

SUMMER 2009

Commission Continues to Improve Information Access in Cyberspace

In an effort to provide licensees and consumers with the most up-to-date information and quick access to information, the Alabama Real Estate Commission is continuing to improve our online presence.

The Commission's Web site, www.arec.alabama.gov, has been redesigned to be more user-friendly for licensees and consumers. The site now features more advanced navigation and, as it is developed, more interactive features will be added.

Check out the site and tell us what you think. Go to the "Contact Us" link and click on "Comments" under Miscellaneous on the left side of the page. Tell us if there is something you had difficulty finding on the site or if there was information that you needed that was not available on the site. If you just have general comments, we appreciate those, too.

The Commission also has a presence on the social media site Facebook. This will be another place for licensees and consumers to access information and interact. We will continue to add information to our page in the coming weeks. To join us on Facebook:

- Go to the Commission Web site www.arec.alabama.gov
- Under News & Events (scrolling section on Home page), go to the bottom and click on "Become a Fan of the Alabama Real Estate Commission Official Facebook Page Today!" This will take you to the Commission's Facebook page.
- If you have not signed up on Facebook, click the Sign Up button at the top of the page and follow the steps to set up your free account. You must have a Facebook account to access the Commission's page.
- If you already have a Facebook account, login and click on the "Become a Fan" link.

If you have questions or need assistance getting connected to the Commission through our Web site or on Facebook, contact us. ■



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BRIEFLY LEGAL

Lawsuit and Criminal Case Reporting Requirements

By Charles R. Sowell, General Counsel

Here are the pertinent portions of the statutes I'll be examining:

■ **Section 34-27-31. Recovery Fund created; fees paid to fund; injured party's recovery from fund; procedures, appeals, etc.; licensee to report any legal action taken against him.**

(j) Each licensee shall notify the commission within 10 days after notice to him or her of the institution of any criminal prosecution against him or her, or of a civil summons and complaint against him or her, if the subject matter of the civil complaint involves a real estate transaction or involves the goodwill of an existing real estate business. The notification shall be in writing by certified mail and shall include a copy of the summons and complaint. If a criminal charge is made, it shall include the specific charge made against the licensee together with a copy of any indictment or information alleging the charges.

(k) Each licensee shall notify the commission in writing by certified mail within 10 days after he or she receives notice that any criminal verdict has been rendered against him or her, or that a criminal action pending against him or her has been dismissed, or that a civil action in which he or she was a defendant and which involved a real estate transaction or the goodwill of a real estate business has resulted in a judgment or been dismissed. The notification shall be in writing and shall include a copy of the court order or other document giving the licensee notice.

■ **Section 34-27-36. Disciplinary action — Generally.**

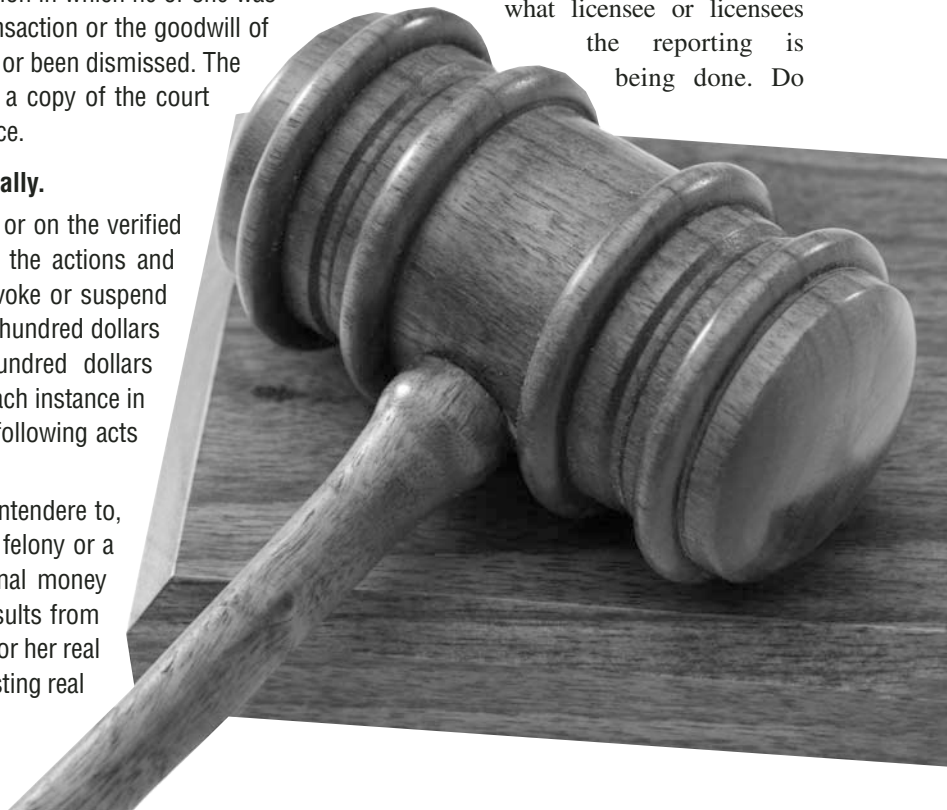
(a) The commission or its staff may on its own, or on the verified complaint in writing of any person, investigate the actions and records of a licensee...The commission shall revoke or suspend the license or impose a fine of not less than one hundred dollars (\$100) nor more than two thousand five hundred dollars (\$2,500), or both, or reprimand the licensee in each instance in which the licensee is found guilty of any of the following acts set out in this section...

