



BOUNDARY LINES

A LOUISIANA REAL ESTATE COMMISSION MONTHLY NEWSLETTER

Chairman's corner



It seems like yesterday when I was handed the gavel and took on the responsibilities of Chairman of the Louisiana Real Estate Commission. Over the past year, my role was made easy by the enthusiasm and commitment of fellow Commissioners, staff and stakeholders in fulfilling our mission.

Our goal of protecting the public interest in all real estate transactions has been focused on five (5) specific areas in 2012:

- I **Education** II **Communication**
- III **Compliance & Enforcement**
- IV **Update of Forms** V **Use of Technology**

In the area of education, the Commission moved forward with a new "course specific" instructor approval process, scheduled to take effect January 1. This process will help ensure that a knowledgeable and qualified instructor is teaching course content within their area of expertise. The Commission has also authorized the development of a complete new 45-hour Post Licensing course, scheduled for release in early

2013.

The unveiling of our new LREC website highlighted LREC 2012 efforts to improve communications with both consumers and stakeholders. In conjunction with our "Boundary Lines" monthly newsletter, Facebook and Twitter posts, LREC earned two national awards for the quality of our communication program.

Statistics indicate much improved compliance with Commission Rules and Regulations, especially in the area of advertising and proper disclosures. Checks of disciplinary actions published in our monthly newsletter indicate you may want to review your own escrow procedures to make certain you "dot the i's." Over 400 licensees failed to complete mandatory continuing education this past year, resulting in unnecessary fines and disciplinary action. Please check your education status and complete any outstanding requirement by December 31.

A review and update of all mandatory and recommended forms, including a revised Buy/Sell agreement is complete. Electronic versions are now posted for your convenience on our website.

LREC is now approaching 100% electronic capability to better serve licensees and consumers alike. You as a licensee can now renew online, access education records, check license history, pay a fine, complete and download forms, purchase E & O insurance and complete many other tasks in seconds. LREC now accepts online digital reporting from all real estate schools and other vendors, which enables LREC to maintain timely and accurate education records for all licensees.

Many thanks to Louisiana REALTORS and the Realtor Boards around the state for their valuable input and partnership with LREC in addressing the many challenges we faced in 2012. The dedication and hard work of my fellow Commissioners and LREC staff has made my 2012 tenure a rewarding journey.

HIGHLIGHTS: THIS ISSUE

Chairman's
Corner

Case
Study

E&O
Insurance

November
Citations

- Tim Flavin



ERRORS & OMISSIONS INSURANCE: They Are Not All the Same

As an active licensee you are required to carry errors and omissions insurance. The Commission contracts with an insurer to provide group rate premiums to licensees for this insurance. While licensees may obtain errors and omissions coverage on their own, the coverage must meet the minimum requirements set by the Commission.

The licensee is responsible for ensuring alternate coverage meets the Commission minimum requirements established for protection of consumers as well as real estate professionals.

A licensee shopping for errors and omission coverage should pay close attention to policy details when making

a comparison. While an item, such as coverage limits, may look to be the same, a policy may have stipulations and conditions that could reduce the actual amount paid in damages. In essence, this means the policy could have a lower limit of coverage. Other items to pay close attention to are deductible and additional coverage. For example, a policy with a \$1,000 deductible which applies to damages and defense costs would not meet the minimum of the Commission contracted policy which has a \$1,000 deductible for damages only (there is no deductible for defense costs).

The Commission-contracted plan also provides coverage for the sale or purchase of a licensee's personal residence, environmental areas, lock box liability and a whole lot more. All of these would be considered part of the minimum coverage.

The minimum requirements for alternate coverage include:

The underwriting carrier has to be "Best," rated "A" or higher.

The alternate coverage shall meet or exceed all terms and conditions of coverage, including deductible limits, provided in the 2013 CNA policy approved by the Commission.

If a licensee does not choose the Commission-contracted coverage, a "Verification of Independant Coverage" Form must be submitted at the time of the application, transfer or renewal. This form is currently under development and will be uploaded to our website shortly. The 2013 CNA Errors & Omissions policy can be found under the Licensing tab on the Commission web site www.lrec.state.la.us.

