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# ARKANSAS REAL ESTATE COMMISSION

N E W S L E T T E R

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

*Bill J. Williamson*

Changes to Arkansas Real Estate License Law and Regulations are now in effect.

You can review or print a copy of the September 2007 updated Real Estate License Law and Commission Regulations on the Arkansas Real Estate Commission website: [www.arkansas.gov/arec](http://www.arkansas.gov/arec)

The significant changes are summarized below:

License law Section 17-42-103 (10) (B) (ii) allows payment of an earned commission to a licensee's legal business entity. Once the commission is earned, transaction has closed & commission received by the Principal Broker or Firm, the licensee can receive their part of the commission payable to them as an individual, or payable to any legal business entity the licensee has set up for tax or business purposes. The important point to remember is that you can only conduct real estate activities in the way you are licensed and through the firm in which you are licensed, not through the business entity that receives the commission payment.

License law Section 17-42-104 (6) clarifies that any person employed only at a salaried or hourly rate by an owner or licensed property manager of real estate rental properties, whose activities are limited to the following, is not required to hold a real estate license.

- a. Delivery of a lease application, lease, or an amendment to a lease application or lease to any person;
- b. Receiving a lease application, lease, or an amendment to a lease application for delivery to the principal broker, real estate firm, or owner;
- c. Receiving a security deposit, rental payment, or any related payment for delivery to and made payable to the principal broker, real estate firm, or owner;
- d. Acting under the direct written instructions of the principal broker, real estate firm, or owner;
  - (i) Showing a rental unit to any person; or
  - (ii) Assisting in the execution of a preprinted lease or rental agreement containing terms established by the principal broker, real estate firm, or owner;
- e. Conveying information prepared by the principal broker, real estate firm, or owner about a lease application, lease, the status of a security deposit, or the payment of rent to or from any person;

The employee can only perform the above activities under the supervision of a Principal Broker who is managing the real estate or Owner, who is managing their own real estate. The employee cannot hold themselves out as being in the property management business.

License law Section 17-42-303 (b)(2) allows other real estate related experience to substitute for the two year experience requirement as an active salesperson, to apply for a broker license. Broker applicants will still have to meet education requirements and sit for the broker exam. All requested waivers of the two year experience requirement as an active salesperson, based on other real estate related experience must be approved by the Commission.

Regulation 7.5 (e) the new language adds requirements that a principal broker (PB) or designated executive broker (DEB), who does not have any ownership interest in the real estate firm, must follow if terminated or resigns. The PB or DEB must notify the Commission in writing immediately upon termination. The written notification must include a statement that the principal broker or branch office designated broker has been terminated and that he/she is relinquishing responsibilities as principal broker or branch office designated executive broker effective the termination date and return the license & pocket card to the Commission. If the PB or DEB does not comply with this regulation they could be found in violation & subject to sanctions.

Regulation 10.4 (d) (2) the new language clarifies closing responsibilities. If the principal broker or designated executive broker or their assigned licensees, close the transaction or selects a third party to close the transaction, they are responsible to ensure that the closing is conducted in accordance with the agreement of the parties. If the parties to the transaction select a third party to close, the licensee must provide written closing instructions, (i.e. Real Estate Contract), on behalf of their client, to the closing company, & review the client's closing statement, if reasonably available, to insure that the closing is conducted in accordance with the agreement of their client. The Commission also strongly recommends that the licensee advise their client to contact the closing agent or title insurer about the availability of closing protection.

Regulation 10.7 (b) (3) added language to clarify that real estate records can be maintained in an electronic format, provided that copies of the records can be produced & made available for inspection by the Commission.

Regulation 10.12 (b) was changed to require signatures of both listing and selling supervising brokers & licensees on the real estate contract. The real estate contract should be reviewed and signed by the licensees & supervising brokers before it is submitted to the seller. However if it is not possible to get the supervising brokers' signatures before it is presented to the seller, the supervising brokers must review and sign all real estate contracts prior to closing.



# 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 March 2007 through September 2007. Formal Hearing Decisions that have been appealed are not listed.

**Nancy R. Chandler, Salesperson, and Bob J. Cotnam, Principal Broker, Hot Springs, AR:**

In Formal Hearing # 3026 the Commission ordered that "...Respondent Nancy R. Chandler is to pay a fine of \$250.00 and also complete a minimum of twelve (12) hours of education, to include misrepresentation and other topics pertaining to this matter as determined by the Executive Director, and those educational hours will not qualify as continuing education or for the scholarship fund. The time for completing these hours will be determined by the Executive Director."

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

Respondent Chandler represented on the MLS listing and on her personal web page that the Square Footage of the house was 1,568 sq. foot when the house was in fact 1,254 sq. foot.

The Commission ordered that "...Respondent Bob J. Cotnam is to pay a fine of \$250.00 and also complete a minimum of twelve (12) hours of buyer's representation education, to be approved by the Executive Director, and it will not qualify as continuing education nor for the scholarship fund. The time for completing these hours will be determined by the Executive Director."

