

## BRIEFLY LEGAL

# Property Management by Accident — and Worse

*By Charles R. Sowell, General Counsel*

**L**easing property on behalf of an owner seems easy. Property management is hard work. It also requires specialized knowledge such as how to comply with the Alabama Landlord and Tenant Act. It requires the same real estate licensing as is required for sales of property. Maybe this sounds like something everyone should know, but there is more to be said on this subject.

In the current market some homeowners need faster action than waiting on a sale. These owners sometimes turn to their listing agent, and ask him or her to find a tenant and to rent the property for them. If the listing agent's qualifying broker or company is engaged in property management, then the owner should be enrolled in that program. If the listing agent's broker or company is not engaged in

property management, the agent can make some bad choices.

**Bad choice #1:** The agent does not understand what the law requires, thinking he or she can do the management "off the books" to earn some extra income.

**Bad choice #2:** The agent DOES understand what the law requires, but decides he or she can do the management "off the books" to avoid having to share the fee or commission with the company. Either choice means the agent earns a fee or commission without it going through the qualifying broker. It means the security deposit and rental payments do not flow through the company escrow accounts. It also means the qualifying broker has no records, such as a copy of the lease agreement. These are serious license law violations.

All too often these choices result in real harm to con-

sumers. Real estate boards and commissions across the country are reporting this as one of their top problems right now. Agents who do not know what they are doing can cause as much harm as those who deliberately violate the law. Then there are qualifying brokers who mistakenly believe their agents can do management "off the books" without the broker being responsible. We have investigated situations like all of these. We even have pending and paid recovery fund cases involving various property management issues.

If you have any question about property management, please call our office. We cannot offer advice on compliance with the Landlord and Tenant Act, but we sure will guide you on the license law. ■



## In This Issue

Meet Your Commissioners .....	2
Your Are Invited to Attend 2012 Commission Meetings .....	2
Should You Ever Prorogue Education? ....	2
TECHNOLOGICALLY SPEAKING:	
The Digital Age Knows No Age .....	3
Feeling Disconnected? .....	3
LICENSING REVIEW:	
Activating Your Real Estate License .....	4
Inactivating a Company License .....	4
Have You Logged into Our Online Services Lately? .....	5
Qualifying Brokers: Remember to Print Your Real Estate Licenses .....	5
23rd Edition of License Law Book Now Available .....	5
DISCIPLINARY ACTIONS .....	
Official 2012 State Office Closings .....	8

## Meet Your Commissioners



The Alabama Real Estate Commission consists of nine Commissioners: seven who represent the congressional districts and two at-large members. Commissioners are appointed by the Governor and confirmed by the Senate to serve a five-year term.

The current Commissioners are, standing left to right: **Clif Miller** (Member-at-Large; Huntsville); **Carole J. Harrison** (District 3, Auburn); **Bill Watts**, Chairman (District 6, Birmingham); **Nancy Wright** (District 4, Cullman); **J. Reid Cummings** (District 1, Mobile); **Dorothy P. Riggins-Allen**, (Consumer Member-at-Large, Montgomery); **Danny Sharp** (District 2, Dothan); **Jewel D. Buford** (District 7, Tuscaloosa); and **Steve Cawthon**, Vice Chairman (District 5, Huntsville).



Scan the QR code to access contact information, congressional district maps, and term expiration dates or go to the Commissioner Directory at [arec.alabama.gov](http://arec.alabama.gov) under the "About Us" menu. ■

## YOU ARE INVITED

### To Attend 2012 Commission Meetings

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 2012.

<b>March 23</b>	<b>June 28</b>	<b>September 27</b>
<b>April 26</b>	<b>July 26</b>	<b>October 25</b>
<b>May 24</b>	<b>August 24</b>	<b>November 29</b>

The meeting dates and locations are subject to change. Please check the Commission's website ([arec.alabama.gov](http://arec.alabama.gov)); Facebook ([facebook.com/ARECalabamagov](https://facebook.com/ARECalabamagov)); or Twitter ([twitter.com/ARECalabamagov](https://twitter.com/ARECalabamagov)) for the most current information.

Meeting dates are also posted on the Alabama Secretary of State's website at [sos.alabama.gov](http://sos.alabama.gov) in accordance with the Alabama Open Meetings Act. Commission meetings are always open to licensees and the public — and you are invited to attend. ■

## Should You Ever Prorogue Education?

How many of you are aware of the number of puzzles/games that educate you by providing important information while actually being entertaining at the same time? You would be amazed at the number of beneficial games for both young children and adults. Well, the Real Estate Commission identifies this as an advantageous way of bringing important information to licensees. For example, the following are five clues for words each containing an important letter. Your challenge is to identify each word based on the clues and then take the five letters that appear in the circles and unscramble them to form the key word of this activity. The correct answer can be found in this issue of the *Update* with a beneficial explanation.

