

SPRING 2009

## Customer Service is Alive and Well at the Commission

*Recession... Cutbacks... Layoffs...* We have gotten all too familiar with these words over the past several months. As we come off the license renewal year, we are encouraged by the number of you who are staying with the real estate profession and persevering.

In the midst of the current economic climate, the Commission staff is making every effort to conserve resources, while continuing to provide the best possible customer service to our licensees and the public. We are here to assist you in any way that we can and we are striving to improve service at every opportunity. We are committed to:

### **OUR MISSION**

*To protect the public through the licensing and regulating of Real Estate licensees;*

### **OUR VISION**

*To insure public confidence in real estate transactions; and*

### **OUR VALUES**

*Effective management of our resources, excellent customer service, innovation, and honesty and integrity.*

We welcome your comments and suggestions, so let us know how we are doing. Log on to [www.arec.alabama.gov](http://www.arec.alabama.gov) and send us your comments. Thank you for allowing us to serve you. ■

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## EDUCATION CORNER

# RISK MANAGEMENT: THAT DELICATE BALANCE

By Ryan Adair, Education Director

Once again, commissioners decided a three hour Risk Management course will be required for the next license renewal, but there are no more red flags or paper trails. A new course has been written by Jim Lawrence of Birmingham and is now *Risk Management: That Delicate Balance*. Mr. Lawrence provided training on October 31 for instructors who wish to teach the course. All instructors who wish to teach the new Risk Management course must attend an instructor training prior to receiving approval. A list of approved instructors is included in this article.

The new *Risk Management: That Delicate Balance* course approaches the topic as a delicate balance between the desire for potential income and the risk involved in receiving that income. Licensees must be aware of the various laws, rules, and ethical principles that guide the real estate profession while at the same time generating a profitable income. This is the balance that all licensees-both salespersons and brokers-must keep in mind every day when selling or leasing real estate. Topics in the course include the following:

- **Property Disclosure**
- **Alabama License Law**
- **Agency (RECAD)**
- **Environmental Hazards**
- **Contracts**
- **Anti-Trust**
- **Fair Housing**

All of these are areas that provide possible risks that could negatively affect the practice and potential income of licensees. The Risk Management text includes situations at the end of each section to challenge the student to evaluate different scenarios and make the best decision on the appropriate action to take. An appendix also includes Alabama court cases and sample forms. The Commission is very pleased with the new course and considers it to be a welcomed change that will benefit all licensees who take it. All licensees who are interested in taking the course may utilize the Real Estate Course Search feature on the Commission's Web site to see current offerings of the new *Risk Management: That Delicate Balance* course by approved instructors. ■

**The following instructors are currently approved to teach the course. Another instructor training will be offered July 17, 2009, in order to qualify other instructors to offer this course.**

Ameen, Karen	Garrison, Gwen	McTyeire, Steve
Anderson, James	Gillespie, Jim	Morris, Dee
Blake, Robin	Goodson, Bo	Mungle, Jerry
Bower, Mary Beth	Gray, Jeri	Norman, Carolyn
Bradley, William	Green, Rebecca	Norville, Peyton
Brazelton, Sandra	Hawkins, Susan	Owings, Tom
Brooks, Everett	Hayes, Charlie	Palmer, Donnis
Bush, Regina	Hayes, George	Perdue, Lorren
Calhoon, Bren	Hennessee, Walt	Powell, Anne
Carroll, Larry	Henry, Glenn	Powers, Bob
Casey, W. A.	Hethcox, Jim	Rahman, Firdaus
Coe, Debbie	Hickman, Scott	Randle, Marie
Cooke, Frank	Holden, Frank	Rice, John
Crawford, Leon	Isaacson, Harriett	Rogers, Les
Cunningham, Cookie	Jernigan, Taylor	Romero, Carlos
Daniel, Selena	Johnson, Jimmy	Ruscin, Cindy
Davis, Susan	Johnson, Sandra	Sparkman, Fraser
Dudley, O.C.	Labue, Connie	Sullivan, Gary
Dutton, Anita	LaMere, Jeanne	Thomas, Roland
Dye, Jim	Lancaster, Barbara	Turner, Britt
English, Jo Ann	Lawrence, Jim	Vierkandt, Susan
Fleet, Art	Manley, Jim	Weems, Susie
Fortenberry, Gloria	Martin, Earl	Wells, Ann
Fowler, Sonja	Mash, Dot	Wells, Dwight
Fulgham, David	McDowell, Marty	Williams, Stephanie
Gardner, Brejeannia	McKinney, Randy	Willis, Ginny
Gardner, Donna	McKissock, Richard	