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

Respondent Cotnam did not protect and promote the interest of his client Complainant. Respondent knew Complainant was basing her offer price on the total square footage of the house and did not verify or advise Complainant to verify, that the living area of the property was 1,568 sq. ft, as represented in the MLS and other information received by Complainant and Respondent Cotnam, prior to Complainant's purchase of the house.

A Recovery Fund Hearing was held. The Commission denied Complainant's claim.

**B.J. Woolverton, Principal Broker, Carolyn Woolverton, Salesperson, and Jamie Ashley, Salesperson, Hot Springs, AR.**

In Formal Hearing # 3028 the Commission ordered "...Respondent B.J. Woolverton to take twelve (12) hours of education related to agency representation and disclosure. The course work must be pre-approved by the Executive Director. These additional required hours will not count toward the respondent's annual continuing education. Also, scholarships will not be available for these hours."

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

The Commission ordered "...Respondent Carolyn Woolverton to take six (6) hours of education related to agency representation and disclosure. The course work must be pre-approved by the Executive Director. These additional required hours will not count toward the respondent's annual continuing education. Also, scholarships will not be available for these hours."

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

Respondents Woolverton as Dual Agents did not protect and promote the interest of Complainant. Respondents Woolverton did not advise Complainant that they did not own the unit at the time Respondents entered into the December 7, 2005 Real Estate Contract with Complainant and that the transaction with Complainant was conditioned on Respondents Woolverton closing their transaction with Seller, who Respondents had a real estate contract with to purchase the unit.

The Commission ordered "...Respondent Jamie Ashley to take six (6) hours of education related to agency representation and disclosure. The course work must be pre-approved by the Executive Director. These additional required hours will not count toward the respondent's annual continuing education. Also, scholarships will not be available for these hours."

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

Respondent Ashley did not protect and promote the interest of her client Complainant. Respondent knew that the Complainant was purchasing the unit for "income property" but did not inquire or investigate with the Property Owners Association, or Respondents Woolverton, whether there were restrictions or whether the unit could be rented. Respondent Ashley did not determine whether the unit had been previously rented, even though she knew Complainant was looking for "income property" and assumed Respondents Woolverton owned and had rented the unit.

**Ronald Hager, Principal Broker, Siloam Springs, AR:**

By Consent Order, In Formal Hearing # 3031 the Commission ordered that "...Respondent Ronald Hager shall receive a Letter of Reprimand to be placed in his license file, pay a \$150 penalty to the Arkansas Real Estate Commission within 30 days of the date of this Order, and remit only certified funds to the Commission for payment of any fees."

"It is Further Ordered that Commission staff will conduct an office examination at Respondent's real estate office every six (6) months for two (2) years from the date of this Order."

The Commission found Respondent Ronald Hager guilty of violating Arkansas Code Annotated § 17-42-311(a)(13) and § 17-42-312(a)(4), and Commission Regulation 7.3(a) and 10.7(c).

Respondent Hager failed to make good check # 12684 dated 12-26-2006, in the amount of \$100 tendered to the Arkansas Real Estate Commission to renew his 2007 Broker license. Respondent's conduct constitutes improper, fraudulent, and dishonest dealings.

Respondent failed to maintain a place of business and display a real estate sign.

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# FORMAL HEARING DECISIONS

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## Ronald Hager, FH 3031 - continued

Respondent ceased to do business and to maintain an office and failed to notify the Commission of the address and phone number of the place where the trust account and transaction records are being maintained.

## John F. Richards, Principal Broker, Little Rock, AR:

In Formal Hearing # 3032 the Commission ordered that "...Respondent Richard's license is permanently revoked."

The Commission found Respondent Richards guilty of violating Commission Regulations 8.5(a), 9.2(b), 10.7(b)(3), 10.8(g)(3); and Arkansas Code Annotated § 17-42-311(a)(6).

Respondent Richards failed to protect and promote the interest of his clients, Complainants. Respondent collected rent and security deposits on behalf of Complainants, but failed to account for or remit said funds to Complainants. Respondent failed to provide an accounting and copies of leases as requested by Complainants.

Respondent collected rents and security deposits for Complainant's property, but failed within a reasonable time to account for or to remit said rents or security deposits to Complainants.

Respondent did not make the property management records and trust account records and bank statements for Fidelity Realty Company, Inc., Little Rock, Arkansas available to the Arkansas Real Estate Commission for inspection.

A Recovery Fund Hearing was held. The Commission found that "...as a result of the proven violations that Respondent Richards is ordered to pay \$990.00 to Complainants in a period not to exceed thirty (30) days. If the Respondent fails to make such payment, payment will be made through the Recovery Fund."

## William (Bill) Fisher, Principal Broker,

Jacksonville, AR: In Formal Hearing # 3033 the Commission ordered "...if Respondent Fisher still had a license at this time, these charges would be significant enough that the Respondent's license would now be revoked."

The Commission found Respondent Fisher guilty of violating Commission Regulations 8.5(a), 9.2(b), 10.7(b)(3), 10.7(c), 10.8(b), and Arkansas Code Annotated § 17-42-311(a)(6).

Respondent failed to protect and promote the interest of his clients, Complainants. Respondent collected rent and security deposit on behalf of Complainants but failed to account for or remit said funds to Complainants.

