



BOUNDARY LINES

A LOUISIANA REAL ESTATE COMMISSION MONTHLY NEWSLETTER

Chairman's corner



AN OUNCE OF PREVENTION

If a LREC investigator suddenly appears on your real estate office doorstep to conduct a records inspection, chances are there is no need to panic. In order to better educate and maximize compliance among our licensees regarding minimum standards for file content and record retention, our LREC investigative staff has vamped up random records inspections throughout the state. These inspections are not designed to be "gotcha" encounters where licensees are harshly disciplined for every technical issue that may be discovered. Most likely, an inspection may result in the LREC investigator finding complete compliance, or perhaps recommendations may be made for areas that need improvement. Of course, if significant or substantial violations are

uncovered, the appropriate adjudication of these infractions will be pursued.

Similarly, if you are a continuing education instructor, or attending a course offering, and a LREC investigator checks in to "audit" the course, don't jump to the conclusion that something must be wrong. LREC is simply stepping up field efforts to make certain that you, our licensee, is getting the benefit you should expect from any LREC approved course and/or instructor.

The above examples of our enhanced field work are elements of our outreach to identify potential problem areas, before they might otherwise escalate into consumer or licensee complaints. If you have a question about what should be maintained in your files and for how long, how to handle an escrow deposit, how to properly annotate offers, what continuing education is required, or any of the myriad other details involved with being a real estate professional, please call or email us, and you will get a courteous and timely answer.

You may also have noticed the increasing number of disciplinary proceedings published in our monthly "Boundary Lines" Newsletter. The disciplinary case studies cited in this publication are designed to provide awareness of typical violations and keep you and other licensees informed and in good standing.

Let's all contribute our "ounce of prevention" to avoid the "pound of disciplinary cure!"

- Tim Flavin

THIS ISSUE

Chairman's Corner

Investigator's Desk

Case Study

A License Revocation



Case Study

A REAL ESTATE DIVORCE

WHAT HAPPENS WHEN YOU AND YOUR BROKER PART WAYS?

The investigative staff often receives questions from agents who are making plans to leave their current sponsoring broker, either to set up their own company or to transfer to another brokerage. They often assume that they will be allowed to take their listings or pending contracts with them to the new firm and argue that they “own” the contracts since they initiated the relationship with the client. We first ask the agent if there was a written agreement (independent contractor agreement) with the broker that directed how the situation would be handled. We explain that the listing agreement is a contract between the seller and the broker (not the agent). The broker has the authority to designate an agent to represent the seller. Chapter 17 of the Rules and Regulations directs a licensee to “**relinquish ALL business related property**” to the broker when he terminates his relationship with their sponsoring brokerage.

When discussing the situation with the exiting agent, we advise that they must not offer any inducements or in any way encourage a party to a written contract involving the sale, lease or management of real estate to break the contract for the purpose of substituting a new contract with another licensee. It is not uncommon for a complaint to be filed against the agent by the former broker alleging that the agent encouraged one or more

sellers to cancel the existing listing contract in order to follow the agent to the new company, in violation of LSA-R.S. 1455. A. (8). Agents have given their clients directions on how they can cancel the current listing agreements and even how they might cancel an agreement to purchase or manage with the promise that the contracts can be executed in the future under the new brokerage.

Past investigations have revealed agents who have misrepresented that they were already sponsored by the real estate agency that they planned on joining, in violation of LSA-R.S. 1455. A. (13). Agents have even created business cards prematurely that represent them as working with the new agency before leaving their sponsoring broker. They want to secure the new client with the company that they plan on working with in the near future.

One investigation resulted in a formal adjudicatory hearing with severe sanctions for a salesperson from the Shreveport market area. The respondent was suspended for 90 days, ordered to pay a fine of \$2,500 and the cost of the adjudicatory proceedings for:

Representing or attempting to represent a real estate broker or real estate agency other than the licensee broker or agency listed on the license issued by the Commission

Inducing parties to written contracts involving the sale of real estate to break such contracts and substitute new contracts with a different licensee

- Marsha Stafford



August Citations

Citations issued for the period of August 2012:

- 1 -

A broker in the state was issued a citation and ordered to pay a fine in the amount of \$325.00 for failing to disburse a deposit within the required timeframe.

- 1 -

A salesperson in the state was issued a citation and ordered to pay a fine in the amount of \$75.00 for failing to disclose in his/her advertisement of property that s/he was the owner of the property and a licensed agent.

TEAM ADVERTISEMENTS: a note

The Investigation Division is still issuing a large number of citations for team advertisements. Licensees advertising with a team name must include the names of all team members in the advertisement. Also, any person listed as a group or team member in an advertisement must be a licensee sponsored by the sponsoring broker.

For more information on Team Advertising, please refer to our rules and regulations on our website.

- Robert Maynor

Informal Adjudication: REVOCATION

At a formal hearing held July 19, 2012, the individual real estate broker's license issued to Tonuary W. Robinson of Shreveport, Louisiana, was revoked and she was fined \$5,000. Robinson was the qualifying broker of America's Best Realty, LLC and this corporate license was also revoked.

The Commission determined that the following violations occurred: failure to place a \$5,000 cash sales deposit into the sales escrow account (2701. A. of the Rules and Regulations and LSA-R.S. 37: 1455. A. (2); funds withdrawn from the sales escrow account without first obtaining the mutual written consent of all parties having an interest in the funds (2715. A. 1 of the Rules and Regulations of the Commission and LSA-R.S. 37: 1455. A. (2); failure to account for trust money (LSA-R.S. 37: 1455. A. (4); failure to properly disburse money which belonged to others (LSA-R.S. 37: 1455. A. (5); and commingling personal funds with client funds, in violation of LSA-R.S. 1455. A. (6).

- Marsha Stafford



Isaac & Social Media

A LETTER FROM THE EDITOR

Good Day Louisiana!

We at the LREC hope you all fared well during Hurricane Isaac. We apologize for any inconveniences the storm may have caused with the LREC being closed through last Friday. Unfortunately, for much of that time, our website was also down, making it nearly impossible to get some things accomplished. For that too, we apologize.

If there's one professional lesson this storm taught me, it's that no matter what, social media never sleeps. We tried to ensure everyone was informed about closures, but we did lose

connection for about a day. When connection was restored, we found that we had quite a few responses from the day we were not available. I realized when people can't turn to telephone or email, social media is still active, still connecting. In those few days during and after the storm, social media was the only way for anyone to connect with the LREC. We worked to answer everyone's concerns as quickly as possible, and we were glad to see people utilizing Facebook & Twitter to stay up to date on office closures.

We do our best to monitor social media closely. It's just another way that we try to be available to you.

- Les Patin

Follow us for all the latest updates!



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