We've all heard the old adage "You can't judge a book by its cover." This holds true for E & O because you shouldn't judge your errors & omissions Insurance by the premium alone.

- Mark Gremillion

THE UNDERWRITING CARRIER HAS TO BE "BEST," RATED "A" OR HIGHER.

Holiday Closures

The LREC will be closed Dec. 24 & Dec. 25 as well as Dec. 31 & Jan. 1 for the holidays. We would like to wish the best to you and yours this holiday season.

- Les Patin

[[CASE STUDY]] disclosure

Rice Insurance Services Company, LLC has provided a list of the ten most frequently made claims against real estate licensees. An article on that list can be seen at a link on their website here.

As seen from the list, one of the top ten reasons for lawsuits/complaints is misrepresentation regarding the condition of the property. Material defects in residential property are often revealed "after" the closing. Sometimes, the buyers file a complaint with our office as they suspect that the agents knew about the problem and failed to disclose the information. Below is a case study that reflects this issue:

A complaint was received from a couple who had recently purchased a home in Metairie, Louisiana. Within two weeks of moving into their home, they were alarmed to discover termites swarming in their dining room and damage in the walls underneath the window sills. When they met with their local pest control company to inspect and treat the problem, they were told by one of the workers that the company had recently inspected the property and had found active Formosa termites. The couple immediately filed a complaint with LREC against the broker who was acting as a dual agent for the seller and the buyer. The complaint alleged that the broker had knowledge of the termite infestation before they closed on the property.

The ensuing investigation determined that the broker had ordered and paid for a termite inspection from the first company on behalf of the seller and that a copy of the report that documented that the subject property had active infestation had been mailed to the broker's office.

Rather than disclose the problem to her clients, the broker chose to deceive. The broker arranged for a second inspection from a company that agreed to provide a false certificate that reported no termites were found.

When confronted with the evidence, the broker admitted to the violation and the case was referred for a hearing. At a formal adjudicatory hearing conducted by the Louisiana Real Estate Commission, the Commission determined that the broker had violated the licensing law by failing to disclose a known material defect (LSA-R.S. 37:1455. A. (27)). The broker's license was suspended for 90 days and she was ordered to pay a fine of \$2,500.

Informal Adjudication: suspension & fine

Anthony L. Posey, a broker from New Orleans, was suspended for 180 days (November 15, 2012 through May 14, 2013). In addition to the suspension, the licensee was ordered to pay a fine in the amount of \$1,500 and the \$75 cost of the adjudicatory proceeding and to complete 30 hours of continuing education in Broker's Responsibilities (Real Estate 203) for: commingling money of his principals with his own (LSA-R.S. 37:1455. A. (6)), withdrawing client funds from his sales escrow account without the written consent of parties having an interest in the funds (Section 2715. A. of the Rules and Regulations), failure to properly disburse money which belonged to others (LSA-R.S. 37:1455. A. (5)), and failure to properly title his sales escrow account (Section 2701 A. of the Rules and Regulations). The consent order was approved pursuant to an informal adjudicatory proceeding by the Louisiana Real Estate Commission on November 15, 2012.

- Marsha Stafford



Investigator's Desk

Citations issued from November 1, 2012 to November 30, 2012.

The Investigation Division issued eight advertising citations during the month of November. The following list details the citations that were issued, most citations included multiple violations:

4

2501.B. - Failure To Place Broker's Phone Number In Advertisement

4

2501.D - Failure to Advertise as Licensed (Name or Brokerage)

2

2509 - Advertising Violations by Franchises

Follow us for all the latest updates!



November Citations

1

2515.C.4 - No Jurisdiction Shown in Website Advertisement

Licensees choosing to advertise using a name other than their legal name must register this nickname with the Commission. Licensees needing to register a nickname can find the DBA (Doing Business As) form on the Commission's website or by clicking here.

A broker in the state was issued a citation and ordered to pay a fine in the amount of \$300.00. This citation was issued for failing to have their records readily available and properly indexed upon inspection and also for improper labeling of their sales escrow account.

- Robert Maynor

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