

FROM THE DIRECTOR

By Executive Director Vaughn T. Poe

There is still some confusion regarding office space. The threshold question to consider is, “can a licensee or team have a separate office/workspace outside of the brokerage that holds their license?” The answer is “yes.” The next question is how to keep that space legal according to license law. A “legal” workspace is one where a licensee can go to do certain aspects of one’s job. For example, utilize computer equipment, work on documents, load listings into the MLS, and send out virtual contracts. These are just some tasks that can be performed at an individual office/workspace.

So, when does an office/workspace begin to violate license law? When it begins to resemble a branch office. According to Alabama license law, **a branch office must be licensed with the Commission and must have a qualifying broker licensed at that location.**

Specifically, *Code of Alabama, 1975* Section 34-27-32(g) states in part, “If the applicant for a company or broker license maintains more than one place of business in the state, he or she shall have a company or branch office license for each separate location or branch office. Every application shall state the location of the company or branch office and the name of its qualifying broker. Each company or branch office shall be under the direction and supervision of a qualifying broker licensed at that address.”

How does one keep their office/workspace from appearing like a branch office? You must avoid doing anything that might be misleading to a consumer. You cannot advertise that location or use the address of the location in any advertising. Most importantly, you cannot meet clients at that location. Any of these actions may mislead a consumer into thinking that the office/workspace is the location of a licensed brokerage or branch office.

Lastly, please be aware that if you make online payments to the Alabama Real Estate Commission, that payment will register on your bank statement as a transaction with the “State of Alabama.” Alabama Interactive is the state governmental entity that handles all online financial transactions for state governmental entities. If a licensee does not recognize this payment or its source and subsequently cancels that transaction, it will register as a declined or failed transaction



to the Real Estate Commission. This failed transaction will cause a violation instance respected to license law. Unfortunately, in accordance with law, a failed transaction also constitutes presenting a bad payment to the Real Estate Commission. This is not a choice of the Commission; moreover, it is a violation of current license law. While we’re working to modify this through legislation, it is presently a violation, and will be treated as such. If you, your broker, or agents have questions about this, please contact the Alabama Real Estate Commission prior to canceling the transaction.

Thank you all again, in earnest, for everything you’re doing out there. Please don’t hesitate to let us know how we can assist you in being a successful Alabama real estate licensee.



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Do Not Let Your License Lapse

If you did not renew your license by the September 30, 2022 expiration deadline, you must renew by September 30, 2023 or your license will lapse. **The most efficient way to renew your expired license is by logging in to Online Services on the Commission’s website, arec.alabama.gov.** You will get a receipt for your payment and instant confirmation of renewal.

Remember, should a license lapse, it cannot be activated or renewed. This means that, should you decide to engage in future activities that require a real estate license, you will have to start over completely and again meet all requirements to obtain a license. This includes retaking the 60-hour salesperson prelicense course and passing the licensing

examination. If you are currently a broker, you would have to start over as a salesperson. The exception to this is those who maintain a broker’s license in another state and qualify to obtain a broker’s license in Alabama through reciprocity. In this case, the applicant would have to complete the 6-hour reciprocal broker’s prelicense course and take and pass the reciprocal broker’s exam.

If you are aware of a fellow licensee who has an expired license, please share this information with them. If you need assistance renewing, contact the Commission’s Licensing Division at arec@arec.alabama.gov or 334-242-5544.



Who Can Pay Me?

“Can I get paid my commission at the closing table if my broker agrees to it?”

“Does my old broker have to pay my new broker my commissions that were earned under the old broker or can my old broker pay me directly?”

“Can I use this new website that lets me pay a salesperson at another company to show one of my houses for me when I am out of town?”

“Can my client reimburse me directly for a service I paid for them?”

These are the most common questions the Alabama Real Estate Commission receives regarding payments made to a licensed salesperson, and all these topics are covered by *Code of Alabama, 1975* Section 34-27-36(14). That statute prohibits a salesperson from accepting valuable consideration for conducting a licensed activity from any person except their qualifying broker.

The Commission is aware of a practice known as “table-funding” whereby qualifying brokers and companies direct the closing attorney to pay the salesperson their commission at the closing table. Table-funding is a violation of license law because a salesperson can only receive a commission from their qualifying broker, not directly from the closing attorney.

