



ARIZONA DEPARTMENT OF REAL ESTATE BULLETIN

Volume 2015 • Issue 4



Judy Lowe
Commissioner

COMMISSIONER'S
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Commissioner's Advisory No. 5 CLOSING STATEMENT

Released November 6, 2015

This Advisory is offered as a guideline for the Designated Broker to determine the Closing Document that will be required in the Designated Broker's Closed Transaction file for at least five years from the date of the Closing of the transaction.

This Advisory is informational only and is not intended as legal advice.

Q. What is the Closing Document that will be required in the Designated Broker's Transaction file for at least five years from the date of the closing of a transaction?

A. A Closing Statement that conforms to statutory/rule requirements of the Arizona Revised Statutes, Title 32 and the Arizona Administrative Code, Title 4.

With the implementation of the Federal Government's Consumer Financial Protection Bureau TRID (CFPB-TRID) rule and its guidelines, the Arizona Department of Real Estate (ADRE) has received many questions from the real estate industry regarding the ADRE statutory and rule requirements for the Closing Statement.

Let's review what the Statutes and Rule indicate.

Definition of "Closing": "Closing" means the final step of a real estate transaction, such as when the consideration is paid, all documents relating to the transaction are executed and recorded, or the deed is delivered or placed in escrow. AAC R4-29-101.

Records to be retained by the Designated Broker: The records required by this section shall include copies of earnest money receipts, confirming that the earnest money has been handled in accordance with the transaction, closing statements showing all receipts, disbursements and adjustments, sales contracts and, if applicable, copies of employment agreements. ARS § 32-2151.01 (A); and

Sales transaction folders shall include: A complete copy of the sales contract, any escrow account receipt, any closing or settlement statement, and, if applicable, a copy of the escrow instructions, listing agreement, employment agreement and release of escrow monies. ARS § 32-2151.01 (F) (2) and also, AAC R4-28-802 (C) states, "Transaction Statements." In addition to the requirements of ARS § 32-2151.01 and 32-2174, the broker shall retain true copies of all receipts and disbursements, or copies of the executed and delivered escrow closing statements that evidence all receipts and disbursements in the transaction.

The CFPB-TRID Closing Disclosure (CD) form will not comply with the above, since it is only delivered to the Buyer/Borrower, and not the Seller, therefore, the CFPB-TRID Closing Disclosure (CD) form should **not** be held in the Designated Broker's sales transaction folder as the Closing Statement.

A final Closing Statement per the Arizona Statutes and Rule must be included in the Designated Brokers closed transaction file.

Commission Disbursements must be authorized by the Designated Broker, and a licensee cannot accept compensation as a licensee for the performance of real estate activity from any person other than the licensed broker. ARS § 32-2153 (A) (7).

Definition of "Compensation" means any fee, commission, salary, money or other valuable consideration for services rendered or to be rendered, as well as the promise of consideration whether contingent or not. ARS § 32-2101 (16).

COMMISSIONER JUDY LOWE

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COMMISSIONER'S CONNECTIONS



Commissioner Lowe speaking on a panel at the October, 2015 "O" Event.



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Q. Before the arrival of the railroad in 1887, where did Phoenicians go to catch the train?



A. Maricopa (16 hours by stagecoach)

COMMISSIONER'S CONNECTIONS



Commissioner speaking at a Solutions Real Estate Office Meeting.



Commissioner Lowe, with the Maricopa County Hispanic Association of Real Estate Professionals (HAREP) addressing CFPB-TRID from the ADRE perspective on September 16, 2015.



Commissioner Lowe met the Pinal County Hispanic Association of Real Estate Professionals (HAREP) on September 23, 2015. It was a "packed house". Pictured above with the Board of Directors.



Commissioner Lowe speaking to the Tucson Association of REALTORS® on November 2, 2015.

PLANNING A COMPANY EVENT? To stay up-to-date with what's happening in real estate, and to hear "What's Making the Phone Ring at ADRE?," invite Commissioner Lowe to speak to your group.

For scheduling a potential date, contact Sarah Dobbins, the ADRE Chief of Staff at sdobbins@azre.gov or Louis Dettorre at ldettorre@azre.gov

ARELLO Board of Directors



STATE OF ARIZONA DEPARTMENT OF REAL ESTATE

DOUGLAS A. DUCEY
GOVERNOR

JUDY LOWE
COMMISSIONER

2910 NORTH 44TH STREET, SUITE 100, PHOENIX, ARIZONA 85018

TEAM - "TOGETHER EVERYONE ACHIEVES MORE"

For Immediate Release:
November 5, 2015

Contact: Louis Dettorre,
Assistant Commissioner Operations/ Legislative Affairs

Commissioner Lowe Re-Appointed As District Director to the 2016 ARELLO Board of Directors

Judy Lowe, Arizona Department of Real Estate Commissioner, proudly accepted re-appointment as a District Director of the 2016 ARELLO Board of Directors during the September, 2015 Association of Real Estate License Law Officials (ARELLO) Conference in Washington, D.C.

In this capacity, Commissioner Lowe will continue to work collaboratively with agencies from across the U.S. and the world to further the mission of protecting the public.

ARELLO, which celebrated its 85th year at this year's conference, was founded in 1930 with the purpose of, "Supporting jurisdictions in the administration and enforcement of real estate license laws to promote and protect the public interest".

Commissioner Lowe commented that, "participation on ARELLO's Leadership team has afforded Arizona the opportunity to gain invaluable insights from other States and has also given a platform in which to share Arizona's accomplishments. The core values of ARELLO align with ADRE's mission to, 'protect the public interest through licensure and oversight of the real estate profession in Arizona.'"

Core values of ARELLO include protection of the public interest; freedom from undue influence, the exchange of information and the creation of knowledge; and an inclusive community, with cooperation among regulators and jurisdictions.

Commissioner Lowe is proud to accept this duty and looks forward to continuing to represent the State of Arizona on the 2016 ARELLO Board of Directors.

