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Arkansas Real Estate Commission

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ARKANSAS REAL ESTATE COMMISSION N E W S L E T T E R

Executive Director Comments

As we approach the end of 2023, it's only fitting that we all reflect on the past year, taking note of our successes, milestones reached along the way, and the lessons 2023 provided us. Naturally, that got me thinking about the complaints I have reviewed this year.

Not surprisingly, property condition, repair, and description issues all continue to be a central theme in consumer complaints. Roughly one-third of the complaints received this year fell into this camp. In some cases, the Complainant buyer alleged that the Respondent agent did not see to it that all repairs were made as outlined in the agreement between the parties. In other cases, buyers alleged that the listing agent failed to accurately describe the property, resulting in property line issues for the buyers. Still other complaints involved sellers alleging that the selling agent fumbled the inspection and repair timelines, thereby jeopardizing the transaction. There are a few key takeaways from these complaints.

First, Complainants frequently file against the agent on the other side of the transaction rather than their own. Quite often, the buyers will allege that the listing agent knew about the property issues and either failed to disclose or willfully withheld that information. It stands to reason that most buyers hold the listing agent to a higher standard when it comes to knowledge of the property. Still, the law does not absolve any agent – selling or listing – from disclosing material facts (A.C.A. § 17-42-316(b)(2) (G)). **Additionally, in reviewing complaints where one party has filed against the other party's representation, AREC will interview and collect documentation from the Complainant's representation in the transaction. This means we may elect to include the Complainant's agent as a Respondent.**

Another key takeaway is the importance of obtaining a survey whenever property lines are or could be in question. My predecessor, Gary Isom, wrote a very helpful article on this topic that I encourage you all to read in the News section of our website.

Read more
about surveys
here!



As for new trends in complaints, there has been an uptick in licensee v. licensee complaints, particularly where licensees are filing complaints involving commission payment disputes, whether over procuring cause between two agents of different firms, or between an agent and their own principal broker. Neither License Law nor Commission Rules give AREC jurisdiction over these types of disputes. While I recognize that these are serious issues, they are not typically issues AREC is authorized to investigate.

Another new and concerning trend in investigations involves how licensees are choosing to respond to complaints. Some licensees have failed to respond to complaints

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Executive Director Comments

By Andrea S. Alford, AREC Executive Director

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altogether or within a timely manner. In other cases, we have learned after the conclusion of our investigation that the Respondent possessed evidence refuting the allegations. What's important to know here is that many of these are cases where the Commission conducted a full and thorough investigation into the matters and concluded that sufficient evidence existed to prove that the Respondents had violated the law or rules. Yet in every one of these instances, if the Respondents had provided a complete response at the outset of the investigation, the case could have been dismissed without AREC staff – and Commissioners – spending valuable time and resources reviewing and, in some instances, deciding the case. Not to put too fine a point on it, but a single completed investigation can represent thousands of dollars in AREC resources. A case that is brought to hearing represents far more.

For that reason, I urge you: if you are named as a Respondent to a complaint, please provide AREC with all of the information and documentation requested of you – including a thorough and detailed response to the complaint itself. This might mean you should consider hiring an attorney to represent you in responding to the complaint. Just as agents are expected to advise their clients to obtain expert advice concerning material matters when needed, you should consider that same advice for yourself should a complaint land on your desk.

Regardless of whether you hire an attorney, here are a few tips for filing a response. First, read the complaint carefully and answer the allegations directly. Next, include all documentation from the transaction, including written correspondence between the parties. If you are including e-signed documents, provide the Certificates of Authenticity from the signing sessions. Finally, file your answer within the timeframe required by law. This is 20 days from the date you receive the complaint. Failure to respond to a complaint is a serious issue.

In reality, this advice will apply to a very small percentage of licensees. However, the impact to the Commission's resources – and those of Complainants and Respondents – cannot be understated. For our part, please know that we recognize the magnitude of charging an individual with violations of law, especially where proving those charges could result in sanctions ranging from civil penalties to license suspension or revocation. Our Commissioners take this responsibility very seriously, and we hope that you will help AREC fulfill our mission of protecting the public by providing thorough, timely, and accurate responses to complaints.

2023 Mandatory CE

All active licensees are required to complete a total of
7 hours of CE by December 31, 2023 to include the following:

- 1-hour Safety Course – All Licensees
- 6-Hour Broker Supervision Course – Mandatory for all Principal and Executive Brokers
- 3-Hour Salesperson Best Practice Course – Mandatory for all Salespersons
- 3-Hour Elective CE Course – Mandatory for all Salespersons

Associate Brokers may take the Broker Supervision Course OR the 3-Hour Salesperson Course + a 3-Hour Elective CE Course.

