

COMPLIANCE OR NON-COMPLIANCE?

The 50 Shades of Grey

This course is approved by the Georgia Real Estate Commission for 3 hours of continuing education and meets the license law update requirement for real estate licensure renewal beginning July 1, 2016.

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OBJECTIVES

At the end of the presentation, through the use of quiz, lecture, and town hall discussion, the student will be able to:

Identify common license law violations;
Provide reference for proper and legal behavior; and
Demonstrate sound decision making

“When a person works so close to the line that it is likely a group will need to be convened to decide whether the person crossed the line, that person is operating too close to the edge.”

-Tom Gillett

1. True or False

When convicted of a crime as outlined in Georgia License Law, the convicted licensee must notify the GREC of the conviction within 60 days.

False

The GREC must be notified IMMEDIATELY!

2. True or False

If a real estate licensee has had their beauticians license revoked, that revocation may be grounds for the GREC to revoke the real estate license.

True

Punishment by another licensing agency can be grounds for refusal to issue, suspension, or revocation.

3. True or False

If a real estate licensee has had their license revoked, at least 3 years must pass before they may be issued an associate broker or broker's license.

False

A minimum of 10 years is required.

43-40-15(d) Where an applicant or licensee has made a false statement of material fact on his or her application or caused to be submitted or been a party to preparing or submitting any falsified application to the commission, such action may, in itself, be a sufficient ground for the refusal, suspension, or revocation of the license.

(h) Whenever any occupational licensing body of this state or any other state has disciplined the license of an applicant for any license authorized by this chapter or whenever such an applicant has allowed a license to lapse or has surrendered a license to any occupational licensing body of this state or any other state after that body has initiated an investigation or a disciplinary process regarding such applicant's license, such discipline, lapsing, or surrender in itself may be a sufficient ground for refusal of a license. Whenever any occupational licensing body of this state or any other state has revoked the license of an applicant for any license authorized by this chapter or whenever such an applicant has allowed a license to lapse or has surrendered a license to any occupational licensing body of this state or any other state after that body has initiated an investigation or a disciplinary process regarding such applicant's license, the commission may issue an associate broker's or a broker's license only if:

(1) At least ten years have passed since the date that the applicant's occupational license was revoked or surrendered;

(2) No criminal charges are pending against the applicant at the time of application; and

(3) The applicant presents to the commission satisfactory proof that the applicant now bears a good reputation for honesty, trustworthiness, integrity, and competence to transact the business of a licensee in such a manner as to safeguard the interest of the public.

4. True or False

Once a sales licensee leaves a brokerage firm, the licensee can only do acts of real estate for the new brokerage firm.

False

A licensee may continue to work for a former broker, on transactions which have opened but not consummated, under specific circumstances.

5. True or False

The GREC does not regulate the content of an affiliation agreement between a broker and a licensee beyond compensation issues.

True

The affiliation agreement must state the compensation to be paid while with the broker and when leaving the broker for transactions not yet closed.

6. True or False

When a licensee requests that a transfer form be signed by the broker, that form must be signed immediately.

True

Nothing in the law or rules would allow the broker to delay transferring an agent upon request.

7. True or False

All brokerage engagements created through the efforts of a licensee belong to the licensee and may be transferred if leaving a brokerage firm.

False

Everything (or just about) belongs to the brokerage firm!

8. True or False

When a licensee decides to leave a brokerage firm, that licensee shall be allowed to contact “their clients” before, but not after leaving the firm.

False

Once a licensee decides to leave a firm they may have NO contact with clients of the brokerage firm without written permission of the broker.

43-40-19(c) A licensee transferring to a new broker may continue to act as a licensee for the former broker with regard to transactions begun prior to the transfer, provided:

- (1) Both brokers agree in writing to the licensee's actions on behalf of the former broker;
- (2) The transactions on which the licensee will act on behalf of the former broker are enumerated in the written agreement between the brokers;
- (3) The former broker agrees in writing to assume full responsibility for the licensee's activities in the enumerated transactions; and
- (4) The written agreement expresses the terms under which the licensee shall be compensated by the former broker.

520-1-.07(a) Any broker seeking to have a licensee affiliate with the broker's firm shall enter into a written agreement specifying the terms under which the licensee will be compensated for work during the time of their affiliation and specifying how the licensee will be compensated for work begun but not completed prior to the termination of their affiliation. Other than to determine that such agreements are entered into by licensees and their broker, the Commission shall not regulate the content of such agreements or enforce the provisions of such agreements. A dispute between licensees as to whether the terms of this agreement have been met shall not be grounds for the broker's refusal to sign a release and to forward the wall certificate of licensure to the Commission nor for either party to file a complaint with the Commission.

