



SPRING 2005

One Way To Keep Your Name Out Of The Update Newsletter

By Brett Scott, Assistant IT Manager

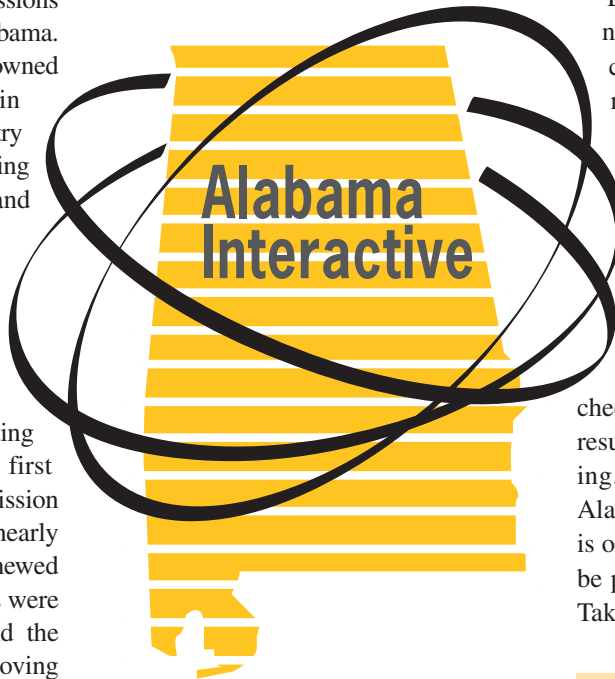
In March of 2001, the State of Alabama awarded a state contract to Alabama Interactive for eGovernment services to agencies, commissions and boards for the State of Alabama. Alabama Interactive is a wholly owned subsidiary of NIC Inc. based in Olathe, Kansas. NIC is an industry leader in developing and supporting online services for state and local governments.

In the summer of 2002, the Alabama Real Estate Commission utilized this contract with Alabama Interactive and offered one of the first online applications, "License Renewal," accepting most major credit cards. This first online application for the Commission was an outstanding success at nearly fifty percent of those renewing, renewed online. Like all new services, ways were found to make improvements and the success kept the Commission moving forward.

Later the Commission offered online Certifications, Instructor Renewal, and List Request. Again in 2004 License Renewal was offered but now accepting all major credit cards and eChecks. Many enhancements were made, some of which were requested by licensees. Once again, the success rate was outstanding with sixty-eight percent of those renewing using the online license renewal.

Alabama Interactive uses the latest and

most secure technologies to verify and process credit cards. All online transactions paid with a credit card will show



"Alabama Interactive" on the credit card statement. EChecks use the same secure technologies; however, it does not work the same way. The eCheck can not confirm bank accounts or available funds like a credit card. So a simple input mistake during the payment portion may result in an approved transaction and a confirmation page. When the eCheck information is forwarded to the bank it may not be matched to an account or may have other difficulties. When this happens, someone from Alabama Interactive will make every effort to con-

tact people to inform them of any errors and give them an opportunity to correct the error to make good on the transaction.

Licensees may not remember the name Alabama Interactive. This could result in calls not being returned and or emails being ignored or deleted. If Alabama Interactive is unable to reach someone or someone refuses to work with them, they will refer the unpaid transaction to the Commission. Our legal department considers this transaction to be the same as writing the Commission a bad check. A bad check written to the Commission will result in a formal complaint and hearing. If found guilty of violating Alabama Real Estate License Law, this is one way to guarantee your name will be printed in the "Disciplinary Actions Taken" section of this newsletter. ■



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EDUCATION CORNER

Look Up Your Course Credit Online with CMap!

By Ryan Adair, Education Specialist

Licensees:

- Go to the Commission's Web site at www.arec.state.al.us and click on CMap under the Quick Links.
- Select Licensee Login and enter your license number, the last four digits of your social security number, and your date of birth.
- Once logged in, you will see a list of all courses taken for which credit has been submitted. (If you have completed a course since October 1, 2004 and it is not identified in the list, you should contact the instructor or school and let them know.)



- Click on the course title and you will see specific course information.
- In the list of courses, you will also see an option to evaluate the course which will be available 30 days after the completion date of the course.