IMPORTANT NOTE: It is the licensee's sole responsibility to ensure CE is reported to AREC by the deadline.



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 ? through ?. Formal Hearing Decisions still subject to appeal are not listed.



Respondent(s): Christopher Michael Starnes, FH# 3768

Violations: Arkansas Code Annotated § 17-42-311(a)(2) Commission Rule 10.16(a).

Sanctions: The Respondent was required to complete six (6) hours of education in a course approved in advance by the Executive Director of the Arkansas Real estate Commission and pay a fine of \$250.00 to AREC within 90 days.

Synopsis: Respondent failed to report a conviction to the Arkansas Real Estate Commission within thirty days of the conviction, constitutes a violation of Commission Rule 10.16(a).

Respondent(s): Vanessa V. Greene, FH# 3811

Violations: Arkansas Code Annotated § 17-42-103(10) and 17-42-311(a)(2) and Commission Regulation 6.3(b).

Sanctions: Vanessa Greene was required to pay a \$500.00 penalty to the Arkansas Real Estate Commission, within 90 days of the date of this Order.

Synopsis: Respondent conducted real estate activity while her license was expired.

Respondent(s): Jason Smith/Michala Woodring, FH# 3818

Violations: **Respondent Woodring** - Arkansas Code Annotated §§ 17-42-311(a)(2), 17-42-316(b)(2)(G), 17-42-311(a)(13) and Commission Rules 8.5(a) and 10.10(a). **Respondent Jason Smith** - Arkansas Code Annotated §§ 17-42-311(a)(2), 17-42-316(b)(2)(G) and 17-42-311(a)(13), and Commission Rules 8.5(a), 10.4(b), 10.10(a).

Sanctions: Respondent Michala Woodring was required to pay a fine in the amount \$4,875 and must appear before the Commission to reactivate her license. Respondent Jason Smith was required to pay a fine in the amount of \$4,875, and complete 30 hours of Broker post-license education within six months of the order.

Synopsis: In a dual agency transaction, Respondents Woodring and Smith assisted a Buyer making an offer to the Seller which was contingent upon the Buyer finding another buyer to purchase the property prior to closing. The contract also allowed the Buyer to make repairs to the property prior to closing. The Buyer began substantial demolition inside the property but was unable to complete the remodeling or find a buyer. The Seller then had to pay to complete the remodeling in order to sell the property.

As a direct result of violations proven in Formal Hearing 3634, the Arkansas Real Estate Commission ordered Respondents Woodring and Smith, jointly and severally, to pay damages in the amount of \$13,687.87, to the Complainant within 30 days of the Recovery Fund Order.

Respondent(s): Evan McGinnis, FH# 3842

Violations: Arkansas Code Annotated § 17-42-311 (a)(2) and Commission Regulation 10.16(a).

Sanctions: The Respondent was required to pay a \$250 penalty to the Arkansas Real Estate Commission, within 30 days of the date of this Order.

Synopsis: Respondent failed to report a conviction to the Commission within thirty (30) days as required in Commission Regulation 10.16(a).

Respondent(s): Jesse Clark, FH# 3847

Violations: Arkansas Code Annotated § 17-42-311(a)(2) Commission Regulation 10.16(a).

Sanctions: The Respondent was ordered to pay a \$250 penalty to the Arkansas Real Estate Commission, within 30 days of the date of this Order.

Synopsis: Respondent failed to report a conviction to the Commission within thirty (30) days as required in Commission Regulation 10.16(a).

Arkansas Real Estate Commission
612 South Summit Street
Little Rock, AR 72201-4740

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RENEWAL DEADLINE

Have you paid your renewal fees and reported your 2023 CE? If your renewal fees are not paid and your CE is not reported by December 31, your license is not active, effective January 1. If your name appears on any signage, advertising, social media, firm websites, or other websites, you could be conducting unlicensed real estate activity **REGARDLESS** of having no current or pending sales activity.

But what could really happen? The Arkansas Real Estate Commission has authority under Commission Rule Section 9 to issue fines or sanctions to any licensee who does not properly renew their license and conducts unlicensed real estate activity.

Don't let this be you!

Licensees are encouraged to check their status and that of their supervising brokers at www.arec.arkansas.gov to ensure everyone has properly renewed.

**When a PB or DEB does not renew on time,
all licensees they supervise will be inactivated effective January 1.**