520-1-.07(b) When a licensee requests that a release form be signed, the releasing broker shall immediately sign the release and forward the wall certificate of licensure of the departing licensee to the Commission or notify the Commission in writing that the wall certificate of licensure has been forwarded to the new broker for whom the licensee will act. If a licensee assumes the responsibility of delivering the wall certificate to a new broker, then the wall certificate must be delivered as soon as practically possible after the licensee receives it from the releasing broker.

520-1-.05(c) Any licensee transferring shall not take, nor have in the licensee's possession, nor use any written brokerage engagement secured through the office or through licensed affiliates of the releasing broker, unless specifically authorized by the broker. The names of all prospective customers or clients given in writing to the departing licensee during the tenure of the affiliation with the releasing broker shall be accounted for to that broker. All plats of property, keys and other property which the releasing broker owns or for which the releasing broker is responsible, “for sale” signs, notebooks, listing cards, or records of any kind that have been used in connection with the listing or selling of property or with the management of property or community associations shall be returned in person by the departing licensee to the person designated by the releasing broker.

520-1-.07(e) Whenever a licensee decides to terminate an affiliation with a firm, such licensee may not have any contact with any of the firm's clients that the licensee is serving under a listing, a management agreement, or other brokerage engagement until the expiration of such a brokerage engagement, except as may be expressly approved in writing by the broker or qualifying broker of the firm that the licensee is leaving.

9. True or False

A brokerage firm is not required to have a trust account.

True

If a brokerage firm does not hold the money of others, that firm is not required to have a trust account.

10. True or False

The GREC is required to examine each brokerage firms trust account every license renewal period.

True

Many of these examinations are “paper” examinations instead of office visits.

11. True or False

If a licensee finances a property on a contract for deed, the portion of payment received which is concurrently due must be placed into a trust account.

True

All monies received from others which is accepted on their benefit must be placed in a trust account.

12. True or False

A non-broker licensee may hold trust funds in their own account for property the licensee owns.

True

There are very specific requirements and it is not recommend by many.

13. True or False

If a brokerage firm is offering both sales and property management, the trust monies for sales (earnest money) and for property management (security deposits and rents) must be in separate accounts.

False

The GREC does not require separate accounts.

14. True or False

A broker may not place any of his/her own money in a trust account as that would be commingling.

False

A broker may place their own money in the trust account to:
Maintain a minimum deposit; and/or,
Cover bank charges

15. True or False

A broker may only disburse money from the trust account with a signed agreement with the parties who may have a claim to the funds.

False

There are 7 specific circumstances which would allow a broker to disburse funds legally, not all requiring written agreement of the parties.

16. True or False

A broker who is offering property management services must place security deposits into a trust account but the rents may be paid directly to the owner.

False

ALL monies collected must be placed in a trust account, including rents.

17. True or False

A broker must reconcile the trust account at least quarterly.

False

The account must be reconciled at least monthly.

18. True or False

A broker who holds trust funds which have been abandoned, must wait 7 years and then disburse said funds to the State under the Disposition of Unclaimed Property Act.

False

Abandoned monies may be disbursed per the contract.

43-40-20(a) Each broker who accepts down payments, earnest money deposits, security deposits, rents, association fees, or other trust funds in a real estate brokerage transaction or whose affiliated licensees accept such trust funds shall maintain a separate, federally insured bank checking account in this state which shall be designated a trust or escrow account wherein all down payments, earnest money deposits, or other trust funds received by the broker or the broker's affiliated licensees, on behalf of a principal or any other person, shall be deposited. An account so designated and registered with the commission shall not be subject to attachment or garnishment. A broker who does not accept trust funds in real estate brokerage transactions is not required to maintain a designated trust or escrow account; provided, however, that if a broker does not maintain such a trust or escrow account and later receives trust funds in a real estate brokerage transaction, such broker must open the designated trust or escrow account required by this subsection within one business day of the receipt of such trust funds.

43-40-20(c) Each broker who maintains a trust account shall authorize the commission to examine such trust account by a duly authorized representative of the commission. The commission may examine such account at any time upon reasonable cause. The commission shall examine each broker's trust account or accounts during each renewal period. In lieu of an examination of any such account or accounts by a duly authorized representative of the commission, the commission, in its discretion, may accept a written report from a certified public accountant that the broker's trust account or accounts are maintained in accordance with the provisions of this chapter and its attendant rules and regulations. In lieu of the renewal period examination by a duly authorized representative of the commission, the commission may accept with the broker's renewal application and fee a summary of data on the broker's trust account or accounts on a form prepared by or approved by the commission if that data appears complete and includes no indication of irregularities. The commission, after initiating an authorized investigation, may require that a broker supply to it written reports on the status of the broker's designated trust account or accounts.

