



# ARKANSAS REAL ESTATE COMMISSION

N E W S L E T T E R

**From the Executive Director's Desk...**

***Bill J. Williamson***

## **2009 RENEWAL**

**July 2008**

Arkansas Real Estate Commission  
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### **Members of the Commission**

Cliff Goodin, Chairman  
Russellville

Karen Crowson, Vice-Chair  
Benton

Vic Hiryak  
Little Rock

Jim Newell  
Little Rock

Sylvester L. Smith III  
Camden

### **Commission Staff**

Bill J. Williamson  
Executive Director

Gary C. Isom  
Deputy Executive Director

By the time you read this article you should have received your 2009 renewal notification. The 2009 renewal notification (postcard) has been mailed to each licensee's home address. The quickest way to renew your license is RENEW ON-LINE. You can pay your renewal fee with a Visa, MasterCard, Discover, or eCheck and you're done. You will also be able to print out a receipt for yours and your Principal Broker records.

To renew on-line, go to AREC's web page [WWW.arkansas.gov/arec](http://WWW.arkansas.gov/arec) and click on RENEW ON-LINE and follow instructions. Last renewal period about 70% of renewals were on-line. Hopefully this renewal will exceed that number. Remember the deadline to renew for 2009 is September 30, 2008. Renewals received after that date will be late and you will have to pay an additional fee.

#### 2009 Fee Schedule

	<u>Until September 30</u>	<u>After September 30</u>
Broker	\$70	\$100
Salesperson	\$50	\$70
Duplicate Broker	\$30	\$60

ACTIVE LICENSE RENEWALS cannot be used to transfer, change firm name or firm address or personal name. If you need to make changes regarding your license, that requires completion of the appropriate AREC form to make the requested change. You can not make changes to your current license by renewing your 2009 license.

SIX (6) HOURS OF CONTINUING EDUCATION is a requirement to renew your license as active. Most education providers report completion of CE to AREC electronically. If you attend a CE course from an education provider that does not report CE to AREC electronically, you should mail a copy of the CE certificate received to AREC. If you renew your license and AREC has no record of completion of CE, by December 31, 2008 your 2009 license will be placed on inactive status. If your 2009 license is placed on inactive, to activate you will have to furnish proof of completing 6 hours of CE and pay a \$30 fee.

If you choose to renew by paper please send a written request to AREC and a renewal form will be printed and mailed to you. For paper renewals, payment must be by cashier's check, money order, or company check; no personal checks.

Please **Renew On-line**.

Principal Brokers and Designated Executive Brokers can check to see if individual licensees with their firms renewed as active for 2009 by checking the 2009 roster located on the Commission's web page. The 2009 roster of active licensees will be updated daily.



## 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 February 2008 through May 2008. Formal Hearing Decisions that have been appealed are not listed.**

**Kaneika S. Hall, Salesperson, Little Rock, AR:** In Formal Hearing # 3051 the Commission ordered that "...a letter of reprimand be placed in Respondent Hall's license file and that she be placed on probation, which will run concurrent with Respondent Hall's probation on the battery charge conviction. Respondent Hall's probation with the Arkansas Real Estate Commission will be revoked if Respondent's probation on the criminal conviction is revoked, even on a technical violation. Respondent Hall will be under continuing order to keep the Executive Director of the Arkansas Real Estate Commission informed of her probationary status. And, the condition that Respondent Hall give notice to her current broker and any successor broker of the conditions the Commission has placed upon her."

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

Respondent Hall's conviction is a crime involving a felony conviction, which is a ground for disciplinary action.

**Erick Martin, Salesperson, Little Rock, AR:** By Consent Order, In Formal Hearing # 3052 the Commission ordered that "...Respondent Erick Martin's real estate salesperson license is hereby revoked."

The Commission found Respondent guilty of violating Arkansas Code Annotated § 17-42-311(a)(11) & (13).

Respondent entered Complainant's unoccupied home that was listed, and was video taped searching through

"private areas" without complainant's knowledge or authorization.

Respondent's conduct described above constitutes improper conduct. Because of Respondent's conduct described above, he is unworthy to act as a real estate salesperson in such a manner as to safeguard the interest of the public.

**Brandy Thomas, Salesperson, Little Rock, AR:** By Consent Order, In Formal Hearing # 3050 the Commission ordered that "...Respondent Brandy Thomas shall receive a Letter of Reprimand to be placed in her license file, pay a \$500 penalty to the Arkansas Real Estate Commission, and complete (six) 6 classroom hours of real estate education, approved in advance by the Executive Director. Said education shall be in addition to the annual Continuing Education requirement. The \$500 penalty and six (6) classroom hours of real estate education shall be completed within 90 days of the date of this Order. Respondent shall be placed on probation for one (1) year from the date of this Order."

