claims, a detailed review of the 487 cases revealed that only 101 cases resulted in paid damages to plaintiffs. Stated differently for emphasis, 386 cases, or fully 81% of the total claims were decided in favor of the defendant, salespersons. This result is perfectly consistent with our analysis of the case law in Alabama and provides empirical support to the contention that, given proper conduct by a licensee, the doctrine of caveat emptor, does limit loss-

## BRIEFLY LEGAL

By: Charles R. Sowell, General Counsel

### RISK MANAGEMENT 101: You and Your Real Estate

**R**isk management is all the rage these days. A good business has some plan along this line. Your plan should begin with the basics, like licensee owned property. Too much misunderstanding continues about this subject. Misunderstandings lead to problems, which in this area come with a genuine double-whammy. Whammy one: Your license can be revoked for nothing more than dishonest acts. Whammy two: You have no errors and omissions coverage for even simple mistakes. If you are a qualifying broker, add whammy three: You are responsible.

Let's take E&O coverage first. The state group insurance carrier is St. Paul Fire and Marine with Williams Underwriting as the program administrator. Their summary of policy exclusions contains one for "Listing, selling or managing real estate that is owned, built or developed by an insured who has over a 10% ownership interest in said real estate." A policy exclusion means you are not covered. Not everyone has the state group coverage, but all active licensees have some coverage. All the policies we have seen contain a similar exclusion.

Remind yourself to take extra care in dealing with your own property. Do you, who are qualifying brokers, have procedures for your salespeople when they sell or rent their own property, and do you remember what to do when you sell or rent yours? An easy memory trick is to pretend all property in which you deal is listed or being managed by your company for the public. This will provide the proper guide every time.

Now, back to the basics of license law. Section 34-27-2(b)(1) Code of Alabama 1975, as amended, (the Code, hereafter) exempts owners of real estate from being licensed in transactions involving their own property. Real translation: The State

of Alabama does not require every property owner to get licensed in order to sell or lease his or her own property. Fake translation: The license law does not apply to me, a licensee, when I deal in my own property.

**Here are some real life situations. In which of these does the law apply to you? In which is your qualifying broker responsible for your actions?**

1. A salesperson or associate broker who owns houses he or she rents or sells.
2. A salesperson or associate broker who owns commercial property he or she leases or sells.
3. A salesperson or associate broker who owns apartments he or she leases or sells.
4. A salesperson or associate broker who also is a builder, and sells homes he or she builds.
5. A salesperson or associate broker who is married to a builder, and sells the homes being built.
6. A salesperson or associate broker who is a developer, and sells lots being developed.
7. A salesperson or associate broker who is married to a developer, and sells lots being developed.
8. A salesperson or associate broker who is married to the owner of any kind of real property, and sells the property.

The law applies to you in every one of them. Your qualifying broker is responsible for every one of them. This means there should be a sales or rental file in the office for every one. Any earnest money or

security deposit must be turned over to the qualifying broker, and deposited into a trust account, unless a release is executed by the appropriate parties. The company RECAD office policy is to be followed, except where the RECAD law itself provides an exception. These answers apply even if you and your qualifying broker have agreed that these transactions do not have to be listed or "run through" the company. You and your broker cannot contract to waive requirements of the law.

The law also holds real estate licensees to a higher standard when dealing in property owned by them or their family. This is an often overlooked feature of the license law. Section 34-27-36(a)(2) of the Code provides for disciplinary action when "Engaging in misrepresentation or dishonest or fraudulent acts when selling, buying, trading, or renting real property of his or her own or of a spouse or child or parent." To possibly lose your license, all that must be shown is that you acted dishonestly. No other violation of law is necessary. To avoid any misunderstanding of what the law is, the Commission many years ago wrote Rule 790-X-1-.03(2). This rule says a licensee must abide by all provisions of the law and rules in dealing in his or her own property, or that of a spouse, child, or parent.