43-40-20(f) Any licensee, acting in the capacity of principal in the sale of interests in real estate owned by such licensee, shall deposit in a trust account in a state bank or trust company or any foreign bank which authorizes the commission to examine its records of such deposits those parts of all payments received on contracts which are necessary to meet any amounts concurrently due and payable on any existing mortgages, contracts for deed or other conveyancing instruments, reserves for taxes and insurance, or any other encumbrance on such receipts. Such deposits shall be maintained until disbursement is made under the terms of the encumbrance pertaining thereto and proper accounting on such property is made to the parties entitled thereto.

520-1-.08(b) A licensee shall place all cash, checks, or other items of value received by the licensee in a brokerage capacity into the custody of the broker holding the licensee's license as soon after receipt as is practicably possible.

520-1-.08(c) A licensee shall place all cash, checks, or other items of value received by the licensee when the licensee is acting in the capacity of principal in the sale of interests in real estate owned by such licensee and all security deposits received on property owned by the licensee into the custody of the broker holding the licensee's license or in a trust account approved by that broker as soon after receipt as is practicably possible.

520-1-.08(e) A broker may maintain the broker's own funds in a designated trust or escrow account only when they are clearly identified as the broker's deposit and only for the following purposes:

1. If the bank in which the account is maintained designates a specific minimum balance that must be maintained in order to keep the account open, the broker may maintain that amount in the account designated as the broker's funds.
2. If the bank in which the account is maintained requires a service charge be paid for the account, the broker may maintain in the account in the broker's name a reasonable amount to cover that service charge. The broker may also maintain in the account in the broker's name a reasonable amount sufficient to cover other occasional bank charges and costs of maintaining the account including but not limited to charges for blank checks and deposit slips and fees for return of deposited checks which fail to clear.

520-1-.08(b) A broker who disburses trust funds from a designated trust account under the following circumstances shall be deemed by the Commission to have fulfilled properly the broker's duty to account for and remit money which the broker is required to maintain and deposit in a designated trust account:

1. upon the rejection of an offer to buy, sell, rent, lease, exchange , or option real estate;
2. upon the withdrawal of an offer not yet accepted to buy, sell, rent, lease, exchange , or option real estate;
3. at the closing of the transaction;
4. upon securing a written agreement which is signed by all parties having an interest in the trust funds and is separate from the contract which directs the broker to hold the funds;
5. upon the filing of an interpleader action in a court of competent jurisdiction;
6. upon the order of a court of competent jurisdiction; or
7. upon a reasonable interpretation of the contract which directed the broker to deposit the funds.

520-1-.08(c) A broker shall not disburse funds from a designated trust account as provided in paragraph (b) until the broker has reasonable assurance that the bank has credited the funds to the broker's trust account. When a broker makes a disbursement to which all parties to the contract do not expressly agree, the broker must immediately notify all parties in writing of the disbursement.

520-1-.08(g) If a licensee who owns a designated trust account files a bankruptcy petition, such licensee shall immediately notify the Commission in writing of the filing of that petition. If a qualifying broker or the firm that a licensee serves as qualifying broker files a bankruptcy petition, such qualifying broker shall immediately notify the Commission in writing of the filing of that petition.

520-1-.08(4) Trust Accounts for Property Management or Association Management.
 Brokers who manage real property or community associations may maintain designated rental or assessment trust or escrow accounts separate from their other trust or escrow accounts.
 (a) In paying bills on behalf of an owner or an association from any designated rental or assessment escrow or trust account, there must be enough money credited and deposited to the owner's or the association's account to cover said bill.
 (b) Security deposits, if kept in a designated rental trust or escrow account, must be clearly identified and credited to the tenant and there must always be a balance in the account equal to the total of said security deposits.
 (c) A licensee who manages rental property which the licensee owns must maintain any security deposits collected in a designated trust account and may not post a bond in lieu of maintaining such security deposits in a designated trust account.