## DISCIPLINARY ACTIONS TAKEN

September 2008 through January 2009

### DISPOSITION

The below was found guilty of violation of Section 34-27-36(a)(8)a. and Section 34-27-36(a)(8)b. for failing to deposit and account for at all times all funds being held for others by having a shortage of funds in this account and 790-X-3-.03(4) through Section 34-27-36(a)(19) for failing to transfer funds where a successor broker is to provide services under a property management agreement.

**Elizabeth D. Boyd**  
License No. 000059056

**Liz Boyd Associates  
Real Estate LLC**  
License No. 000071170

**All Seasons GMAC Real Estate**  
License No. 000079119  
Qualifying Broker; Montgomery,  
Alabama  
Date of Hearing: April 4, 2008  
**Revoked**

### DISPOSITION

The below was found guilty of violation of Section 34-27-31(e)(6) as amended via Section 34-27-31(a)(19) as the Commission paid from the Recovery Fund an amount in settlement of a claim or toward a satisfaction of a judgment against the licensee.

**Marc B. Anthony**  
License No. 000028295  
and

**Moss Properties, Inc.**  
License No. 000070185  
Qualifying Broker; Birmingham,  
Alabama  
Date of Hearing: August 8, 2008  
**Revoked**

### DISPOSITION

The below were found guilty for violation of 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.

**Steven Ray Keene**  
License No. 000093139  
Qualifying Broker; Fontana, California  
Date of Hearing: September 5, 2008  
**Fined \$250**

**Richard A. Burton**  
License No. 000065744  
Salesperson; Mobile, Alabama  
Date of Hearing: October 3, 2008  
**Fined \$250**

**Jackie Busby Champion**  
License No. 000076247  
Salesperson; Chelsea, Alabama  
Date of Hearing: October 3, 2008  
**Fined \$250**

**Keith Daniels**  
License No. 000082661  
Associate Broker; Montgomery,  
Alabama  
Date of Hearing: October 3, 2008  
**Fined \$250**

**Beverly Griffith Lepore**  
License No. 000080365  
Salesperson; Birmingham, Alabama  
Date of Hearing: October 3, 2008  
**Fined \$250**

**Annette Elaine Brown**  
License No. 000091618  
Salesperson; Montgomery, Alabama  
Date of Hearing: December 5, 2008  
**Fined \$250**

**Rita L. Bullock**  
License No. 000011558  
Salesperson; Montgomery,  
Alabama  
Date of Hearing: December 5, 2008  
**Reprimanded**

**John A. Cook**  
License No. 000081361  
Salesperson; Pensacola, Florida  
Date of Hearing: December 5, 2008  
**Fined \$100**

**Vincent D. Elliott**  
License No. 000090752  
Salesperson; Montgomery,  
Alabama  
Date of Hearing: December 5, 2008  
**Fined \$250**

**Robert Ford Gillespie**  
License No. 000093652  
Temporary Salesperson;  
Muscle Shoals, Alabama  
Date of Hearing: December 5, 2008  
**Fined \$100**

**Danielle Gordon**  
License No. 000091051  
Associate Broker; Pembroke Pines,  
Florida  
Date of Hearing: December 5, 2008  
**Fined \$250**

**Rita Ann Hanson**  
License No. 000062560  
Salesperson; Carrollton, Georgia  
Date of Hearing: December 5, 2008  
**Fined \$500**

**Calden B. Hopkins**  
License No. 000090485  
Salesperson; Mobile, Alabama  
Date of Hearing: December 5, 2008  
**Fined \$250**

**Susan Rice**  
License No. 000092272  
Salesperson; Birmingham,  
Alabama  
Date of Hearing: December 5, 2008  
**Fined \$250**

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# Is It Legal?