Qualifying Brokers:

- You may also click on CMap under the Quick Links to check course credit for individuals licensed with your company.
- Select Licensee Login and enter the company license number, the last four digits of your social security number, and your date of birth.
- Once logged in, you will see a list of licensees who have had credit submitted into CMap. Click the license number of each individual to see a list of the courses taken. ■

ATTENTION!



Out of State Courses:

- If a course is taken in another state and is approved by any state, you may receive elective continuing education credit according to Rule 790-X-1-.12(15) of Alabama License Law.
- In order to receive credit for out of state courses, it is the responsibility of the licensee to submit to the Commission appropriate documentation for verification of successful completion of the course.
- Commission staff will enter your credit into CMap. You will not receive credit for courses taken in another state unless we receive documentation.

Reciprocal Licensees:

- Definition: Licensees who received an Alabama real estate license based on licensure in another state. A person with a reciprocal license may live in another state or may live in Alabama. The word "reciprocal" appears on the license certificate. If you hold a reciprocal license, you have two options when it comes to meeting continuing education requirements.
- The first option is taking 15 clock hours approved by the Commission. Twelve hours may be in elective hours but the remaining three hours must be in the approved Risk Management course.
- The second option is showing verification that you hold an active license in another state.
- Even if you do not hold an active license in another state, you may still receive elective continuing education credit for courses taken in another state based on Rule 790-X-1-.12(15) as mentioned above under "Out of State Courses". However, the Risk Management course must be the Commission-approved outline offered by a provider who is approved by the Commission. ■

DISCIPLINARY ACTIONS TAKEN

September 2004 through January 2005

DISPOSITION

On December 3, 2004 the Commission accepted the surrender of the license of **Kenneth D. Angel, Qualifying Broker** and the company license of All Coastal Properties (formerly Waterfront Homes and Condos) located at 10965-B Bellingrath Road, Theodore, Alabama 36582 (formerly located at 1612 Bienville Boulevard, Dauphin Island, Alabama 36528). This action was in lieu of a Commission hearing on Formal Complaint #2801.

DISPOSITION

The below was found guilty for violation of Sections 34-27-35(b)(c)(2) and 34-27-36(a)(19) for a real estate licensee to cancel a credit card payment for required fees, therefore, failing to pay the fees required.

Kenneth N. Hamilton

Qualifying Broker, Decatur, Alabama
Date of Hearing: January, 20, 2005
Fined \$250

DISPOSITION

The below was found guilty for violation of Section 34-27-36(a)(8)a. and Section 34-27-36(a)(8)b. for a broker to fail to deposit and account for funds to be held in trust for others at all times by having a shortage of trust funds.

David B. Ball

Qualifying Broker, Mobile, Alabama
Date of Hearing: December 3, 2004
Reprimanded

DISPOSITION

The below were found guilty for violation of Rule 790-X-3-.01 via Section 34-27-36(a)(19) 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 30 days after the change.

Wendy May Nelson

Qualifying Broker, Mary Esther, Florida
Date of Hearing: September 24, 2004
Fined \$250



Michael S. Anderson

Qualifying Broker, Salt Lake City, Utah
Date of Hearing: September 24, 2004
Fined \$250

Kathy Tucker

Qualifying Broker, Hixson, Tennessee
Date of Hearing: October 22, 2004
Fined \$100

Gustavus Bass

Qualifying Broker, Durham, North Carolina
Date of Hearing: October 22, 2004
Fined \$100

Joe F. Watkins, Jr.,

Qualifying Broker, Eclectic, Alabama
Date of Hearing: December 3, 2004
Fined \$250

DISPOSITION

The below were found guilty of 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.