1. This is a common event for all individuals with a salesperson or broker license. It is required in order to continue with the license. [Alabama License Law Section 34-27-35(g)]

— — — — — ○ — — — — —

2. This is necessary for everyone in order to learn regardless of your career. Success in real estate requires "knowledge" as well as talent. You have some great employees at the Commission who oversee this area! [Alabama License Law Section 34-27-35(j)(1) and Rule 790-X-1-.11]

— — — — — ○ — — — — —

3. The length of time contained within each license period. [Alabama License Law Section 34-27-35(j)(1)]

— — — — — ○ — — — — —

4. A specific month stands out in the minds of licensees when it comes to license renewal...even though the following month is very important as well when it comes to CE. [Alabama License Law Section 34-27-35(g)]

— — — — — ○ — — — — —

5. Any broker, salesperson, or company is referred to as this and there are currently over 20,000 in Alabama. [Alabama License Law Section 34-27-35(i)]

— — — — — ○ — — — — —

Now unscramble the letters you have collected from your answers above and compare your final answer to the one in this issue of the *Update*, as well as read the explanation for that answer.

**Your Answer:** ○ ○ ○ ○ ○

**TECHNOLOGICALLY SPEAKING****The Digital Age Knows No Age***By Steven Brown, IT Systems Technician, Senior*

**R**ecently, I watched a video on YouTube titled “Webcam 101 for Seniors.” It features a couple attempting to use the webcam on their new laptop and unknowingly recording themselves. While humorous, it reminded me that there is no reason to not take advantage of today’s technologically advanced world whether you are entering pre-K or eligible for the discounted coffee at McDonald’s. This video also reminded me of my own parents who happen to be in their late 60s. While I’ve occasionally had to drag my parents into modern times, I think they’ll both readily admit that embracing technology has thoroughly enriched their lives.

A little over a year ago I attempted to get my parents to try social networking. I tried to explain to them how signing up for Facebook would be good for them. While a bit standoffish at first, after a few visits with other extended family members they realized how much they were missing. Now they can check up on the grandkids in Wisconsin, Michigan, and Utah at any time. They’ve also been able to reconnect with people they haven’t seen in years such as old high school friends.

The other big step into the modern era is my parents’ embrace of the smartphone. My father has been a smartphone user for a few years now, but my mother was completely against the idea until just a few months ago. After a bit of encouragement, she finally agreed to get an iPhone. I sat down with her and went over a few basics and haven’t heard one problem since. She takes pictures, chats, emails, checks Facebook, texts, and even occasionally makes a phone call.

Regardless of where you are in life, there is no need to be intimidated by, or not use, technology. You can have a smartphone or use social networking to stay connected to your clients as well as your family. While it can be intimidating at first, you may be amazed how quickly you pick everything up and wonder how you lived so long without it. I even think my one-year-old son has got his eye on an iPad! ■

**FEELING DISCONNECTED?**

Connect with the Commission on Facebook at [facebook.com/ARECalabamagov](https://www.facebook.com/ARECalabamagov) and Twitter at [twitter.com/ARECalabamagov](https://twitter.com/ARECalabamagov) for Commission meeting dates, rule changes, legislative news, *Update* newsletters, and more.

On the go? Download the Facebook and Twitter apps for your smartphone and other mobile devices.

If you have not signed up for Facebook and Twitter, registration for both is free and easy. Go to [facebook.com](https://www.facebook.com) and [twitter.com](https://twitter.com), click the sign-up link on each site, and follow the prompts to set up your free accounts.

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## LICENSING REVIEW

By Anthony Griffin, Licensing Administrator

# Activating Your Real Estate License

*The process of activating your real estate license depends on your status history during the current license period.*

**If you have not held an active license during the current license period** (currently we are in the 2011-12 license period), then you must ensure that you have completed your CE (continuing education) requirements before activating your license for the first time. Licensees are required to complete a total of fifteen (15) hours of CE. Of these fifteen (15) hours, three (3) hours must be in Risk Management and the remaining twelve (12) hours must be Commission-approved electives.