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"AN EQUAL EMPLOYMENT OPPORTUNITY AGENCY"
WWW.AZRE.GOV

Electronic Fingerprinting System-Coming Soon!

We are pleased to announce that the Arizona Department of Public Safety (DPS) will soon roll out the Electronic Fingerprint Application System (EFAS) to expedite the Fingerprint Clearance Card Application process.

Fieldprint is the new vendor who has contracted with DPS to administer the electronic fingerprint application process. Fieldprint plans to have at least one location in each county and over 30 fingerprint locations throughout Arizona beginning this fall or early next year. Fingerprint Clearance Card (FCC) applicants will simply log on to the Fieldprint website at <https://www.fieldprint.com/> to start the process. The online application process will include the following steps to:

- Submit the application for fingerprinting and the FCC
- Schedule an appointment at a convenient Fieldprint location
- Pay the fingerprinting and FCC application fee by credit card

The electronic system is not only faster, it is more accurate which should help reduce the number of rejected fingerprint cards. Once the prints are scanned, the system automatically sends the electronic prints to DPS to review and issue the FCC or denial. Applicants will be encouraged to use the new system but may continue to submit the fingerprint card and application through the existing traditional paper application process. The fee to roll electronic prints will be built in to the FCC application fee and may even cost less than the traditional process.



The Arizona Registrar of Contractors Licensing Requirements

Just as an individual working unlicensed as a real estate agent negatively impacts the livelihoods of licensed agents and poses untold financial and safety risks for the public, contracting work performed by unlicensed entities poses devastating effects on the safety and welfare of the public and livelihoods of Arizona's licensed contracting professionals.

The Arizona Registrar of Contractors is a state agency and serves two core functions; licensing and regulation of the licensing of contractors.

Currently, there are approximately 38,000 licensed contracting entities in the State of Arizona with 106 classifications ranging from landscaping and painting to general contracting and carpentry, remodeling and repairs.

The importance of a residential buyer or seller using a licensed contracting professional begins with the assurance that the work will be completed by an individual with the knowledge and experience required to perform the work and ends with their potential access to a restitution fund, known as the Registrar's Residential Recovery Fund, if the contracted-for work fails to meet professional industry standards.

As one can imagine, Arizona Revised Statutes and Rules related to contracting can intimately relate to the work encountered by Arizona's licensed real estate agents on a daily basis.

Though certainly not an exhaustive list, the Arizona real estate industry likely comes into contact with work impacted by ROC contracting licensure requirements, including ARS 32-1121(A)(14); ARS 32-1121(A)(5) & (A)(6); ARS 32-1151; and ARS 32-1169.

The term handyman is one many use to generally mean an individual who can fix many, if not all, small projects around the home. In Arizona, however, statute dictates the work allowed to be done by an unlicensed individual acting as a handyman. Specifically, ARS 32-1121(A)(14), or the so-called "handyman exemption," is as follows:

32-1121. Persons not required to be licensed; penalties; applicability

This chapter shall not be construed to apply to:

Any person other than a licensed contractor engaging in any work or operation on one undertaking or project by one or more contracts, for which the aggregate contract price, including labor, materials and all other items, but excluding any electrical fixture or appliance that was designed by the manufacturer, that is unaltered, unchanged or unmodified by any person, that can be plugged into a common household electrical outlet utilizing a two pronged or three pronged electrical connector and that does not use any other form of energy, including natural gas, propane or other petroleum or gaseous fuel, to operate or is attached by a nail, screw or other fastening device to the frame or foundation of any residential structure, is less than one thousand dollars. The work or operations that are exempt under this paragraph shall be of a casual or minor nature. This exemption does not apply:

(a) In any case in which the ***performance of the work requires a local building permit.***

(b) ***In any case in which the work or construction is only a part of a larger or major operation, whether undertaken by the same or a different contractor, or in which a division of the operation is made in contracts of amounts less than one thousand dollars, excluding any electrical fixture or appliance that was designed by the manufacturer, that is unaltered, unchanged or unmodified by any person, that can be plugged into a common household electrical outlet utilizing a two pronged or three pronged electrical connector and that does not use any other form of energy, including natural gas, propane or other petroleum or gaseous fuel, to operate or is attached by a nail, screw or other fastening device to the frame or foundation of any residential structure, for the purpose of evasion of this chapter or otherwise.***



Continued on page 7

Guest Article continued- The Arizona Registrar of Contractors Licensing Requirements ...

(c) To a person who utilizes any form of advertising to the public in which the person's unlicensed status is not disclosed by including the words "***not a licensed contractor***" in the advertisement." (*emphasis added*)

According to the Arizona Republic, more homes were flipped in Maricopa County, AZ than anywhere else in the Nation between April 2013 and March 2014.

Did you know there are specific licensure and statutory requirements addressing a property owner attempting to sell such property after improving or building structures or appurtenances *with the intent to sell*. The specific statutes, ARS 32-1121(A)(5) & (6), are as follows:

32-1121. Persons not required to be licensed; penalties; applicability

This chapter shall not be construed to apply to:

Owners of property who improve such property or who build or improve structures or appurtenances on such property and who do the work themselves, with their own employees or with duly licensed contractors, if the structure, group of structures or appurtenances, including the improvements thereto, are intended for occupancy solely by the owner and are not intended for occupancy by members of the public as the owner's employees or business visitors ***and the structures or appurtenances are not intended for sale or for rent. In all actions brought under this chapter, except an action against an owner-occupant as defined in section 33-1002, proof of the sale or rent or the offering for sale or rent of any such structure by the owner-builder within one year after completion or issuance of a certificate of occupancy is prima facie evidence that such project was undertaken for the purpose of sale or rent.*** For the purposes of this paragraph, "sale" or "rent" includes any arrangement by which the owner receives compensation in money, provisions, chattels or labor from the occupancy or the transfer of the property or the structures on the property.