(23)a. 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. b. Having a final money judgment rendered against him or her which results from an act or omission occurring in the pursuit of his or her real estate business or involves the goodwill of an existing real estate business.

Read these closely. You will see that these sections concern civil court cases and criminal cases. You do not need a law degree to understand this, so I am not going to explain the basics. I am going to make some important points. If you have questions as these things come up, just call our office.

■ **You should report any civil case where any licensee is named as a defendant, including the company.** This includes when you are dealing in your own personally owned property.

Your reporting must include a copy of the paperwork served upon you. You should write a cover letter telling us for what licensee or licensees the reporting is being done. Do



the same thing when the case has been concluded, enclosing a copy of the court's action concluding the case. Report the conclusion no matter how it is concluded. If the conclusion is a final judgment against you or your company that awards money damages to the plaintiff, then a formal complaint will be filed by our office against you. Commissioners will decide what punishment is appropriate. If yours is also a recovery fund case and the fund has to pay on account of the judgment, then commissioners will almost certainly revoke your license.

■ **In civil cases you can prevent the filing of a formal complaint by our office by satisfying the judgment before it becomes final.** As a general rule, in district court a judgment is final 14 days after it is rendered and in circuit court a judgment is final 30 days after it is rendered. A plaintiff might agree to settle the case even at this point. If a settlement or full payment of the judgment is made, there will be no final judgment. Your attorney will see that the court's records reflect satisfaction of the judgment. This means your report of the conclusion of the case will be a settlement, not a final money judgment. If the judgment becomes final and you are appealing it, or your attorney has made a post-judgment motion, let us know that, too. You, however, must report it.

■ **In criminal cases there are several ways in which you might have charges instituted against you, but there will always be an arrest at some point.** We will consider this as the time your 10 days begins to run to report to us. You should report any arrest, except for simple traffic violations. We, however, will only really be interested in felony charges of all kinds and misdemeanor charges involving moral turpitude. Do not worry about the complicated definition of moral turpitude. The only misdemeanors involving moral turpitude are theft of any kind, including shoplifting, and the writing of worthless checks. Your reporting must include a copy of the arrest warrant or indictment or other paperwork instituting the charges. You should write a cover letter explaining that you have been arrested. Do the same thing when the case has been concluded, and enclose a copy of the court's action concluding the case. If you appeal the conviction, let us know that, too. If you either plead guilty or are found guilty, felonies and moral turpitude misdemeanors will result in the filing of a formal complaint by our office after any unsuccessful appeal is concluded. Commissioners will decide what punishment is appropriate. ■

Company Names in Advertising: WHAT'S IN A NAME?