Yes, the law in the other states is similar, and it has been challenged in court in some of those states. The licensees lost those cases. We do not have an Alabama case, but I can provide you the cite for the most recent case in which the Colorado Real Estate Commission prevailed.

You should be able to construct a checklist for licensee owned property from this article. I hope the information will help with your risk management plan. Besides, we have a selfish motive. If you do it right, the public should have fewer problems. We all can benefit. ■



## EDUCATION CORNER

*By: Pat Anderson, Education Director*

# ARELLO Unveils Distance Education Certification Program

At their 68th Annual Conference held in September, the Association of Real Estate License Law Officials unveiled its international certification program for distance education courses. The idea is to put a program in place that will make it less cumbersome for distance education providers to get their programs approved in the United States and Canada. The other major objective of the certification program is to assure the real estate regulatory bodies that these programs, where instructor and student are apart for their instruction, are measured against a set of Standards that will ensure that the course learning objectives are met.

The "Distance Education Standards" were developed by ARELLO through the work of the Distance Education Task Force and a Consultant. The Task Force was appointed in May 1997. The members of

the Task Force are Pat Anderson from the Alabama Real Estate Commission, Grace Berger from the Montana Board of Realty Regulation, Robert Fawcett from the Real Estate Council of British Columbia, Teresa Hoffman from the Nebraska Real Estate Commission and David Moore from the University of British Columbia. The Consultant for the project is Dr. Robert A. Meyer, Fulbright Scholar in Distance Education. The Standards were presented to the ARELLO membership and adopted by the Board of Directors in April 1998. After adoption of the Standards, the Board of Directors requested that the Task Force proceed with developing a certification program. The Task Force and Consultant worked throughout the summer to develop the certification program which was adopted by the Board of Directors at the September Annual Conference. The program

will be up and running by the time you receive this newsletter.

Distance education courses are delivered through a variety of media. Examples are internet or online courses, those delivered by satellite, interactive classrooms, video-conferencing and computer based training. The key in distance education is that instructor and student are always separated by distance and sometimes they are also separated by time. They may interact at the same time (called synchronous) or at separate times (called asynchronous). Most distance education courses use a mix of these two approaches. Courses taught through distance education give rise to some special concerns that may not exist in traditional classroom courses. Hence, the need was established to develop Standards which address these specific concerns.

The Distance Education Standards can be ordered from ARELLO Headquarters in Montgomery. An order form is contained in this publication. You will find a wealth of information in the book. Not only does it contain the Standards for nine major areas such as Course Design and Delivery, Equipment and Learning Environment, Evaluation and Assessment; but also a self study manual for providers and information on teaching strategies in distance education, the environment and equipment used in distance education, and information on the different media, a list of resources, references and glossary. This book contains information valuable to any real estate educator regardless of whether or not you are a distance education provider. Licensees and educators alike need to keep abreast of rapidly changing technology and what it can mean to the future of the real estate profession.

### 1999 EXAMINATION SCHEDULE

Examination Date	Application Deadline	Late App. Deadline
January 16, 1999	December 26, 1998	January 4, 1999
February 20, 1999	January 30, 1999	February 8, 1999
March 20, 1999	February 27, 1999	March 8, 1999
April 17, 1999	March 27, 1999	April 5, 1999
May 15, 1999	April 24, 1999	May 3, 1999
June 19, 1999	May 29, 1999	June 7, 1999
July 17, 1999	June 26, 1999	July 5, 1999
August 21, 1999	July 31, 1999	August 9, 1999
September 18, 1999	August 28, 1999	September 7, 1999
October 16, 1999	September 25, 1999	October 4, 1999
November 20, 1999	October 30, 1999	November 8, 1999



# ARELLO

# Distance Education Standards

If you plan to offer education courses through distance learning avenues, your institution will need to

**ORDER YOUR COPY TODAY**

This manual sets out guidelines and minimum standards that will be required for certification of your courses.