The statutory provision requiring licensees to be paid by their qualifying broker has caused many licensees to believe, when a salesperson goes to work for a new company, the broker at the old company must pay the salesperson’s outstanding commissions earned under the old company to the new company’s broker. That is a false premise. The Commission interprets Section 34-27-36(14) to mean that a salesperson must be paid their commission by the qualifying broker that they were licensed under when the licensed activity was conducted. Therefore, the

old broker can pay the salesperson the outstanding commission directly.

There is also a practice where a salesperson can ask another salesperson to cover a showing when scheduling conflicts arise. In fact, a website has recently been created that seeks to link salespersons that have scheduling conflicts with persons willing to cover the showing for a small fee. Showing a property is such a major step in the selling and renting process that Alabama Administrative Code Section 790-X-1-.04 specifically prohibits clerical or office employees of a real estate company from physically showing listed properties. Since showing property is a licensed activity, compensation (even a gift certificate) for covering a showing can only be provided to a salesperson through their qualifying broker. Please be mindful of how payment is received when participating in a service that connects salespeople to assist each other to conduct showings.

Salespersons may choose to front the money for property enhancement, such as painting, remodeling, cleaning, or lawn service. The property owner will hopefully reimburse the salesperson for the expense at an agreed upon time. Since a reimbursement is not compensation for performing an act, license law does not require the reimbursement to be paid to the salesperson through the broker. However, brokerage companies may be wise to implement policies regulating when, where, and how a salesperson may front money to a client and how that money may be reimbursed.

If you have any questions about who can pay you or how you can be paid for conducting licensed activity, please give the Commission’s legal team a call before proceeding.

Fingerprinting Instructions Available on Fieldprint's Website

By now you may be familiar with our fingerprint vendor, Fieldprint. They have been serving our applicants since March of this year and the feedback has been quite positive. Fingerprints are utilized to conduct a federal and state criminal background check on applicants for original licensure per Alabama Code Act 2016-322. The major advantage with Fieldprint is that they have more fingerprint scanning sites in

Alabama and across the country, so it is more convenient for everyone to have their fingerprints scanned. There is no longer a need for reciprocal applicants to request a fingerprint card from the Commission. All instructions and payment information can be found on Fieldprint's website, fieldprintalabama.com. If you have questions about fingerprinting, please contact the Commission.

Commission Institutes New Policy for Fees Returned as Unpaid

The Commission has instituted a new policy regarding fees that are returned as unpaid. Policy Memorandum Number 2 states the following, "The Commission shall impose punitive fines for those replacement funds that are received by the Alabama Real Estate Commission within the below time frames AND the respondent agrees to a consent decree plea of guilty." The punitive fines are as follows:

- 0-15 Days from Date of Notification \$100
- 16-30 Days from Date of Notification \$150
- 31-60 Days from Date of Notification \$250
- 61-180 Days from Date of Notification \$500

The process of this new policy requires the Commission to send the Consent Decree to be signed by the Respondent explaining they are pleading guilty along with the explanation of the fine assessment that will be imposed. If the Respondent chooses to plead guilty and pay the assessed fine, the Respondent is required to return the fully executed Consent Decree along with the assessed fine to the Commission. The legal staff will present the Consent Decrees to the chairman of the Commission for approval and signature. Upon signature, the Consent Decree will become the Order of the Commission. If the Respondent chooses not to sign the Consent Decree, they will have the opportunity to present their case to the Commission. The Consent Decree is completely voluntary.



EDUCATION CORNER

By Ryan Adair, Education Director

Why Are You Waiting?

With this being an odd-numbered year, licensees may not be thinking about CE courses or license renewal. The next license renewal will actually be in 2024. However, you may want to get a head start with your CE courses.

At the last renewal in 2022, there was a large number of licensees who did not begin taking CE courses until the final week of the license period. That resulted in unneeded pressure on the licensees to complete the courses as well as unnecessary pressure on the schools to submit the course credit prior to the September 30 deadline. Both situations can be avoided by getting a head start, completing your CE early and verifying course credit has been submitted to the Commission.