Owners of property who are acting as developers and who build structures or appurtenances to structures on their property for the purpose of sale or rent and who contract for such a project with a general contractor licensed pursuant to this chapter and owners of property who are acting as developers, who improve structures or appurtenances to structures on their property for the purpose of sale or rent and who contract for such a project with a general contractor or specialty contractors licensed pursuant to this chapter. ***To qualify for the exemption under this paragraph, the licensed contractors' names and license numbers shall be included in all sales documents. (emphasis added)***

Finally, licensed real estate agents often encounter questions surrounding the permitting of projects and whether a seller secured them and whether a buyer needs to secure one for a project.

AZ ROC would recommend real estate agents be familiar with ARS 32-1121(A)(14)(a), ARS 32-1151 and ARS 32-1169 as they relate to the need for a licensed contractor to perform work requiring a permit, the prima facie evidence of the existence of a contract when permits are secured, and the need to list a licensed contractor when pulling a permit.

Just as for real estate, requirements for contractors are detailed, extensive and explicit in rule and by statute. If you have specific questions regarding involvement you may have in any of the activities listed above, AZ ROC recommends consulting with an attorney.

If you have questions regarding which licensed contractor you would suggest a buyer or seller to hire to complete a project, you can refer them to the Contractor Search at AzROC.gov or 877.692.9762

Article provided by the Arizona Registrar of Contractors www.azroc.gov



The Bank is the Subsequent Developer/Owner?

Banks as financial institutions do not typically “actively seek” to acquire property for sale or lease in subdivisions and therefore are not held accountable for property reverting back to banks when the property has been split over the threshold of lots over the years. *This Bulletin article is not a substantive policy statement, but a communication from the ADRE to the public to communicate issues that may be impacted by statutes or regulations which the Department is responsible to enforce.*

EXCEPTION FROM THE ACT OF CREATING SIX OR MORE LOTS...

Pursuant to A.R.S. § 32-2181(E)(2) when lots, parcels or fractional interests are the result of any of the following three actions: 1) a foreclosure sale, 2) the exercise of a trustee under a deed of trust of a power of sale or 3) the grant of a deed in lieu of foreclosure, the subsequent owner (bank) is only afforded an exception from the act of “creating” six or more lots, parcels or fractional interests in improved or unimproved land, lots or parcels of any size not the “sale or lease” of those lots or parcels. The financial institution must also be in compliance with all other applicable state and local government requirements.

EXEMPTIONS TO SELL AND LEASE INDIVIDUAL LOTS/PARCELS

A.R.S. § 32-2181(E)(2) does not provide banks as financial institutions to be exempt to “sell or lease” individual lots without a public report. Exempt sales and leases are further described in A.R.S. § 32-2181.02 which are typically by operation of law (self-determining) exemptions and may be options that the financial institution decides to pursue. Those options may include, but are not limited to:

- Bulk sale. A.R.S. § 32-2181 (A)(1)
- Sale or lease of lots or parcels of 160 acres or more. A.R.S. § 32-2181 (A)(2)
- Sale or lease of parcels, lots units or spaces that are **zoned and restricted to commercial or industrial uses**. A.R.S. § 32-2181 (B)(1)

Two other exemptions to “sell or lease” individual lots or parcels that may be determined upon application to ADRE are the Subsequent Owner Exemption pursuant to A.R.S. § 32-2181.02(B)(2) and the Special Order of Exemption pursuant to A.R.S. § 32-2181.01.

The Subsequent Owner Exemption applies to a subdivision with an existing Subdivision Public Report that has been issued within the past five years that is not subject to amendment or the subsequent owner obtaining a new public report.

The Special Order of Exemption applicant would need to demonstrate, satisfactory to the commissioner, that compliance with the provisions of the Article is not essential to the public interest or for the protection of buyers by reason of special characteristics of the subdivided lands or fractional interests therein or the limited character and duration of the offer for sale, lease or financing or the special characteristics or limited number of fractional interests.

INVESTOR/DEVELOPER

Investors generally deal with two types of properties: Tax Lien Purchases and Tax Lien Foreclosures. Investors are not considered a bank as a financial institution and typically actively seek to acquire ownership of lots/parcels to sell property for a better return on their investments similar to any other small or large developer in Arizona.

If a subdivider, owner or investor owning more than 5 properties uses an exemption for which they are not qualified, they may be charged in violation of A.R.S. § 32-2181(A), 32-2183 (F) and (M) and any other violation of statute or rule that may apply. Further, a cease and desist order may be issued pursuant to the Article of Arizona Revised Statutes.

National Do Not Call Registry



Before making calls to consumers do you or your company verify the number you're calling is not registered on the National Do Not Call Registry? Here are some FAQ's from the Federal Trade Commission (FTC) - (The government agency that protects consumers). More information is available at: <https://www.ftc.gov>

What is the National Do Not Call Registry?

The National Do Not Call Registry is a list of phone numbers from consumers who have indicated their preference to limit the telemarketing calls they receive. The registry is managed by the Federal Trade Commission (FTC), the nation's consumer protection agency. It is enforced by the FTC, the Federal Communications Commission (FCC), and state officials.

What calls are covered?

The do not call provisions of the Telemarketing Sales Rule (TSR) cover any plan, program or campaign to sell goods or services through interstate phone calls. This includes calls by telemarketers who solicit consumers, often on behalf of third party sellers. It also includes sellers who are paid to provide, offer to provide, or arrange to provide goods or services to consumers.

What types of calls are not covered by the National Do Not Call Registry?

The do not call provisions do not cover calls from political organizations, charities, telephone surveyors, or companies with which a consumer has an existing business relationship.

How does the established business relationship provision work for a consumer whose number is on the registry?

A company with which a consumer has an established business relationship may call for up to 18 months after the consumer's last purchase or last delivery, or last payment, unless the consumer asks the company not to call again. In that case, the company must honor the request not to call. If the company calls again, it may be subject to a fine of up to \$16,000.

If a consumer makes an inquiry or submits an application to a company, the company can call for three months. Once again, if the consumer makes a specific request to that company not to call, the company may not call, even if it has an established business relationship with the consumer.