Organization Name \_\_\_\_\_

Contact Name \_\_\_\_\_

Shipping Address \_\_\_\_\_

City/State/ZIP \_\_\_\_\_

Phone Number \_\_\_\_\_

Please send \_\_\_\_\_ manual(s). I have enclosed \$149 for the first manual and \$99 for each additional manual to be sent to my organization.

Send your payment to: ARELLO, Distance Education Standards Manual Fulfillment Center, Post Office Box 230159, Montgomery, Alabama 36123 USA.

THE ASSOCIATION OF REAL ESTATE LICENSE LAW OFFICIALS

# Education Rule Changes

*The following changes were adopted by the Commission on July 31, 1998, and became effective on September 7, 1998.*

*Covered here are only the changes made to the education rules in Chapter 1 of the Rules, but other rule amendments were also adopted at the same time.*

## **Rule 790-X-1-06 Prelicense and Post License School Approval and Requirements.**

There were three major changes to this rule. 1) Limits prelicense classes to a maximum of six hours per day. 2) Changed the required attendance in pre and post license courses from 100% to 90%. 3) Provides for 50 minute hours in pre and post license courses. Instructors may take a 10 minute break every hour.

## **Rule 790-X-1-09 Course Content for Continuing Education.**

There was one major change to this rule. Paragraph 3(h) was amended to allow any school licensed by the State Department of Education and approved by the Commission to offer continuing education courses.

## **Rule 790-X-1-11 Continuing Education Course Approval and Requirements.**

The amendments to this rule contained five major changes. 1) The instructors in CE classes will now take up the certificates and send them in to the Commission office instead of each student sending them individually. Instructors are responsible for making sure the certificates are filled out accurately and completely. 2) Provides for 50 minute hours in CE classes with 50 minutes of instruction and a 10 minute break per hour if the instructor so chooses. 3) Clarifies that a temporary salesperson who begins the post license course in one license period and completes it in another license period may receive CE credit for the next renewal of his/her license. 4) States that each student in a CE class must be given a separate evaluation form containing the address of the Commission so they can take it home, complete it, and mail or fax it to the Commission office. This form will soon be on the Commission's Web site where licensees can download it or fill it out and submit it electronically (**The "Class Evaluation" form appears on page 11 of this newsletter.**) 5) A paragraph was added to permit Alaba-

ma licensees to earn CE credit in Alabama for courses they take in another state provided the course is approved for continuing education credit in that state. One of the first such instances was the acceptance of some of the courses offered in Anaheim at the National Association of Realtors annual convention. These courses were acceptable for continuing education credit because they were approved by the California Department of Real Estate. All such courses must be a minimum of three clock hours.

## **Rule 790-X-1-15 Schools/Course Sponsors and Instructor Advertising Regulations.**

There were two major changes to this rule. 1) Instructors are now covered along with schools in this advertising rule. 2) The rule was amended to allow schools to advertise in conjunction with other business establishments provided the school submits a written statement that they are

responsible for all published advertising.

## **Rule 790-X-1-17 Disciplinary Actions For Instructors and Schools/Course Sponsors.**

There were three major changes to this rule. 1) Instructors can now be disciplined for inadequate teaching as evidenced by student's poor performance on the state examination, student evaluations and/or Commission audits. 2) Instructors can now be subject to disciplinary action for engaging in conduct which constitutes or demonstrates dishonest dealings, bad faith or untrustworthiness. 3) Instructors can also be disciplined for failure to meet filing deadlines.

## **Rule 790-X-1-21 Distance Education Courses.**

This rule incurred one major change. A paragraph was added to require all distance education courses offered after October 1, 1998, to obtain ARELLO certification.

## **Instructions for Education Forms on Disk**

The Alabama Real Estate Education forms that were distributed to instructors on disk are in a preferred document file (PDF) format that can be used across all major computing platforms. To view, navigate or print the forms, the "Adobe Acrobat Reader" software must be installed on your computer. The Acrobat Reader is the free viewing companion to the full version of Adobe Acrobat. To fill in or type on the forms the full "Adobe Acrobat" is required. Go to [www.adobe.com](http://www.adobe.com) on the internet to download the software or call 800-272-3623 to have a disk mailed to you for installation.