*By Chris Booth,
Assistant General Counsel*

I won't rehash Pat Anderson's article from the Fall 2005 *Update* dealing with DBA (Doing Business As) naming. Instead, this article deals with the use of companies' licensed names in advertising. The law on this is pretty simple. Section 34-27-32(e) requires that a company application be made by the qualifying broker of the company. Under Section 34-27-36(a)(15) a licensee must include the "name or trade name of the qualifying broker or company under whom the salesperson or associate broker is licensed..." The last bit of law on this issue is found in Section 34-27-36(a)(6): "Publishing or causing to be published any advertisement which deceives or which is likely to deceive the public, or which in any manner tends to create a misleading impression..." Earlier variants of these current laws were interpreted in an Attorney General's Opinion to require that all licensees must advertise under the licensed company's name.

All this is to say that it is very important to include the full licensed name or full DBA name in all advertisements, but also because it is the law. After all, how will a consumer be able to determine who they are dealing with if the full licensed name is not evident? This issue is further exacerbated in the case of franchise naming. I have been able to find no licensed franchise named only RE/MAX, Century 21, or Coldwell Banker. All franchises like these have additional names which allow a consumer and Commission staff to differentiate between them.

The requirement that companies advertise under their licensed names applies to all advertisements, including Web sites (including Facebook and other social networking sites), car signs, business cards, etc. The last bit of information may be the most important. The Commissioners' auditors will be including this as an element of their audits. ■

LICENSING TIDBITS

By Patricia Anderson, Assistant Executive Director

Returning Licenses to the Commission

The Commission is often asked under what circumstances licenses must be returned to the Commission. The answer is only on two occasions as follows.

(1) When a licensee, including a company, goes inactive by action of the qualifying broker or through a licensee's own request regardless of whether the transaction occurs through the online process or it is a mail-in request, the license must be returned to the Commission. For example, if a qualifying broker no longer chooses to hold a salesperson or associate broker's license, then the qualifying broker must return that person's license to the Commission along with a statement that he or she wishes to terminate his or her status as qualifying broker. [Section 34-27-34(d) of the License Law]. Likewise, if a qualifying broker closes the company and wishes to place it on inactive status, all licenses including the company license must be returned.

However, when licenses are "forced inactive" or placed inactive by the Commission through operation of law, it is not necessary to return the license. For example, if an active licensee does not take his or her continuing education but pays the renewal fee, then the license is "forced inactive" because the CE requirement was not met on time. That person's license would NOT have to be returned to the Commission.

(2) When a licensee changes from a salesperson to a broker the salesperson's license must be returned to the Commission prior to the issuance of the broker's license. [Section 34-27-35(f)].

There is no statutory requirement to return license certificates for transfers such as change of company name or address, personal name change, or change of qualifying broker. This does not relieve the requirement to pay the \$25 transfer fee per license to be changed. ■

Send Appropriate Form or Letter with License or Fee

You would have to work here to believe how many licenses and/or checks come in the mail with no registration or renewal form, no letter, no instructions...nothing! It is particularly interesting when we receive a company check with no license, no form, and no correspondence at all. Often it is to renew someone's license but there is no renewal form and we're sure you don't want us to guess whose license we should renew with it.

Sometimes the check is to pay a fine but there is no correspondence with it denoting that. Staff has to spend time determining if the check is for Licensing or Legal or what you are sending it for. It is much like paying your credit card bill by sending just a check in the envelope without an account number or portion of the bill you are to return with your payment. Always send a form or correspondence with your payment to insure proper credit of your payment.

Other times licenses come in the mail with no written request with them. We could assume the sender wants the license to be placed inactive, but that assumption is sometimes incorrect. Please include the appropriate form or a letter stating what is to be done when licenses are returned and/or fees are paid. Remember, all Commission forms are available on our Web site at www.arec.alabama.gov. If you have any questions or if you are unsure of the appropriate procedures to follow, please contact the Licensing Division. They will be happy to assist you. ■

Company Address and Name Changes

The Licensing Division tells us that they are experiencing problems because there is lack of understanding that a company address or company name change requires that all licenses in the company be changed. That is because all the licenses contain the company name and address. So, that means that in addition to sending in the letter indicating the change, the cost is \$25 per license to include the company license, qualifying brokers license, associate brokers, and salespersons licenses. This kind of transfer is not yet available online. ■

TECHNICALLY SPEAKING

“You’ve Got Mail”... Don’t You?

By Steven Brown, IT Systems Technician, Sr.