A consumer whose number is not on the national registry can still prohibit individual telemarketers from calling by asking to be put on the company's own do not call list.

How can I access the registry to verify?

The registry can be accessed only through the fully automated and secure website at www.telemarketing.donotcall.gov. The first time you access the registry, you must set up a profile and provide identifying information about you and your organization. If you are a telemarketer or service provider accessing the registry on behalf of your seller-clients, you will be required to identify your seller-clients and provide their unique Subscription Account Numbers (SANs). The only consumer information available from the registry is telephone numbers. After you (or the company telemarketing on your behalf) have accessed the registry and downloaded telephone numbers the first time, you'll have the option of downloading only changes in the data that have occurred since the last time you accessed the registry.

WHAT'S HAPPENING AT ADRE?

In keeping with Governor Ducey's launch of Lighting Arizona Purple, showing Arizona's dedication to ending Domestic Violence, ADRE 'LIT UP PURPLE' on October 22, 2015. Staff was challenged to see who could get on the most purple and help spread the word!

Pictured below, Commissioner Lowe and ADRE staff decked out in purple.



Staff Training and Quarterly Employee Meetings



ADRE staff at the recent Quarterly Staff Birthday Celebration. July, August and September birthdays were celebrated.

Monthly Staff Training Continues at ADRE!

- September staff learned about the FBI Mortgage Fraud Task Force.
- October brought a session on Change Management with a session centered around the 'Who Moved My Cheese' theme, and
- November staff heard from the Designated Broker of a large brokerage about 'How a Large Brokerage Works'.

LICENSING STATS

Arizona Department of Real Estate Licensed Individuals & Entities October 1, 2015

	Active	Inactive	Total Current	In Grace Period	Current + Grace Period
Individuals					
Broker	12,197	1,020	13,217	662	13,879
Salesperson	40,347	11,610	51,957	4,154	56,111
Total Individuals	52,544	12,630	65,174	4,816	69,990
Last month	52,117	12,424	64,541	5,005	69,546
% change from last month	0.82%	1.66%	0.98%	-3.78%	0.64%
Same month last year	50,751	12,401	63,152	5,530	68,682
% change from last year	3.53%	1.85%	3.20%	-12.91%	1.90%
Entities					
Branch, corp	199	55	254	45	299
Branch, liability	329	97	426	66	492
Branch, Partnership	2	1	3	1	4
Branch, Self-Employed	23	6	29	5	34
Corporation	1,572	75	1,647	135	1,782
Limited Liability	3,259	220	3,479	269	3,748
Partnership	35	2	37	2	39
Self-Employed Broker	2,246	57	2,303	248	2,551
Total Entities	7,665	513	8,178	771	8,949
Last month	7,645	491	8,136	779	8,915
% change from last month	0.26%	4.48%	0.52%	-1.03%	0.38%
Same month last year	7,768	545	8,313	829	9,142
% change from last year	-1.33%	-5.87%	-1.62%	-7.00%	-2.11%
Individuals & Entities					
Total - this month	60,209	13,143	73,352	5,587	78,939
Total - previous month	59,762	12,915	72,677	5,784	78,461
% change from last month	0.7%	1.8%	0.9%	-3.4%	0.6%
Total - this month	60,209	13,143	73,352	5,587	78,939
Total - same month last year	58,519	12,946	71,465	6,359	77,824
% change from last year	2.9%	1.5%	2.6%	-12.1%	1.4%

DEVELOPMENT INDUSTRY LEARN & LUNCH

The third Learn and Lunch (L&L) with ADRE's Development/Builder Services Division and the Development / Builder Industry was another success. There was positive dialogue amongst the participants, which included over 30 industry representatives.

At this event the Home Builders Association of Central Arizona was represented by Jim Sorgatz, Vice President of Member Services and Jackson Moll, Vice President of Municipal Affairs who provided great overview, pertinent building trends and statistics, as well as a Q&A session.

ADRE provided a short oral quiz on various exemptions.

ADRE would like to give special thanks to Title Security Agency for sponsoring the delicious meal!

The next L&L event is tentatively scheduled for January 21, 2016. Representatives from the development industry are welcome to attend; due to limited seating and to receive a detailed invitation, please pre-register through the ADRE Message Center on the home page at www.azre.gov



EDUCATION UPDATE

EDUCATION FACTS!

Average Passing Percentages for "First Time Exam Takers"			
EXAM TYPE	Aug-2015	Sep-2015	Oct-2015
REAL ESTATE BROKER	80%	70%	63%
REAL ESTATE SALESPERSON	63%	62%	66%
CEMETERY BROKER	0%	N/A	N/A
CEMETERY SALESPERSON	25%	89%	100%
MEMBERSHIP CAMPING BROKER	N/A	N/A	N/A
MEMBERSHIP CAMPING SALESPERSON	N/A	N/A	N/A
Total Number of Licensees (Individual and Entity) as of November 2, 2015			
78,267			
Active Continuing Education (CE) Courses as of November 2, 2015			
Live CE (Approximately)	2,380		
Distance Learning CE (Approximately)	293		
ADRE Licensee Online CE Course Submissions July 22, 2015 through November 1, 2015			
Total courses entered	57797		
Distance Learning	30229		
Percentages Distance Learning	52		

AUTOMATIC RENEWAL OF PROPERTY MANAGEMENT AGREEMENTS

The Arizona Revised Statutes governing real estate activity require a Property Management Agreement (“PMA”) to “specify a beginning and an ending date.” [A.R.S. § 32-2173(A)(1)(a)]

The automatic renewal of a PMA is allowed pursuant to A.R.S. § 32-2173(A)(2)(a), which states:

The property management agreement may “contain an automatic renewal provision, if the property management firm sends the owner a reminder notice at least thirty days before the renewal date.”

The requirement to send a thirty-day reminder notice to the property owner applies equally to all management agreements containing an automatic renewal clause, including agreements being automatically renewed on a month-to-month basis.

