



# BOUNDARY LINES

A LOUISIANA REAL ESTATE COMMISSION MONTHLY NEWSLETTER

## Chairman's corner



### Growth by the Numbers

If the number of Louisiana real estate licensees renewing their licenses for 2014 is an indicator of the health of the industry in the Pelican state, then we can conclude our real estate industry has finally turned the corner. After witnessing a steady five year decline in the renewal rate and total number of those practicing real estate, 2014 marks a sharp turnaround!

As of mid-March, approximately 95 percent of all active real estate licensees have renewed their license for 2014. The total number of current Louisiana licensees now stands at 19,336. Another positive indicator is the substantial increase in the number of new salesperson applicants processed in 2013. More than 1,600 fresh faces are now entering the industry in Louisiana, up more than 10 percent from previous years.

Another positive sign is that approximately 85 percent of all those renewing licenses took advantage of our paperless online system, which has proven to be a benefit to both licensees and the LREC staff in efficiently and effectively completing the process. Our electronic reporting system that allows Continuing Education providers to get your completed credits to us quickly and accurately also indicates our licensees are taking advantage of their educational opportunities, with an estimated

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97 percent compliance with legal requirements.

However, if you are among those who wish to maintain your real estate license and for whatever reason have not renewed, time is running out! March 31 is right around the corner and marks the last possible date that any delinquent renewal may be processed.

While some might still see the glass half empty, it appears to me the glass is now at least half full!

**Paul Burns**

### HIGHLIGHTS: THIS ISSUE

**Chairman's  
Corner**

**Referral  
Fees**

**Check Your  
Status**

**Case  
Study**



## CASE STUDY:

# Escrow NSF & Practicing Without a License

*The Chief Investigator received a complaint concerning an escrow deposit check disbursed at a closing that was returned as NSF. The company's qualifying broker was named as the respondent. Although the deposit funds were provided to the title company by the broker when the NSF was reported, the investigation ensued and it was determined that several violations had occurred. The case was referred to the Commission's Hearing Examiner for adjudication.*

## VIOLATIONS

The broker had accepted a \$1,500 deposit from the proposed purchaser of real estate on Jan. 15, and the funds were promptly deposited into the sales escrow account. The closing was scheduled to be conducted on March 8, and the broker did deliver a check from her escrow account in the amount of \$1,500 to the title company on that day.

The check was received and negotiated by the title company but the funds were returned and marked NSF. The broker did fail to account for the \$1,500 coming into her possession, in violation of **LSA-R.S. 37: 1455. A. (4)**.

The investigation revealed that the broker had delinquent renewed her license on March 29 and therefore participated in a real estate transaction after the expiration of her license and before she delinquent renewed, in violation of **LSA-R.S. 37: 1442. A.** and **LSA-R.S. 37: 1455. A. (1)**.

When the respondent submitted her application to delinquent renew her broker's license, she provided the Delinquent Affidavit as required. She had appeared before a Notary Public and executed the affidavit claiming that she had not engaged in real estate activities

requiring a license before delinquent renewing her license. This statement was false as she had participated in the real estate transaction in January and did not renew her license until the end of March; therefore, she filed with the Commission a document required under the provision of the

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License Law that was false and which contained a material misstatement of fact, in violation of **LSA-R.S. 37: 1454** and **LSA-R.S. 37: 1455. A. (1)**.

This matter was adjudicated through an informal hearing wherein the broker executed a Stipulation and Consent Order. It was the order of the Commission that the individual real estate broker's license be revoked.

- Marsha Stafford

## FEBRUARY citations

### *Citations issued from February 1, 2014 through February 28, 2014.*

The Investigation Division issued fourteen (14) advertising citations during the months of February. The following list details the citations that were issued (some citations were issued for multiple violations):

3

**2501.A.** - Failure to identify listing broker in advertisement

3

**2501.B.** - Failure to place broker's phone number in advertisement

1

**2501.G.3** - Team advertisement

3

**2509** - Advertising violations by franchises

1

**2515.C.3** - No city, state, country in website advertisement

4

**2515.C.4** - No jurisdiction shown in website advertisement

4

**2501.D** - Failure to advertise as licensed(name or brokerage)

### *Additional citations issued in February:*

Three salespersons were each issued citations and ordered to pay a fine in the amount of \$150 for violating provisions of **Chapter 39** of the Rules and Regulations. Two were cited as designated buyers' agents who failed to annotate the time of day and date an offer or counter offer was submitted. A third licensee was cited and fined for failing to annotate the time and date an offer was presented to his/her seller.



- Robert Maynor

# What's the Hold Up?

## RENEWAL PROCESSING ERRORS

March 31, 2014 marks the last day a license can be renewed for 2014. By April 1, any licensee who has not renewed but wishes to practice real estate in any capacity must go through the application process as a new licensee. This also holds true for any company license not renewed. What's more of an issue is the licensees who assume they have renewed their license—they went through the process, paid all the fees and signed on the dotted line—but have not.

According to Director of Licensing & Education Mark Gremillion, "There are many little things that a licensee can do during the renewal that will cause an error." According to Gremillion, when an error arises, the license cannot be renewed until the issue is resolved. Gremillion highlighted some of those issues that arise:

1. **Delinquent Affidavit:** One of the major problems Gremillion and his team are facing are licensees who renew delinquent, but who do not send in the delinquent renewal affidavit form with their renewal.
2. **E&O Coverage Mistakes:** Licensees who do not send in the fee for the Commission-sponsored E&O coverage and who do not indicate that they have coverage from an outside provider.
3. **Renewal Form:** Licensees who fail to sign their renewal form, or licensees who send in a fee but fail to send in the form.

4. **Delayed Broker Renewal:** A broker's failure to renew prevents any licensee sponsored by that broker from performing any real estate activities. A licensee should inform his/her broker that he/she is prevented from working as long as the broker is not renewed.

Gremillion noted that the Commission will send out notices to licensees when an error occurs, but they aren't always successful in getting a response. A simple step of checking the status through the Licensee Search link to verify a status can save a license.

## TRANSFER VS RENEWAL

Many licensees send in the **Transfer License to Inactive Status** form during the renewal period thinking this is all they need to do to place a license in the Inactive Status for 2014. Commission staff attempt to notify these licensees that an Inactive license must be renewed each year and that the **Transfer to Inactive** form does not renew a license. The form even has a note on it that states: *(Do not use this form during the renewal period. The renewal form should be used to transfer to inactive and renew to insure your license transfer is handled correctly).*

The Commission staff does their best to determine a licensee's wishes; but if a Transfer to Inactive form was received prior to the renewal period, that licensee would have received an Inactive renewal form for 2014. Many of these licensees overlook the renewal notice because they believe they have already renewed their license.

- Mark Gremillion  
& Les Patin

# REFERRALS VS COMMISSIONS

# What You Should Know

A major misconception involving referral fees is that these fees are not commissions, and that those who handle referrals for a fee do not have to have an active license registered with the Commission. However, referral fees are considered a commission, and an active license is required for someone to obtain such fees. An active license requires errors and omissions insurance. Many referral agents think they have an inactive license and therefore are not required to carry E&O insurance.

In an attempt to save paying some of the

fees associated with holding an active license (i.e. board dues, MLS fees, REALTOR® fees), many licensees think that becoming a referral agent in some way puts their license in an Inactive status. This thinking can sometimes be further confirmed by a broker who will move the license to a company license that only sponsors referral agents and tells the licensees involved that they can no longer practice real estate. This, in turn, gives the licensees a false assumption that their license has been moved to an Inactive status.

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