



BOUNDARY LINES

A LOUISIANA REAL ESTATE COMMISSION MONTHLY NEWSLETTER

Chairman's corner



CONTINUING EDUCATION

A Few Tips

IF you haven't completed your four hour mandatory education, or your eight hours of elective continuing education for 2013, now would be a great time to get started! This year's mandatory course covers the intricacies of Louisiana contract law and our mandatory residential purchase agreement. Your LREC has also approved over 700 elective continuing education courses for you to choose from in enhancing your real estate acumen, while meeting your legal requirements for continuing education.

When registering for courses, please make certain you sign in using your name as registered with the Commission, with your correct license number. Failure to do so may result in your course provider not being able to furnish the Commission with evidence that you fulfilled your education

requirement. Whether you choose "online" or "live" classroom venues, there are multiple options available to you.

Although completing required continuing education is a core annual requirement for a licensee to remain in good standing, approximately 5 percent of all active licensees fall short every year of fulfilling their continuing education requirements, and find themselves having to pay a fine and make up for any deficiencies.

WHEN REGISTERING FOR COURSES, PLEASE MAKE CERTAIN YOU SIGN IN USING YOUR NAME AS REGISTERED WITH THE COMMISSION, WITH YOUR CORRECT LICENSE NUMBER.

Within the next 30 days, the Commission will be sending notices to all licensees who have not provided evidence of satisfactorily completing their 2012 education requirements. If you are in that unfortunate number, and believe you have taken the necessary courses, instructions will be provided in the notice to simply furnish evidence of your coursework and you will be cleared from this audit.

Do yourself a favor and don't wait until the hustle and bustle of year-end holidays distracts you from completing your 2013 continuing education. Select the right courses and provider that best fits your needs now. Chances are you may learn something!

- Pat Caffery

HIGHLIGHTS: THIS ISSUE

Chairman's
Corner

CE
Audit

Paying
the Team

Case
Study



MAY citations

Citations issued from April 1 to April 30, 2013:

The Investigation Division issued 18 advertising citations during the month of May. The following list details the citations that were issued (most citations are issued with multiple violations):

8

2501.A. - Failure To Identify Listing Broker In Advertisement

7

2501.B. - Failure To Place Broker's Phone No. In Advertisement

2

2509.A. - Advertising Violations by Franchises

1

2515.C.3 - No City, State, Country in Website Advertisement

5

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

Additional Citations issued in April:

A broker was issued a citation and ordered to pay a fine in the amount of \$300.00 for violating **LSA-R.S.37:1449.D.** and **Chapter 27, Subsection 2701.A.** of the Rules and Regulations. The broker failed to ensure that the "Sales Escrow Account" was properly titled. This broker also failed to have documents readily available and properly indexed for a period of five years.

A broker was issued a citation and ordered to pay a fine in the amount of \$325.00 for violating **Subsection 2901.A.** of the Rules and Regulations. This broker failed to properly disburse a sales escrow deposit that was held in connection with the sale of real property.

A salesperson was issued a citation and ordered to pay a fine in the amount of \$225 for violating **Subsection 3901.B.** and **Subsection 3703.A.** of the Rules and Regulations. This salesperson failed to annotate the date and time the offer was signed and presented. This salesperson also failed to provide the agency disclosure informational pamphlet or the agency disclosure form to all parties to a real estate transaction involving the sale or lease of real property.

A broker was issued a citation and ordered to pay a fine in the amount of \$225 for violating Chapter 27, **Subsection 2701. A.** and **Chapter 27, Subsection 2701.B.** of the Rules and Regulations. This broker failed to title the rental trust properly as the wording "Rental Trust Account" was not imprinted on all checks and bank statements issued in connection with this account. This broker also failed to open and maintain a sales escrow account while holding funds on behalf of clients in a real estate sales transaction.