The Department’s Auditing staff has found all brokers are not routinely sending thirty-day reminder notices to owners, especially in the case of month-to-month renewals. The Auditing staff has also found many thirty-day notices are not sufficient to document such notices have been provided to the owner.

ADRE recommends the thirty-day reminder notices include:

- The date sent to the property owner, in order to document compliance with the 30-day requirement;
- The identity of the person receiving the notice;
- If multiple properties are being managed for the same owner, the address of the rental property(s) covered by the Automatic renewal; and,
- The date the current PMA renewal period ends.
- A copy of the thirty-day reminder notice should be placed in the property management file for the PMA being automatically renewed.

While the property management firm is required to send thirty-day reminder notices prior to automatically renewing a PMA, the property owner is not required to respond to the reminder notice received.



WHEN DOES GOOD CUSTOMER SERVICE BECOME PROPERTY MANAGEMENT??

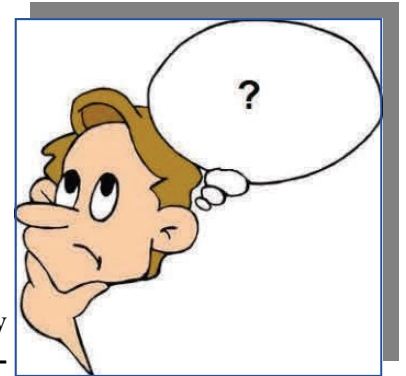
A Scenario and Answer to think About...

A real estate licensee assists a buyer in purchasing a residential investment property. After close of escrow, the buyer, now property owner, asks the licensee to advertise the property for rent and secure a tenant. A listing agreement is signed with the owner for the express purpose of renting the property. The owner, who lives out-of-state, indicates his/her intention to "self-manage" the property.

When the licensee contacts the owner to report a potential tenant has been secured, the owner asks the licensee for some assistance since the owner resides out-of-state. The licensee agrees to assist the client in hope of representing the owner again in the future or receiving referrals.

The licensee agrees to:

- Collect the rent each month and forward the funds to the owner.
- Be the point of contact for the tenant should any repairs be required.
- Arrange for repairs to be completed by a handyman or contractor.
- Perform routine property inspections on the owner's behalf.
- Send a five-day notice regarding non-payment of rent.



Even though the licensee had no intention of becoming the "property manager" for the property, the line has been crossed from lending assistance to performing property management services.

Through the licensee's actions, both the tenant and owner perceive the licensee to be the property manager. In some cases, the services are provided without the knowledge and/or consent of the employing broker and without a signed property management agreement between the broker and the owner.

If this situation presents itself, the real estate licensee should first discuss the client's requests with their Designated Broker before agreeing to provide the requested services.

Continuing Education (CE) TIPS!

What is a "CE period?"

Original licenses and renewals are issued for a two (2) year period. A salesperson or broker must submit 24 credit hours of continuing education (CE) EVERY 24 MONTHS. Designated brokers and associate brokers with delegated authority to review and initial contracts or similar instruments must submit 30 credit hours of CE EVERY 24 MONTHS.

What happens if I make a mistake while entering information about my courses?

If you enter a course number in error (the wrong course number, the wrong CE period, etc.) contact the Department at <http://www.azre.gov/Contacts/EmailAdre.aspx>.

I only do commercial business. Do I need to take a Fair Housing class?

If your business is exclusively commercial properties and you are claiming a substitute for the Fair Housing requirement, YOU MUST CONTACT THE DEPARTMENT AT <http://www.azre.gov/Contacts/EmailAdre.aspx> BEFORE RENEWING YOUR LICENSE.

After I complete my CE for one period can I start classes for the next CE period?

The law requires 24 hours of continuing education (CE) credits be taken DURING each 24 month period of licensure. For example, if you are licensed from 4/1/2014 to 3/31/2016 you must take 24 hours of CE between those dates and may begin taking CE for the next two year period on or after 4/1/2016.

HOME STAGING OR PROPERTY MANAGEMENT

According to Wikipedia, “Home Staging is the act of preparing a private residence for sale in the real estate marketplace. The goal of staging is to make a home appealing to the highest number of potential buyers, thereby selling a property more swiftly and for more money.” Pursuant to the Arizona Revised Statutes, A.R.S. § 32-2101.48, Home Staging in the traditional sense does not meet the statutory definition of real estate activity.

Property management services are being performed if a home is staged using people occupying a home with their personal possessions. The performance of property management services requires a current and active real estate license on the part of both the company and persons providing the services.

In the past few years, the Department has become aware of several unlicensed companies advertising as providing home staging services using people and their personal possessions as props. In these cases:

- The unlicensed company often seeks to align themselves with an Arizona real estate licensee.
- The unlicensed company offers “Free Home Staging” to the property owner or real estate licensees.
- The unlicensed company enters into a contract with the property owner and the persons occupying the Property.
- The company fails to inform the property owner that the company is being compensated through fees charged to the people occupying the owner’s property.
- The company refers to the people residing in the homes as “care takers,” “home managers,” “home tenders” or similar terms.

The Tenants:

- Undergo background checks, pay deposits to move into a property, as well as fees to occupy the home that are charged on a daily, weekly or monthly basis.
- May be required to place the utilities in their name; pay the cost of maintaining the home; carry a minimum \$1,000,000 liability policy; or, pay the property owner’s HOA dues.

If the Tenants purchase the home or enter into a long-term lease with the property owner, the property owner may be required to pay the unlicensed company a minimum “two-month lease term.”

If a real estate licensee is considering being involved in this type of real estate activity, the licensee should speak with their Designated Broker and possibly seek legal advice before proceeding. A licensee may conduct real estate activity only on behalf of their employing broker and may not work outside of that employing broker.