520-1-.08(6) Monthly Reconciliation of Trust Accounts.
 A broker required to maintain a trust or escrow account shall cause to be made, at least monthly, a written reconciliation statement comparing the broker's total trust liability with the reconciled bank balance(s) of the broker's trust account(s). The broker's trust liability is the sum total of all deposits received, required by contract to deposit, and being held by the broker at any point in time.
 (a) The minimum information to be included in the monthly reconciliation statement shall be the date the reconciliation was undertaken, the date used to reconcile the balances, the name of the bank(s), the name(s) of the account(s), the account number(s), the account balance(s) and date(s), any deposit(s) in transit, the amounts of any outstanding check(s) identified by date and check number, an itemization of the broker's outstanding trust liability showing the amount and source of funds received and not yet disbursed, and other items necessary to reconcile the bank account balance(s) with the balance in the broker's checkbook(s) and with the amount of the broker's trust liability. The broker shall review the monthly reconciliation statement and maintain copies in the broker's files for a period of three years.

520-1-.08(8) Abandoned Funds in a Trust Account.
 Whenever a real estate licensee believes that a person who placed trust funds in the licensee's care has abandoned those funds, the licensee may not disburse those funds from a trust account unless:
 (a) the licensee's written authorization to hold those funds requires a particular disbursement;
 (b) the licensee has complied with the requirements of the Disposition of Unclaimed Property Act, O.C.G.A. Section 44-12-191, et seq.; or
 (c) the licensee has complied with such other statutory or court ordered requirements as may be appropriate to the circumstances.

19. True or False

Monies collected by a broker on the behalf of others must always be placed into a trust account registered with the GREC.

False

The law allows a broker to follow written instructions if to the contrary {43-40-25(b)(5)}.

20. True or False

A licensee must disclose any rebates or fees received on payments made by a principal in a transaction.

True

If in doubt, it is always best to disclose, but secret profits are a violation.

21. True or False

A licensee cannot guarantee a profit to a client.

True

A licensee can say it "may" but cannot say the property "will" increase in value.

22. True or False

Placing a for sale or for lease sign on a property requires at least verbal permission and the sign must be removed within 10 days of the expiration of the permission.

False

Advertising requires written permission.

43-40-25(b)

(1) Because of race, color, religion, sex, disability, familial status, or national origin:

(A) Refusing to sell or rent after the making of a bona fide offer, or refusing to negotiate for the sale or rental of, or otherwise making unavailable or denying, real estate to any person;

(B) Discriminating against any person in the terms, conditions, or privileges of sale or rental of real estate or in the provision of services or facilities in connection therewith;

(C) Making, printing, or publishing or causing to be made, printed, or published any notice, statement, or advertisement, with respect to the sale or rental of real estate, that indicates any preference, limitation, or discrimination or an intention to make any such preference, limitation, or discrimination;

(D) Representing to any person that any real estate is not available for inspection, sale, or rental when such real estate is in fact so available; or

(E) Representing explicitly or implicitly that a change has or will or may occur in a block, neighborhood, or area in order to induce or discourage the listing, purchasing, selling, or renting of real estate;

43-40-25(b)

(2) Intentionally advertising material which is misleading or inaccurate or which in any way misrepresents any property, terms, values, policies, or services of the business conducted;

(3) Failing to account for and remit any money coming into the licensee's possession which belongs to others;

(4) Commingling the money or other property of the licensee's principals with the licensee's own;

43-40-25(b)

(5) Failing to maintain and deposit in a separate, federally insured checking account all money received by said broker acting in said capacity, or as escrow agent or the temporary custodian of the funds of others, in a real estate transaction unless all parties having an interest in said funds have agreed otherwise in writing;

43-40-25(b)

(6) Failing to disclose in writing to a principal in a real estate transaction any of the following:

(A) The receipt of a fee, rebate, or other thing of value on expenditures made on behalf of the principal for which the principal is reimbursing the licensee;

(B) The payment to another broker of a commission, fee, or other thing of value for the referral of the principal for brokerage or relocation services; or

(C) The receipt of anything of value for the referral of any service or product in a real estate transaction to a principal;

43-40-25(b)

(7) Representing or attempting to represent a real estate broker, other than the broker holding the licensee's license, without the express knowledge and consent of the broker holding the licensee's license;

(8) Accepting a commission or other valuable consideration by a licensee from anyone other than the broker holding that licensee's license without the consent of that broker;

(9) Acting in the dual capacity of agent and undisclosed principal in any transaction;

43-40-25(b)

- (10) Guaranteeing or authorizing any person to guarantee future profits which may result from the resale of real property;
- (11) Placing a sign on any property offering it for sale or rent without the written consent of the owner or the owner's authorized agent and failing to remove such sign within ten days after the expiration of listing;
- (12) Offering real estate for sale or lease without the knowledge and consent of the owner or the owner's authorized agent or on terms other than those authorized by the owner or the owner's authorized agent;