Save the forms from the disk to your hard drive using the "copy" option in Windows Explorer or File Manager. The original disk should be kept as a backup disk. Once the Adobe Acrobat has been installed, just double click on the form(s) and it will open in the Adobe Acrobat application that will allow you to read, print and/or fill in the forms. To set up form fields, which are necessary to type information on the forms, go to the menu bar under tools and select the "form" option. Next click and drag to make form field boxes. After completing the forms save them and send to AREC as an email attachment to [arec@arec.state.al.us](mailto:arec@arec.state.al.us) or mail on disk to 1201 Carmichael Way, Montgomery, Alabama, 36106.

Coming soon-check for online education forms on our Web site at [www.arec.state.al.us](http://www.arec.state.al.us). Also, the Alabama Real Estate Commission's CEPC program will be available in January 1999. This software program will allow continuing education, pre-license, post license and 15 hour course credits to be submitted electronically by computer. More information about online forms and details on how to obtain CEPC will be announced later.

# CLASS EVALUATION

Name: \_\_\_\_\_

Course: \_\_\_\_\_ Date Course Ended: \_\_\_\_\_

Instructor(s): \_\_\_\_\_ School: \_\_\_\_\_

**Yes No**

- 1. Were you provided with sufficient course materials; i.e., appropriate books, handouts, etc.?
- 2. Did the class always begin on time?
- 3. Was class ever dismissed early? If so, how early was it dismissed? \_\_\_\_\_
- 4. Did any students enter the class late?
- 5. Did the instructor tell the class to turn off all beepers, pagers, and telephones?
- 6. Were any students allowed to engage in activities that were not part of the classroom work; i.e., read newspapers, leave class to make phone calls, etc.?
- 7. Was the classroom accessible? If not, please explain: \_\_\_\_\_
- 8. If you needed any special accommodations, were they made available?
- 9. If this was a post license course, did the instructor ask you for your temporary license number at the first class session?  N/A
- 10. Did the instructor use audio visual aids such as videotape, overhead projector, computer, etc. If so, what and how often? \_\_\_\_\_
- 11. What teaching methods did the instructor use? (mark all that apply)
  - Worked in groups  Role playing such as skits  Case Studies  Lecture
  - Games or other activities (please describe) \_\_\_\_\_
  - Other: \_\_\_\_\_
- 12. What did you like the most about this class? \_\_\_\_\_
- 13. What did you like the least about this class? \_\_\_\_\_
- 14. What would you recommend that this instructor do differently next time? \_\_\_\_\_
- 15. Write any additional comments or suggestions on an additional sheet of paper.

**Within 30 days after receipt complete and Mail to:** Alabama Real Estate Commission  
1201 Carmichael Way  
Montgomery, AL 36106  
**or Fax to:** 334.270.9118

## Reporting Your 12 Hours of CE Credit to the Commission

Most licensees did an outstanding job at sending in their CE certificates to the Commission on time during this last renewal period. You are to be commended for your efforts.

The Commission did receive several calls from licensees who completed more than 12 hours of continuing education courses but were dismayed because their renewal forms only showed 12 hours. For those of you who complete more than the minimum, we congratulate you. Staying abreast of the continuing changes in the real estate business is one of the best things you can do for yourself and your business.

As for printouts and the Commission's Web site, we are only reporting statutory requirements. All printouts and postings will show up to 6 hours of elective credit and 6 hours of mandatory credit. It will not show that you have really taken more than

12 hours. What does this mean? It means that all you need to send to the Commission office is your appropriate 12 hours per license period. The other hours, which takes the Commission's staff extra time to handle, will not be reported on your record. At the end of the renewal period when your license is issued to active status, all credits are deleted from the computer and no paper records are kept. Your license certificate will show that you met the 12-hour continuing education requirement. That will be the only remaining record. While we encourage you to take as much education as you can, it is time and labor intensive for the Commission to process additional certificates from licensees who have already fulfilled and documented completion of the 12 hours. So please help us out and report only what you need to maintain your license.

