



February 2011

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# ARKANSAS REAL ESTATE COMMISSION

N E W S L E T T E R

## Regulation 4.1 Amendment to Be Implemented Effective April 1, 2011

*By Andrea S. Alford, AREC Deputy Executive Director*

You may have heard by now that we recently amended Regulation 4.1. This change will go into effect on April 1, 2011, and deals with the experience requirements for obtaining licensure as a broker. You may read the actual regulation on the AREC webpage.

Previously, the only experience required of broker applicants by the regulation was active licensure for 24 of the preceding 48 months. Following this logic, an individual could maintain an active salesperson license for 2 years, all the while performing an entirely unrelated full-time occupation, and apply for licensure as a broker, never having participated in a single real estate transaction.

Under the new Regulation 4.1, broker applicants will be required not only to have held an active license for 24 months, but they will also be required to show evidence of having participated in a number of transactions commensurate with that level of experience.

We recognize that there are several variables in this equation: local markets, nationwide sales trends, and areas of specialization, to name a few. Accordingly, we structured the new language in 4.1 so as to provide for these variables. For example, a salesperson listing residential properties in Little Rock may participate in many more transactions than a salesperson listing farm land in Bradley County, but the two may have gained equitable amounts of experience based on the sales trends and property types relevant to their respective markets.

Additionally, the regulation provides broker applicants the opportunity to demonstrate their experience by showing participation in "listings, sales or other licensed activities". Strictly observing the number of closings a licensee achieves would exclude otherwise valuable experience gained while participating in transactions that may not close. As such, applicants will be able to list transactions meeting a wide range of criteria. And as always, any applicant whose application is denied on the basis of experience will have the opportunity to appeal that decision to the Commissioners.

On and after April 1, broker applicants will need to complete the 4.1 Experience form in addition to the standard broker candidate application for examination. A copy of this form will be available online in the "Forms" section of the AREC website, and a hard copy will be included in the candidate handbooks distributed by this office. Please feel free to call the Commission with any questions you may have about the new regulation.

### From the Desk of the Executive Director . . .

It's always a joy to be able to brag about our staff. That opportunity has certainly presented itself lately as three of our licensing staff: Shonna Amos, Joyce Foreman and Linda Alkire approached Deputy Executive Director Andrea Alford with a request to work on weekends and both January holidays to process renewals for licensees who failed to renew their 2011 licenses.

Even under normal circumstances, it's encouraging when our staff wants to help licensees and the public resolve their issues. But in this instance, when staff could easily cop the attitude that

*(Continued on Page 4)*



**Gary Isom**



## FORMAL HEARING DECISIONS



The following information is extracted from Findings of Fact, Conclusions of Law and Order, and Consent Orders issued by the Commission from April 2009 through December 2010. Formal Hearing Decisions that have been appealed are not listed.

**Earl Beck, Principal Broker, United Country Border/Town Realty, Siloam Springs, AR:** By Consent Order in Formal Hearing # 3070 Respondent Beck surrendered his broker license.

The Commission found Respondent Beck guilty of violating Arkansas Code Annotated § 17-42-311(a)(13) and Commission Regulations 10.10(a) and 10.9(d).

Respondent Beck did not provide signed copies of Addendums A and B to Complainant. Respondent did not obtain the Seller's signature to the change made by Complainant on the Closing Date Extension Agreement. Addendums A & B were not attached to the Contract for Deed as required by the September 22, 2007 Contract of Sale of Real Estate Land. Respondent did not notify Complainant in writing of the disbursement of the \$2,000 deposit tendered by Complainant, knowing that Complainant had not expressly agreed to the disbursement in writing.

The Commission voted unanimously that Complainant Krystal Delima be paid \$2,500, to be drawn from the Recovery Fund.

**In the Matter of Corene Lee Birdsong, Inactive Salesperson, Benton, AR:** Formal Hearing # 3083 was held in April 2009 but was appealed by the Respondent. The Commission decision was recently upheld. In Formal Hearing # 3083 the Commission voted unanimously that Respondent Birdsong's salesperson's license be suspended for eighteen (18) months and that she cannot sit for a broker's examination for five (5) years. Respondent Birdsong was also assessed a penalty of \$500 to be paid to the Arkansas Real Estate Commission.