43-40-25(b)

- (13) Inducing any party to a contract of sale or lease, or a brokerage agreement to break such contract or brokerage agreement for the purpose of substituting in lieu thereof any other contract or brokerage agreement with another principal;

43-40-25(b)

- (14) Negotiating a sale, exchange, or lease of real estate directly with an owner, a lessor, a purchaser, or a tenant if the licensee knows that such owner or lessor has a written outstanding listing contract in connection with such property granting an exclusive agency or an exclusive right to sell to another broker or that such purchaser or tenant has a written outstanding exclusive brokerage agreement with another broker, unless the outstanding listing or brokerage agreement provides that the licensee holding such agreement will not provide negotiation services to the client;

43-40-25(b)

- (15) Indicating that an opinion given to a potential seller, purchaser, landlord, or tenant regarding a listing, lease, rental, or purchase price is an appraisal unless such licensee holds an appraiser classification in accordance with Chapter 39A of this title;
- (16) Performing or attempting to perform any of the acts of a licensee on property located in another state without first having been properly licensed in that state or otherwise having complied fully with that state's laws regarding real estate brokerage;

43-40-25(b)

- (17) Paying a commission or compensation to any person for performing the services of a real estate licensee who has not first secured the appropriate license under this chapter or is not cooperating as a nonresident who is licensed in such nonresident's state or foreign country of residence, provided that nothing contained in this subsection or any other provision of this Code section shall be construed so as to prohibit the payment of earned commissions:
 - (A) To the estate or heirs of a deceased real estate licensee when such deceased real estate licensee had a valid Georgia real estate license in effect at the time the commission was earned and at the time of such person's death;
 - (B) To a citizen of another country acting as a referral agent if that country does not license real estate brokers and if the Georgia licensee paying such commission or compensation obtains and maintains reasonable written evidence that the payee is a citizen of said other country, is not a resident of this country, and is in the business of brokering real estate in said other country; or
 - (C) By the brokerage firm holding a licensee's license to an unlicensed firm in which an individual licensee affiliated with the brokerage firm owns more than a 20 percent interest provided:
 - (i) Such individual licensee earned the commission on behalf of the brokerage firm;
 - (ii) Such unlicensed firm does not perform real estate brokerage activity;
 - (iii) The affiliated licensee and the brokerage firm have a written agreement authorizing the payment to the unlicensed firm; and
 - (iv) The brokerage firm obtains and retains written evidence that the affiliated licensee owns more than a 20 percent interest in the unlicensed firm to which the compensation will be paid;

43-40-25(b)

- (18) Failing to include a fixed date of expiration in any written listing agreement and failing to leave a copy of said agreement with the principal;
- (19) Failing to deliver, within a reasonable time, a completed copy of any purchase agreement or offer to buy or sell real estate to the purchaser and to the seller;

43-40-25(b)

(20) Failure by a broker to deliver to the seller in every real estate transaction, at the time said transaction is consummated, a complete, detailed closing statement showing all of the receipts and disbursements handled by such broker for the seller or failure to deliver to the buyer a complete statement showing all money received in said transaction from such buyer and how and for what the same was disbursed; the broker shall retain true copies of such statements in the broker's files;

43-40-25(b)

- (21) Making any substantial misrepresentations;
- (22) Acting for more than one party in a transaction without the express written consent of all parties to the transaction;
- (23) Failure of an associate broker, salesperson, or community association manager to place, as soon after receipt as is practicably possible, in the custody of the broker holding the licensee's license any deposit money or other money or funds entrusted to the licensee by any person dealing with the licensee as the representative of the licensee's licensed broker;

43-40-25(b)

(24) Filing a listing contract or any document or instrument purporting to create a lien based on a listing contract for the purpose of casting a cloud upon the title to real estate when no valid claim under said listing contract exists;

(25) Having demonstrated incompetency to act as a real estate licensee in such manner as to safeguard the interest of the public or any other conduct whether of the same or a different character than heretofore specified which constitutes dishonest dealing;

43-40-25(b)

(26) Obtaining a brokerage agreement, a sales contract, or a lease from any owner, purchaser, or tenant while knowing or having reason to believe that another broker has an exclusive brokerage agreement with such owner, purchaser, or tenant, unless the licensee has written permission from the broker having the first exclusive brokerage agreement; provided, however, that notwithstanding the provisions of this paragraph, a licensee shall be permitted to present a proposal or bid for community association management if requested to do so in writing from a community association board of directors;