Other calls came from those who were statutorily exempt from continuing education requirements but who took CE to further their own education. All printouts and postings on the Web site will show "exempt" rather than the number of hours you completed. If it showed actual hours taken and those hours were less than 12, the computer would view your license as nonrenewable. Additionally, the licensee might be confused as to their exempt status since those over 65 now also have to have 10 years of continuous licensure to qualify for the exemption. So, please understand that what appears on printouts and postings will always be what is provided for or required by law.

If you have additional questions about how your CE records are maintained, you may call the Education Department at the Commission office.

## Can You Decide What is Asked On the Licensing Examinations?

Have you ever considered that you could have input into the content of the salesperson and broker licensing examinations? Yes, you can and we need your help. In January 1999, several hundred Alabama licensees will be receiving a job analysis survey from Applied Measurement Professionals (AMP). AMP is the testing company with whom the Alabama Real Estate Commission contracts to develop and administer the licensing examinations.

You will agree that both salesperson and broker exam candidates should be tested on tasks which entry-level

licensees should be expected to perform. You will further agree that some tasks are more important than others and that the examinations should contain more questions on the more important tasks. The objective of the survey is to identify these tasks. Since you have the experience in the real estate business, you will know better than anyone what these tasks are. The examination should accurately reflect exactly what salespersons must know to begin their careers in real estate and what new brokers should know to continue their careers in real estate. It has been a few years since the last job analysis was

conducted and some tasks have changed during that time.

In January the job analysis surveys will be randomly mailed to several hundred salespersons, associate brokers and qualifying brokers. If you receive one of the surveys, we encourage you to take this opportunity to have input into the level of knowledge that your potential or current colleagues should have in order to be a professional and to protect the public, their brokers and themselves. We very much appreciate your help and assistance on this project.



# DISCIPLINARY ACTIONS TAKEN

## June Through October 1998

**Name:** Jean A. Lankford, Qualifying Broker, Mobile, Alabama

**Date of Hearing:** June 26, 1998

**Disposition:** Ms. Lankford was found guilty, reprimanded and fined \$250 on Counts 1, 2, 3 and 4 for violation of the Code of Alabama 1975, as amended, Count 1: Section 34-27-36(a)(8)a. by commingling money belonging to others with her own funds; Count 2: Section 34-27-36(a)(19) by failing to comply with Section 34-27-8(c), in her failure to have the required agency disclosure clause mandated for all offers to purchase real estate after October 1, 1996, in her offers to purchase; Count 3: Section 34-27-36(a)(19) in that no RECAD brokerage disclosure forms were found in the files as evidence that buyers and sellers had been provided same as outlined in the Code of Alabama 1975, as amended, Section 34-27-83; Count 4: Section 34-27-36(a)(19) in that no RECAD brokerage disclosure forms were found in the files as evidence that buyers and sellers had been provided same, as outlined in the Code of Alabama 1975, as amended, Section 34-37-82(f).

**Name:** Christopher A. Bowen, Qualifying Broker, Mobile, Alabama

**Date of Hearing:** June 26, 1998

**Disposition:** Mr. Bowen was found guilty on Count 1 and fined \$250. On Counts 2, 3, 4 and 5 he was found guilty and license was revoked. Revocation was stayed pending completion of RECAD class within six months for violation of the Code of Alabama 1975, as amended, Count 1: Section 34-27-36(a)(8)a. by commingling money belonging to others with his own funds; Count 2: Section 34-27-36(a)(19) by failing to comply with Section 34-27-8(c), in his failure to have the required agency disclosure clause mandated for all offers to purchase real



estate prepared after October 1, 1996, in his offers to purchase; Count 3: Section 34-27-36(a)(19) by failing to comply with Section 34-27-83 in that there was no RECAD office policy statement in place for this company; Count 4: Section 34-27-36(a)(19) in that no required RECAD brokerage disclosure forms were found in the files as evidence that buyers and sellers had been provided same, pursuant to Section 34-27-82 (f); Count 5: Section 34-27-36(a)(19) in that Respondent moved his office location as set out in his numbered license certificate and failed to notify the Commission of the new address within 30 days pursuant to Alabama Real Estate Commission Rule 790-X-3-.01.