BROKERS IN SUBSTANTIVE COMPLIANCE

Audit Honor Roll– July through September, 2015

ABBREVIATIONS USED IN SUBSTANTIVE COMPLIANCE

EBAR -= Electronic Broker Audit Review

<u>License #</u>	<u>Broker's Name</u>	<u>Brokerage</u>	<u>Audit Type</u>	<u>City</u>
BR523321000	Ashker, William F.	Real Living Property For You	Onsite	Peoria
BR012841000	Brown, Charles A.	Transcity Property Management, Inc.	Onsite	Mesa
BR553489000	Cochran, Ryan K.	Kitchell Development Company	Onsite	Phoenix
BR525888000	Dawson, Rodney B.	ACM LLC (Arizona Commercial Management)	Onsite	Phoenix
BR004695000	Earle, Rock L.	Coldwell Banker Rox Realty	Onsite	Casa Grande
BR006751000	Egan, James M.	Prime Properties	Onsite	Tucson
BR035336000	Falbo, Jay P.	Eagle Commercial Realty Services	Onsite	Phoenix
BR111632000	Germain, Steven K.	Adobe Valley Relocating Services, LLC	Onsite	Phoenix
BR637966000	Grauly, Patricia A.	Sample Realty Investment & Trust Co.	Onsite	Tucson
BR568562000	Harp, Darwyn	Hines GS Properties, Inc.	Onsite	Phoenix
BR111427000	Hendrickson, Jared C.	Caliber Realty	EBAR	Scottsdale
BR004938000	Horvath, James G.	Town West Realty, Inc.	Onsite	Tucson
BR011517000	Hyndman, Gareth	Hanover Management	Onsite	Phoenix
BR648531000	Kipuros, Steve Jr.	Sinmar Realty, LLC	Onsite	Phoenix
BR002953000	Klugman, Eddie L.	E. K. Corp	Onsite	Scottsdale
BR572396000	Lagneaux, Odette	AZ Equity Properties	Onsite	Scottsdale
BR641603000	Larson, Brenda L.	Abbey, Inc., DBA VHM & Realty	Onsite	Mesa
BR030566000	Liberty, Joseph D.	Liberty Southwest Realty, LLC	Onsite	Glendale
BR032862000	Link, Laura A.	Canyon Ridge Realty, LLC	Onsite	Mesa
BR520668000	Mayes, Patricia "Patty" L.	McCarthy Cook & Co.	Onsite	Phoenix
BR542920000	McCall, Michael J.	Infoclosure	Onsite	Mesa
BR528772000	McCaughey, Bradley J.	Return Realty	Onsite	Peoria
BR561948000	McIntyre, Tasha Y.	Family First Real Estate Services, LLC	Onsite	Flagstaff
BR107568000	McMath, Weldon L.	McMath Realty, LLC	Onsite	Phoenix
BR012170000	Meredith, James "Jim"	Jim Meredith Realty	Onsite	Phoenix
BR026451000	Meyer, John	Arizona Property Specialists	Onsite	Scottsdale

AUDIT HONOR ROLL

BROKERS IN SUBSTANTIVE COMPLIANCE

continued...

BR005257000	Moore, William M.	Biltmore Properties, Inc.	Onsite	Phoenix
BR556219000	Paffrath, Lisa A.	Grand View North Realty	Onsite	Flagstaff
BR573712000	Ray, Kathleen "Kat" L.	Apartment Management Consultants, LLC	Onsite	Mesa
BR507781000	Ricks, David R.	Farnsworth-Ricks Management and Realty, Inc.	Onsite	Mesa
BR022854000	Riley, Ann E.	Ryan Companies US, Inc.	Onsite	Phoenix
BR108060000	Rooney, Joseph W.	RT Brokerage Services	Onsite	Litchfield Park
BR526998000	Sarabia, Michael A.	Desco Southwest	Onsite	Tucson
BR008787000	Swallows, Gary	Swallows and Associates Realty, Inc.	Onsite	Glendale
BR116460000	Waite, Joseph A.	Applied Real Estate Services	Onsite	Gilbert
BR026326000	White, Raymond R.	1st USA Realty Professionals	Onsite	Mesa

DISCIPLINARY ACTIONS

ABBREVIATIONS USED IN DISCIPLINARY ACTIONS

1. LG = License Granted	2. C&D = Cease and Desist	3. CFO = Commissioner Final Order	4. ASA = Accelerated Settlement Agreement	5. CO = Consent Order	11. J&S = Joint & Severally
6. CP = Civil Penalty	7. PL = Provisional License	8. PM = Practice Monitor	9. BA = Broker Acknowledgement	10. ED = Additional Education	

Name	License Number	Brokerage at time of violation	Location	Summary	Order
Al-Saadi, Lakisha	SA568061000	Candidate	Glendale	Denial of license; previously revoked.	CFO; Denial upheld.
Baugh, Patricia	SA631050000	Realty One Group	Phoenix	Late disclosure Misdemeanor conviction for Reckless Driving.	ASA; \$750 CP.
Blum, Susan	SA657021000	Diamond Resorts International Marketing	Scottsdale	2015 Misdemeanor conviction disorderly conduct; prior misdemeanor convictions for DUI; and obstructing a peace officer.	CO; 2 yr. PL w/ PM and qtlly statements.
Brown, Amy	SA642115000	Delex Realty	Scottsdale	Conducting property management activity without knowledge of employing broker; failure to remit client funds; failure to place client funds in a trust account; commingling.	CFO; Revocation, \$6,000 CP.