Paula S. Fullerton

Salesperson, Albertville, Alabama
Date of Hearing: September 24, 2004
Fined \$250

Philip J. Fischer

Qualifying Broker, Eclectic, Alabama
Date of Hearing: October 22, 2004
Fined \$250

Nonet Parmer Reese

Qualifying Broker, Opelika, Alabama
Date of Hearing: December 3, 2004
Fined \$250

William W. Shinault

Inactive Broker, Huntsville, Alabama
Date of Hearing: December 3, 2004
Fined \$250

Laqujala Shinse Berry

Salesperson, Birmingham, Alabama
Date of Hearing: January 20, 2005
Fined \$250

Deanna Marshall

Salesperson, Tuscaloosa, Alabama
Date of Hearing: January 20, 2005
Fined \$250

Kimona S. Tolbert

Salesperson, Huntsville, Alabama
Date of Hearing: January 20, 2005
Fined \$250

Thomas B. Jones, IV

Salesperson, Eufaula, Alabama
Date of Hearing: January 20, 2005
Fined \$250

Roderick E. McKinney

Qualifying Broker, Birmingham, Alabama
Date of Hearing: January 20, 2005
Fined \$250

Amy Diane Tortorigi

Salesperson, Birmingham, Alabama
Date of Hearing: January 20, 2005
Fined \$250

Harvey Dinkins

Qualifying Broker, Mobile, Alabama
Date of Hearing: January 20, 2005
Fined \$250

W. H. Williams

Inactive Salesperson, Oneonta, Alabama
Date of Hearing: January 20, 2005
Fined \$250

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LICENSING TIDBITS

By Pat Anderson, Assistant Executive Director

COMPANY NAME CHANGES-EASIER THAN YOU THINK

In the days prior to October 1, 2004, companies that changed their structure had to apply as a “new company” by filing a company application with the Alabama Real Estate Commission. That is no longer true. For example, a sole proprietorship which becomes a corporation can now accomplish this by regular transfer procedures. XYZ Realty that wants to become XYZ Realty, Inc. must return all the licenses and will incur only the \$25 transfer fee per license for the name change instead of the costs of an original company license application and the \$25 fee per license transfer.

HAS YOUR COURSE CREDIT BEEN SUBMITTED?

If you would like to be notified when course credit has been submitted for you, please supply the Alabama Real Estate Commission with your current email address. The new electronic program (CMap) for submitting course credit for post license and continuing education, allows for the automatic notification of the licensee receiving the credit if there is an email address in the Commission's database. There is one catch here; however, the instructors who submit the credit must choose for their students to be notified by the Commission. So make sure you inform your instructor that you would like to receive a notice that your credit has been received and posted by the Commission.

WANT TO HAVE YOUR LICENSE ISSUED MORE QUICKLY?

What is the secret to have a license issued quickly? It is simple. Use the proper form, make sure the form is complete, include any documents required, and ensure that the amount of

the check is correct, signed and made payable to the Alabama Real Estate Commission. If you have any questions on these, call the Commission for information. Additionally, sending all documents and payment in one package will also help expedite your transaction. Never, but never, send a check as payment for something without a form or note saying what it is intended for because we will have to return it. Please help us to better serve you—do NOT do things which will cause a delay in your license issuance.

PLACING A LICENSE ON INACTIVE STATUS

To place a license on inactive status, the qualifying broker must send a letter saying that he or she is no longer responsible for the licensee and return the license to the Alabama Real Estate Commission. Please do not send one without the other because nothing will happen until both are received. ■

Licensing Forms on the Commission's Web site

Need a form? You can get it quickly by going to www.arec.state.al.us and clicking on “Forms and Applications” under “Quick Links.” There you will find most licensing forms in an Adobe PDF (Portable Document Format) except the temporary salesperson's application and the original broker's application which are given to passing exam candidates at the test site. With the free Acrobat Reader software installed on your computer, you can navigate, type and print the PDF forms.

Disciplinary Actions Taken... *Continued from page 3*

DISPOSITION

The below was found guilty of violating Section 34-27-36(a)(1) for making a misrepresentation or a material misstatement of fact in an application for a license; Section 34-27-31(j) via Section 34-27-36(a)(19) for failing to notify the Commission within ten days of the institution of criminal prosecution for negotiation worthless negotiable instruments; Section 34-27-31(k) via Section 34-27-36(a)(19) for failing to notify the Commission within ten days of the plea of guilty; and Section 34-27-36(a)(23)a. for entering a plea of guilty and having a resulting verdict of guilty in the matter of negotiating worthless negotiable instruments.