The Commission found Respondent Brandy Thomas guilty of violating Commission Regulations 8.5(a) and 10.1(b), and Arkansas Code Annotated § 17-42-311(a)(13).

Respondent Thomas engaged in real estate activities independent of her principal broker. Respondent prepared and presented the February 28, 2007 VA real estate contract without her Principal Broker's permission or knowledge. Respondent attempted to have the February 28, 2007 VA contract transferred to her new firm without her Principal Broker's knowledge or permission. Respondent signed the February 28, 2007 VA contract as "Principal Broker or Authorized Signature" without her Principal Broker's permission or knowledge.

Respondent did not protect and promote the interest of Buyer. Respondent instructed Buyer to sign the March 6, 2007 VA contract identifying Respondent's new real estate firm as the Selling firm, knowing that the February 28, 2007 VA contract

signed by Buyer, identifying her previous Principal Broker's real estate firm as the Selling firm had previously been accepted by VA and that the Exclusive Buyer Agency Agreement between Buyer and her previous Principal Broker's firm was in force.

Respondent's activities as described above constitute improper dealings.

**Matthew J. Riordan, Salesperson, Little Rock, AR:** In Formal hearing # 3048 the Commission ordered that "...Respondent Riordan is to pay a fine of \$500 per violation, for a total of \$3,000, and is to serve two years on probation, during which time he cannot hold a broker's license. Respondent Riordan is to be issued a Letter of Reprimand to be placed in his license file. If, during his probationary period, Respondent Riordan is found guilty of any violation before the Arkansas Real Estate Commission, then his license will be automatically suspended for a duration to be determined at that time."

The Commission found Respondent Riordan guilty of violating Commission Regulations 8.4, 8.5(a), 10.1(b), 10.11, 10.13(a), and Arkansas Code Annotated § 17-42-311(a)(13).

Respondent did not disclose his agency relationship in the "Standard Real Estate Purchase and Sale Agreement."

Respondent did not protect and promote the Complainant's interest. Respondent negotiated a short sale on behalf of Complainant, knowing that Complainant had executed an Exclusive Right to Sell Agreement with the listing firm without advising Complainant to consult with an Attorney concerning his contractual responsibilities.

Respondent prepared the "Standard Real Estate Purchase and Sale Agreement" and attempted to negotiate a short sale with Complainant independent of his Principal Broker.

**Formal Hearings - Continued on Page 3**



# FORMAL HEARING DECISIONS

Continued



Respondent did not disclose in writing in The Real Estate Contract, or any other document, that the buyers, the Respondent and Virgil Brown held real estate licenses.

Respondent did not contact any one with the listing firm to obtain prior permission to negotiate a short sale with Complainant. Respondent did not present the offer signed by Buyer, on the contract "Standard Real Estate Purchase and Sale Agreement" or the offer Respondent prepared as Buyer on the Re/Max Realty Real Estate Contract, to the listing firm.

Respondent's conduct constitutes improper dealings.

A Recovery Fund Hearing was held. Respondent was ordered to pay Complainant \$500 within 30 days of this Order.

### **Francis O'Brien, Salesperson, Daniel Platt, Principal Broker, Mountain Home,**

**AR:** In Formal Hearing # 3054 the Commission ordered that "...Respondent O'Brien must complete a minimum of 18 hours of continuing education, to be approved by the Executive Director. This will not qualify as continuing education. The time for completing these hours will be determined by the Executive Director. A Letter of Reprimand will be placed in Respondent O'Brien's license file."

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

Respondent O'Brien did not protect and promote the interest of Complainant. He did not determine whether Tract V had been surveyed and that the rear property line marked, as required by the Real Estate Contract. He did not verify the location of Tract V to ensure that the property Complainant viewed and the property on which the perk test was conducted was Tract V.

The Commission ordered that "...Respondent Platt pay a fine of \$200 to the Arkansas Real Estate Commission. A Letter of Reprimand will be placed in Respondent Platt's license file. If Respondent Platt returns to Arkansas and

reactivates his primary broker's license, he must complete a minimum of 18 hours of principal broker education, to be approved by the Executive Director. Those hours cannot count as continuing education."

The Commission found Respondent Platt guilty of violating Commission Regulation 10.4(d)(2).

Respondent Principal Broker Platt did not ensure that the closing was conducted in accordance with the agreement of the Complainants and Sellers. The Real Estate Contract required that "A new certified survey, in a form satisfactory to Buyer, certified to Buyer within (30) days prior to closing by a registered land surveyor, will be provided and paid for by the Seller", and stated "Show Property Line on Rear of Property." No new survey was ordered or provided nor was the property line marked.