The Commission found Ms. Birdsong guilty of violating Arkansas Code Annotated §17-42-311(a)(7), Arkansas Code Annotated § 17-42-311(a)(11), and Arkansas Code Annotated § 17-42-311(a)(13).

On December 16, 2008 Respondent notified the Commission "...I entered a plea of guilty to one count of harassment, a misdemeanor, in Saline County on December 11, 2008."

Court records reflect that on December 11, 2008 Respondent pleaded guilty in the District Court of Saline County, AR in Docket No. S2008-4913 of the charge of Harassment, a Class A misdemeanor. Respondent was fined \$130, ordered to pay \$300 restitution, and placed on 12 months of unsupervised probation. Respondent was further ordered to have no unauthorized contact with Tom Baxley, Mike Duke, Dan Moudy, Edye Crouse or Mark Chilton. These individuals were co-workers at Phillips Moudy Duke Real Estate.

On February 2, 2009 Respondent provided an additional written explanation of her conviction as requested by the AREC Investigator. In her written statement she stated that, "The incident was a result of a long, professional and personal dispute between two of my former co-workers and the handling of that dispute by the broker. After my broker chose to terminate me, I overreacted and distributed approximately 15 unflattering flyers about the broker and one of the agents. It is an action I deeply regret."

Respondent provided a written statement to police admitting that she fabricated e-mails and engaged in other correspondence and acts that were harassing, obscene, false, and personally damaging to Tom Baxley, Mike Duke, Edye Crouse and other persons at PMD. "Specifically I placed false and damaging e-mails, that I had created and e-mailed, on windshields at a recent football game."

**In the Matter of Brenda Bohannon, Salesperson, Exit Realty Premier, Springdale, AR:** In Formal Hearing # 3102 the Commission voted that Respondent Bohannon's real estate license be revoked.

The Commission found Respondent Bohannon guilty of violating Arkansas Code Annotated § 17-42-311(a)(3) and Arkansas Code Annotated § 17-42-312(a)(4).

On March 22, 2010 Respondent Bohannon entered a negotiated plea of guilty to violation of Arkansas Code Annotated 5-36-103 (Theft of Property) in the Circuit Court of Washington County, a felony. Respondent was sentenced to the Department of Community Correction and/or probation for 180 months, Court Costs of \$150, Victim Restitution of \$148,122, \$20 booking fee, \$1,000 County Restitution, submit a DNA sample and pay \$250 DNA fee, \$25 per month probation fee and \$5 per month collection fee. Respondent was indicted on and negotiated a guilty plea to the charge that on or about 2002 through May 5, 2008, she did commit theft of property. Over a period of eight years she stole more than \$100,000 from her employer,

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## FORMAL HEARING DECISIONS



The following information is extracted from Findings of Fact, Conclusions of Law and Order, and Consent Orders issued by the Commission from April 2009 through December 2010. Formal Hearing Decisions that have been appealed are not listed.

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Springdale Country Club, Springdale, AR. On April 19, 2010, the Arkansas Real Estate Commission received a letter from Respondent Bohannon along with a written explanation and a copy of the Judgment and Disposition Order of this matter.

**In the Matter of Donald Splichal, Principal Broker, Exit 1<sup>st</sup> Source Realty, Eureka Springs, AR:** In Formal Hearing # 3106 the Commission voted unanimously that Respondent Donald Splichal be fined \$1,000 to be paid to the Commission within thirty (30) days of the date of the Order. Respondent Splichal is required to attend a minimum of two (2) hours continuing education course on Agency, approved in advance by the Executive Director, and that shall not be included as the regular continuing education requirement, and that this particular course be completed in calendar year 2011.

The Commission found Respondent guilty of violating Commission Regulation 8.5(a).