DISCIPLINARY ACTIONS CONTINUED

Name	License Number	Brokerage at time of violation	Location	Summary	Order
Burgueno, Catherine	SA547373000	Americana Arizona, LLC dba Berkshire Hathaway HomeServices AZ Properties	Phoenix	Hired someone to complete their continuing education.	90 day license suspension, \$4,000 CP, Provisional with PM, 24 hr. additional CE.
Castillo-Wilson, Eric	SA660224000	Candidate	Gilbert	Texas Peace Officer license revocation for false report.	CO; 2 yr. PL w/ PM, and qtlly statements.
Chilton, Joshua	SA658823000	Candidate; Cemetery Sales	Phoenix	Convictions: prior convictions including 2 shoplifting; possession of drug paraphernalia.	CO; 2 yr. PL w/ PM and qtlly statements.
Clark, Trey	SA523359000	No. Arizona Real Estate Services LLC	Flagstaff	Late disclosure misdemeanor DUI conviction.	ASA; \$750 CP.
Clifton, Kimberly	BR111456000	Tierra Antigua Realty	Tucson	Failure to supervise; allowing a person to conduct real estate activities with expired license.	ASA; \$200 CP.
Cruz, John	SA656968000	Candidate	Queen Creek	2009 conviction for possession of a forgery device, 2012 exceeding speed by 20/45.	CO; PL; 2 yr. w/ PM; and mandatory qtlly reports.
Desert Mountain Brokers LLC	LC650757000		Sedona	Property Management violations, trust account shortage	C&D
Desert Summit Management & Maintenance Corp.	CO585646000		New River	Property Management violations, trust account shortage	CFO; License previously revoked; CP \$2,500.
Dziedzic, David	BR521660000	Realcore Realty LLC dba National Rental Pros	Scottsdale	Property Management violations, trust account shortage	CO; PL 2 yr. w/ monthly & qtlly reports, \$30K surety bond, 12 hours ED, \$6,000 CP
Evans, Regin	SA657990000	Candidate	Phoenix	2014 Misdemeanor for solicitation to commit forgery; 2012 Misdemeanor DUI conviction.	CO; 2 yr. PL w/ PM and qtlly statements.
Freiholtz, Eric	SA634742000	Ahwatukee Realty & Property Management	Ahwatukee	Surrendered in Lieu of disciplinary hearing.	Surrender of License.

DISCIPLINARY ACTIONS CONTINUED

Name	License Number	Brokerage at time of violation	Location	Summary	Order
Fuenning, W. Scott	SA541233000	Homesmart LLC	Scottsdale	Fraud and conversion	CFO; Revocation of License
Furrey, Norman	BR110766000	RE school instructor #199-0126	Show Low	Failure to request exemption before claiming own classes taught as credit for continuing education.	CO; ED 9 hrs.
Garrett, James	Unlicensed	U S Vacation Destinations	Charleston	Unlicensed Activity	C&D
Gizzo, Dale	SA539689000	Prosmart Realty	Gilbert	Receiving compensation from other than employing broker.	CO; \$3,000 CP; 2 yr. PL w/ mandatory qtly reports, 12 hours of ED.
Guess, Camille	BR638735000	Inactive	Scottsdale	Late disclosure of Revocation of California Broker's license.	CO; 2 yr. PL; \$2000 CP; 12 hours ED.
Harper, Jill	BR101643000	JAS United dba Proagent Realty	Tempe	Property Management violations, trust account shortage	CO; 2 yr. PL, monthly & qtly reports, surety bond, 18 hours ED, \$5,000 CP.
Hoffman, Michael	SA657103000	Candidate	Scottsdale	Denial of license; failed to appear at hearing.	CFO; Denial upheld.
Horizon Property Management LLC	LC555329000		Tucson	Property Management violations, trust account shortage	CFO; Revocation of License
Humphrey, Carmen	SA542296000	3CB Investments LLC	Peoria	Late disclosure Misdemeanor conviction for speeding 20/45.	ASA; \$750 CP.
Jacob, Eric	SA657225000	Candidate	El Mirage	Denial of License; numerous prior convictions for assault, DUI, trespass, reckless driving and probation violation.	CFO; Denial upheld.
JAS United dba Proagent Realty	LC646229000		Tempe	Property Management violations, trust account shortage	CO 2 yr. PL, monthly & qtly reports, surety bond, 18 hours ED, \$5,000 CP.
King, Karen	BR545031000	Horizon Property Management LLC	Tucson	Property Management violations, trust account shortage	CFO; Revocation of license, \$3,000 CP.

DISCIPLINARY ACTIONS CONTINUED

Name	License Number	Brokerage at time of violation	Location	Summary	Order
Kirby, Christina	BR584489000	Desert Summit Management & Maintenance Corp.	New River	Property Management violations, trust account shortage	CFO; License previously revoked. \$2,500 CP.
Klinger, Garry	Unlicensed	Lionsgate Properties	Sahaurita	Unlicensed Activity	C&D
Kokoszka, Gerald	BR014107000	Self-employed	Henderson, NV	Felony conviction for Structuring Financial Transactions	Summary Suspension and request for hearing to revoke license.
Kovacs, Caroline	SA536085000	Gehan Homes of Arizona	Tempe	Unlicensed Activity	CO, \$400 CP, 12 hours ED.
Lee, Amber	SA637869000	Gehan Homes of Arizona	Tempe	Unlicensed Activity	CO \$750 CP, 12 hours ED.
Lemahieu, Steve	SA538216000	Smart Referral Network LLC	Scottsdale	Late disclosure of surrender of license to Board of Pharmacy.	CO; \$400 CP; 2 yr PL; 12 hours ED.
Lionsgate Properties	Unlicensed		Sahaurita	Unlicensed Activity	C&D
Lomax, Timothy	Unlicensed	Lionsgate Properties	Sahaurita	Unlicensed Activity	C&D
Love, Stephanie	SA531059000	Homesmart LLC	Scottsdale	Felony conviction for Aggravated DUI	Summary Suspension; request for hearing to revoke license.
Luce, Robert	BR546404000	Luce Signature Properties	Buckeye	Class 4 Felony DUI.	CFO; Revocation of License following a Summary Suspension.
McKallor, Jon	SA016189000	CDN Properties & Investment	Phoenix	Surrender in lieu of disciplinary hearing.	Cease & Desist Order and Surrender of License.
Montano aka Rivas, Leticia	BR534917000	Sol Realty LLC	Phoenix	Felony conviction for Conspiracy to Harbor Illegal Aliens .	Order of Summary Suspension.
Munro, Cameron	BR636321000	Gehan Homes of Arizona	Tempe	Failed to supervise.	ASA; \$750 CP.
Nilson, Stacey	SA556106000	Bluebonnet Ventures LLC	Tucson	Late disclosure of misdemeanor criminal damage conviction.	ASA; \$750 CP
Noles, Hillary	SA660266000	Candidate	Phoenix	Disclosure of 2 Misdemeanor breach or peace convictions.	CO; 2 yr. PL granted; PM and qtlly statements.
Parson, Susan	SA654315000	EXP Realty LLC	Prescott	Late disclosure DUI conviction.	ASA; \$400 CP.
Peterson, Erik	BR521957000	Desert Mountain Brokers LLC	Sedona	Property Management violations, trust account shortage	C&D