**Reciprocal licensees who have not held an active license during the current license period**, who have maintained an active license in another state, can submit a Certification of Licensure or letter from the real estate commission in the state where prelicense course work was completed and the licensing examination was passed, as credit for Alabama CE. The certification or letter must be dated within 120 days of Alabama license issuance and show that the license is active and current. Reciprocal

licensees, who have not previously submitted this documentation or who have not completed 15 hours in Alabama-approved courses, must do so before activating their Alabama license. You can always contact the Commission by phone or email to confirm if your Certification of Licensure or letter has previously been received.

If you are sure you have met your CE requirements, then you can proceed with activating your license by submitting a License Activation Form to the Commission with the fee. Associate Brokers and Salespersons can activate their license online at the Commission's website, [arec.alabama.gov](http://arec.alabama.gov), under Online Services.

If you are not sure you have completed the required CE, then there are two ways to verify with the Commission the classes and total hours that you have completed. First, you can go to the Commission's website, click on Online Services, log in and choose "Licensee CE credit" from the menu of services. Once you click on this link, it will list any courses and hours that

you have completed that can be applied toward activation of your license. Second, you can contact the Commission by phone or email and someone will be more than happy to assist you with verifying your CE credits.

If you discover that you have not met all CE requirements, then you can find out which Real Estate Schools are offering Commission-approved CE by performing a "Real Estate Course Search" from the Online Services section of our website. You will be able to view which schools are offering classroom CE in your area, as well as the CE courses that are available online.

**If you have already held an active license during the current license period** then, obviously, your CE requirements have previously been met. Therefore, you can activate your license whenever you choose during that license period. Any CE credits earned after activation will be applied toward the next license renewal period. ■

## Inactivating a Company License

The Commission realizes that for various reasons real estate companies cease business operations, creating the need to inactivate the company license number; therefore, the Commission has created a Company/Branch Inactivation Request Form that will allow real estate companies to inactivate their company license and/or branch license. Another feature of this form is that it will allow qualifying brokers to inactivate their license without having to submit a separate form.

There is no charge to inactivate a license, but there is a \$25.00 fee to transfer each license to another active company license.



2012 RENEWAL YEAR

**GET READY** to Renew Your 2013-14 License

This is a renewal year. Look for details in the **Renewal** issue of the *Update* coming this summer.



# Have You Logged into Our **ONLINE** SERVICES Lately?

If you have not had the opportunity to visit the Online Services section on the Commission website or if it has been awhile since you last logged in using your license number, then we invite you to do so today. Please go to [arec.alabama.gov](http://arec.alabama.gov) and click “Online Services” on the top menu to familiarize yourself with all available services. Our Online Services section has three “Start” links for you to get logged in. Beneath each “Start” link there is a bulleted list of its available services.

The first “Start” link connects to the “licensee” log in screen where you can log in using your license number to see the online services available to you. Even if you do not have an immediate need to perform an online licensing service—such as a license activation, inactivation, or transfer—it is still important to log in and setup your security questions, if you have not done so; and become familiar with the online services that you can perform. Another important benefit of logging in is that it enables you to view all of your personal contact information on file with the Commission and make changes to keep it up-to-date as required by law.

Once logged in, you can verify and make necessary changes to your home address, mailing address, email address and phone numbers by clicking the “Change Home Address” link and then selecting the appropriate field to change. There is no cost to update your personal contact information; however, **there is a \$25.00 fee to change a name on any active license**, since a new license has to be issued. If you need to make changes to a company name and address, this cannot be done online and must be submitted to the Commission in writing along with the appropriate fees.

**If you need assistance** with your log in or completing any of the online services, please contact the Commission offices at [arec@arec.alabama.gov](mailto:arec@arec.alabama.gov) or **334.242.5544**. ■

## QUALIFYING BROKERS REMEMBER to Print Your Real Estate Licenses.

### TO PRINT:

- Login to “Online Services” using your Company license number, **NOT** your Qualifying Broker’s license number.
- Enter the last four digits of your social security number.
- Enter your date of birth.



**Questions?** View our Official License Printing video at [youtube.com/ARECalabamagov](http://youtube.com/ARECalabamagov) or access it from our website, [arec.alabama.gov](http://arec.alabama.gov), under News and Events.

## 23rd Edition of License Law Book NOW AVAILABLE



Qualifying Brokers should have received a complimentary copy of the new 23rd edition of the License Law book (23rd Edition Revised 2011).

The supplement that you had with the 22nd edition has been incorporated into the 23rd edition, so there is no longer a need for the supplement.

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. The order form is on the Commission website, [arec.alabama.gov](http://arec.alabama.gov), under Quick Links.