On August 28, 2009 Complainants submitted a Real Estate Contract through Respondent on the property located at 701 Dogwood Street, Huntsville, AR. Line 27 of said contract stated "Seller to pay for and install new carpet and pad in the living room, hallway, and bonus room. Carpet style, color and pad must be acceptable to buyer." Respondent represented both buyer and seller in the purchase and sale of the above referenced property.

On September 9, 2009 Complainants signed an Addendum to Purchase Agreement initiated by the seller, Littleton Loan Servicing, LP, which states on line 20, Additional Conditions: "Seller to pay for new carpet + pad install up to \$1,300.00." The addendum stating the \$1,300 limit was agreed to by the buyers.

Without first seeking the advice and consent of the buyers, on or about October 2, 2009, Respondent instructed the installers to install "something middle of the road, not real expensive, and not real cheap. Something in a brown tone, more dark than light." Broker also stated: "I had the job bid and completed per the lender required repairs and per the approval of the seller." At Respondent's instruction carpeting was installed in one additional room not mentioned in the contract.

On or about October 22, 2009 Complainants were informed by Respondent they could look at the Carpet. The carpet had been installed without Buyers' approval of the carpet and pad, and had been installed in four rooms as opposed to the three rooms identified on the Real Estate Contract.

On October 23, 2009 Complainants closed on the property located at 701 Dogwood Street, Huntsville, AR, so as not to lose the house.

The Commission found that as a result of the proven violation, that Respondent Splichal was ordered to pay \$1,300 to Complainants Tarvin within a period not to exceed thirty (30) days.

**In the Matter of Joseph C. Chivers, Salesperson, Blackwood Team - Cabot Branch, Cabot, AR:** By Consent Order in Formal Hearing # 3108 the Commission ordered that Respondent Salesperson Chivers shall receive a Letter of Reprimand to be placed in his license file and pay a \$350 penalty to the Arkansas Real Estate Commission within ninety (90) days of the Order.

The Commission found Respondent Chivers guilty of violating Arkansas Code Annotated § 17-42-301(a), Arkansas Code Annotated § 17-42-311(a)(9) and Commission Regulation 6.3(b).

Respondent Joseph C. Chivers initially obtained a salesperson license on January 11, 2005, with Blackwood Realty, Inc. Respondent Chivers was licensed with the Blackwood Team, Cabot from June 9, 2009, until January 1, 2010. Respondent Chivers did not renew his salesperson license; therefore, it expired on January 1, 2010. Respondent Chivers attempted to renew his license on January 12, 2010, by paying the renewal fee; however, Respondent Chivers did not provide the required signed affidavit necessary for late license renewal. The required signed affidavit was provided to the Commission on August 12, 2010.

Respondent Chivers engaged in real estate transactions during the period he was not licensed.



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## AREC Hires New Staffmember and Promotes One



**Grant Grigg**

AREC announced the promotion of a staff member and the hiring of a new Investigator recently. Joyce Foreman was promoted to the position of Administrative Specialist III, the position previously held by Sandria Smith, effective in January. Joyce has been with the Commission since 2005. Her consistently friendly attitude and strong work ethic are highly valued in the Licensing Department.

Grant Grigg joined the AREC team in November as an Investigator. He comes to the AREC with an extensive background in State Government and Real Estate, having spent the last 12 years with the State Land Commissioner's office.

Grant graduated from the University of Arkansas at Little Rock with a Bachelor of Arts in Political Science and a minor in Criminal Justice. His expertise in Criminal Justice has already proven beneficial to the Investigations Department. Grant lives in Little Rock with his trusty retriever Gauge, and enjoys spending his free time outdoors, either on the golf course, hunting or fishing.

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these persons caused their own problems, it's even more delightful to have them dedicate themselves to serving our customers.

As a reminder, AREC is a cash-funded state agency. That means that this agency operates on the revenue it receives from licensees and does not depend on any other general revenues from the state. With that in mind, you each should know that the time, labor and expense to renew an expired license is much greater than it is for a licensee to renew their license timely. Let's all work together to operate the Real Estate Commission more efficiently by renewing timely and by encouraging others to do the same. You all share in the additional cost incurred in renewing expired licenses.