**Name:** Michael S. Vaughn, Qualifying Broker, Prattville, Alabama

**Date of Hearing:** July 31, 1998

**Disposition:** Mr. Vaughn was found guilty on Counts 1, 2 and 3. His broker's license was suspended for 90 days, was fined \$1,000.00 and a formal reprimand was issued for violations of the Code of Alabama 1975, as amended, Count 1: Section 34-27-36(a)(8)a. and Section 34-27-36(a)(8)b. by failing, within a reasonable time, to deposit in a separate federally insured account or accounts located in Alabama, and to

properly account for at all times, all funds coming into his possession; Count 2: Section 34-27-36(a)(19) by failing to comply with Section 34-27-8(c) in his failure to have the prescribed agency disclosure language in each offer to purchase prepared after October 1, 1996; Count 3: Section 34-27-36(a)(19) by non-compliance with Section 34-27-83 in his failure to adopt a written agency disclosure office policy which enumerates the types of brokerage service arrangement which his licensees may offer or accept.

**Name:** Tipper B. Williams, Inactive Broker, Fairfax Station, Virginia

**Date of Hearing:** July 31, 1998

**Disposition:** Ms. Williams was found guilty and fined \$475 for violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(8)a. by failing, within a reasonable time, to properly account for and remit money coming into her possession that belonged to others in a separate federally insured account or accounts.

**Name:** Karen T. Casey, Qualifying Broker, Glencoe, Alabama

**Date of Hearing:** August 28, 1998

**Disposition:** Ms. Casey was found guilty and her license revoked for violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(8)a. and 34-27-36(a)(8)b. by failing, within a reasonable time, to properly account for and remit money coming into her possession that belonged to others in a separate federally insured account or accounts.

**Name:** Frank M. Dawson, Qualifying Broker, Gadsden, Alabama

**Date of Hearing:** August 28, 1998

**Disposition:** Mr. Dawson was found guilty and reprimanded for violation of the Code of Alabama 1975, as amended,

Section 34-27-36(a)(8)a. by commingling money belonging to others with his own funds.

**Name:** John S. Bone, Qualifying Broker, Gadsden, Alabama

**Date of Hearing:** August 28, 1998

**Disposition:** Mr. Bone was found guilty and fined \$250 for violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(8)a. and Section 34-27-36(a)(8)b. by failing, within a reasonable time, to deposit in a separate federally insured account or accounts located in Alabama, and to properly account for at all times all funds coming into his possession that belonged to others.

**Name:** Raymond D. Brannum, Qualifying Broker, Guntersville, Alabama

**Date of Hearing:** August 28, 1998

**Disposition:** Mr. Brannum was found guilty and reprimanded for violation of the Code of Alabama 1975, as amended, Section 34-27-36(a)(8)a. and Section 34-27-36(a)(8)b. by commingling money belonging to others with his own funds and failing to deposit and properly account for at all times money coming into his possession which belonged to others.

**Name:** Charles T. Barnhill, Sr., Qualifying Broker, Hueytown, Alabama

**Name:** James H. Parker, Qualifying Broker, Birmingham, Alabama

**Date of Hearing:** October 2, 1998

**Disposition:** Mr. Barnhill was found guilty and his license revoked for violation of the Code of Alabama 1975, as amended, Count 1: Section 34-27-36(a)(29) by J. H. Meade and Company, Inc. and Charles T. Barnhill, Sr., failing within a reasonable time to provide information requested by the Commission during or after a formal complaint had been filed.

