



by Mandy Speirs, General Counsel

RE: ADVERTISING—FINAL WARNING!

It's simple. Alabama license law only requires that the qualifying broker or trade name of the company appears prominently on all advertisements [See Section 34-27-36(a)(15)]. Let's discuss:

- **What is an advertisement?** The *New Oxford American Dictionary* defines "advertise" as "describe or draw attention to a product, service, or event in a public medium in order to promote sales or attendance; make known."
 - What does this mean to the Alabama Real Estate Commission? Everything you cause to be published for real estate purposes is advertising. This includes business cards, billboards, online posts, postcards, etc.
- **What is your company name?** If you're not the qualifying broker (QB), your company name as licensed must appear. This means the entire licensed name. For example, if you're licensed as "Speirs Realty Montgomery," all three words must always appear. "Speirs Realty" or "Speirs Montgomery" will not suffice.
 - (If the broker uses a dba, the dba is sufficient)
- **What is prominent?** Again, the *New Oxford American Dictionary* defines "prominent" as "important, projecting from something; situated so as to catch the attention; noticeable." Your company name is a valuable asset and must stand out.
 - Why does this matter to the Alabama Real Estate Commission? Consumers must be able to look at your ad and ascertain that you hold a real estate license through your company name. By doing so, consumers can, then, know with whom they are actually contracting and who to contact if they have questions or concerns.
 - "Prominent" is a reasonableness test. For yard signs, does your company name need to be visible from the moon? No, but it should be visible from the street or a substantial distance. Please remember that font and background colors will affect this.

Of course, we cannot discuss advertising without mentioning social media! Complaints about social media have gone through the roof in the last couple of years. **For social media, the law is the same.** You must have your company name (if you're not the QB) on every single post. Each picture, status, tweet, etc. is a separate ad and must be treated as such. There are a few ways to do this including having your

company name in your social media name, branding each photo, or using a hashtag.

Briefly, let's go over Section 34-27-36(a)(5) and (6). These two sections prohibit false promises and deceitful advertising.

- What is "deceitful"? This is defined as to give a mistaken impression; misleading others. Any advertising that is false, fraudulent, or misleading is not allowed under the law.
- Is "coming soon" okay? Yes. As long as it truly is coming to the market soon, it is permissible under license law to market a property as "coming soon."
- Is sharing someone else's listing okay? It depends. Sharing a listing without attributing it to the listing agent can create a misleading impression as to who is the actual listing agent. To prevent this, simply add "Listing courtesy of..." or "Listing provided by..." with the listing agent's name.

Note that the law holds salespersons and associate brokers liable for all
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The Advantages of Checking CE Credit

No... it is not September 2020.

Yes... I am writing an article about checking CE credit.

All licensees who take CE courses need to use the Online Services Login on the Commission's website to access Available Services and verify a CE course credit entry following completion of every CE course. Why?

- A course provider may fail to enter course credit
- A course provider may enter incorrect course credit
- You may have taken a CE classroom course in another state, but that course information was never sent to us
- You may have taken 15 hours of CE but not the two required Risk Management courses
- You may have taken 15 hours of CE with two Risk Management courses, but neither one is the required *Risk Management: Avoiding Violations* course

Also, all qualifying brokers need to check the CE credit for their licensees both before and after October 1 of an even year. A qualifying broker has access to the CE records of all licensees in his/her company making it easy to assist licensees with this requirement. An oversight by a salesperson or associate broker can easily be recognized by the qualifying broker prior to the CE deadline. When recognized, appropriate action

can be taken to avoid a license being automatically placed on inactive status. Checking CE credit after October 1 of an even year can result in an error being recognized early and rectified instead of a licensee being forced inactive and not realizing it for several months.

This practice of multiple parties checking CE credit can result in fewer oversights as well as no time or money needed to activate a license.

AVAILABLE SERVICES

- [Change Username and/or Password](#)
- [Transfer/Inactivate/Change Name](#)
- [Broker Eligibility](#)
- [Official Document Printing](#)
- [Certification of Licensure \(License History\)](#)
- [CE Credit](#) ←



Qualifying Brokers Signing Applications for New Licensees

When individuals pass a licensing examination, such as the temporary salesperson exam, reciprocal exam, or broker exam and they ask you to sign their application to be their qualifying broker, please help the Commission and the applicant by reviewing the application with them.