Katherine L. Barfield

Qualifying Broker, Dothan, Alabama

Date of Hearing: September 24, 2004

Fined \$300

OTHER ADMINISTRATIVE ACTIONS

Determination for Licensure

Approved..... 7

Denied..... 1

Determination of Eligibility

Approved..... 7

Denied..... 2

COMPLAINTS AND INQUIRIES HANDLED BY LEGAL AND INVESTIGATIVE STAFF

From Licensees 1473

From Public 742

Anonymous 27

BRIEFLY LEGAL**DOUBLE DIPPING**
(So You Want To Be in the Mortgage Business Too)*By Charles R. Sowell, General Counsel*

You might be aware that some real estate companies are involved in the mortgage loan business. This is not a hobby for them, so how are they legally being paid? The ones who are doing it correctly have done extensive homework and planning. They also stick strictly to what they are allowed to do. This is not a guide on how to do it. This is just for your information. The Commission's only business in this area is to make sure you are being legally paid; i.e., you are not receiving rebates, kickbacks or unearned fees. If you are considering getting into this business, you should first check with the Alabama State Department of Banking to see if your activities will require you to become licensed as a mortgage broker. The next thing you should do is check with your errors and omissions insurance carrier. They must be fully informed about what you are doing. Make sure they have you covered.

The question of how a real estate licensee may be compensated for activities in making mortgage loans is a complex subject, and not easily researched or explained. I am not going to attempt to explain every aspect of this subject, but hopefully can help you with a basic understanding of the law. Let us begin with an editorial comment. It is exceedingly difficult to be a really good real estate broker or salesperson.

"It is exceedingly difficult to be a really good real estate broker or salesperson. It is also difficult to stay on top of the details of the ever-changing financing options available to purchasers of real estate."

The idea that you can make money on both ends at the same time might sound good. I would advise you to think long and hard about whether doing both is good for you and the consumer. So-called "one stop shopping" is becoming reality, though. Many people believe the time will come when a con-



sumer buying real estate will be able to get real estate services, financing, property inspection, pest inspection, title insurance, and all other related services in one place. This is the idea behind one stop shopping.

The Alabama Real Estate Commission does not regulate the mortgage lending business in any way. We leave that to the State Department of Banking, and to federal law regulating mortgage lenders. The only reason we become involved is in cases where a real estate licensee intends to be paid for activities in making a mortgage loan. The license law does not allow a real estate licensee to receive a rebate in a real estate transaction (§34-27-36(a)(12) Ala. Code.) Federal law, specifically RESPA (Real Estate Settlement Procedures Act) similarly prohibits the paying or receiving of kickbacks and unearned fees in connection with a federally related mortgage loan. This means, for example, that state and federal law do not allow a real estate licensee to be paid for referring business to a mortgage lender. The law does not allow you to be compensated for any activity, unless it is authorized by law and you actually provide something of value. The effect of Alabama Real Estate Commission rulings is that state law allows what federal law allows, and state law prohibits what federal law prohibits. There is no danger that you can be in compliance with federal law, and at the same time be in trouble with the Commission.

Here is where legal compensation comes in. A real estate licensee may be paid for originating a mortgage loan, provided the licensee actually does the work providing services of value in the mortgage origination. HUD (U S Department of Housing and Urban Development) enforces RESPA. HUD has guidelines on what services provide something of value. This means you may be paid your real estate commission, and be paid for mortgage origination in the same transaction. Federal law also

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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, 2006. Remember to renew all broker, salesperson and company licenses in every even year.

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Double Dipping... *Continued from page 5*

requires that your activities as a mortgage originator must be fully disclosed. These disclosures are more complex if the mortgage lender and your real estate company are considered an "affiliated business arrangement." There are federal regulations on the form of disclosures required. The Commission cannot provide you with these disclosure forms, because it is not the license law that requires them.

I get lots of calls asking about all of this. This subject is far more complicated than I have taken the time to convey to you. It is also more complicated than I can take time to explain in a telephone call. I will leave you with one more caution. If you are approached by a mortgage broker or lender seeking to get you into this business, you need to thoroughly check them out. The State Department of Banking is the place to start. Use your business judgment. If, for example, you are approached by someone who does not know exactly how to go about what you are being asked to do, this should tell you something. Again, this article is not intended as advice on how to get into the mortgage business. We cannot give that advice.