**Disposition:** Mr. Parker was found guilty, reprimanded, and had a Commission audit to verify that the trust account was established and fully funded by October 30 for violation of the Code of

Alabama 1975, as amended, Count 2: Section 34-27-36(a)(8)a. and Section 34-27-36(a)(8)b. by Mr. Parker failing to, within a reasonable time, deposit in a separate federally insured account or accounts located in Alabama, and to properly account for at all times, all funds coming into his possession that belonged to others.

**Name:** Robert E. Strickland, Inactive Salesperson, Montgomery, Alabama

**Date of Hearing:** October 2, 1998

**Disposition:** Mr. Strickland was found guilty and fined \$250 for violation of the Code of Alabama 1975, as amended, 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:** Diane C. Phillips, Inactive Salesperson, Montgomery, Alabama

**Date of Hearing:** October 2, 1998

**Disposition:** Ms. Phillips was found guilty and fined \$350 for violation of the Code of Alabama 1975, as amended, 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:** Carla Beth Maddox, Inactive Salesperson, Jacksonville, Alabama

**Date of Hearing:** October 2, 1998

**Disposition:** Ms. Maddox was found guilty and fined \$250 for violation of the Code of Alabama 1975, as amended, 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:** Michael A. Rudolph, Salesperson, Mobile, Alabama

**Date of Hearing:** October 2, 1998

**Disposition:** Mr. Rudolph was found guilty and fined \$250 for violation of the Code of Alabama 1975, as amended, 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:** Leonard C. Chirella, Inactive Broker, Bessemer, Alabama

**Date of Hearing:** October 2, 1998

**Disposition:** Mr. Chirella was found guilty and fined \$250 for violation of the Code of Alabama 1975, as amended, 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:** Billy Jerome Williamson, Qualifying Broker, Tuscaloosa, Alabama

**Date of Hearing:** October 30, 1998

**Disposition:** Mr. Williamson was found guilty and license revoked for violation of the Code of Alabama 1975, as amended, Count 1: Section 34-27-36(a)(19), by failing to comply with Section 34-27-31(j) and 34-27-31(k) by failing to notify the Commission of a civil suit and a subsequent judgment and by failing to notify the Commission, pursuant to Section 34-27-31 (k) of a guilty plea in a criminal case. Count 2: Section 34-27-36(a)(23)b. by having a final money judgment rendered against him which resulted from an act or omission occurring in the pursuit of his real estate business or involved the goodwill of an existing real estate business; Count 3: Section 34-27-36(a)(19) by failing to comply with the Code of Alabama 1975, as amended, Section 34-27-2(a)(11) b. in his failure to maintain a place of business with an active real estate license.

**Name:** Billy Jerome Williamson, Qualifying Broker, Tuscaloosa, Alabama

**Date of Hearing:** October 30, 1998

**Disposition:** With reference to a civil judgment against Mr. Williamson, the Alabama Real Estate Recovery Fund paid a monetary judgment and pursuant to the Code of Alabama 1975, as amended, Section 34-27-31(e)(6), should the Commission pay any amount in settle-

ment of a claim or toward satisfaction of a judgment against a licensee, all licenses of the license may be terminated by the Commission. The Commission’s decision was to terminate the license of Mr. Williamson.

**Name:** Owen Meredith and Sons, Inc., and Robert N. Young, Jr., Qualifying Broker, Tuscaloosa, Alabama

**Date of Hearing:** October 30, 1998

**Disposition:** Owen Meredith and Sons, Inc., and Mr. Young were found guilty and reprimanded for violation of the Code of Alabama 1975, as amended, Section 34-27-36 (a)(8)a. and Section 34-27-36(a)(8)b. by failing, within a reasonable time, to deposit in a separate federally insured account or accounts located in Alabama, and to properly account for at times, all funds coming into their possession that belonged to others.