- Robert Maynor



Team Names Team Advertising Team Violations

The investigative staff has recently received emails, photographs and telephone calls concerning advertisements that promote teams. As a result, there have been several new citations issued. Some team members are using advertisements wherein they refer to themselves as CEO, Vice-President, Founder or Top Listing Agent of a team. Also, some team names include specific words that are usually identified as part of a company name (Associates, Group, Company, or Realty) as in: Stafford and Associates, Stafford Realty of the Gulf Coast, Stafford and Company, etc. This type of promotion is misleading to the public and violates the licensing law (LSA – R. S. 1455. A. (35) Using advertising that is misleading or inaccurate).

Real estate teams or groups are not registered or licensed by the Louisiana Real Estate Commission. When a group or team name is used in any advertisement, the rules and regulations mandate that the name(s) of the licensed team members must be listed near the team reference. The rule also states that the team name may not be misconstrued as that of a company name. When the team name is promoted with bold graphics and the placement of the licensed company is minimized, a determination may be made that the advertisement fails to comply with the law and or the rules and regulations of the Commission.

In all advertising, the salesperson or associate broker must include the name and telephone number of the sponsoring agency which must be conspicuous, discernible and easily identifiable by the public. If the licensed firm is affiliated with a franchise organization, the advertisement must include the disclosure that

each firm is “independently owned and operated.”

When using the internet for advertising, there are two additional items that must be included: the city and state in which the main office or branch office is located and the regulatory jurisdiction in which the broker holds a license (Licensed in Louisiana). Advertisements on the internet must include this information on “each page of the site on which the advertisement appears.” When using any email communication

WHEN THE TEAM NAME IS PROMOTED WITH BOLD GRAPHICS AND THE PLACEMENT OF THE LICENSED COMPANY IS MINIMIZED, A DETERMINATION MAY BE MADE THAT THE ADVERTISEMENT FAILS TO COMPLY WITH THE LAW AND OR THE RULES AND REGULATIONS OF THE COMMISSION.

for marketing or advertising, this information must be on either the first or last page of an email. Our staff recommends that the information be included on the signature section of the email.

During the last several months there have been numerous citations issued as a result of advertising violations. Two of these citations were issued to a licensed salesperson who is a “team leader.” The first citation was issued as a result of a Craigslist advertisement wherein the advertisement failed to include the following: name and telephone number of the brokerage, the city and state of the agency’s main or branch office, and the disclosure that the firm was a franchise and therefore “independently owned and

[Continued on next page]

operated.” Only the team name was represented in the advertisement. The salesperson was fined \$75.

Several months later, a second citation was issued to the same licensed salesperson for the use of a banner which contained only the team name. The promotional banner was determined to violate the advertising rule because the team name appeared to be that of a company name. Also, the salesperson failed to include the name and number of the sponsoring company, the licensed name of the team members, and the disclosure that the office was independently owned and operated. The salesperson was fined \$150 as a second time offender.

If a third citation is issued to any licensee, the Commission has determined that the agent and their sponsoring broker would be required to participate in a formal adjudicatory proceedings for the purpose of determining whether they had violated the law or rules and regulations of the Commission, being cause for the Commission to censure a license or conditionally or unconditionally suspend or revoke a license, levy fines or impose civil penalties not to exceed five thousand dollars, or impose continuing education requirements on the license.

- Marsha Stafford

SOCIAL TALK

LET US KNOW HOW WE'RE DOING!

AS ALWAYS, WE'RE LISTENING!

SURVEY

Informal Adjudication: suspension & fine

A Stipulations and Consent Order between Charles Gabriel Lewis and the Louisiana Real Estate Commission was executed on June 11, 2013, at an informal hearing. The Consent Order was approved on June 20, 2013.