- ? To pay cash to owners who list property for sale
- ? To pay cash to a customer to get him or her to buy a home
- ? To give one month's free rent to a customer to get him or her to rent an apartment

Get the answer to these questions and more @  
**[www.arec.alabama.gov](http://www.arec.alabama.gov)**

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**Kyle Matthew Stonis**

**License No. 000090497**  
Salesperson; Atlanta, Georgia  
Date of Hearing: December 5, 2008  
**Fined \$100**

**Cindy Cook**

**License No. 000044442**  
Qualifying Broker; Pulaski, Tennessee  
Date of Hearing: January 22, 2009  
**Fined \$100**

**Jil J. Walker**

**License No. 000074883**  
Salesperson; Foley, Alabama  
Date of Hearing: January 22, 2009  
**Fined \$100**

**Bobby Lucille Warner**

**License No. 000033776**  
Qualifying Broker; Lillian, Alabama  
Date of Hearing: January 22, 2009  
**Fined \$200**

**DISPOSITION**

The below were found guilty of violation of Rule 790-X-3-.01 through Section 34-27-36(a)(19) for failing to notify the Commission in writing within 30 days after changing their place of business as set out on their numbered license certificate.

**Deborah M. Banks**

**License No. 000076693**  
Qualifying Broker; Columbus, Georgia  
Date of Hearing: September 5, 2008  
**Fined \$250**

**Michael W. Robinson**

**License No. 000089059**  
Qualifying Broker; Starkville, Mississippi  
Date of Hearing: September 5, 2008  
**Fined \$250**

**Benny H. Walker**

**License No. 000024096**  
Qualifying Broker; Huntsville, Alabama  
Date of Hearing: September 5, 2008  
**Fined \$250**

**J. Fred Burson**

**License No. 000068392**  
Associate Broker; Alva, Florida  
Date of Hearing: October 3, 2008  
**Fined \$250**

**Gary W. Pharo**

**License No. 000034173**  
Qualifying Broker; Birmingham, Alabama  
Date of Hearing: October 3, 2008  
**Fined \$250**

**Edwin J. Ricketts**

**License No. 000078547**  
Qualifying Broker; Phoenix, Arizona  
Date of Hearing: October 3, 2008  
**Fined \$250**

**John W. Weber**

**License No. 000068823**  
Qualifying Broker; Atlanta, Georgia  
Date of Hearing: October 3, 2008  
**Fined \$250**

**Robert E. Blackerby**

**License No. 000028135**  
Qualifying Broker; Panama City Beach, Florida  
Date of Hearing: December 5, 2008  
**Fined \$250**

**David Arthur Blum**

**License No. 000083795**  
Qualifying Broker; Fremont, California  
Date of Hearing: December 5, 2008  
**Fined \$250**

**Roger M. Pugh**

**License No. 000003802**  
Qualifying Broker; Birmingham, Alabama  
Date of Hearing: December 5, 2008  
**Fined: \$250**

**DISPOSITION**

The below was found guilty of Count #1 for violation of Section 34-27-31(j) though Section 34-27-36(a)(19) by failing to notify the Commission of the institution of a civil action involving a real estate transaction; Count #2 for violation of Section 34-27-31(k) through Section 34-27-36(a)(19) by failing to notify the Commission of the conclusion of a civil action involving a real estate transaction; and Count #3 for violation of Section 34-27-36(a)(23)b by having a final money judgment rendered against her which results from an act or omission occurring in the pursuit of her real estate business.

**Jessica Renee Johnson**

**License No. 000074603**  
Associate Broker; Cullman, Alabama  
Date of Hearing: October 3, 2008

**Fined \$100 and license suspended for 90 days; suspension was stayed for a period of 90 days during which respondent was to complete a three-hour continuing education course in Risk Management. The course was completed during the 90-day stay.**

**DISPOSITION**

The below was found guilty of Count #1 of violating Rule 790-X-1-.12(8) through Section 34-27-36(a)(19) for failing to maintain permanent attendance records for continuing education students for a minimum of four years and Count #2 for violation of Rule 790-X-1-.06(5)(n) through Section 34-27-36(a)(19) for failing to maintain permanent attendance records and course completion scores for continuing education students and course completion scores for a minimum of four years.

**Marcia H. Norris**

**License No. 000026097**  
Approved Real Estate Instructor and Associate Broker; Morris, Alabama  
Date of Hearing: December 5, 2008  
**Warned on both counts**

**DISPOSITION**

The below was found guilty of violating Section 34-27-36(a)(23)a. for entering a plea of guilty to a felony offense.