Ensure that they have completed it correctly; entered your correct company name, license number and address in the areas indicated; and have attached all the required documentation and fees requested on the instruction page. They can also



view detailed instructions regarding submitting a complete application for licensure from the Commission's website by going to "Professionals," "Licensing," and then "License Application Instructions." Also ensure they have completed the correct criminal background process, which involves registering with our third-party vendor, Gemalto, and submitting their fingerprints to them. **Fingerprint cards submitted to the Commission office will not be accepted.**

Applications received incomplete or missing required documentation will cause a delay in license issuance and are subject to being returned by the Commission.

Commission Welcomes Chief Policy Officer

We are pleased to announce the Commission's newest team member, **Vaughn Poe**. Poe is working as Chief Policy Officer and is responsible for developing policies as it relates to implementation of License Law and procedural matters related to the Commission. He will assist with crafting new legislation to reflect needed changes in License Law and will familiarize legislators with such legislation. He will also review existing policy to ensure it meets the standards of best practices.

Poe was born and raised in West Alabama, and his family has roots in Hale County dating back to 1831. Immediately following graduation from Akron Community High School in Akron, Alabama, he enlisted in the U.S. Marine Corps. During his twenty-one years of active service, he led as many as 150 Marines in combat and underwent many global and domestic assignments. Captain Poe is a highly decorated officer, achieving a great number of accolades for his many assignments and combat tours. After his military career, Poe retired to Hale

County and started PoeFolks Cattle Company, LLC which produces both registered and commercial Brangus cattle.

His collegiate accolades include doctoral work in Cyber Security Engineering; a M.A. (Information Technology Management) from Webster University, St. Louis; a B.S. (Management/Computer Information Systems) from Park University (Magna Cum Laude); and an A.A. (Applied Sciences in Occupational Technology) from TCL, Beaufort, SC.

Poe is a former Consumer-at-Large member of the Alabama Real Estate Commission and is a member of numerous professional organizations, such as the Federal Bureau of Investigation (FBI) InfraGard and the Information Systems Security Association (ISSA). He has developed his skills with many current certifications, including Networks +, Global Security Leadership Certification (GSLC) and Information Assurance Manager (DoD IAM).



In his spare time, Poe enjoys skydiving, cattle farming, traditional English fox hunting, and debate.

Free Alabama License Law App Available for Mobile Devices

The Commission has released a free Alabama License Law mobile application (app) that is available for download on Apple, Android and Google devices. It contains select provisions from the *Code of Alabama 1975* and the *Alabama Administrative Code Rules and Regulations*. This app is a legal reference that allows users to view and bookmark Alabama real estate license law and time-share law on the go.

Features of the mobile app include:

- Access to Alabama real estate laws including rules, regulations and time-share on your mobile device with offline capabilities
- Ability to search subject matter by keyword
- An account feature that allows Alabama licensees to log in and view bookmarks saved across desktop and mobile
- Ability to bookmark sections and rules to be easily referenced later

Please note that bookmarks are device-specific unless the user logs in to the app. Login to the app requires the same login used for the Alabama Real Estate Commission Online Services, and bookmarks can then be synced between mobile devices and the website.

To start, search for "Alabama Real Estate" in your device's app store and download the Alabama License Law app. Once downloaded,

internet access is not required to use the mobile app. License Law on the mobile app will update whenever a user has an internet connection. And when devices are set to update automatically, users will not have to open the app to get updated License Law.

The Commission would appreciate you letting us know what you think about the app, so please be sure to rate and/or write a review for us.





DISCIPLINARY ACTIONS

Penalties for violations of the Real Estate License Law and Commission rules vary depending upon the particular facts and circumstances present in each case. Due to space limitations in The Update, a complete description of the facts cannot be reported below.

DISPOSITION

The below were found guilty of violating Section 34-27-36(a)(16) for 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.

Gwendolyn Woods

License No. 000096207

Salesperson; Harvest, Alabama

Date of Hearing: April 25, 2019

Fined \$1500

Cassandra Yvonne Langford

License No. 000094429

Inactive Salesperson; Huntsville, Alabama

Date of Hearing: April 25, 2019

Fined \$1000

Ali Michelle Wilburn

License No. 000093677

Qualifying Broker; Arley, Alabama

Date of Hearing: April 25, 2019

Fined \$250

DISPOSITION

The below was found guilty of violating Section 34-27-36(a)(19) by failing to comply with Section 34-27-35(k) which states, "Inactive licenses shall be held at the Commission office until activated. No act for which a licensee is required shall be performed under an inactive license."