DISCIPLINARY ACTIONS CONTINUED

Name	License Number	Brokerage at time of violation	Location	Summary	Order
Porter, Kelly	SA106618000	Dominic & Co.	Scottsdale	Receiving compensation from other than employing broker.	CO; \$3000; 2 yr. PL, qly affidavits, 12 hours ED.
Rathjen, Audrey	SA542783000	DPR Referral Network LLC	Scottsdale	Late disclosure Misdemeanor conviction for Compounding.	ASA; \$750 CP.
Reese, Donovan	BR567513000	Renters Warehouse	Phoenix	Paid compensation to an unlicensed person; failure to supervise.	CO; \$6,000 CP, 2 yr. w/ PL; 9 hours ED.
Scappaticci, Dominic	BR015514000	Dominic & Co.	Scottsdale	Receiving compensation in violation; misleading information; failure to supervise.	CO; \$6,000 CP, mandatory Qly Reports, additional 18 hours ED.
Scheiner, mark	SA634201000	Inactive	Scottsdale	2014 felony convictions for attempted sale or transportation of Marijuana; attempted possession of Marijuana.	CFO; Revocation of License
Shapiro, Charles	SA544422000	Coldwell Banker Residential Brokerage	Sun City	Failure to disclose convictions from 1977.	ASA; \$1,500 CP.
Shaw, Becky	SA521791000	Homesmart LLC	Phoenix	Late disclosure of a misdemeanor DUI conviction.	ASA; \$400 CP.
Shoger, Greg	SA656044000	Candidate	Mesa	Prior convictions, 2010 felony for Manufacture/deliver Cannabis; 2009 misdemeanor: conspiracy to possess a controlled substance.	CO; 2 yr. PL w/ PM; mandatory qly reports.
Silverman, Jeremy	BR562851000	Transaction Realty LLC	Tucson	Property Management violations, trust account shortage	CFO; Revocation, \$6,000 civil penalty.
Strong, Nicole	SA625642000	Candidate	Prescott Valley	Previous license expired with an outstanding consent order.	CO; 1 yr. PL w/ PM, qly reports.
Tokarski, Roxanna	SA652766000	Candidate	San Tan Valley	License denied for Retail Theft convictions.	CFO; affirming Administrative Law Judge ruling to uphold Department's denial of license.

DISCIPLINARY ACTIONS CONTINUED

Name	License Number	Brokerage at time of violation	Location	Summary	Order
Tomaszewski, Eliot	SA575919000	Keller Williams Arizona Realty	Scottsdale	Accepting compensation from other than employing broker; advertising violations; failure to promptly respond to a Department investigation, accepting compensation for loan negotiation.	CO; 30 day license Suspension, \$5,000 CP, 2 yr. PL, mandatory qtlly reports, 18 hours ED.
Transaction Realty LLC	LC635640000		Tucson	Property Management violations, trust account shortage	CFO; Revocation
Transier, Thomas	SA657521000	Candidate	Prescott Valley	Felony convictions in 1973 (possession of cannabis) and 1974 (burglary).	CO; 2 yr. PL w/ PM, and qtlly statements.
U S Vacation Destinations	Unlicensed		Charleston, SC	Unlicensed Activity	C&D
Valdez, Robert	BR566105000	Inactive	Phoenix	Late disclosure DUI conviction.	ASA; \$750CP.
Verska, Eric	SA659812000	Candidate	Scottsdale	Felony convictions, possession of drugs 2004, fraudulent schemes 2004 and forgery 2006.	CO; 2 yr. PL w/ PM; mandatory attendance at support group/ counseling sessions.
Weaver, Noel	SA578498000	Inactive	Phoenix	Late disclosure of an adverse judgment.	ASA; \$750 CP.
Webster, Heather	SA640266000	Inactive	Glendale	Late disclosure Misdemeanor conviction for disorderly conduct.	ASA; \$750.CP.
Weisser, Timothy	SA658717000	Candidate	Phoenix	2004 Theft/forgery conviction.	CO; 2 yr. PL w/ PM and qtlly statements.
Yannitelli, Nicholas	SA646248000	Realty Executives Northern Arizona	Prescott	Late disclosure of misdemeanor littering conviction.	ASA; \$400 CP.
Zeitlin, David	SA506167000	Merritt Enterprises Inc.	Phoenix	Late disclosure DUI conviction.	ASA; \$750 CP.

ADRE CALENDAR OF EVENTS

HOLIDAYS

ADRE will be closed on Veterans Day, Wednesday, November 11, 2015, Thanksgiving Day, Thursday, November 26, 2015, Christmas Day, Friday, December 25, 2015, and on New Years Day, Friday, January 1, 2016

ADVISORY BOARD MEETING

**The next Real Estate Advisory Board meeting will be December 2, 2015 in the Commissioner's Conference Room
Arizona Department of Real Estate,
2910 N. 44th Street, Phoenix, Arizona 85018.**

All members of the public are welcome to attend.

EDUCATION ADVISORY COMMITTEE

**The next Education Advisory Committee meeting will be December 8, 2015 in the Commissioner's Conference Room
Arizona Department of Real Estate,
2910 N. 44th Street, Phoenix, Arizona 85018**

All members of the public are welcome to attend.

LUNCH AND LEARN

The next Learn and Lunch meeting will be January 21, 2016 in the third floor Training Room.

**Arizona Department of Real Estate,
2910 N. 44th Street, Phoenix, Arizona 85018
See page 12 for registration information**



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