43-40-25(b)

(27) Failing to keep for a period of three years a true and correct copy of all sales contracts, closing statements, any offer or other document that resulted in the depositing of trust funds, accounting records related to the maintenance of any trust account required by this chapter, and other documents relating to real estate closings or transactions or failing to produce such documents at the reasonable request of the commission or any of its agents for their inspection;

43-40-25(b)

- (28) Being or becoming a party to any falsification of any portion of any contract or other document involved in any real estate transaction;
- (29) Failing to obtain the written agreement of the parties indicating to whom the broker shall pay any interest earned on trust funds deposited into an interest-bearing checking account prior to depositing those funds into such account;
- (30) Failing to disclose in a timely manner to all parties in a real estate transaction any agency relationship that the licensee may have with any of the parties;

43-40-25(b)

(31) Attempting to perform any act authorized by this chapter to be performed only by a broker, associate broker, or salesperson while licensed as a community association manager;

(32) Attempting to sell, lease, or exchange the property of any member of a community association to which a licensee is providing community association management services without the express written consent of that association to do so;

43-40-25(b)

(33) Failure to deliver to a community association terminating a management contract within 30 days of the termination, or within such other time period as the management contract shall provide:

(A) A complete and accurate record of all transactions and funds handled during the period of the contract and not previously accounted for;

(B) All records and documents received from the community association or received on the association's behalf; and

(C) Any funds held on behalf of the community association;

43-40-25(b)

(34) Failure to deliver to a property owner terminating a management contract within 30 days of the termination, or within such other time period as the management contract shall provide:

(A) A complete and accurate record of all transactions and funds handled during the period of the contract and not previously accounted for;

(B) All records and documents received from the property owner or received on the owner's behalf; and

(C) Any funds held on behalf of the property owner;

43-40-25(b)

(35) Inducing any person to alter, modify, or change another licensee's fee or commission for real estate brokerage services without that licensee's prior written consent; or

(36) Failing to obtain a person's written agreement to refer that person to another licensed broker for brokerage or relocation services and to inform such person being referred whether or not the licensee will receive a valuable consideration for such referral.

23. True or False

All written brokerage engagements must have a definite date of termination.

True

While Rules and BRRETA may indicate that only exclusive engagements require a definite termination date, License Law {43-40-25(b)(18)} is pretty clear and more restrictive.

24. True or False

When a seller requires a net amount of money from the sale of a property, it is appropriate to add the brokerage commission to the net and list the property at the gross price.

True

While net listings are prohibited, net listings do not have a gross price. By adding the commission to the net, a gross listing has been created.

25. True or False

When a buyers agent and sellers agent are operating under a team, it is best to disclose this as a designated agency so as not to create the conflict of dual agency.

False

Team members cannot operate as designated agents (nor can designated agency be done with the broker being one of the designated agents). This would create an unintentional, undisclosed, and illegal dual agency.

520-1-.06(1) Brokerage Engagements.

(a) Each exclusive brokerage agreement must fully set forth its terms and have a definite expiration date.

(c) The Commission prohibits the acceptance by brokers of net brokerage engagements and hereby makes it obligatory upon the broker, when securing the brokerage engagement, to add the broker's fee thereby notifying the client of the gross price of the property and the broker's services.

520-1-.06(2)(b) The licensee shall give to the owner or the owner's authorized agent a legible copy of every written property management agreement or other written authorization to manage real property at the time the signature of the owner is obtained; and the licensee's broker shall retain a copy.

26. True or False

A broker who is the qualifying broker of one company may be the qualifying broker of one or more other companies simultaneously.

True

A broker may be the qualifying broker of as many firms as desired.

27. True or False

An unlicensed assistant may show property and hold an open house if directed to do so by a licensee and authorized by the broker.

False

An unlicensed person is limited to providing ministerial and clerical work to a licensee.

28. True or False

For a licensee to hire a non-licensee assistant, there must be a written agreement between the licensee, the broker, and the assistant.

True

The agreement must specify to whom the assistant is responsible and how the assistant will be compensated.

520-1-.07(4)(a) A person licensed by the Commission as a broker or qualifying broker for a licensed firm may serve as the broker or qualifying broker with one or more other licensed firms.

520-1-.07(4)(b) A person licensed as an associate broker and affiliated with a licensed firm may serve as the broker or qualifying broker for one or more other licensed firms provided such person has notified in writing the broker with whom he or she is affiliated as an associate broker of his or her intended services as a broker or qualifying broker with another firm.