Scott Luedecke

License No. 000100254

Salesperson; Birmingham, Alabama

Date of Hearing: June 20, 2019

License Revoked

DISPOSITION

The below was found guilty of violating Section 34-27-36(a)(19) for failing to comply with Section 34-27-34(a)(2) which states, "It shall be the duty of the qualifying broker to see that all transactions of every licensee engaged by him or her or any company for which he or



she is the qualifying broker comply with this chapter."

Beau Bevis

License No. 000061918-1; 000061918-2; 000061918-3; 000061918-5

Qualifying Broker; Birmingham, Alabama

Date of Hearing: June 20, 2019

Fined \$2500

DISPOSITION

The below was found guilty on Count 1 of violating Section 34-27-36(a)(22) by failing to comply with Commission Rule 790-X-3-.04 by failing to retain records of estimated closing statements for each pending file and each closed file of her office and guilty on Count 2 of violating Section 34-27-36(a)(31) by failing to keep in her office files, adequate records of all contracts, leases, listings, and other records pertinent to real estate transactions for a period of three years.

Jennifer Kathleen (Katie) Hartman

License No. 000105125-0; 000105125-1

Qualifying Broker; Guntersville, Alabama

Date of Hearing: July 25, 2019

Count 1 - Fined \$1000

Count 2 - Fined \$1000; A follow-up audit is to be conducted of Ms. Hartman's files within six (6) months from the date of the Order.

DISPOSITION

The below was found guilty on Count 1 of violating Section 34-27-36(a)(8)a. for failing, within a reasonable time, to properly account for or remit money coming into their possession that belonged to others and guilty on Count 2 of violating Section 34-27-36(a)(8) b. for failing to deposit and account for at all times all funds belonging to, or being held for others, in a separate federally insured account or accounts in a financial institution located in Alabama.

Donald Manning

License No. 000058938-1; 000058938-2; 000058938-3

Qualifying Broker; Mobile, Alabama

Date of Hearing: August 22, 2019

Count 1 - Fined \$1000

Count 2 - Fined \$1000

DISPOSITION

The below was found guilty on Count 1 of violating Section 34-27-36(a)(31) and Commission Rule 790-X-3-.13 in that he failed to maintain the Real Estate Brokerage Services Disclosure forms (RECAD) in thirty-one (31) sales transaction files; guilty on Count 2 of violating Section 34-27-36(a)(31) and Commission Rule 790-X-3-.04 in that he failed to maintain completed Estimated Closing Statements in the appropriate sales files; and guilty on Count 3 for violating Section 34-27-36(a)(19) and Commission Rule 790-X-3-.14(3) in that the current 2018 RECAD office policy statement was only signed by eighteen (18) of the seventy-nine (79) licensees at Coldwell Banker of the Valley.

James E. Merial

License No. 000073508

Qualifying Broker; Huntsville, Alabama

Date of Hearing: August 22, 2019

Count 1 - Fined \$1500

Count 2 - Fined \$1500

Count 3 - Fined \$1500; A follow-up audit

JULY – SEPTEMBER 2019

APPLICATION FOR LICENSURE

(Includes Applications for Temporary, Broker or Reciprocal licenses.) These numbers represent persons who have come before the Commission requesting hardship extensions to renew licenses, complete exams or submit applications past the deadline. They also represent those who request applications for change in status (i.e. salesperson to broker).

APPROVED	11
DENIED	1

Determination of Eligibility

(Applications for Licensing Eligibility Determination)

These numbers represent persons who come before the Commission requesting approval to be licensed, mainly persons who have criminal prosecutions show in their criminal background checks. They have an opportunity to explain to Commissioners the circumstances surrounding these incidences and be granted permission to proceed with the licensing process or not, based on the Commissioners' ruling.

APPROVED	4
DENIED	1

COMPLAINTS AND INQUIRIES HANDLED BY LEGAL AND INVESTIGATIVE STAFF

FROM LICENSEES	782
FROM PUBLIC	789
ANONYMOUS/COMMISSION	30

is to be conducted of Mr. Merial's files in ninety (90) days from the date of the Order.