Charles Gabriel Lewis, a licensed real estate broker from Lafayette, Louisiana, was suspended for thirty days (July 1, 2013 through July 30, 2013). The respondent was ordered to pay a fine in the amount of \$1,500 and the \$75 cost of the informal adjudicatory proceeding. Lewis was also ordered to complete the 30 hour broker responsibilities course for the following violations:

Failure to relinquish all business related property to the sponsoring broker when he terminated his business relationship with the agency (Chapter 17. Section 1701. A. 1. and 2.),

Failure to include the required information (city and state of the main office and the jurisdiction in which he held a license) when placing an advertisement on the internet for property to be leased (Chapter 25. Section 2515. C. 3 and 4),

Failure to title his rental trust account and security deposit trust account properly (Chapter 27. 2701. B. and C.),

Failure to maintain records to be readily available and properly indexed (LSA-R.S. 37:1449. E.),

Failure to notify the Commission within 10 of days of the institution of criminal prosecution by arrest wherein the subject matter involved a real estate transaction in which he was acting as a licensee (LSA-R.S. 37:1450. A. 2.),

Representing a real estate agency other than the licensed agency listed on his real estate license issued by the Commission (LSA-R.S. 37:1455. A. (8), and

Offering real estate for lease without the written consent of the owners (LSA-R.S. 37:1455. A. (11).

- Marsha Stafford

CONTINUING EDUCATION *audit 2013*

**Director of Education and Licensing
Mark Gremillion reports that the 2013
Continuing Education Audit is underway.**

THE NUMBERS

The Education Division has provided Investigative Division with the names of over 1,400 licensees who appear to have failed to complete their continuing education requirements.

THE PROCESS

The notices are expected to go out on July 5, 2013. These notices will be sent by regular post mail to the licensee and, when applicable, their sponsoring or qualifying broker. The licensees will have 15 days to respond by either providing a signed stipulations and consent order or certificates of completion for the 12 hours of continuing education, including the four (4) hour mandatory topic *“ADVERTISING RULES & REGULATIONS – 2012 MANDATORY TOPIC.”* The hours submitted must have been completed prior to the licensee’s renewal. Licensees who fail to respond to the audit will be issued a cease and desist order. This order will require they cease from engaging in real estate activity until such time as they comply with the Commission’s request. This notice will be sent by certified mail to the licensee and his/her broker. Licensees caught practicing while under a cease and desist order will face additional penalties.

As always, licensees can view their education transcript at <http://www.lrec.state.la.us/licensee-search/>.

- Les Patin

PAYING *the* TEAM

When a team is formed within a brokerage, it can sometimes take on a feeling of anonymity, as if set apart from the brokerage from which it developed. Teams have their own names, their own members and often set up their own corporations. However, it is not to be forgotten that teams are still part of the larger brokerage, and everyone within the team ultimately still answers individually to their sponsoring or qualifying broker.

Transactions involving teams are no different than any other transactions as far as the Commission is concerned, especially when it comes to the payment of commissions. Licensees are under the false assumption that 1446.G allows their broker to disburse the “teams commissions” to one team member, who is then responsible for disbursing it among the team members.

However, commissions earned are to be paid to a licensee by the sponsoring broker only, not a team leader.

LSA-R.S.37:1446.G was created to allow licensees to take part in some of the tax advantages that are available to corporations.

However, commissions earned are to be paid to a licensee by the sponsoring broker only, not a team leader.

Director of Investigations Robert Maynor recommends that licensees consult a CPA to determine whether setting up a corporation is in their best interest. He added that before brokers pay commissions to corporations, they should verify that the “associate broker or salesperson is the sole officer, director, and shareholder, and/or an unlicensed limited liability company of which the associate broker or salesperson is the sole manager.”

- Les Patin



GOVERNOR APPOINTS NEW COMMISSIONER: Evelyn Wolford

Orleans. She is currently married with two adult children and enjoys frequent international travel. Civic involvement has included participation with the Friends of City Park, the Visiting Nurses Association and Neighborhood Development district among other organizations.



Chairman Patrick T. Caffery, Jr. swore Evelyn Wolford as the newest LREC Commissioner on Thursday, June 20, 2013.

EVELYN WOLFORD is currently a Broker Associate with Latter & Blum, Inc/REALTORS® in New Orleans managing the Westbank office and has been licensed with LREC since 1987. Upon completing her studies at Georgetown University, she began her professional career managing a historic restaurant in Washington, DC close to the White House. Subsequent moves around the country included hotel and restaurant management, followed by several years of operating a real estate development in central Mississippi before returning to her native New

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Chairman

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