520-1-.07(6)(a) Whenever a firm or a licensee who is affiliated with a firm engages support personnel to assist the firm or the affiliated licensee in the conduct of the real estate brokerage business, both the firm and the affiliated licensee are responsible for the acts of the support personnel and for assuring that the support personnel comply with the requirements of this rule and the license law. Support personnel may not perform any real estate brokerage activities of a real estate licensee when engaged as support personnel and may perform only ministerial duties, those that do not require discretion or the exercise of the support personnel's own judgment.

29. True or False

All advertising must be honest and accurate.

True

Intentionally misleading advertising is a violation of license law.

30. True or False

Advertising media includes directional signage.

True

Advertising media includes essentially any communication to the public.

31. True or False

Outdated internet advertising under the control of the licensee shall be removed within 30 days.

True

A licensee is not responsible for advertising not under their control.

32. True or False

All advertising requires the name and telephone number of the brokerage firm.

False

Only the advertising of a specific property requires the name and phone number of the brokerage firm in equal or greater size, prominence, and frequency.

520-1-.09(1)(b)Media. For the purposes of this Rule, the term "media" includes, but is not limited to, print, photographs, broadcast, and the Internet including, but not limited to, such examples as newspapers, magazines, flyers, posters, business cards, billboards, radio, videos, television, signs (including office, directional, "for sale," "for lease," "sold," or vehicle signs), newsletters, voicemail, email, facsimile transmissions, Internet websites, blogs, video blogs, property listing database services, email farming, news groups, discussion lists, bulletin boards, social networking/social media, instant text messages, multimedia advertising, banner ads, pop-ups, and similar media.

520-1-.09(1)(2)Misleading Advertising.

Any advertising that is misleading or inaccurate in any material fact or in any way misrepresents any real estate is prohibited. Whenever a licensee becomes aware that a principal with whom the licensee's firm has a brokerage engagement is advertising to sell, buy, rent, lease, or exchange real estate in such a manner that is inconsistent with this rule, the licensee must immediately take steps to stop the advertising until it complies with this rule.

520-1-.09(4) Discriminatory Advertising Prohibited. A licensee shall not advertise to sell, buy, exchange, rent, or lease real estate when such advertisement is directed at or referred to persons of a particular race, color, religion, sex, handicap, familial status, or national origin. The contents of any advertisement must be confined to information relative to the real estate itself, and any advertisement that is directed at or referred to persons of any particular race, color, religion, sex, handicap, familial status, or national origin is prohibited.

520-1-.09(7)In advertising specific real estate for sale, rent, or exchange in any media:

- (a)firms must include in the advertisement a name of the firm as registered with the Commission and a telephone number for the firm, except when complying with lawful restrictions (such as covenants or local governmental ordinances) that forbid the use of the firm's name on a particular type of sign;
- (b)the name of the firm advertising the real estate for sale, rent, or exchange shall appear in equal or greater size, prominence, and frequency than the name or names of any affiliated licensees or groups of licensees;
- (c)the firm's telephone number shall appear in equal or greater size, prominence, and frequency than the telephone number of any affiliated licensee or groups of licensees, and it must be a number at which the public can reach a broker or a manager of the firm without going through the affiliated licensee(s) listed in the advertisement;

520-1-.09(8) Licensees Advertising as Principals.

A licensee shall not advertise to sell, buy, exchange, rent, or lease real estate in a manner indicating that the offer to sell, buy, exchange, rent, or lease such real estate is being made by a private party not licensed by the Commission. Every associate broker, salesperson, and community association manager is prohibited from advertising under the licensee's individual name to buy any real estate or offer for sale, rent, or lease any real estate. All advertising by associate brokers, salespersons, and community association managers must be under the direct supervision of their broker and in the name of their firm.

However, when a licensee wishes to advertise real estate owned by the licensee and which is not under a brokerage engagement, the licensee may do so provided:

- 1.if the licensee's license is affiliated with a firm, the broker holding the licensee's license has been notified in writing of the specific real estate to be advertised;
- 2.if the licensee's license is affiliated with a firm, the broker gives written consent to advertising the specific real estate and approves the advertisement itself; and
- 3.regardless of whether the licensee's license is affiliated with a firm or on inactive status, any advertisement must include either (a) the legend "seller, buyer, landlord, tenant (select the appropriate name) holds a real estate license" or (b) the legend "Georgia Real Estate License # (insert licensee's six digit number; for example, 000001).""Georgia Real Estate License" may be abbreviated to "GA R. E. Lic.."