A Recovery Fund Hearing was held. Respondent O'Brien was order to pay Complainants \$1,300 in a period not to exceed thirty (30) days.

### **Charles M. Stout, Broker, Conway, AR:**

By Consent Order, in Formal Hearing # 3055 the Commission ordered that "...Respondent Charles M. Stout shall receive a Letter of Reprimand to be placed in his license file, pay a \$1,000 penalty to the Arkansas Real Estate Commission, within 90 days of the date of this Order. Respondent shall be placed on probation for one (1) year from the date of this Order."

The Commission found Respondent Stout guilty of violating Commission Regulation 10.10, and Arkansas Code Annotated § 17-42-311(a)(7)(13).

Respondent committed acts, which involve moral turpitude. Respondent did not make written report to the Commission of his plea of nolo contendere within thirty days. Respondents negative response on the 2008 online renewal application question, "Have you been convicted or plead guilty or nolo contendere to any crime

other than a traffic violation that you have not reported to AREC as required by Regulation 10.16?"

Respondent's conduct constitutes improper and dishonest conduct.

### **Dale Murphy, Principal Broker and Danny Mays, Salesperson, Cherokee Village, AR**

In Formal Hearing # 3057 the Commission ordered that "...Respondent Murphy's Arkansas Real Estate Broker's License be revoked and a penalty assessed of \$1,000, payable within thirty (30) days." The Commission ordered that "...Respondent Mays' Arkansas Real Estate Salesperson License be suspended for a period of two (2) years. If Respondent Mays desires to reinstate, he must have a management plan that is agreed to by the principal broker and must be approved by the Executive Director. Respondent Mays is prohibited from having a broker's license for a period of five (5) years."

The Commission found Respondent Murphy guilty of violating Commission Regulations 8.5(a), 10.4(b), 10.8(g)(2) and ACA § 17-42-311(a)(6)(13).

The Commission found Respondent Mays guilty of violating Commission Regulations 8.5(a), 10.8(g)(2)(3) and ACA § 17-42-311(a)(6)(13).

Respondents did not protect and promote the interest of Complainant. Respondents did not provide Complainant an accounting for security deposits and rents received and expenses paid or any account balance concerning Complainant's property.

Respondents did not remit or account for \$2,500 sent by Complainant to Respondent Mays to cover the cost of the Landscaping job to Complainant's property.

Respondent Murphy did not exercise strict supervision of Respondent Mays property management activities.

Respondent Murphy and Respondent Mays did not insure that the Rentals Escrow account bank statements were reconciled in writing monthly and

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PRSRTSTD  
US POSTAGE  
**PAID**  
PERMIT #75  
LITTLE ROCK AR

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### Formal Hearing Decisions-Continued

balanced to the total amount of trust funds deposited in the account which had not been disbursed.

Respondent Mays refused to cooperate and provide sufficient accounting and bank records to Commission Investigator for the Complainant's property and to complete an office examination.

Respondents conduct as described above constitute improper dealing.

A Recovery Fund Hearing was held. Respondent Murphy was ordered to pay \$4,259.70 to Complainant in a period not to exceed thirty (30) days. Respondent Mays was ordered to pay \$1,064.92 to Complainant in a period not to exceed thirty (30) days.



## INVESTIGATOR COMMENTS

The following issues were noted by AREC Investigators while conducting office examinations.

1. Trust account bank statements were not reconciled monthly or were not being reconciled to the balance of trust funds collected that were not disbursed (i.e. earnest money, rents, and security deposits). Regulation 10.8 (g)(2). The monthly Trust Account bank statement balance, check register balance, and clients moneys deposited into the trust account that have not been disbursed must be the same.
2. Principal brokers allow licensees to manage personal rental property and hold security deposits in the licensees' separate accounts, without requiring the licensees to obtain written agreements with tenants authorizing the licensees to keep the security deposits in the licensees' account. Regulation 10.8 (h)(1). The principal broker must maintain a copy of the agreement.
3. Trust accounts were moved to another bank or closed without notifying the AREC. Regulation 10.8 (f).
4. Earnest money was not disbursed from the trust account because the parties to the real estate contract would not agree in writing regarding who should receive the earnest money. Principal brokers can not refuse to disburse trust funds because one or both of the parties refuses to sign an agreement. Regulation 10.9(c) provides a principal broker a list of options regarding how to disburse trust funds. A principal broker who disburses trust funds from the trust account under the circumstances listed in Regulation 10.9(c) shall be deemed by the Commission to have fulfilled the broker's duty to account for and remit trust funds. If a principal broker makes a disbursement to which all parties have not agreed, the principal broker must immediately notify all parties in writing of the disbursement.

If you have any questions about the above Regulation requirements or any other License Law or Regulations, please contact AREC Investigations.