As set forth above, Respondent collected rent and security deposit for Complainants' property, but failed within a reasonable time to account for or to remit said rent or security deposit to Complainants.

Respondent commingled Complainants' rent and security deposit collected with his personal funds. Respondent collected rent and security deposit while managing Complainants' property and used said funds for his own personal use.

As set forth above, Respondent closed his real estate office without notifying the Arkansas Real Estate Commission in writing of the address and phone number of the place where the trust account and transaction records are being maintained.

As set forth above, Respondent did not file a written answer to the complaint filed by the above referenced Complainants.

Respondent Fisher failed to make the property management records and bank statements for Fisher Realty, Jacksonville, Arkansas available to the Arkansas Real Estate Commission for inspection.

A Recovery Fund Hearing was held. The Commission found that "...as a result of the proven violation, that Respondent Fisher is ordered to pay Complainants \$655.00; and that the Respondent has thirty (30) days to make that payment. If at such time the Respondent has failed to pay the Complainant, that the Recovery Fund pay Complainants the amount of 655.00."

## Randall D. Worlow, Principal Broker and Kelly Horne, Salesperson, Henderson,

AR: In Formal Hearing # 3030 the Commission ordered "...Respondent Worlow and Respondent Horne pay a \$1,000.00 fine each to the Arkansas Real Estate Commission and that both Respondent Worlow's and Respondent Horne's licenses be suspended for sixty (60) days, with the time of the suspension to be determined by the Executive Director when an active principal broker can be put in place."

The Commission found Respondent Worlow guilty of violating Commission Regulation 8.5(a) and Arkansas Code Annotated § 17-42-311(a)(13).

The Commission found Respondent Horne guilty of violating Commission Regulation 8.5(a) and Arkansas Code Annotated § 17-42-311(a)(13).

Respondents Worlow and Horne did not protect and promote the interest of Complainant. Respondents knew Complainant was interested in purchasing property in the area, and had specifically inquired about the property near the boat dock and asked Respondent Horne to research ownership to determine if it was for sale. Knowing that Complainant had expressed an interest in the property, Respondents did not contact Complainant, to see if he wanted to purchase the property from the Seller, but purchased the property themselves.

Respondents Worlow's and Horne's conduct described above constitutes improper dealing.



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## Report from

### Gary Isom, Deputy Executive Director

#### Online Renewals a HUGE "Success;" 2009 to be BETTER

THANKS to approximately 70% of you who renewed online, the new renewal process has been a resounding success.

Except for a few minor glitches, for which we greatly appreciate your kind patience as we identified and resolved problems, the online renewals for 2008 went very smoothly.

Ironically, the most cumbersome part of the 2008 renewal was the Commission's mailing of active renewal forms to the real estate firms. The reason the forms were sent to your office addresses was that we were not confident the residential addresses on file with AREC were up-to-date. By collecting residential address changes and corrections through the 2008 renewal process, AREC plans to eliminate that problem for the future and send renewal forms directly to you at your home addresses. This will eliminate the real estate firm's hassle of distributing forms and coordinating renewal activities. Each licensee will renew a real estate license basically the same way you renew a vehicle license. This will make the individual's license renewal mostly transparent for the real estate firm. Of course, the on-line roster will still be available so that office management can determine who has or hasn't renewed for the upcoming year.

While those of you who renewed online were the stars of this production and deserve a round of applause, we would be remiss if we didn't offer the Information Network of Arkansas (INA), the developer of the Arkansas.gov web-based activities, the opportunity to step up to take a bow for their awesome supporting role. The staff of INA has been extremely instrumental in the design and technical support of the on-line function. A round of applause for INA please.

With that, we look forward to seeing you at next year's even better production of Online Renewals for 2009. Thanks again for helping make this process such a success.

And for those of you who haven't renewed for 2008, you can still take advantage of the online renewal service at the AREC website [www.arkansas.gov/arec](http://www.arkansas.gov/arec).

#### CAREER REGISTRY for Real Estate Licensees offered by Arkansas.gov

In an effort to respond to brokers/firms in their recruiting efforts, and to real estate licensees who are seeking career opportunities, AREC worked with the Information Network of Arkansas (INA) to make available the CAREER REGISTRY which can be accessed from the commission's website at [www.arkansas.gov/arec](http://www.arkansas.gov/arec).

At no cost to AREC, this service has been designed by INA to facilitate the exchange of information between real estate professionals and firms that desire to recruit such individuals. Real estate candidates or licensees who are seeking career opportunities in real estate can easily submit and update their profiles. Real estate firms and brokers can download the information from INA for a small fee.

As with any technical application, users can often identify and suggest ways to enhance and expand the utility of the service being provided. AREC and INA welcome your comments and input as to how the CAREER REGISTRY can better aid the real estate community and professionals that make up that community.

**Staff Spotlight:** We are happy to welcome two new employees to our staff. *Mary Rodgers* and *Jean Stoffan*. *Mary* rejoined AREC as our Accountant and brings with her extensive experience. *Jean* joined AREC as a knowledgeable Administrative Assistant in the License Department. We are most fortunate to have such excellent employees as *Mary* and *Jean*.