So, do you want to avoid license renewal problems and concerns in 2024? If you answered "yes" to that question, do not wait until September of 2024 to begin thinking about CE completion. Get a head start and begin taking your CE **now** to avoid missing the deadline. Both you and the schools responsible for submitting your CE credit will be glad you did.



Changes to Rule 790-X-1-.11

Synopsis: A 3-hour CE course is now required for all associate and qualifying brokers. This requirement became effective at the beginning of our current license period. This course must be taken in addition to the mandatory Risk Management course. Therefore, all associate and qualifying brokers must have the 3-hour Risk Management course, the 3-hour Mandatory Broker CE course, and 9 hours of elective CE courses to renew a license on active status in 2024.

RULE 790-X-1-.11. COURSE CONTENT FOR CONTINUING EDUCATION.

- (1) To meet continuing education requirements, licensees salespersons shall complete fifteen (15) clock hours each license period as set out below:
 - (a) Three (3) clock hours in the Commission-approved Risk Management course.
 - (b) Twelve (12) clock hours in Commission-approved courses.
- (2) Effective October 1, 2022, to meet continuing education requirements, associate brokers and qualifying brokers shall complete fifteen (15) clock hours each license period as set out below:
 - (a) Three (3) clock hours in the Commission-approved Risk Management course.

(b) Three (3) clock hours in the Commission-approved Qualifying Broker course.

(c) Nine (9) clock hours in Commission-approved courses.

(2)(3) The curriculum for continuing education courses offered for elective credit shall consist of subjects which are “core” real estate and which will assist the licensee in fulfilling the Commission’s statutory duty of protecting the public. Some examples of acceptable subject matter are License Law, RECAD (Real Estate Consumer’s Agency and Disclosure Act), real estate ethics, real estate financing, appraisal and valuation, fair housing, truth-in-lending, agency relationships, agency disclosure, liability of real estate agents, writing contracts, handling escrow funds, environmental issues, negotiating techniques, listing and buyer presentations, writing and presenting offers, showing property, sales skills, communication skills, marketing, certain financial calculator courses, computer courses which are real estate specific and how to utilize technology in the practice of real estate. Examples of unacceptable subject matter are motivational courses, personal development courses, sales meetings, in-house training and orientation courses. All course topics and content are subject to approval by the Commission.

Online Payments to Commission Show As “State of Alabama” on Statements

Do not cancel online payments made to the Commission because you do not see “Alabama Real Estate Commission” as the vendor on your credit card or bank statement. Online payments that are made to the Alabama Real Estate Commission **will show on your credit card/bank statements as “State of Alabama.”** All online payments by credit card, debit card or eCheck are processed through Alabama Interactive, the contracted vendor for processing online transactions for all state agencies; this includes the Alabama Real Estate Commission. Therefore, the payment will show as “State of Alabama.”

Some licensees have canceled payment when they did not see “Alabama Real Estate Commission” as the vendor on their statement. This has resulted in renewal fees and other fees and fines

being unpaid. When a licensee cancels an online payment to the Commission or reports it as an unauthorized charge, the Commission is notified that the payment did not go through. The transaction is then treated as it were a bad check because we did not receive the payment.

Canceled payments by licensees have resulted in formal complaints being filed against those licensees for violating Alabama real estate license law Section 34-27-36(a)(16), which states that it is a violation to “present to the Commission, as payment for a fee or fine, a check that is returned unpaid.” If you make an online payment to the Commission, please contact us before you cancel or dispute the transaction because your statement shows payment to “State of Alabama.” We will be happy to verify what the online payment was for and the amount that was paid.

Congratulations to David Erfman on His Retirement!

Long-time Commission chief investigator David Erfman retired on July 1 after 44 years of service to the Commission. We will miss David's stories about the many cases he has handled over the years, especially the one about the Commission meeting that continued overnight and into the next morning! He knew license law inside and out and was always quick to mentor and teach new team members over the years with patience and his own brand of humor. General Counsel Starla Leverette summed it up best when she said "I think we can all agree that David's work ethic is beyond reproach. I have never



Commission Executive Director Vaughn T. Poe. (R) presents David Erfman a proclamation from Gov. Kay Ivey.