520-1-.09(10) Notwithstanding any other provision of this Rule, a licensee shall make every reasonable attempt in advertising to assure the public knows that they are being contacted by a licensee

33. True or False

All offers (including oral offers and when a seller says to not present more offers while under contract) must be presented.

True

While the Rules require all written, signed offers be presented, BRRETA requires all offers be presented without consideration of it being written or oral.

34. True or False

License numbers of the brokerage firm and licensees is required in a sales agreements, including HUD and REO contracts.

True

License numbers in contracts are required without exception.

35. True or False

It is legal to rebate a portion of the brokerage commission to a principal in the transaction so long as the rebate is disclosed on the closing statement

True

The principal is a party to the transaction and payment to them is not considered to be a payment to a non-licensee.

520-1-.10(1) Presenting Offers.

A licensee shall promptly tender to any customer or client any signed offer to purchase, sell, lease, or exchange property made to such client or customer. In a transaction in which the offeror is not a client or customer of the licensee, the licensee receiving an offer must provide a copy of the offer to the licensee working with or representing the offeree. However, a licensee who obtains an offer may negotiate a sale, exchange, or lease directly with an owner, a lessor, a purchaser, or a tenant if the licensee who obtains the offer knows that such offeree has a written outstanding agreement in connection with such property that expressly provides the other licensee will not provide negotiation services to the offeree.

520-1-.10(2) License Numbers in Offers.

A licensee preparing or signing a brokerage engagement or an offer to purchase, sell, lease, or exchange real property shall include the license number issued by the Commission of each firm and of each licensee participating in the transaction. The licensee shall include the six digit license number issued by the Commission.

520-1-.10(5) Falsification of Transaction Documents and Misleading Representations Prohibited.
 No licensee shall falsify or be a party to the falsification of a document involved in a real estate transaction or knowingly represent, either verbally or in writing, to a principal or any interested third party:
 (a) an amount other than the true and actual sales, lease, or exchange price;
 (b) an amount other than the true and actual down payment;
 (c) an amount other than the true and actual earnest money, security deposit, or other trust funds or that such trust funds have been tendered in any form other than its true and actual form;
 (d) a payment of trust funds in cash when in fact some other method of such is made; or
 (e) an artifice, contrivance, or machination with the intent to deceive.
 Any or all such practices shall constitute a misrepresentation.

520-1-.10(e) A licensee may rebate to a principal any part of a commission, fee, or other compensation received by the licensee related to the purchase, sale, lease or exchange of real estate as long as said rebate is disclosed on the closing statement for that transaction and as long as the rebate does not mislead any other licensee, other principal, lender, title company or government agency involved in the transaction regarding the source of funds to complete the transaction or regarding the financial resources or obligations of a buyer principal.
 Notwithstanding anything to the contrary above, no disclosure is required for gifts, products, services, or other things of value given to a principal by a licensee provided that they are not contingent upon the purchase, sale, lease or exchange of real estate for that transaction.

36. True or False

When purchasing a property in their own name, a licensee must receive written permission from the broker.

False

The Rule only requires the licensee notify the broker. Permission is not required.

37. True or False

If inducing a seller to enter into a listing agreement by offering to buy the property if it does not sell, the licensee must enter into a written agreement with the seller disclosing the price and terms before the seller enters into the listing agreement.

True

520-1-.11(1) Written Notification to Broker.
 No licensee shall be permitted to list, sell, buy, exchange, rent, lease, or option or offer to list, sell, buy, exchange, rent, lease, or option real estate, either in individual or multiple parcels, in the licensee's own name or in the name of any other firm or entity in which the licensee is an officer, employee, beneficiary, or member of such firm or other entity acting as principal without first advising, in writing, the broker for whom the real estate licensee is acting.

520-1-.11(2) Offers to Buy Associated with a Brokerage Relationship.
 Whenever a licensee offers to purchase a property as a condition to obtaining a brokerage engagement to sell, lease, or exchange or on which the licensee is extending the expiration date of an existing brokerage engagement, the licensee must enter into a written contract to purchase which expresses all the terms and conditions of the licensee's purchase prior to or at the time of entering into the proposed brokerage engagement or into the extension of the existing brokerage engagement. Whenever a licensee offers to purchase a property in order to enable a party to purchase, sell, lease, or exchange another property, the licensee must enter into a written contract to purchase which expresses all the terms and conditions of the licensee's purchase prior to or at the time of the other party's entering into a contract to purchase, sell, lease, or exchange the new property.

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