DISPOSITION

The below was found guilty of violating Section 34-27-36(a)(19) by disregarding an order of the Commission in that she failed to complete payment of a fine.

Gwendolyn Woods

License No. 000096207

Inactive Salesperson; Harvest, Alabama
Date of Hearing: August 22, 2019

Fined \$150

DISPOSITION

The below surrendered their licenses for alleged license law violations in lieu of a formal complaint and hearing.

Connie Hamer

License No. 000028231

Qualifying Broker; McCalla, Alabama
Date of Hearing: August 22, 2019

Great South Realty Inc.

License No. 000074713

Company; McCalla, Alabama
Date of Hearing: August 22, 2019

BRIEFLY LEGAL *continued from page 1*

advertisements they cause to be published, as well as QBs.

A word to QBs—this law has been in effect as written since 2009 and is still deemed relevant. This has given each of you ample time to train your licensees and get in compliance. Not being familiar with a particular advertising platform does not absolve you of liability. You must be diligent in your supervision of your licensees' advertisements.

We have been trying to educate licensees about advertising regulations for several

years now. It is time to move on to filing **formal complaints for noncompliance**. If you are unsure as to whether or not your advertising will be in compliance with requirements of the law, please contact your qualifying broker and/or the Commission to discuss it before you publish it or put up that Facebook post.

As always, if you have any questions about advertising or any unrelated subject, feel free to contact Mandy or Starla in the Legal Division at 334-242-5544.

Escrow/Closing Wire Fraud Update: CFPB Tips and FBI Resources

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Amid reports of escalating escrow/closing wire fraud scams, residential real estate industry stakeholders have, for several years, been issuing periodic warnings and advice about the scheme and how to avoid it. The latest comes from the federal Consumer Financial Protection Bureau (CFPB), which says that scammers are increasingly compromising the email accounts of real estate professionals in order to identify upcoming real estate transactions and divert escrow/closing funds.

The scam has been experienced in a broad range of business environments and has many variations. In residential real estate transactions, it generally involves a hacker who gains access to the email account of a transaction participant such as a real estate licensee, attorney, mortgage broker/lender, title company or closing agent. In one version of the scheme, the hacker uses publicly accessible

websites to identify a property listed as "under contract" and then obtains access to a transaction participant's email account. The hacker monitors the email account, hoping to capture the contact information of other participants and transaction closing/wiring information that identifies when, from and to whom, and in what amount, fund transfers are expected. The hacker then sends a last-minute, authentic-looking email to the buyer or other fund holder, with instructions to wire funds to a disguised and sometimes overseas account. These emails are often personalized by including references to previous legitimate email conversations that have been captured by the hacker. Also, perpetrators appear to have at least some knowledge of how real estate transactions work, since fake wiring instructions usually surface very near the closing date;

a critical juncture at which a sense of urgency can sometimes attend the transaction process.

The CFPB's recent blog post (<https://bit.ly/2oWvdKZ>) recites often-quoted FBI statistics tracking the escrow/closing wire fraud scam, which indicate that "reports of these attempts rose 1,100 percent between 2015 and 2017, and in 2017 alone there was an estimated loss of nearly \$1 billion in real estate transaction costs." The CFPB warns consumers that, "While it's easy to think you may not fall for



this kind of scam, these schemes are complex and often appear as legitimate conversations with your real estate or settlement agent."

To protect themselves, the CFPB suggests that consumers should:

- Prior to closing, identify and have a telephone or in-person conversation with two trusted representatives involved in the transaction, such as a real estate or settlement agent, to confirm the closing process, payment instructions and money transfer protocols. These conversations also can be used to create a code phrase to confirm identities in later communications. And, of course, "Be cautious about exchanging any details about your closing over email."
- Never follow instructions contained in an email and, before wiring money, always

"verify the closing instructions, including the account name and number, with your trusted representatives either in person or by using the phone number you previously agreed to.

- Avoid using phone numbers or links in an email. Again, scammers can closely replicate the email address, phone number and format of an exchange from your agents. Avoid clicking on any links or downloading attachments without first confirming with your trusted representatives.
- Do NOT email financial information. Email is never a secure way to send financial information.
- Be mindful of phone conversations. It may be difficult to identify whether a phone call is fraudulent or legitimate. Scammers may call and ask you to verify your personal or financial information. When in doubt, always refer back to your trusted professionals to confirm whether it's legitimate."