David with Commission General Counsel Starla Leverette (L) and his wife, Virginia.

heard him say "that's not my job." He leaves nothing undone for the day and I guarantee you he will still be returning phone calls or drafting

a formal complaint up until 4:30 on the 30th of June." David's dedication and contribution to the Commission is unmeasured. While we wish him

well in this new chapter of life, he will be sorely missed.

List Request Service Revised on Commission's Website

The List Request service on our website has been updated. Licensees and consumers who download a list will now be able to see more clarified data, including actual county names instead of county codes.

Licensees and the public can access lists containing data for licensed real estate agents, approved instructors and schools, and persons who passed the last month's exams. There is a nominal fee for each list downloaded; however, a description for each available list and a list of information that is contained in the list can be viewed before purchase.

All lists are ASCII text files that are comma delimited for easy import into a database, spreadsheet or word processor. Go to the Professionals section of our website, arec.alabama.gov, and you will find List Request Services under the Online Services Section.

Join Us for Live Events!

By Taylor Hooks, Communications and PR

We encourage you to attend our live events on Microsoft Teams: Coffee With the Commission and Briefly Legal. Coffee with the Commission is held monthly the day before the Commission meeting. It is hosted by our Executive Director, Vaughn T. Poe, and members of our licensing, education, legal, accounting, or investigations divisions. Briefly Legal is held quarterly. It is hosted by members of our legal division. The hosts of both events discuss important topics relevant to real estate licensees and consumers. Both are interactive so attendees can ask questions and comment in real time.

In addition to our live events, our monthly Commission meetings are also available for viewing in real time on Microsoft Teams. Commission meetings are always open to licensees and the public in accordance with the Alabama Open Meetings Act, so you can view the actual hearings online if you are unable to attend in person.

This is a great opportunity for licensees and the public to interact with the Commission. We host these events so we can, not only provide valuable information, but can also assist you with questions and concerns that you might have. Go to our website, arec.alabama.gov, the morning of each event to access the link to join on Microsoft Teams. Notification of upcoming events are posted on our Facebook, Twitter and Instagram social media sites and on our website calendar.

Our Next Live Events on Microsoft Teams:

Coffee With the Commission
August 16 – 9:00 a.m.

Commission Meeting
August 17 – 9:00 a.m.
The Commission meeting can also be attended in person at our offices at 1201 Carmichael Way in Montgomery, Alabama.

Briefly Legal
September 6 – 10:00 a.m.



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.

Brianna D. Armstrong

License No. 000126133

Salesperson; Tuscaloosa, Alabama

Date of Hearing: January 19, 2023

Fined \$100

Chance Allen Davis

License No. 000151088

Salesperson; Remlap, Alabama

Date of Hearing: January 19, 2023

Fined \$200

Elizabeth Jean (Liz) Day

License No. 000108056

Salesperson; Opelika, Alabama

Date of Hearing: January 19, 2023

Fined \$100

Ronketi Gosberry

License No. 000104333

Salesperson; Harvest, Alabama

Date of Hearing: January 19, 2023

Fined \$250

Valma J.Lindsay

License No. 000114099

Salesperson; Huntsville, Alabama

Date of Hearing: January 19, 2023

No Fine Assessed

Kimberly Michelle Milazzo

License No. 000126680

Salesperson; Birmingham, Alabama

Date of Hearing: January 19, 2023

Fined \$500



Felicia D. (Dee) Owens

License No. 000136345

Salesperson; Birmingham, Alabama

Date of Hearing: January 19, 2023

Fined \$150

Tonya White Wheat

License No. 000116208

Salesperson; Saraland, Alabama

Date of Hearing: January 19, 2023

Fined \$100

Fabyanna Castro Clark

License No. 000129554

Salesperson; Helena, Alabama

Date of Hearing: February 16, 2023

Fined \$100

Karshandra McGrew (Kay) Cullers

License No. 000103827

Qualifying Broker; Montgomery, Alabama

Date of Hearing: February 16, 2023

Fined \$100

Sandra Lee Eldridge

License No. 000136519

Salesperson; Daphne, Alabama

Date of Hearing: February 16, 2023

Fined \$100

Nickie Givan

License No. 000131739

Salesperson; Montgomery, Alabama

Date of Hearing: February 16, 2023

Fined 100

Anne Reeves Hall

License No. 000083232

Salesperson; Fairhope, Alabama

Date of Hearing: February 16, 2023

Fined \$100

(Continued on page 7)