**Kenneth Butler**

**License No. 000082854**  
Salesperson; Anniston, Alabama  
Date of Hearing: January 22, 2009  
**Fined \$500**

**DISPOSITION**

The below were found guilty of violation of Section 34-27-36(a)(19) for violating or disregarding a Commission order by failing to pay an ordered fine.

**Lawrence Edward Haynes**

**License No. 000090600**  
Qualifying Broker; Lawrenceville, Georgia  
Date of Hearing: October 3, 2008  
**Revoked**

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**Debra Ann Williams  
aka Debra A. Cook  
License No. 000053971**

Salesperson; Coaling, Alabama  
Date of Hearing: December 5, 2008  
**Revoked**

**DISPOSITION**

The below was found guilty of Count #1 for violating Section 34-27-31(k) through Section 34-27-36(a)(19) for failing to notify the Commission within 10 days of the criminal verdict against her and Count #2 for violation of Section 34-27-36(a)(23)a. by having entered a plea of guilty or nolo contendere to, or having been found guilty of or convicted of a felony or a crime involving moral turpitude.

**Shannon Patterson Keith  
License No. 000089162**

Salesperson; Talladega, Alabama  
Date of Hearing: October 3, 2008  
**Revoked**

**DISPOSITION**

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

**Brandi Jo Baker  
License No. 000091212**

Temporary Salesperson; Sterrett, Alabama  
Date of Hearing: October 3, 2008

**Pamela Martin-Lynch  
License No. 000049335**

Associate Broker; Dadeville, Alabama  
Date of Hearing: October 3, 2008

**Reginald Seay  
License No. 000050858**

Associate Broker; Fairfield, Alabama  
Date of Hearing: October 3, 2008

**Lance Allen Calhoun  
License No. 000065024**

Associate Broker; Montgomery, Alabama  
Date of Hearing: December 5, 2008

**Blake Brian Spicer  
License No. 000066615**

Associate Broker; Guntersville, Alabama  
Date of Hearing: December 5, 2008

**Ginger B. Turner  
License No. 000074392**

Associate Broker; Ridgeland, Mississippi  
Date of Hearing: December 5, 2008 ■

**OTHER ADMINISTRATIVE ACTIONS**

**DETERMINATION OF LICENSURE**

Approved ..... 19  
Denied ..... 7

**DETERMINATION OF ELIGIBILITY**

Approved ..... 1  
Denied ..... 8

**COMPLAINTS AND INQUIRIES HANDLED BY LEGAL AND INVESTIGATIVE STAFF**

From Licensees ..... 1,874  
From Public ..... 704  
Anonymous ..... 59



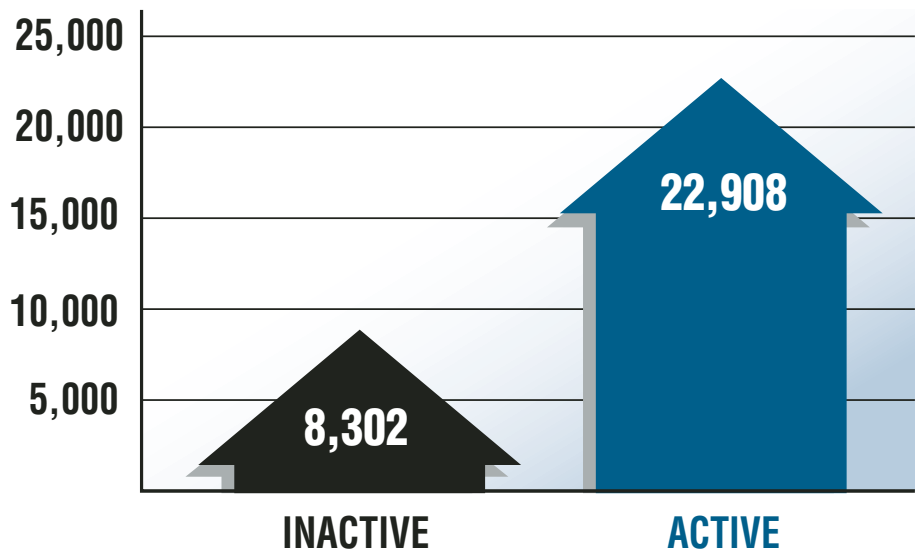
**CHANGE OF ADDRESS**

When submitting a Change of Address for a company, remember that you must submit a \$25 transfer fee for each company, branch, broker, and all salespersons registered with that company.