In today’s “always-connected” society we have the entire world at our fingertips. Through Facebook, MySpace, Twitter, Blogspot, YouTube, and a host of other various sites we can connect with almost everyone through cyberspace. However, one of the methods that most of us first used to connect with friends, family, and the rest of the world by the Internet is still going strong. How many of us remember getting just a little excited whenever we heard, “You’ve got mail,” after waiting for what seemed like an eternity for our computers to dial-up to the Internet? Sadly, most of the time our hearts sank when the email we received wasn’t from our cousin that we haven’t heard from in ages but a spam email advertising a new diet craze. Thankfully, those days are long gone and spam filters have greatly improved.

As you may or may not know, the Alabama Real Estate Commission also uses email to update our licensees on information that is pertinent to your license status, such as renewal reminders. It’s important to us that you get this information so please have a current email address on file with the Commission.

Some of you may be asking, “What should I do if I don’t have an email address?” The solution to that problem is that there are many free Web-based email providers that can suit your needs. The most popular services right now are:

- **Yahoo Mail** <http://mail.yahoo.com>
- **Hotmail** <http://mail.live.com>
- **Gmail (Google Mail)** . <http://mail.google.com>
- **AOL Mail** <http://mail.aol.com>

Each one of these providers allows you to create a free email account that you can access from any computer that has a connection to the Internet.

No matter which provider you may choose the process is relatively the same. Once you access one of the Web sites listed above you’ll be presented

with a link to “Create an account” or “Sign Up.” Clicking this link will take you to a Web page that will ask for your name and allow you to select your email address and password. Some popular email addresses are probably already taken (i.e.john.doe@yahoo.com) so if your first choice isn’t available don’t give up. Try something unique and you’ll get the email address that identifies you and fits your personality. Make sure to fill out all the required information on the page and click “Submit” at the bottom. That’s it; you’re now the proud owner of your own brand new email address. Feel free to let all your friends and family members know your new address so they can add you to their contact lists.

Now that you have a new email address you can update your email address info with the Commission by going to www.arec.alabama.gov and clicking on “Online Services” and selecting “Start” under the section that lists Change Home Address, Telephone, and Email. This will take you to the AREC Login page. Enter your license number, the last four digits of your SSN, and your date of birth in the spaces provided and click “Login.” The next screen you’ll be presented with will allow you to update your contact information; type in your new email address, along with any other contact information that may have changed; and type your name in the eSignature field. You’ll need to click “Next” then click “Logout” on the next page and you’re done. Your new email address is now on file with the Commission. ■

EDUCATION CORNER

We Strive for Quality Education

By Ryan Adair, Education Director

The Real Estate Commission began to make several changes in 2004 as part of a strong push to provide quality real estate education in the state of Alabama. Commissioners stood before all instructors at the Annual Instructors Seminar held in Auburn in October of 2004 and told instructors the Commission would be taking steps to guarantee that a higher quality of real estate education is offered in the state. In an effort to reach this goal the following changes were made:

- **The content of all courses submitted for CE credit** is reviewed by Education staff. The Commission must be aware of the information being taught to Alabama licensees in order to achieve the mission of protecting the public.
- **Learning strategies** are required to be submitted along with a detailed content outline and learning objectives for courses seeking CE approval. How a course is taught can be just as important as what is taught.
- **The opening of the training room in the Commission building** in 2005 allowed for the provision of instructor training throughout the year covering a variety of topics including specific subject matter and presentation skills.

- **Two education auditors** have been hired to make sure instructors are teaching the course content submitted for approval and teaching it in an effective manner.
- **Online evaluations** are available for all courses except the salesperson prelicense course which requires a paper evaluation. All licensees are strongly encouraged to take advantage of the online evaluation when checking CE credit on the Commission Web site. The Commission wants to hear from licensees regarding their experiences while taking real estate courses both in the classroom and through distance education.