# DISCIPLINARY ACTIONS

September 2011 through January 2012

## DISPOSITION

The below were found guilty of Count 1 for violating 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 coming into their possession being held for others by having a shortage of funds in the property account and Count 2 for violating Rule 790-X-3-.03(1) through Section 34-27-36(a)(19) as the qualifying broker did not have authority to deposit funds, withdraw funds, nor write checks on the property account.

### Mary A. Leo

**License No. 000020373**

Associate Broker; Huntsville, Alabama  
Date of Hearing: March 11, 2009  
Counts 1 and 2 - **Revoked**

### Leo Property Management, Inc.

**License No. 000069235**

Company; Huntsville, Alabama  
Date of Hearing: March 11, 2009  
Count 2 - **Revoked and fined \$2,500**

### Laura R. Smith

**License No. 000026783**

Qualifying Broker; Huntsville, Alabama  
Date of Hearing: March 11, 2009  
Count 2 - **Qualifying broker's license cancelled and replaced with a salesperson's license**

## DISPOSITION

The below was found guilty of violating Section 34-27-30 through Section 34-27-36(a)(19) for engaging in activities for which a real estate license is required while not actually being licensed.

### Coby Lake

**License No. 000072110**

Associate Broker; Birmingham, Alabama  
Date of Hearing: November 19, 2010  
**Revoked and fined \$2,500**

## DISPOSITION

The below were found guilty 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 which belongs to others or commingling money belonging to others with their



own funds and 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.

### Felicia Michelle Owens

**License No. 000067045**

Qualifying Broker; Selma, Alabama  
Date of Hearing: November 19, 2010  
**Revoked**

### N-Vest 4-U-1 Realty

**License No. 000074480**

Company; Selma, Alabama  
Date of Hearing: November 19, 2010  
**Revoked**

## DISPOSITION

The below was found guilty of violating Rule 790-X-1-.17(3) through 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.

### Ruth Page-Nelson

**License No. 000098070**

Continuing Education Instructor  
Approval; Auburn, Alabama  
Date of Hearing: September 23, 2011  
**Warning**

## 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.

### Michael Shane Taylor

**License No. 000052233**

Associate Broker; Talladega, Alabama  
Date of Hearing: November 18, 2011  
**Fined \$250**

### James T. Riley

**License No. 000096737**

Salesperson; Huntsville, Alabama  
Date of Hearing: January 19, 2012  
**Fined \$250 and ordered to pay the value of the check, \$25, and the \$30 returned check fee for a total of \$305**

## 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 F. Brown

**License No. 000048879**

Qualifying Broker; Tuscaloosa, Alabama  
Date of Hearing: October 21, 2011  
**Fined \$500**

### Wayne Andrew Sutton

**License No. 000092245**

Qualifying Broker; Atlanta, Georgia  
Date of Hearing: November 18, 2011  
**Fined \$1,000**

### Maxwell M. Oaks

**License No. 000080684**

Qualifying Broker; Cary, North Carolina  
Date of Hearing: January 19, 2012  
**Fined \$200**

## DISPOSITION

The below were found guilty of Count 1 for violating Section 34-27-36(a)(8)a. for commingling funds belonging to others with their own funds and Count 2 for violating Section 34-27-36(a)(8)b. for failing to deposit and account for at all times funds being held for others in a separate federally insured account by having a shortage of funds in the property management trust account.

### Judy Ann Young

**License No. 000070759**

Qualifying Broker; Bessemer, Alabama  
Date of Hearing: September 23, 2011

Count 1 - Fined \$500  
 Count 2 - Reprimanded and license suspended for 90 days with suspension stayed for 90 days pending completion of a 3-hour continuing education course that includes trust fund accounting

**Newcastle Homes, Inc.**

License No. 000083417

Company; Bessemer, Alabama

Date of Hearing: September 23, 2011

Count 1 - Fined \$500

Count 2 - Reprimanded

**DISPOSITION**

The below were found guilty of Count 1 for violating 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 belonging to, or being held for others, in a separate federally insured account or accounts in a financial institution located in Alabama by having shortages of funds in the escrow accounts; Count 2 for violating Rule 790-X-3-.04(3) through Section 34-27-36(a)(19) for failing to retain copies of the estimated closing statements in their files; and Count 3 for violating Section 34-27-36(a)(31) by failing to keep copies of the Real Estate Brokerage Services Disclosure Form in their files.