**Renewal Update**

More than 31,000 licensees have renewed for 2009-2010.

These include companies, branches, brokers (including reciprocals), salespersons (including reciprocals), and temporary licensees.



**BRIEFLY LEGAL**

# Earnest Money Disputes Part II

*By Charles R. Sowell, General Counsel*

This is a follow-up to the original article titled “Earnest Money Disputes” published in the Winter 2007 *Update*. Two additional points need to be made. I am not going to attempt to summarize the original article here. You may find it by going to our Web site and clicking on “Legal” at the top, which will show a drop-down menu. You will then see “Briefly Legal Index” which can be opened up to show the article “Earnest Money Disputes.” Open it up and scroll down to page 4.

**S**pecifically, the focus is on the following language in the rule: “If for any reason the transaction is not consummated, or if for any reason there is a disagreement involving to whom trust funds should be disbursed, the qualifying broker shall not disburse any trust funds except pursuant to a written agreement signed by all parties or pursuant to a court order.” In an ordinary sale that is not going to close this means a signed release is necessary from the parties before earnest money can be disbursed to either party.

■ Agencies of the United States government and their contractors are not bound by this provision of the rule. The most common examples concern sales of properties owned by FHA, VA, and HUD. When these agencies offer their property for sale, they expect earnest money to be collected from the buyer, and deposited into a broker’s escrow account just as in any transaction. In cases where they believe the buyer has defaulted and should forfeit the earnest money, the broker holding the money will get a demand for the earnest money. When this happens the broker must comply with the demand as directed. No signed release is required from the buyer or seller. There are legal reasons why FHA, VA, and HUD are not bound by our rule. In plain language a state has no authority to tell the federal government how it must conduct its business in this regard.

■ The release provision of the rule only applies to earnest money deposited on a finalized sales contract. This means that no release is necessary if no contract is entered into between the seller and the buyer. There are at least two common examples where a broker might deposit the earnest money, even though no contract has been finalized. One, a separate part of our rule requires US currency to be deposited immediately. Two, the parties might agree that the earnest money be deposited, even though no contract has been finalized. This can happen when the negotiations take a long time or for other reasons. In either of these cases no release is necessary for the money to be returned to the buyer. If no contract exists, then the seller has no claim to the money that a broker must honor under the rule. ■

## Is Your Email Address Correct?

The Commission occasionally sends information to licensees by email and recently we have received a lot of returned emails marked “undeliverable.” Make sure the Commission has your correct email address.

You can check the email address that is currently on file with the Commission and make any necessary changes on the Commission’s Web site. Log on to [www.arec.alabama.gov](http://www.arec.alabama.gov) and click on Online Services to access your record. There is no fee for changing your email address.

If you get a new email address, remember to update your record on the Commission’s Web site. A correct email address allows the Commission to keep you up to date on important news and information.



## Alabama Real Estate Commission

1201 Carmichael Way • Montgomery, AL 36106

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To protect the public through the licensing and regulating of Real Estate licensees.

### OUR VISION

To insure public confidence in real estate transactions.

### OUR VALUES

Effective management of our resources, excellent customer service, innovation, and honesty and integrity.

### COMMISSIONERS

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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.alabama.gov](http://www.arec.alabama.gov).

### LICENSE RENEWAL DEADLINE

**September 30, 2009,**

**is the deadline for all licensees**

**who have not yet renewed their licenses.**

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The Alabama Real Estate Commission will be closed on the following

## 2009 Official State Holidays

<b>Confederate Memorial Day</b> .....	April 27
Memorial Day .....	May 25
<b>Jefferson Davis' Birthday</b> .....	June 1
Independence Day (State offices are closed the day before) .....	July 3
Labor Day .....	September 7
<b>Columbus Day/Fraternal Day/ American Indian Heritage Day</b> .....	October 12
<b>Veteran's Day</b> .....	November 11
Thanksgiving .....	November 26
Christmas .....	December 25

\* Holidays in **bold** are observed by the State of Alabama, but may not be observed by other companies or organizations.