**Name:** James H. Huggins, Qualifying Broker, Leeds, Alabama

**Date of Hearing:** October 30, 1998

**Disposition:** Mr. Huggins was found guilty, reprimanded and fined \$250 for violation of the Code of Alabama 1975,

as amended, Section 34-27-36(a)(8)a. and Section 34-27-36(a)(8)b. by failing, within a reasonable time, to deposit in a separate federally insured account or accounts located in Alabama, and to properly account for at all times all funds coming into his possession that belonged to others.

**Name:** Shelaine D. Johnston, Salesperson, Hixon, Tennessee

**Date of Hearing:** October 30, 1998

**Disposition:** Ms. Johnston was found guilty and fined \$250 for violation of the Code of Alabama 1975, as amended, 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:** Diane L. Garrison, Salesperson, Opelika, Alabama

**Date of Hearing:** October 30, 1998

**Disposition:** Ms. Garrison was found guilty and fined \$250 for violation of the Code of Alabama 1975, as amended, 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:** Melanie G. Skidmore Key, Salesperson, Tuscaloosa, Alabama

**Date of Hearing:** October 30, 1998

**Disposition:** Ms. Key was found guilty and fined \$250 for violation of the Code of Alabama 1975, as amended, 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.

**OTHER ADMINISTRATIVE ACTIONS**

**Salesperson Applications**

Approved . . . . .	5
Denied . . . . .	2

**Broker Applications**

Approved . . . . .	0
Denied . . . . .	0

**Determination for Licensing Eligibility**

Approved . . . . .	4
Denied . . . . .	2

**The Dimensions of the Legal Liability Problem Facing Licensees in Alabama**

*Continued from page 6*

Given the adverse legal environment confronting real estate licensees, what can be done to resolve the situation? One obvious possibility is the implementation of risk management policies at the firm level. These would include, but are not limited to, the use of “as is” disclaimers in sales agreements, disclosure of all known health and safety problems, and the use of seller property condition disclosure forms.

Unambiguous office policies that encourage improved salesperson compliance with the disclosure requirements of RECAD would also help. The high incidence rate of E&O claims in Alabama

suggests that increased licensee education in the area of risk management may also be warranted.

State mandated disclosure of all material facts by brokers should reduce the number of licensee lawsuits. Such a recommendation would require enabling legislation and a determined re-education effort on the part of the Real Estate Commission, which would be costly in terms of both time and money. However, such a statute would free licensees from having to decide what information should or should not be disclosed. Even in the case of agency relationships, which demand vigorous representation of clients, brokers should not be made party to a misrepresentation.

Modification to the group insurance program should be considered. Higher deductible limits on filed claims and risk-

adjusted premiums would encourage better legal risk management by licensees.

As a final note, it should be emphasized that none of the solutions outlined above are mutually exclusive or exhaustive. While the implementation of one, individual proposal may be found wanting, a more broad-based approach, incorporating a number of these recommendations might prove more efficacious. As a follow up to this study, the Research Center is undertaking a closer look at other states, where the legal climate is less litigious, in order to see what other solutions to the problem of broker litigation in Alabama may be available and effective.

Copies of this research report are available from the Center at a cost of \$15 plus postage. Copies can be ordered by calling the Center at (205) 348-4117 or through the Center’s Web site. ■



1201 Carmichael Way  
 Montgomery, Alabama 36106

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**1999 HOLIDAY SCHEDULE**

The Real Estate Commission will be closed on the following State of Alabama legal Holidays in 1999:

<b>Holiday</b>	<b>Date in 1999</b>
New Year's Day	January 1
Robert E. Lee/Martin Luther King, Jr.	January 18
President's Day	February 15
Confederate Memorial Day	April 26
National Memorial Day	May 31
Jefferson Davis	June 7
Independence Day	July 5
Labor Day	September 6
Columbus Day	October 11
Veterans' Day	November 11
Thanksgiving	November 25
Christmas Day	December 24



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