**Alice N. Turner**

License No. 000051568

Qualifying Broker; Citronelle, Alabama

Date of Hearing: October 21, 2011

Count 1 - Fined \$500

Count 2 - License suspended for 90 days, with suspension stayed for 90 days pending completion of the three-hour Risk Management for Property Managers course

Count 3 - License suspended for 90 days, with suspension stayed for 90 days pending completion of the three-hour RECAD course

**Bay Leaf Realty, Inc.**

License No. 000060159

Company; Citronelle, Alabama

Date of Hearing: October 21, 2011

Count 1 - Fined \$500

Count 2 - License suspended for 90 days, with suspension stayed for 90 days pending Ms. Turner's completion of the three-hour Risk Management for Property Managers course

Count 3 - License suspended for 90 days, with suspension stayed for 90 days pending Ms. Turner's completion of the three-hour RECAD course

**DISPOSITION**

The below were found guilty on Count 1 of violating and 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 by having shortages of funds in the escrow account and Count 2 for 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 which belongs to others by commingling escrow funds with their own funds.

**David Alan Dethrage**

License No. 000027115

Qualifying Broker; Anniston, Alabama

Date of Hearing: November 18, 2011

Counts 1 and 2 - Fined \$1250; License suspended for 90 days, pending comple-

tion of 60-hour broker course. Suspension stayed upon completion of course

**Home Realty Company, LLC**

License No. 000073656

Company; Anniston, Alabama

Date of Hearing: November 18, 2011

Counts 1 and 2 - Fined \$1250; License suspended for 90 days, pending Mr. Dethrage's completion of 60-hour broker course. Suspension stayed upon completion of course

**DISPOSITION**

The below was found guilty of violating Section 34-27-36(a)(23)a. for having entered a plea of guilty or nolo contendere to, or having been found guilty of a felony or a crime involving moral turpitude.

**Bradley Phillip Grimm**

License No. 000095397

Salesperson; Huntsville, Alabama

Date of Hearing: January 19, 2012

Revoked

**DISPOSITION**

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

**Yolanda Serritelli**

License No. 66929

Associate Broker; Deatsville, Alabama

Date of Hearing: November 18, 2011

**James F. Knight**

License No. 17038

Qualifying Broker; Gadsden, Alabama

Date of Hearing: January 19, 2012

**OTHER ADMINISTRATIVE ACTIONS**

**APPLICATION FOR LICENSURE**

Approved.....	8
Denied.....	4

**DETERMINATION OF ELIGIBILITY**

Approved.....	3
Denied.....	1

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

From Licensees.....	1241
From Public.....	807
Anonymous/Commission.....	23

**ANSWERS: Should You Ever Prorogue Education?** *(Continued from page 2)*

**Words:**

1. RENEWAL
2. EDUCATION
3. TWO YEARS
4. AUGUST
5. LICENSEE

**Correct Answer:**

**DELAY**

Remember this key word:

**DELAY.**

Do not DELAY in completing your CE for license renewal this year. Completing it now will give you more time in August and September to concentrate on any listings and contracts that you have at that time.

The deadline for license renewal is August 31 and licensees will still have until September 30 to complete all 15 hours of CE. Why postpone, or "prorogue," your education until then? Many licensees have done that in the past and were then forced to take several courses at the last minute. Your best plan is to take courses now and fulfill the CE requirement prior to the deadline so no sacrifices will have to be made.



# Real Estate Commission

1201 Carmichael Way • Montgomery, AL 36106

### OUR MISSION

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

### OUR VISION

To ensure excellence in the real estate profession.

### OUR VALUES

Excellence in stewardship, service, innovation, and integrity.

### COMMISSIONERS

Jewel D. Buford, Tuscaloosa

Steve Cawthon, Huntsville

J. Reid Cummings, Mobile

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Clifton Miller, Huntsville

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Danny Sharp, Dothan

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Nancy Wright, Cullman

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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 website at

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

### REAL ESTATE LICENSES EXPIRE

**SEPTEMBER 30, 2012**

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



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## OFFICIAL 2012 STATE OFFICE CLOSINGS

The Alabama Real Estate Commission is open Monday-Friday, 7:30 a.m.-4:30 p.m., except on these state holidays.

- April 23** .....Confederate Memorial Day
- May 28** .....National Memorial Day
- June 4** .....Jefferson Davis' Birthday
- July 4** .....Independence Day
- September 3** .....Labor Day
- October 8** .....Columbus Day
- November 12** .....Veterans Day Observed
- November 22** .....Thanksgiving
- December 25** .....Christmas Day