Mack Edwin Murrah Jr.**License No. 000112114**

Qualifying Broker; Columbus, Georgia

Date of Hearing: February 16, 2023

Fined \$100**Adra Gibson Washington****License No. 000125200**

Salesperson; Montgomery, Alabama

Date of Hearing: February 16, 2023

Fined \$100**Jeffery E. Bryant****License No. 000104999**

Salesperson; Albertville, Alabama

Date of Hearing: March 23, 2023

Fined \$100**Vianna Lakevia Dooley****License No. 000119141**

Salesperson; Auburn, Alabama

Date of Hearing: March 23, 2023

Fined \$300**Kimberly Maria Goldsby****License No. 000124911**

Salesperson; Birmingham, Alabama

Date of Hearing: March 23, 2023

Fined \$150**Judith L. Hamil****License No. 000016980**

Salesperson; Gadsden, Alabama

Date of Hearing: March 23, 2023

Fined \$100**Erica Lane Thomas****License No. 000139645**

Salesperson; Phenix City, Alabama

Date of Hearing: March 23, 2023

Fined \$500**Brian Josh Williamson****License No. 000085982**

Associate Broker; Duncanville, Alabama

Date of Hearing: March 23, 2023

Fined \$500**Whitney Leigh King****License No. 000116996**

Salesperson; Florence, Alabama

Date of Hearing: April 20, 2023

Fined \$100**Lauren Alexandra Moore****License No. 000145078**

Salesperson; Huntsville, Alabama

Date of Hearing: April 20, 2023

Fined \$250**Bill L. Nettles****License No. 000020466**

Qualifying Broker; Huntsville, Alabama

Date of Hearing: April 20, 2023

Fined \$100**Melissa Powe****License No. 000115117**

Associate Broker; Bessemer, Alabama

Date of Hearing: April 20, 2023

Fined \$100**Pamela E. Ward****License No. 000057734**

Salesperson; Birmingham, Alabama

Date of Hearing: April 20, 2023

Fined \$100**Danielle Lanette (Dani) Webster****License No. 000121170**

Salesperson; Bessemer, Alabama

Date of Hearing: April 20, 2023

Fined \$100**Jennifer K. Batchelder****License No. 000120807**

Salesperson; Summerdale, Alabama

Date of Hearing: June 22, 2023

Fined \$100**Sherri Ann Fauver****License No. 000149587**

Salesperson; Mobile, Alabama

Date of Hearing: June 22, 2023

Fined \$100**Kevin Fehr****License No. 000106802**

Salesperson; Birmingham, Alabama

Date of Hearing: June 22, 2023

Fined \$250**Sandra F. Varner****License No. 000033465**

Associate Broker; Deatsville, Alabama

Date of Hearing: June 22, 2023

Fined \$100**DISPOSITION**

The below was found guilty of violating Section 34-27-36(a)(15), as a salesperson, by advertising at an office and on Facebook without the name or trade name of the qualifying broker appearing prominently.

Toney Leshun Parker**License No. 000113726**

Salesperson; Meridianville, Alabama

Date of Hearing: April 20, 2023

Fined \$2,500 and required to take an approved 3-hour Alabama license law course within ninety (90) days of the order, in addition to the normal CE hours required.

DISPOSITION

The below was found guilty of violating Section 34-27-36(a)(19) by failing to comply with Rule 790-X-3-.15 by not taking action to prevent a licensee from violating state, federal, local, or license law while conducting licensed activity, when he had actual knowledge of the violation or should have had actual knowledge of the violation and guilty, as qualifying broker, by allowing a salesperson licensed under him to advertise without the name or trade name of the qualifying broker appearing prominently in advertising associated with an unlicensed branch office.

Michael (Mike) Mosley**License No. 000117660**

Qualifying Broker; Madison, Alabama

Date of Hearing: April 20, 2023

Fined \$5,000 and required to take an approved 3-hour Alabama license law course within ninety (90) days of the order, in addition to the normal CE hours required.

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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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, 2024

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

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REMINDER

Online payments to the Commission will show as "State of Alabama" on credit card and bank statements.



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