For victims, recovery of stolen funds may be unlikely but is at least possible. The CFPB says that victims must immediately contact the wiring financial institution to report the matter and request a "recall" of the funds. The victim should also immediately contact the local office of the FBI. The FBI operates the Internet Crime Complaint Center (IC3) which, among other things, provides a reporting mechanism for suspected Internet-facilitated criminal activity. In a 2018 public service announcement (<https://bit.ly/32rKMYE>) the IC3 also says that "time is of the essence" and provides links for filing email compromise fraud complaints. IC3 also has established a Recovery Asset Team (RAT) which streamlines communication with the financial institutions involved and assists FBI field offices with the potential recovery of diverted funds.



How to Enhance Your Password Security

We all know how important it is to have secure passwords-but how many of us actually create strong and secure passwords to use. Do your passwords contain the names of your pets, children, or significant others? How about any part of your birth date or social security number? What about repetitive or sequential letters or numbers? If you answered yes to any of the above questions, it's time to change your passwords.

These tips will help you create stronger and more secure passwords:

NO PERSONAL INFORMATION

A lot of this information is easy to obtain, such as birthdays, pets' or children's names, relatives' names, addresses, and city of birth. Including this type of information in your passwords will make it easier for hackers to guess your passwords.

CREATE LONG PASSWORDS

Hackers use a process known as a brute force attack, using a computer program to combine all the possible combinations on a keyboard to guess your passwords. The longer the passwords are the longer it takes this process to work. Look at creating passwords at least ten characters long.

INCLUDE NUMBERS, SYMBOLS AND CAPITALIZATION

Consider adding numbers and symbols to your passwords. This will make it more complex and harder to guess. When using a phrase, swap letters for numbers or symbols. For example, use the @ symbol for the letter A or a zero for the letter O. Also mix in capital and lowercase letters.

CHANGE YOUR PASSWORDS

You should change your passwords regularly. Once you change your passwords, do not use the old passwords again. Also, do not reuse the same password for every account you have. If one account gets hacked, then all of your accounts become vulnerable if the same password is used for multiple accounts.



KEEP CURRENT WITH YOUR CONTACT INFORMATION



Have you moved?
Make sure your:

-  **Residence Address**
-  **Business Address**
-  **Email Address**
-  **Phone Number**

is correct with
the Commission!

Update your information:

ONLINE SERVICES

[Online Services Login](#)

The Commission must be notified within **30 days** of the change.

Section 34-27-35(h)



To log in to Online Services, go to: arec.alabama.gov

THE UPDATE

ALABAMA REAL ESTATE

COMMISSION

EMPOWER, CONNECT, AND EDUCATE



EMPOWER Empowering the real estate professional and the consumer.



CONNECT Connecting the real estate professional and consumer to the resources they need.



EDUCATE Educating the real estate professional and the consumer.

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Patricia Anderson, Executive Director
Teresa D. Hoffman, Asst. Executive Director
Vernita Oliver-Lane, Editor
Lori Moneyham, Associate Editor

1201 Carmichael Way
Montgomery, Alabama 36106
Phone: 334.242.5544
Fax: 334.270.9118

arec.alabama.gov
arec@arec.alabama.gov



THE UPDATE

is published for the benefit of the Alabama Real Estate Industry by the Alabama Real Estate Commission.

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 website at arec.alabama.gov.

REAL ESTATE LICENSES EXPIRE SEPTEMBER 30, 2020

Remember to renew all broker, salesperson, and company licenses in every even-numbered year.

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2020 Commission Meeting Dates

The Alabama Real Estate Commission is scheduled to meet at 9:00 a.m. at the Commission offices in Montgomery, 1201 Carmichael Way, on the following dates in 2020.

The meeting dates and locations are subject to change. Please check the Commission's website (arec.alabama.gov); Facebook (facebook.com/ARECAlabama); Twitter (twitter.com/ARECAlabama) or Instagram (Instagram.com/ARECAlabama) for the most current information. Meeting dates are also posted on the Alabama Secretary of State's website at sos.alabama.gov in accordance with the Alabama Open Meetings Act. Commission meetings are always open to licensees and the public.

JANUARY 23

FEBRUARY 20

MARCH 19

APRIL 23

MAY 21

JUNE 25

JULY 23

AUGUST 20

SEPTEMBER 17

OCTOBER 22

NOVEMBER 19