All of these changes have helped increase the quality of courses and instruction offered in the state. These efforts have resulted in the Commission receiving the award for Best Overall Education Program of 2008 from the Association of Real Estate License Law Officials (ARELLO). The Commission continues to look for ways to improve education in an effort to protect the public and meet the needs of the customers and clients of Alabama licensees. ■



Continuing Education for License Renewals — **WHY WAIT?**

Real estate continuing education is required for the renewal of all salesperson and broker licenses. This is nothing new, but it always helps to be reminded of important information. According to Section 34-27-35(j)(1) and Rule 790-X-1-.11 of Alabama License Law, 15 hours of continuing education coursework must be completed for license renewal. The 15 hours consist of the following:

- Three (3) clock hours in Risk Management
- Twelve (12) clock hours in Commission approved elective courses

Check your continuing education credit in the Online Services section of the Commission's Web site and see how many hours you are lacking for license renewal. The Real Estate Course Search on the Web site is available to help licensees find courses that are currently being offered. Why wait until August and September of 2010 to take 15 hours of continuing education coursework? Beat the rush and eliminate unnecessary stress by taking courses now. ■

DISCIPLINARY ACTIONS TAKEN

February 2009 through April 2009

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.

William J. Dunnam

License No. 000094391

Temporary Salesperson; Tuscaloosa, Alabama

Date of Hearing: March 11, 2009

Fined \$250

Allison R. Sanders

License No. 000093236

Salesperson; Birmingham, Alabama

Date of Hearing: March 11, 2009

Fined \$250

Greg Urbanski

License No. 000092467

Salesperson; Mobile, Alabama

Date of Hearing: March 11, 2009

Fined \$250

James Wade Green

License No. 000068607

Associate Broker; Pensacola, Florida

Date of Hearing: April 3, 2009

Fined \$250

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.

Yvonne Summers Schram

License No. 000071716

Qualifying Broker; Madison, Alabama

Date of Hearing: March 11, 2009

Fined \$250



John D. Fetz

License No. 000086158

Qualifying Broker; Atlanta, Georgia

Date of Hearing: March 11, 2009

Fined \$250

DISPOSITION

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

Michael W. Madison

License No. 000082985

Salesperson; Gulf Shores, Alabama

Date of Hearing: April 3, 2009

Fined \$500

DISPOSITION

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

C. B. Dement

License No. 000004481

Associate Broker; Fultondale, Alabama

Date of Hearing: February 11, 2009

Agnes Stergion-Willis

License No. 000070905

Salesperson; House Springs, Missouri

Date of Hearing: March 11, 2009

Justin Anthony James Gray

License No. 000075675

Salesperson; Foley, Alabama

Date of Hearing: April 3, 2009

Verice Lennette Lucas-Tyus

License No. 000076019

Temporary Salesperson; Mobile, Alabama

Date of Hearing: April 3, 2009

OTHER ADMINISTRATIVE ACTIONS

DETERMINATION OF LICENSURE

Approved.....	14
Denied.....	4

DETERMINATION OF ELIGIBILITY

Approved.....	2
Denied.....	6

COMPLAINTS AND INQUIRIES HANDLED BY LEGAL AND INVESTIGATIVE STAFF

From Licensees.....	1,076
From Public.....	474
Anonymous.....	19



1201 Carmichael Way • Montgomery, AL 36106

OUR MISSION

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

OUR VISION

To insure public confidence in real estate transactions.

OUR VALUES

Excellence in stewardship, service, innovation, and integrity.

COMMISSIONERS

Jewel D. Buford, Tuscaloosa

Steve Cawthon, Huntsville

Robert S. Hewes, Dothan

Sheila S. Hodges, Gulf Shores

Clifton Miller, Huntsville

Janet R. Morris, Montgomery

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Bill Watts, Birmingham

Nancy Wright, Cullman

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

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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.

LICENSE RENEWAL DEADLINE

September 30, 2009

is the deadline for all licensees who have not yet renewed their licenses.

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**22nd Edition of
License Law Book
Available Now**

The new *License Law Book* (22nd Edition Revised 2009) is now available from the Alabama Center for Real Estate (ACRE). The new edition contains all rules and regulations that were effective as of April 30, 2009.

Every qualifying broker will receive one complimentary copy. Qualifying brokers are strongly urged to keep a copy of the License Law handy and regularly refer to it in sales and training meetings. Also encourage the salespeople and brokers licensed with your company to order their own copy. Additional copies are available for \$10, plus shipping and handling. You can download an order form at www.arec.alabama.gov under Quick Links.

